



TESTIMONY OF DR. MEGAN FRENCH-MARCELIN, SENIOR DIRECTOR OF NEW YORK STATE POLICY AT LEGAL ACTION CENTER

NEW YORK STATE SENATE JOINT PUBLIC HEARING TO EXAMINE THE ECONOMY, EFFICIENCY, EQUITABILITY, AND EFFECTIVENESS OF THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION'S DIVISION OF CORRECTIONAL INDUSTRIES

February 12, 2024

Thank you to the Chairs of the respective committees that convened this hearing for the opportunity to testify on the economic impacts of Corcraft. I appear today on behalf of the Legal Action Center, an organization based in New York City that uses legal and policy strategies to combat discrimination, build equity among and across our health and justice systems, and restore opportunity for people with arrest and conviction records, substance use disorders and people living with HIV. Legal Action Center also leads the statewide Alternatives to Incarceration and Reentry Coalition, a network of service organizations with decades of experience in providing holistic, community-based supports. As a collective, we serve more than 25,000 justice-involved individuals each year. The Legal Action Center is also part of the 13th Forward coalition, which seeks to advance state legislation to extend desperately needed workers' rights and protections to incarcerated New Yorkers.

My testimony here today will cover the expansiveness of local and county spending on Corcraft products, then I will touch on the potential questions of transparency and accountability with regard to Corcraft's preferred vendor status, and will conclude my testimony with a series of questions about the future of the state's economy.

There is limited understanding of how Corcraft functions. However, the response to a 2020 FOIL request of the Department of Corrections and Community Supervision by the Legal Aid Society imparts some insight into the business behind and economic impact of Corcraft.¹ Data provided in response to this request led to some extraordinary findings about the reach of Corcraft into each and every New Yorkers daily lives, a phenomena that was most egregiously on display at the height of COVID-19, when it was revealed that hand sanitizer distributed by the state was packaged by incarcerated workers who, in cruel irony, were barred from using it themselves.²

¹ DOCCS. Corcraft Order Receipts. 2017-2020. FOIL No 19-10-128. Obtained through FOIL request made October 15, 2019 by the Legal Aid Society pursuant to New York State Freedom of Information Law (Public Officer's Law §§ 84-90).

² Farzan, Antonia N. 2020. "New York Gov. Andrew M. Cuomo criticized for using prison labor to make hand sanitizer as coronavirus spreads - The Washington Post." *Washington Post*, March 10, 2020. <https://www.washingtonpost.com/nation/2020/03/10/hand-sanitizer-prison-labor/>.

But how Corcraft was woven into the operations of New York, from the SUNY³ system to the NYPD,⁴ was actually quite shocking. And in fact, data disaggregating sales by customer revealed that nearly every county from Clinton to Erie to my own Kings County were patrons of Corcraft products, in addition to local municipalities and government offices, even if counties only spent several hundred dollars in a year.

In preparation for this hearing, I revisited these numbers again, and as an exercise, I looked at the expenditures of the counties represented by the Senators that called this hearing. To begin with Kings County, which encompasses the home districts of Senator Salazar and Senator Myrie, of whom I am a constituent, the county purchased just \$225 worth of Corcraft product in a three year period. Monroe County, which Senator Cooney represents, purchased \$2.4 thousand worth of products from the prison-based company in the same time frame. And, most shockingly, in Senator Skoufis' home district, Orange County had, in just three years, purchased at least \$2.3 million in goods from Corcraft.⁵ You see, in New York State, and in this very room, Corcraft products are ubiquitous.⁶

Part of the reason for that is Corcraft's status as a preferred vendor.⁷ Preferred vendor status for state-led industries is not, in and of itself, unique. States, municipalities, federal agencies, and even industry trade associations compile such lists. Whole sectors of our state economy are decided by and determined on which vendors are assigned preferred status. The market rationale here is that these lists, where vendors have supposedly already been vetted, lower the risk of a lack of quality assurance, waste, and gaps in the supply line.

In many cases, state and local governments also utilize this status to make the market more equitable. In New York, preferred vendor status is also awarded to agencies that employ veterans and other classes of people that have been historically marginalized from the labor system.⁸ Here, the goal is to right the market to ensure equity.⁹

The only reason that Corcraft's status as a preferred vendor is distinct is because it applies the principles of making a "free" market to captive labor - and simultaneously ascribes Corcraft a status not of any preferred vendor, but as *the* preferred vendor,¹⁰ requiring by state law that

³ Kamen, Jacob. 2023. "Forced Prison Labor in New York State: Modern Slavery - The New Paltz Oracle." *The New Paltz Oracle*, November 15, 2023. <https://oracle.newpaltz.edu/forced-prison-labor/>.

⁴ Nicholas, JB, and Michelle Bocanegra. 2017. "How NY Prison 'Slave Labor' Powers A \$50 Million Manufacturing Enterprise." *Gothamist*, November 2, 2017. <https://gothamist.com/news/how-ny-prison-slave-labor-powers-a-50-million-manufacturing-enterprise>.

⁵ DOCCS. Corcraft Order Receipts. 2017-2020. FOIL No 19-10-128. Obtained through FOIL request made October 15, 2019 by the Legal Aid Society pursuant to New York State Freedom of Information Law (Public Officer's Law §§ 84-90).

⁶ Ibid.

⁷ See Section 162(2) of the New York State State Finance Law.

⁸ Effective October 4, 2025, there will be six preferred vendors in New York State.

⁹ See list of products produced by preferred vendors across the state.

<https://ogs.ny.gov/system/files/documents/2023/12/list-of-preferred-source-offerings.pdf>

¹⁰ State Finance Law Sec. 162(4)(a)(i).

counties, municipalities, and state agencies purchase from Corcraft before any other preferred vendor in the state when possible.¹¹

While price fixing and supply lines remain governed by the state's broader economic doctrine, incarcerated workers labor without basic protections, including the ability to refuse work, safe and healthy working conditions, mechanisms by which to file grievances, or proper vocational and occupational training required by many of the industries in which incarcerated workers are employed.

With no labor protections, incarcerated workers - both those employed in Corcraft and those whose work functions to keep New York correctional facilities running - labor for pennies by the hour.¹² Incarcerated workers labor under the threat of punishment without these protections.¹³ Workers are not allowed sick time, do not get paid for breaks, face retaliation for challenging dangerous conditions including demotions, physical violence, and indefinite time in administrative segregation.¹⁴

Minimum wage for incarcerated workers has not been increased since 1993,¹⁵ while the price of raw goods and the value of Corcraft sales have risen astronomically, particularly with the breakdown of supply chains and increased inflation of recent years. Additionally, the cost of commissary food items, essential for supplementing meals inside, has risen considerably in the last two years.¹⁶ Since 1990, Corcraft has seen \$2 billion in revenue that was distributed back into the state budget after accounting for operations cost.¹⁷ Corcraft is, indeed, big business for the state.

The rationale for this is that as *the* preferred vendor, the State has ensured that its own entities and those of county and city governments are the beneficiaries of a preapproved process. Yet, the fact is that we know very little about the procurement process that Corcraft uses to enforce quality control and regulate suppliers.

¹¹ See this directive that states where Corcraft products are available, they should be purchased to avoid a "time-consuming bidding process." https://doccs.ny.gov/system/files/documents/2022/04/6922_1.pdf

¹² DOCCS. Corcraft Order Receipts. 2017-2020. FOIL No 19-10-128. Obtained through FOIL request made October 15, 2019 by the Legal Aid Society pursuant to New York State Freedom of Information Law (Public Officer's Law §§ 84-90).

¹³ Ibid.

¹⁴ Ibid.

¹⁵ "Captive Labor: Exploitation of Incarcerated Workers." 2022. American Civil Liberties Union. <https://www.aclu.org/publications/captive-labor-exploitation-incarcerated-workers>. See p56.

¹⁶ See Freddy Medina. 2023. "Inflation Is Putting Food Out of Reach in New York Prisons." *New York Focus*, April 11, 2023. <https://nysfocus.com/2023/04/11/prison-package-ban-inflation-hunger>.

¹⁷ DOCCS. Corcraft Revenue from Goods and Services 1990 - 2021. (FOIL 22-09-400). Obtained through FOIL request made October 15, 2019 by the Legal Aid Society pursuant to New York State Freedom of Information Law (Public Officer's Law §§ 84-90). <https://legalaidnyc.org/wp-content/uploads/2020/03/DOCCS-19-09-243-Responsive-Records.pdf>

The last audit of supply quality, conducted by the New York State Comptroller in 2014,¹⁸ found that the assurances of competitive processes in vendor selection and regulation that are generally assumed in industry standards for such designation were not present in the way Corcraft was doing business. The audit revealed a concerning lack of procedures designed to ensure that the New Yorkers who are required to buy from Corcraft (when and if products meet their needs) receive the best overall value.

The comptroller's report warned that Corcraft's competitive bidding processes to procure raw goods were inadequate to ensure quality and fair pricing. Indeed, auditors pointed to processes by which the same Corcraft employee who was responsible for developing and issuing the request for bid was the same individual evaluating those bids and issuing quality assurance reports, and was also the person to award the contract. The resulting effect, as described in the audit, was that it was impossible to ensure that the process was fair and impartial. The selected bids suggested that perhaps they were not.

In many cases, awards went to the lowest bidders without Corcraft even testing the samples sent by other bids or without testing all required specifications as outlined in the original RFB. In 84 percent of the awarded contracts included in the comptroller audit, totalling some \$25 million of state funding, quality assurance reports were either missing or incomplete.¹⁹ What we can gather is that the assurances that Corcraft's status as a preferred vendor was supposed to offer - that of quality, efficiency, and efficacy of the product - was suspect at best.

Of course, this was an audit completed more than a decade ago, and we have no idea except from what has already been shared if the procurement processes have changed to reflect the best practices of the state. This brings into questions the state's argument that the economic efficacy of Corcraft supports its continued existence.

And here, there should be a moral pause where one should ask the question of even if prison labor is not chattel slavery, should the economic health of the state depend on forced labor, disproportionately Black and brown, and depressed wages.²⁰ And that, I believe, is the real question we should be asking.

¹⁸ 2014. "Department of Corrections and Community Supervision: Corcraft's Textile Procurement Practices." Office of the NYS Comptroller. <https://www.osc.ny.gov/files/audits/2017-12/sga-2014-12s22.pdf>.

¹⁹ *Ibid.*, p8-9.

²⁰ Current prison labor processes undermine the broader economy in a myriad of ways: People cannot, from inside prison, help support their families and, in many cases, are reliant on families to scrimp together money to support them because wages aren't enough to even cover commissary or other costs associated with incarceration. Families become increasingly unstable as a result. Because wages are so low, it also means that when people are released, they have not accrued the funds necessary to begin to stabilize and reintegrate in their communities. More than half of people released from state incarceration go directly into the shelter system as a result of financial instability and lack of opportunity. See *Urban Design Forum*. 2020. "Breaking Free: Preventing the Prison-to-Shelter Pipeline." July 24, 2020. <https://urbandesignforum.org/breaking-free-preventing-the-prison-to-shelter-pipeline/>.

There are, of course, questions about how the preferred status of Corcraft's monopoly inhibits counties and cities from developing local economies that are not dependent on or subject to the pricing controls of the state and where local economies are being sustained by production chains that continuously benefit that municipality.

The state, in promoting this system, also shores up a fallacy that promotes prison labor as creating a continuum to jobs when people return to their communities. The reality is that as long as Corcraft's patent on certain industries, like the production of license plates, exists jobs on the inside - even if we manage to pass essential bills like the Fairness and Opportunity for Incarcerated Workers Act (S.6747) assuring real wages and labor protections - will never lead to jobs on the outside.²¹

As we reevaluate state policies whereby the sole response of the state to wholesale disinvestment in Black and brown communities and the retrenchment of public services and resources was mass incarceration, we should be thinking about the world we want to build - one that invests in our belief in collective humanity and provides real pathways to meaningful work and wages for all New Yorkers.

For currently incarcerated workers that could mean expanding apprenticeship programs in viable industries and union in-reach as well as developing a prison labor board to ensure that workers receive the training in relevant and economically viable vocations necessary to return to their communities as contributing earners and taxpayers. It may also mean expanding other types of programming in prisons, as has been proposed in the Executive Budget, including educational programs and accredited college tracks.

The question in front of us is one that ultimately is not really about the state law and procedures that govern Corcraft, but whether we, as a state, and you as members of a governing body, believe that our economy should be reliant on the rigged hyper-exploitation of incarcerated workers.

²¹ See the "Fairness and Opportunity for Incarcerated Workers Act (S. 6747) which establishes a prison labor board, sets minimum wage, and ensures protections: <https://www.nysenate.gov/legislation/bills/2023/S6747>.