

THE BOARD OF TRUSTEES
THE LELAND STANFORD JUNIOR UNIVERSITY

October 10, 2017

Dear Members of SU Prison Divest:

We are writing regarding your request last fall that the university review the subject of investments in private prisons and related companies. We appreciate your attention to this topic and your thorough presentation of information in support of your request.

As you know, Stanford has a process for reviewing divestment requests. The Advisory Panel on Investment Responsibility and Licensing (APIRL), a community panel of students, faculty, staff and alumni, analyzes the issues and makes recommendations to the Board of Trustees. A policy document, the Statement on Investment Responsibility, guides the deliberations. The Board of Trustees has responsibility for final decisions.

After extensive analysis, we have now completed our review of this request and are writing to share outcomes and next steps with you.

First, the subject SU Prison Divest has raised is important and deserves broad discussion. Your Request for Review argues that private prison companies profit from a system of mass incarceration that has disproportionately affected minority and marginalized communities in America and has skewed criminal sentences toward imprisonment over other solutions. The equity of our nation's criminal justice system clearly has been brought into question on many occasions in recent years. Among the many things we, and the APIRL, considered in this process was research conducted by two Stanford Law School students through the Stanford Criminal Justice Center. Their research indeed portrays a troublesome picture of parts of the criminal justice system, extending well beyond private prisons. These important issues are driven in large part by the public policies underlying the system and deserve serious national discussion, including among those with expertise on our campus.

Second, we note that Stanford is already actively engaged, through its teaching and research, in the national discussion about the equity and effectiveness of the criminal justice system. Among many examples are the field-leading work done by the Stanford Criminal Justice Center and SPARQ: Social Psychological Answers to Real-World Questions; the active work in communities being done by the Criminal Defense Clinic and Community Law Clinic of Stanford Law School; student activities including the Prison Education Project and Project ReMADE; a wide range of relevant undergraduate and graduate courses; and opportunities for public service, fellowships and internships. These activities are important examples of Stanford's mission to contribute to the understanding of pressing issues and problems through its teaching, research and public service.

In reviewing your request, the APIRL, with research support from the Investment Responsibility Stakeholder Relations office and the Stanford Criminal Justice Center,

removed companies that are not publicly traded, are no longer in business, or have not been or are no longer associated with private prison operators. APIRL then made recommendations about whether the remaining public companies are directly causing social injury.

We can report that Stanford does not hold any direct investments in the two companies that operate private prisons (or, "Category 1" companies) in your request. The APIRL recommended divestment of these companies based on its review, but because Stanford does not hold any direct investments in them, we conclude there is no action for the Board to take. The Board is also informed by Stanford Management Company, which manages the endowment, that direct holdings of these two companies would not be contemplated unless any concerns under our policy had been fully investigated and allayed.

We also reviewed several other categories of companies associated with the private prison industry, as you requested. These include corporations that invest in private prisons but do not operate them ("Category 2" companies); companies alleged to benefit from the labor performed by prisoners ("Category 3"); and companies that provide support services to prisons, such as food service, correctional health care, and telephone services for prisoners ("Category 4").

As a result of its review, APIRL concluded that companies in Category 2 are not covered under the provisions of the Statement on Investment Responsibility, which defines social injury as resulting directly from specific action or inaction by a company. The APIRL also concluded that it has not been sufficiently substantiated that the companies considered in Category 3 are directly injuring prisoners. We agree with the APIRL conclusions in these two categories.

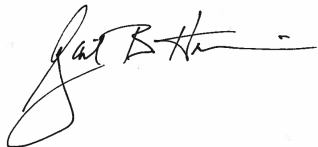
Regarding Category 4, a majority of the members of APIRL concluded that five public companies in this category (four telephone companies and one food service company) met the direct social injury threshold required by the Statement on Investment Responsibility; other members thought none or only some of the five companies met the threshold. With respect to the five companies in this category only, a majority of the APIRL suggested shareholder engagement to gather more information about the companies' activities. After reviewing the majority and dissenting arguments, the Board does not believe that the threshold for direct social injury has been met for the Category 4 companies. The claims about the food service company are based on specific breach-of-contract situations that various prisons and state and local officials have either litigated or used as the basis to terminate the company's services. We do not believe the research showed that the threshold for direct social injury had been met in this instance. We agree that the issues raised by SU Prison Divest regarding the pricing of telephone calls in prisons should be addressed. However, based on our review we believe the most significant portion of the high cost of telephone calls in prisons arises from fees and charges imposed by state and local authorities, which can only be alleviated through state legislation. Thus, we do not think the social injury bar has been met with respect to the four telephone companies.

We greatly appreciate the work you have done on this subject. We and the APIRL have given deep consideration to the issues. We do hope that you will continue to pursue the subject of criminal justice reform through other channels available within the university, some of which are mentioned above.

Finally, we want to note that the Board shortly will be announcing a review of the Statement on Investment Responsibility itself. Over the last few years, APIRL members and groups that have been involved in the divestment request process have raised questions and concerns about the Statement on Investment Responsibility and related procedures. These questions and concerns have centered on ambiguities in the current statement that make its requirements for divestment difficult to apply; the efficiency of the process for acting on a divestment request; and other elements of the process in general.

We take these concerns seriously and have decided that a full review of the Statement on Investment Responsibility and related procedures is appropriate. This review will be conducted over the next year and will draw on input from the university community. We would be very interested to hear your input, given your recent experience with the process. We will consult with the APIRL on the mechanisms for soliciting input from the community, and more information about the process for providing input will be available by Nov. 15 on the following web page: <https://irsr.stanford.edu/sir-feedback>. We look forward to your thoughts.

Sincerely,

A handwritten signature in black ink, appearing to read "Gail B. Harris". The signature is fluid and cursive, with a large initial "G" and a long horizontal stroke at the end.

Gail B. Harris
Chair, Special Committee on Investment Responsibility
on behalf of the Board of Trustees