

PRISON INDUSTRIES

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The current state of prison industries is the product of an ever changing philosophy concerning the proper role of work in a correctional setting. In the nineteenth century, the spiritual value of work was emphasized. Later, "hard labor" was viewed as part of a retributive form of justice. In modern times, particularly in the 1950's and 1960's, as corrections embraced the goal of rehabilitation, work was to become an essential element of an individual's overall treatment plan. Today, however, other considerations have come into play. Inmate idleness has been recognized as a serious concern leading to individuals' physical and psychological deterioration as well as causing substantial management problems. Involving inmates in meaningful work, therefore facilitates the lessening of tension and hopefully helps to prepare the prisoner for coping with the outside world upon his release. On a pragmatic level, the cost of operating correctional institutions has become so high that some form of prison industry and organized work efforts is almost essential.

Most inmates lack job skills and work experiences necessary for private employment when they enter correctional institutions. While some inmates will acquire these skills and experiences in industries, many will not. Since inmates typically work less than 8 hours a day and are generally not required to achieve productivity levels comparable to those of private business, questions arise as to whether inmates are in fact receiving valuable work experiences.

Unfortunately, the state-of-the-art in prison industries has not reached the point where corrections managers can be sure of the elements of a successful program. The efforts to date have frequently been characterized by:

- o Uncertainty over optimal staffing levels.
- o Excessive inmate assignments to some programs, while other programs are understaffed.
- o Environments that do not emulate conditions found in the private sector, including a lack of meaningful production standards or work measurement techniques.
- o Lack of adequate data for planning production because of uncertainty over acceptable levels of competition with the private sector.
- o Limited opportunities for inmates to acquire job skills helpful in obtaining employment upon release.

In sum, state correctional institutions have traditionally operated industries where there are short work days, low inmate wages and productivity, overstaffing of shops, and limited product markets. While Federal efforts to help states operate prison industries more like private businesses have shown some potential, progress has been slow.

The Law Enforcement Assistance Administration's Free Venture Program has had some success in turning state prison industries into financially viable enterprises resembling private businesses.

The program incorporates specific characteristics of private industries, such as:

- o A full workday for inmates, the length being defined by the supervisor's workday.
- o Wages based on production, with differentiation among workers by skill level, and the base level of wages significantly higher than those of inmates not participating in Free Venture.
- o Productivity standards comparable to those of outside industry, taking into account workers' skill and existing automation.
- o Final responsibility resting with industry management for (1) hiring industrial workers, after preliminary screening of the total inmate workforce by custodial or classification staff, and (2) for firing workers.
- o Shop operations becoming self-sufficient or profitable within a reasonable time after start-up.
- o Coordination of prison industries with correctional and other agencies placing released inmates in jobs to maximize the benefits of the prisoner's industrial experience.

The model was initially piloted in Connecticut, Minnesota and Illinois, and in 1978, Colorado, Iowa, South Carolina, and Washington joined the experiment. The types of programs vary considerably, from a school bus repair program in a maximum security facility to a more traditional furniture factory in an institution for youthful offenders. Inmates are generally paid minimum wages or base wages with bonuses. Several of the projects have achieved productivity levels comparable to those found in outside facilities similarly equipped and have consistently generated profits.

Although participating states have implemented the Free Venture program to varying extents, considerable work remains. No state has successfully implemented the entire Free Venture Program. Traditional prison industrial processes and attitudes have been reluctant to change.

To effectively implement the program, custodial staff may have to rearrange their schedules to ensure a full workday for inmates in prison industry. This could involve altering procedures for inmates counts; changing dining schedules; rescheduling other services (commissary, education, counseling, etc.) or providing these services at night, so industry employees can take advantage of them; and adjusting visiting hours for industrial employees' families and lawyers. Most important, traditional attitudes of correctional institution and prison industry administrators, custodial staff, industry supervisors, and inmates must change to accept that prison industries should be operated as much like private industry as possible.

Passage of the 1979 Prison Industry Enhancement legislation (P.L. 96-157, 93 Stat. 1167, 1215, December 1979) was seen by the Congress as a means of extending the Free Venture concept to other state prison industries. The program represents a further opportunity to move toward the Free Venture goals of creating a realistic working environment and enabling inmates to become more financially self-sufficient.

The Act authorizing the program has two main goals:

- o To encourage development of pilot and demonstration projects for prison industry at the state level, involving private sector industry.
- o To enhance the ability of state prison industries to market their goods by creating partial exemptions to two Federal requirements. These requirements generally prohibit states from selling prison-made goods to other states and to the Federal Government.

To achieve these goals, the program has four basic objectives:

1. To provide state prison industry programs a greater opportunity to expand and employ more inmates by involving private industry.
2. To ensure that expanded industry programs do not displace employed workers or impair existing contracts.
3. To prohibit prison labor exploitation by requiring (a) wage payments comparable to those paid for similar work in the local private sector, (b) that inmates not be deprived of Federal or state benefits, such as workmen's compensation, solely because of their criminal offenses, and (c) that inmates' participation be voluntary.
4. To provide inmates opportunities to learn and practice marketable job skills.

The law provides that the Administrator of LEAA, can select seven states to participate in the program based on their ability to comply with program requirements. LEAA has determined that a state can qualify to participate in the program by including a specific shop within its prison industry program. Thus, a state would not have to qualify its entire prison industries program, and the Federal exemptions would apply only to the products produced by the qualifying shop. No Federal funds were authorized by the Act, however--the incentive to participate rests with the exemptions to Federal restrictions on state prison industrial sales.

Although at least 38 states have expressed an interest in participating in the Prison Industry Enhancement program, state correctional officials have identified a number of possible obstacles to successful implementation of the program. One of the most frequently mentioned obstacles is the requirement that participating prison industries pay inmates wages comparable to those of private employees. The inclusion of private industry might be the answer to this concern; but, for the states which

attempt to implement the program without private involvement, this represents a potential problem. Many prison industries are experiencing difficulty in making a profit, even with the extremely low inmate wages now being paid. Making a profit will become even more difficult if inmate wages are increased significantly.

States participating in the Prison Industry Enhancement Program are also required to provide inmates certain state and Federal benefits, such as workmen's compensation. Some state officials fear that this might increase operating costs and the administrative burdens of participating institutions. State officials also consider other program components--withholding Federal and state taxes, social security contributions, and restitution payments--to be potential obstacles to a successful program. One state official estimated that another person would have to be hired just to handle increased administrative duties of the program.

The one component of the Prison Industry Enhancement Program which state officials consider the most beneficial is the removal of marketing restrictions on prison industry products. State officials strongly believe that increased sales will enable them to expand and improve their industries.

In addition to these problems, limited federal and state capital, state legislative restrictions, and low priorities given to profit and productivity in prison result in the perpetuation of conditions likely to impede the success of industries. Nonetheless, many states are working hard to limit the usual obstacles. According to a 1980 survey by the National Institute of Corrections, for example, it was discovered that 31 states do have statutes mandating or strongly encouraging state agencies to attempt to purchase goods made by correctional programs before going elsewhere.

In spite of such increased support for prison industries, the fact remains that very few prisoners are actually accruing the benefits. As a whole, state correctional systems have not employed substantial percentages of inmates in prison industries. While at least 43 states and the District of Columbia operate such industries, as of 1979, only about 10 percent of the almost 300,000 inmates worked in them. The variance among these states ranged from 49% of the inmate population in Rhode Island to only 2% in Mississippi.

The problems in expanding and improving state prison industries as an employment source will not be easy to solve. The industries generally use obsolete or antiquated equipment and facilities, face limited markets, and have limited profitability.

Federal assistance through the LEAA Free Venture model appears to offer at least some potential for operating productive and profitable state industries like those in the private business community. However, because of the magnitude of problems associated with state prison industries and the limited Federal assistance available, improvements will be slow and difficult to achieve. Similarly, although the Prison Industry Enhancement Program's relaxation of Federal restrictions on marketing state prison products is important to many states, some states anticipate difficulties in meeting some of its requirements.

Some Federal technical assistance to the states will remain available in the prison industry area through the efforts of the National Institute of Corrections. In addition to providing on-site technical consultation to correctional administrators, NIC will be developing a comprehensive guide for the improvement of prison industry and work programs. This guide will describe model legislation and efforts enabling the successful creation and use of such programs.

In conclusion, while prison industries may be said to have had a shaky history, past obstacles need not serve as a deterrent to successful current and future operations. Clearly, cost-effective, safe work programs exist and provide important benefits for inmates and the state alike. Indeed, a prison industry program may well provide the most significant opportunity for an inmate to experience the outside world's real expectations and his own potential for success; it may also allow the corrections field to experience a feeling of success in assisting inmates to become productive citizens.

* Segments of this paper were excerpted from the following documents:

U.S. General Accounting Office, Draft of a Proposed Report: Improved Utilization and Training of Inmates Will Benefit Correctional Institutions and Inmates, 1981.

U.S. Department of Justice, A Guide to Effective Prison Industries, Volume I, 1979.

U.S. Department of Justice, LEAA Program Brief: Free Venture Prison Industries, 1981.

American Correctional Association, Standards for Correctional Industries, 1981.