



Toxic Sentence

E-Waste, Prisons and Economic & Environmental Justice

E-waste is becoming an ever-expanding problem for consumers who are driven to throw away short life-span electronic products, as well as for workers who recycle toxic electronic waste, many of whom are from the poorest sectors of society. Electronic waste is the fastest growing part of the municipal waste stream, rising nearly 3 times faster than the overall municipal waste stream at a rate of 5% per year. Over 100,000 computers become obsolete in the US every day. In 2000, the daily output of e-waste was over 6000 tons, which is the equivalent of a pile of 1,200 Hummers.¹ The US government alone accounts for seven percent of the entire world's computer purchases. Over 80% of electronic waste either ends up in landfills, is dumped on poorer countries without proper health and environmental oversight, or is managed improperly in facilities such as the Federal Prison Industries, Inc. (UNICOR) recycling programs.²

Given the incredible toxicity of electronic waste, which includes lead, mercury, brominated fire retardants, cadmium, and polyvinyl chloride, we can no longer pretend the problem is not serious, or simply depend on the good will of citizens to invest the time, energy and expense to find a responsible e-waste recycler in their community. As more states ban the dumping of

electronic waste in landfills, federal departments, such as the Environmental Protection Agency, state and national legislators and the electronics industry must establish clear guidelines, such as those defined in the *Recyclers Pledge of True Stewardship*, signed by over 30 recyclers, for recycling that protects worker and community health and the environment around the world.

“Funny, isn’t it, how this stuff is unsafe for public dumps, but not for us lowly prison inmates?!? Quite the double standard, wouldn’t you agree?” – inmate worker

UNICOR: The Bureau of Prisons and The Business of Punishment

In 1934, federal prison officials lobbied to create a work program throughout the federal prison system. By Executive Order, the Federal Prison Industries, Inc., with the trade name UNICOR, was created.³ This controversial venture within the Department of Justice engages in a range of industries, including the manufacture of furniture, textiles and dismantling of electronic waste, all with the use of captive labor in prisons across the country and privileged access to government contracts. UNICOR depends on taxpayer support for buildings, health care services, food, equipment, and emergency service, and is not bound by the same labor, safety, wage and environmental standards and oversight as the small businesses with which it competes.

Since the 1980’s, harsher drug sentencing laws—including mandatory minimums, increase in immigrant detention, elimination of many parole statutes—and increasing economic polarization has led to a massive growth in the number of people incarcerated—up 80% in just the 1980’s.⁴ The federal prison population is over 70% poor people and people of color.⁵ Today’s prison industry has become a source of ultra-cheap, captive labor.

In 1994, UNICOR began handling obsolete electronics, and the business has become a cash cow. Between 2002 and 2003, for example, net sales from electronic waste recycling more than doubled to over \$8 million, while overall UNICOR sales dropped.⁶ UNICOR handles obsolete electronics for government and private business in 8 federal prisons across the country: Atwater, CA; Marianna, FL; Fort Dix, NJ; Elkton, OH; Lewisburg, PA; La Tuna, TX; Texarkana, TX; and Tucson, AZ.⁷

What’s wrong with UNICOR?

UNICOR’s electronic waste recycling business model depends on the exploitation of inmates, preferential treatment for government contracts, labor-intensive substandard operations, and exemption from the full range of health and safety, environmental and labor laws.

UNICOR claims that it’s work programs are “job training,” touts that its program is voluntary and that it provides workers with income. The reality, however, is that UNICOR denies inmates full protection as workers, including the rights to organize and participate in decisions that effect their health and safety¹⁰. UNICOR operations also expose staff and their families to hazards.

the right to work is a human right

UNICOR proclaims in its 2001 annual report, “the right to work is a human right.”¹¹ UNICOR’s self-promotion distastefully confuses the human right to work with exploitation. The right to work is codified in several international covenants, including the *Universal Declaration on Human Rights* and the *International Covenant on Economic, Social and Cultural Rights*.¹² The right to work includes the right to be paid a living wage, the right to occupational health and safety protection, the right to organize, freely associate and collectively bargain, the right to be protected by labor laws, the right to redress for grievances and freedom from intimidation, harassment or retaliation for lodging grievances and the right to freely choose work.¹³

None of these rights exist behind prison walls.

wages

Under the current wage system used by UNICOR, inmate workers are exempted from any minimum wage laws, let alone prevailing wages for similar work. Wages are as little as 20¢ per hour. In addition, wages are involuntarily garnished to pay for a host of expenses, including restitution funds, anti-drug campaigns, mandatory savings, victims compensation funds and court fees.¹⁴ Even the best-paid UNICOR workers retain less than \$1.25 per hour, which is one-quarter of the federal minimum wage and about 1/8 of the official federal poverty line for a family of four. Prison labor wages in the U.S. are closer to wages in the Third World than they are to private sector wages. Wage exploitation, along with special access to government contracts, exemptions from oversight and taxpayer subsidy of infrastructure is what allows UNICOR to operate in the market, unfairly competing with small businesses that pay workers prevailing wages, benefits and workers compensation.

intimidation and retaliation

Inmate workers and staff from multiple UNICOR facilities have reported repeated harassment, intimidation and punishment when trying to get health data or simply learn about the hazardous materials to which they are exposed.

“[UNICOR officials say,] ‘This job is a voluntary one. If you are not happy here, you can quit,’ meaning, ‘Shut up. Don’t ask us for anything. Do your job, or we’ll replace you by pushing you out or forcibly retiring you.’”

– an inmate worker who faced retaliation for requesting information about health and safety

“[UNICOR electronic recycling] amounts to slave labor to avoid compliance with safety and health regulations that affect many inmates.” - inmate worker

While UNICOR is required to follow Occupational Safety and Health guidelines, UNICOR is not subjected to the same rigorous OSHA oversight as recyclers in the private sector. For example, OSHA inspectors are not at liberty to do unannounced inspections at UNICOR facilities - one of the most basic tools of enforcement.¹⁵ In addition, workers in prison are not considered employees and are not protected against retaliatory acts by UNICOR under the Fair Labor Standards Act. Inmates are not allowed to unionize. And when inmates have questioned the health and safety practices, they have been subjected to “diesel therapy” which means that they are packed up and sent on a bus to an even harsher confinement.

maximum security means minimal protection

The first line of defense in protecting the environment is protecting the health, safety and well-being of workers. Many in private sector electronics recycling understand this, and provide both the best available technologies and abide by strict policies to protect the health and safety of workers. They also understand that a well-paid, well-trained workforce is a safer, more committed workforce. In the captive labor model employed by UNICOR, the primary motivation for electronic waste recycling—namely protecting community health and the environment—takes a back seat to the prison’s institutional concern for security.

The security constraints imposed by the prison system serves to put workers and staff at greater risk for toxic exposure. Materials are handled up to three times more than at private sector facilities in the packing and unpacking processes, alone.¹⁶ The use of inadequate tools, such as hammers to break monitor glass and screwdrivers that are too short to reach deeply embedded screws, rather than safer, more efficient technologies, also increases the risk of exposure.¹⁷

Undercutting Responsible Recyclers

E-waste recycling, when done properly, can contribute to community economic development and environmental protection by providing stable ‘green’ jobs. Or, as UNICOR operates, “recycling” can become the equivalent of a high-tech chain gang, hurting workers inside and outside the Federal Prison Industries by driving down standards through unfair competition.

UNICOR primarily competes with small business recyclers bidding on government and private contracts to manage electronic

Health and Safety

UNICOR has been plagued with health and safety problems in its e-waste business. E-waste recycling at Atwater prison in California began operations in 2002, but has been shut-down several times, due to major health and safety problems, including a major fire in 2003.¹⁸ In order to maintain its most profitable line of operations, however, UNICOR continues to run these unsafe and unclean facilities, including the one at Atwater, CA. Wipe and air samples taken at the Atwater facility show OSHA actionable levels of heavy metals on some workers.¹⁹

This contamination does not only impact inmate workers. Staff employees take these contaminants, many of them reproductive toxins and neurotoxins, home with them on their clothes and skin, subjecting their families to exposure. Additionally, toxic exposure can long outlast the sentences of people in prison, costing them, their families and taxpayers for ongoing healthcare costs.

Atwater was the site of a major fire in early November 2003, when a load of 1000 TV and computer monitors inexplicably caught fire. The thick clouds of smoke carried toxic vapors beyond the prison. Workers from the Merced County Fire Department, County Department of Health and the Bureau of Prisons were called in to clean it up. Accidents like these pose a serious threat to the health and safety of inmates, prison staff, and the local communities where these facilities are sited. However, local communities do not have a say in whether or not UNICOR should be operating in their communities and what types of industries it should be involved in.

waste. UNICOR undercuts responsible recyclers through ultra-cheap labor, lower standards and special bidding privileges, which allow it to bid on contracts reserved for small business. Representative Pete Hoekstra (R, MI) is sponsoring a bill that would require UNICOR to compete with private companies for the government contracts it now fills by “mandatory sourcing.”²⁰ “What you end up with, in certain cases, is the federal government getting inferior products at higher prices,” said Rep. Hoekstra.

“NONE of what we are doing in this plant would be used in a for-profit venture, as it would be too dirty and/or too hazardous to do, plus the EPA and OSHA would shut them down for I-don’t-know-how-many violations. Because we are merely federal prison inmates, the BOP can get away with the hazardous conditions we face daily.” - an inmate worker

"I work just outside [the CRT glass breaking area], and am offered no ventilator, and they won't give us blood tests. It's a Mickey Mouse operation, and inmates are knowingly being subjected to chemical cocktails—and that is the bottom line. We are guinea pigs, and slaves and treated precisely that way."-inmate worker

Recently, the EPA awarded UNICOR one of eight contracts to handle electronic waste from the US government through the Recycling Electronics and Assets Disposition (READ) program. This \$9 million contracting program was intended to be a set-aside for small business, but UNICOR's bid was allowed to proceed and was accepted in December 2004. This contract would have gone forward except for the fact that two small business recyclers brought challenges through the Small Business

Administration, at their own expense. Ruling against UNICOR, SBA noted, "Besides exceeding the applicable size standard, FPI does not even qualify as a 'business concern' eligible to bid on set asides for small business concerns."²¹ Ironically, SBA's letter of their determination to the General Manager of UNICOR's Recycling Business Group, Lawrence M. Novicky, warns of, "severe criminal penalties for knowingly misrepresenting the small business size status of a concern in connection with pro-

Environmental Justice and Prisons

The disproportionate burden of polluting activities in poor communities and communities of color is so pervasive that in 1994, the President signed Federal Executive Order 12898, which requires all federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and lowincome populations in the United States and its territories.⁸

A study of occupational health risks associated with electronics demanufacturing showed higher levels of lead and cadmium at workstations that manually break CRTs found inside computer monitors and televisions, as performed by UNICOR, than

workstations that mechanically cut CRT glass.⁹ This is a clear indication of the greater risk faced by poor people and people of color who labor in prisons. *Poor people and people of color, who make up the vast majority of UNICOR's work force, are disproportionately impacted by Federal Prison Industries practice of managing hazardous electronic waste with substandard technologies.* This is a clear violation of the Environmental Justice Executive Order that they are required to implement.

Furthermore, the Environmental Protection Agency and all other federal agencies and departments are required to implement the executive order and should, therefore, not contract with UNICOR for work handling toxic electronic waste.

What Can Be Done?

The Computer TakeBack Campaign is a coalition of organizations committed to responsible electronic product manufacturing and recycling that supports the rights of *all* workers in the electronic supply chain according to the International Labor Organization (ILO) core labor standards.

- We demand that UNICOR cease and desist from handling electronic waste as a commercial enterprise.
- We call on the Environmental Protection Agency, and all other state and federal government departments and private corporations to stop using UNICOR for dealing with electronic waste. Continuing to do so is a violation of the

Environmental Justice Executive Order, and does nothing to address the real problem of electronic waste.

- We call on all responsible recyclers to join over 30 e-waste recyclers across the US in signing the *Recyclers Pledge of True Stewardship*, which prohibits export, dumping, incineration and abuse of prison labor in the handling of electronic waste.

To join our campaigns or learn more, go to www.computertakeback.com

1 <http://www.epa.gov/rcc/clusters/ecycle.htm>

2 Exporting Harm: The High Tech Trashing of Asia, by Basel Action Network and Silicon Valley Toxics Coalition, February 2002

3 Leonhardt, David, "As Prison Labor Grows, So Does the Debate," New York Times, March 19, 2000

4 http://www.unicor.gov/about/organization/history/unicor_1980.cfm

5 Federal Bureau of Prisons, <http://www.bop.gov/fact0598.html#Race>

6 Reid, Robert L., "E-Recycling Behind Bars," Scrap, September/October 2004

7 <http://www.unicor.gov/recycling/mapfront.cfm>

8 <http://www.fs.fed.us/land/envjust.html> Executive Order: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994

9 *Occupational Risks Associated with Electronic Demanufacturing and CRT Glass Processing Operations and the Impacts of Mitigation*

Activities on Employee Safety and Health, Neil Peters-Michaud, John Katers, et al, IEEE International Symposium on Electronics and the Environment, 2003

10 http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=1678, Federal Agency Safety and Health Programs with the Bureau of Prisons, US Dept. of Justice.

11 UNICOR 2001 Annual Report, "Making a Difference, Securing the Future", page 11.

12 <http://cesr.org/work/instruments>

13 *ibid*

14 http://www.unicor.gov/about/about_fpi_programs/

15 Federal Agency Safety and Health Programs With the Bureau of Prisons, U.S. Department of Justice, directive FAP 01-00-002 - FAP 1.2A - http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=1678

16 Corporate Strategies for Electronic Recycling: A Tale of Two Systems, by Sheila Davis and Ted Smith, Silicon Valley Toxics Coalition and the Computer TakeBack Campaign, June, 2003. <http://www.computertakeback.com>

17 *ibid*, and reports from inmate workers

18 Merced Sun Star, "Blaze Destroys Televisions, Monitors" by Jacob Fenton, November 7, 2003

19 Industrial Hygiene Surveys reports conducted by Occu-Tec, inc. at USP Atwater, UNICOR recycling facility, August 2002, November 2002, March 2003

20 See <http://hoekstra.house.gov/News/DocumentSingle.aspx?DocumentID=5458>.

21 Could you should add something about the inequity in sentencing. African Americans are—more likely to go to prison than their white counterparts who commit the same crime.