

FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2001

HEARING BEFORE THE SUBCOMMITTEE ON CRIME OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2001

THURSDAY, APRIL 26, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:07 a.m., in Room 2237, Rayburn House Office Building, Hon. Lamar Smith (Chairman of the Subcommittee) presiding.

Mr. SMITH. The Subcommittee on Crime will come to order. Good morning to you all. We welcome our witnesses today.

In just a minute, I will recognize Members of the Committee for their opening statements, but I want to say for the benefit of our witnesses and for the benefit of those in the audience, as well, while this could not be a more important hearing, it is going to be, of necessity, a relatively short hearing because the Judiciary Committee has a bill on the floor at 10 and we, according to Committee rules, are going to have to be finished by that time. So those here can rely on the fact that this will be about an hour in length, which should be plenty of time to hear from our witnesses and ask questions, as well.

I will recognize myself for an opening statement.

Today, the Subcommittee holds a hearing on H.R. 1577, the Federal Prison Industries Competition in Contracting Act of 2001, introduced by Congressman Pete Hoekstra. The Federal Prison Industries program, commonly called FPI, employs about 20 percent of the total Federal prison population. It is self-supporting from the sales of its goods and services. The prisoners who work in them earn income to support their families, pay restitution and fines, and make payments to victims' compensation funds.

The principal purpose of State and Federal Prison Industries programs is to teach work skills to inmates so that when they are released from prison, they will be more likely to find and hold jobs and less likely to repeat their crimes. Several State and Federal studies have shown that inmates who work in Prison Industries programs have significantly lower recidivism rates than those who do not.

But as clear as the public benefit of this program may be, it is also clear that the 1930's legislation that governs this program is today producing some unintended consequences. Current law restricts the FPI program to only sell its goods to the Federal Government, and so it places a disproportionate burden on those private businesses that compete for the Federal Government's con-

tracts for those goods, and current law requires the government to buy specified quantities of certain goods from FPI and in so doing prevents competition for those government contracts. Because of these aspects of the law, I believe it is appropriate for us to review the statute that governs this program.

In today's hearing, we consider a bill that would amend the statute governing FPI. This bill would eliminate the mandatory source preference that requires the Federal Government to buy some of the goods that Federal prisoners produce. Instead, it would require FPI to compete for all of its business with the Federal Government and give Federal contracting officers final decision authority of what products their agencies will buy from FPI.

We welcome our witnesses, particularly our colleague, Congressman Hoekstra, and look forward to hearing their testimony in just a minute.

I will recognize the Ranking Member, Mr. Scott of Virginia, for his opening statement.

Mr. SCOTT. Thank you, Mr. Chairman. I am pleased that we are having a hearing on the Federal Prison Industries program. It is an important program with substantial effects upon the safety and economic interests of hundreds of thousands of lives, including Federal prisoners, their dependents, correctional personnel, businesses, their employees, and not the least of which, victims of crime, both current and potential.

As we have seen from bills and hearings on this issue in prior Congresses, the issues are complex and generate heated debate among those various interests. Former U.S. Attorney Edwin Meese, former U.S. Secretary of Labor Ray Marshall, policy analyst and Texas A&M economics professor Morgan Reynolds, Harvard economist Richard Freeman, corrections guru Warren Cikens, and economist Tom Petersik and others have all written and spoken extensively about the importance of prison industries. We could benefit greatly from the views of people such as these today, and I certainly would have sought them were it not for the truncated procedure that we are now working with in the Judiciary Committee Subcommittee hearings. I know this is not your fault, Mr. Chairman, but being relegated to just one witness means that we cannot hear from all these different views and different perspectives on this important issue.

How can we possibly feel that we have considered the issue, first of all, without hearing from the Federal Bureau of Prisons, the entity responsible for operating the Federal Prison Industries? I certainly do not feel competent to assess the implications and effects of the bill before us without hearing from BOP. While I would like to know the criticisms of FPI's operations, I consider it unproductive, if not unseemly, for us to hear only one side of the story without the benefit of the other side.

FPI jobs have proven to be an important asset to the Federal prison system. Not only do they keep inmates productively occupied, which reduces inmate idleness and the violence and disruptive behavior associated with it, but also provides inmates with on-the-job training and work experience that develops job skills and a strong work ethic for employment once they leave prison. With the elimination of parole, Pell grants for college classes, and other

traditional behavioral incentives in the prison system, prison industries has become all the more important as a behavioral incentive.

We recently learned how important the people who run the prisons think FPI is to their responsibility during our visit to the Lewisburg and Allenwood prisons. I have a letter here from Warden Mickey Ray of the Leavenworth, Kansas, maximum security facility, which I would like to make part of the record. It says that if the legislation were enacted which effectively eliminated FPI, we would lose the single most effective program for maintaining safety and security in his institution.

[The material referred to follows:]



U. S. Department of Justice
Federal Prison System

United States Penitentiary
Leavenworth, Kansas 66048-1254

Office of the Warden

April 20, 2001

The Honorable Robert C. Scott
Member, U.S. House of Representatives
2464 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Scott:

If legislation were enacted that effectively eliminated Federal Prison Industries (FPI), I would lose my single most critical correctional program for maintaining the safety and security of this institution. The United States Penitentiary (U.S.P.) Leavenworth houses some of the most difficult to manage inmates in the Bureau of Prisons, including long term offenders, chronic disciplinary cases, predatory offenders, and gang members. Currently, 700 inmates work in our textiles, furniture, and graphics factories, comprising 42% of our population. Without FPI to provide almost eight hours per day of basic job skills programming in a structured work environment, these inmates would remain idle, leading to boredom and the violent activity that often accompanies it in prison settings.

Moreover, the wages earned by inmates participating in the FPI program creates an opportunity for inmates to successfully meet their court-ordered financial obligations, to include, victim restitution, fines and child support. FPI also creates an opportunity for inmates to provide financial support for themselves and their families, as well as an opportunity to save for their eventual release back into society. Finally, before they can advance beyond the lowest pay grade in FPI, inmates are required to have a high school diploma or earn their GED. This educational requirement further increases employment opportunities upon release.

In summary, FPI is essential to ensuring the safety and security of Federal prisons, while promoting the safety of communities to which inmates are released following completion of their sentence.

Sincerely,


M. E. Ray
Warden

Mr. SCOTT. Research has confirmed the value of FPI as a correctional program. For example, a long-term post-release employment

study by the Bureau of Prisons found that inmates who were released as long as eight to 12 years ago who participated in industries work or vocational training programs were 24 percent less likely to be recommitted to Federal prisons than a comparison group of inmates who had no such opportunity. State studies in Ohio and Maryland have further confirmed these findings, and I would like to place these three studies in the record at this time.

Mr. SMITH. Mr. Scott, without objection, those studies will be made a part of the record, as well as the letter you referred to from the Department of Justice.

[The material referred to follows:]



U.S. Department of Justice
Federal Bureau of Prisons

Washington, DC 20534

November 2, 1995

Mr. George Allen
Deputy Commander
Defense Logistics Agency
Defense Personnel Support Center
2800 South 20th Street
Philadelphia, Pennsylvania 19145-5099

Dear Mr. Allen:

It was a pleasure meeting with you and your staff in September. As we agreed, here are some thoughts to include in the Memorandum of Understanding between our agencies. I look forward to receiving the DPSC draft version you discussed at our meeting.

As previously mentioned, I am anxious to resolve the black reinforcement cloth issue affecting the Shirt, Extended Cold Weather Clothing System (ECWS) (contract SPO100-93-F-EC02). The material was finished in Canada inadvertently in conflict with the Preference for Certain Domestic Commodities Clause (Berry Amendment). A determination of findings was sent to DPSC on February 5, 1995. A response would expedite FPI's ability to make the appropriate disposition arrangements. Your assistance is also appreciated in resolving the disposition of materials for an Overall Bib Contract (DLA100-91-F-EE31) which was terminated for the government's convenience on January 15, 1993. It has now been almost three years that FPI has been holding the materials without compensation.

DPSC is an important customer to FPI. I look forward to your comments concerning the enclosed Memorandum of Understanding ideas. Your thoughts are also welcomed concerning partnership opportunities with DPSC's vendors. These would be beneficial not only to the private sector (reduced market impact) but also to DPSC. Also inclosed are FPI's comments concerning the contracts

discussed at our September 20th, 1995 meeting. Please do not
hesitate to contact me directly if I can be of assistance.

Sincerely,

Steve Schwalb
Assistant Director
Industries, Education
and Vocational Training

MEMORANDUM OF UNDERSTANDING WITH DPSC

1. ADDITION TO THE MANDATORY LIST:

In the past, when adding an item to the Mandatory List, FPI has submitted a letter to DPSC's Small Business Office. The letter would request that a specific national stock number (NSN) or series be added to the List. This resulted in DPSC contacting FPI when the next requirement occurred. This method has created some concern for DPSC.

FPI proposes to consult with DPSC's Directorate of Clothing & Textiles prior to adding items to the Mandatory List. A letter proposing the addition will be sent to the Small Business Office. If an issue surfaces, DPSC will promptly indicate it to FPI. The parties will come to a joint agreement on the items. One option may be for DPSC to propose the production of other similar types of items.

2. MULTI-YEAR CONTRACTS:

FPI has been successfully producing a variety of DPSC products in specific factories. For those locations, DPSC will provide continuous orders so that those factories do not suffer by down time between awards. This process will save DPSC resources through the reduction of staff time involved in the numerous awards. When requirements are low,

FPI and DPSC will jointly agree on minimum quantities to be continuously produced on a monthly basis. Awards will provide work for a minimum of two years. When financial circumstances do not allow prompt awards, FPI will be granted the opportunity to have raw materials tested using the previous contract number. This will allow the factory to continue production while insuring DPSC with a continually trained work force.

Economic price adjustment clauses will be incorporated into these multi-year type of contracts between FPI and DPSC. A listing of the items affected by a multi-year arrangement will be an attachment to the Memorandum of Understanding.

3. CUSTOMER INCENTIVE: LIQUIDATED DAMAGES

FPI provides its customers with liquidated damages where applicable. Those may be incorporated in contracts between DPSC and FPI.

4. PRICING:

FPI's policy is to price its products at fair market prices. When price negotiations take place on products solely produced by FPI, DPSC will provide FPI with data showing estimated costs and information sources. On items shared with other sources (commercial or mandatory), DPSC will

provide FPI the bidding range on the most recent award, its time frame and other considerations provided to the awarded vendor. This information will assist FPI in insuring that it meets fair market prices.

5. WAIVERS:

FPI will review DPSC's requests for waivers and will respond in seven work days or less. If a speedier response is needed, DPSC will indicate it on its request. All requests will be made in writing and will provide a reliable estimated award date (to FPI and to other sources if a waiver is granted). Information pertaining to future requirements on the pertinent items will also be provided to FPI so that a response can be expedited.

FPI and DPSC will generate a list of items for which multi-year waivers will be granted. The list will be incorporated as an attachment to the MOU.

REVIEW OF UNICOR CONTRACTS IN RESPONSE
TO DPSC'S SEPTEMBER 20TH, 1995 PRESENTATION

NUMBER OF CONTRACTS DELINQUENT- FY95:

As of September 20th, FPI had twenty six Clothing & Textiles open contracts from DPSC. Among them six contracts were delinquent (ECWS shirts and trousers, Body armors, helmets, disaster blankets and leather/cloth gloves). These represented about one quarter of FPI's DPSC C & T contracts. We expect to complete the disaster blanket and the leather/cloth glove contracts on time. The ECWS shirt and trouser contracts should be closed in November. Efforts are being made to catch-up on our other delinquencies.

ISSUES PERTAINING TO SPECIFIC CONTRACTS:

BODY ARMOR 93-F-CA76:

The contract was awarded in July 1993 with deliveries for May 1994 through November 1994. The first delivery extension was provided to FPI because the vendor: Trident was unable to deliver material. The roof of its finishing plant collapsed, in February 1994, due to snow (act of god). The April 1994 modification extended the deliveries to August 1994 through February 1995. In March, FPI awarded a back-up contract to HLC for the Trident materials. Neither vendor could deliver in June 1994 and Trident was terminated for default. FPI's first shipment took place in

September 1994. The contract will be completed in November 1995.

Further delays were not only due to the factory's inability to move up the production curve as anticipated but also caused by continued vendor problems. As recently as September 7, 1995, FPI negotiated an agreement with Dupont to obtain Kevlar fibers for Sioux Industries to weave. Delinquencies have been compounded by, on some occasion, DPSC's slow response on fabric test results. Delays were increased when requests for shade waivers remained unanswered, for over three months, by the ACO in Baltimore. This resulted in Bastrop's inability to transfer material dedicated to 94-F-EA88 to complete 93-F-CA76.

The Bastrop factory did not produce to the expected level of 3,000 body armors per month. Therefore the follow-on contract 94-F-EA88, awarded in December 1994, was negotiated at a level of 2,080 units per month.

In April 1994, FPI, in view of impending delays, granted DPSC a waiver for 28,690 body armors. Another waiver for 100,000 units was also granted in October 1994. At the time, it was agreed that FPI would waive all additional quantities beyond the needs of the factory (estimated at the time to be between 2,000 and 3,000 per month). This waiver was granted within five calendar days.

ECWS TROUSERS 93-F-ED11:

The original contract delivery schedule was for April 1994 to September 1994 for 177,288 trousers. FPI awarded its material contract to Isratex, a source recognized by DPSC as a reliable one. At the time of FPI's award to Isratex, numerous conversations took place with DPSC to insure that Isratex could do the work. FPI purchases cut trouser pieces and leases machinery from its vendor to make the trousers. Isratex also received a contract for 140,712 ECWS trousers from DPSC in August 1993.

After a few attempts, the first article, in March 1994, did not pass due to material issues. In April, Isratex was terminated for default and subsequently filed for bankruptcy protection, chapter 11 in May 1994. Since both DPSC and FPI obtained ECWS trousers through Isratex, this bankruptcy severely affected DPSC's supply position.

In June 1994, FPI awarded the material contract to Tennessee Apparel, the only remaining vendor on the U.S. market. As a sole source, Tennessee Apparel also received a contract from DPSC. In addition, FPI incurred \$ 1.4 million higher costs than with Isratex. FPI's efforts to modify its DPSC contract price have remained unsuccessful.

Fort Dix has demonstrated an efficient production. More recently

(May to August 1995), Tennessee Apparel experienced shading problems. This delayed FPI's expected contract completion beyond the June/July 1995 time frame.

Due to delinquencies, FPI agreed to have its contract reduced from 177,288 to 147,288 trousers in May 1994. An additional waiver for 80,000 trousers was granted in January 1995.

ECWS SHIRTS 93-F-EC02:

The original contract delivery schedule was for November 1993 to September 1994 for 163,008 shirts. There was an excusable delay due to master patterns not being received until July 9, 1993. First article was due September 14, 1993.

In September 1993 UNICOR requested to use excess materials from the cancelled Bib Overall contract 91-F-BE31¹ which was approved immediately. However, because the test reports on this material were over 90 days old, new samples had to be pulled and tested. The new test results were not approved until December 1993.

The first article was submitted on February 1, 1994, verbal approval was given on that date by the DPSC inspection team. Formal approval was received on March 11, 1994.

¹ This contract was terminated at DPSC's convenience about three years ago. FPI has, to date, not received compensation and storage costs are being incurred.

The vendor for black reinforcing material was not able to meet the required March delivery date and was three months delinquent. The poly bag vendor furthered the delay by shipping the wrong bag. The correct bag was not received until mid-July 1994.

The first shipment from Oakdale took place on August 4, 1994, 10 months after the contractual delivery schedule.

In October 1994 the Fox-Rich vendor did not meet scheduled shipping. A call was made to DPSC by FPI to determine how to get fabric inspected in Canada. It was then determined that it would create a violation of the Preference for Certain Domestic Commodities Clause. Immediately an Urgent and Compelling procurement was done to Reeves Brothers to supply the Black Reinforcing material until Fox-Rich could find a U.S. finishing house.

At this time, UNICOR made the decision to shift part of the contract to Jesup. In December 1994 Jesup started shipping.

In July 1995 the Borg vendor who supplied the brown fiber pile fell into financial difficulties resulting in another Urgent and Compelling procurement.

Between December 1994 and April 1995 the average amount of shirts produced and shipped was 8,389. Between June 1995 and September 1995 an average of 18,834 shirts were produced and shipped. The

contract will be completed in November 1995.

On February 21, 1995 UNICOR waived 180,000 shirts. An option of 180,000 was also discussed at the time. On October 12, 1995, the option quantity of 180,000 was waived.

To date UNICOR has not received a follow on solicitation. However, DPSC and FPI have agreed that an award will be made in November 1995 so that production continues. A minimum of 10,000 units per month for twelve months will be provided to FPI. A maximum of 17,000 trousers per month will be considered in January 1996 based upon Fort Dix's performance.

BDU COATS 93-F-CA67 AND 95-F-CA11:

93-F-CA67 was the first contract awarded to Manchester for BDU coats. DPSC made changes to the patterns which delayed the factory's production by three months. Delivery extensions were granted. FPI has requested financial consideration of about \$ 23,000 due to the inability to produce. So far, the ACO has not approved this request. FPI is looking at appealing the decision.

Pricing has been an issue on all BDU contracts with DPSC. Awarded prices have frequently been at cost with FPI unable to recover general and administrative overhead. Issues pertaining to fabric usage and waste have not been resolved. DPSC's

information on fabric costs do not always match vendor quotes. Both issues have a significant impact on the costing discussions with DPSC. It is FPI's policy to meet the fair market price. FPI's quotes have always been within other DPSC vendors' bidding range, therefore in the market.

As pointed out by DPSC, the BDU coat contracts have not been delinquent. The Manchester facility has a good production record.

MEDICAL ASSISTANT TROUSERS 93-F-CB12 & 95-F-CB37:

FPI was awarded its first contract 93-F-CB12 for 49,974 trousers in September 1993. Shipments were due from April 1994 to November 1994. Material, that met military specifications, was sought twice by FPI with no bidders. Finally, after consulting with DPSC for potential sources, Associated Textiles was awarded the fabric contract. In March 1994, the vendor indicated that it could not ship. Knowing that DPSC had also awarded a contract to a NISH workshop, FPI contacted the NISH vendor. Discussions with the vendor resulted in the discovery that a military specification had been awarded to FPI while a commercial one was given to NISH. The awards were made to the two mandatory sources within three months of each other. No vendor could produce to the military specifications. FPI subsequently received, on June 3rd, 1994, a contract modification allowing the use of the commercial specification.

FPI's first delivery began in July 1994. The factory, at Alderson, encountered production difficulties. Consequently, production never reached the monthly contract requirement. The contract was completed in June, 1995.

A new contract 95-F-CB37 was awarded in April 1995 for 72,712 trousers with delivery of October 1995 through September 1996. Monthly requirements are about 6,000 unit per month. As of October 5, 1995, the factory is ahead of schedule (shipped 9,203 units). Accelerated deliveries have been requested by DPSC to reach a 9,000 trouser monthly production. The factory is being provided assistance to reach that production level.

GLOVES, KNITTED WITH LEATHER PALMS 95-F-BD26:

The contract was awarded in March 1995. Price negotiations had been intermittent since May 1994 at which time award was anticipated for August 1994. Historically, contracts for this glove carried a 180 days ARO. Due to the lengthy award process, the glove was in serious back order. DPSC requested a 90 day delivery ARO.

The accelerated delivery could not entirely be met due to raw material scheduling delays on leather and glove tag labels. By the end of July, FPI was late on one shipment of 20,080 units. Shipments since then have been 20,080 per month. To this date, FPI remains one shipment behind schedule. All attempts are being made to catch-up to the original schedule.

Mr. SCOTT. Thank you, Mr. Chairman.

In the year 2000, FPI workers paid \$2.5 million in fines, victim restitution, family support, and other legal obligations. Over \$410 million was paid in raw materials in 2000, resulting in the support of approximately 5,000 private sector jobs. Indeed, all of the \$566 million in revenue collected by FPI in 2000 went back into the general stream of commerce through either purchase of raw materials or FPI inmate salaries, FPI employee salaries. All of this occurs at no cost to the taxpayer.

We will hear today, no doubt, a number of complaints about the operations of FPI. Since we will not hear from FPI, I think it is

important for us to have as broad a context as possible in which to consider these complaints.

FPI captures approximately 3.2 percent of the Federal market for those Federal Supply Classification codes in which it operates. This represents one-quarter of 1 percent of all the Federal procurements. The domestic office furniture business is approximately a \$13.5 billion operation nationally. FPI captures about 1.7 percent of it. Of course, this amount would hardly register as a percentage of the entire domestic furniture market. Under questioning during the 1999 hearings on FPI before this Subcommittee, representatives of both the office furniture industry and the apparel industry conceded that FPI sales represented an insignificant percent of the total market in America. I would like to offer the relevant pages of the transcript of those hearings as part of this record.

Mr. SMITH. Without objection, so ordered.

[The material referred to follows:]

Mr. FELT. No, that is true.

Mr. SCOTT. Of the total furniture industry, what impact does the prison industry program have on the furniture industry?

Mr. FELT. On the furniture industry? Relatively insignificant, since the furniture industry is probably 10 billion against 250 million or so in the furniture segment.

Mr. SCOTT. Okay.

MEMBER OF HOUSE. Our largest government contractor is our 51st largest member.

Mr. SCOTT. I don't mean to cut you off, but, I mean, you are talking about jobs lost in the industry, and then you say that the prison industry program—I mean, it is easy to identify a single contract if it didn't have mandatory source, I could have gotten that individual contract. But in terms of the apparel industry, did I understand your testimony to be that the prison industry program has an insignificant impact on the apparel industry?

Mr. MARTIN. As a whole.

Mr. SCOTT. As a whole, okay.

Mr. Linder. in terms of the overall impact on the private busi-

Mr. SCOTT. FPI is required to diversify its product line and operate so that no single private industry bears an undue burden. It is also charged with reducing to a minimum competition with private industry or free labor. The Federal agencies can obtain a waiver of this requirement to purchase FPI goods and services if FPI is unable to make the needed product or provide the required service within the time frames or quantity or quality specifications. Such a waiver is issued 90 percent of the time that it is requested. Annual revenue for those waivers equals approximately \$456 million, which goes into the private sector suppliers.

So, Mr. Chairman, I think we must certainly be open to ways to better ensure that FPI is working and operating within its boundaries set by Congress, and the fact that FPI has any business at

all means that a private sector may not get that business. This alone, however, should not signal that something is broken.

We have not had a chance to read the legislation before us. As we do, we will read it with an open mind toward supporting any proposal which improves the operation of FPI with the caveat that any such proposal should first do no harm to the current level of inmate work opportunities, particularly in light, Mr. Chairman, of the significant increase in prison population that we expect to see in the next few years. I think the population is expected to go from about 150,000 to almost 200,000 inmates, and obviously we will need more jobs for them rather than less under FPI. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Scott.

Mr. SMITH. We have also been joined by and welcome the gentleman from Wisconsin, Mr. Green, and the gentleman from North Carolina, Mr. Coble, and I understand, Mr. Coble, you have an opening statement, and you are recognized for that purpose.

Mr. COBLE. Mr. Chairman, I will be very brief, and not unlike most days up here, I say to you and to the Ranking Member, we have to be at five places simultaneously. Today is one of those days, so I will probably be coming and going.

Conceptually, Mr. Chairman, I am not in disagreement with FPI. I mean, to rehabilitate prisoners, I think we all sign on to that. I have become subjectively involved, however, because I represent about 45,000 textile and furniture workers in the private sector back in my district, and I will go to my grave, Mr. Chairman, believing that FPI enjoys a leg up. The mandatory source rule is one of my pegs on which I hang my hat.

I have talked about this before, and I think we need to, without, to coin a phrase, without throwing the baby out with the bath water, I think we need to examine this very carefully to be sure that FPI is not extending its tentacles too onerously into waters that ought to be certainly reserved in part for the private sector. That is my problem.

I will put my detailed statement in the record, Mr. Chairman, without objection, and I thank you for recognizing me.

Mr. SMITH. Without objection, the gentleman is welcome to put into the record any extension of his remarks and they are appreciated.

[The prepared statement of Mr. Coble follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD COBLE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman and Members of the Subcommittee,

Federal statute authorizes Federal Prison Industries (FPI), the government corporation that employs federal inmates, to sell the goods and services produced by these inmates to federal agencies but not to the public in competition with the private sector. Federal law also mandates that federal agencies purchase FPI products. This requirement is generally referred to as "FPI's mandatory source status."

While I support efforts to train prisoners to become productive members of society, I strongly believe that such efforts should take great care not to threaten the jobs of hard-working taxpayers. This issue is especially important to the 6th Congressional District of North Carolina, home to more than 40,000 textile and furniture workers, since two major classes of items produced by FPI are textiles and furniture. The mandatory source status gives FPI an unfair advantage over private manufacturers contending for federal contracts. Therefore, many of my constituents are deprived of employment opportunities in order to give work to federal inmates.

In addition, the furniture industry in North Carolina is already competing with an increasing number of furniture imports arriving to the U.S. from countries such as China.

For these reasons, I am greatly concerned about FPI's proposal to begin selling inmate-furnished services in the commercial marketplace. I am equally concerned with FPI's publication of a regulation that professes to be a codification of "existing standards and procedures utilized to accomplish FPI's mission." It is my opinion that FPI is in need of reform before it is allowed to expand.

In previous Congresses, I have sponsored and cosponsored legislation to do just that. During the 105th and 106th Congresses, I cosponsored the Federal Prison Industries Competition in Contracting Act (H.R. 2758 and H.R. 2551, respectively). These bills would have removed FPI's mandatory source status for products sold to the federal government, and I will support any such reform efforts again during the 107th Congress.

Hardworking, taxpaying citizens of the 6th District of North Carolina who are employed in the furniture and textile industries can compete with anyone in the world. They should not have to compete with their own government which is using their tax dollars to train federal prisoners how to be textile and furniture workers. It is not fair and is not right.

Mr. SMITH. We will now go to our panelists, and let me introduce all of them. The first is Honorable Pete Hoekstra, Member of Congress, Second District of Michigan, United States House of Representatives; Mr. Stephen M. Ryan, Manatt, Phelps and Phillips, Washington, D.C.; Mr. Michael Mansh, President, Ashland Sales and Service Company, Philadelphia, Pennsylvania, and Mr. Philip W. Glover, President, Council of Prison Locals, American Federation of Government Employees in Johnstown, Pennsylvania.

Again, we welcome you all. Mr. Hoekstra, you are up first, and we do understand you are going to have to leave after your testimony because of another conflict, but we appreciate your being here today. This is obviously your bill that we are considering and so we look forward to your comments and you are recognized for that purpose.

STATEMENT OF HON. PETE HOEKSTRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. HOEKSTRA. Thank you, Mr. Chairman. I would like to submit my entire statement for the record.

Mr. SMITH. Without objection, we will do that.

Mr. HOEKSTRA. I want to thank you for scheduling this hearing so early in the session. I understand that this is only the third hearing that you have held. Thank you very much for putting us on the radar screen this early in the year.

Also, Mr. Scott, I look forward to working with you through this session of Congress as we will continue the dialogue on how to move forward and, hopefully, get a result in this Congress, perhaps that we can all agree on. But let us move the ball down the field and let us keep the dialogue open on this issue as we will keep the dialogue open on the issue of education and other issues that we have the opportunity to share interests in.

As you requested, Mr. Chairman, I introduced my bill, the Federal Prison Industries Competition in Contracting Act of 2001, which is now H.R. 1577, this week. I think it is an improved version of the bill that we had in the last Congress. Many of the improvements are an outgrowth of the protracted discussions that we have had in the last Congress and the negotiations that we had with the former Chairman of this Subcommittee.

They are fully supported by the Federal Prison Industries Competition in Contracting Coalition. This is a coalition from both the business community and from organized labor, specifically headed by the AFL-CIO. It is one of the more unique coalitions here in the House, where we bring business and labor together in that kind of support.

Most notably, this bill continues to provide a soft landing for FPI. It provides a 5-year transition period during which it must adjust to the loss of its mandatory source status and move to one where it can actually compete effectively for the business.

Other provisions of H.R. 1577, such as the bill's provisions to enhance opportunities for inmates to obtain modern hands-on vocational training linked to remedial education, are included because access to such opportunities has been shown to improve the prospects for obtaining a job that pays a living wage upon release. We share your objective that when prisoners are in prison and they are on the path to being released, they need the skills to be successful in that transition and get a job when they go back into society.

Other provisions of the bill, such as those related to inmate wages, grew out of suggestions made by Pat Nolan on behalf of Chuck Colson's Prison Fellowship Ministries. They try to recognize the concepts of restorative justice by increasing amounts deducted from inmate wages allocated to the payment of victim restitution. They give greater priority to the funds the inmate can allocate to staying in touch with his or her family. They enable the inmate to build a gate fund, savings that will increase the likelihood of a successful return to society.

FPI's continued advocacy for authority to sell products and services in the commercial market will likely continue to generate a new round of intense discussions. Business and organized labor remain steadfastly opposed on very practical grounds as well as issues of fundamental principle. However, providing new work opportunities by allowing inmates to help with the public service activities of nonprofit organizations has been accepted in concept, but has not yet been placed on the table or in the bill.

I am again privileged to have Representative Barney Frank as the principal Democratic cosponsor, with Representatives Mac Collins and Carolyn Maloney as the lead bipartisan cosponsors. We are again privileged to have Jim Sensenbrenner and Howard Coble as original cosponsors. Thank you, Mr. Coble, for all the work and assistance that you have provided. We also look forward, Mr. Frank and I, to having the opportunity to demonstrate to Mr. Conyers that this version of the bill is even more worthy of his cosponsorship than the bills he has cosponsored in the 105th and 106th Congresses. And finally, Mr. Chairman, we also hope that we will be able to demonstrate to you that this bill is worthy of your support as you cosponsored similar bills in the previous two Congresses.

I just want to share one example with you recently in my district. The Social Security district office in my hometown, Holland, Michigan, transferred or was moving to a new space. Although the office is within miles of manufacturing facilities of some of the nation's most prominent office furniture manufacturers, one company which recently announced that it may lay off 1,000 workers in the

month of June, the Social Security office had to be furnished with FPI product. FPI was a month late in delivering their product, which delayed the move for a month. The Social Security Administration had to pay \$13,500 in rental for the new space as well as rental on the existing space.

FPI justified the delay on the basis that its production was shut down while it converted to a new computerized inventory system. Fortunately for my constituents and for Social Security beneficiaries, the Social Security Administration recognizes that it cannot just suspend operations for a month during computer systems upgrade. They recognize that there would be consequences. FPI has no such concerns.

The bottom line with this is that when we create a false environment, the taxpayer suffers, Federal employees suffer, and our constituents and folks that are making similar products suffer. FPI believes and wants to be able to compete in the private sector, but yet says that if its mandatory sourcing is removed, it cannot compete in the government sector. There are some inherent contradictions in the positions that they have taken.

What we want to have happen is to allow our constituents to have the opportunity to compete for this business. We have the business groups, the labor groups, we have Federal employees groups who have all come on board and said, this is the direction that we need to take.

There are a lot of questions. You have been generous with your time. Thank you very much. We look forward to having the dialogue with you to take care of perhaps some of your concerns and Mr. Scott's concerns, but also the concerns of folks in the private sector who are losing the opportunity each and every day. Thank you very much.

Mr. SMITH. Mr. Hoekstra, that is a generous offer. We will take you up on it, and thank you for your testimony today.

[The prepared statement of Mr. Hoekstra follows:]

PREPARED STATEMENT OF THE HONORABLE PETE HOEKSTRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman (Mr. Smith of Texas), I thank you for scheduling today's hearing on Federal Prison Industries (FPI) and the need to bring about fundamental change to the corrosive manner in which the program operates today. Such reform has remained sorely needed for far too long. With you as the new Chairman of the Subcommittee on Crime and Jim Sensenbrenner as the new Chairman of the Judiciary Committee, the prospects for actually moving forward on such reform are much improved.

As you requested, I introduced the "Federal Prison Industries Competition in Contracting Act of 2001" (H.R. 1577). H.R. 1577 is an improved version of the bill in the 106th Congress (H.R. 2551). You and the members of Subcommittee were furnished a summary of the bill along with the bill text. Many of the improvements are an outgrowth of the protracted discussions conducted in the last Congress with the former Chairman of this Subcommittee. They are fully supported by the Federal Prison Industries Competition in Contracting Coalition, both from the business community and by the AFL-CIO on behalf of organized labor. Most notably, it provides a "soft landing" for FPI. A five-year transition period during which it may adjust to the loss of its mandatory source status with safeguards against abuse.

Other provisions of H.R. 1577, such as the bill's provisions to enhance opportunities for inmates to obtain modern "hands-on" vocational training linked to remedial education, are included because access to such opportunities has been shown to improve the prospects for obtaining a job that pays a living wage upon release. Other provisions, such as those seeking to expand job placement opportunities for inmates, were included at the suggestion of the AFL-CIO. They are still in their rudimentary

stages and will benefit from the assistance of members of this Committee, especially the Ranking Democratic Member, my colleague from Michigan, who are dedicated to giving inmates the most help possible in making a successful return to society. Individual inmates and their families, as well as society at large, will benefit if we better prepare inmates to make a successful reentry into society. Other provisions of the bill, such as those related to inmate wages, grew out of suggestions made on Pat Nolan on behalf of Chuck Colson's Prison Fellowship Ministries. They try to recognize the concepts of "restorative justice" by increasing amounts deducted from inmate wages allocated to the payment of victim restitution. They give greater priority to the funds the inmate can allocate to staying in touch with his or her family. They enable the inmate to build a "gate fund," savings that will increase the likelihood of a successful return to society.

FPI's continued advocacy for authority to sell products and services in the commercial market will likely generate a new round of intense discussions. Business and organized labor remain steadfastly opposed on very practical grounds as well as issues of fundamental principle. Providing new work opportunities by allowing inmates to help with the public service activities of nonprofit organizations has been accepted in concept, but has not been placed on the table.

I am again privileged to have Rep. Barney Frank as the principal Democratic cosponsor, with Rep. Mac Collins and Rep. Carolyn Maloney as lead bipartisan cosponsors.

We are again privileged to have Jim Sensenbrenner and Howard Coble as original cosponsors. Mr. Frank and I look forward to having the opportunity to demonstrate to Mr. Conyers that this version of the bill is even more worthy of his cosponsorship than the bills he cosponsored in the 105th Congress and 106th Congress. Finally, Mr. Chairman, we hope that you will again find yourself able to lend your support to our bill, as you did in the 105th and 106th Congress. It remains a firm foundation upon which you and other Members of the Committee can structure fundamental FPI reform.

Today, I plan to share with the Subcommittee the records of five oversight hearings I conducted during the 105th and 106th Congress, while I chaired the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce. I believe that these hearings and other assessments further demonstrate that the current FPI program must be fundamentally reformed. Those reforms are provided in the H.R. 1577, the "Federal Prison Industries Competition in Contracting Act of 2001." That view is shared by a broad coalition that encompasses virtually all segments of the business community joined with organized labor, led by the AFL-CIO. It includes a number of the Federation's affiliated unions, whose members feel just as strongly as Mr. Glover that FPI cannot be allowed to continue to operate as it does today.

The current FPI system is fundamentally unfair to private-sector firms, large and small. Under FPI's mandatory source status, they are foreclosed from being able to even bid on more than a half a billion dollars worth of federal contract opportunities funded with taxpayer dollars. Law-abiding private-sector workers are deprived of job opportunities in the name of providing work opportunities for inmates. During my testimony before this Subcommittee in the 106th Congress, I recounted a series of specific examples. Other testimony received today will amplify that theme.

FPI's federal agency "customers" are also victims under the current system. They, and the taxpayer dollars charged to their care, are made prisoners by FPI's array of preferences. Under FPI's mandatory source status, FPI's captive federal agency "customers" are required to purchase products offered by FPI, even if the agency can obtain a commercial product that better meets its needs, get it more quickly, and get it at a lower price, even a substantially lower price. A buying agency must actually obtain FPI's permission, a waiver, before being able to get the "best value" for the taxpayers' money.

Under its Depression-era authorizing statute, FPI, rather than the buying agency, has the power to determine whether FPI's offered product and delivery schedule adequately meets the buying agency's mission needs. FPI, rather the buying agency, determines the reasonableness of the price that the buying agency will have to pay to FPI. FPI can compel the buying agency to accept its offered price, so long as FPI's offered price is less than the highest price offered to the government, regardless of whether any purchases were actually made at that price.

These preferences allow FPI to perpetuate the myth of being self-sustaining. Under the current system, FPI can help itself to the appropriated funds of its captive federal agency customers. Too frequently, Federal agencies must accept products of lesser quality at a higher price than are competitively available from the commercial market, and receive them late.

Dollars appropriated for military readiness or quality of life can be unilaterally diverted by FPI. When we are demanding that Federal managers and employees do "more with less" and do it "faster, better, and cheaper," it should be no surprise that the Federal Managers Association supports our FPI reform legislation.

Recently, the Social Security District Office in Holland, Michigan transferred to new space. Although the office is within miles of the manufacturing facilities of some of the nation's most prominent office furniture manufacturers, that Social Security office had to be furnished with FPI product. FPI was a month late in delivering their product, which delayed the move for a month. The Social Security Administration had to pay \$13,500 in rental for the new space as well as rental on the existing space. FPI justified the delay on the basis that its production was shut-down while it converted to a new computerized inventory system. Fortunately for Social Security beneficiaries, the Social Security Administration recognizes that it can't just suspend operations for a month during computer system upgrades. They recognize that there would be consequences. FPI has no such concerns.

The failures of the current system does not stop with its unfair treatment of business and workers and FPI's authorized exploitation of federal agencies. The current system even fails the inmates used to justify FPI's excesses.

We should do more to prepare inmates for a successful return to society. Many inmates need access to remedial educational opportunities. They need more access to modern, "hands-on" vocational education opportunities that will prepare them for jobs that will pay a living wage. This has repeatedly been suggested by organized labor and the business community. Most prison industry jobs may impart fundamental work skills such as learning to be on time, work as part of a team, and complete an assigned task. The same skills can be learned as part of inmate work details that help maintain and run the prisons. Coupled with appropriate vocational and remedial education programs, helping to run the prison kitchens, the laundries, doing electrical, plumbing and carpentry repairs and alternations are long-term work opportunities that can steadily develop practical skills that are actually marketable upon release.

Why did FPI have 6,149 inmates, nearly one-third of its workforce, engaged in textile manufacturing during 1999, when unemployment among skilled textile workers remains substantially higher than the national average due to foreign imports? The answer does not lie in FPI's desire to impart technical skills to improve job prospects upon release. The answer lies in the fact that a \$1 billion military clothing market is there for the taking without any consequences for FPI. Rather, the consequences are suffered by the small group of American suppliers capable of meeting military requirements, and their non-inmate workers, as you shall shortly hear. The consequences are also borne by the Department of Defense which has to watch as successive FPI expansions steadily erode the industrial base that supports military readiness, a base that probably can't be rebuilt.

H.R. 1577 addresses these problems by simply making FPI compete for its government contracts and to fully perform them like any other supplier to the government.

FPI says that loss of mandatory source will result in massive inmate idleness. Only 20 percent of inmate work opportunities are provided through FPI. The vast majority of inmates work at helping maintain and operate the correctional institutions in which they are incarcerated.

FPI asserts that it will lose work for the inmates employed by FPI if they lose their mandatory source status. This assertion squarely contradicts the statements annually made in FPI's report to the Congress that FPI only delivers its federal agency customers a high-quality product, on-time, at market prices. From my business experience, that's the description of a successful competitor. Both can't be true.

I also urge you to ask the proponents of letting FPI compete in the commercial market to explain how FPI can say with a straightface that it will be able to successfully compete in the rough-and-tumble of the commercial market, but it can't compete in the federal market. Generally, the laws prescribing the federal procurement process place get emphasis on according fair treatment to all prospective suppliers.

As I mentioned before, H.R. 1577 does not alter many of FPI's other advantages over its private-sector competitors. FPI's highest wage of \$1.23 per hour is about one-quarter of today's federal minimum wage. FPI's facilities, its workshops, are constructed with appropriated funds as part of prison construction. FPI can take, at no cost, excess government equipment for use in conducting its industrial operations.

FPI has a \$20 million line-of-credit at the U.S. Treasury at rates well below rates available to a Fortune 100 firm, much less any small business.

Within the government market, federal agencies would be required to solicit an offer from FPI for any product or service that FPI is authorized to sell by its Board

of Directors. Small businesses in your district will tell you that they have to find government contract opportunities, an increasingly daunting task.

H.R. 1577 provides special authority for the award of a contract to FPI on a non-competitive basis when the work is needed to maintain safety. This provision was expressly included for the protection of guards, like Mr. Glover, and other prison staff. It is permanent.

So that FPI doesn't abuse this authority, the decision to allow FPI to take the contract must be supported by the warden at the prison where the work is to be performed. FPI asserts that the authority will not be used. I simply can't believe that any warden would voluntarily endanger any staff member simply to avoid making the determination required to support the sole-source award of the contract to FPI to continue the flow of needed inmate work. More realistic are the fears of the business community: that the "safety value" authority will be abused.

As I mentioned earlier, H.R. 1577 provides a five-year period for FPI to adjust to the loss of its mandatory source status. During this transition period, federal agencies would be able to make a non-competitive award to FPI, if the buying agency determines that FPI's offered product and delivery schedule meet its mission needs and that FPI's offered price is fair and reasonable as compared to market prices. Use of this authority would be subject to annually decreasing caps. The caps are quite generous. Ninety (90) percent in the first year. Eighty-five (85) percent in the second year. Seventy (70) percent in the third year. Fifty-five (55) percent in the fourth transition year and 40 percent in the final transition year.

Some urge that we must guarantee FPI sufficient business to guarantee work for the 20 percent of the inmates currently employed by FPI and to guarantee expansion of FPI work opportunities to 25 percent of the inmate population.

Are these guarantees to be made at the expense of law-abiding workers and the firms that employ them? Are these jobs to be guaranteed at the expense of federal agencies and the taxpayer dollars entrusted to their care?

Despite the benefits of inmate work opportunities in combatting idleness and helping to prepare inmates for a successful return to society, guaranteeing government contract work or commercial contracts to FPI, at any price, is simply too much for most in the business community and in the labor community. It certainly doesn't ring true to me.

Having said that, I am confident that the business community and organized labor will evaluate any proposal with an open mind. What they have seen to date, simply didn't make the grade.

Mr. Chairman and Members of the Subcommittee, I look forward to working with you on promptly advancing this bill, early in the First Session of this Congress. Action has been blocked too frequently in the past.

Mr. SMITH. Mr. Ryan?

**STATEMENT OF STEPHEN M. RYAN, ESQ., MANATT, PHELPS
AND PHILLIPS, LLP, WASHINGTON, DC**

Mr. RYAN. Thank you, Mr. Chairman. I am here this morning representing a series of groups. First of all, I am representing the Coalition for Government Procurement, which is a group of 340 businesses in a variety of industrial sectors, particularly the office furniture market, and I also have the pleasure of representing the Federal Prison Industries Competition in Contracting Coalition, which allows me to wear the tunic of the business community and the belt and sword of the AFL-CIO, which is not often seen in these quarters.

My experiences with FPI are colored by the fact that I have represented industry in litigation with them, and the focus of my litigation has been facts and not opinions. It has been not feelings but the actual results of the activity. I just want to share a tiny bit of that experience with you, which is that in the 1990's, the agency ran amuck. It operated completely inconsistently with the statute that Congress amended in 1988 and with the agency's own adopted regulations that it posted to respond to Congress's changes in the 1988 amendments.

You do not have to accept my word on that. You can accept the word of the United States District Court for the District of Columbia that ruled in favor of industry on summary judgment that FPI had failed to follow its own statute and had illegally expanded by tens of millions of dollars in the area of dormant quarters furniture.

The agency, frankly, has never genuinely accepted responsibility for the fact that there were no internal controls in the 1990's. Let me just give you one example of that. Their own self-adopted regulation required that they track the expansion of equipment and inmate labor. They did not. There were routine violations where inmate labor exceeded the amount that was permitted in the guidelines. There were new factories added that were not consistent with the guidelines. There was plant equipment added and there was never a basis established to even assess whether that addition violated the guidelines.

Right now, I am involved in a case that has the exact same legal theories, just a different set of factories and facts, in the United States District Court in Michigan, and on July 19, we will argue for summary judgment in that case and I suspect it will be granted. But whether it is granted or not, quite candidly, the Congress of the United States has failed to police this agency and to ensure that the 1988 amendments that this Committee sponsored and the resulting regulations were followed. Let me give you just two specific examples today of how I think abuses are occurring.

There is a policy right now at FPI called pass-throughs, that is, where the goods are made without one turn of a screw of prison labor, without any prison person even seeing the product, and it is sold under the mandatory source provision to Federal agencies. These pass-throughs go directly from the vendors who are the partners of FPI at their factories directly to Federal customers as if they were prison-made goods, but there is no inmate labor in them.

I estimate that in the 1990's, there were literally tens of millions of dollars, approximately \$25 million worth of such goods. I cannot tell you the exact number because FPI has literally no internal control system. They did not track such expenditures and could not provide in District Court a number approximating that, except when ordered to do so by the court, studying it for a single year. That single year indicated that the volume was approximately \$2.25 million, or \$2.5 million. If you multiply that out for the 1990's, you get approximately \$25 million in furniture alone that was made without prison labor but sold under mandatory source.

Similarly, FPI has a procedure where a prison-made product can have 99 percent content not prison made. That is, private sector vendors can make 99 percent of the product and that would pass as being a prison-made product under the current regulatory scheme.

I must tell you that when you bring such abuses that I do not think any of you, frankly, would want to defend to people in your district, whether they were involved in this issue or not—it is not something a Member of Congress could defend—when you bring these to the agencies' management, quite frankly, they have not fixed these problems. If they want additional authority from this Congress to go into selling in the commercial marketplace, it seems

to me they ought to be asked to obey the existing law and existing regulations before they ask you for any additional authority.

Our groups support strongly Congressman Hoekstra and Mr. Frank's bill, H.R. 1577. We believe, frankly, that that is an appropriate and balanced way to stop what is, in essence, a subsidy of the Defense Department budget being used to subsidize the Justice Department. I see my time is up, so I will stop.

Mr. SMITH. Thank you, Mr. Ryan, for your testimony.

[The prepared statement of Mr. Ryan follows:]

PREPARED STATEMENT OF STEPHEN M. RYAN

Mr. Chairman and Members of the Committee, I am honored to present you with the views of the Coalition for Government Procurement, a broadly-based non-profit group of approximately 340 member companies who are government contractors from industries as diverse as information technology, health care to furniture. I am also privileged to represent the Federal Prison Industries Competition in Contracting Coalition, a group made up not only of businesses located throughout the United States, in many sectors of both the manufacturing and service economies, but also the AFL-CIO on behalf of organized labor.

Over the past six years, I have personally had significant experience working on issues related to FPI, in opposition to FPI's expansions and in examination of the aggressive methods in which FPI has been allowed to do business. For example, I am currently representing the Coalition for Government Procurement in a lawsuit in the U.S. District Court for the Western District of Michigan. In that suit, we are seeking relief from FPI's past illegal expansion of \$450 million dollars in office furniture production. I also represented the Quarters Furniture Manufacturers Association ("QFMA") in their suit against FPI in U.S. District Court for the District of Columbia concerning FPI's past unlawful expansion of \$44 million in military Dorm and Quarters Furniture. In that now concluded case, the Court made a judicial finding of summary judgement for industry confirming the claims of unlawful expansion by FPI. Each of these cases involves FPI's significant, unauthorized and illegal expansions in furniture production, but the procedural and methodological problems they reveal are not unique to furniture. They are systemic in nature and will require fundamental legislative reform in addition to real oversight by FPI's Board of Directors and Congress.

FPI has only grudgingly been forced to admit that they did not follow the statutorily mandated procedures regarding expansion and did not properly analyze their increased production in the different furniture lines. Rather, FPI has failed to take responsibility for their illegal expansions and acknowledge the impact FPI's expansions have had on the private sector and their workers.

My testimony is based on my direct experiences with FPI over the past six years. My primary concern is that for too long, FPI has operated without adequate oversight or controls. The lack of controls has enabled the agency to not only to illegally expand production of authorized items but also unilaterally expand its claimed authority into other lines of business that were previously prohibited. These include; selling services to the federal government and the commercial market; entering into "partnerships" with private companies through which FPI passes through large volumes of non-prison made products to captive Federal agency "customers" and forcing prime construction contractors to use FPI products in "turn key" construction projects. In none of these areas has Congress broadened FPI's authority or has FPI engaged in a formal rule-making process. In general, these expansions in authority are not even supported by explicit actions from FPI's Board of Directors. In the one time that FPI did try to expand through formal rule-making procedures, it voluntarily withdrew the rule after receiving vociferous opposition from its federal agency "customers" and industry.

I respectfully recommend that this Committee use more frequent oversight hearings to ensure that FPI's actual practices are more thoroughly scrutinized. Ultimately we hope that the Committee will conclude, as we have, that the current system needs fundamental reforms. It is beyond tinkering and repair. It cannot be fixed without the fundamental reform proposed in the Hoekstra-Frank-Maloney-Collins bill, which we unreservedly support.

I have the following observations about what is broken:

FPI'S MANDATORY SOURCE AUTHORITY NEEDS TO BE ELIMINATED.

Under current law, Federal agencies are required to buy the products that FPI manufactures unless they receive permission from FPI to procure the item elsewhere. Federal customers who buy FPI's products rightly complain about poor quality, high prices and late deliveries. If FPI were a private company competitively selling its products, its customer problems would certainly lead its past performance rating to be poor. FPI, however, ultimately does not need to improve its products or customer service because FPI is not required to compete for government business.

FPI's mandatory preference is contrary to the principles that govern federal procurements. For sales made to Federal agencies, FPI is not subject to the Federal Acquisition Regulation, except for Subpart 8.6, or the Competition in Contracting Act, passed by Congress in 1984, to establish the central principles of Federal procurement. The core principle is that Federal agencies are required to purchase goods through competitive procurements that create the best value for the Federal agency and the taxpayer dollars they are spending. The Federal agency cannot compel FPI to meet the agency's contractual terms and conditions regarding price reasonableness, product quality or timeliness of delivery.

FPI alone decides what price it will charge Federal agencies for the goods it compels them to purchase with the sole limit being that FPI's price cannot exceed the highest price at which a comparable product was offered to the Federal government. Numerous studies prepared by the General Accounting Office and the Department of Defense Inspector General concluded that the price for FPI manufactured goods was significantly higher than that for similar commercial products from the private vendor. For some Systems Furniture, electronic and electrical cable components, FPI was found to have charged 15% more than private suppliers of comparable products. FPI charges 42% more than commercial vendors for some of the textile products that have been reviewed.

This price inflation effectively creates a system through which every federal agency, most significantly the Department of Defense, is forced to underwrite the Federal Prison Industries by buying FPI's products that are not competitive with the private sector. This is how FPI can claim to be self-supporting. FPI does not receive direct appropriations but rather cuts into the appropriated operating funds of its captive agency customers. This "unfunded mandate" should be ended.

FPI's mandatory source permits it to grow and increase its market share solely by increasing production rather than becoming more competitive. The effect of this has been seen in the office furniture industry where FPI has dramatically expanded its office furniture production from 1988 to 2000. In 1988, FPI produced only \$65 million worth of office furniture. This year, FPI plans to sell more than \$230 million of office furniture to the federal government.

To reform FPI, Congress must eliminate the mandatory source and require FPI to compete with the private sector. Given FPI's labor rates of .23 per hour to over a \$1.15 per hour this should not be hard to meet, even with FPI's additional cost and inefficiencies of using an inmate workforce in a prison setting. While this would require FPI to improve its quality and customer service, it would greatly improve the value received by the federal government and will ultimately help FPI meet its mission of employing federal inmates without unduly impacting the private sector.

FPI SHOULD NOT BE ABLE TO PICK WINNERS AND LOSERS.

FPI and its Board of Directors alone dictate what products it will produce and sell to the Federal government under its mandatory source preference. The Board has the responsibility to determine what percentage of FPI's production capacity will be dedicated to each product line.

FPI's statute requires that it not operate in such a way as to create a disparate impact on any one private industry. In their focus on creating inmate jobs, however, FPI has lost sight of this requirement and remains overly concentrated in certain industries. For example, FPI has exercised this discretion to maximize its impact on two important industries—textiles and furniture manufacturing. These industries generally employ workers such as veterans or high school graduates who have been left out of the New Economy. Every job that FPI creates for an inmate, at 23 cents an hour, has the potential to displace an American worker who is trying to make a decent wage to support their family. The basic corrupting assumption of the FPI program is that it is self-supporting. This is how the agency was initially sold in 1934 when it was created during the Great Depression. This enduring "myth" is the primary source of the significant distortions of FPI's mission.

Given FPI's track record, we do not believe it is appropriate at this time to consider any general legislation that would give FPI and the Board the authority to

enter the commercial market. If Congress gives FPI authority to expand in the commercial market it is inevitable that FPI will do what it has done before and exploit the authority, while not conforming with equal zeal to the restraints and protections contained in the law. Legislation has been introduced, which FPI supports, that would allow FPI to sell products to the private sector that “would otherwise” be made with foreign labor. We exist in a global marketplace. There are very few, if any, industries whose products are exclusively created overseas. Before granting FPI new authority, Congress must improve the procedures by which the Board of Directors approves products and service for the Federal market.

Let me also make some specific recommendations:

1. *FPI's Must Not be Permitted to “Retroactively” Approve Past Violations of Its Statutes.* From 1990 to 1995, FPI engaged in a pattern of activity designed to maximize its production of furniture, and probably many other products, without undertaken the Board review required under FPI’s statute. Pursuant to statutory direction, FPI published guidelines governing its operations in January of 1991. These, guidelines require FPI to conduct an expansion impact assessment in any instance where it opened a new factory without closing an old one, or increased inmate labor by more than 10%, or created a 10% increase in plant size or equipment capacity. If any of these conditions existed, FPI’s market share was then to be analyzed to see if it had increased by levels other than “significant” pursuant to the guidelines. If these thresholds were exceeded, FPI’s Board was to meet to review the proposed “significant” expansion prior to any actual expansion being implemented.

With respect to the expansions on revealed to the Court in the QFMA case, FPI never followed these guidelines and never developed the mechanisms to comply with the analyses the guidelines required. FPI opened new factories and increased inmate employment without following the required process for any of its product lines. FPI never tracked equipment capacity or plant size or even bothered to develop the baseline for each of these categories.

When FPI began to engage in the significant expansion procedures, some of the guideline violations were so dramatic FPI recognized that it had previously expanded without authorization. Rather than reverse these expansions, FPI adopted procedures through which it “retroactively” placed these unauthorized expansions before their Board and sought the Board’s approval. FPI has never been willing to forthrightly admit these violations. In fact, FPI stonewalled for years before the first judicial finding held them responsible and refused to accept as valid the “retroactive approval.”

This retrospective Board approval of unauthorized expansion violates well-settled administrative law principles. It seeks to simply retroactively approve unlawful conduct. The court reviewing FPI’s practices in the QFMA case similarly found that: “It is well settled that an agency cannot rely on post hoc rationalizations to support an agency decision...the difficulty with relying on *post hoc* decisions is that it ignores the fact the agency may not have made the same decision had it received timely comments.”

Despite this clear ruling by the United States District Court for the District of Columbia, FPI is continuing to make the same argument—that it has the authority to retroactively approve a prior illegal expansion—in the on-going case before the U.S.D.C. for the Western District of Michigan. In essence, FPI has claimed that unless it has been specifically precluded from acting a certain way by Congress, there are no limits on what it can do. This “employ inmates at any cost” mentality pervades FPI’s practices. FPI forgets that regardless of how noble its mission may be, it is a federal agency and is bound by the same rules and restraints as every other federal agency.

FPI must not be permitted to continue to engage in practices where it routinely violates its statute and operating guidelines and then asks the Board of Directors to “rubber-stamp” and legally rationalize actions completed years ago.

2. *FPI Must Not Be Permitted to Sell Non-Prison Made Goods Using Its Mandatory Source Preference.* FPI has admitted that it uses “pass-through sales” to fill some of the orders that it takes from its federal customers. Pass through sales are those where FPI substitutes goods made entirely with non-prison labor for the goods which are produced in part by inmate labor. Although FPI has stated that such sales are contrary to its mission and not in its best interests, FPI’s discretion to fill orders from Federal customers with goods made entirely by non-prison labor is unlimited. FPI has no written policy limiting the use of pass-throughs, has never engaged in a rule-making procedure to establish a policy governing when it is permitted to use pass-throughs. FPI has not published or developed any written guidelines governing its practice of substituting office furniture made entirely with non-prison labor for goods made with prison labor produced to fill orders from Federal customers. Furthermore, the Board of Directors has never ratified or approved any

policy directive concerning the substitution of products or services made entirely with non-prison labor for goods made with prison labor produced to fill orders from Federal customers.

FPI initially claimed the only instances where it used non-prison production is when “long term disruption” at a Federal Correctional Institute upset production schedules, and FPI cannot meet its self-created mandatory source “customer” demand. That claim is incorrect. In fact, FPI has subsequently enunciated a long list of instances where it has used pass-throughs in the past. These include instances where;

- fog, which is routine in the area of a particular prison at certain times of the year disrupts operations at an FPI facility;
- customers requested compressed lead times;
- there has been machinery failure at one of FPI’s production facilities;
- FPI could not meet the customer requirements after FPI accepted the order;
- FPI experiences tooling problems with an internal factory;
- FPI’s customers have requested accelerated due dates; or
- FPI experiences work stoppages at one of its facilities;

Because FPI has deliberately chosen not to have any control system, of policy or even collect the data to know the volume or specificity of such activity, it is equally possible that FPI has aggressively and deliberately “overbooked” its sales capacity using mandatory source, and when it predictably cannot meet its schedule, resorts to giving its supplier “partners” the benefit of the mandated sales. FPI’s explanations are legally irrelevant, because nothing in FPI’s statute or rules would suggest FPI could use its extraordinary authority to make such transfers of federal business taken through its mandatory source status.

Congress needs to immediately stop this FPI behavior.

3. *FPI Must Limit the Amount of Non-Prison Made Components Used in FPI Products.* During recent depositions of FPI management, we discovered that FPI considers a good to be “prison-made” and requires a federal agency to purchase the product, even if 99% of the product was made with non-prison labor. In essence, FPI is buying components from its private sector partners, assembling them with prison labor and selling them to federal agencies as “prison-made products.” While this may make for profitable business sense, and is similar to private practices, this policy does nothing to increase inmate employment.

On January 29, 2001, I wrote to the Chairman of FPI’s Board asking that they reconsider and clarify their policy on their extensive use of non-prison made components. I specifically asked that the Board set guidelines fixing the amount of non-prison made components that could be used in FPI’s products and deemed “prison made.” Last week, I received a response from the Board stating that FPI may re-examine this policy. The Board should require FPI to develop guidelines limiting this practice through its formal rulemaking process. This will ensure that all industries are covered by any procedure and all interested parties are engaged in any decision. The best remedy, however, is for FPI’s authorizing statute to be amended consistent with the Hoekstra-Frank-Collins-Maloney bill.

4. *There Must Be Greater Congressional and Institutional Oversight of FPI’s Activities.* FPI’s Board has been given broad statutory authority by Congress. The Board determines what products FPI will produce. The Board decides when to expand production in a product line. The Board ensures that FPI employs the maximum number of inmates possible without adversely affecting private industry.

I have a great deal of respect for the difficulties faced by FPI’s current Board of Directors. They serve in an unpaid capacity and are required to oversee a career staff that is expansionist at any cost. I am concerned, however, that historically the Board has been far too deferential to the agency it is empanelled to oversee and that the record of the agency’s management does not justify this trust.

FPI’s staff, however, has usurped, or been delegated, a great deal of the Board’s authority. Today, FPI’s staff decides the product line in which it will expand production, drafts the Impact Study that presents the history of FPI’s production of the product and justifies the expansion, and then drafts the Board decision authorizing the expansion. According to testimony in our lawsuit, the Board’s input in its own decision is inappropriately limited—in one example—to a page of notes transcribed by FPI’s Chief Operating Officer and editing the expansion decision.

Simply put, the Board is the informational captive of the agency staff. First, the Board was not adequately informed of repeated instances where FPI’s expanded production in violation of its operating guidelines and did not adequately review the methodology FPI used. In addition the methodology adopted by FPI often grossly

understates FPI's market share in the specific product lines. This is achieved by unrealistically puffing up the numbers used for the size of the Federal marketplace for individual commodities. Sworn testimony by experts in litigation indicates the FPI assumptions and numbers are highly unrealistic.

This Committee will be asked to consider legislation that grants FPI additional authorities and allows FPI to produce products for sale to the private sector provided that they only displace "foreign workers." Given FPI's past track record, we are concerned about any legislation that would grant new authority to FPI based on administrative determinations reached largely through FPI agency staff work. While the Board has shown some new signs of openness, it would be unwise to give FPI a broad delegation of authority until they have demonstrated a proven track record of properly managing current responsibilities and accepting clear responsibility for mitigating the impact of past violations.

The Hoekstra-Frank-Collins-Maloney bill reconstitutes the Board of Directors and provides clear standards regarding consideration of expansion proposals and for public comment and independent analysis to offer real protections.

5. FPI Must Not be Permitted to Lobby Congress Outside the Normal Channels. We believe that FPI currently lobbies Congress directly and uses appropriated funds for inappropriate coordination with the Correctional Vendors Association. With regards to FPI's direct lobbying, we are concerned that FPI is approaching Members of Congress and advocating on specific bills without undertaking the normal clearance procedures required by the Executive Office of the President through OMB. Such lobbying has in the past falsely given the impression that FPI is advancing the Administration's position on legislation when it has not been authorized to do so.

Second, we are concerned about inappropriate coordination between FPI and the Correctional Vendors Association ("CVA"), an association of FPI supplier "partners." While the CVA has every right to lobby on behalf of its "customer" agency, FPI is prohibited from using government funds, including staff, telephones and computers to communicate its lobbying needs to companies aligned with its interests. We have written undeniable anecdotal proof that FPI has coordinated activities with CVA in the past and urge the Committee to ensure that it does not continue to do so. FPI's industry partners have become a part of a "prison industrial complex," whose economic well being is enhanced by maintaining FPI's mandatory source authority, and other special preferences in the federal procurement process.

6. FPI Must Not be Permitted to Sell Its Goods or Services to the Private Parties Receiving Federal Construction Contracts. FPI is explicitly forbidden to sell to "the public in competition with private enterprise." 18 U.S.C. § 4122(a). FPI, however, for its own administrative convenience and to increase its sales, has taken the position that it can require private parties to buy goods from FPI that are destined to be used by the government.

So long as the current statute is based on mandatory source FPI has the authority to require their federal customers to use FPI products or seek a waiver from FPI's mandatory source preferences. The problem is that FPI is going to private contractors after a federal construction contract has been awarded and trying to impose their mandatory preferences on them. This affects the rights of the subcontractors who have been chosen by the general contractor and disturbs the terms of the general contract that was competitively bid.

FPI originally sought to extend its authority and apply its mandatory preference to subcontractors through a formal rulemaking. FPI was forced to withdraw the proposed rule because of strong objections raised by FPI's federal customers, especially the General Services Administration. This withdrawn rule implies that FPI is without authority in this area.

FPI has, however, repeatedly contacted federal contractors and told them that they are required to purchase FPI's products. FPI has also forced these contractors to accept contracts of adhesion that are not negotiated but are written by FPI and contain terms that are unduly favorable to FPI. These include terms that allow FPI to terminate the contract for FPI's convenience or terms that allow FPI, the subcontractor, to terminate the contract if they deem the contractor to be in default of its obligations. These terms are not typically found in a government contract negotiated at arm's length. These contracts, which each include the same language, give FPI rights in relation to the contractor that ordinary subcontractors do not receive. It is unlikely that any commercial entity not subject to coercion from FPI would ever voluntarily accept such contract terms.

Having been forced to accept FPI as a supplier, the prime contractor must suffer the consequences of delayed or non-conforming performance by FPI that may be imposed by the buying agency. The prime contractor has no recourse against FPI as a government-owned corporation.

Congress must make it clear that FPI cannot continue to engage in this practice and has no authority to directly impose its products to the private sector contractor who have become a government prime contractor.

7. *FPI Should Not Be Permitted to Sell Services In the Commercial Marketplace.* In the 1996 decision to expand Case Goods production, FPI's Board forthrightly stated that FPI was only permitted to sell goods to the federal government. In an Orwellian reversal two years later, however, FPI released a memorandum entitled, "*Sale of Services by Federal Prison Industries, Inc. (FPI) in the Commercial Market*" Issued by the Assistant Attorney General for Administration (who is one of the five members of FPI's Board). The memorandum attached a copy of a previously unreleased legal opinion by a Special Counsel in the Office of Enforcement Operations in DOJ's Criminal Division, dated February 2, 1998.

That legal opinion held that the general statutory prohibition on the sale in interstate commerce of products made in whole or in part by prisoners, does not prohibit inmates from furnishing services as distinct from products. While "services" was not defined, the opinion purported to remove any Federal statutory restriction on the commercial sale of services by FPI and by prison industry programs operated by the States and their local governments. FPI moved quickly to make such sales based on the self-serving opinion of its own lawyers. Such an informal change to long-standing statutory interpretation dating back to 1934 were utilized to permit FPI to sell services in the commercial marketplace without Congressional action. Given that FPI's principal legislative goal is being granted authority to sell the results of inmate labor in products and services in the commercial market should give this Subcommittee great pause regarding the legal adequacy of FPI's self-generated authority.

I would also call the Subcommittee's attention to another piece of countervailing evidence. The Executive Order creating FPI specified that FPI could sell products and services. The subsequently enacted Congressional statute, however, addresses only products. FPI's authority to sell services in the government market can be questioned in this way, much less their authority to sell services to the commercial market. I will be pleased to submit a copy of E.O. 6917 issued by President Roosevelt on December 11, 1934.

How can the private sector deal with self-serving opinions produced by one DOJ office to support a sister agency? It should be no surprise that there was no discussion of a service economy in 1934, when none existed. A robust "service" economy now exists, and FPI wants its share. The fact that FPI's authorizing statute does not prohibit commercial sale of services should not create a presumption that Congress intended in 1988, or at any other juncture, to permit FPI to furnish undefined "services" in interstate commerce. Even if "services" was not a critical component of the economy in the 1930's when FPI was chartered, the presumption that FPI's statute is a limited grant of authority is the key to any proper analysis.

CONCLUSION:

Through my experiences in dealing with FPI, I have come to the conclusion that FPI has strayed from its primary mission—educating and training federal prison inmates—to increase the likelihood of their successful return to society. Rather, FPI is focused on staging a profitable business that creates an off-budget fund to expand operations and build more prison factories.

The Federal prison system and federal government procurement has changed a great deal since FPI was created in 1935. While the need to have new ways to reduce inmate idleness has grown with the inmate population, so has the corrosive manner in which FPI has been permitted to foreclose legitimate private companies from competing to supply goods and services to the federal government. Before granting FPI new opportunities to compete unfairly with private firms, the Congress must fundamentally reform FPI's abusive authorities in the federal market. Hoekstra-Frank-Collins-Maloney bill FPI Competition in Contracting Act of 2000 is the solution we support.

I appreciate your giving me the opportunity to testify and I look forward to answering any questions you may have.

SUMMARY

Over the past six years, I have personally had significant experience working on issues related to FPI through different cases challenging FPI's significant, unauthorized and illegal expansions in furniture production. These cases reveal procedural and methodological problems that are systemic in nature and will require fundamental legislative reform in addition to real oversight by FPI's Board of Directors and Congress.

FPI'S MANDATORY SOURCE AUTHORITY NEEDS TO BE ELIMINATED: To reform FPI, Congress must eliminate the mandatory source and require FPI to compete with the private sector. While this would require FPI to improve its quality and customer service, it would greatly improve the value received by the federal government and will ultimately help FPI meet its mission of employing federal inmates without unduly impacting the private sector.

FPI Should Not Be Able to Pick Winners and Losers: Congress must improve the procedures by which the Board of Directors approves products and service for the Federal market.

FPI's Must Not be Permitted to "Retroactively" Approve Past Violations of Its Statutes: FPI must not be permitted to continue to engage in practices where it routinely violates its statute and operating guidelines and then asks the Board of Directors to "rubber-stamp" and legally rationalize actions completed years ago.

FPI Must Not Be Permitted to Sell Non-Prison Made Goods Using Its Mandatory Source Preference: FPI has admitted that it uses "pass-through sales" to fill some of the orders that it takes from its federal customers. Although FPI has stated that such sales are contrary to its mission and not in its best interests, FPI's discretion to fill orders from Federal customers with goods made entirely by non-prison labor is unlimited. Congress must ensure that this policy is stopped.

FPI Must Limit the Amount of Non-Prison Made Components Used in FPI Products: FPI is buying components from its private sector partners, assembling them with prison labor and selling them to federal agencies as "prison-made products." While this may make for profitable business sense, and is similar to private practices, this policy does nothing to increase inmate employment and should be prohibited.

There Must Be Greater Congressional and Institutional Oversight of FPI's Activities:

FPI Must Not be Permitted to Lobby Congress Outside the Normal Channels: FPI currently lobbies Congress directly and uses appropriated funds for inappropriate coordination with the Correctional Vendors Association. FPI, as a Federal agency should be bound by the same lobbying rules as other agencies.

FPI Must Not be Permitted to Sell Its Goods or Services to the Private Parties Receiving Federal Construction Contracts: FPI is explicitly forbidden to sell to "the public in competition with private enterprise." 18 U.S.C. § 4122(a) and Congress must ensure that FPI is not permitted to violate this statute.

FPI Should Not Be Permitted to Sell Services In the Commercial Marketplace: FPI's authorizing statute does not prohibit commercial sale of services should not create a presumption that Congress intended in 1988, or at any other juncture, to permit FPI to furnish undefined "services" in interstate commerce. Even if "services" was not a critical component of the economy in the 1930's when FPI was chartered, the presumption that FPI's statute is a limited grant of authority is the key to any proper analysis.

The Federal prison system and federal government procurement has changed a great deal since FPI was created in 1935. While the need to have new ways to reduce inmate idleness has grown with the inmate population, so has the corrosive manner in which FPI has been permitted to foreclose legitimate private companies from competing to supply goods and services to the federal government. Before granting FPI new opportunities to compete unfairly with private firms, the Congress must fundamentally reform FPI's abusive authorities in the federal market. Hoekstra-Frank-Collins-Maloney bill FPI Competition in Contracting Act of 2000 is the solution we support.

Mr. SMITH. Mr. Mansh?

STATEMENT OF MICHAEL E. MANSH, PRESIDENT, ASHLAND SALES AND SERVICE COMPANY, PHILADELPHIA, PA

Mr. MANSH. Good morning. I am Michael Mansh, President of Ashland Sales and Service Company. I appreciate the opportunity to come before you today to discuss the adverse impact that Federal Prison Industries has on our business. Briefly, I would like to share three perspectives on the way FPI has affected our business and employees.

Ashland Sales and Service has been both a prime contractor and subcontractor for the Defense Logistics Agency, Defense Supply Center, Philadelphia, for the last 35 years. We are a small busi-

ness, employing approximately 110 people, primarily women, down from a high of 165 people in 1997, in an economically depressed region of Eastern Kentucky. Many of our workers provide the sole means of support for their families. Our plant produces lined and unlined outerwear. Up until 1997, we had primarily manufactured products for the Defense Supply Center, Philadelphia.

Our main product was the utility jacket for the Navy. From 1987 through 1997, we produced in excess of one million of these jackets for the Navy. In February 1995, we were informed that FPI had exercised its super-preference and had taken 100 percent of the requirements for the utility jackets. We were allowed to complete our existing contract, which utilized 40 percent of our workers. In 1997, FPI was awarded a long-term contract for the utility jackets, which effectively eliminated the item for us, and a substantial chunk of our business.

My company also runs a factory in Buckhannon, West Virginia, employing about 80 folks to make trousers for several commercial customers. Although there are a number of products that this factory can make for the Federal Government, which would help ensure this factory's viability, we are prevented from even bidding on those contracts because they are owned by FPI.

Finally, my company subcontracts work to a factory in Macon, Georgia, to produce shirts. That factory now employs around 80 individuals, down from a high of 160. This factory was forced to let half its staff go when FPI took contracts that we were supplying. Because we no longer had the work, we could no longer pass subcontracting work along to this factory in Macon, Georgia.

These are just the examples I have encountered in my own business. Others in the industry have even more painful stories. Some have been forced into subcontractor relationships with FPI to keep a portion of their previous business, because FPI is not competent enough to satisfy all the requirements of a particular contract that they insisted upon taking. Others have lost whole factories when FPI took their product lines. We have even witnessed a sort of domino effect, where Company A, whose products are not directly threatened by FPI, still loses business because FPI has taken all the contracts of Company B, which has no choice but to start competing against Company A to stay alive.

This damage is compounded because there are few opportunities in the commercial apparel market for companies like mine. Although I have been lucky enough to replace some—and I emphasize some—lost government contracts with commercial work, many of my competitors are not so lucky.

The domestic apparel industry has been dramatically impacted by the increase in offshore manufacturing in low-wage countries with thousands of jobs lost. FPI is using its super-preference to take work away from an industry that has simultaneously been besieged by low-cost imports and faces stiff competition in the domestic market for an ever-decreasing share of government and commercial work. We are unable to see the benefit in training prisoners for work in an industry that is shrinking and where there will be no demand for job skills learned by the prisoners.

Moreover, FPI's activities come at the expense of a strong manufacturing base that the Department of Defense deliberately sought

to cultivate for its peacetime military clothing needs and to ensure surge capabilities for emergency mobilization. However, according to testimony last October by George Allen of the Defense Logistics Agency, the continuing increase in FPI's market share will only further reduce the already shrinking industrial base and will impede DoD's ability to accomplish their mission.

For the record, I support the mission of FPI to keep prisoners occupied and contribute to their rehabilitation so they can be productive members of society, but I do not believe this mission is of such paramount importance that it should come at the expense of jobs of law-abiding private citizens. Nor should it thwart other policy objectives, such as the promotion of small and disadvantaged enterprises or business opportunities for the blind and handicapped. Yet, this is what is occurring because FPI's super-preference remains unchallenged.

The time for FPI reform is now. I urge this Committee and this Congress to undertake and pass reform legislation to correct the imbalance that FPI has caused as soon as possible. On that note, I am pleased to learn that Congressman Hoekstra has just reintroduced legislation to achieve this balance through meaningful reform of FPI. I look forward to swift enactment of that legislation. Thank you.

Mr. SMITH. Thank you, Mr. Mansh.

[The prepared statement of Mr. Mansh follows:]

PREPARED STATEMENT OF MICHAEL E. MANSH

Good morning ladies and gentlemen. I am Michael Mansh, President of Ashland Sales and Service, Co. I appreciate the opportunity to come before you today to discuss the adverse impact that Federal Prison Industries has on our business.

Briefly, I would like to share three perspectives on the way FPI has affected our business and employees.

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product lines. We have even witnessed a sort of domino effect where Company A, whose products are not directly threatened by FPI, still loses business because FPI has taken all the contracts of Company B, which has no choice but to start competing against Company A to stay alive.

This damage is compounded because there are few opportunities in the commercial apparel market for companies like mine. Although I have been lucky enough to replace some, and I emphasize some, lost government contracts with commercial work, many of my competitors are not so lucky. The domestic apparel industry has been dramatically impacted by the increase in offshore manufacturing in low wage countries with thousands of jobs lost. FPI is using its super-preference to take work away from an industry that has simultaneously been besieged by low cost imports, and faces stiff competition in the domestic market for an ever-decreasing share of Government and commercial work. We are unable to see the benefit in training prisoners for work in an industry that is shrinking and where there will be no demand for job skills learned by the prisoners.

Moreover, FPI's activities come at the expense of a strong manufacturing base that the Department of Defense has deliberately sought to cultivate for its peacetime military clothing needs and to ensure surge capabilities for emergency mobilization. However, according to testimony last October by George Allen of the Defense Logistics Agency, the continuing increase in FPI's market share will only further reduce the already shrinking industrial base and will impede DOD's ability to accomplish this mission.

For the record, I support the mission of FPI to keep prisoners occupied and contribute to their rehabilitation so they can be productive members of society. But I do not believe this mission is of such paramount importance that it should come at the expense of jobs of law-abiding private citizens. Nor should it thwart other policy objectives such as the promotion of small and disadvantaged enterprises or business opportunities for the blind and handicapped. Yet this is what is occurring because FPI's super preference remains unchecked.

The time for FPI reform is now. I urge this Committee and this Congress to undertake and pass reform legislation—to correct the imbalance that FPI has caused—as soon as possible.

Mr. SMITH. Mr. Glover?

STATEMENT OF PHILIP W. GLOVER, PRESIDENT, COUNCIL OF PRISON LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, JOHNSTOWN, PA

Mr. GLOVER. Mr. Chairman and Members of the Subcommittee, my name is Phil Glover. I am the President of the Council of Prison Locals, American Federation of Government Employees. I do not run Prison Industries, but all of the employees that work in it are in my union.

We have 97 local unions representing 100 facilities in the Federal prison system. Our Members include correctional officers, case-workers, food service workers, mechanical services personnel, and Federal Prison Industries employees. These are law abiding, tax paying citizens working in the toughest law enforcement beat in America. These employees of the Federal Government deserve the full support of the Congress in order to go home every day to their families and friends. This issue is a big factor in that ability.

I want to first thank the Committee for allowing me to share prison workers' views on this issue. Over the years, it has become increasingly important for inmates to work. With minimum mandatory sentences, elimination of parole, three strikes and you are in laws filling prisons at record levels, it must be understood how work programs help in managing the inmate population. Most prisons in the Federal sector are overcrowded, between 30 percent to sometimes 70 percent or more. Management of the population is handled in a number of ways. Education, vocation, recreation, and

work programs all combine to assist us behind the fences and walls in order to keep the prison system safe.

Federal Prison Industries has grown since 1934 to become one of our most valued programs. Twenty-five percent of the eligible inmate population works in FPI. This keeps inmates productive for 7.5 hours per day in large numbers, sometimes more hours should overtime occur. Additionally, inmates working in FPI have an incentive for staying clear of problems with correctional staff. They are less likely to have incident reports or disciplinary problems, which would eliminate them from the FPI work program.

During several hearings on this matter, FPI has been accused of moving in and taking contracts. I certainly do not know about all that. I am a correctional officer by trade and a voluntary union official. But at one hearing in particular, it was stated that a missile container contract was taken by FPI and put a company out of business. I decided to check this out for myself and found that FPI does not make missile containers. It never has and never set up to make them. In a \$13.5 billion domestic furniture market, FPI sold \$230 million in product, only 1.7 percent of the total market. This seems a very small amount in the big picture of things.

The Committee Members should be cautious. My organization has agreed that changes may be needed to FPI. I have always urged caution. Even in supporting the McCollum-Scott bill last year, we stated that this should be a slow process, thought out. To change 60 years of industry programs with our huge populations, Congress should go slow.

If you look at what is commonly referred to as Prison Industries Enhancement programs in the States, or PIE programs, they provide less than half the level of employment to inmates than Federal Prison Industries does for the Federal sector. We believe this contributes to a much more safe environment in the Federal system.

For those on the Committee that are considered supporters of law enforcement, I say to you this is a big law enforcement issue. Over the past decade, laws have been stiffened. Police have been added to the streets. Prosecutors and judges have little choice on prosecuting or sending people to prison for longer and longer sentences. We correctional professionals are generally forgotten in that mix.

While we are in the process of bringing 28 new Federal medium- and high-security prisons online over the next three to 5 years, our budget has been basically flat-lined by the administration this year, and now Congress again considers changes to Federal Prison Industries mandatory source, a program which generated only \$566 million in an economy of \$9 trillion. This paid salaries for employees, inmate salaries, and paid out 72 percent to small and minority-owned businesses in local communities for goods and services.

Every time this issue is discussed, people come out to eliminate mandatory source and to have us compete in the Federal market. Last year, when Congressmen McCollum and Scott suggested we compete everywhere, it was decided that was not a good idea, either. Again, what is the compromise?

When you consider that you have 150,000 inmates in a system and rising to 190,000, we must find a way to keep inmates produc-

tive. The Federal prison system is run well by staff. However, we must have tools. Should the move to eliminate mandatory source be successful without replacing it with a working system, as it appears H.R. 1577 does, it will be disastrous for prison employees. We cannot simply warehouse people.

I just want to say one other thing while I have just a short amount of time. I have worked with AFL-CIO on this issue. I have worked with AFG on this issue. And for those to speak for them here at this hearing, I do not think are getting the entire picture. They are walking a line, trying to make sure that correctional staff are safe. They represent 170,000 of us. And they also have free labor to deal with. So they are not blatantly saying, get rid of this. They are walking a line just like everybody else, and I hope that is noted.

Mr. SMITH. Thank you, Mr. Glover.

[The prepared statement of Mr. Glover follows:]

PREPARED STATEMENT OF PHILIP W. GLOVER

Mr. Chairman and members of the subcommittee, my name is Philip W. Glover, President, of the Council of Prison Locals, American Federation of Government Employees, AFL-CIO. I am the elected representative of all Federal Prison workers nationwide. We have 97 Local Unions representing 100 facilities in the Federal Prison System. Our members include, Correctional Officers, Case Workers, Food Service Workers, Mechanical Services and Federal Prison Industries Employees. These are law abiding, taxpaying citizens working the toughest law enforcement beat in America.

These employees of the Federal Government deserve the full support of the Congress in order to go home everyday to their families and friends. This issue is a big factor in that ability.

I want to first thank the committee for allowing me to share prison workers views on this issue. Over the years it has become increasingly important for inmates to work. With minimum mandatory sentences, elimination of parole and three-strikes-and-you're-in laws filling prisons at record levels it must be understood how work programs help in managing the population. Most prisons in the Federal sector are overcrowded between 30 percent to sometimes 70 percent over capacity. Management of the population is handled in a number of ways. Education, vocation, recreation and work programs all combine to assist us behind the fences and walls.

Federal Prison Industries has grown, since 1934, to become one of our most valued programs. Twenty-five percent of the eligible inmate population works in FPI. This keeps inmates productive for seven and a half hours per day in large numbers, sometimes more hours should overtime occur. Additionally, inmates working in FPI have an incentive for staying clear of problems. They are less likely to have incident reports or disciplinary problems which would eliminate them from the FPI work program.

I have testified to this before in front of the sub-committee. So, I would like to take this opportunity and discuss a few other issues.

During several hearings on this matter FPI has been accused of moving in and taking contracts. I certainly don't know about all of that. I am a Correctional Officer by trade and a voluntary union official. But at one hearing in particular, it was stated that a missile container contract was taken by FPI which put a company out of business. Interestingly enough, I decided to check this out for myself and found that FPI doesn't make missile containers—not now, not ever. In a 13.5 billion dollar domestic office furniture market, FPI sold 230 million dollars in product. Only 1.7 percent of the total market. This seems a very small amount in the big picture of things.

I say this because the members of this committee should be cautious. My organization has agreed that changes may be needed to FPI. I have always urged caution. Even in supporting the McCollum bill last year, we stated that this should be a slow process. To change sixty years of industry programs with our huge populations, Congress should go slow.

If you look at what's commonly referred to as the Prison Industries Enhancement program (P.I.E.), it doesn't keep inmates in the states working at even half the level

as the Federal Program. This directly correlates, I believe, into a much more safe prison system for everyone.

For those on the committee that are considered supporters of law enforcement, I say to you, this is a big law enforcement issue. Over the past decade, laws have been stiffened, police have been added to the streets, prosecutors and judges have little choice on prosecuting and sending people to prison for longer and longer sentences.

We, Corrections Professional's are the one's generally forgotten in that mix. While we are in the process of bringing 28 new federal medium and high security prisons on line over the next three to five years, our budget this year has been basically flatlined by the administration. And now, Congress again consider's changes to Federal Prison Industries "mandatory source" a program which generated only 566 million dollars in sales last year in a 9 trillion dollar economy. This paid salaries for employees, inmate salaries, and paid out 72 percent to small and minority owned business in local communities for goods and services.

Every time this issue is discussed, people come out to eliminate mandatory source and to have us compete. Last year, when Congressman McCollum suggested we compete everywhere, it was decided that wasn't a good idea either. And so here we are again. What is the compromise?

When you consider that we have 150,000 inmates in the system and rising to 190,000 we must find a way to keep inmates productive. The Federal Prison system is run well by the staff. However, we must have tools. Should the move to eliminate mandatory source be successful without replacing it with a working system, it will be disastrous for prison employees. We can not simply warehouse people.

It seems to us that public policy sometimes has to outweigh the needs of business. In this case, the government has decided to incarcerate offenders at very high rates. The Correctional Worker didn't make that decision. Law's were generated to punish people. What we request from this committee and the Congress as a whole are the tool's necessary to keep the population managed. Cutting mandatory source with no clear cut alternative is not the way to go about it.

I thank you for your time and would be happy to answer any questions that I can.

Mr. SMITH. I would like to recognize several Members who have joined us. They are Mr. Conyers, the Ranking Member of the Full Judiciary Committee from Michigan, Mr. Delahunt of Massachusetts, and Mr. Keller of Florida.

I have had the opportunity to meet with many individuals involved with the issues that we are discussing today, so in the interest of time, I am going to save my questions for the end, if there is, in fact, time, and yield my time to the gentleman from Wisconsin, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. I appreciate that.

Let me begin, if I can, by associating myself with the remarks of Congressman Scott, my colleague, and also Mr. Glover. Mr. Glover, I find what you said particularly meaningful and important. You have a job and you represent people who perform a job which I find incredibly challenging. I cannot imagine what they must confront on a daily basis. I agree with you of the terrible importance of making sure that inmates do have these working opportunities because I do think it helps with rehabilitation and preventing recidivism. So I think that is very important.

As to my questions, Mr. Mansh, what you talked about in terms of job displacement obviously is very, very important and we are all very sensitive to it. However, in my case—I come from Wisconsin, Northeastern Wisconsin—I have received letters from some 30 businesses which have grown up there because of FPI and their workers obviously are no less important than the workers that you are referring to.

[The material referred to follows:]

LETTERS OF CONCERN FROM WISCONSIN BUSINESSES

TMS LOGISTICS, INC.
238 S. COMMERCE STREET
CEDAR GROVE, WI 53013
920-668-8626 FAX 920-668-8629

April 24, 2001

VIA FACSIMILE

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

We are writing to you not only in your capacity as Chairman of the House Judiciary Committee and therefore safe keeper of our federal prisons, but more importantly as a fellow WISCONSINITE and Member of the WISCONSIN Delegation.

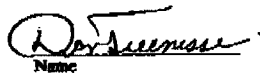
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As one of those 50 WISCONSIN businesses, we want to relay our deep concern to you regarding the legislative maneuvers that some of the MICHIGAN members, specifically, Congressman Pete Hockstra and Senator Carl Levin are pushing to curtail FPI's ability to do business with WISCONSIN vendors such as us. We believe that Congressman Hockstra's proposed bill will directly benefit MICHIGAN vendors that do not currently have contracts with FPI, have not hired employees based on these contracts nor capitalized based on business with FPI as our WISCONSIN businesses have to date.

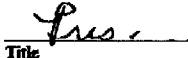
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We ask that our views be made known at your hearing on Thursday, April 26th and as you continue your thoughtful consideration of this debate.

Sincerely,



Name



Title

**STRAIGHT SHOT
EXPRESS**

ON CALL • ON TIME • ALWAYS

3280 Commodity Lane • P.O. Box 28207 • Green Bay, WI 54324-0207
(920) 338-9590 • fax (920) 338-9592 • (877) 211-5490

April 24, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

We are writing to you not only in your capacity as Chairman of the House Judiciary Committee and therefore safe keeper of our federal prisons, but more importantly as a fellow Wisconsinite and member of the Wisconsin Delegation.

We want to go on record today letting you know how important Federal Prison Industries (FPI/UNICOR) is to our company's sales and employee jobs. As you know, the State of Wisconsin is the largest beneficiary of sales from the purchases made by FPI of raw materials and services. Currently, over 50 Wisconsin businesses benefit from approximately \$70 million in sales from FPI each year.

As one of the 50 Wisconsin businesses, we want to relay our deep concern to you regarding the legislative maneuvers that some of the MICHIGAN members, specifically, Congressman Pete Hoekstra and Senator Carl Levin are pushing to curtail FPI's ability to do business with WISCONSIN vendors such as us. We believe that Congressman Hoekstra's proposed bill will directly benefit MICHIGAN vendors that do not currently have contracts with FPI, have not hired employees based on these contracts nor capitalized based on business with FPI as our WISCONSIN businesses have to date.

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Sincerely,



Darrell C. Lufkenow
President

1811 E. MASON ST.
P.O. BOX 1682
GREEN BAY, WI 54302
PHONE (920)468-7820
1-800-242-8177
FAX (920)468-5337



April 24, 2001

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House Judiciary Committee
Washington, DC

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We ask that our views be made known at your hearing on Thursday, April 26th and as you continue your thoughtful consideration of this debate.

Sincerely,

Al Francis
Name

Vice President
Title



MITCHELL METAL PRODUCTS, INC.

305 South State Street, P.O. Box 207
 Merrill, Wisconsin 54452
 (715) 536-7176 FAX (715) 536-1163

April 24, 2001

Chairman James Sensenbrenner
 House Judiciary Committee
 Washington, DC

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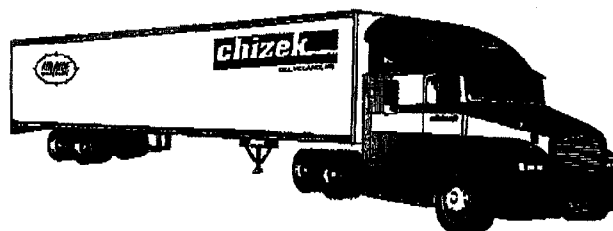
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We ask that our views be made known at your hearing on Thursday, April 26th and as you continue your thoughtful consideration of this debate.

Sincerely,

Tim Zimmerman
 Assistant Vice President



APRIL 24, 2001

VIA FACSIMILE

CHAIRMAN JAMES SENSENBRENNER
HOUSE JUDICIARY COMMITTEE
WASHINGTON D C

DEAR CHAIRMAN SENSENBRENNER:

WE AT CHIZEK TRANSPORT ARE WRITING YOU NOT ONLY IN YOUR CAPACITY AS CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE AND THEREFORE SAFEKEEPER OF OUR FEDERAL PRISONS, BUT MORE IMPORTANTLY AS A FELLOW WISCONSINITE AND MEMBER OF THE WISCONSIN DELEGATION.

WE WANT TO GO ON RECORD TODAY LETTING YOU KNOW HOW IMPORTANT FEDERAL PRISON INDUSTRIES (FPI/UNICOR) IS TO OUR COMPANY'S SALES AND EMPLOYEE JOBS. AS YOU KNOW, THE STATE OF WISCONSIN IS THE LARGEST BENEFICIARY OF SALES FROM THE PURCHASES MADE BY FPI OF RAW MATERIALS AND SERVICES. CURRENTLY, OVER 50 WISCONSIN BUSINESSES BENEFIT FROM APPROXIMATELY \$70 MILLION IN SALES FROM FPI EACH YEAR.

AS ONE OF THOSE 50 WISCONSIN BUSINESSES, WE WANT TO RELAY OUR DEEP CONCERN TO YOU REGARDING THE LEGISLATIVE MANEUVERS THAT SOME OF THE MICHIGAN MEMBERS, SPECIFICALLY, CONGRESSMAN PETE HOEKSTRA AND SENATOR CARL LEVIN ARE PUSHING TO CURTAIL FPI'S ABILITY TO DO BUSINESS WITH WISCONSIN VENDORS SUCH AS US. WE BELIEVE THAT CONGRESSMAN HOEKSTRA'S PROPOSED BILL WILL DIRECTLY BENEFIT MICHIGAN VENDORS THAT DO NOT CURRENTLY HAVE CONTRACTS WITH FPI, HAVE NOT HIRED EMPLOYEES BASED ON THESE CONTRACTS NOR CAPITALIZED BASED ON BUSINESS WITH FPI AS OUR WISCONSIN BUSINESSES HAVE TO DATE.

WE ARE ASKING THAT YOU DEFEND THE JOBS AND SALES OF SO MANY WISCONSIN BUSINESSES AS CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE AGAINST WHAT WE VIEW AS A "RAIDING FIRM MICHIGAN".

WE ASK THAT OUR VIEWS BE MADE KNOWN AT YOUR HEARING ON THURSDAY, APRIL 26TH AND AS YOU CONTINUE YOUR THOUGHTFUL CONSIDERATIONS OF THE DEBATE.

SINCERELY,


TOM WESTERMAN
VICE PRESIDENT

CHIZEK TRANSPORT, INC.

DIVERSIFIED PRODUCTS INCORPORATED

April 24, 2001

Chairman James Sensenbrenner
HOUSE JUDICIARY COMMITTEE
Washington, DC

Dear Chairperson Sensenbrenner:

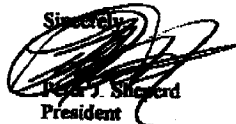
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Sincerely,

Peter J. Shepherd
President

P. O. Box 213
Mequon, Wisconsin 53092
(800) 665-9956 • (414) 238-9955
Fax: (414) 238-9056



Premier Products of Racine, Inc.

1230 Mound Avenue
Racine, Wisconsin 53404
Phone: 262-633-2200
Fax: 262-633-2233
Email: rollform@execpc.com

April 24, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington DC

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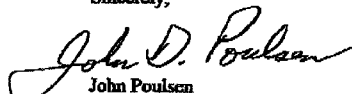
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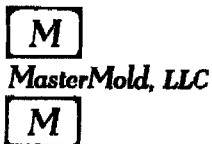
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Sincerely,


John Poulsen
President



PO. BOX 468
JOHNSON CREEK, WI 53038
PHONE: 920-699-2711
FAX: 920-699-2713
mastrmld@excpc.com

April 24, 2001

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Sincerely,

Jerry Spader
President



April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

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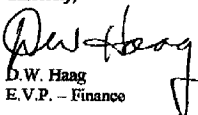
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Sincerely,


D.W. Haag
E.V.P. - Finance



Tommy
Docks

April 25, 2001

Chairman James Sensenbrenner
 House Judiciary Committee
 Washington, DC

Dear Chairman Sensenbrenner:

As a business partner and vendor of Krueger International, we are writing to you not only in your capacity as Chairman of the House Judiciary Committee and therefore safe keeper of our federal prisons, but more importantly as a fellow WISCONSINITE and Member of the WISCONSIN Delegation.

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Sincerely,

David J. Henrich
 Name
Controller
 Title

David J. Henrich



DELUXE Plastics, Inc.
• Injection Molding • Mold Building

VIA FACSIMILE

April 25, 2001

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House Judiciary Committee
Washington, DC

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Sincerely,


Michael B. Curran
President

220 Industrial Avenue
Clintonville, Wisconsin 54929
(715) 823-4200 FAX (715) 823-4814
E-mail: dplastic@wi.frontiercomm.net

P.O. BOX 87
 ELUSTIS, FLORIDA 32727-0087
 352/357-3554
 800/874-8066
 352/683-2507 FAX

LOCAL & WESTERN

VIA FACSIMILE

Chairman James Sensenbrenner
 House Judiciary Committee
 Washington, DC

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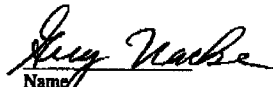
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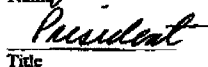
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 Name


 Title



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We ask that our views be made known at your hearing on Thursday, April 26th and as you continue our thoughtful consideration of this debate.

Sincerely,

Helen Olson

Helen Olson
Office Manager
Wisconsin Plastic Products

PROFESSIONAL FABRICATIONS, INC.

550 Woodrow Street, Denmark, WI 54208

Phone: (920) 863-1972

Fax: (920) 863-8763

Email: PROFAB@ptol.com

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

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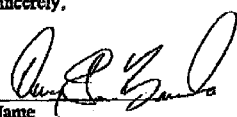
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Sincerely,

 #25/01
Name

PROSINCEANT
Title
Terry J. Brusda

SR BLOCK IRON & SUPPLY COMPANY

A Division of Sadoff & Rudoy Industries, LLP



Hollow Metal

Doors & Frames

Contractors Supplies

Fasteners

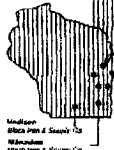
Wood Doors

Finish Hardware

Steel Service Center

Scrap Processing

Manufacturers:
Aurora Machine Co.
Birmingham
Chapman Co.
Crown Steel
Crown Steel & Metal Co.
Dodge Steel & Supply Co.
Franklin Steel
Gulfport Steel & Supply Co.
Hobasite
Hobasite Steel & Supply Co.



Madison Branch
Block Iron & Supply Co.
Madison, WI 53703

Madison Branch
3121 Syrac Road
PO Box 259120
Madison, Wisconsin 53725
(608) 271-2744
800-236-2744
Fax (608) 271-2622

Milwaukee/Racine Branch
2600 South Franklin Drive
Franklin, WI 53132
800-236-7771
Fax (414) 423-8507

36 East 10th Avenue • PO Box 557 • Oshkosh, WI 54902-0557 • Phone (920) 231-7200 • Fax (920) 231-1743
Walt 800-236-2040 • Steel Fax (920) 231-0743 • Hardware Fax (920) 231-3051

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

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Sincerely,

Wade Martin
Name
General
Title

Protech Electric Motors, Inc.

April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

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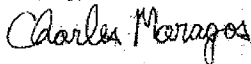
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Sincerely,



Charles Maragos
President

Mail:	Located at:	
Protech Electric Motors, Inc.		WWW.PROTECH-INC.COM
P. O. Box 462	908 Blackstone Avenue	Phone (262) 827-8865
Brookfield, Wisconsin 53005	Waukesha, Wisconsin 53186	Fax (262) 827-9878

ProTech Industrial Controls, LLC

April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

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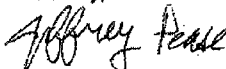
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Sincerely,



Jeffrey Pease
President

Mkt:	Located at:	WWW.PROTECH-INC.COM
ProTech Industrial Controls, LLC		
P. O. Box 462	909 Blackstone Avenue	Phone (262) 827-9865
Brookfield, Wisconsin 53005	Waukesha, Wisconsin 53186	Fax (262) 827-9878

April 25, 2001

NORTHLAND PLASTICS, INC

VIA FACSIMILE

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC



1420 S. 16th Street
Box 290
Sheboygan, WI 53082-0290
Capt. 920-458-0732
Fax 920-458-4281
Order Entry 920-458-7483 Ext 305

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Sincerely,

NORTHLAND PLASTICS INC.

John Zingsheim
President - Ext. 324

JZ/lh



1702 - 13th Street
Two Rivers, WI 54241

(920) 793-1351
FAX (920) 794-1106

April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

FAXED
APR 25 2001

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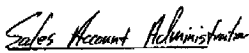
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Name


Title



April 25, 2001

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House Judiciary Committee
Washington DC

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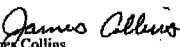
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Sincerely,

NORTHLAND STEEL COMPANY LLC


James Collins
Managing Member



1785 W. Paulson Road • P.O. Box 11683 • Green Bay, WI 54307 • (920) 487-8810 • Fax 491-8889

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House Judiciary Committee
Washington, DC

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Sincerely,



TOTAL P.02

Riverside Welding Co., Inc.

500 N. Webster Ave.
Green Bay, WI 54301
(920) 437-8876 • Fax (920) 437-2052

April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

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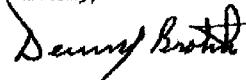
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Sincerely,



Denny H. Brotski
Owner/Manager

DHB/kad

Koala Manufacturing Inc.

Shipping Address:
8522 CTH Q
Two Rivers, WI 54241

Mailing Address:
same

Telephone: (920) 682-0600

Fax: (920) 682-7169

VIA FACSIMILE

April 25, 2001

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House Judiciary Committee
Washington, DC

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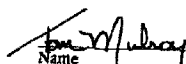
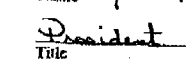
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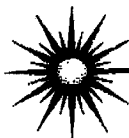
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Sincerely,


Name

Title



New Tech Metalworks Inc.

1600 Van Ess Road • New Franken, WI 54229

April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

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Sincerely,

Gary Mehre
General Manager

ER. Wagner

CASTERS & WHEELS Manufacturing Co.

2011 Koverview Drive
Hartford, WI 52804-1400
TEL: 920-349-3271
800-538-0117
FAX: 920-349-3487

April 25, 2001

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House Judiciary Committee
Washington, DC

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Sincerely,


Wade Fletcher

General Manager/Vice President



MANUFACTURERS
OF QUALITY
LAMINATED
PRODUCTS

6450 HIGHWAY B TWO RIVERS, WI 54241-9398 (920) 682-0196 FAX (920) 684-6571

Chairman James Sensenbrenner
House Judiciary Committee
Washington, D.C.

April 25, 2001

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Sincerely,

Francis G. Holly
Vice President



April 24, 2001

VIA FACSIMILE

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

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Sincerely,

Dale Beyer
Dale Beyer
Sales Manager

KAM-ART INDUSTRIES INC.

PHONE 280-526-3677

4/24/01

BOX 936
MANAWA, WISCONSIN 54949VIA FACSIMILEChairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

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Sincerely,

Kam art Industries Inc.

Paul F. Kamsha

Name

Chairman of the Board

Title

WIRETECH
FABRICATORS, INC.
1000 Wisconsin Avenue
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Wednesday, April 25, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

We are writing to you not only in your capacity as Chairman of the House Judiciary Committee and therefore safe keeper of our federal prisons, but more importantly as a fellow Wisconsinite and Member of the Wisconsin Delegation.

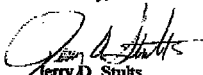
We want to go on record today letting you know how important Federal Prison Industries (FPI/UNICOR) is to our company's sales and employee jobs. As you know, the State of Wisconsin is the largest beneficiary of sales from the purchases made by FPI of raw materials and services. Currently, over 50 Wisconsin businesses benefit from approximately \$70 million in sales from FPI each year.

As one of those 50 Wisconsin businesses, we want to relay our deep concern to you regarding the legislative maneuvers that some of the Michigan members, specifically, Congressman Pete Hockstra and Senator Carl Levin are pushing to curtail FPI's ability to do business with Wisconsin vendors such as us. We believe that Congressman Hockstra's proposed bill will directly benefit Michigan vendors that do not currently have contracts with FPI, have not hired employees based on these contracts nor capitalized based on business with FPI as our Wisconsin businesses have to date.

We are asking that you defend the jobs and sales of so many Wisconsin businesses as Chairman of the House Judiciary Committee against what we view as a "Raiding From Michigan."

We ask that our views be made known at your hearing on Thursday, April 26th and as you continue your thoughtful consideration of this debate.

Sincerely,


Jerry D. Stults
Account Executive

FORMRITE COMPANIES

4-25-01 FAX 202-225-7682

4-25-01 FAX 202-225-3390

4-25-01 FAX

Chairman James Sensenbrenner
House Judiciary Committee
Washington, DC

Dear Chairman Sensenbrenner:

We are writing to you not only in your capacity as Chairman of the House Judiciary Committee and therefore safekeeper of our federal prisons, but more importantly as a fellow WISCONSINITE and Member of the WISCONSIN Delegation.

We want to go on record today letting you know how important Federal Prison Industries (FPI/UNICOR) is to our company's sales and employee jobs. As you know, the State of WISCONSIN is the largest beneficiary of sales from the purchases made by FPI of raw materials and services. Currently, over 50 WISCONSIN businesses benefit from approximately \$70 million in sales from FPI each year.

As one of those 50 WISCONSIN businesses, we want to relay our deep concern to you regarding the legislative maneuvers that some of the MICHIGAN members, specifically, Congressman Pete Hoekstra and Senator Carl Levin are pushing to curtail FPI's ability to do business with WISCONSIN vendors such as us. We believe that Congressman Hoekstra's proposed bill will directly benefit MICHIGAN vendors that do not currently have contracts with FPI, have not hired employees based on these contracts nor capitalized based on business with FPI as our WISCONSIN businesses have to date.

We are asking that you defend the jobs and sales of so many WISCONSIN businesses as Chairman of the House Judiciary Committee against what we view as a "RAIDING FROM MICHIGAN."

We ask that our views be made known at your hearing on Thursday, April 26th and as you continue your thoughtful consideration of this debate.

Sincerely,

Jeffrey J. Melcher
Name

BUSINESS UNIT MGR.
Title

FORMRITE

COMPANIES

1816 10th Ave

Two Rivers, WI

53081

920 795-1171

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HASSELBLAD MACHINE COMPANY, LLP



April 24, 2001

Chairman James Sensenbrenner
House Judiciary Committee
Washington, D.C.

Dear Chairman Sensenbrenner,

We are writing to you not only in your capacity as Chairman of the House Judiciary Committee and therefore safekeeper of our federal prisons, but more importantly as a fellow WISCONSINITE and member of the WISCONSIN Delegation.

We want to go on record today letting you know how important Federal Prison Industries (FPI/UNICOR) is to our company's sales and employee jobs. As you know, the State of WISCONSIN is the largest beneficiary of sales from the purchases made by FPI of raw materials and services. Currently, over 50 WISCONSIN businesses benefit from approximately \$70 million in sales from FPI each year.

As one of those 50 WISCONSIN businesses, we want to relay our deep concern to you regarding the legislative maneuvers that some of the MICHIGAN members, specifically Congressman Pete Hoekstra and Senator Carl Levin, are pushing to curtail FPI's ability to do business with WISCONSIN vendors such as us. We believe that Congressman Hoekstra's proposed bill will directly benefit MICHIGAN vendors that do not currently have contracts with FPI, have not hired employees based on these contracts nor capitalized based on business with FPI as our WISCONSIN businesses have to date.

We are asking that you defend the jobs and sales of so many WISCONSIN businesses as Chairman of the House Judiciary Committee against what we view as a "RAIDING FROM MICHIGAN."

We ask that our views be made known to your hearing on Thursday, April 26th, and as you continue your thoughtful consideration of this debate.

Sincerely,

HASSELBLAD MACHINE COMPANY, LLP

Kathryn M. Hasselblad
Kathryn M. Hasselblad
Managing Partner

Mr. GREEN. What do I tell my constituents who will lose their jobs if, in fact, this bill passes?

Mr. MANSI. Our suggestion was other areas for FPI, not to take an unreasonable share of the market where they take—

Mr. GREEN. This bill does not provide further opportunity. That is one of the problems with it. It does just the opposite. It ends the

mandatory preference and then does not allow it to compete for other opportunities, new opportunities.

Mr. MANSK. So my workforce should be sacrificed for another workforce? Is that what you are suggesting?

Mr. GREEN. No, I am saying neither should be sacrificed, and I am saying that, obviously, the people I am referring to, the 30 businesses, would be sacrificed if this passes.

Mr. MANSK. But I have already been sacrificed to a point, as have most of my competitors, and FPI continues to attack my market and grow unreasonably.

Mr. GREEN. And we have had yourself and Mr. Ryan both talk about some of the problems with FPI. Surely that is an argument for reforming FPI itself and perhaps better enforcement of existing rules and regulations, which is what we heard from Mr. Ryan, and not what this bill proposes, which is a catastrophic, in some cases, termination of the program.

Mr. MANSK. Are you asking my opinion?

Mr. GREEN. Yes.

Mr. MANSK. I want it reformed to the point where we can continue to stay in business. I am not in a position to judge the merits or non-merits of the bill. That is up to you all here in Congress. I am trying to make my business survive and not continue to be a victim of FPI.

Mr. GREEN. Mr. Ryan, you talked about the problems that FPI has had throughout the 1990's, which predates me by a fair bit, but your testimony seemed also to call more for better enforcement of existing rules and regulations than the dramatic change that this bill would make.

Mr. RYAN. Actually, I do not agree with that. The people who are in your district are part of what is benefitting from the pass-through sales. For example, in fact, some of the furniture businesses in your district are benefitting from business that is taken from Mr. Conyers' State and from Mr. Coble's State. So there is a pitting of worker against worker here that I think is unfortunate.

Mr. GREEN. I understand that, but again, your testimony talked about how there have been some unintended consequences to some of the amendments that Congress has passed in the past that perhaps have not been fully enforced. Surely, that should be the first step, is enforcing some of those rules and regulations and amendments properly.

Mr. RYAN. The problem is, you cannot give discretion to this agency, given the track record that it has. I think that is the point that I was trying to drive home, is that they have been given broad discretion and, frankly, it has been thoroughly abused and we are sitting here today in 2001 and, frankly, they have not accepted responsibility for those things, and then they built their capacity on top of the illegal increase.

So, quite frankly, the mandatory source provision is the source of the distortion in this. Their quality and price and delivery schedules are never going to meet the kind of Federal customer needs until you wean them from that system.

Fundamentally, there are two distortions in the system. One is mandatory source. The other one is Congress's intent that this program pay for itself. This program is not paying for itself, but it

looks like it is paying for itself, and I think that that distortion leads FPI to want to be in profitable fields as opposed to break-even fields, and I think that that is creating a tremendous distortion.

Mr. GREEN. So you think it is impossible to improve the system without ending the mandatory source?

Mr. RYAN. I think, frankly, it is the cancer that is at the center of the problem. Can you do a dozen other things that would improve it? Absolutely, and there are a dozen other things that we could specifically point out to you. But quite frankly, this is an agency in the Department of Justice that violated the law. If it was EPA, they would not get away with it because the Department of Justice would call them on it.

Mr. GREEN. I would very much appreciate if you could supply us with some of those changes—

Mr. RYAN. I will, sir.

Mr. GREEN.—because I think the testimony about the problems with FPI is one that we are all sensitive to, and I think abuses should be curbed and I think that if things that this Congress has tried to put into place have not been enforced, they should be.

But again, my view is that does not mean that we should, as a catastrophic move, terminate the program, given the compelling testimony we have had from Mr. Glover as to the benefits that it provides, and going even beyond that, the restitution for victims and so on and so forth. I think there are so many reasons why my predecessors have supported FPI and I would look for ways, working with you, to try to preserve the core mission of FPI and rein in some of the abuses that you have talked about.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Green.

The gentleman from Virginia, Mr. Scott, is recognized.

Mr. SCOTT. Mr. Chairman, I have the same concerns that the gentleman from Wisconsin had, and in light of the time, I will defer to the Ranking Member of the Full Committee.

Mr. CONYERS. Thank you, Mr. Chairman. I wanted to make sure I understood Chairman Smith's commitment to have a second hearing before markup. Is that going to happen?

Mr. SMITH. If that is a question, Mr. Conyers, I do not know that I said anything on the subject whatsoever, and in point of fact, the reason for this hearing today on the bill is to prevent having another hearing on the bill.

Mr. SCOTT. On the issue.

Mr. SMITH. On the issue.

Mr. CONYERS. So we are going to go to markup without ever hearing from anybody in the Federal prison system about the whole issue that we are legislating on?

Mr. SMITH. That might well occur, given the limit on the witnesses that we could have.

Mr. CONYERS. Is there a limit on the hearings, too?

Mr. SMITH. There is a practical limit on the hearings simply because we have so many hearings scheduled for the next several months. As you know, I think, Mr. Conyers, this is probably the most active Subcommittee of the full Judiciary Committee and we literally have something scheduled every week through July and I

do not know whether we are going to have an opportunity to have another hearing on this subject or not. My goal is to try to cover all subjects with one hearing is we possibly can, particularly if there is going to be a subsequent markup of the bill.

Mr. CONYERS. Well, this is outrageous. You know, I was so happy to hear a person in business, Mr. Mansh, at least say something about the purpose of what this FPI is about. It is not about business, guys. It is about doing something for the exploding inmate populations in the Federal prison system. It is not about you.

Now, this is a railroad. If we are never going to hear from the authorities but just from the representatives of the business community, I mean, what do we need to be here for? We can just go to markup. At least we have the corrections system people. They are talking about it from their own self-interest, but at least it contemplates improving why you send people to prison in the first place. This is not the Commerce Committee, it is the Judiciary Committee, and it is absolutely outrageous that we would be taking this issue and casting it in terms of who is going to win and who is going to lose and throwing the whole thing out, by the way, instead of trying to modify it.

Mr. DELAHUNT. Would the gentleman yield?

Mr. CONYERS. Of course.

Mr. DELAHUNT. I just have a question, and I will direct it to you, Mr. Chairman. Were representatives of FPI invited to testify?

Mr. SMITH. Not to my knowledge. To my——

Mr. DELAHUNT. I yield back. [Laughter.]

Mr. CONYERS. I mean, here we have the whole issue of incarceration in America. We are building new prisons a mile a minute. We are subsidizing communities to build prisons. We have a terrible problem that the Judiciary Committee has jurisdiction over and we are casting this in terms of somebody is going to lose jobs. Well, I happen to come out of the labor movement and I want to defend every small businessman, entrepreneur, the labor union.

But here, gentlemen and ladies, we have got a circumstance here, the only one of the things that is most successful, and to have a lawyer representing these people say, well, they have blown it time and time again. They are administratively unreliable, so let us ditch the program. I do not buy that. I cannot buy that.

I am sorry, Mr. Chairman. This is a huge mistake that we are in the process of making and we are going to have to—if you are not going to have any hearings, I guess we will have to hold some ad hoc hearings or resort to whatever processes there are available, but this is a totally unfair circumstance that we find ourselves in.

Now, if we are going to sit around and reasonably and intelligently discuss this issue, fine. But if we are going to come here where the deal is already set, then I understand what those of us who are thinking about what we do with these blokes that get out that cannot get jobs, that after they have paid their dues, they still are roaming the streets, and then within a few weeks, sometimes months, they are back in the slammer for the same reason they got there before. They did not have the training, the education, the skills to get work in this technological society that we find ourselves in.

Mr. SMITH. Thank you, Mr. Conyers. I might add that while we all do not get all the witnesses we want, nevertheless, this is a hearing that gives Members an opportunity to ask our witnesses questions and there are witnesses on both sides of the issue.

The gentleman from Florida, Mr. Keller, is recognized for questions.

Mr. KELLER. Thank you, Mr. Chairman. I am going to pass.

Mr. SMITH. Okay. The gentleman from Massachusetts, Mr. Delahunt, is recognized for questions.

Mr. DELAHUNT. I thought you were going to forget me for a minute, Mr. Chairman.

I am new to this issue, so I do not have any preconceived notions. But I want to pick up on the theme, I think, that Mr. Conyers struck. Whatever the program is, our focus, our efforts, and our resources ought to be to attempt to lower the recidivism rate and to return the inmates back into the community with appropriate skills. I guess the question is, and I am just asking it rhetorically, I am not asking it to anyone here, are we doing that? Are we achieving that? What is the recidivism rate?

I respect what you say, Mr. Glover, in terms of management of prisons. In my previous life, I was the prosecutor in the metropolitan Boston area and I had the responsibility of investigating and prosecuting crimes within the maximum security prison and several other prisons, so I am very familiar with that and I know those tools are necessary.

But I am sitting here and I am listening to Mr. Mansh and he is talking about apparel. I mean, I think the reality is that we can recognize that there has been a substantial decline in terms of the apparel industry and manufacturing in this country. You know, to have inmates learn skills that are not going to be suitable to them when they are released from prison, I do not know if that really makes a lot of sense.

I think I am hearing you, Mr. Ryan, suggest that this is a Federal program that is being taken advantage of by entrepreneurs on the outside that see an opportunity in terms of developing a business using the so-called super-preference or preference by Prison Industries to create almost a sham. This pass-through is what you are really talking about.

Again, I know there has been a lot of negotiations and discussions, but I have to concur with Mr. Conyers, Mr. Chairman. I really think we need to exercise oversight into the operation of FPI, without even reaching any decisions as to whether the legislation, which I have not looked at, which is being submitted here today, will deal with the issues, because I think it was Mr. Green that asked the question earlier. I mean, if they are not in compliance now, will the legislation make any difference? I am not sure. Mr. Ryan, maybe you want to respond.

Mr. RYAN. I think, frankly, the legislation that has been proposed by Congressman Hoekstra and Congressman Frank, frankly, is the fundamental reform from which I think you should start your analysis. I think they have stepped up to the plate to provide a reasoned way to get a soft landing for FPI. They do not automatically end the preference. They phase it out.

Mr. DELAHUNT. Okay, and I will do that.

Let me interrupt just because I am interested in what other tools are available. I am obviously familiar with various State systems. Is there a work release program in terms of the Federal correctional system, Mr. Glover?

Mr. GLOVER. Congressman, there are a number of programs. We have education programs in the evenings where they go to school, inmates go to school. We do have some work release to VA centers, for instance, where they go and work around the VA center.

Mr. DELAHUNT. I guess I am speaking to, in terms of work release programs, are there programs that exist within the Federal system that would allow inmates, under certain conditions, obviously, to be released to work in a private sector role where they could learn appropriate skills?

Mr. GLOVER. I am certainly not qualified to answer for the director of the prison system.

Mr. DELAHUNT. Mr. Mansh or Mr. Ryan, maybe you could respond.

Mr. RYAN. Well, let me go to a fundamental issue. The claim is always made that this program reduces the recidivism rate.

Mr. DELAHUNT. Right.

Mr. RYAN. That is akin to saying that the board scores of a suburban school that is well equipped is better than an inner city school where you do not give people the tools. They take the best inmates in the institution and put them in this program. Of course, it has a better recidivism rate.

Mr. DELAHUNT. Fine. Let me ask you this. Have there been studies? Is there any empirical data to support the premise that even the good inmates—people are obviously shaking their heads in the back. I will accept that as an answer from the audience, because we are limited with time here.

But I would think, Mr. Chairman, that we ought to be looking in terms of expanding and enhancing a work release program as opposed to—well, I yield back.

Mr. SMITH. Thank you, Mr. Delahunt.

The gentleman from Virginia, Mr. Scott, is recognized.

Mr. SCOTT. Thank you, Mr. Chairman. I just wanted to make a couple of points and I will yield the balance of my time to the gentlelady from Texas.

First, we have had allegations of mismanagement and violation of guidelines at FPI. It has been pointed out that FPI has not been here to be able to respond. I would ask unanimous consent that a letter from FPI to the Defense Logistics Agency in reference to the Mansh contract be entered into the record so at least the record will reflect some of their views.

Mr. SMITH. Without objection, so ordered.

[The material referred to appears on page 4 of this hearing record.]

Mr. SCOTT. They were, I think, available to testify had they been invited. Usually, the agency has an opportunity to testify and that opportunity was not afforded to FPI.

Second, I think we all agree that the prison industry program is important and we have had very little focus on what the alternative is to mandatory source that will produce more jobs than they have got now. Because the prison population has gone up by

about a third, we are going to need at least a third more jobs to have the same portion of prisoners occupied.

And finally, Mr. Chairman, as an interest to society, the gentleman from Michigan, the Ranking Member, went to great lengths to say how this is good for prisoners. It is also good for society. The taxpayers do not have to pay the increased costs of recidivism and do not have to pay for the extra guards to guard people that are sitting around idle all day. You do not need as many guards when people are occupied. Furthermore, crime victims, those that have been victimized in the past, get significant restitution, and people who own businesses or belong to labor unions would like to have less crime. They are less likely to be a victim of crime if we have good prison industry programs.

All the studies that I have seen have shown that the recidivism rate goes down, not just because of adverse selection, but in controlled studies, those that have good prison industry programs have a lower recidivism rate.

With that, Mr. Chairman, I would yield the balance of my time to the gentlelady from Texas.

Mr. SMITH. The gentlewoman from Texas is recognized for 5 minutes, and unfortunately, we will need to adjourn after her questions.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. We have had these hearings for a number of years, as I have been a Member of the Subcommittee on Crime. I do thank the Chairman and the Ranking Member for bringing it to us again. Let me also thank the witnesses, though I am somewhat confined and restrained by this limitation of witnesses in terms of numbers, which limits us from exploring the issues that I think were very pointedly mentioned by the Ranking Member of the Full Committee.

Let me just acknowledge the fact that we are suffering in this country in particular with the movement that reached a pinnacle of building prisons and having prisoners, and I want to associate myself additionally with remarks of the Ranking Member of the Subcommittee that they are a value to the Federal Prison Industry concept, that it is important to determine the recidivism issue, and that there is some data that suggests that the training does, or the working does, in fact, help with recidivism.

But I have a question as to the relevancy of the work, whether or not the work is geared more to building furniture or whether or not it is relevant to the idea of providing them for the workforce of the 21st century. I see, Mr. Ryan, you have put yourself in the mix. Maybe I should not ask you, but I am going to yield to you on that issue. Where are we in being relevant?

Might I say that—let me put another spin to it, an unfortunate spin, and that is that the predominance of individuals incarcerated at least in State jails, and it may likewise be in the Federal system, happen to be minorities, happen to be African Americans and, I think, Hispanics. There is an increasing number of women being incarcerated. And so this is at the center of various cultural groups. It is at the center of family groups. I am working now with a prison, I guess I would call it effort, or project, that tries to deal with the children of prisoners, which are noted to be part of the cycle, that if your family members, dads, moms, are incarcerated, you can

almost put money on the fact that the child will be drastically impacted and may wind up in the system, as well.

So I guess my question would be, are we even relevant of having these hearings under the context of where FPI is at this point and what do we need to do about that?

Mr. RYAN. Congresswoman, I think you hit it right on the head, because we could not find amongst the furniture companies one former inmate employed who had learned their skills in Federal Prison Industries. In other words, the skills that are directly being built by ending idleness, which we support, are not translating into jobs.

Now, of course, I would agree with Federal Prison Industries that they learn to go to work, they learn that they have got to be there, and those are important skills and I do not diminish them. But quite frankly, this is all about doing it on the cheap. It is all about making sure that the corporation makes a profit as opposed to does the training.

And quite frankly, if we want people to be trained, we are going to have to pay the price. Right now, the people paying the price are the GED and veterans who are in the furniture industry or the apparel industry or the industries that have, frankly, been the traditional industries that suck it up and take the pain because of the way the policy is being implemented.

Ms. JACKSON LEE. As I said, I have been in these hearings, Mr. Ryan, for a number of years, and my inclinations in early years were to be sympathetic to these businesses that were utilizing these fine gentlemen and maybe ladies and that they were a part of the infrastructure of the community. When I say these businesses, I am talking about the products that were being produced and then being sold. And then, of course, listening to, of course, your position, which is with respect to those who cannot compete with this low cost.

So now I think it is time to put in the mix the points that you all have been making, which is we are both possibly hurting small businesses, which I am particularly sensitive to, but as well, are we being relevant, and are we, if we did a study prospectively, would we find the recidivism numbers as good as we found them in years past when we studied them.

So, Mr. Chairman, let me simply conclude by saying, I know others have had testimony, that I am not sure if we have got our hands around all of the issues of concern. I did come in on the Ranking Member's issues, and I am not sure if he wants to, if my time is still—I see it is a red light. I was going to yield to him. But in any event, I think that we have not answered all of our questions about this, and as we follow the legislative process through, I hope that we will find better solutions to the answer of incarcerated persons, recidivism, and having them come back into full responsibility into our society. I yield back.

Mr. SMITH. Thank you, Ms. Jackson Lee.

Let me explain for the benefit of the Members who were not here earlier that the reason we are going to need to adjourn is because there is a bill on the House floor that is a Judiciary Committee bill, and under the rules of our Committee, we need not to be in session

while that bill is being considered, and I think it is imminent that the rule will be under debate on the House floor.

Before we adjourn, let me thank our witnesses again for their contributions and for giving us their insights on this particular issue. As you can see, we have a number of opinions that have been voiced by this Committee today and we will look forward to beginning the process to see if we cannot come up with a bill that addresses a lot of the concerns raised by many Members.

Thank you all again for your expert testimony. It was much appreciated.

At this time, I would like to insert into the record a number of statements that have been submitted for the record. We have received statements from John Palatiello of the Management Association for Private Photogrammetric Surveyors; the U.S. Chamber of Commerce; T. Howard Noel of the Council on Federal Procurement of Architectural and Engineering Services; the American Apparel and Footwear Association; Lawrence Skibbie of the National Defense Industrial Association; Gary Engebretson of the Contract Services Association of America; Bob DeGroft of the Independent Office Products and Furniture Dealers Association.

[The prepared statement of Mr. Palatiello follows:]

PREPARED STATEMENT OF JOHN PALATIELLO OF THE MANAGEMENT ASSOCIATION FOR PRIVATE PHOTOGRAMMETRIC SURVEYORS

Mr. Chairman, the Management Association for Private Photogrammetric Surveyors (MAPPS) is a national trade association of more than 160 private firms engaged in professional mapping and related technical services.

MAPPS is deeply concerned that Federal and State prisons have discovered the exploding market for geographic data conversion services. Convict labor is encroaching into the data conversion market, displacing hard working, law-abiding, tax-paying citizens with criminals employed by a new form of government-sponsored, unfair, tax-exempt, below-market, non-profit competition. Based on the sanction of the Justice Department's ruling that the current Federal law prohibition on the interstate commerce of prison products does not apply to services, not only have State prisons engaged in such commercial transactions, but now FPI is coming after us as well. While FPI on one hand withdrew its proposed rule on commercial services, it issued a *Commerce Business Daily* notice that it is entering the commercial market for "complete vectorization of maps and engineering drawings". In layman's terms, that is a scanning and digitizing process to convert paper maps and engineering drawings into electronic or digital formats and computer aided design (CAD).

In that same CBD notice, FPI stated it is "concentrating its efforts on performing commercial services work that is currently being performed outside the United States." FPI has erroneously come to the conclusion that mapping services fall within this category. While conversion work may be sent overseas on an isolated and incidental basis, it is the exception rather than the normal practice. In fact, I recently contacted several Federal agencies to determine the extent of Federal contracting activity in the services FPI claims is being done outside the U.S. I can document 40 firms under contract to 4 major Federal agencies (NIMA, USGS, Corps of Engineers and Fish and Wildlife Service) that have these services in their scope of work. A number of these agencies have conducted visits, tours and site inspections to verify that the services are being performed in the United States.

For a U.S. Government contractor to send work off-shore is a dangerous and illegal process. Federal mapping contracts are subject to the prevailing wage requirements of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.). The only reason a firm would send work off-shore would be to take advantage of lower labor costs. If a firm were to send Federal contract work off-shore, take advantage of the lower labor costs, fail to pay the prevailing wage required by the contract, and pocket the difference, they would be in violation of Federal law.

If FPI knows of this practice, they should be reporting these firms to the Department of Labor and the enforcement office of the Justice Department. If they are unaware of this practice occurring, then how can they claim the work is going off shore?

We do not believe that FPI should be authorized to determine for itself whether a service is going off-shore. There is currently no requirement for a market study, no consultation with the private sector, no findings and determination procedure and no certification by the Labor Department or any other third party. As you may know, Mr. Chairman, there is a program in the Labor Department known as the Trade Readjustment Assistance (TRA) program. It provides benefits for workers who lose their jobs due to severe dislocation due to imports. Under that program, an application must be made by an individual, union, or company. A certification must be made by the Labor Department. FPI seeks no such determination by the Labor Department. FPI can issue a death sentence to small businesses and their employees in any service industry and FPI gets to be judge, jury and prosecutor. There is no due process. It is hard to believe such a process would be condoned the Committee on the Judiciary.

Mr. Chairman, there are a number of reasons why mapping is an inappropriate area for prison industry participation in the first place.

The services UNICOR and the State prisons are providing, while technical in nature, support professional architect-engineer (A/E) services. In recognition of the importance of using the highest quality contractors to perform such services, Congress in 1972 enacted a qualifications based selection law (PL92-582) and later amended it to clarify that it applies to mapping services (40 U.S.C. 541 et. seq.) This law requires Federal agencies to award A/E contracts (including those for surveying or mapping services) to firms based on their "demonstrated competence and qualification" subject to negotiation of a fee "fair and reasonable to the government", rather than awarding such contracts to the lowest bidder. The vast majority of States have also adopted this process in their codes and it is recommended by the American Bar Association in its Model Procurement Code for State and Local Government.

Public health, welfare and safety is dependent on the quality of work performed by professionals in the fields of architecture, engineering, surveying and mapping. To add to these highly technical and professional services drawings, maps and images processed by prison inmates is not only an affront to the professionals in this field, but questionable to the public interest.

Just as a poorly designed dam can burst, subjecting the government to huge claims, so too can a poor map unleash a flood of problems, creating an impediment to the expeditious completion of a government project, causing substantial loss of time and money, and jeopardizing the public safety. Like a well made dam, a high quality map will stand the test of time and will ensure that the government can proceed with its design, construction or resource planning project based on complete and precise groundwork.

The National Council of Examiners for Engineers and Surveyors (NCEES) a national organization of the 50 States' licensing boards for these services recently amended its model law to include mapping within the profession of surveying, such to State licensing.

My friends in the Federal agencies tell me prison industries is an unworkable alternative in mapping. This work requires constant interaction between the client and contractor. The inability of Federal agency officials to make frequent and timely visits to a prison industry to inspect work, consult with the contractor and resolve questions is a major barrier to economy and efficiency.

It is also unwise to train convicted felons in imaging techniques and technologies. The potential for utilizing the prison-developed skills in counterfeiting operations upon release from incarceration is too tempting.

In addition to the counterfeiting issue, I want to emphasize that inmates working prison industries in geographic information services often have access to homeowner data, property appraisal and tax assessment records and other information that most citizens would be horrified and outraged to know were in these convicts' hands.

Recently, FPI was included as a subcontractor on contracts awarded by the National Imagery and Mapping Agency. This is part of a challenging and highly professional and technical program to provide mapping for a variety of military and intelligence applications that includes production of highly classified maps.

Based on the sanction of the Justice Department's ruling that the current Federal law prohibition on the interstate commerce of prison products does not apply to services, State prisons are already engaged in such commercial transactions. In Oregon, firms have gone out of business and others have closed entire divisions, because the market for their services in the State has evaporated. Unigroup is the Oregon Department of Corrections' prison industry. It brags that its "innovative CAD/CAM industry was conceived in early 1992 as a way to provide quality, inexpensive services to state and other governmental agencies. Private businesses are also welcome to use our services." Unigroup functions as a conversion house, converting hard copy documents to digital files. This organization not only does work for Or-

egon State agencies and Oregon counties, but for Federal agencies and private firms. In fact, we are told that through private firms, the Oregon prison industry mapping section has done work in New York and other States. The Oregon prison industry has become so pervasive that two MAPPS member firms have shut down their efforts to market these services to State and county government, as they are unable to compete with the below market prices and labor rates charged by the prisons. Unigroup has also crossed State lines to solicit work for private entities in other States. Their solicitation marketing letter was NOT sent to Oregon firms; we suspect that because the State prison industry did not want to let Oregon firms know how blatantly they were competing with the private sector.

Another State prison program, the Prison Industries Enhancement (PIE) program, has entered the mapping field in Florida. PRIDE Enterprises, the Florida prison industry, is engaged in a variety of digital geographic information services, including converting hard copy maps to electronic files; plotting maps at various scales; creating databases with information on homeowners, property appraisal and tax assessment; digitizing, and other CADD and GIS services. While PRIDE works as a subcontractor to private firms, their direct contracting authority is unfair competition and again, diverts work for tax-paying, law-abiding citizens.

It is our understanding the Attorney General of the State of Florida issued an opinion that the Federal prohibition on prison made goods does not apply to services. However, with specific regard to whether the activities of the Florida prison program fall within the jurisdiction of the Department of Business & Professional Regulation and its Board of Professional Surveyors & Mappers, no such ruling has been obtained. The Florida Board's regulations, pursuant to Florida Statutes, sec. 472.008 and 472.027, define "surveying and mapping" as "a process of direct measurement and analysis specifically designed to document the existence, the identity, the location, and the dimension or size of natural or artificial features on land or the air, space or water for the purpose of producing accurate and reliable maps, suitable for visualization if needed, of such documentation." Moreover, Florida law requires individuals who qualify for a professional license to be "of good moral character", and states, "good moral character means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation." While the Florida law specifically excludes work as a "digitizer, scribe" as qualifying under the "responsible charge" requirements for prior experience in order to be licensed, the fact that these services are mentioned in the law and fall within the plain meaning of "surveying and mapping" makes prison activity in the area a dangerous and questionable proposition.

The Texas Department of Criminal Justice has established a map scanning and digitizing service at their Ferguson Unit in Midway, Texas. Authorized by the Prison Made Goods Act of 1963, the prison company has a slick brochure claiming that under their program "Everybody Wins" since inmates are trained in a skill that is marketable upon their release, use of the prison agency provides a "quality product at a reduced price", and a "double savings" for the taxpayer. This unit has taken work for the Texas Department of Transportation, Texas counties and other clients that would otherwise have gone to the private sector.

When Federal government work goes to a prison rather than a profit-making, tax-paying company, the Federal and State government loses considerable corporate and individual tax revenues, and displaces law-abiding workers. When a Federal or State prison enters the commercial services market, this problem is compounded. How can the private sector expect to be competitive when faced with entities that pay not taxes, do not comply with the Fair Labor Standards Act, OSHA regulations, have subsidized overhead, and have preferential borrowing authority. In the commercial service market, how are prison industries going to deal with tort liability? Are they going to carry professional liability insurance? What recourse is there for substandard work or failure to perform?

Mr. Chairman, we are not unmindful of the difficult challenge prison administrators face. It is unfortunate that in our society today, prison populations are increasing. It is obvious that something must be done to keep inmates occupied, to train and rehabilitate them, and to pay their debt to their victims and to society at large. However, in that process, another law should not be violated—the law of unintended consequences. We should not be creating another set of victims—those business owners and their employees and their families who are displaced because the work that would have kept them employed has gone to prison industries through grossly unfair competition.

We cannot tell you whether the impact prison industries has on the mapping profession is intended or not. We are not aware of a single impact study that UNICOR or its parent, the U.S. Department of Justice, has done on the entry of these entities into mapping. Just as a narrow legal opinion has been crafted that says prisons can

engage in commercial services, a similar opinion has been rendered that says UNICOR does not have to measure the impact of their expansion in services, nor confer with affected professions, like they must do under the law with products.

MAPPS strongly supports the Hoekstra-Frank-Maloney-Collins-Sensenbrenner reform bill. We urge prompt action on this overdue legislation early in this Congress.

[The prepared statement of the U.S. Chamber of Commerce follows:]

PREPARED STATEMENT OF THE U.S. CHAMBER OF COMMERCE

The U.S. Chamber is the world's largest federation of business organizations, representing more than three million businesses and professional organizations of every size, sector and region of the country. The Chamber serves as the principal voice of the American business community. The Chamber respectfully submits these comments for the record of the House Judiciary Subcommittee on Crime Oversight Hearing on Federal Prison Industries (FPI).

These comments are offered on behalf of the entire business community, but especially for the Chamber members involved in the government procurement process. These businesses, small and large, rely on an efficient, fair competitive process in providing the federal government with goods and services to maintain and grow their businesses.

FPI REFORM

In 1934, President Roosevelt established FPI as a government-owned corporation. FPI was given special "mandatory source" status in the government procurement process, forcing government agencies in need of a product to purchase that product from FPI. *No consideration can be given to a private sector competitor unless that agency asks FPI for an exception from its own monopoly.* FPI has unfettered discretion in making waiver decisions; FPI does not have to grant a waiver even if the agency demonstrates that a commercial product is of higher quality, can be obtained quicker and acquired at a substantially lower cost.

It is ironic that there are laws prohibiting the U.S. from importing goods that are made by prisoners in other countries, yet we have laws that require our own federal government to buy goods and services from prisoners in this country. And we can all certainly recognize the changes that have occurred in our nation's economy since the Great Depression, further lending to the argument that the time for FPI reform has come, especially in light of FPI's current monopolistic activities.

Each year, FPI expands to produce even more goods and services. In 1994, FPI was involved in only 85 markets with sales totaling \$390 million. Today, FPI produces over 300 products and services, such as furniture, military clothes and gloves, shelving and shipping containers, signage, printing and a host of services, that in 2000 alone totaled nearly \$600 million worth of sales to the federal government. Evidence concludes FPI will continue to exhibit expansionist behavior, by exploiting its mandatory source status and increasingly encroaching on private sector industries in order to be profitable enterprise.

Reform of FPI starts with the realization that FPI currently exceeds its statutory authority. They can set any price it wants within the range of market prices and have no incentive to charge the lowest price. FPI, rather than federal agencies, determines whether FPI's products and delivery schedule meets the agency's needs. FPI is limited to no more than a reasonable share of the government market, but in over 100 product categories, they have determined that 100% of the market is reasonable. By granting FPI a monopoly, issues of price, quality and efficiency fall by the wayside at the expense of U.S. taxpayers.

FPI's mandatory source has obviously been a constant concern for industry. The Chamber has long-standing policy that the government should not perform the production of goods and services for itself or others if acceptable privately owned and operated services are or can be made available for such purposes. The private sector should be allowed to compete fairly with FPI for federal contracts—plain and simple—by eliminating the requirement that government agencies purchase products from FPI.

While we are empathetic to FPI's goal to employ federal inmates to reduce recidivism by providing vocational and remedial opportunities while incarcerated, it should not be done at the expense of law-abiding, tax paying businesses. It is unfortunate that in today's society we are faced with an increasing inmate population. However, we believe that there are other substantial sources of work available to inmates that would not infringe upon the private sector's opportunities to compete for government contracts.

ADMINISTRATIVE EXPANSION

FPI's desire to expand into the commercial marketplace is an alarming development that is seen as a call to arms by industry. The Chamber for three reasons opposes FPI's move into the commercial marketplace. First, the decision by FPI's Board to expand into the commercial marketplace is in conflict to the clear language of FPI's enabling legislation and therefore arbitrary, capricious and beyond the discretion of the Board. Second, it is a reversal of more than sixty years of public policy. Finally the creation of a state run enterprise, competing with its own citizens, is a policy so at odds with the role of government in a free society, that it is a decision best left to Congress.

Title 18 U.S.C. section 4122(a) specifically states:

Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments or agencies of the United States, *but not for sale to the public in competition with private enterprise.*

This section, the very first provision in the statute governing the administration of FPI, spells out in clear, plain language that the markets for prison commodities is other prisons and federal agencies, but not for sale in the commercial marketplace. Since its inception in 1934, FPI has adhered to this statutory prohibition preventing it from entering commercial markets. They have exclusively, and with preferential status, sold their products to the federal government. In other words, for more than sixty years, FPI had interpreted their statute to mean what it says, "but not for sale to the public in competition with the private sector."

Now however, despite this seemingly clear prohibition on entering the commercial market found in the statute, recent evidence shows they have engaged in expansionist practices. Sixty years of public policy should not be overturned, especially without public debate. The United States should not be selling commercial services in competition with law abiding taxpaying businesses, using prison labor that is often paid less than a dollar an hour. FPI's expansion in the commercial market is a dramatic shift in policy, and in conflict with the clear language of 18 U.S. C. 4122(a).

LEGISLATIVE INITIATIVES

The Chamber strongly supports the Hoekstra-Frank-Collins-Maloney Federal Prison Industries Competition in Contracting Act Coalition of 2001. This bipartisan legislation would impose overdue and much-needed restraints on the unfair competitive practices of FPI that inflict damage on law-abiding businesses and the workers they employ.

The bill, supported by business and labor, would require FPI to compete for its contracts by eliminating its mandatory source status, while providing a five-year "soft-landing" to allow FPI time to adjust to competition. It would also protect taxpayer dollars and federal agency operating budgets by eliminating FPI's ability to overcharge for its products. Agency contract officers, not FPI, would determine if FPI's offered product best meets buying agencies' needs in terms of quality and time of delivery.

The US Chamber of Commerce strongly supports this legislation because we believe that the private sector can better address the needs of federal agencies by providing higher quality goods, in a more timely fashion, and for a lower price. The time has come for Congress to address this much-needed reform to ensure fair competition for American businesses in the federal procurement process and to curb FPI's entry into the commercial marketplace.

Thank you for allowing the Chamber to submit this statement for the Subcommittee. Please feel free to contact the Chamber should you have any questions or require additional information.

[The prepared statement of Mr. Noel follows:]

PREPARED STATEMENT OF T. HOWARD NOEL OF THE COUNCIL ON FEDERAL
PROCUREMENT OF ARCHITECTURAL AND ENGINEERING SERVICES

COFPAES

Council
On
Federal
Procurement of
Architectural &
Engineering
Services

April 26, 2001

The Honorable Lamar Smith, Chairman
Subcommittee on Crime
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Representative Smith:

The Council on Federal Procurement of Architecture and Engineering Services (COFPAES) strongly supports legislation to reform Federal Prison Industries, particularly the Hoekstra, Frank, Collins, Maloney, Sensenbrenner "Federal Prison Industries Competition in Contracting Act".

COFPAES is comprised of the nation's seven leading design professional associations and societies. Our constituents, the more than 100,000 licensed professional architects, engineers, surveyors and landscape architects, are deeply concerned about the encroachment of Federal Prison Industries (FPI) into activities where public health, safety and welfare demand the judgment of trained and experienced professionals. We are particularly concerned that FPI has developed a capability to provide scanning and digitizing services to other Federal agencies. According to FPI documents, it is "broadening its prime contractor role ... in the areas of ... digitization of maps for GIS applications, digitization of engineering and facilities management drawings (am/fm), scanning and digitizing, CALS conversions." Moreover, we have seen other Federal agencies require private architects and engineers to specify FPI as a source for material in the specifications our members develop on public buildings and facilities. This does not result in the best value to the taxpayer over the life cycle cost of such a facility and seriously ties the hands of design professionals with regard to specifying the most economic and efficient components in Federal buildings and facilities.

The services UNICOR and the State prisons are providing, while technical in nature, support professional architect-engineer (A/E) services. In recognition of the importance of using the highest quality contractors to perform such services, Congress in 1972 enacted a qualifications based selection law (PL92-582) and later amended it to clarify that it applies to mapping services (40 U.S.C. 541 et. seq.) This law requires Federal agencies to award A/E contracts (including those for surveying or mapping services) to firms based on their "demonstrated competence and qualification" subject to negotiation of a fee "fair and reasonable to the government", rather than awarding such contracts to the lowest bidder. The vast majority of States have also adopted this process in their codes and it is recommended by the American Bar Association in its Model Procurement Code for State and Local Government.

American Congress on
Surveying & Mapping
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American Institute of Architects
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ARTBA Planning &
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American Society of
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American Society of
Landscape Architects
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202/698-2444 Fax 202/898-1185

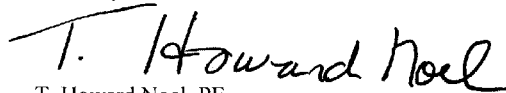
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The Honorable Lamar Smith, Chairman
April 26, 2001
Page two

Public health, welfare and safety is dependent on the quality of work performed by professionals in the fields of architecture, engineering, surveying and mapping. To add to these highly technical and professional services drawings, maps and images processed by prison inmates is not in the public interest. Furthermore, it may violate State licensing laws which require professional architects, engineers, surveyors and mappers to be in "responsible charge" of work which they ultimately certify and for which they assume responsibility.

COFPAES believes the Hoekstra bill strikes the necessary balance between meaningful employment and training of inmates on one hand, and competition and quality in Federal procurement on the other.

Sincerely,

A handwritten signature in black ink that reads "T. Howard Noel". The signature is written in a cursive, flowing style.

T. Howard Noel, PE
Chairman

[The prepared statement of the American Apparel and Footwear Association follows:]

PREPARED STATEMENT OF THE AMERICAN APPAREL AND FOOTWEAR ASSOCIATION



American Apparel & Footwear Association
the fashion association

**STATEMENT BEFORE THE
SUBCOMMITTEE ON CRIME
HOUSE COMMITTEE ON THE JUDICIARY
REFORM OF FEDERAL PRISON INDUSTRIES
APRIL 2001**

Thank you for providing the American Apparel and Footwear Association (AAFA) with an opportunity to present comments on reform of the Federal Prison Industries (FPI), or UNICOR, program. AAFA is the national trade association of the apparel and footwear industries. Our members include manufacturers of apparel and footwear, as well as the many companies who supply inputs and services or sell the finished products.

Focusing on the apparel side of our association for the purposes of this hearing, our members range from large brand name apparel companies who sell consumer-driven products in the global marketplace to small, family-owned government contractors who sell uniforms exclusively to the U.S. military. It is these government contractors who have been adversely affected by FPI's uncontrolled expansion in past years and who are most at risk if Congress fails to reform FPI.

The main customer of our government contractor members is the U.S. armed forces. These members are proud that they constitute part of the U.S. warm industrial base that supports the readiness of our military. For more than 60 years, the U.S. Congress has sought to defend this warm industrial base through defense procurement laws that require the military to purchase clothing in the United States from U.S. sources. Recent congressional outrage about an ill-advised decision to source berets for the Army in China and other foreign destinations demonstrates the continued strength of this commitment to the U.S. warm industrial base.

1601 North Kent Street, Suite 1200, Arlington, VA 22209
703/524-1864 – Fax: 703/522-6741

But as FPI has grown, it has slowly eroded the warm industrial base for clothing and textiles. Each FPI contract represents a lost contract for a private apparel government contractor. Because so many firms are dependent on 1 or 2 contracts for their livelihood, the loss of one contract can mean the loss of a production line, the loss of a factory, or outright bankruptcy. Sometimes a firm can stay in business by switching products and competing in an area not yet touched by FPI. But this just merely pushes the pain down the line, forcing another contractor to make layoff and bankruptcy decisions. Because new factories do not replace those that are forced out of business, the warm industrial base for this industry slowly shrinks and military preparedness suffers.

In 2000, FPI's textile and apparel business had sales of more than \$130 million, more than 20 factories, and around 6,000 production workers. On any of these measures, FPI exceeds the AAFA's largest government contractors. In FY 1999, FPI was the dominant supplier of clothing to the Defense Logistics Agency (DLA) and the 11th largest overall supplier to the DLA. While we do not challenge FPI's right to be part of the warm industrial base, we do take issue with the fact that they are progressively forming such a large part of it – at the direct expense of our members, at the direct expense of military preparedness, and at odds with federal statute.

I. The Current Problem

For several years, AAFA has maintained that abuses at, and problems with, FPI current operations arise from the simple fact that FPI is not constrained by clear limitations nor monitored by effective oversight.

The lack of limitations and oversight is a problem because FPI enjoys a "mandatory source" preference over other contractors, including the blind, the handicapped, small businesses, and minority and women-owned businesses. Moreover, the ability to exercise this preference lies with FPI. In other words, FPI – and not the government purchaser – has the sole ability to determine if FPI is to be awarded a contract based on this mandatory source status.

The federal statute empowering FPI with this mandatory source power has also placed several limitations on the ability of FPI to use it. Unfortunately, these limitations are worded so ambiguously that FPI can easily circumvent their meaning. For example, FPI is prohibited from taking more than a "reasonable share of the federal market of a specific product." It has chosen to define and apply the terms "reasonable share," "federal market," and "specific product" in such a way that they no longer serve as effective restraints.

In fact, FPI has so far failed to make a permanent definition of the term "reasonable." Rather, this term is applied to different products on a case by case basis as it suits FPI's

needs. In 1988, former FPI Chief Executive Officer Michael Quinlan testified that FPI was using 15 percent as a reasonable share. Yet in the years following that statement, the FPI board, upon recommendation by the FPI staff, has knowingly authorized shares of the market for protective clothing at 25 percent, work clothing at 37 percent, and T-shirts at 50 percent (see attached chart).

Although FPI is prohibited from looking outside the federal market, it often uses commercial market estimates to reinforce its own skewed estimates of "reasonable" and to diminish its own impact on the federal market. When firms are deemed by FPI to have sales opportunities in the commercial market, FPI assumes that it can take a larger share of the target product because the displaced firm's production will be absorbed by increased sales commercially. Such analysis ignores market realities, particularly since many apparel suppliers to the federal government have minimal commercial sales or have factories dedicated to the government contract work. When those contracts are terminated, there is usually no commercial work to absorb the lost production and the result is factory closures or layoffs.

Similarly, in typical impact statements prepared for the board – which form the major basis of FPI board decisions – there are exhaustive discussions of the impact of FPI on the commercial market. These analyses almost always conclude that the expansion of FPI in a particular federal market, because it is small when measured against a larger commercial market, will be insignificant. These analyses usually ignore the key fact that any comparison of FPI in the commercial market is irrelevant because FPI is statutorily prevented from selling in that market. We believe inclusion of such analyses in impact statements shield FPI board members from exercising objective oversight and focusing on the true impact of proposed expansions.

Finally, in probably the most egregious practice, FPI defines the term "specific product" to note that "a specific product includes many different items." By grouping together many specific products into an omnibus "specific product" grouping, FPI can shield its true impact on the individual product. For example, by averaging the 100 percent share of a few products with the 10 percent share of several other products, FPI can deflate its aggregate market share and mask the fact that it is the sole supplier of several specific products.

In fact, according to an FOIA request with the Defense Logistics Agency (DLA) that AAFA initiated two years ago, FPI has authorized itself to take 100 percent of DLA needs for 106 specific go-to-war items that are required by the Defense Department. Because, in the majority of these cases, the DLA is the sole procurer of these items, FPI has effectively taken 100 percent of the federal market of numerous specific products – hardly a reasonable share (see attachment).

Because it sidesteps these limitations, FPI ends up ignoring other requirements as well. By concentrating its activities in the textile and apparel industries – where about 30

percent of its inmates work – FPI voids the statutory mandate to diversify and the statutory mandate to avoid injury to a single industry.

II. FPI Expansion into the Commercial Market

AAFA is aware that FPI and others have actively promoted expansion of FPI activities into the commercial market, possibly through the production of “repatriated” goods, as a *quid pro quo* for withdrawal from the federal market. Although initially intrigued by this idea, we do not support it for the following reasons.

1. Permitting FPI into the commercial market, while maintaining a ban on the imports of similar prison-made goods, would appear to be a violation of U.S. obligations under the World Trade Organization (WTO). Those obligations prevent the United States from imposing regulations and restrictions that favor the use of domestically made goods or discriminate against the use of foreign made goods. A regime that explicitly authorizes the sale of goods made in the Federal Prison system concurrent with a Federal statute that prohibits the sale of goods made in foreign prisons – a statute that AAFA strongly supports – would appear to present such discrimination.

Although WTO articles may provide limited exceptions to discriminate against foreign goods for prison related purposes, these exemptions are not likely to apply in the case of a major expansion of FPI’s right of access to the commercial market. This is particularly the case if FPI’s expansion occurs at the direct expense of foreign produced goods that are “repatriated” under the repatriation proposal. At the end of the day, AAFA does not believe that FPI reform should provide an opening for foreign governments to sue the United States under the WTO to provide better market access for foreign prisons.

2. Sourcing from FPI would violate codes of conduct recognized by many apparel companies. During the past decade, the apparel industry has embraced a series of ethical sourcing and production principles that include, among other things, prohibitions on forced or indentured labor and requirements to pay a minimum wage. Some explicitly prohibit the use of prison labor. Adoption of these codes as a way to tackle the problem of sweatshops in this industry has been driven by a combination of corporate responsibility, consumer interests and stockholder pressures. Federal encouragement to reverse this trend and begin sourcing apparel in prison factories would, we believe, send the wrong message at this time.
3. The textile and apparel commercial market can not handle the entry of FPI. Globalization and fierce competitive pressures have taken their toll on the industry in the past decade. During that time, employment in the apparel industry has dropped by 350,000 workers, or about 35 percent. Retail prices

have dropped while costs have slowly crept up, squeezing profit margins and forcing many companies into bankruptcy or mergers with other firms. Entry into this market of a large player like FPI, especially one that is so heavily subsidized by the government, would squeeze profit margins even tighter.

Moreover, FPI's participation in the commercial market would most adversely affect the small firms who subcontract to larger companies. They already find it difficult to compete against foreign production and are able to do so only because they offer a significant competitive advantage in two respects – namely the ability to produce a "Made in USA" good and the ability to offer quick turnarounds because of their proximity to the U.S. consumer. FPI, however, would negate those two advantages, possibly driving many of these smaller subcontractors out of business.

4. Finally, we remain unconvinced that the *quid pro quo* can be structured in a way to accomplish the primary goal of withdrawing FPI from the federal market. We are aware of several legislative proposals that would grant FPI immediate access to the commercial market but would gradually phase out FPI from the federal market. Those plans often retain mandatory source or provide a stop-gap mechanism for FPI to revert to the *status quo* if its experiment with the commercial market does not work out. The logic of these bills is that FPI needs time to adjust to such a *quid pro quo*. We note that the companies in our industry who have been adversely affected by FPI have not been given time to adjust nor do they have any snap-back mechanism to revert them back to a more favorable *status quo*.

III. Some Solutions

We must stress that AAFA is not opposed to the existence of FPI or even its ability to compete fairly with our members to win federal contracts. We are opposed, however, to the unregulated license of FPI to take business from our members.

We believe there are several solutions that enable FPI to remain viable so it can absorb and keep busy the growing prison population in the coming years:

1. Eliminate Mandatory Source: Elimination of mandatory source is a key priority that must be accomplished and take effect as soon as possible. In addition to providing FPI the ability to take contracts, mandatory source excuses FPI from the disciplines demanded by the marketplace and the contracting agency to provide timely, quality and affordable products. FPI has long maintained the myth that it cannot compete without mandatory source. Yet, it would find that, as long as it is committed to making timely, affordable and quality products, it can win contracts like private-sector firms. We assume mandatory source remains because FPI is unwilling to make such a commitment.

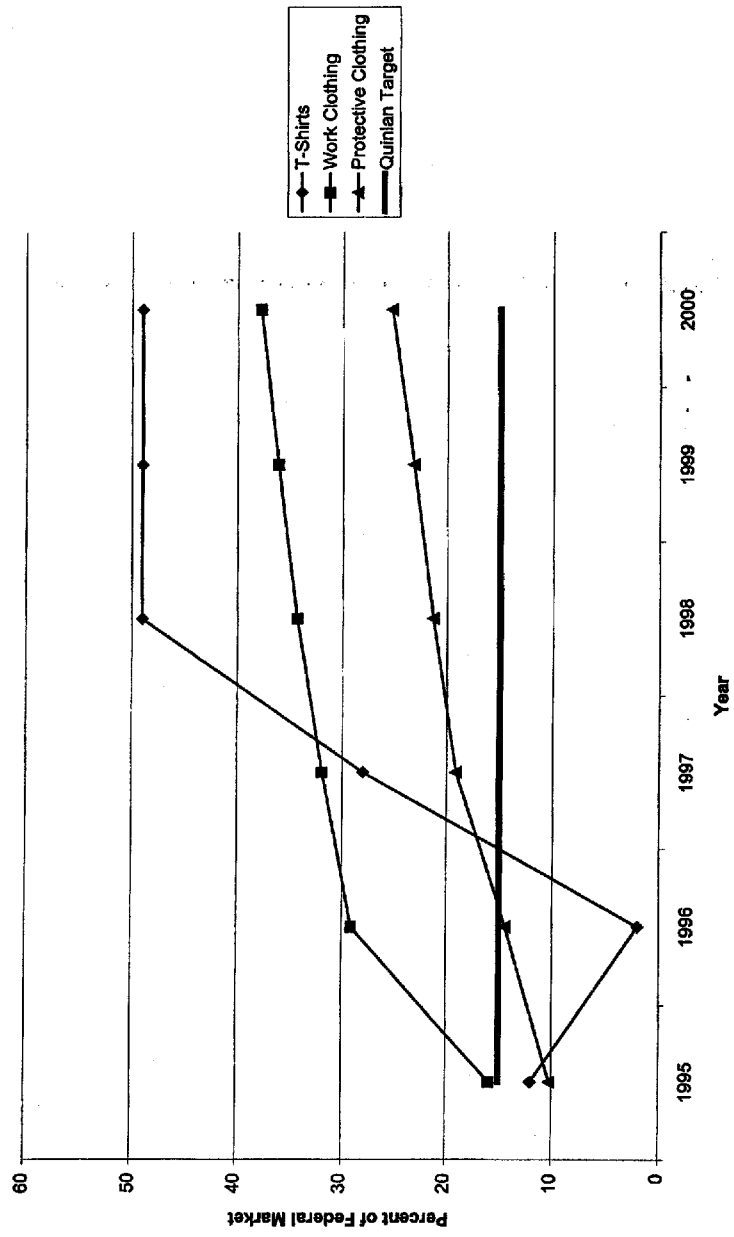
2. Seek New Alliances with Non-Profit Organizations: FPI should be authorized and encouraged to work with non-profit organizations to supply goods and services for individuals and entities who simply do not have the resources to make purchases themselves. For example, FPI can work with officials at the Federal Emergency Management Agency (FEMA) to supply items for emergencies through organizations like Red Cross. Similarly, FPI can produce pre-fab housing units that can be assembled under Habitat for Humanity programs.
3. Participation in Non-Market Areas of Economy: FPI should be authorized and encouraged to work in those sectors of the economy that will not lead to employment loss or which are not currently commercialized. For example, FPI can disassemble old electronic products for safe disposal or recycling.

IV. Conclusion

Contrary to popular belief, FPI does have a cost. Although it appears to cost the federal government little because its operations are funded by sales to government agencies, and because the only direct budgetary outlays are the subsidies it receives for production of its factories and maintenance of its inmate work force, it does carry a cost. The cost is borne by non-inmate workers who lose their jobs when their employers lay them off because of lost contracts. The cost is borne by private sector contractors who are forced to abandon product lines and businesses, despite their strong performance record with the federal government, because of FPI's expansions. The cost is borne by the government purchaser who does not have the freedom to procure the best product at the best price and be assured of timely delivery. The cost is borne by the U.S. military, which must rely upon an ever-dwindling warm industrial base while increasing its dependence on FPI.

My members need FPI reform immediately. We urge the Judiciary Committee to quickly take up and move reform legislation to reassert meaningful limitations and reestablish effective oversight for FPI operations. Keeping prisoners from being idle is a worth goal...but not if the price is to idle apparel factories Instead.

Recent FPI Clothing Expansions



UNICOR Generic Items - 100% Authorized

1. Bag, Flyer's Helmet
2. Bag, Mail
3. BDU Coat (all types)
4. BDU Coat, Camouflage, Woodland
5. BDU Trousers (all types)
6. BDU Trousers, Camouflage, Wood
7. BDU Trousers, Camouflage, Wood
8. Blanket, Disaster
9. Body Armor, Fragmentation Vest
10. Case, Flag
11. Case, Small Arms Ammunition
12. Cloth, Terry
13. Coat, Aircrew BDU, Tan
14. Coat, Aircrew BDU, Woodland
15. Coat, Combat, Black, 357, Type VIII
16. Coat, Combat, Desert Camouflage
17. Cover, Bivy
18. Cover, Body Armor, Fragmentation
19. Cover, Field Pack
20. Cover, Individual, Desert Camouflage
21. Cover, Individual, Snow, Camouflage
22. Cover, Individual Woodland Camo
23. Cover, Water Canteen (2-quart)
24. Cover, Water Canteen, 2 quart
25. Gaiter, Neck
26. Glove Insert, Chem Prot (LGE)
27. Glove Insert, Chem Prot (MED)
28. Glove Insert, Radioactive Cont
29. Gloves, Anti-Flash
30. Gloves, Anti-Flash, Flame Resi
31. Gloves, Cloth, Flannel
32. Gloves, Cloth, Leather Palm
33. Gloves, Cloth, Work, Leather P
34. Gloves, Driver, Work, All Leather
35. Gloves, Heavy Duty Cattlehide
36. Gloves, Leather, Anti-Contact
37. Gloves, Leather, Work
38. Gloves, Men's
39. Gloves, Men's and Women's, Leather
40. Gloves, Men's/Women's Light Du
41. Gloves, Work, All Leather
42. Helmet Shell, CVC
43. Helmet, Combat Vehicle Crewman
44. Helmet, Pasgt (Kevlar)
45. Helmet, Phonetalker, Navy
46. Helmet, Shipboard Battle
47. Jacket, Man's Utility
48. Jacket, Utility, Unisex
49. Jacket, Utility, Unisex, Coast Guard
50. Jacket, Woman's Utility
51. Liner, Coat, Cold Weather
52. Pillowcase, Fire Retardant
53. Screen, Latrine W/Cover, Pins
54. Sheet, Muslin, White
55. Shirt, Cold Weather (ECWCS)
56. Shirt, Man's
57. Shirt, Man's Ctn/Ply, Poplin
58. Shirt, Man's Enlisted, Blue
59. Shirt, Man's Navy White
60. Shirt, Man's P/W, Long Sleeve
61. Shirt, Man's Short Sleeve
62. Shirt, Man's Utility, Ctn/Poly
63. Shirt, Man's, Enlisted, Navy W
64. Shirt, Man's, L/S, Utility
65. Shirt, Man's, Officer, Navy Wh
66. Shirt, Man's, S/S, Utility
67. Shirt, Qtr Length Sleeve
68. Shirt, Woman's
69. Shirt, Woman's Long Sleeve, PO
70. Shirt, Woman's Tuck-in, L/S
71. Shirt, Woman's Tuck-in, S/S
72. Shirt, Woman's Type I Khaki
73. Shirt, Woman's Utility
74. Shirt, Woman's Utility, Frt
75. Shirt, Woman's, L/S, Utility
76. Shirt, Woman's, S/S, Utility
77. Smock, General Purpose
78. Suspension Assembly
79. Sweatpants
80. T-Shirt
81. T-Shirt, PCU
82. T-Shirt, PFU
83. Tarpaulin
84. Tarpaulin, Laminated, Blu/Wh
85. Towel, Bath, Cotton Terry, BR
86. Towel, Bath, Cotton Type I, W
87. Towel, Bath, Cotton/Poly, Whit
88. Trousers, Aircrew BDU, Tan
89. Trousers, Aircrew BDU, Woodland

- | | |
|--|-------------------------------------|
| 90. Trousers, BDU | 98. Trucks, PCU |
| 91. Trousers, Combat, Black, 357, Type | 99. Trunks, PFU |
| 92. Trousers, Combat, Hot Weather | 100. Trunks, Swim |
| 93. Trousers, ECWCS | 101. Undershirt, Man's Brown |
| 94. Trousers, Men's Medical Assistant | 102. Undershirt, Man's Crewneck |
| 95. Trousers, Woodland Camouflage | 103. Undershirt, Man's White Crew N |
| 96. Trunks, General Purpose | 104. Undershirt, Man's, White Crew- |
| 97. Trunks, General Purpose (MC) | 105. Undershirt, Man's, White V-Nec |
| | 106. Washcloth, Terry, White |
- Source: DSCP

[The prepared statement of Mr. Skibbie follows:]

PREPARED STATEMENT OF LAWRENCE SKIBBIE OF THE NATIONAL DEFENSE
INDUSTRIAL ASSOCIATION

Mr. Chairman and distinguished Subcommittee members, I am Larry Skibbie, President of the National Defense Industrial Association (NDIA). On behalf of the National Defense Industrial Association's 24,000 members and nearly 900 corporate members, which employ the preponderance of the two million men and women in the defense industry, I would like to express our appreciation for affording us the opportunity to submit a statement for the House Judiciary Subcommittee on Crime's hearing on Federal Prison Industries. We are grateful for the efforts of the subcommittee to review the operations of the Federal Prison Industries (FPI).

We are greatly concerned with FPI's current methods of operations as well as proposals to expand FPI's sale of goods and services into the commercial market place. This is not only an issue that affects industries such as furniture and apparel, but a significant number of companies as well that currently do business with the federal government and those in the commercial sector who produce goods that FPI currently manufactures for the federal government.

Insidious expansion and increase in market shares on FPI's part have impacted our nation's industrial base, which affects our military readiness and our ability to respond in a time of crisis. Many industries currently supplying the defense community have been negatively impacted by previous expansions of FPI. One glaring example is a NDIA small business member company forced out of business because of FPI's unchecked expansion into the missile container business. In a time of need, these are the same companies and manufacturers that must be called upon to increase production and meet wartime requirements. As FPI assumes an increasing share of many markets, America's defense industrial base continues to shrink, thus losing its ability to respond.

The current business model FPI uses in determining its product catalog, the price to charge and the volume to produce is fatally flawed. These flaws result in unfair advantages for FPI and severely limit private industry's ability to compete in the federal market place. The methodology currently employed by FPI to make these decisions is outdated, imprecise and based on incorrect assumptions about markets and its competitors. Before addressing potential expansion into the commercial marketplace, reforms need to be implemented that will correct the potential of conflicts of interest within FPI's operations. Only after such reforms are initiated would private industry be on equal footing so that FPI and the commercial sector can fairly compete.

Our strenuous opposition to FPI's current mode of operations stems from the fact that it operates under a business model that inflicts undue harm generally on law abiding tax payers and small to medium size businesses in particular. Expansion of FPI into the commercial marketplace, under current conditions, would only serve to exacerbate current problems apparent in FPI's daily operations. Furthermore, it would expose America's businesses, irrespective of industry, to unfair competition without affording them any recourse.

There are clear and well-defined problems with FPI that must be addressed to ensure a strong defense technology and industrial base as well as the continued existence of the Prison Industries. NDIA supports the principles with which FPI has been charged and recognizes its contributions to society. However, the current system's negative impacts greatly outweigh the benefits. For these reasons, NDIA has supported and will continue to support legislation that addresses the need for reform. We believe the Hoekstra-Frank-Collins-Maloney *Federal Prison Industries*

Competition in Contracting Act is a viable and pragmatic first step in reforming an agency that has escaped real reform efforts for more than 60 years.

As *The Voice of the Industrial Base*, NDIA seeks to promote solutions that will ensure the continued existence of an industrial base capable of meeting our national security requirements. To this end, we are willing to participate in any dialogue that would bring reform to the problems we have mentioned today.

[The prepared statement of Mr. Engebretson follows:]

PREPARED STATEMENT OF GARY D. ENGBRETSON OF THE CONTRACT SERVICES
ASSOCIATION OF AMERICA

Mr. Chairman, Members of the subcommittee. My name is Gary Engebretson and I am the President of the Contract Services Association of America. CSA is the nation's oldest and largest association of government service contractors. We represent more than 300 companies and tens of thousands of employees. Our members perform services of every conceivable type, from low tech to high tech, for virtually every agency of the Federal government and scores of state and local governments.

I applaud your interest in the divergent issues surrounding the Federal Prison Industries (FPI), also known as UNICOR, and its status as a mandatory source in the Federal procurement arena.

We all know the history of FPI, which was created in 1934 to employ Federal prisoners to manufacture products exclusively for all Federal agencies. But as a mandatory source of supply, FPI has a virtual lock on the Federal market—even when price and quality comparisons demonstrate that the private sector is a better supplier. This ultimately translates into a loss of business for those companies that are traditional government suppliers.

How does this mandatory source status work? Current law and regulation obligates a Federal agency to look first to FPI to fulfill its requirements for a product—and to negotiate a contract with FPI on a *sole source* basis. The final determination of the price to be paid for its products is left to FPI—not to the Federal manager. This is completely contrary to normal procurement practices where the private sector, when selling to the Federal government, is required by statute to sell at a fair and reasonable price established through a *competitive* bidding process. It is also contrary to the bi-partisan efforts of the last several years to encourage greater commercial practices in how the Federal government conducts its business. These reform initiatives (e.g., the 1994 Federal Acquisition Streamlining Act, the 1996 Clinger-Cohen Act and the FAR Part 15 rewrite) have led to more performance based contracting—a concept fully supported by the Administration.

However, on FPI designated items, the Federal manager's hands are tied. In order to seek bids from the private sector, the agency must first obtain clearance or permission from FPI. A waiver does not need to be granted even when FPI's product is more expensive, would take longer to be delivered, and does not meet the agency's needs as effectively as a commercial item. To quote from the Federal Acquisition Regulations (FAR), "purchases from other sources because of a lower price are not normally authorized and clearances will not be issued on this basis." (FAR 8.605(b) *Clearances*)

Of course, FPI claims it can provide products of equal or better quality than the private sector, make deliveries as promptly as the private sector, and sell some products at a lower price than the private sector thereby saving taxpayer dollars. But these statements are not true. If they were, then FPI would not need to have a "super preference" that allows them to force out the private sector and prevent companies from bidding on contracts.

Contrary to FPI's assertions, GAO reported in April 1998 that the Federal Prison Industries cannot back-up its frequent claims about being a quality supplier to Federal agencies, furnishing products that meet their needs in terms of quality, price, and timeliness of delivery. Once FPI commandeers a product, it erodes, displaces, or eliminates private sector competition and opens the door for it to raise its future prices.

FPI has an additional unfair advantage over the private sector. It need not comply with the laws and regulations imposed on the private sector such as those governing minimum wage rates, retirement and other fringe benefits, insurance costs, and compliance with OSHA requirements. And, according to the General Accounting Office, the cost of prison labor ranges from .25 cents to \$1.23 per hour.

So far, these comments have focused on FPI's mandatory source in the manufacturing arena. So why should the Contract Services Association of America and its members care about FPI's impact in the manufacturing world? We've entered the discussion—and have testified on numerous occasions—because FPI sees services as

ripe for aggressive expansion. While the authorizing statute is silent with respect to services, FPI is already involved in numerous service-related activities including laundry services, distribution and mailing services, data services, and telephone support services.

This move appears to be solely based on a February 1998 legal memorandum issued by a special counsel in the Department of Justice's Criminal Division that held that the FPI is not expressly prohibited from entering the services arena. The FPI has since used this internal agency memo to open the door into the commercial services contracting arena, without any congressional "blessing" to do so. While I am not advocating this—because I do not believe the FPI should be allowed to enter the services marketplace at all—it would appear to me that congressional authorization must be given before the FPI could ever contemplate becoming a services provider.

Furthermore, it is disturbing that currently, FPI does NOT have to pay any competitive wages to prisoners. As was noted earlier, this ensures they have an advantage over service companies that must comply with the Service Contract Act and other labor laws and regulations.

Unfortunately, the approval process and the requirement for an adverse market impact study that affords some coverage for private sector manufacturers do not currently apply to services. While the mandatory source requirement does not strictly apply to services, FPI has implied that it is a "preferential source" for services and used this to enter into sole source contracts with Federal agencies for services.

The FPI's expansion into services contracting is particularly critical as the Federal government progresses towards greater competitive sourcing of its commercial activities. CSA is concerned about previous statements made by FPI to become the "first-stop" for Federal agencies when they decide to contract out those commercial activities currently being performed by Federal employees.

CSA has actively promoted greater outsourcing and privatization of non-inherently governmental functions. There is an ever-increasing appreciation of the many benefits offered by thoughtful and aggressive efforts to competitively outsource the Federal government's commercial activities to the *private sector*. For example, we actively supported the Federal Activities Inventory Reform (FAIR) Act which is aimed at increasing competitive sourcing of commercial activities currently being performed by Federal agencies, where doing so represents the best value to the taxpayer. But we did NOT work hard to get that measure enacted only to see these commercial activities now turned over—without competition—to the FPI.

Part of the debate over outsourcing concerns providing fair and appropriate soft landing policies to those Federal employees who are impacted by an outsourcing decision by giving those Federal employees a right of first refusal for jobs for which they are qualified. Indeed, the percentage of Federal employees offered a position with a private sector firm taking over a commercial activity is high. But there would be no soft landing or right of first refusal for a Federal employee whose job would be going to FPI. For that matter, how does any employer (private or Federal) explain to his/her employees that FPI is taking over the manufacturing of a product or the provision of a service that the employees have been performing in order to give jobs to criminals? What will happen to the people who lost their jobs to prisoners?

In closing, we recognize that any policy concerning FPI must balance two legitimate needs that are defined in the current law:

- 1) The need to train prisoners for gainful employment so they may become productive members of society upon their release from prison; and
- 2) The need to minimize the effect of FPI's operations on the private sector and its employees.

However, there has been numerous testimony detailing that these goals are not being met. That is why CSA and its members support a common-sense proposal that will soon be introduced by Representatives Hoekstra, Frank, Maloney, and Collins. This measure is modeled after the "Federal Prison Industries Competition in Contracting Act" (H.R. 2551), a bill which we supported in the last Congress. As introduced in the last Congress, H.R. 2551 would eliminate the mandatory source requirement for the FPI, forcing it to follow the same competitive procedures that are required of all Federal government contractors. It also explicitly prohibits the FPI from selling services in the commercial marketplace. Under the Hoekstra-Frank-Collins-Maloney bill, the FPI would be explicitly prohibited from offering products or services as a subcontractor to private sector firms. In addition, the bill calls for deductions to be made from wages earned by the prisoners to cover such purposes as payment of fines, restitution of victims, support for an inmate's family, and for a fund that will facilitate the inmate's assimilation into society.

As the association that represents the broadest sector of service companies, CSA believes that both industry and the Government benefits from fair competition based on the price and quality of the product or service in question. We look forward to working with you toward that end.

[The prepared statement of Mr. DeGroft follows:]

PREPARED STATEMENT OF BOB DEGROFT OF THE INDEPENDENT OFFICE PRODUCTS
AND FURNITURE DEALERS ASSOCIATION

Mr. Chairman and Members of the Committee, on behalf of the Independent Office Products & Furniture Dealers Association, I submit the following testimony to you for inclusion in the record of this hearing today on Federal Prison Industries (FPI) and in support of the Hoekstra-Frank-Maloney-Collins legislation.

My name is Bob DeGroft, Sr. and I am the owner of Source One Office Furnishings located in Albuquerque, New Mexico and current Chairman of the Independent Office Products & Furniture Dealers Association (IOPFDA). The IOPFDA is the trade association for independent dealers of office products and office furniture. The association is comprised of two membership divisions: NOPA, the National Office Products Alliance, representing office products dealers and their trading partners; and the OFDA, the Office Furniture Dealers Alliance, representing office furniture dealers and their trading partners. Formerly The Business Products Industry Association (BPIA), the Independent Office Products and Furniture Dealers Association is dedicated to serving independent dealers and working with their trading partners to develop programs and opportunities that help strengthen the dealer position in the marketplace.

Source One Office Furnishings is a family-owned and operated company founded by my wife Karla and I in 1977. For years it was just Karla and I running the business. Although I am still very involved in the business, day-to-day operations have been turned over to my son Bob DeGroft, Jr. We are a small company by anyone's standards employing just seven employees and doing roughly a couple million dollars a year in business.

Source One does about 25 percent of its business with the government. And having to compete against FPI on the federal level is not easy. I am submitting this testimony today in hopes that you will hear the plea of the business and labor communities and change the way FPI currently operates. Later in my testimony you will hear real life stories from dealers who are impacted everyday by FPI's unfair competitive practices, but first I'd like to share with you the problems with FPI's current mission. In addition, I'd like to share with you my story and history with FPI and what we were able to do on the state level in New Mexico.

As an independent dealer this hearing is important because it will shed light on the unfair monopolistic practices of Federal Prison Industries (FPI). As a small businessman I don't have a problem with open and fair competition, what I and other dealers around the country have a problem with, is the fact that FPI is not competing with anyone, but instead guaranteed by statute all the government business it wants. For instance, if a government agency needs to buy office furniture, it must first look to purchase these items through FPI, regardless of price, quality of product, or service. If FPI can provide it, the government must buy the product from them, even if the agency can get a better product for less money from a small business like mine. If this isn't hard enough to fathom, FPI has begun looking to broaden its interpretation of the current statute governing the way it operates in a way that would allow them to enter and sell their products in the commercial marketplace. If this were allowed to happen FPI would not only continue to have a monopoly over federal contracts, but would now be in a position to expand their scope and compete in the open market against honest hard-working small business owners like myself.

I find it ironic that we have laws in this country that prohibit the United States from importing products that are made by prisoners in other countries, but here at home our own government is solely dependent on prison labor for its goods. I understand and sympathize with those who believe prisoners should learn skills and trades while incarcerated that they can then use outside prison walls to earn a living, but it should not come at the expense of honest hard-working small business men and women.

FPI was created in 1934 with the mission of providing inmates with real skills that they could use once released back into society. This is nice in principle, but in reality, FPI is not living up to its original mission. What you have today is a 1930's philosophy that doesn't fit today's FPI and its mission. If you look closely at FPI, its mission appears to be more about making a profit than it is inmate rehabili-

tation. A perfect example is in the area of office furniture. What you see is what I like to call "drive by manufacturing". Having inmates simply assembling furniture or in worse cases, just unloading fully assembled product from trucks and putting the FPI label on it is not teaching inmate's "real" skills they can expect to use to support themselves and their families once released back into their community. Help us get FPI back on track by supporting real reform in the form of legislation your colleagues Peter Hoekstra, Barney Frank, Carolyn Maloney, and Mac Collins are set to introduce later today.

Reform is desperately needed to help level the playing field for small businesses, in particular small office products & furniture dealers like me, who are the hardest hit by the unfair and monopolistic advantage FPI has over us. The Federal Prison Industries Competition in Contracting Act of 2001 changes the way Federal Prison Industries (FPI) is able to operate and forces them to compete openly and fairly for contracts they are currently guaranteed by statute. The foundation this country was built on. As you may or may not be aware, this legislation received broad bi-partisan support in the 106th Congress (H.R. 2551). With support from Republicans, Democrats, business and labor, it is my hope that this legislation will be one of the first pieces the 107th Congress takes up this year. With your help and support small business can achieve a level playing field this year.

This reform is necessary because the numbers and problems are staggering. During FY'99 FPI generated roughly \$550 million in sales, of which, 40% or \$220 million came at the expense of the office products & furniture industry. Should FPI branch out into the commercial market this move would be a blatant disregard for current law and would force many in the office products & furniture industry to close their doors permanently.

As the owner of a small furniture dealership in New Mexico, I can tell you that having to deal with FPI has not been easy and one that has come at a high price. Take my state of New Mexico for example. Ten years ago New Mexico had a law in place that gave state prisons in Los Lunas and Las Cruces mandatory source status for building office furniture and panel systems, without any possibility of appeal by the business community. The prisons had a major share of the city, county, state and educational institutions markets. With this law having serious impacts on my business and others in the community, four other New Mexico office furniture dealers and I banded together for the purpose of trying to change the way FPI operated in our state. Our goal was to get the state legislature to pass legislation that would "level the playing field" for businesses in New Mexico trying to compete with FPI by opening up the prison business to outside competition.

After what seemed like an eternity, we prevailed and changed the system in New Mexico. Changing the system came at an expensive price for me. I was forced to spend \$14,000 out of my pocket to save my business. A decision I am glad I made, but this is not an option available to every dealer out there. I was lucky. How many other owners in my position were not? I should not have had to spend this kind of money to compete for business with convicted felons for government business.

Today I am happy to report; the New Mexico state prison industries program is still alive and well, employing over 400 New Mexico inmates in furniture, tele-marketing, garment, dairy, and print shop industries.

Our efforts being undertaken on the federal level are the same as they were in New Mexico. We are not looking to put FPI out of business. Frankly, that effort doesn't benefit anyone. We are simply looking for a level playing field like we were able to achieve in New Mexico. We believe the Hoekstra-Frank-Maloney-Collins bill is a step in that direction.

I can tell you all about the hardships FPI has presented our industry, but I thought it was more important if you heard real life stories from constituents in your districts whom have been directly affected by FPI in some way. The stories are real and the financial losses suffered should not be overlooked. This is lost revenue from small businesses in this country that follow the rules and therefore should not be penalized for doing so.

CONCLUSION:

Mr. Chairman, members of the committee, I think you will see from reading over these stories that they are real and have a major impact on our industry. I hope you will seriously consider our pleas for help and support real FPI reform today. We cannot go another year playing with a set of rules that is clearly outdated and unfair.

On behalf of the entire dealer community, and myself, I want to thank you for this opportunity today. I would be happy to answer any follow up questions should you or any members of the committee feel that is necessary.

Stories:

Dear Mr. Chairman:

My name is Patricia Holland-Branch. I am the owner, President and CEO of HB/PZH Commercial Environments, Inc. in El Paso, Texas. My business is listed as a Texas Historically Underutilized Business (HUB) and also registered with Minority Development Council in Dallas/Ft. Worth. I employ 27 people and have been in business for over 15 years.

Over the past 10 years, my business has lost significant business to Federal Prison Industries. We are a preferred Haworth office furniture full-service dealer in this region. We have lost systems furniture, case goods, filing and seating projects in addition to design and installation services to FPI at Ft. Bliss, the new FBI facility, and the newly constructed Texas State Building. Federal Prison Industries has encouraged even local governments and universities to choose prison products over those manufactured and sold by private industry. Our direct losses over the past ten years can easily be measured in millions of dollars in sales revenue.

Our lost opportunities have forced us to reduce staff. We went from 35 to 27 employees. We are considering completely eliminating the products part of our business, as we see more infiltration of prison products into all levels of federal, state and community organizations. This will be a travesty, as it will lead to further layoffs from dealerships such as ours in a city already experiencing double-digit unemployment. It is a real crime that our nation's tax-payers are suffering because prison products are the preferred source and government entities are not required to bid their projects between private industries and FPI. I am confident that our products and services are far superior, more competitively priced and with shorter lead times than products manufactured by prisoners.

Sincerely,

Patricia Holland-Branch
HB/PZH Commercial Environments, Inc.
El Paso, Texas

Dear Mr. Chairman:

My name is Reed Lampley the owner of Coastal Offices Systems & Supply Co. in Chesapeake, Virginia. Over the past 10 years since the inception of my business, I have probably lost a total of 1 million + in sales due to the restrictions placed upon government agencies in the tidewater area to buy strictly from FPI. The thing that bothers me about this is: Repeatedly I proved I could deliver

quicker (usually 2 to 3 days compared to 2 to 3 months) the same quality furniture at less cost to the government than FPI.

How many prisoners do you think go into the furniture business after release from prison compared to the small business owner struggling to make ends meet? That is the question that should be answered.

Thank you for allowing me the opportunity address your committee today on this very critical issue and tell you how FPI's current practices hurt my business.

Sincerely,

Reed Lampley
Coastal Office Systems
Chesapeake, VA

Dear Mr. Chairman:

I can recall most vividly one order we lost to UNICOR. The Social Security Administration in Baltimore put out for bid 2000 foot rests. I took them a sample of a new product, which exceeded their specifications and was cheaper than they had anticipated. However, when time came to actually go through with the deal, I was informed that while I had a better product, a better delivery date, and a lower price, they were required by statute to buy the product from UNICOR even if it was not the best product. I for one have stopped soliciting bids from the Federal agencies because it's become a waste of time. Time and again we are told that by agencies that they are required to purchase their office products from FPI.

At one time, we did a nice business with the federal government, but now we do less than \$20,000.00 a year. We also have reduced our staffing from 9 employees to 2 full time and 1 part time. Your help is critical to the survival of small dealerships like mine.

Sincerely,

William H Shaprow
Regester Office Supply
Baltimore, MD

Dear Mr. Chairman:

My name is Leigh Hoetfelker and I am President of Fremont Office Equipment Co. in Fremont, Nebraska. I am a small dealer employing 60 people.

Plain and simple, Federal Prison Industries has taken all of our furniture business that we bid to the State of Nebraska offices. Until a couple years ago, dealers in the state had the opportunity to bid on the States furniture requirements. That is no longer the case. Because of the requirements to buy from FPI, we are constantly told that agencies must buy from FPI regardless of price, quality or timely delivery. I don't run my business that way and often wonder why the government chooses to run its business that way. We saw our yearly sales to the State of approximately \$100,000.00 in furniture alone disappear completely. All this because the state is required to buy from FPI. I say this in jest, but it seems like if I wanted to do business with the state or Federal government, I should become a convicted felon – I might have a competitive advantage that way.

Sincerely,

Leigh Hoetfelker
Fremont Office Equipment Co.
Fremont, NE

Dear Mr. Chairman:

In the fall of 2000, The University of Northern Iowa was completing the Lang Hall building renovation. Matt Parrott and Sons holds the contract for HON/Allsteel with the University of Northern Iowa. We received an order for some storage, lateral files, task seating, and soft seating, but were denied an order for all the drawer pedestals. The drawer pedestals amounted to approximately \$35,000.00 in sales, but because of the obligation to fulfill commitments to FPI, the University elected to purchase the drawer pedestals from FPI. I was told, although I haven't confirmed, the University spent a third more money to purchase and fulfill this commitment to FPI.

I was involved in a meeting with George Pavelonis, Facilities Planner and Carol Christopher, Assistant Facilities Planner, prior to this decision. They talked about how they haven't done very much business with FPI, so they probably would need to send the drawer pedestal order to them. I asked about the drawer pedestal quality and pricing. At that point, they both conceded to the fact the Allsteel pedestals were better quality and less money. They also said the lead-times were a lot longer.

Sincerely,

Lori Knaack
Matt Parrott & Sons
Waterloo, IA.

Dear Mr. Chairman:

My name is Billy Carroll; I am an outside sales representative with C & C Office Supply Co. in Biloxi Mississippi. Our company has been in business over 20 years and we employ 20 people.

During the course of our 20-year history we have done considerable business with numerous governmental agencies and military installations. Some of them being Naval Construction Battalion in Gulfport, Mississippi Air National Guard in Gulfport, Keesler Air Force Base in Biloxi, Naval Station in Pascagoula, and NASA in Stennis Space Center.

As a result of FPI's unfair monopolistic practices, we have seen sales from these governmental agencies go from \$100,000.00 a month too less than \$5,000.00 a month.

There are numerous horror stories we hear from our customers who deal with UNICOR. The most recent one being that a customer had to wait 5 months to get their furniture. When the furniture finally arrived, it wasn't even what they had ordered. This is something that would have been averted had they been able to use our company or another dealer.

I could go on about how we could have sold the product much cheaper, which would have saved taxpayers money, faster delivery, which would have increased employee productivity, and finally better service, but I won't. You get the picture.

Sincerely,

Billy Carroll
C&C Office Supply Company
Biloxi, MS

Dear Mr. Chairman:

I personally worked with the staff who had just moved into a new ward at Walter Reed Army Medical Center. We had two meetings during which I took measurements and went over in great detail the furniture items they needed for the report room, reception area, patient education room, two offices and some

miscellaneous shelving. The total I quoted to Walter Reed was approximately \$13,000 and met their needs exactly. This was in April of 2000. Our delivery would have been completed within a month.

Because Walter Reed couldn't get a UNICOR waiver (just to determine this fact takes at least 6 weeks) the order was placed with UNICOR and took eight months to be delivered (it just showed up last week) and much of it was not what officials at Walter Reed even ordered. FPI tells their customers what the customer can have rather than meeting the needs of the customer. As an example, we had designed a workstation for the report room to accommodate four computers. UNICOR sent an expensive, massive cherry workstation for an executive office that had to be put in someone's office (who didn't need new furniture) because it was unusable where it was supposed to go. UNICOR charged an additional \$1,500.00 to assemble this (and didn't have proper tools to finish the assembly). Our price for the proper item including all set up was less than they charged for set-up alone.

You know, it's not just the impact FPI has on our businesses, it's the waste of everybody's tax dollars when furniture costs more and doesn't even do the job.

Sincerely,

Diane Lake
Economy Office Products, Inc.
Fairfax, VA
(A small, woman-owned business employing approx. 19, in business since 1968)

Dear Mr. Chairman:

My name is Gregory Wickizer and I own Tippecanoe Press Inc. in Shelbyville, IN and employ 20 employees. I recently lost a \$300,000.00 to \$400,000.00 bid because of a must buy in the State of Indiana.

To a business like mine, this is real money lost. I guess my question is why should my company lose out on business just because the government has to buy it from prisoners. I thought the philosophy in this country was that competition is healthy and the best offer should win out. That does not appear to be the case and it hurts companies like mine who are trying to survive.

Sincerely,

Gregory Wickizer
Tippecanoe Press Inc
Shelbyville, IN

Dear Mr. Chairman:

My name is Joe Kiefer, I work for Shaheen Office Supply in Warner Robins, GA. Our company has lost many opportunities in the name of UNICOR, the most recent being last year. We are a Haworth Dealer, and serve the Middle Georgia community, Robins AFB being our largest customer.

The most visible loss to UNICOR was with the 116TH Bomb Wing at Robins AFB. We were able to secure some business at their new facility, about \$200,000, but I know UNICOR received over \$800,000 of furniture business there. For the projects we did receive, I saved this customer 20-30% over the UNICOR proposals, and provided them with better quality furniture.

Sincerely,

Joe Kiefer
Shaheen Office Supply
Warner Robin, GA

Dear Mr. Chairman:

I'm no longer at the company I was at (Marvel Group) when this story happened to me, but I thought it should be shared with you.

Last summer I began working with Air Force Recruiting to provide them with furnishing for their new recruiting offices nation-wide. I was working with the individual offices throughout the country and received orders for \$80,000 from the Air Force Recruiting Squadron (344th) at Scott AFB. They liked my services so much that they recommended me to the other offices with the same needs nationwide. My furniture was less costly than FPI and had significantly better lead times (about 2 weeks) and was of overall better quality.

I spent several weeks traveling to different sights and doing quotes only to be stopped by a Colonel at AF Recruiting HQ in Texas. The Colonel believed that since FPI was a required source that there was no reason to use me even though their budget would have allowed them to furnish far more offices with my product than with FPI. My estimates are that this decision cost my company \$500,000 - \$700,000 in sales and probably cost the Air Force several hundred thousand dollars. I have since left government sales do to a lack of sales - mostly contributed to denied waivers by FPI.

Sincerely,

Gary Stephens

Workspace L.L.C

Dear Mr. Chairman:

I am concerned in the way tax payer's money is being wasted. A few years ago I had proposed over \$100,000.00 in chairs to the VA Medical Center. They were excited about the chair I was proposing on contract. The chair was less expensive than the chair proposed by FPI. The customer also recognized that the chair I was proposing was better in quality and had more ergonomic features, which would assist in some of their health issues. Another comment made by the VA was the problem with the FPI chairs breaking easily. Parts were near impossible to get, so they would throw the FPI chair in the garbage.

In this situation FPI denied the VA waiver. Regretfully they had to buy FPI chairs. I can not believe this happens in America.

Sincerely,

Rick Buchholz
Christianson's Business Furniture

Dear Mr. Chairman:

I am delighted to have the opportunity to tell you about challenges that I have encountered with the Ohio Penal Institute (OPI) and State of Ohio Agencies. I focus on selling to State of Ohio Agencies and most are required to buy from OPI.

Last year I worked on a state library project. They currently had all Haworth furniture that they had purchased over the past 13 years, so they had a few different vintages. My proposal planned on re-using about 25% of that existing product, but I also got special pricing from Haworth that was much deeper than normal state contract pricing. State Purchasing required the Library to get a waiver from OPI for which OPI rejected my proposal. Not only does my product come with a Lifetime Warranty and is a Grade A product with a 4-week lead-time, but my pricing came in at over \$100,000 LESS than the Ohio Penal Institutes proposal. It is very frustrating as we put a significant amount of time into this proposal and felt that we were providing this client with the best product at the best price.

Example 2: Rehabilitation Services in Columbus. They have all OPI chairs that are very uncomfortable and not ergonomically designed. I brought some Haworth chairs to their office to pass around for a 3-week trial period. My chairs were unquestionably selected as the chair they wanted to purchase going

forward. Not only are my chairs some of the most ergonomic in the industry, but I was saving Rehab Services almost \$100 per chair. OPI rejected their request to purchase Haworth chairs.

Ohio's Governor has put a hold on any extraneous spending at this time...and it is indefinite as to when he will raise this request. Every year thousands of dollars are spent on OPI's products, which do not come with any warranties and cost generally 30% higher than the best products on the market. Our taxpayers are paying for this.

Thanks for the chance to share just a few examples with you.

Sincerely,

Chris Kelser
King Business Interiors

Dear Mr. Chairman:

My name is Jeff McKenzie and I work for Landis Office Center, which has 26 employees. We have a federal prison in our area and a division called UNICOR. When the prison was first established we sold over \$60,000.00 to them in the first year. After this, UNICOR stepped in and started supplying most items to this facility. Even if we were called and did measurements and suggested furniture, of course spending multiple hours doing this, we were informed that furniture would be secured from FPI. Why should we as citizens pay at least \$40,000.00 per year to house convicted prisoners and then we allow them to produce goods that are sold against companies that must pay taxes, pay at least minimum wage, plus all the other red tape that comes with operating a business. It is very unfair that the government allows this to happen, much less, entertain the argument that Federal Prisons should be able to expand their markets. It is time to put a stop to this before you put more small businesses out of business.

Sincerely,

Jeff McKenzie
Landis Office Center

Dear Mr. Chairman:

My name is Joseph A. Nordman III and I am with PS Group/Cincinnati, Inc. Federal Prison Industries has taken multiple projects from my company, PS Group/Cincinnati, Inc. and has cost us hundreds of thousands of dollars.

PS Group has worked with the Cincinnati office of ATF since 1995, supplying product and labor to enhance the existing Haworth product. PS Group even went to Dallas, Texas to allow the ATF to work that existing product into the existing Cincinnati product in order to save money. After spending all of this money, time and energy, Federal Prison Industries claimed the project – at a premium price well above the Haworth price. As a result, all of the existing Haworth product has had to go into storage (An additional cost not anticipated by the local ATF office).

The total Waste:

- Existing Cincinnati station, 40 plus
- Additional 21 stations from Dallas
- Dallas inventory to be used against new product
- Possible buy back of all existing, should ATF want to purchase all new
- FPI product not compatible, so all-258 stations were new, with no credit for buy back, at a cost significantly higher than the Haworth.
- The Government paid to inventory and ship 21 plus stations to Cincinnati, put those stations into storage and then scrap all 61 plus stations.
- The ATF constantly tells PS Group that they can't get service for the Prison Industries Product
- More product to be ordered

Sincerely,

Joseph A. Nordman III
PS Group/Cincinnati, Inc.

Dear Mr. Chairman:

My name is Janet Ockerhausen with Business Interiors of Texas, Inc. in Corpus Christi, Texas.

In 1999 Naval Air Station in Kingsville, Texas contacted me for furniture in an Air Training wing for VT-21 and VT-22. They needed a drawing and prices for approximately 12 rooms as soon as possible. My company worked over the weekend to get these to them, the total was \$150,000.00 worth of furniture. When UNICOR saw the amount, they refused the waiver. The end user gave my

drawings and specs to UNICOR, which they copied down for every room layout, and even the color. So, at my own time and expense, I received nothing for this work and UNICOR received \$150,000.00 with no time involved because they had copied my designs.

I make my sole living and income by selling to federal government agencies and UNICOR takes this business away from me.

Sincerely,

Janet Ockerhausen
Business Interiors
Kingsville, TX

Dear Mr. Chairman:

We are located in the Dayton, OH area, home to Wright Patterson AFB. We are up against UNICOR on a daily basis. Some of the more recent projects include:

Sensor's Directorate. This project is 200 workstations plus seating, files, and private office furniture. They are required to use crescendo, even though they have over 400 workstations of existing Haworth product in the facility. The mockup for this project took 16 weeks to arrive, yet they are promising to meet a June 1 shipping deadline. \$1,000,000 worth of UNICOR product is proposed.

Building 20052, Area B. All seating, freestanding caseworks and workstations are UNICOR Classic XXI, approximately 75 workstations, 15 private offices and seating for offices/workstations/conference rooms. Approximate value \$450,000.

Sincerely,

Kim Duncan
Elements IV Interiors

Dear Mr. Chairman:

During the past 5 years I have had representatives from UNICOR tell my customers that they had to turn over my proprietary designs to UNICOR, without payment to the dealership. They have told my customers that if they do not buy UNICOR, they will be "reported to congress" and that there is no place else to go for government furniture. They frighten young department of defense officials with words like "illegal" when they ask about waivers.

The UNICOR reps routinely refuse waivers on the first approach. The answer is a standard "UNICOR has products which will meet your needs." No explanation. They refuse to answer waiver requests in a timely fashion. I have had \$110,000 order for the Arizona Air National Guard in Tucson literally taken away by UNICOR. The representative demanded the designs and said that UNICOR would fill the request. There would be no waiver and no discussion. And she was right. Despite the fact that all of the programming phase had been completed by my designers, at no cost to the federal government, this rep insisted that she knew what was best for this customer. Of course, the products arrived late, in poor condition, was much more expensive than the budgeted GSA furniture--and the reps have not been heard from. The answer is "a 10% discount" or a "free chair."

In Texas, my representative worked for 4 months with a customer, completing designs and meeting all relevant criteria. She proposed only products on GSA contract. UNICOR unilaterally refused to waive the chairs, approximately \$50,000 worth, because their factories were not at capacity. The fact that the UNICOR chairs do not meet the price point, that UNICOR spent no time with the customers determining function, color or other requirements has no meaning. The seating portion of the order is lost. The remaining portion would have been lost, as well, if the customer had not spent approximately 30 days going from one appeal process to the other attempting to get waivers. Very few customers will take the time to do this. Of course, when the project finally arrives, it will be late and missions will be compromised.

Interestingly, my husband's father was murdered several years ago. The same prisoner that killed this fine man is now in an Alabama prison--taking away my livelihood. Please, please get this legislation in front of someone who cares about small business.

Sincerely,

Ruthanne S Pitts
Simmons Contract Furnishings
Tucson, Arizona

Mr. SMITH. We stand adjourned.
[Whereupon, at 10:10 a.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

I would like to thank Chairman Smith and Ranking Member Scott for convening this critical hearing on "Federal Prison Industries." Prison reform is an important matter that deserves serious review by this Subcommittee.

Over 2 million offenders are incarcerated in the nation's prisons and jails. In June 1998, 592,462 offenders were held in local jails. Projections indicate that the inmate population will unfortunately continue to rise.

The Bureau of Prisons of the U.S. Department of Justice administers the federal prison system. Clearly, the Bureau is expanding the capacity of the federal system in anticipating of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

In 1934, Congress established Federal Prison Industries (FPI). FPI is a government corporation that employs offenders incarcerated in federal prisons. FPI provides job-training opportunities to federal inmates by producing goods and services for federal agencies. Currently, the state of Texas alone employs 7,700 inmates in prison industries. Nationally, 25% of those held in federal prisons are employed by FPI. Items produced by inmates include furniture, metal products, textile items, optical and plastic hardware, and electronic cable assemblies. Inmates are also able to use automated systems to prepare data and information aids.

By statute, FPI products and services must be purchased by federal agencies (a requirement referred to as a "mandatory source" or "sole source") and not available for sale in interstate commerce or to non-federal entities. Federal agencies can obtain products from the private sector through a waiver issued by FPI if the corporation is unable to make the needed product or required service.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over \$566 million in revenue, \$418 million of which went to purchasing goods and services from the private sector, 74% of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives federal contracts. However, current law prohibits FPI from dominating the federal market, and there are currently congressional mandates placed on FPI to "avoid capturing more than a reasonable share of the market" among federal agencies, departments, and institutions for any specific product, determining the appropriate share of the federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customer's authority to first solicit on a non-competitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the states, there simply is not enough program participation to accommodate the 25% that is currently accommodated under FPI.

Mr. Chairman, while there other initiatives which may accomplish the goal of eliminating the mandatory source preference more quickly, I believe we can work together to reach a compromise that is both timely and also enhances opportunities for U.S. workers. We may not all agree on the specific phase-in period but let us try to find a workable solution on this critical issue.

Evaluation of the Impact of Participation In Ohio Penal Industries on Recidivism



George V. Voinovich, Governor

Ohio Department of Rehabilitation and Correction

Reginald A. Wilkinson
Director

Thomas J. Stickrath
Assistant Director

Office of Management Information Systems
Bureau of Planning and Evaluation

November 1995

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EXECUTIVE SUMMARY

This study was designed to evaluate the impact on post-release recidivism of participating in an Ohio Penal Industries (OPI) job. The offenders used to examine this issue were the 744 inmates who were released from the Ohio prison system in Fiscal Year 1992 who had a meaningful experience in an OPI job while incarcerated. Highlights of the report are:

■ **Overall, meaningful participation in an OPI job appeared to produce reductions in recidivism approaching twenty percent.** The recidivism rate for those offenders that had a meaningful OPI experience was 24.6%. The comparison group for these offenders had a return rate of 29.9%. Meaningful participation in an OPI job appeared to produce a 5.3 percentage point decrease in recidivism. The difference translates into a reduction in recidivism of 17.7%.

■ **The recidivism rate of offenders who had high skill OPI jobs showed a reduction in recidivism of one-half.** The positive impact of having had a high skill OPI jobs remained substantial regardless of the offender's demographic characteristics or the characteristics of the offender's conviction offense.

■ **The OPI experience substantially reduced the large disparity in recidivism between Blacks and Whites.**

■ **OPI participation seemed to have the most positive impact on males, Blacks, offenders aged 26 to 40 at release, those committed for crimes against persons, drug offenders, and generally the more serious offender (as measured by time served and whether the crime was violent).**

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This study was designed to evaluate the impact on post-release recidivism of participating in an Ohio Penal Industries (OPI) job. The offenders that were used to examine the relationship between OPI participation and recidivism were the Fiscal Year (FY) 1992 release cohort. The analysis begins with a discussion of methodology, followed by a short description of the release cohort and the overall recidivism rates. Next, the major findings of the study are presented in an examination of the impact of OPI participation on recidivism. To help explore the relationship between OPI participation and recidivism, four types of variables were utilized: offender demographics, characteristics of the offender's conviction offense, the offender's criminal history, as well as an examination of the timing of the offender's participation in relation to release and the length of time the offender was involved in OPI.

METHODOLOGY

DATA SOURCES

Three sources of data were used to produce this report.

Inmate Progression System (IPS) - A download of the IPS data set was the foundation upon which this analysis was built. It was used first of all, to determine who was released in FY 1992 and the method of that release (shock parole, parole, shock probation or expiration of sentence). The IPS data set also provided the information on offender demographics, characteristics of the conviction offense and recidivism.

Training, Industry and Education (TIE) - A download of the TIE data base provided offender information on OPI participation (job type, length of participation and date of last participation) and a grade level from a Test of Adult Basic Education (TABE) taken during the intake process.

Inmate Master Pockets - If information was missing from the TIE data base, the inmate's master pocket was used as a supplement.

OPI PARTICIPATION

OPI participation was defined as having an official work assignment in an OPI job which lasted for ninety days or more. If an offender had multiple OPI work assignments during his or her incarceration, the last assignment was judged to be most relevant to this study. This study focuses on the 744 releases who had meaningful OPI jobs while incarcerated.

JOB SKILL LEVELS

For analysis purposes the OPI jobs were classified into five categories: high skill, medium skill, low skill, entry level and clerks. Those with high skill level OPI jobs were considered to have OPI jobs that required the most advanced skills, followed by those with medium skill, low skill and entry level jobs. The operationalization of OPI jobs into categories was determined by OPI administrators (a list of jobs by category can be found in the appendix). Clerks were originally placed in the high skill level category. After the preliminary analysis began, it became apparent that the clerk return rates were clearly different (much higher) from the other offenders in the high skill level category. After discussing the issue with OPI administrators, it was decided that clerks would become a unique job skill category.

RECIDIVISM

For the purpose of this study, recidivism was defined as a recommitment to the Ohio prison system within two years of release. The reason for return to state prison was either a technical violation of the conditions of parole or probation or recommitment to the Ohio prison system for a new criminal conviction. It should also be mentioned that information with respect to arrests or convictions that did not result in imprisonment in the state system was not available. Knowledge of imprisonments in other states or the federal system was also not available.

COMPARISON GROUPS

Throughout the study are references to comparison groups. Comparison groups are composed of individuals who are similar to the "treatment group" members in important respects but who are selected in a non-random way and have not been exposed to the treatment, in this case, participation in OPI.

A comparison group was constructed for the OPI participants in this study. It was constructed with the use of one variable, a tested reading score at admission (TABE). There is only one constraint for inmates who apply for an OPI job: they have to have a TABE score of 6.0 or higher. For this reason, the comparison group consists of all offenders that had a TABE score of 6.0 or higher at admission that did not have any OPI experience. (The comparison group also does not include those offenders that did participate in OPI but for less than ninety days.) There were 7,839 offenders in the FY 1992 release cohort that met the criteria for the comparison group.

DATA ANALYSIS

This study examined every offender who was released in FY 1992. It is therefore a study which examined a population (the statistical definition) not a sample. Because this study examined a population, there is not a need to report statistical significance. Statistical significance only applies to studies that are based on samples. This study is based upon a population and therefore the results are true and unbiased. Reported differences (or lack of differences), then, should be interpreted no other way than as real.

The major findings of this study are reported in multivariate format. That is, the tables in the study explore the relationship among two or more variables. The major tables in the study report: (1) the percentage of recidivists in a particular category, (2) the number of offenders (both recidivist and non-recidivist) in a particular category, (3) some sort of characteristic of the population (e.g., felony level, gender) and (4) at times, an additional characteristic of the OPI population (either OPI job skill level or OPI job type). Comparisons are made between the recidivism rates of the OPI participants and the comparison group controlling for specific offender characteristics. There are several items that need to be discussed with this method of reporting results.

-In each cell is the percentage of offenders in that specific sub-group that recidivated.

-In each cell the number of offenders in the sub-group is the total of both recidivists and non-recidivists.

-Some of the tables have highlighted numbers. These cells were deemed noteworthy and were mentioned in the text.

-Differences in the recidivism rates were reported two ways: (1) as a simple percentage point difference (e.g., the return rate for a particular sub-group of offenders who had an OPI job in prison was 20.0% and their comparison group had a return rate of 25%. The difference is 20% subtracted from 25% which will be reported as a five percentage point difference [or reduction]; and (2) as a proportional difference (e.g., using the same example, one would take the five percentage point difference and divide it by the comparison group return rate, 25%, which is '.2,' which translates into and will be reported as either a twenty percent or one-fifth reduction in recidivism).

CAVEATS

Many times in the analysis there are sentences with the basic format of: "the OPI participants had a 'X' percent lower rate of return than those in their comparison group." The reader is cautioned not necessarily to infer causation from OPI participation to a reduction (or increase) in the likelihood of return to prison (even though at times the text may be written to imply that). Other factors that were not measured might have been the real cause for the change in recidivism (e.g., an education program, a work assignment, a stronger support system). That noted, the differences in recidivism the reader notices, are real and unbiased differences.

The reader should be aware of cells with few cases in them. Even though this study was based on a population and the results reported in cells with small numbers are true, it is not prudent to make generalizations from the results of a few offenders. The analysis in this report generally did not emphasize findings in cells where there were fewer than thirty cases (unless they were part of some larger trend).

RESULTS

FISCAL YEAR 1992 RELEASES AND RECIDIVISM

There were 18,068 inmates released from prison in FY 1992. Table 1 shows the distribution of how the inmates were released. Over half (54.2%) of the inmates were released when their sentences expired. Just over a quarter (25.7%) of the inmates were released on parole. Shock probation releases accounted for 16.7% of the exits and shock parolees made up 3.4% of the FY 1992 release cohort.

Table 1: Fiscal Year 1992 Releases by Release Type

RELEASE TYPE	# OF INMATES	PERCENTAGE
SHOCK PAROLE	623	3.4%
SHOCK PROBATION	3,009	16.7%
PAROLE	4,642	25.7%
EXPIRATION OF SENTENCE	9,794	54.2%
TOTAL	18,068	100.0%

A first look at recidivism for all those released in FY 1992 by release type is presented in Table 2. The overall recidivism rate for those released in FY 1992 who were followed up for two years was 30.2%. Parolees had the highest return rate (38.3%) followed by shock probationers, (28.7%), expiration of sentence offenders (27.3%) and shock parolees (22.8%).

Table 2: Recidivism Rates by Release Type

RELEASE TYPE	RECIDIVISM RATE
SHOCK PAROLE	22.8%
SHOCK PROBATION	28.7%
PAROLE	38.3%
EXPIRATION OF SENTENCE	27.3%
TOTAL	30.2%

OPI PARTICIPANTS IN THE FY 1992 RELEASE COHORT

Of the 18,068 inmates that were released in FY 1992, 1,095 (6.1%) had an OPI job assignment while they were incarcerated. As was mentioned in the methodology section, it was determined that the study was going to examine those with "meaningful" (90 days or more) OPI participation. Because of this constraint, the study focused on the 744 (4.1%) offenders that had meaningful OPI job assignments while they were incarcerated. Table 3 shows the distribution of these offenders by the "job skill level" they had attained in their last OPI assignment (relative skill levels, as mentioned above, were determined by OPI administrators). Over two-thirds of those offenders with meaningful OPI participation were in the entry (30.2%) or low (39.4%) skill level categories. About eight percent (8.1%) of those with OPI jobs were in the highest skill level category and 11.6% of the offenders had OPI jobs with skill levels in the middle. Clerks accounted for 6.4% of those with meaningful OPI participation and the skill level of 4.3% of the OPI participants could not be determined. (A list that describes what OPI jobs made up each of the skill level categories can be found in the Appendix.)

Table 3: FY 1992 Releases with Meaningful OPI Participation by Job Skill Level

JOB SKILL LEVEL	FREQUENCY	PERCENTAGE
HIGH	60	8.1%
MEDIUM	86	11.6%
LOW	293	39.4%
ENTRY	225	30.2%
CLERKS	48	6.4%
UNKNOWN	32	4.3%
TOTAL	744	100.0%

OPI PARTICIPATION AND RECIDIVISM

Table 4 presents the major findings of this report. The recidivism rate for those offenders who had a meaningful OPI experience was 24.6%. The comparison group for these offenders had a return rate of 29.9%. Overall, meaningful participation in an OPI program appeared to produce a 5.3 percentage point decrease in recidivism. The difference represents a reduction in recidivism that approaches twenty percent (17.7%).

Table 4: Recidivism Rates for those with OPI Job Assignments and the Comparison Group

RECIDIVISM	OPI		NON-OPI	
	RECIDIVIST	(N)	RECIDIVIST	(N)
RECIDIVIST	24.6%	(183)	29.9%	(2,340)
NON-RECIDIVIST	75.4%	(561)	70.1%	(5,499)
TOTAL	100.0%	(744)	100.0%	(7,839)

The recidivism rate varied for the OPI participants by the skill level of their OPI jobs. Table 5 shows that those with the highest skill jobs had a return rate of 15.0%, nearly half that of the OPI participant comparison group which, as noted above, was 29.9%. Those that had jobs in the low level skill category had a return rate approximately one-fifth (a 6.4 percentage points decrease) lower than those in the comparison group. Those with OPI jobs at the entry level showed a slight (3.2 percentage point) reduction in recidivism. Those with medium skill level OPI jobs and the OPI clerks had rates higher than those in the comparison group. (The OPI participants whose actual job assignments proved, for one reason or another, impossible to discern, actually had the lowest rate of return [6.3%]. The explanation for this phenomenon is unknown.)

Table 5: Recidivism Rates for OPI Participants by Job Skill Level

JOB SKILL LEVEL	RECIDIVIST	(TOTAL N)
HIGH	15.0%	(60)
MEDIUM	31.4%	(86)
LOW	23.5%	(293)
ENTRY	26.7%	(225)
CLERKS	33.3%	(48)
UNKNOWN	6.3%	(32)
TOTAL	24.6%	(744)

Before the analysis continues, a note should be taken of a subset of OPI jobs that appeared to have a dramatic negative effect on the recidivism results. Table 5A shows the recidivism rates for three OPI jobs and one OPI job skill level category. This particular group of offenders make up almost half (47.7%)

of the offenders that were deemed to have experienced a meaningful OPI job. They had a combined return rate of 30.4%, a rate marginally higher than the comparison group. A re-analysis of the data without this subgroup of offenders proved insightful.

Table 5A: Return Rates for Three OPI Jobs and One Job Skill Level Category

OPI JOB	SKILL LEVEL	RECIDIVIST	(TOTAL N)
QA INSPECTOR	MEDIUM	38.9%	(36)
SEWING MACHINE OPERATOR	LOW	31.5%	(89)
MATERIAL HANDLER	ENTRY	27.5%	(182)
CLERK	CLERKS	33.3%	(48)
TOTAL		30.4%	(355)

Table 5B presents the results reported in Table 5, without the quality assurance inspectors, the sewing machine operators, the material handlers and the clerks. The overall return rate dropped to 19.3%, a rate 10.6 percentage points lower than those in the comparison group. The difference translates into a reduction in recidivism of over one-third.

Table 5B: Recidivism Rates for OPI Participants by Job Skill Level **Without** Quality Assurance Inspectors, Sewing Machine Operators, Material Handlers or Clerks

JOB SKILL LEVEL	RECIDIVIST	(TOTAL N)
HIGH	15.0%	(60)
MEDIUM	26.0%	(50)
LOW	20.1%	(204)
ENTRY	23.3%	(43)
CLERKS	N.A.	NONE
UNKNOWN	6.3%	(32)
TOTAL	19.3%	(389)

The rationale for presenting this reinterpretation of the data was twofold: (1) to show the dramatic impact on the summary recidivism rates of specific OPI jobs and (2) in the following analysis it will become apparent that certain subgroups of offenders seemed to have high return rates because they tended to be assigned to one of the "high return rate" OPI jobs (i.e., it appeared that certain subgroups had high

return rates because they tended to have a large proportion of members that were assigned to OPI jobs as quality assurance inspectors, sewing machine operators, material handlers or clerks).

DEMOGRAPHICS, OPI PARTICIPATION AND RECIDIVISM

The impact of a meaningful OPI experience in the context of offender demographics is the next focus of this paper. Table 6 explores the likelihood of return to prison between those that had an OPI job and those who did not, controlling for gender. Having an OPI job appeared to have helped male offenders reduce their likelihood of return to prison more than their female counterparts. Females had a marginally lower rate of return (1.1 percentage points) than those in their comparison group while males exhibited a more substantial (5.4 percentage points) decline.

Table 6: Recidivism Rates for OPI Participants and Non-OPI Participants by Gender

GENDER	OPI	NON-OPI
	RECIDIVIST (TOTAL N)	RECIDIVIST (TOTAL N)
MALE	24.6% (715)	30.0% (7,601)
FEMALE	24.1% (29)	25.2% (238)
TOTAL	24.6% (744)	29.9% (7,839)

Table 7 shows the relationship between OPI participation, recidivism and race. At first glance, one notices the large disparity in recidivism between Blacks and Whites in all categories. (While not reported below, the return rate for Whites in the FY 1992 release cohort was 23.1% and the corresponding rate for Blacks was 35.9%. The Black return rate was 12.8 percentage points higher than the White return rate.) The important finding evidenced here is that having an OPI job for Blacks appeared to have narrowed

Table 7: Recidivism Rates for OPI Participants and Non-OPI Participants by Race

RACE	OPI	NON-OPI
	RECIDIVIST (TOTAL N)	RECIDIVIST (TOTAL N)
BLACK	26.8% (380)	36.5% (3,962)
WHITE	22.3% (364)	23.1% (3,876)
TOTAL	24.6% (744)	29.9% (7,838)

Missing Case = 1

the large disparity between Blacks and Whites with respect to recidivism. Black offenders that had an OPI job had a 9.7 percentage point lower rate of return than those in their comparison group (which translates into a reduction of more than one-fourth). The rate of return for Whites with an OPI job was only marginally (0.8 of a percentage point) lower than that of their comparison group. To make the point another way, Blacks who did not have OPI jobs (the comparison group) had a rate of return 13.4 percentage points higher than their White counterparts while blacks who did have OPI jobs had a rate of return only 4.5 percentage points higher than their white counterparts. The impact of having an OPI job appeared to reduce the large recidivism gap between Blacks and Whites by roughly two-thirds.

Further insight into the relationship between OPI participation and race occurred through the examination of the skill level of the OPI job. Table 8 shows that the only type of OPI job that substantially decreased the return rate for Whites was high skill OPI jobs (keeping in mind the return rate for the White comparison group was 23.1%). But Black offenders had lower return rates if they had high, low or entry skill level OPI jobs. Blacks who had high skill OPI jobs had a remarkable 24.5 percentage point decrease in recidivism, a difference that represents a two-thirds reduction in recidivism.

It is interesting to note, that even though the results showed that Blacks appeared to have been impacted much more positively (with respect to recidivism) by having had an OPI job than Whites, they did not have markedly lower return rates if they had a medium skill level (a 1.2 percentage point decrease) or clerk job (a 7.3 percentage point increase).

Table 8: Recidivism Rates for OPI Participants by Race and Job Skill Level***

RACE	HIGH**	MEDIUM	LOW	ENTRY	CLERKS	C. G.*
BLACK	12.0% (25)	35.3% (51)	24.2% (153)	28.2% (124)	43.8% (16)	36.5%
WHITE	17.1% (35)	25.7% (35)	22.9% (140)	24.8% (101)	28.1% (32)	23.1%

* Comparison Group; ** The numbers in the parenthesis represent the total number of offenders in that category;

***The unknowns were purposely not included in the table

The impact of the OPI experience on recidivism with respect to age is presented in Table 9. Those offenders that were 26 to 40 years old at release appeared to have benefited the most from having an OPI job. Those in the 26 to 30 and 31 to 40 year old age categories had return rates 7.7 and 5.1 percentage points lower than those in their comparison groups. These differences represent approximately one-fourth and one-sixth reductions in recidivism. Those in the youngest and oldest age categories showed neutral or negative impact or the categories did not really have enough offenders in them to make generalizations. (These data were analyzed with respect to the OPI job skill level and one finding was noteworthy. For offenders who had high skill jobs, the return rate was lower at all age levels.)

Table 9: Recidivism Rates for OPI Participants and Non-OPI Participants by Age

AGE AT RELEASE	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
15-20	40.0%	(15)	36.1%	(940)
21-25	31.7%	(126)	32.1%	(2,168)
26-30	22.1%	(190)	29.8%	(1,670)
31-40	23.7%	(274)	28.8%	(2,260)
41-50	23.6%	(110)	21.7%	(628)
51-60	15.8%	(19)	11.6%	(121)
61 OR OLDER	14.3%	(7)	11.1%	(45)
TOTAL	24.7%	(741)	29.9%	(7,832)

Missing Cases OPI = 3; non-OPI = 7

The return rates for inmates with a meaningful OPI involvement, by whether an offender was committed from an urban or rural county, are presented in Table 10. Rural offenders appeared to recidivate less than their urban counterparts but the impact of an OPI job on recidivism was roughly equivalent. Rural offenders who had OPI jobs rate of return was 5.1 percentage points lower than those in their comparison group while the urban offender rate was 5.7 percentage points lower.

Table 10: Recidivism Rates for OPI Participants and Non-OPI Participants by County of Commitment Type: Urban or Rural

COUNTY	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
RURAL	20.9%	(253)	26.0%	(2,955)
URBAN*	26.5%	(491)	32.2%	(4,884)
TOTAL	24.6%	(744)	29.9%	(7,839)

*The urban counties are Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit

More insight into the relationship between OPI participation, recidivism and type of county was found when the skill level of the OPI job was examined. Table 11 reveals that, for the first time in this study, the impact of having been assigned to a medium skill level OPI job apparently had more than a marginal or slight positive impact on recidivism. Rural offenders with a medium skill level job had a

return rate moderately lower (4.8 percentage points) than those in their comparison group. Along the same lines (i.e., scant evidence of a positive impact on recidivism for those assigned to OPI clerk jobs), OPI clerks committed from rural counties had a 2.5 percentage point lower rate of return than those in their comparison group.

Table 11: Recidivism Rates for OPI Participants by County of Commitment and Job Skill Level****

RACE	HIGH**	MEDIUM	LOW	ENTRY	CLERKS	C. G.*
RURAL	17.4% (23)	21.2% (33)	21.0% (105)	23.9% (67)	23.5% (17)	26.0%
URBAN***	13.5% (37)	37.7% (53)	25.0% (188)	27.8% (158)	38.7% (31)	32.2%

* Comparison Group; ** The numbers in the parenthesis represent the total number of offenders in that category;

***The urban counties are Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit

****The unknowns were purposely not included in the table

One more finding is worth reporting. Having a high skill OPI job apparently helped the urban offender even more than the rural offender. The return rate for high skill urban offenders was 18.7 percentage points lower than for those in their comparison group which translates into a return rate reduction of nearly two-thirds (the high skill rural offenders had an 8.6 percentage point decrease in recidivism - a one-third reduction).

The impact of an OPI job on recidivism, controlling for the offender's education level at intake, was also examined. The data are not reported because of a large number of missing cases (data on educational level are missing for roughly two-thirds of the release cohort). That noted, the available data were analyzed and the offender's education level at intake did not reveal any noteworthy findings.

The impact of the OPI experience on reducing the likelihood of return to prison in the context of offender demographics can be summed up at two levels: (1) OPI jobs appeared to have the most positive effect on males, Blacks and offenders aged 26 to 40 at release; and (2) having a high skill OPI job appeared to have a positive effect on all offenders, the impact of having a medium skill job was substantially important only for rural offenders, low and entry skill level OPI jobs had the most positive impact on Black offenders and having an OPI clerk job appeared to have a positive impact on rural offenders.

CHARACTERISTICS OF THE CONVICTION OFFENSE, OPI PARTICIPATION AND RECIDIVISM

The focus on the impact of OPI participation and recidivism now turns to characteristics of the conviction offense. Table 12 explores the relationship between OPI participation, recidivism and the felony level of the crime for which the inmates were incarcerated. (The reader is reminded not to make generalizations from trends found in categories with a small number of cases. Because of this, nothing is mentioned about inmates that served life sentences.)

Except for one category of felony level, having experienced an OPI job appeared to reduce the likelihood of returning to prison. Those with first, third (both determinate and indeterminate) and fourth degree determinate felons all had return rates more than ten percentage points lower than those in their comparison groups. These differences translate into return reductions of at least one-fourth. Second degree felons had a return rate 5.6 percentage points lower than those with whom they were being compared. Fourth degree felons with indeterminate sentences who had OPI jobs had a return rate higher than those in their comparison group. Further analysis, not shown here (but reflected in results already presented), revealed that this particular group of felons had been assigned to two types of OPI jobs that had poor return rates. Of the 42 offenders in the fourth degree indeterminate category, 21 were either sewing machine operators (low skill level) or material handlers (entry level). The return rate for these 21 offenders was a combined 57.1%. The analysis suggests that the fourth degree indeterminate sentence offenders did poorly with respect to recidivism because they tended to be assigned to OPI jobs (sewing machine operator and material handler) whose impact on offenders with respect to recidivism was not positive (this issue is explored later in the text).

Table 12: Recidivism Rates for OPI Participants and Non-OPI Participants by Felony Level

FELONY LEVEL	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
LIFE	0.0%	(4)	38.1%	(21)
1ST	22.9%	(223)	33.3%	(508)
2ND	26.1%	(245)	31.7%	(917)
3RD INDETERMINATE	31.0%	(87)	42.2%	(372)
3RD DETERMINATE	15.5%	(84)	28.1%	(2,227)
4TH INDETERMINATE	42.9%	(42)	40.6%	(261)
4TH DETERMINATE	16.7%	(54)	27.9%	(3,520)
TOTAL	24.6%	(739)	29.9%	(7,826)

Missing Cases OPI = 5; non-OPI = 13

How the length of an offender's time served in prison related to OPI participation and recidivism is the next focus of the analysis. Table 13 revealed that every category of OPI participants, grouped by the amount of time they served, had lower return rates than their comparison group. Those offenders that served the longest, two or more years, appeared to be impacted the most by having an OPI job. Those offenders that served four or more years had a return rate 16.5 percentage points lower than those in their

comparison group. This translates into a forty percent reduction in recidivism. Those in the three to four year and two to three year categories had rates 10.1 and 8.7 percentage points lower than those in their comparison groups. The differences both represent return reductions of more than one-fourth.

Those offenders that served one to two years only showed a slight improvement (a 2.8 percentage point decrease) in recidivism. Further analysis of those offenders revealed the same trend that was discovered in the analysis of OPI participants who were fourth degree indeterminate sentence offenders. That is, they tended to have the sewing machine operator and material handler positions. Of the 115 offenders who served between one and two years, 45 were either sewing machine operators or material handlers. That sub-group (the 45) had a combined return rate of 35.6%.

Table 13: Recidivism Rates for OPI Participants and Non-OPI Participants by Time Served

TIME SERVED	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
6 MONTHS OR LESS	25.0%	(8)	31.1%	(3,037)
6-12 MONTHS	19.4%	(62)	24.4%	(2,562)
1-2 YEARS	27.0%	(115)	29.8%	(860)
2-3 YEARS	22.1%	(104)	30.8%	(400)
3-4 YEARS	27.7%	(130)	37.8%	(275)
4 OR MORE YEARS	24.3%	(325)	40.8%	(701)
TOTAL	24.6%	(744)	29.9%	(7,835)

Missing Cases non-OPI = 4

One other interesting finding is worth reporting. Although not reported in a table, those offenders that served four or more years and had experienced a high skill OPI job had a return rate of 12.9% (N=31). This return rate was 27.9 percentage points lower than the return rate of those in their comparison group (40.8%). The difference translates into a two-thirds reduction in recidivism.

Table 14 explores the relationship between OPI participation, recidivism and the type of crime for which the offender was committed. The offenders in three types of crime categories appeared to have moderate to large reductions in recidivism if they had participated in OPI. Those incarcerated for crimes against a person, a drug offense or a miscellaneous offense all had at least 6.9 percentage point lower return rates than those in their comparison groups.

(In the crimes against persons category the return rates of material handlers, quality assurance inspectors and clerks were still high, 31.2% [N=77], 38.1% [N=21] and 33.3% [N=21] respectively. Interestingly, the sewing machine operator return rate in this crime type category was a relatively low 23.1% [N=39]. The drug and miscellaneous type of crime categories were not dramatically influenced by the high return rate OPI jobs because there were relatively few of those offenders in the categories and/or those offenders did relatively well with respect to recidivism.)

Table 14: Recidivism Rates for OPI Participants and Non-OPI Participants by Crime Type

TYPE OF CRIME	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
PERSONS	23.9%	(360)	30.8%	(1,386)
SEX	16.3%	(49)	16.8%	(370)
PROPERTY	32.8%	(198)	34.8%	(3,235)
DRUG	18.2%	(110)	25.7%	(2,373)
OTHER	16.0%	(25)	24.1%	(464)
TOTAL	24.7%	(742)	29.8%	(7,828)

Missing Cases OPI = 2; non-OPI = 11

The sex offenders that had OPI jobs showed scant improvement in the likelihood of returning to prison over those in their comparison group (a 0.5 percentage point decrease). Even though sex offenders had the lowest return rate of all the type of crime categories (this was true in for the entire FY 1992 release cohort, the comparison group and the OPI participants) it appeared that OPI employment did not impact the chances of sex offenders being returned to prison.

Property offenders showed a slight improvement (2.0 percentage points) in recidivism if they had OPI jobs. Neither an analysis of OPI job type or job skill level type provided additional insight into the lack of a more substantial reduction in recidivism. The property offenders showed little improvement in reducing their likelihood of returning to prison if they were involved in OPI.

Examining OPI participation and recidivism with respect to those incarcerated for committing violent crimes compared to those committed with non-violent crimes produced the finding that violent felons appeared to benefit more from the OPI experience than their non-violent counterparts. Table 15 shows that violent offenders had a return rate 6.3 percentage points lower than those in their comparison group while the non-violent offenders had a return rate 3.9 percentage points lower. These differences translate into reductions in recidivism of approximately twenty and thirteen percent. Offenders incarcerated for more serious crimes appeared to receive more benefit from being assigned an OPI job than the non-violent offenders.

Table 15: Recidivism Rates for OPI Participants and Non-OPI Participants by Violent/Non-Violent Nature of Commitment Offense*

NATURE OF CRIME	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
VIOLENT	24.1%	(507)	30.4%	(2,296)
NON-VIOLENT	25.7%	(237)	29.6%	(5,543)
TOTAL	24.6%	(744)	29.9%	(7,839)

*As defined in Section 2901.01(I) of the Ohio Revised Code

The analysis of the characteristics of the conviction offense, OPI participation and recidivism can be summed up three ways: (1) there appeared to be evidence that the more serious offender benefited more from the OPI experience than the less serious offender (as measured by time served and whether the crime was violent); (2) sex and property offenders did not appear to be impacted by the OPI experience; and (3) there was at least some evidence that appeared to show that for a few of the inmate subgroups (fourth degree indeterminates and offenders that served between one and two years), the high return rate may be due to a large proportion of them having one of the four 'high return' OPI jobs (material handler, sewing machine operator, quality assurance inspector or clerk).

CRIMINAL HISTORY, OPI PARTICIPATION AND RECIDIVISM

The impact of an offender's criminal history on the relationship between OPI participation and recidivism is the next topic of analysis. There was only one criminal history variable available in this analysis, the number of prior incarcerations in the Ohio prison system. Those data are presented in Table 16. The most remarkable trend one finds when looking at the data is how much higher the recidivism rates were as the number of priors increased. Although not presented in the table, it is worth noting that the FY 1992 releases as a whole without any priors returned at a rate of 25.0%. Inmates with one prior had a rate of 37.2% and offenders with two or more priors recidivated 48.4% of the time.

OPI participation appeared to help those offenders with short criminal histories more than those with long criminal histories. Those OPI participants with one prior showed an 11.0 percentage point decrease in recidivism and those without priors revealed a 5.8 percentage points decrease in recidivism. These differences translate into approximately one-fourth reductions in recidivism. OPI participants with two or more priors had a slightly (3.0 percentage points) lower return rate than those in their comparison group.

Table 16: Recidivism Rates for OPI Participants and Non-OPI Participants by Priors

PRIOR INCARCERATIONS	OPI		NON-OPI	
	RECIDIVIST	(TOTAL N)	RECIDIVIST	(TOTAL N)
NO PRIORS	19.0%	(462)	24.8%	(5,450)
ONE PRIOR	26.1%	(165)	37.1%	(1,425)
TWO OR MORE PRIORS	44.4%	(117)	47.4%	(964)
TOTAL	24.6%	(744)	29.9%	(7,839)

An examination of OPI participation, recidivism and priors controlling for jobs skill level proved insightful and is presented in Table 17. (The readers is cautioned not to make generalizations from cells with small numbers.) Once again, the offenders who had high skill OPI jobs showed remarkably lower return rates than those to which they were being compared. Those without any priors showed an 11.3 percentage point decrease in recidivism and those with one prior showed a 22.1 percentage point decrease. These differences represent, respectively, nearly one-half and two-thirds reductions in recidivism. Clearly, one of the major findings of this report is that if an offender had a high skill OPI job, his or her likelihood of returning to prison was greatly reduced.

Table 17: Recidivism Rates for OPI Participants by Priors and Job Skill Level***

PRIORS	HIGH**	MEDIUM	LOW	ENTRY	CLERKS	C. G.*
NONE	13.5% (37)	24.1% (58)	16.9% (172)	22.0% (141)	24.2% (33)	24.8%
ONE	15.0% (20)	16.7% (12)	25.4% (63)	32.1% (53)	62.5% (8)	37.1%
TWO +	33.3% (3)	68.8% (16)	41.4% (58)	38.7% (31)	42.9% (7)	47.4%

* Comparison Group; ** The numbers in the parenthesis represent the total number of offenders in that category;

***The unknowns were purposely not included in the table

Those offenders that had low skill OPI jobs had lower return rates than those in their comparison group for all of the prior incarceration categories. Those without any priors, one prior and two or more priors showed reductions in recidivism of 7.9, 11.7 and 6.0 percentage points respectively. The differences for those without any priors or just one prior incarceration translate into nearly one-third reductions in recidivism. Those offenders that had entry skill level OPI jobs with one prior incarceration showed a moderate (5.0 percentage points) decrease in recidivism while those with two or more priors showed a larger (8.7 percentage point) reduction. The evidence appeared to show that for offenders who had a prior incarceration, their return rate was lower than those in their comparison groups if they had a high skill, low skill or entry level OPI job (disregarding, of course, the high skill level and two or more priors category because of the low number of cases).

Overall, offenders with less serious criminal histories (one or no prior incarcerations) appeared to benefit more than offenders with more serious criminal histories (two or more prior incarcerations). However, in certain job skill categories, offenders with more serious criminal histories (two or more prior incarcerations) revealed at least moderate reductions in recidivism.

One more area of analysis necessitates exploration. The examination of OPI participation, recidivism and priors controlling for OPI job may help explain at least part of the mystery why the 'high return rate' OPI jobs (quality assurance inspector, sewing machine operator, material handler and clerk) had high return rates. As has been established, the more prior incarcerations an offender had the more likely that offender was to return to prison. In three of these 'high return rate' OPI jobs (sewing machine operator, material handler, and quality assurance inspector) there is possibly some evidence that offenders with more serious criminal histories (as measured by prior incarcerations) were more likely to get the 'high return rate' OPI jobs than those with less serious criminal histories. If certain types of jobs tend to be filled by inmates with more extensive criminal histories, it is likely that the overall impact of recidivism of those jobs might be inflated (i.e., compared to jobs that tend to get the offender with a less extensive criminal history). The most extreme example of this was that 29 of the 31 offenders who were in the entry level category that had two or more prior incarcerations were assigned material handler jobs. Perhaps, (and more research would have to be done to solidify this hypothesis) at least part of the reason why these 'high return rate' OPI jobs had high return rates was because they tended to be assigned to offenders that were more likely to recidivate.

THE TIMING OF OPI PARTICIPATION AND RECIDIVISM

This portion of the study is focused on the OPI participants. Two issues will be explored: (1) if the length of time an offender was an OPI participant impacted recidivism and (2) if the length of time between the OPI participation and the offender's release date impacted recidivism.

Table 18 explores the relationship between recidivism and the length of time an offender participated in OPI. First of all, a reminder: the offenders in the less than ninety day category were not considered to have participated long enough to have a meaningful OPI experience. In fact, their return rate was the highest (35.0%). This gives credence to our definition of who had a meaningful OPI experience (90 days or more). Those that had OPI jobs but not long enough to be meaningful appeared not to receive any benefit from their OPI experience, i.e., that is a reduced return rate.

Once an offender had an OPI job long enough for it to become meaningful it appeared that it proved slightly more beneficial for those offenders that were OPI participants less than a year or three years or more (although generalizations made from the three years or more categories may be risky due to a small number of cases).

Table 18: Recidivism Rates by Length of OPI Participation

LENGTH	NON-RECIDIVIST	RECIDIVIST
1-89 DAYS**	65.0% (228)	35.0% (123)
90 DAYS TO 365 DAYS	75.9% (360)	24.1% (114)
1-2 YEARS	72.8% (123)	27.2% (46)
2-3 YEARS	71.9% (46)	28.1% (18)
3-4 YEARS	83.3% (25)	16.7% (5)
4 YEARS OR MORE	100.0% (7)	0.0% (0)
TOTAL	72.1% (789)	27.9% (306)

**not considered to be meaningful participation in an OPI job

Table 19 looks at the time between an offender's last OPI participation date and his or her release date from prison (for those with meaningful OPI participation only). The first item that must be addressed is that there is quite a bit of missing data. This is a critical issue because this group (i.e., the "don't knows") of OPI participants had the lowest return rate. If their length of time between OPI participation and release could be computed it could dramatically effect the other length of time categories (perhaps they were all in the less than one year category). That noted, there appears to be no discernable pattern in the available data. The length of time between OPI participation and release did not appear to be a salient factor in this analysis.

Table 19: Recidivism Rates for the Amount of Time from OPI Participation to Release Date

LENGTH OF TIME	NON-RECIDIVIST	RECIDIVIST
1 YEAR OR LESS	72.0% (221)	28.0% (86)
1-2 YEARS	74.8% (110)	25.2% (37)
2-3 YEARS	69.9% (58)	30.1% (25)
3 OR MORE YEARS	74.7% (65)	25.3% (22)
DON'T KNOW*	89.2% (107)	10.8% (13)
TOTAL	75.4% (561)	24.6% (183)

*Due to data constraints - length of time from OPI participation to release could not be computed even though length of time in an OPI job could be calculated

SUMMARY RESULTS: OPI PARTICIPATION AND RECIDIVISM

Overall, meaningful participation in an OPI job appeared to produce reductions in recidivism approaching twenty percent. OPI participation seemed to have the most positive impact on males, Blacks, offenders aged 26 to 40 at release, those committed for crimes against persons, drug offenders, and generally the more serious offender (as measured by the amount of time served and whether the crime was violent).

The impact of OPI participation varied by the skill level of the OPI job: those with high skill OPI jobs appeared to have benefited the most followed by those with low skill and entry level OPI jobs. Those with medium skill level or clerk OPI jobs appeared not to benefit from the OPI experience.

Perhaps the most remarkable results of this study were twofold: (1) if an offender had a high skill OPI job his or her likelihood of returning to prison appeared to be greatly reduced (on average one-half less likely to recidivate), regardless of the offender's demographic characteristics or the characteristics of the conviction offense; and (2) the OPI experience reduced the large difference in recidivism between Blacks and Whites.

APPENDIX

The appendix serves two purposes: (1) to provide a list of how the skill level categories were operationalized; and (2) provide recidivism rates for each particular OPI job. The rationale for putting the individual OPI job return rates in an appendix and not in the major part of the analysis was to emphasize the danger of making generalizations about the relative effectiveness of specific OPI jobs. In many, if not most, of the OPI jobs listed below, there were not enough cases to draw conclusions. The reader is **strongly cautioned** about making generalizations from specific OPI job types that have a small number of cases.

Table A1: Recidivism Rates for High Skill Jobs

JOB	NON-RECIDIVIST	RECIDIVIST
ASBESTOS REMOVAL	77.8% (7)	22.2% (2)
AUTO MECHANIC	100.0% (5)	0.0% (0)
DENTAL LAB TECHNICIAN	100.0% (1)	0.0% (0)
DRAFTER	100.0% (9)	0.0% (0)
MACHINIST	100.0% (1)	0.0% (0)
MAINTENANCE MECHANIC	81.3% (13)	18.8% (3)
SPRAY PAINTER	81.8% (9)	18.2% (2)
TRAINER REP.	100.0% (1)	0.0% (0)
WELDER	71.4% (5)	28.6% (2)
TOTAL	85.0% (51)	15.0% (9)

Table A2: Recidivism Rates for Medium Skill Jobs

JOB SKILL LEVEL	NON-RECIDIVIST	RECIDIVIST
FABRIC CUTTER	44.4% (4)	55.6% (5)
FINISH REPAIRER	50.0% (1)	50.0% (1)
GRAPHIC ARTS TECH.	100.0% (2)	0.0% (0)
INSPECTOR QA	61.1% (22)	38.9% (14)
MACHINE OPERATOR	100.0% (1)	0.0% (0)
MACHINE PRESSER	100.0% (2)	0.0% (0)
MACHINE SETTER	83.3% (20)	16.7% (4)
MAINTENANCE REPAIR	100.0% (1)	0.0% (0)
PRINTER	66.7% (6)	33.3% (3)
TOTAL	68.6% (59)	31.4% (27)

Table A3: Recidivism Rates for Low Skill Jobs

JOB SKILL LEVEL	NON-RECIDIVIST	RECIDIVIST
AUTO MECHANIC HELPER	100.0% (2)	0.0% (0)
BOX FACTORY	80.0% (4)	20.0% (1)
BRUSH FACTORY	100.0% (2)	0.0% (0)
CHAIR FACTORY	100.0% (2)	0.0% (0)
CUSHION MAKER	66.7% (6)	33.3% (3)
DESK ROOM	100.0% (1)	0.0% (0)
FABRICATOR	0.0% (0)	100.0% (1)
FURNITURE FACTORY	66.7% (2)	33.3% (1)
GARMENT FACTORY	87.5% (14)	12.5% (2)

(Table A3 continued)

MACHINE FEEDER	77.8% (49)	22.2% (14)
SEWING MACHINE OPER.	68.5% (61)	31.5% (28)
TERMINAL OPERATOR	100.0% (1)	0.0% (0)
TEXTILE SHOP	50.0% (1)	50.0% (1)
TOOL CRIB ATTENDANT	100.0% (9)	0.0% (0)
UNIT ASSEMBLER	79.8% (67)	20.2% (17)
WEASTEC	100.0% (1)	0.0% (0)
WEBBING TACKER	100.0% (1)	0.0% (0)
WOOD ASSEMBLER	33.3% (1)	66.7% (2)
TOTAL	76.5% (224)	23.5% (69)

Table A4: Recidivism Rates for Entry Level Jobs

JOB SKILL LEVEL	NON-RECIDIVIST	RECIDIVIST
IPIT	81.8% (9)	18.2% (2)
JANITOR	100.0% (1)	0.0% (0)
MATERIAL HANDLER	72.5% (132)	27.5% (50)
MATTRESS FACTORY	75.0% (3)	25.0% (1)
PORTER	70.8% (17)	29.2% (7)
SANDER	100.0% (3)	0.0% (0)
TOTAL	73.3% (165)	26.7% (60)

Table A5: Recidivism Rates for Clerk Jobs

JOB SKILL LEVEL	NON-RECIDIVIST	RECIDIVIST
CLERK	75.0% (3)	25.0% (1)
PAYROLL CLERK	71.4% (5)	28.6% (2)
PRODUCTION CLERK	69.0% (20)	31.0% (9)
TYPING CLERK	50.0% (4)	50.0% (4)
TOTAL	66.7% (32)	33.3% (16)

Training Inmates through Industrial Work Participation and Vocational and Apprenticeship Instruction

William G. Saylor and Gerald G. Gaes

Data on more than 7,000 offenders were collected to evaluate the impact of industrial work experience and vocational and apprenticeship training on in-prison and post-release outcomes. Because the training effects may be subtle, a large sample was developed to evaluate the prison training programs. Furthermore, because inmates could not be randomly assigned to the training condition, selection bias was controlled for by a statistical matching procedure that modeled the training program selection process. The results demonstrate significant and substantive training effects both on in-prison and post-prison outcome measures.

Key words: prison industries, prison infractions, recidivism, rehabilitation, survival, vocational training

THE POST-RELEASE Employment Project (PREP) was designed to evaluate the impact of prison work experience and vocational and apprenticeship training on an offender's behavior following release to the community. The evaluation began in 1983, and data were collected through October 1987 on more than 7,000 offenders. Although there are many perspectives on the purposes and goals of operating prison industries and employing inmate labor, an interesting historical perspective comes from the U.S. Congress. In support of the 1930 authorizing legislation for prison industries within the federal government, the Senate Judiciary Committee gave the following rationale:

It is unanimously conceded that idleness in prisons breeds disorder and aggravates criminal tendencies. If there is any hope for reformation and rehabilitation of those convicted of crimes, it will be founded upon the acquisition by the prisoner of the requisite skill and knowledge to pursue a useful occupation and the development of the habits of industry.¹

Thus, even at its inception, the concept of prison industries was contemplated to serve two masters. It was designed to minimize prison disorder and to prepare inmates for a successful life after release from prison.

Theoretical Background: The Link Between Unemployment and Crime

There is theoretical and empirical support for the proposition that unemployment is a predictor of

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criminal activity.²⁻¹⁰ Furthermore, recent evidence by Nagin and Waldfogel shows that a prison term can reduce the lifetime earnings of the ex-offender.^{11,12} An unfortunate consequence of these findings may be that, faced with lowered expectations of gainful employment in the licit economy, the ex-offender may return to illicit economic activities. All of this research converges on the proposition that it may be very difficult to break the reciprocal relationship between crime and unemployment, especially if the individual also has received a term of imprisonment.¹³

Prison systems have a very difficult agenda if they are to affect the cycle of criminality. Data from this project indicate that in the 5 years prior to their current incarceration, half of these offenders worked less than 50 percent of the time; 42 percent worked less than 2 years in that 5-year period.

In addition to the Nagin and Waldfogel studies, there have been two major studies investigating the conditions of employment for ex-offenders. The Transitional Aid Research Project (TARP), which took place in Texas and Georgia, examined the influence of providing ex-offenders with monetary compensation during the first year after release from prison. Rossi and associates¹⁴ concluded that this kind of unemployment insurance had two competing influences on the ex-offender's motivation to find a job. The money allowed ex-offenders an opportunity to find employment without resorting to crime and without having to settle for a low-wage job. Unfortunately, the unemployment compensation was also a disincentive to find work, because ex-offenders could afford to live without seeking employment. Rossi and coworkers suggest that transitional aid for ex-offenders could work if it were coupled with an incentive to find a job.

Schmidt and Witte¹⁵ reviewed the evidence regarding post-release employment among ex-offenders and reached the following conclusions:

- Job terminations are typically the ex-offender's choice rather than the employer's choice.
- Post-release supervision has competing influences on employment productivity—supervision results in maintaining a job, but at lower wages than unsupervised releasees.
- When work programs allow offenders to accumulate money, inmates are more successful following release because they have more freedom to find a better paying job—this finding is consistent with the TARP findings.

- Unlike most subpopulations of the labor force, an inmate's age and education have little impact on labor market success; jobs obtained by releasees are typically low wage and low skilled.
- Offenders exhibit instability in their post-release employment. Offenders who remain employed typically have jobs in the lowest skill categories, working mainly in large manufacturing industries.
- In Michigan, halfway house participation has contributed to higher post-release wage earnings.
- Relatively stable background characteristics of the offender population contribute to higher post-release wages—white, able-bodied, married men with dependents earn higher wages.
- The most compelling factors that determine post-release wages are those associated with the economic structure of the local labor market. These factors include the ex-offender's occupation and skills, the industry of employment, and the economic climate of the local labor market.
- Citing Borus and associates, Schmidt and Witte conclude that prison programs designed to improve basic or vocational skills have failed to affect post-release employment.¹⁵

Similar to the findings of Borus and colleagues, Maguire and coworkers found that there were no statistically significant differences in the hazard rates of post-release arrest between a prison industry study group and a comparison group of inmates chosen from the same New York State prisons.¹⁶ Maguire and associates controlled for time served, age at admission, prior felony arrests, grade completed, military service, marital status, occupation, race, commitment crime, employment status, prior drug use, and institution misconduct rate. By choosing comparison subjects from the same prisons as the study participants, they controlled for prison environment effects, but it is likely that the approach also exaggerated the program effects (this phenomenon is referred to as selection bias and is discussed in more detail later). Their method potentially introduced bias in program effects because inmates working in prison industries are likely to be more "motivated," and this fact would have left a less motivated pool of inmates to be used as comparison subjects. Despite this potential bias toward favorable findings, Maguire and colleagues found no effect of prison industries.

In related research on the hard-core unemployed (HCU), Goldstein reviewed training literature on the problem of assisting the HCU into the labor market.¹⁷ Goldstein argues that skill training alone does not solve the problems of the HCU. These individuals have developed expectations of job failure that are difficult to overcome. Although no published data on the overlap in the ex-offender and HCU populations could be found, there are theoretical reasons to believe these populations do overlap, especially in light of Nagin and Waldfogel's evaluation of expected lifetime earnings of ex-offenders.

In yet another related area of research, some economists (see especially Piore¹⁸) argue for a segmented labor market to explain differences in the unemployment patterns of the poor and the more advantaged. The primary sector of the labor market is characterized by jobs that form a progression from lower to higher pay. One's human capital (skills, experience, education) contributes to promotional opportunities. In the secondary labor market, skill levels are relatively low, and human labor is more fungible. Thus, one's limited human capital is not strongly related to promotional opportunities. The secondary labor market is characterized by high instability, low expectations for advancement, and lower wages. If one's entry level is an occupation in the secondary labor market, then one's long-term opportunities are severely limited.

Although there is no specific occupational definition of the secondary labor market, data on the broad occupational groupings of industries in which ex-offenders find jobs will be examined and compared to the occupational groupings in which these individuals were employed prior to their most recent incarceration. This approach will yield insight into the extent to which ex-offenders enter the secondary labor market.

Thus, the evidence to date on the employment patterns of ex-offenders reveals that these individuals

are faced with lowered expectations and extremely precarious labor market conditions. Many do not have skills or education and carry the additional burden of the stigma associated with a term of imprisonment. Under these conditions, it is questionable whether skills training in prison can be used to penetrate the difficult labor market barriers that these ex-offenders face upon their release.

The current study was undertaken with a different approach in mind. First, it explicitly tries to control for selection bias in prison training evaluations. Second, recognizing that the effects of training may be subtle and the size of the effect may be relatively small, it employs a larger sample than previous studies. Last, this study examines the impact of work and skills training on institutional adjustment, licit wages after release, and post-release recidivism.

Study Design and Methodology

Unlike most studies of prison vocational training or work experience, PREP was designed as a prospective longitudinal evaluation. Inmates were selected as study group members if they had participated in industrial work within prison for at least 6 months prior to their release or had received in-prison vocational instruction or apprenticeship training. Based on these criteria, 57 percent of the study group participants worked exclusively in prison industries; 19 percent had a combination of work experience and vocational training; and the remaining 24 percent had received vocational training, apprenticeship training, or a combination of the two.

A quasi-experimental design was used in which comparison subjects were chosen from the "reservoir" of all other inmates released in the same calendar quarter as study group members. When either a study or comparison group member was selected, a data collection form was initiated and prison staff filled out the instrument. If an inmate went to a halfway house, staff at these contract facilities completed a section of the data collection form. This information was then mailed to the Bureau's Office of Research. Post-release information for the first year of release was collected by calling supervisory probation officers whose job was to meet with the ex-offender and monitor his or her behavior, including verified employment.

Some economists argue that a segmented labor market explains the differences in the unemployment patterns of the poor and the more advantaged.

It is difficult to measure the effectiveness of programs without representing a biased picture of the results due to two key methodological issues. These issues—selection bias and “strong” inference designs—are related to the measurement of program effectiveness and are often ignored in the research design of many program evaluations. PREP was designed to address both problems.

Selection Bias

Selection bias refers to unintended influences that control the selection of research observations and results from an inadequate research design. Such designs introduce a nonrandom process into the selection of study and comparison group members. Selection bias can produce a study group composed of members that show a more favorable outcome than “control” individuals, although the actual difference between these groups is attributable to observed and unobserved factors that predispose the study group to a more favorable outcome even in the absence of some program intervention.

The simplest way to control for selection bias is to assign inmates to programs randomly. There are instances when random assignment has been employed; however, there are practical and ethical reasons why it is rare that random assignment is used in selecting inmates for programs. It is often impractical to assign inmates to programs randomly because: (1) researchers are not allowed to control the selection process, and (2) inmates will contaminate the random assignment process by dropping out of a program, by disrupting the program, or by transferring into a group other than the one to which they were assigned.

In addition to formidable practical problems, there are also important ethical considerations why inmates should not be randomly assigned to prison programs. Inmates who express an interest in a specific program show a motivation to learn or to change. If an inmate who is motivated is assigned to a control (no program) condition, then that motivation may be subverted in an irreparable way. Moreover, one must question what is achieved by randomly assigning an inmate to a program when he or she is not motivated and may even be hostile to program participation. Is that program being contaminated for

other inmates? Could random assignment preclude an inmate's future interest in a program by assigning him or her at a time before he or she is willing to participate?

One final statement regarding the comparability of experimental and observational designs is in order. Heckman and Hotz¹⁹ found that observational studies can yield the same estimates as experimental studies when there is a theoretical reason to decide among the various observational estimators.

Strong Inference Designs

There are technical statistical solutions to selection bias. However, program evaluation designs would be more compelling if researchers always adopted a strong inference design. A strong inference design is one in which the researchers explicitly state the theoretical mechanism through which they assume the program intervention will be effective. Within the context of the research design, the mechanism is measured, preferably before and after the intervention, and then the change in the mechanism is analyzed in relation to the outcome variable.

In the current study, it was assumed that prison work would be related to the supervisor's ratings of work abilities, work habits, and the motivation to work. An attempt was made to measure these mechanisms through the supervisor's ratings. Theoretically, the probability of recidivism for inmates who received prison work experience should be related to their supervisor's ratings. Strong inference designs enhance confidence in observed treatment effects; that is, effects are real and not an artifact of selection bias or some other contamination.

Estimating the Propensity Score

To overcome the problem of selection bias, the study employed a statistical matching procedure developed by Cochran and Rubin²⁰ and further refined by Rosenbaum and Rubin.²¹⁻²³ The procedure uses a two-step approach. In the first step, the researcher models the selection process, contrasting program participants and nonparticipants on variables related to their participation. As a result of the modeling, a propensity score is generated, indicating the likelihood that an offender would be selected for participation in prison

industry or vocational training, irrespective of whether he or she was in the study group or the comparison reservoir. Thus, individuals in the comparison reservoir who have high propensity scores should be similar to study group members who actually participate in work and training programs.

In the second step, the propensity score is used in conjunction with other variables to select matched comparison subjects. Theoretically, the matched comparison subjects are equivalent to the study group participants in every respect except for their participation in the work or vocational training program. (Although the results are not displayed here, it is empirically demonstrated that the two groups are statistically indistinguishable on the set of measures used to model the employment/training selection process.)

The authors had reason to believe that there were many individuals in the comparison reservoir who had an interest in working in prison industries and would have, had the opportunity been available. Throughout the duration of the PREP, about 35 percent of the inmates housed in Bureau facilities were employed by prison industries; however, the waiting list to become employed by prison industries was always lengthy. There were always far more inmates who desired a prison industries job than prison industries could accommodate.

The ultimate purpose of the propensity score is to select appropriate comparison subjects. Nevertheless, the results of the logistic regression that generates the propensity score yield insight into the selection process itself. The results of this analysis demonstrated that study group members were more likely to be released to a halfway house, were younger at the time of their current commitment, had more prior commitments, were more likely to have committed an instant violent offense, were more likely to have been incarcerated for longer periods of time, were more likely to have little or no violence in their past, were more likely to be non-Hispanic and white, and were more likely to have had a higher security level.

The propensity score (estimated log odds), along with the other variables used in the propensity score estimation, was used in the procedure that matched each study observation with a comparison observation selected from the comparison reservoir of all other offenders released in the same calendar quarter. It was required that the matching algorithm first

The ultimate purpose of the propensity score is to select appropriate comparison subjects.

establish an exact match based on sex and race. Then, for each study group member, a matched comparison observation was selected based on his or her geometric similarity to the study group member. Following procedures outlined by Rubin and Rosenbaum, potential comparisons of the same sex and race were first culled from the reservoir by using a proportion of the standard deviation of the estimated logit, selecting from the reservoir of comparison subjects those whose propensity scores were within 0.20 standard deviations of the study group member's propensity score. From that smaller pool, the comparison subject was chosen who had the smallest geometric distance from the study group member on the propensity score and all the other variables. Once a comparison observation was chosen, all data that were to be prospectively gathered on study group members were also gathered on comparison offenders.

Results

Occupational changes in the study and comparison groups

Table 1 shows the relationship among the distributions of a sample of study and comparison group participants in the major occupational groupings. Because every job was categorized using the U.S. Department of Labor's *Dictionary of Occupational Titles*,²⁴ occupations could be grouped into nine major groups: professional/technical, clerical/sales, service, agricultural/fishing, processing (e.g., processing metal, ore, coal, gas, rubber, wood), machine trade (e.g., metal working, printing), bench work (e.g., fabrication, assembly, repair of metal products, electrical products), structural work (welding, painting, plastering, cementing, construction), and miscellaneous (e.g., transportation, amusement, recreation).

Compared with the distribution of the entire U.S. labor force in 1983, offenders in the study group were less likely to work in professional and clerical occupations and more likely to work in machine trades, structural work, and miscellaneous occupations. Comparison group offenders had very similar pat-

terns, although they also were more likely to work in service jobs as well, relative to the entire U.S. labor force.

Table 1 also represents the occupational categories of study group participants while they were employed or trained in prison. As Table 1 shows, individuals who were receiving vocational or appren-

ticeship training were primarily instructed in machine trades and structural work. Industries employees were working primarily in bench work activities and secondarily in clerical and machine trades.

After release from prison, both study group and comparison group offenders were working in similar occupations. They were primarily doing structural

Table 1

OCCUPATIONAL CHANGES IN THE STUDY AND COMPARISON GROUPS

Occupational classification	Occupational changes in the study group							
	U.S. labor force, 1983	Pre-incarceration	Vocational training	Apprenticeship training	Prison industries	Halfway house	Six-month follow-up	Twelve-month follow-up
Professional/technical	26.4	13.5	12.7	17.5	2.3	8.1	11.9	11.9
Clerical/sales	28.0	16.7	15.0	3.5	19.0	20.5	18.0	19.3
Service	13.7	15.4	5.3	16.7	3.0	13.6	13.8	11.9
Agricultural/fishing	3.7	4.4	1.6	2.6	0	1.9	2.9	3.3
Processing	3.3	2.0	5.5	4.4	1.4	2.0	1.5	1.0
Machine trade	6.9	9.1	25.4	14.9	12.4	10.5	10.4	10.4
Bench work	3.6	4.3	4.2	7.9	47.9	3.9	3.3	3.8
Structural work	7.7	23.5	23.8	29.8	3.9	30.5	26.0	26.0
Miscellaneous	6.7	11.1	6.4	2.6	10.1	9.1	12.2	12.3
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Number of cases	100,922,000	2,837	1,357	114	2,024	2,538	2,312	1,624
Occupational classification	Occupational changes in the comparison group							
	U.S. labor force, 1983	Pre-incarceration	Halfway house	Six-month follow-up	Twelve-month follow-up			
Professional/technical	26.4	12.5	11.8	12.9	12.5			
Clerical/sales	28.0	15.9	17.6	19.8	20.0			
Service	13.7	20.6	11.2	12.4	11.1			
Agricultural/fishing	3.7	4.0	5.9	4.5	5.2			
Processing	3.3	3.5	1.8	1.9	2.0			
Machine trade	6.9	7.5	10.0	8.0	7.7			
Bench work	3.6	4.1	3.5	3.8	3.1			
Structural work	7.7	20.3	30.6	26.9	26.2			
Miscellaneous	6.7	11.6	7.6	9.8	12.1			
	100.0	100.0	100.0	100.0	100.0			
Number of cases	100,922,000	2,132	170	792	610			

work, followed by clerical/sales, service jobs, and professional. Relative to the U.S. labor force, after getting out of prison, offenders were more likely to do structural work or miscellaneous jobs and less likely to work in clerical or professional jobs.

In the aggregate, relative to their occupation groupings prior to prison, following prison, offenders were more likely to pursue clerical/sales jobs, somewhat more likely to pursue structural jobs, and more likely to pursue miscellaneous jobs. They were slightly less likely to pursue professional jobs.

Table 1 depicts job changes in the aggregate. Table 2 is a mobility table that depicts the transitions that occur for individuals prior to their incarceration and 12 months after their release from prison. This table, which collapses data across study and comparison groups, provides insight in the mobility patterns. Some of the cells in this table were sparse and a statistical test of the patterns was not done; however, Table 2 does present some interesting descriptive patterns of pre- and post-imprisonment mobility.

Table 2 is designed to be read row by row. For example, the first row shows individuals who held a professional job prior to prison and the percentage of pre-incarceration professionals who subsequently held a professional, clerical/sales, service, or other job. Thus, 28 percent of professionals held a professional job after prison, 25 percent held clerical/sales jobs, and so forth. Each cell of the table first indicates the number of individuals who had a particular set of pre-incarceration and post-incarceration jobs, and then, for each pre-incarceration occupational group, the percentage of individuals from that group who held a specific post-incarceration job. Thus, the percentages in Table 2 are row percentages that sum to 100 percent for each row.

The diagonal of Table 2 indicates the number and percentage of individuals who were employed in the same occupational categories prior to and after prison. The structural trades (51 percent) and clerical/sales (39 percent) occupations were the most stable. One of the largest transitions out of an occupation group into a particular group was for profes-

Table 2

OCCUPATIONAL MOBILITY FROM PRE-INCARCERATION TO POST-INCARCERATION JOB*

Frequency Row PCT	Profes- sional/ technical	Clerical/ sales	Service	Agri- cultural/ fishing	Processing	Machine trade	Bench work	Structural work	Miscella- neous	Row totals
Professional/ technical	61 28.11	55 25.35	20 9.22	6 2.76	3 1.38	13 5.99	10 4.61	27 12.44	22 10.14	217 100%
Clerical/sales	43 16.04	105 39.18	32 11.94	9 3.36	1 0.37	14 5.22	12 4.48	32 11.94	20 7.46	268 100%
Service	19 7.79	43 17.62	69 28.28	6 2.46	4 1.64	22 9.02	9 3.69	51 20.9	21 8.61	244 100%
Agricultural/ fishing	8 10.81	6 8.11	2 2.7	22 29.73	3 4.05	3 4.05	2 2.7	20 27.03	8 10.81	74 100%
Processing	4 11.76	5 14.71	2 5.88	2 5.88	0	5 14.71	0	13 38.24	3 8.82	34 100%
Machine trade	7 4.76	21 14.29	11 7.48	4 2.72	2 1.36	43 29.25	5 3.4	37 25.17	17 11.56	147 100%
Bench work	6 8.7	8 11.59	7 10.14	1 1.45	2 2.9	8 11.59	9 13.04	26 37.68	2 2.9	69 100%
Structural work	24 6.94	27 7.8	31 8.96	10 2.89	4 1.16	28 8.09	13 3.76	175 50.58	34 9.83	346 100%
Miscellaneous	21 11.41	34 18.48	10 5.43	6 3.26	1 0.54	19 10.33	6 3.26	29 15.76	58 31.52	184 100%

*Rows indicate pre-incarceration job; columns reflect 12-month follow-up job.

sional/technical occupations. Among these individuals who held these types of jobs prior to prison, 25 percent held a clerical/sales position after prison.

The data in Tables 1 and 2 seem to support the thesis that prior to incarceration offenders are more likely than the general labor force to be employed in secondary labor market occupations, although there is insufficient detail to be precise about this conclusion. The primary post-incarceration jobs 12 months after release were clerical/sales, structural work, and miscellaneous occupations. The job emphasis in prison was bench work, machine trades, and clerical/sales. With all of the resources devoted to bench work trades within prison industries, very few offenders find such jobs within 12 months of release. One of the reasons bench work is emphasized in prison is that such trades teach a skill and these types of occupations lend themselves to featherbedding, allowing industries to employ as many inmates as possible.

Type and frequency of disciplinary reports within the last year of prison

The data in this section were statistically analyzed using a chi-square statistic with degrees of freedom equivalent to the number of observations in the cross-classification. The analysis compared misconduct between the study and comparison groups. The data reported here reached conventional statistical significance ($p < .05$).

An analysis of the frequency of disciplinary reports showed that 22.2 percent of study group participants and 26.2 percent of comparison group inmates received an incident report within the last year of commitment. This finding reflects a difference of 4 percent in the rate of incident reports, but in a relative context study group members were 15 percent less likely to receive an incident report than comparison group inmates.

The Bureau of Prisons uses four levels of misconduct seriousness that determines levels of sanctions commensurate to the misconduct. Comparison group members who received an incident report for the most serious types of institutional misconduct were 63 percent more likely to be convicted of that charge—2.6 percent (comparison) versus 1.6 percent (study)—and were 46 percent more likely to be punished for the second more serious level of institutional misconduct within the last 2 years of their incarceration—3.5 percent (comparison) versus 2.4 percent (study).

Although the percentage differences reported here may appear small, because the quasi-experimental design controlled for background differences between the study and comparison groups, the differences are statistically and substantively meaningful. Furthermore, the larger relative percentages more accurately convey the differences in the rates of reported misconduct between the two groups. Misconduct is a serious problem faced by all prison administrators. It threatens the orderly management of the institution and can threaten the lives of staff and inmates. Consequently, even an absolute difference of 4 percent in misconduct that can be attributed to prison work and vocational and apprenticeship training is a very significant finding.

Halfway house outcomes

For those offenders who were released to a halfway house prior to their release to the community, outcome data on their criminal recidivism and employment were collected. The data in this section were also analyzed using a chi-square statistic. The relevant variable was cross-classified by study versus comparison group membership. Only significant results are reported in this section using conventional statistical significance levels ($p < .05$).

For comparison group members, 6.8 percent escaped from the halfway house during their stay, and 9.1 percent were returned to Bureau of Prisons custody for a new arrest or a technical violation. The percentages for study group members were 5.2 percent and 8.4 percent, respectively. Because other dispositions were possible, 83.3 percent and 83.9 percent of the comparison and study groups successfully completed their halfway house stay. Thus, there was little difference in recidivism between the two groups while in a halfway house.

Study group members were more likely to obtain a full-time (86.5 percent) or day labor (9.0 percent) job while in the halfway house than were comparison subjects. Only 62.1 percent of comparison subjects obtained a full-time job and 1.3 percent obtained a day labor job.

Twelve-month post-release outcome—Recidivism

Twelve months after release from prison, 6.6 percent of study group members and 10.1 percent of comparison group members had their supervision

revoked either because of a technical violation of supervision or because they had been rearrested for a new offense. Thus, study group members at the end of 1 year were 35 percent less likely to recidivate than comparison group members. Although the absolute difference may not appear large, 6.6 percent versus 10.1 percent, the relative difference was statistically significant and quite large—35 percent.

Previous recidivism studies conducted by the Office of Research within the Bureau of Prisons have consistently demonstrated that within the first year of release, about 20 percent of offenders are returned to prison for a new arrest or technical violation of their supervision. If a random sample of releasees had been taken and no adjustment made for the background differences between the study group and comparison reservoir members, the group differences would have been greatly exaggerated (6.6% study versus 20% comparison). Although there is no independent confirmation of the propensity score adjustment, theoretically both potential differences in the background characteristics between study and comparison group offenders as well as their "propensity" or motivation to select themselves into work, vocational, and apprenticeship programs were controlled for.

Twelve-month post-release outcome— Employment

In each of the 12 months following release, study group members were more likely to be employed than comparison group members. By the 12th month, study group members were 14 percent more likely (71.7% versus 63.1%) to be employed. These differences reached conventional levels of statistical significance using a chi-square test of the difference ($p < .05$).

There were no statistical differences in the average wages earned between these two groups. For individuals employed throughout the 12-month period, the average wages were about \$9,700. According to

the U.S. Bureau of the Census, the poverty level for a family of two persons ranged from \$6,483 to \$7,704 from 1983 to 1988, the years in which most of the PREP follow-up data were collected. For a family of four, the poverty level ranged from \$10,178 to \$12,092 in that same time frame. Thus, the average wages of ex-offenders for the first year after release from prison were very close to the poverty thresholds.

Long-term recidivism

In 1995, the automated Bureau of Prisons records were reviewed to determine whether the study or comparison group members had been recommitted to a federal facility for a new offense or had been returned for a technical violation of their supervision. The observations in this follow-up had been released for as long as 12 years or as few as 8 years. It was possible for offenders to be arrested, convicted, or confined in jurisdictions other than the federal criminal justice system. Although the federal recommitment data certainly underestimate total recommitment activity, there is no theoretical reason to believe that study or comparison subjects would be more or less likely to be recommitted in non-federal jurisdictions. Thus, the study versus comparison group contrast should be unbiased.

The analysis examined the amount of time an offender was in the community prior to his or her commitment for a new federal offense. The data were analyzed using the Cox proportional hazards model. The Cox proportional hazards model is a partially parametric technique that allows estimation of the effects of independent variables on the hazard of recidivating without estimating the precise base hazard rate. Separate models were estimated for males and females, because it is well known that women are less likely to recidivate than men. Women who did fail in the study, however, failed much earlier, on average, than men. The average survival time for men who failed was 811 days; for women this figure was 647 days.

The study group participants were divided into three subgroups for the purpose of this analysis. There was a prison industries (Ind) group (57 percent), a vocational training (VT)/apprenticeship training (App) group (24 percent), and a combination prison industries/training (Ind/VT/App) group (19 percent). Dummy variables were created that contrasted these groups to comparison group members.

In each of the 12 months following release, study group members were more likely to be employed than comparison group members.

There were no significant effects for the model of females. This finding was probably due to the fact that so few women recidivated in the time period. Only 52 of the 904 women were recommitted for a new offense over the entire period.

The model for the men yielded significant results and is represented in Table 3. Aside from the program participation variables, the decile of the individual's propensity score (decile of propensity score), the natural log of time served for the commit-

Table 3

COX PROPORTIONAL HAZARDS MODEL FOR THE ANALYSIS OF DURATION TO RECOMMITMENT FOR A NEW OFFENSE FOR MALE OFFENDERS

Variable	Coefficient	Standard error	WALD TEST	DF	SIG	EXP(COEF)
Program participation						
Industrials (Ind)	-.2799	.1125	6.1878	1	.0129	.76**
Vocational training (VT) or apprenticeship training (App)	-.3952	.1623	5.9271	1	.0149	.67**
Ind/VT/App	-.2575	.1627	2.5028	1	.1136	.77
Deciles of propensity score						
1st	-.2101	.1709	1.5114	1	.2189	.81
2nd	-.3659	.1642	4.9664	1	.0258	.69**
3rd	.2276	.1282	3.1526	1	.0758	1.26*
4th	.0012	.1361	.0001	1	.9930	1.00
5th	.1065	.1322	.6484	1	.4207	1.11
6th	.1390	.1308	1.1285	1	.2881	1.15
7th	.2546	.1294	3.8713	1	.0491	1.29**
8th	-.2655	.1643	2.6106	1	.1062	.77
9th	-.1483	.1626	.8309	1	.3620	.86
10th	.1293	.1554	.6918	1	.4055	1.14
Log time served	.8123	.0652	155.3531	1	.0000	2.25**
Release cohort						
1985	.2395	.0804	8.8826	1	.0029	1.27**
1986	.0507	.0882	.3306	1	.5653	1.05
1987	.0233	.1379	.0285	1	.8661	1.02
African American	.1825	.0467	5.2893	1	.0001	1.20**
Hispanic	.2816	.0631	19.9345	1	.0000	1.33**
Release age group						
18-24 years	.2700	.1427	3.5797	1	.0585	1.31*
25-34 years	.1163	.0883	1.7365	1	.1876	1.12
35-44 years	.0809	.0934	.7503	1	.3864	1.08
45-54 years	-.1381	.1345	1.0534	1	.3047	.87
66+ years	-.3630	.2319	2.4505	1	.1175	.70
Education group						
Elementary school or less	.1877	.1326	2.0017	1	.1571	1.21
9th-11th grade	-.0272	.1184	.0528	1	.8183	.97
12th grade	.0465	.1043	.1992	1	.6554	1.05
13th-15th	.1440	.1665	.7476	1	.3872	1.16
16th grade or beyond	-.5596	.3471	2.5993	1	.1069	.57

-2 log likelihood, 9262.706; covariates (-2LL), 262.491; df = 29; $p < .0001$.

*Significant, $p < .10$.

**Significant, $p < .05$.

ment during which these inmates were identified for this study (log time served), the year the inmate was released to the community (release cohort), race (African American), ethnicity (Hispanic), age at release (release age group), and education level (education group) were included. For propensity score, release cohort, release age group, and education group, missing data were treated as categorical values. For every grouping variable other than program participation, the variables were coded as effects vectors. Thus, the coefficients should be interpreted relative to the adjusted grand mean of the outcome measure.

Table 3 shows that the model with the covariates is statistically significant. The propensity score was used in this analysis as a proxy for all of the background characteristics that were used to produce the estimated logit for the selection process. Thus, inmates with high propensity scores were the most likely to select into these programs given their background characteristics. There does not appear to be any coherent pattern of significant propensity score coefficients. This finding demonstrates that the two-stage selection method for identifying comparison observations yielded two groups that were balanced with respect to this proxy measure.

The coefficients for Hispanics, African Americans, younger inmates (ages 18 to 24), inmates with longer periods of time served, and inmates released in 1985 were statistically significant. These findings indicate these groups were more likely to recidivate throughout the observation period. These measures were included in the model to provide statistical adjustments for any imbalance between the program and comparison groups not accounted for by modeling the selection process (represented in the model by the propensity score) and the matching algorithm.

Two of the program participation variables were statistically significant and the third approached significance. Inmates who worked in prison industries were 24 percent less likely to recidivate throughout the observation period while those who participated in either vocational or apprenticeship training were 33 percent less likely to recidivate throughout the observation period. Inmates who participated in all three programs were 23 percent less likely to recidivate, although the effect for that group was not as significant. (For the Cox proportional hazards model these percentages are obtained by subtracting the value 1 from the estimates in the column labeled

Exp(Coeff). For example, for the industries estimate in the first row of Table 3, .76 minus 1 yields -.24, which, when multiplied by 100, produces -24 percent.)

It appears that there was a long-term impact of prison industries and vocational or apprenticeship training on post-release recidivism rates.

Summary

Despite the stigma of imprisonment and the lowered expectations of an ex-offender, it appears that prison programs can have an effect on post-release employment and post-release arrest in the short run and recidivism in the long run. The failure to find these effects in the past may have been due to either the ineffectiveness of the particular programs that were evaluated or to an inadequate research design that, among other things, provided insufficient sample sizes or failed to control for selection bias. While the data reconfirm the notion of a secondary labor market for ex-offenders, as well as extremely low wages in the first year after release, inmates who participated in work and job skills programs were less likely to be recommitted to federal prisons as much as 8 to 12 years after their release.

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