

The Advisory Committee on Socially Responsible Investing of Columbia University hereby resolves to recommend to the Trustees that the University should divest any direct stock ownership interests in companies engaged in the operation of private prisons and refrain from making subsequent investments in such companies.

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The resolution is based on the Committee's application of the three criteria that guide its divestment recommendations: community sentiment, the merits, and the possibilities for shareholder engagement.

The Committee is persuaded that the Columbia community would generally favor a private prison divestment measure, based on: a resolution adopted by an overwhelming majority of the University Senate's Student Affairs Committee, a 23-0-1 vote, representing students in the University's 20 schools and affiliates; an assessment of sentiments expressed at a public meeting called to discuss the matter; an informal consultation with knowledgeable faculty, especially at the Law School; and the absence of voiced opposition to such a measure, despite the public discussion of the proposal and opportunities provided by the Committee for the public expression of views.

Private prisons have been the subject of litigation alleging violations of constitutionally required minimal levels of maintenance, welfare, and medical conditions. The Committee has taken note of such litigation and the fact-finding reports by public interest groups substantiating such concerns, but has not attempted to compare private prisons with public prisons on this dimension. The Committee was particularly concerned that the business model of private prison companies creates incentives for increasing the level of incarceration in the United States, which is remarkably high both in historical terms in the U.S. and in international comparisons. The profits of private prison companies increase in the utilization of prison services, both in the occupancy rate for existing facilities and in the construction of new facilities. This gives private prison companies incentives to lobby for legislation, police and prosecutorial practices, and sentencing decisions that increase (or at least maintain) current incarceration levels. In the Committee's opinion, an investment whose positive performance is linked to an increase in already high levels of incarceration does not fit with the University's mission and values.

Engagement does not offer an avenue for addressing the Committee's concerns. The conditions in private prisons, including the opportunities for rehabilitative education and terms of confinement, are largely a matter of contract between private prison companies and the governmental authorities that use them. The University has little means of influencing governments in the fashioning and monitoring of those contracts, certainly not the usual course of its activities as a concerned shareholder. Given that the business model of a private prison company benefits from an increase in incarceration levels, it is not a promising course for shareholder activism to ask a company – or fellow shareholders – to retreat from a model that produces performance. On this basis, the Committee finds that shareholder engagement is not an effective alternative to divestment.<sup>1</sup>

March 31, 2015

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<sup>1</sup> An independent manager disposed of the University's holdings in CCA, one of the private prison companies identified in the petition presented by Columbia Prison Divest, for investment-related reasons in February 2015. This matter is not moot, however, because Columbia may own shares in other such firms and the recommendation applies prospectively as well.

### Additional Views of Some Committee Members

In the course of discussions within the ACSRI, a number of important issues raised by the divestment petition were the subject of dialogue and debate. The grounds set forth in the resolution attracted the broadest consensus but the Committee felt that it would be valuable to share some additional views expressed within the Committee to reflect the breadth of the issues considered and that many Committee Members believe there is opportunity for further work on the issues raised in connection with the petition, beyond the narrow act of divestment.

Specifically, some Committee Members expressed concern that the University's divestment from share ownership in private prison companies would be taken by the proponents as a sufficient response to their concerns about the level of incarceration or the educational and rehabilitative options available to the prison population. Some Committee Members also noted that conditions in private prisons were in significant measure the result of contractual terms with governmental agencies and reflected monitoring shortfalls by such agencies. Thus some Committee Members expressed the hope that proponents of the divestment resolution would undertake additional efforts towards improving conditions and outcomes in private prisons and public prisons.

Some Committee Members expressed particular concern about the disparate racial make-up of the inmate population of private prisons, even if this may have arisen as a by-product of other policies, such as contractual provisions that resulted in assigning younger inmates to private prisons because of the lower health care costs of this population. These Members wanted to point out that to the extent private prisons provide fewer resources for education and rehabilitation, confinement in a private prison would have racially disparate consequences.