

**Statement before the U.S. Senate Committee on the Judiciary, Subcommittee on
Criminal Justice and Counterterrorism**

A Hearing on "An Examination of Prison Labor in America"

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Statement by

Charles Fain Lehman

Fellow, Manhattan Institute for Policy Research
Contributing Editor, *City Journal*
52 Vanderbilt Avenue
New York, NY 10017

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Thank you to the Committee for the opportunity to address you. As you are well aware, there are some 1.2 million people in American prisons today, including over 150,000 in federal custody.¹ 95 percent of these will eventually return home. A key question for today's hearing, then, is whether those men and women's experience of work in prison will prepare them for the world outside.

I am a public-policy analyst; my professional interest is in assessing the relationship between policy and social outcomes. I am not here to make a judgement on the legal or normative merits of prison labor. Rather, I aim to advance a simple argument: having prisoners work improves their employability post-release, and consequently reduces their recidivism risk. While the specifics matter, prison labor should be viewed as a key part of rehabilitation, not an impediment to it.

Incarceration, Employment, and Recidivism

Many criminals reoffend. Among a cohort of prisoners released in 2008, two-thirds were rearrested within 3 years, and four-fifths rearrested within 10 years.² Reducing recidivism benefits offenders (who spend less time in prison), society (which faces less crime) and the taxpayer (who spends less money on incarceration).

The relationship between employment and crime is far from straightforward; the common belief that “nothing stops a bullet like a job” is at best an oversimplification.³ Nonetheless, some evidence indicates that employment conditions affect recidivism risk. Using data on four million offenders across 43 states, one study found that prisoners released into worse labor-market conditions are more likely to reoffend than those released into better conditions.⁴ Data on 1.7 million offenders released from the California prison system repeats this finding, specifically showing that employment opportunities in construction and manufacturing are associated with significantly lower recidivism rates.⁵

Why might employment reduce recidivism? The most obvious reason is that licit wages discourage criminal employment. The high-quality evidence generally indicates that all else equal, more money reduces risk of property, but not violent, crime, consistent with a model in which property crime and work substitute.⁶ Beyond this simple relationship, employment might control criminal behavior through the imposition of pro-social norms, by relieving social pressures (“strain theory”), or by creating an environment of informal social control that limits opportunities for offending.

The employment/recidivism relationship is particularly important in the context of incarceration. Whether incarceration increases, decreases, or has no effect on recidivism risk is highly contingent on the kind of incarceration (pre-trial versus post-trial), the nature of the offender, and the counterfactual situation against which incarceration is compared.⁷ Nonetheless, where incarceration *causes* recidivism, it is likely through its effects on the offender's employability. One widely cited working paper based on Texas data found that incarceration causes significant increases in reoffending, reduces subsequent employment and earnings, and increases dependence

on public benefits.⁸ Analysis of a cohort of Hungarian offenders—although less applicable to the U.S. context—provides similar evidence on prison’s effects on labor market participation.^{9,10}

Again, the reasons why incarceration might reduce employment—and therefore increase offending—are straightforward. Most obviously, any criminal record “scars” the recipient, discouraging employers from hiring them. In one recent survey of nearly a thousand U.S. businesses, less than four in ten were willing to hire someone with a criminal record.¹¹ In addition, cohort evidence suggests that any interaction with the criminal justice system significantly reduces an individual’s propensity to even look for work.¹²

If employment prevents recidivism, and if prison can increase recidivism by reducing employment, then policy concerned with reducing recidivism must grapple seriously with how to get those returning from prison into the labor force.

Policies Meant to Reduce This Effect by Hiding Criminal History Do Not Work

The problem of employers being unwilling to hire returning citizens—sometimes framed as discrimination—has received a great deal of attention in recent years. Broadly speaking, there are two solutions to this problem. The hard one—improving criminal offenders’ marketability—I will discuss momentarily. The easy one is to make it harder for employers to know that someone has a criminal record.

To do so, many states have implemented policies that automatically expunge records (“clean slate” laws) or prohibit asking applicants about their criminal background (“ban the box” laws). Unfortunately, the best evidence indicates that these policies do not have their intended effects and may, in some cases, worsen employment outcomes for otherwise-disadvantaged non-offenders.

Take “ban the box” laws. Research on Massachusetts’s implementation found that it actually decreased ex-offenders’ employment, possibly by making them more choosy about what jobs they take.¹³ Paradoxically, banning “discrimination” against former offenders may also lead to increased discrimination against black men, whose race and sex employers use as a proxy. Research exploiting the staggered roll-out of these laws at the state level finds that “banning the box” reduces young, black men’s employment by 3 percentage points.¹⁴ A study that used 15,000 fictitious job applications in New York and New Jersey before and after implementation found that ban the box led to an increase in the employment gap between white and black applicants.¹⁵

The evidence is similarly pessimistic for “clean slate”/automatic expungement laws. A recent comprehensive analysis, examining three different “clean slate” initiatives, finds that expungement has essentially no effect on employment, on average.¹⁶

It’s possible that more aggressive efforts to remove the “stigma” of a criminal record might be more successful. But if employers cannot learn about an applicant’s criminal

history, the ban-the-box evidence suggests, they may use other, more unseemly proxies for criminal behavior—to the detriment of the law-abiding population.

Prison Work Can Increase Employment, Reduce Recidivism Risk

Policymakers, therefore, should prioritize interventions which actually improve labor-market performance of offenders. Few interventions are as obvious, for this purpose, as giving people jobs in prison. Such an approach, moreover, has some evidence to support its efficacy.

The most persuasive evidence comes from assessments of state prison labor programs. One analysis of employment of 77,000 Indiana and Tennessee prisoners by private firms found that participation in prison work is associated with significant reductions in recidivism at the one- and two-year marks, compared to a matched control group.¹⁷

Another, following a cohort of 6,000 offenders released from Minnesota prison between 2007 and 2011, found that those who worked were 24 percent more likely than matched controls to find a job, worked more hours, and had higher total wages, and that the number of hours working was significantly associated with lower recidivism rates.¹⁸

There is also benefit to prisoners working outside of the prison walls. Econometric evidence suggests that work-release—prisoners being moved to low-security facilities and being allowed out to work during the day—improves employment outcomes and reduces recidivism for property, but not violent, offenders, a finding consistent with the literature discussed above.¹⁹

Other evidence comes from abroad. Research on Italian offenders found that among those serving a sentence longer than six months, an additional two days of unskilled work per month reduces the reincarceration rate by between 3 and 10 percentage points—an effect the author attributes to skill-upkeep.²⁰

Another analysis found that incarceration in Norwegian prisons caused a steep reduction in reoffense—29 percentage points—driven entirely by those who did not work prior to their incarceration. That group also saw an increase in future employment and earnings.²¹

Effective Prison Labor is Possible

To this last, some might object that Norwegian prisons are not *like* American prisons. The former is generally regarded as unusually humane, the latter as unusually inhumane.

Bracket the fact that evidence from other nations, and from U.S. states, indicates that prison can improve employability and therefore reduce recidivism. The basic problem with this view is that it assumes the quality of U.S. prisons cannot be affected by policy.

Yet there is no law of man or nature that prohibits us from designing prison programming—including work—so as to maximize its long-run benefits.

There is much we do not know about what works in prison employment. This is a general problem: most federal rehabilitation programming is not evidence-based.²² Any reforms to federal prison-labor practices should incorporate a commitment to research on what programs work and do not work.

That said, the evidence suggests that providing incarcerated people with opportunities to work is an effective way to improve their labor-market outcomes on release and, thereby, reduce their risk of re-offense. On this basis alone, we ought to take seriously the role that prison labor plays in a comprehensive account of prison-based rehabilitation.

Notes

- ¹ E. Ann Carson and Rich Kluckow, “Prisoners in 2022 – Statistical Tables” (Bureau of Justice Statistics, November 2023), <https://bjs.ojp.gov/document/p22st.pdf>.
- ² Leonardo Antenangeli and Matthew DuRose, “Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008–2018)” (Bureau of Justice Statistics, September 2021), https://bjs.ojp.gov/BJS_PUB/rpr24s0810yfup0818/Web%20content/508%20compliant%20PDFs.
- ³ Jens Ludwig and Kevin Schnepel, “Does Nothing Stop a Bullet Like a Job?,” *Vital City*, May 16, 2024, <https://www.vitalcitynyc.org/articles/does-nothing-stop-a-bullet-like-a-job>.
- ⁴ Crystal S. Yang, “Local Labor Markets and Criminal Recidivism,” *Journal of Public Economics* 147 (March 1, 2017): 16–29, <https://doi.org/10.1016/j.jpubeco.2016.12.003>.
- ⁵ Kevin T. Schnepel, “Good Jobs and Recidivism,” *The Economic Journal* 128, no. 608 (February 2018): 447–69, <https://doi.org/10.1111/eoj.12415>.
- ⁶ Jens Ludwig and Kevin Schnepel, “Does Nothing Stop a Bullet Like a Job? The Effects of Income on Crime,” Working Paper, 2024–42 (Chicago, Illinois: Becker-Friedman Institute for Economics at the University of Chicago, April 2024), https://bfi.uchicago.edu/wp-content/uploads/2024/04/BFI_WP_2024-42.pdf.
- ⁷ Charles E. Loeffler and Daniel S. Nagin, “The Impact of Incarceration on Recidivism,” *Annual Review of Criminology* 5, no. Volume 5, 2022 (January 13, 2022): 133–52, <https://doi.org/10.1146/annurev-criminol-030920-112506>.
- ⁸ Michael Mueller-Smith, “The Criminal and Labor Market Impacts of Incarceration,” Working Paper (University of Michigan, August 18, 2015), <https://sites.lsa.umich.edu/mgms/wp-content/uploads/sites/283/2015/09/incar.pdf>.
- ⁹ Bence Czafit and János Köllő, “Employment and Wages before and after Incarceration – Evidence from Hungary,” *IZA Journal of European Labor Studies* 4, no. 1 (October 28, 2015): 21, <https://doi.org/10.1186/s40174-015-0044-z>.
- ¹⁰ The evidence, as previously mentioned, does not uniformly indicate that post-trial detention (i.e. prison) is criminogenic. The research reviewed by Loeffler and Nagin (cited above) counts three measured outcomes where prison is criminogenic, four where it is preventative, and six where it neither increases nor decreases reoffense risk. In general, whether or not prison is criminogenic is probably a function of the characteristics of both the offender and the prison in which he is incarcerated.
- ¹¹ Zoe B. Cullen, Will S. Dobbie, and Mitchell Hoffman, “Increasing the Demand for Workers with a Criminal Record,” Working Paper, Working Paper Series (National Bureau of Economic Research, April 2022), <https://doi.org/10.3386/w29947>.
- ¹² Sandra Susan Smith and Nora C. R. Broege, “Searching for Work with a Criminal Record,” *Social Problems* 67, no. 2 (May 1, 2020): 208–32, <https://doi.org/10.1093/socpro/spz009>.
- ¹³ Osborne Jackson and Bo Zhao, “The Effect of Changing Employers’ Access to Criminal Histories on Ex-Offenders’ Labor Market Outcomes: Evidence from the 2010–2012 Massachusetts CORI Reform,” *Working Papers*, Working Papers, February 1, 2017, <https://ideas.repec.org/p/fip/fedbw/16-30.html>.
- ¹⁴ Jennifer L. Doleac and Benjamin Hansen, “The Unintended Consequences of ‘Ban the Box’: Statistical Discrimination and Employment Outcomes When Criminal Histories Are Hidden,” *Journal of Labor Economics* 38, no. 2 (April 2020): 321–74, <https://doi.org/10.1086/705880>.
- ¹⁵ Amanda Agan and Sonja Starr, “Ban the Box, Criminal Records, and Racial Discrimination: A Field Experiment*,” *The Quarterly Journal of Economics* 133, no. 1 (February 1, 2018): 191–235, <https://doi.org/10.1093/qje/qjx028>.
- ¹⁶ Amanda Y. Agan et al., “Can You Erase the Mark of a Criminal Record? Labor Market Impacts of Criminal Record Remediation,” Working Paper, Working Paper Series (National Bureau of Economic Research, May 2024), <https://doi.org/10.3386/w32394>.
- ¹⁷ Jeffrey D. Hopper, “Benefits Of Inmate Employment Programs: Evidence From The Prison Industry Enhancement Certification Program,” *Journal of Business & Economics Research (JBBER)* 11, no. 5 (April 27, 2013): 213–22, <https://doi.org/10.19030/jber.v11i5.7836>.
- ¹⁸ Grant Duwe and Susan McNeeley, “The Effects of Prison Labor on Institutional Misconduct, Post-Prison Employment and Recidivism” (Minnesota Department of Corrections, December 2017), https://mn.gov/doc/assets/Effects%20of%20Prison%20Labor%20on%20Institutional%20Misconduct%20%20Post-Prison%20Employment%20and%20Recidivism_tcm1089-320173.pdf.

¹⁹ Jillian Berk, “Does Work Release Work?” (Working Paper, Brown University, May 2, 2008), <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=ec5f557cc5b792681ce8c7f21ed50e7c249b4107>.

²⁰ Giulio Zanella, “Prison Work and Convict Rehabilitation,” *SSRN Electronic Journal*, 2020, <https://doi.org/10.2139/ssrn.3643210>.

²¹ Manudeep Bhuller et al., “Incarceration, Recidivism, and Employment,” *Journal of Political Economy* 128, no. 4 (April 2020): 1269–1324, <https://doi.org/10.1086/705330>.

²² James M. Byrne, “The Effectiveness of Prison Programming: A Review of the Research Literature Examining the Impact of Federal, State, and Local Inmate Programming on Post-Release Recidivism,” *Federal Probation* 84, no. 1 (December 2019), https://www.uscourts.gov/sites/default/files/84_1_1_0.pdf.