

## Re: Prison labor for wildfire prevention

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From: David Fathi (dfathi@aclu.org)

To: mermade4@yahoo.com

Date: Wednesday, March 31, 2021, 03:21 PM PDT

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Dear Mr. Merrilees,

Thank you for your message, and apologies for my very delayed response. Before responding I wanted to see if my colleagues at the ACLU of Northern California are currently doing any work on these issues (unfortunately, they are not).

As you suggest, work for incarcerated person can be very positive; the vast majority I have met want to work, and the few prison jobs that exist, however menial and boring, are always highly sought after. At the same time, given the inherently coercive nature of the prison environment, there is an ever-present risk of exploitation and abuse, to which we need to be sensitive.

We believe that this risk can best be minimized by treating incarcerated workers as much as possible like workers in the outside world. This would mean, for example, coverage by workers compensation, anti-discrimination, and occupational health and safety laws; the right to organize to address working conditions; and the payment of a reasonable wage. It's difficult to say with precision what a reasonable wage would be; obviously incarcerated workers are not in the same position as non-incarcerated workers because their living expenses are largely covered by the state. But it would certainly be more than the token amount they are currently paid.

Your idea of time off one's sentence in exchange for work is an intriguing one. Anything that reduces incarceration is worth seriously considering; on the other hand, we wouldn't want a system where (for example) prisoners with disabilities ended up serving more time for comparable offenses because they were less able to work.

I am grateful that you and your colleagues are considering this issue, and I hope these thoughts have been helpful. Do let me know if there's anything further you need.

Best,

David

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**From:** Neil & Jennifer Merrilees <mermade4@yahoo.com>  
**Sent:** Thursday, March 18, 2021 7:09 PM  
**To:** David Fathi <dfathi@aclu.org>  
**Subject:** Prison labor for wildfire prevention

Mr Fathi

I read and enjoyed an article you wrote in 2018 about the use of inmate labor for wildfire suppression in California.

I am the current chairman of the San Mateo County (California) Parks Commission, and at our April meeting we wanted to have a discussion about the continued use of inmate labor by the our parks department. Inmate crews have been used to clear brush, deadfall, etc in our parklands and the Local fire agency Calfire, sometimes uses inmates fo fight wildfires. I wanted to ask you if the ACLU has specific recommendations for a fair pay rate, what kind of workers comp...etc.

It has been suggested by some that we eliminate the use of inmate labor entirely. It has been suggested by others, that paying a inmates the prevailing wage would significantly lessen the desirability of the use of inmate labor, restricting this option (which I hear is popular) for inmates in the future.

What reasonable changes does the ACLU propose:

1. Wages
2. Benefits
3. Time off sentence for volunteered hours?
4. Or elimination of the program entirely?

We are going to have an informational discussion at our meeting and I want to try to get a clear picture of the issue. If you don't have time to answer, is there someone else you would suggest I contact?

Thank you

Please feel free to contact me if you have time.

Neil Merrilees  
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