

AFD Ep 317 Links and Notes - Prison Labor

- California firefighters [Bill]
 - <https://fortune.com/2020/07/15/california-wildfires-firefighters-prisoners-inmates-covid-coronavirus/> “California is facing a wildfire fighter shortage because prisoners are getting sick with COVID” - *The California Department of Forestry and Fire Protection has responded to nearly 4,000 wildfires ravaging 34,000 acres in the first seven months of 2020, up from 2,800 over the same period a year ago. To help fight these fires, the state typically depends on about 2,200 incarcerated people to work the frontlines, but state prison officials have announced that at least 30 of the state’s 77 inmate crews are now under lockdown due to outbreaks of the coronavirus in their camps. [...] The news comes as cases of the virus surge all over California, especially in prison systems where inmates report a lack of access to basic sanitation products like hand sanitizer or the ability to social distance. CDCR currently has over 6,600 confirmed COVID-19 cases. The California Correctional Center, which is the primary training hub for incarcerated wildland firefighters, has seen the second largest spike in cases with 216 in the last two weeks. California governor Gavin Newsom also noted that a decrease in prison population in total has severely limited firecrews. Even before the virus spread, 13 crews had been lost due to “natural attrition, expedited releases, and sentencing reform changes,” said CDCR information officer Aaron Francis. The state has released about 10,000 inmates early to avoid crowding because of the pandemic, and another 8,000 could be released by August. [...] **Inmates typically fight fires for wages between \$2.90 and \$5.12 per day, plus an additional \$1 per hour during active emergencies for their potentially life-threatening efforts. The firefighters they work alongside earn an average of \$91,000 each year before overtime pay and bonuses. Cal Fire has around 6,500 year-round employees, and around 9,000 during fire season. Inmates, which make up “hand crews” represent a very significant portion of that staff. The Conservation Camp Program, officially established in 1945, is estimated to save California taxpayers about \$100 million each year. [...] **During active fires, inmates earn about \$27 each day, much better than other prison jobs that would earn them \$0.08 to \$0.37 per hour. They also have fresher food, more freedom and, perhaps most importantly, receive two days off their prison sentence for every one day served (commonly known as 2-for-1).** [...] The prisoners who work at fire camps often find that they’re unable to put their skills to use when they’re released. The majority of firefighting jobs in the U.S., and most of the 900 fire departments in California, require employees to obtain an Emergency Medical Technician or paramedic license. In California, the majority of convicted felons can’t obtain those licenses until they’ve been out of prison for 10 years.***
 - <https://time.com/5457637/inmate-firefighters-injuries-death/> Time Nov 16 2018: “Inmates Fighting California Wildfires Are More Likely to Get Hurt, Records Show” - *More than 1,000 inmate firefighters required hospital care between June 2013 and August 2018, according to data obtained by TIME through FOIA requests. They are more than four times as likely, per capita, to incur object-induced injuries, such as cuts, bruises, dislocations and fractures, compared with professional firefighters working on the same fires. Inmates were*

also more than eight times as likely to be injured after inhaling smoke and particulates compared with other firefighters.

- Euphemistically called “Conservation Camps” (established on the road in 1915, first permanent camp in 1946 after wartime labor shortages, first permanent female camp in 1986):
<https://www.cdcr.ca.gov/facility-locator/conservation-camps/>
 - *Overall, there are approximately 3,100 inmates working at fire camps currently. Approximately 2,200 of those are fire line-qualified inmates. In addition to inmate firefighters, camp inmates can work as support staff for the camps.*
 - *All inmates receive the same entry-level training that CAL FIRE’s seasonal firefighters receive in addition to ongoing training from CAL FIRE throughout the time they are in the program.*
 - *An inmate must volunteer for the fire camp program; no one is involuntarily assigned to work in a fire camp. Volunteers must have “minimum custody” status, or the lowest classification for inmates based on their sustained good behavior in prison, their conforming to rules within the prison and participation in rehabilitative programming.*
 - *Some conviction offenses automatically make an inmate ineligible for conservation camp assignment, even if they have minimum custody status. Those convictions include: sexual offenses, arson and any history of escape with force or violence.*
 - *When not fighting fires, inmate firefighters perform conservation and community service projects performing a wide range of duties, such as clearing brush and fallen trees to reduce the chance of fire, maintaining parks, sand bagging, flood protection and reforestation.*
 - *Adult male inmates receive fire-fighting training at the California Correctional Center, Susanville; Sierra Conservation Center, Jamestown; the California Men’s Colony, San Luis Obispo; and the California Rehabilitation Center, Norco. Female inmates are trained at the California Institution for Women, Corona. **Juvenile offenders are trained at the Pine Grove Conservation Camp in Amador County.***
- Massachusetts legislature supply law & municipal purchasing requirements [Bill]
<https://www.mass.gov/massachusetts-correctional-industries-masscor>
<http://www.masscor.us/> “Under State Use Law when buying from MassCor Industries, Massachusetts Agencies, Departments, Cities, Towns, and Municipalities are EXEMPT from ANY obligation to participate in the usual bidding procedures. The size of the purchase is irrelevant!”
 - <https://www.gazettenet.com/Data-What-cities-and-towns-have-bought-from-Mass-cor-28251100> *More than 500 people participate in MassCor, and compensation ranges between \$.85 and 1.45 an hour. Around the country, in 2017, wages for inmates in state-owned businesses like MassCor averaged between \$.33 and \$1.41 per hour, according to the Prison Policy Initiative, a research nonprofit based in Easthampton that focuses on mass incarceration and advocates for reform.*
 - <https://www.themarshallproject.org/2019/06/24/first-big-scoop-student-journalists-expose-high-school-s-use-of-prison-labor> *As it turned out, the other vendor that had vied to reupholster the auditorium seats was the Wellspring Cooperative: a*

local organization that hires formerly incarcerated and other low-income people, compensates them well (up to \$25 an hour, according to Spencer's article) and then makes them worker-owners of the business.

- State Use Laws (this term is also used sometimes for subminimum wage Disability Laborer Workshops, which is a topic for another day) -
 - [In the first half of the 19th century](#), northern prisons hired out labor to farms and factories (“contract labor”) which became the model followed by Southern prisons after the Civil War when creating Black chain gangs (see 13th Amendment notes below), but even in the post-Civil War period the northern contract labor system was worth \$35 billion in 2012 dollars and represented 80% of all US prison labor. Prison abolition efforts beginning in the late 1860s to replace that abusive contract labor system led to the creation of production within prison systems directly, although sometimes outside businesses just installed factories inside the prisons. Both indoor and outdoor prison labor could be treated extremely severely compared to non-prison workers who could simply quit if they didn’t like their situation. Prisoners would be routinely used to break strikes by new unions before and after the Civil War by replacing the workforce of a factory entirely. (Local union radicals in Tennessee freed prisoners during the Coal Creek War specifically to try to prevent them being used as workers.) One other note from this article: It mentions just before the Civil War an example of a day rate of \$3 for non-prison ironworkers in New York City vs 40 cents a day for imprisoned workers there, which sounds quite similar to the rates for prison labor in some states today, with no adjustment for inflation necessary! However the prisoners weren’t getting the money themselves, while today they are.
 - “The State-Use System of Prison Labor in Massachusetts” by Harold E. Lane in *Social Forces*, Oct., 1940, <https://www.jstor.org/stable/2570842?seq=1> Public purchasing requirements were created in the late 19th century (in response to the Long Depression per the source above) in New York to try to carve out a market for products that would no longer be in direct competition with non-prison-labor suppliers in the private sector. The AFL then promoted similar laws around the country to protect union workers from prison competition. By 1899, 43 of 45 states had adopted some form of State Use requirement. Interestingly, although New York adopted the change first, it followed a first in the nation comprehensive investigation of prison labor practice and potential regulation at the behest of the Massachusetts legislature in 1878. There however, the recommendations were pretty light and the report was formulated to suggest – while the number of prisoner-laborers was so minuscule compared to the free labor force that unfair competition was probably not a serious threat – that perhaps some sort of public purchasing system ought to be devised or that prison labor should be tested for public works projects. The recommendations were largely ignored in Massachusetts initially until it had caught on elsewhere. (People tended to pay attention across state lines and national borders about trends in and research on prisons at the time.) By this point there was a very big push to abolish contract labor for both economic and moral

reasons given the working conditions, and the compromise was to preserve prison labor but only for public supply (and to actually pay the prisoners some amount from the proceeds instead of just enslaving them). Any surplus beyond public needs was to be sold to private buyers at prevailing wholesale value. Not long after, the state purchasing laws were extended to municipalities in order to try to better align the size of the market to the size of the production capacity. The system continued until federal legislation during the Great Depression (after years of effort by Herbert Hoover before he became president) made the public focus even stronger by largely banning private sales of prison-produced goods but also allowing states to set their own regulations on the sale of goods from other states' prisons. Prison products had to be labeled as such if they were being sold across state lines. (There's also a federal prisons labor public corporation created in the 1930s.)

- <https://www.thenation.com/article/archive/hidden-history-alec-and-prison-labor/> In the 1980s and especially the 1990s, the conservative group ALEC exploited some loopholes in a 1979 federal prison labor reform law and proliferated legislation across state lines to greatly expand prison labor and move it back into the private sector after a century of prohibition on that. This was largely to open a new revenue stream for the for-profit prison corporations, but framed as a benefit to the prisoners. Outside contractors would have to pay the workers market-rate wages according to the 1979 federal law, but under ALEC's state laws implementing that system, significant portions of those wages would be diverted to the prison systems for charges such as room and board or victim restitution or most nefariously toward special accounts specifically intended to finance lobbying and corporate recruitment efforts to grow the industry.
- Bloomberg campaign's phone bank prisoners [Rachel]
 - <https://theintercept.com/2019/12/24/mike-bloomberg-2020-prison-labor/> Through a third-party vendor, the Mike Bloomberg 2020 campaign contracted New Jersey-based call center company ProCom, which runs call centers in New Jersey and Oklahoma. Two of the call centers in Oklahoma are operated out of state prisons. In at least one of the two prisons, incarcerated people were contracted to make calls on behalf of the Bloomberg campaign. [P]eople incarcerated at the Dr. Eddie Warrior Correctional Center, a minimum-security women's prison with a capacity of more than 900, were making calls to California on behalf of Bloomberg. The people were required to end their calls by disclosing that the calls were paid for by the Bloomberg campaign. They did not disclose, however, that they were calling from behind bars. "We didn't know about this and we never would have allowed it if we had," said Bloomberg spokesperson Julie Wood. "We don't believe in this practice and we've now ended our relationship with the subcontractor in question." John Scallan, a ProCom co-founder, said his company pays the Oklahoma minimum wage of \$7.25 an hour to the Oklahoma Department of Corrections, which then pays the incarcerated people working in the call centers. The [Department of Corrections website](#) lists the maximum monthly wage for the

incarcerated at \$20 dollars a month, but another policy document says there is a maximum pay of \$27.09 per month.

When asked if their total monthly earnings are capped at these levels, Scallan said incarcerated people who work for ProCom make far higher wages. "I can tell you unequivocally that is not us," Scallan said. "Some of them are making that much every day."

The Oklahoma Department of Corrections did not respond to multiple requests for comment to clarify the discrepancy, nor to answer questions about ProCom's arrangement with the Bloomberg campaign.

Prison labor has been used in a federal election on at least one other occasion. In 1994, the late Republican congressperson from Washington state, [Jack Metcalf, used prison labor](#) to make campaign calls and was subsequently elected to Congress, where he served three terms.

- 13th Amendment legacies of Southern prison labor [Kelley]
 - <https://www.theatlantic.com/business/archive/2015/09/prison-labor-in-america/406177/> :
 - "Angola's farm operations and other similar prison industries have ancestral roots in the black chattel slavery of the South. Specifically, the proliferation of prison labor camps grew during the Reconstruction era following the Civil War, a time when southern states established large prisons throughout the region that they quickly filled, primarily with black men. Many of these prisons had very recently been slave plantations, Angola and Mississippi State Penitentiary (known as Parchman Farm) among them. Other prisons began convict-leasing programs, where, for a leasing fee, the state would lease out the labor of incarcerated workers as hired work crews. Convict leasing was cheaper than slavery, since farm owners and companies did not have to worry at all about the health of their workers."
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- Incarcerated Workers and the National Fair Labor Standards Act [Kelley]
 - Harker vs. State Use Industries, 1993, <https://casetext.com/case/harker-v-state-use-industries>:
 - Establishes that incarcerated workers do not have the right to the NFLS (e.g. minimum wage) because the relationship is not one of employer and employee.
 - Work is for rehabilitation and training purposes.
 - "Initially, the labor being performed in SUI programs differs substantially from the traditional employment paradigm covered by the Act. Inmates perform work for SUI not to turn profits for their supposed employer, but rather as a means of rehabilitation and job training. As a part of the DOC, SUI has a rehabilitative, rather than pecuniary, interest in Harker's labors. By producing useful goods in an

atmosphere that mirrors the conditions of a true private employer, SUI helps prepare inmates for gainful employment upon release. DOC's effort to prepare inmates for eventual private employment, however, does not mean that inmates have achieved such a goal while still incarcerated."

- Incarcerated laborers do not have the free will to choose employment.
 - "Because the inmates are involuntarily incarcerated, the DOC wields virtually absolute control over them to a degree simply not found in the free labor situation of true employment."
- There is no minimum wage necessary for living since all needs are taken care of.
 - "Further, the FLSA does not cover these inmates because the statute itself states that Congress passed minimum wage standards in order to maintain a "standard of living necessary for health, efficiency, and general well-being of workers." 29 U.S.C. § 202(a). While incarcerated, inmates have no such needs because the DOC provides them with the food, shelter, and clothing that employees would have to purchase in a true employment situation. So long as the DOC provides for these needs, Harker can have no credible claim that inmates need a minimum wage to ensure their welfare and standard of living. "
- <https://www.brennancenter.org/our-work/analysis-opinion/covid-19-highlights-need-prison-labor-reform>:
 - "Even worse, prisoners are excluded from the U.S. Occupational Health and Safety Administration protections that require employers to provide a safe working environment. This dehumanizing lack of protection for prison workers has long subjected them to conditions that have endangered their physical safety."
- 2018 Labor Strike [Rachel] (mentioned in Episodes 236 and 242) August 21 - September 9)
<https://incarceratedworkers.org/campaigns/prison-strike-2018>
One of the demands most pertinent to our discussion: An immediate end to prison slavery. All persons imprisoned in any place of detention under United States jurisdiction must be paid the prevailing wage in their state or territory for their labor.
https://www.idoc.idaho.gov/content/prisons/offenders_at_work
Also an important demand in 2020: The voting rights of all confined citizens serving prison sentences, pretrial detainees, and so-called "ex-felons" must be counted. Representation is demanded. All voices count.
- Bill: Guaranteeing wage equity to prisoner-laborers seems like a reform that gets us further down the road toward abolition by significantly undermining the capitalist incentives toward expanding the population of prisoner-laborers.
 - It is also imperative that any prison labor programs pay equitable wages because of the exorbitant costs of many prison services including in some cases contact with outside friends and family as well as basic entertainment.

- An additional crucial reform is that laws must be revised to ensure that any “skills development” among prisoner-laborers is not useless once released because convicts are barred from obtaining that kind of work (or severely discouraged).
- https://www.nola.com/news/coronavirus/article_336a7742-93d3-11ea-a344-1bdefd47e647.html