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Work & Vocational Programs

CALIFORNIA LEGISLATURE'S
COMMISSION ON
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Work & Vocational Programs

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ABBREVIATIONS

The following abbreviations for institutions have been used throughout this report:

CCC	California Correctional Center, Susanville
CIM	California Institution for Men, Chino
CIW	California Institution for Women, Frontera
CMF	California Medical Facility, Vacaville
CRC	California Rehabilitation Center, Corona
CMC	California Men's Colony, San Luis Obispo
Folsom	Folsom State Prison, Represa
San Quentin	San Quentin State Prison, San Quentin
CTF	Correctional Training Facility, Soledad
DVI	Deuel Vocational Institution, Tracy
SCC	Sierra Conservation Center, Jamestown
CCI	California Correctional Institution, Tehachapi

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INTRODUCTION

The Department of Corrections Program Planning Report for 1978-79 Fiscal Year (CDC Plan) clearly states that future institutional programming will emphasize productive work for inmates. The effort now underway in the Department to provide for expanded work and work-related programming is evidence that the work ethic has engaged the attention and energies of top level CDC managers and planners.

Consultants are in substantial agreement with this new program emphasis; it represents an effort to structure a correctional model that reflects the goals of restitution and reintegration.

The CDC Program Planning Report is critical of the quality of work programming in the past:

"Traditionally, prison work . . . has been marked by over-assignment and underproductivity. Inmates as a group tend to have had little significant work history . . . and . . . tend to possess few work skills. There has been little incentive either for inmates or prison administrators to increase productivity because of lack of work opportunities and lack of incentives including adequate pay for inmate workers. Prison administrators generally prefer overassignment to idleness. In fact, the whole prison culture traditionally fosters a climate of lack of productivity"*

The report goes on to point out that security constraints and the demands of daily procedures impede smooth operations in work programming. Added to this are constant interruptions caused by the scheduling of most other programs during work hours.

To remedy these problems, the Department planners recommend:

1. A "twelve-hour-day" for program scheduling to allow for eight full hours of work;

*The California Department of Corrections, Program Planning Report for 1978-79 Fiscal Year, Volume II: Program Analysis and Recommendations (April, 1978), p. 139.

2. The raising of both expectations and standards for productivity of inmate workers;

3. More efficient use of current work assignments and the expansion of work opportunities;

4. A system of rewards and incentives reserved only for workers (including a raise in the wage ceiling from 35¢ to \$1.00 per hour);

5. The integration of training opportunities, and the upgrading of vocational training emphasizing relevance to the job market, apprenticeship opportunities, and expanded opportunities for women;

6. The expansion of Correctional Industries, involving legislative action to raise wages and expand markets; exploration of new venture ideas being implemented in other states;

7. The development of job descriptions and uniform standards of performance; and

8. The development of inmate-operated businesses which could provide goods and services for inmates, staff, and visitors.

In this section of the final report, Consultants will analyze the CDC position on prisoner work programs, and will provide further evidence that productive work can help accelerate prisoners' social reintegration.

Before commenting and making specific recommendations on the CDC plan, Consultants will identify and discuss major problems involved in providing expanded work and training opportunities, and will review efforts underway in various states to upgrade work programs.

This report will also include a section outlining current standards for corrections work programming, and an analysis of the current Correctional Industries Program.

Consultants believe the following recommendations for expanded work programs are in accord with most of the features of the CDC plan, though some recommendations may go further in the direction of opening up and revamping the system to more closely resemble the free working world.

Lastly, Consultants have included a discussion of current vocational training programs, with recommendations for integrating this training with work programming.

Problems



A. PROBLEM AREAS

Most work assignments fall into the general categories of institutional operations (facility maintenance and prisoner support) and Correctional Industries. Institutional operations include assignments in food preparation, security, maintenance, medical/dental/psychiatric, clothing and laundry, inmate welfare, recreation, and religion. Correctional Industries employs prisoners in industrial and agricultural enterprises which produce goods for sales to state agencies.

William Nagel, a well-known authority on prison industries, points out that work programs have low priority in most correction systems, where "almost every prison function [takes] precedence over industry."* Further, Nagel reports that to the inmates who come from communities where unemployment is chronic, the work ethic holds little value.

"Such prisoners [have] very little respect for America's vaunted free enterprise system, and expect very little from it. Many view their very survival to be more related to their development of more effective crime skills than to preparation for the traditional work markets."**

Underscoring this view are comments made to Consultants by non-white CDC personnel that the work-ethic philosophy reflects white, middle-class values not entirely applicable to California's prison population.

Although there are no easy answers to chronic unemployment in certain communities, Consultants recommend the establishment of work programs that prepare prisoners for and enhance their chances of finding employment "on the outside." Toward this end, prison work programming should use inmates' time constructively, should offer substantial rewards for work done, and should encourage the development of real skills -- and thus self-sufficiency. Incorporating these elements into work programming should encourage the development of positive attitudes toward the value of work

*William Nagel, Report on the Colloquium on Correctional Facilities Planning (The American Justice Institute, January, 1978), p. 186.

**Ibid., p. 188.

and its rewards. Participation in work programs should be voluntary, and the context neither coercive (the "work as punishment" approach) nor manipulative (the assignment of non-productive, "make work" tasks for token rewards).

One of the most important aspects of any prison work program is the set of attitudes, values, and management principles on which the work program is based.

Experience with training traditionally unemployable people demonstrates that teaching positive work habits and a sense of responsibility for one's actions is as important as is training in particular skills.* While extrinsic incentives (such as pay or better working conditions) are important to maintain productive workers, research has shown that intrinsic rewards, such as the development of a sense of pride and self-reliance in taking responsibility for one's achievements, are important work motivators.**

This is particularly true for a prison population, where these qualities and opportunities to develop a sense of dignity are rare. It is therefore important to develop a work program setting in which both extrinsic and intrinsic incentives are offered, and where the principles of the work ethic, as well as the skills of the work itself, are stressed.

Prisoner idleness and the practice of overassignment of workers, two problems of major concern, compound the need for effective work programs. There seems to be a consensus among most CDC staff that an increase in work for prisoners will decrease violence within the institution. A study by the South Carolina Department of Corrections supports this premise; it reports that when fewer meaningful and productive work assignments are available in medium and minimum security prisons, the incidence of riots is higher.*** (No such correlation was found for maximum security institutions.) However, Consultants question whether simply expanding work programs will significantly reduce institutional violence. CDC personnel admit that the present practice of overassignment and "make-work" activities produces resentment and cynicism among prisoners. Certain CDC personnel have said it would be preferable to leave some prisoners

*Charles Hampden-Turner, Ph.D., Sane Asylum (San Francisco: San Francisco Book Company, 1976).

**Frederick Herzberg, The Motivation to Work, 2nd edition (New York: Wiley, 1959). See also: Frederick Herzberg, Work and the Nature of Man (Cleveland: Cleveland World Publishing, 1966).

***South Carolina Department of Corrections, Collective Violence in Correctional Institutions: A Search for Causes (1973), p. 26.

unassigned rather than involve them in non-productive activities for the sole purpose of keeping them occupied.

Three program goals -- the efficient production of useful products; the provision of low-cost maintenance of the institutions themselves; and the training of inmate-workers in marketable skills -- have tended to conflict in the past. Occasionally, the consolidation of these goals has had fruitful results (e.g., the indentured apprenticeship program for inmate carpenters, and the eyewear shop at Vacaville which is also a vocational training program), but all too often, the needs of the institution or the demands of production have overwhelmed training efforts. In many cases (as will be discussed later), maintenance activities have been recast as training programs -- at a higher cost to the Department -- in skills that are of low value on the market, or in occupations where there are few available jobs.

As described in the CDC plan, the present prison work day is short, and work is constantly interrupted by non-work programming scheduled during the same time period. Many prisoners -- never having experienced a demanding job that required good work habits, skills, and discipline -- welcome such interruptions.*

In response to this problem, the CDC plan calls for scheduling all programming into three four-hour shifts (a 12-hour day), and requires that prisoners work for two of these shifts, confining all other programming (e.g., counseling, hearings, and canteen) to the third time period.

*According to data collected on the employment history of inmates (see description of inmate profile survey, Volume II of Consultants' Final Report), 53 percent of the inmates had never worked for as long a period as one full year.

At the time of their arrest, 80 percent of the inmates were not employed. The unemployment figure for women was higher (89 percent) than for men (77 percent).

Among men, the unemployment figure was 77 percent for Caucasians, 81 percent for Blacks, and 74 percent for Hispanics.

These figures substantiate the many comments made by CDC personnel in interviews with Consultants on the high number of untrained, unskilled, inexperienced inmates in the prison labor force.

- Consultants agree with the substance of this plan; a full workday is essential to the upgrading of work programs and would increase productivity considerably.

Such a plan would require an evening work shift. This has been tried at Vacaville by the Industries operation there, which committed funds for additional supervision and custody staff. A sufficient number of inmate workers volunteered for the shift, but after some were refused security clearance, there were not enough workers left to justify the overhead required to run the shop in the evening.

The custody staff maintained that the work-site (a separate building within the compound) was not sufficiently secure during the evening hours -- when fewer custody staff were available to handle emergencies -- to allow any but those prisoners in the lowest security classifications to be assigned. This claim is disputed by some staff interviewed by Consultants, who attributed the problem to an unwillingness of custody staff at the institution to handle the additional work involved in expanding work programming into the evening. Other staff maintain the practice of "pulling the perimeter in at night" (e.g., not allowing prisoners access to certain parts of the compound during those hours) is a necessary procedure. If that is so, it may be impossible (or very costly) to extend the hours of work programming.

An alternative might be to schedule all other programming (e.g., counseling, visits, education, and hearings) in the evenings and on weekends. This has been done successfully in Colorado.

However, Consultants think that shift programming alone will solve only part of the productivity problem.

Motivation can be provided by a truly rewarding cash incentive system. Incentives not only heighten productivity levels; they also provide prisoners with a remunerative experience which can lay the foundation for their financial accountability and work ethic goals, components necessary to successful social reintegration.

The CDC plan also notes that low productivity is directly related to low staff expectations, an attitude fostered by staff resistance to institutional change as well as staff fear of prisoners. This attitude was made clear to Consultants through prison site visits and interviews with CDC staff and officials, and through a review of pertinent corrections literature.

The problem of tensions between prisoners and staff will be elaborated upon elsewhere in this report. However, at this point it bears noting

that, according to Nagel, "the interaction between those who are guarded and those who guard contributes much to the prison culture."* He goes on to stress that many efforts to upgrade prison life are nullified by resistance, by fear, and by unwillingness to accommodate changes which threaten the existing culture and unwritten rules of the institution.

Free citizens also offer potential resistance to the expansion of prisoner work programs, particularly in times of general unemployment. The problem is compounded by the use of the phrase "full employment" to describe prisoner work program goals. The American Bar Association, Joint Committee on the Legal Status of Prisoners, commenting on its recommendation that correctional authorities provide all prisoners with access to remunerative employment, reports that it:

". . .deliberated at length on the likely impact of such a recommendation during periods of unemployment. The Committee has no illusions on the priority of prison laborers in the marketplace Full employment is a national goal; the standard proposes to make it equally applicable to prisoners."**

Frequently, the value of providing expanded work and training opportunities is analyzed in terms of the cost of those expansions. For example, a recent Department of Finance report criticized the low cost/benefit ratio of many vocational education programs administered by the CDC.***

Consultants think that efforts should focus on integrated programs that can offer maximum benefits to prisoners, and at the same time raise most of the revenue needed to cover costs. Correctional Industries is the logical vehicle for this expansion. Such a focus, however, will increase marketplace competition between inmate workers and free persons.

In summary, changing prison work programming involves tackling complex, challenging problems. For example, much of the work currently accomplished by prisoners is central to the operation of the institution itself.

*William Nagel, op. cit., p. 189.

**American Bar Association, Tentative Draft of Standards Relating to the Legal Status of Prisoners, Volume 15, No. 3 (American Law Review, Criminal Justice Section, Winter, 1977), p. 3.

***State of California Department of Finance Program Evaluation Unit, CYA and CDC Vocational Program Effectiveness (October, 1977).

Moreover, low performance expectations are deeply ingrained in the patterns of daily prison life. Most of the remainder of this report will be devoted to Consultants' analysis and recommendations regarding the arduous task ahead for those working toward the goals expressed in the CDC plan.

The attainment of these goals will require several years of sustained and determined effort.

Standards

B. STANDARDS FOR CORRECTIONAL WORK PROGRAMS

Consultants reviewed current standards and model codes for correctional programs which outline recommendations in the area of work programming. A listing of parallel sections from four documents is included in the Appendix section of this report. It includes standards set by the National Advisory Commission on Criminal Justice Standards and Goals; standards set by the Commission on Accreditation for Corrections (commissioned by the American Correctional Association); draft standards by the Joint Committee on the Legal Status of Prisoners of the American Bar Association; and a draft code by the National Conference of Commissioners on Uniform State Laws.

Three of these four documents provide for the repeal of laws which prohibit sales of prisoner-made goods on the open market; call for the employment of prisoners by private firms as well as by prison industries; and provide that prisoners should be compensated at prevailing market wage rates for free workers. Two of them set out requirements that prisoners so employed make payments toward room and board, taxes, family support, and restitution.

Work Programs

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C. WORK PROGRAMS ANALYSIS

Consultants' Inventory Report on Institutional Programs notes that Correctional Industries (Industries) plays a relatively small role in prisoner work programs. Only 10 percent of the prison population is involved in Industries operations.

The CDC plan points out numerous obstacles to making Industries profitable. Low wages (35 cents per hour ceiling) to prisoners, which would seem to increase profit margins, may actually decrease profitability by discouraging prisoner productivity; the short work day; frequent interruptions; rapid turnover; security considerations which impair profitability (lock-downs resulting in production backlogs; prohibition of flammable or volatile materials which -- though necessary for efficient production -- are considered to be potentially dangerous); state regulations which hamper procurement and sales; private industry complaints regarding competition in a specific manufacturing area (the Correctional Industries Commission has sometimes placed strict limits on Industries production when private industry protests).*

Nevertheless, the CDC plan identifies Industries as the most obvious vehicle for increasing work opportunities for prisoners. Consultants agree, and will make specific recommendations to revamp much of the current work and training programming in order to maximize the future role of Industries.

However, Consultants would first like to review the history and potential of Industries.

Correctional Industries was established in 1944 with a \$750,000 revolving fund appropriation by the Legislature, with the proviso that the operation remain self-supporting. Industries has grown to its present size of 33 operations, with a net worth in excess of \$15,000,000. Sales in Fiscal Year 1977-78 exceeded \$16,000,000, and although -- as last year -- the program does not always turn a profit, it has met its requirement of self-sufficiency (paying all expenses, including fees to state agencies that govern Industries operations in excess of the taxes it would have had to pay if it were a private operation).

*For example, when Hawkins and Hawkins (a private soft-sign manufacturer) protested planned Industries sales of soft-signs to the State Highways Department, the ceiling on Industries production was lowered.

At the same time, Industries offers both income and productive work programming to 2,100 prisoners at no cost to the General Fund. (At this year's per capita rates for vocational education, it would have cost nearly five and one-half million dollars to place that number of prisoners in vocational training programs.)

In 1969 the staff of the Assembly Ways and Means Committee prepared a "Report on the Economic Status and Rehabilitation Value of California Correctional Industries," which severely criticized the operations of Industries, charging that the employment offered was of such low quality as to be of little value in providing prisoners with good work habits and skills; citing studies which showed that recidivism was not lessened by Industries involvement; and reporting that post-release jobs were unrelated to the type of work experience Industries offered.

The Committee's recommendation that Industries be phased out and replaced by private industry was based on the following premises: that competition between Industries and private industry is a substantial problem; that this problem would be eliminated by the phase-out of Industries; and that private industry would upgrade the overall quality of the industrial work available for prisoners.

Many of the provisions of the Ways and Means study will be paralleled in Consultants' recommendations for the expansion of work opportunities; however, Consultants are convinced that Industries should remain operational as an integral part of inmate work programs, particularly in view of its long-standing experience in this field.

The premise offered by the Ways and Means report -- that competition between Industries and private industries presents a major problem -- is contradicted by a report issued jointly by the Auditor General and the Legislative Analyst two years later (January, 1971).

In their report, entitled "A Review of the Economic Efficiency of California Correctional Industries," the Auditor General and the Legislative Analyst reported that the economic impact of Industries on the manufacturing and wholesale segment of the State's economy was minor. (The report found that Industries sales in 1970 comprised only .12 of one percent of the production of the private sector.*) Included in the study are analyses of problems which affect the operational efficiency of Industries; also, a wide range of findings and recommendations are made relating to procurement, accounting and production, but there is no suggestion that the programs should be discontinued.

*The report did not address the issue of economic competition with individual manufacturers, however, where the impact of Industries' sales may be quite substantial.

In December, 1977, a report (number 282.4) was issued by the Joint Legislative Audit Committee, entitled "Deficiencies in Correctional Industries Product Cost Determinations." According to this study, Industries' reports do not accurately reflect the profits and losses of individual operations, because support costs* have not been charged to each operation -- but rather, they have been charged against aggregate revenues.

In this study, the researchers assigned a charge for support costs to each operation, and discovered that of 28 operations, only 10 were profitable. Further, it was shown that 72 percent of the profits earned by these ten shops came from two operations: the manufacturing of license plates and validation stickers, both of which are sold to the Department of Motor Vehicles.

A supplemental report (282.5) issued in February, 1978, notes that the Legislative Counsel has stated that profits which come from transportation-related funds cannot be used for purposes not related to transportation (e.g., the subsidizing of non-profitable Industries operations).

The Auditor General has recommended that Industries charge the Department of Motor Vehicles only for the costs of producing the plates and stickers (including support costs). The position of the Department of Corrections is that it is required by law to set its prices as near to the prevailing market price as possible, and that DMV funds made in payment for these goods can be used to support the overall operations of Industries.

Consultants assume the Department of Corrections position will prevail.

It may be argued that overall Industries operations are far too dependent on the profits of a few shops. This argument should not be taken so far as to imply that all operations should be required to be profitable. The policy of subsidizing certain operations with the profits of others is consistent with the practices of horizontally integrated companies in the private sector, and may be necessary in the prison setting to provide stable employment for a large number of inmate workers.

Despite the multitude of problems that complicate daily operations, Correctional Industries has sustained its operations -- at no cost to the public -- for 34 years, and has provided the most productive employment available to prisoners in California's prisons in an atmosphere that is more like a normal work place than any others in the system. California Correctional Industries compares favorably with systems in other states; it is one of the best, according to staff at the American Foundation Institute of Corrections.

*Central administration and accounting, planning and development, engineering, and marketing.

Although the Federal Bureau of Prisons' Industries system is far more productive than California's, American Foundation staff attribute this to the much broader market currently available to the Federal system.

Consultants think the effort to expand work and training opportunities for prisoners should center on upgrading and expanding operations conducted by California Correctional Industries, and should attempt to emulate the efforts underway in other states (such as Minnesota, Maine, and Colorado) to improve their systems. As suggested in the CDC plan, the process could follow the Free Venture Model, designed by William Nagel of the American Foundation Institute of Corrections.

Free Venture has been described as "the operation of a business in a prison." The features of the concept are outlined by Nagel as follows:

"A full work week, inmate wages based upon work output, productivity standards comparable to those of outside world business, hiring and firing procedures within the limits of due process, and transferable training and job skills. Free Venture would provide partial reimbursement to the state by inmates for custody and welfare costs as well as restitution payments to victims. It would offer graduated preparation of inmates for release into the community. And finally, Free Venture would be based upon business operations that are self-supporting and profit-making."*

These principles are underscored by the commentary of the Joint Committee on the Legal Status of Prisoners in its draft standards, which -- taken with the draft Uniform Corrections Act of the National Conference of Commissioners on Uniform State Laws -- comprise a blueprint for Free Venture (see Appendix of this report):

"The Joint Committee's approach to the problem of prison employment is embedded in the view that both the rehabilitative and the compensating goals of prison labor will best be enhanced by facilitating free enterprise. The recommendations proposed here subject prison labor to the extent possible to the same responsibilities, burdens, and opportunities as free labor, and thereby widen the opportunity for employment by prisoners."**

*William Nagel, op.cit., p. 185.

**American Criminal Law Review, Vol. 14, No. 3, p. 461.

Recommendations included in the CDC report are in basic agreement with the principles of Free Venture, and the Department's affirmation of Nagel's view is stated in the section on Correctional Industries.

Consultants spoke with both American Foundation Institute of Corrections and Minnesota Department of Corrections staff to determine the status of efforts to upgrade prison industries in that state by application of the principles of Free Venture.

Minnesota has a small corrections system (1,700 inmates), but the Director of Corrections, Mr. Kenneth Schoen, told Consultants that the Free Venture program used in Minnesota is applicable to larger systems, because all correctional industries are subject to the same dynamics.

In Minnesota, efforts to expand Industries have taken many directions: new products and markets have been developed for existing shops; new enterprises have been generated by Correctional Industries; and private industry* has been encouraged to enter the system and employ inmate workers.

The participation of private enterprises in Industries takes two forms: private enterprises have been located on the grounds of institutions, and Industries operations have bid for and won piecework contracts with private manufacturers. A private firm, Best Foods, has -- in reverse -- bid for and won a food services contract with the Department of Corrections, and has hired inmates to work in that operation.

In all instances where private industry is the employer the inmate worker receives the prevailing wage for his or her labor.

Prison industry operations in Minnesota include many of the "traditional" enterprises (such as printing and manufacturing office furniture, license plates and other metal products), but there are also operations set up to manufacture farm machinery, lawn mower parts, do computer programming, and refurbish telephones for Western Electric. The system has chosen to mix its newer operations in with the old, on the theory that the more efficient procedures and standards of Free Venture will spill over and enhance the process of upgrading traditional operations. Legislation has been passed that gives the enterprises a virtual open market, and conflicts with labor have been minimal (Minnesota maintains a very low unemployment rate).

*Western Electric and Toro Manufacturing Company.

Thirty-three percent of Minnesota's prisoners are employed in industrial operations, and they produce about \$6,000,000 worth of goods annually.*

Participation by prisoners is voluntary in all work and training programs in Minnesota. Since the advent of Free Venture, requests for jobs has skyrocketed; turnover has decreased. The primary reason for this is the high wage incentives made possible by the application of Free Venture principles.

Minnesota requires that workers pay a fee to the State for room and board. The rates are set on a sliding scale according to income, and according to Minnesota Industries officials, the current average is \$80 per month. There is also a mandatory savings plan. Corrections staff report that, although prisoners are not required to make support payments, those prisoners with families are voluntarily sending home much of the balance of their earnings.

As mentioned earlier, where work is done for private concerns, wages are set at rates prevailing in non-prison settings. Rates in Minnesota's Correctional Industries range from 70¢ to \$3.10 per hour -- and in the computer-programming operation, hourly wages run to \$5.40 per hour (one prisoner/manager makes over \$12,000 per year). To lessen the disparity between Industries workers and prisoners who perform work that supports the operation of the institution (e.g., maintenance and laundry), profits from industry are used to supplement the wages of these other workers. The goal in Minnesota is to reach a level of profitability that will allow wages for all workers to rise to rates comparable to free labor.

In reviewing efforts underway to upgrade prison work programs in other states, Consultants became particularly interested in recent developments in Colorado and Maine.

In 1977, Colorado passed new legislation establishing Correctional Industries as the sole prison employer, and mandated the employment of 95 percent of the prisoner population. This means that in addition to the traditional Industries shops, all maintenance, food services, laundry, clerical, construction, and even all vocational training operations have now become Correctional Industries "Profit Centers."

In eight months, the number of Industries workers has grown from 300 to 1,500 (although Colorado officials note that the 95 percent goal will not be reached for three to five years). This rapid expansion was

*This gives a per capita production rate of approximately \$10,500 as compared to California's approximate rate of \$7,500.

accomplished by hiring a large number of new management and supervisory staff, and equipping more work stations with state-allocated start-up money. Colorado Industries has re-opened previously shut-down operations; started second shifts in existing shops; and has greatly expanded their forestry, farm, and construction operations.

In the area of institutional operations, the new "Profit Centers" contract to provide services to the Department at a fee "within ten percent (plus or minus) of market value."

Additionally, Colorado Industries bids on public construction jobs. They have completed relatively small (\$15,000 to \$40,000) contracts for agencies such as Parks and Recreation, and are currently working on a \$5,000,000 housing unit for Corrections.

Corrections officials report that the building trade unions in Colorado are opposed to Industries involvement in construction work. Attempts to work out agreements between labor and Industries have been unsuccessful. Negotiations to involve both inmate workers and union journeyman in construction projects fell through, because the ratio of prisoners to journeymen demanded by labor (1:5) was unacceptable to Industries.

Despite the conflict, the state intends to move ahead with the program, and further expansion is planned for Industries construction crews.

Vocational education has been fully merged with Correctional Industries. Training is now provided by contract to Corrections, and the training shops have become Industries "Profit Centers," where prisoners spend part of their time in training and part of their time in production.

Prisoners working for all Colorado Industries operations are paid from \$.80 to \$3.10 per day, based on graduated step raises for skill and experience. In addition, Industries pays \$1.00 per day to the Department for each inmate worker to offset institutional costs (e.g., use fee).

Colorado has a special project funded by the U.S. Department of Labor which provides labor market analysis to assist in planning new enterprises in fields which offer good employment opportunities for prisoners after release. The project also provides job placement services to individuals prisoners.

In Maine, the high security men's prison has a special work program which involves inmate-run businesses. All 400 prisoners are eligible for the Novelty Program, where Industries shops are available for prisoners to produce goods which are sold to the public at a showroom adjacent to the institution.

Prisoners must buy their own materials, and may patent their production designs and hire other prisoners to work for them. Items produced include furniture, lamps, jewelry boxes, and gift items.

There is a \$15,000 per year limit on personal income allowed. Most inmates in the program make only \$4,000 to \$6,000 a year, according to officials, and only a few make over \$10,000. Prisoners who participate in the program are required to save money, as well as to contribute to the support of their dependents.

Consultants were impressed by the range of new work programs developed in some of the states surveyed. However, caution should be exercised in a careful assessment of the possibilities of Free Venture expansion.

First, although the emphasis on "cost-mindedness" and efficient application of industrial technology and methods that characterize Free Venture is a healthy one, it must be remembered that the work is taking place in a prison setting. While economic conditions in prison can be greatly improved, they cannot be entirely normalized.

For example, the limited job opportunities available to prisoners result in a non-competitive labor market within the prison. Prisoners constitute a captive labor force, and have no bargaining power where wages are concerned. This results in a monopoly for the prison employer, and leads to depressed wage levels as well as lowered efficiency.

This problem can be alleviated somewhat by allowing private firms into the prison setting. This concept, when applied, has resulted in a spirited competition for the private (higher paying) jobs. If the private firm recruits from among the more productive workers employed by Industries, the result is higher productivity and mobility among those workers.

Private firms, however, generally have no reason to locate within a prison, and would probably not do so unless offered special incentives. The range of available incentives might include permission to pay wages lower than the prevailing rates; free sites, low rents, or tax-free property; construction and business loan subsidies or guarantees; or state tax remission.

However, permission to pay lowered wages would allow private industry to exploit the labor of inmate workers, thus creating an unfair advantage which would amount to a government subsidy for the specific firms involved.

The financial incentives (low rents, tax advantages, loans) are more consistent with normal practices of industrial development in most communities. These incentives should be recognized as costs to the State.

Costs aside, there are some disadvantages to locating private firms within the prison system. These firms would be free to close shop at will -- for economic or for other business reasons. -

Such problems may ultimately give private firms (once they have established prison shops) the ability to wrest large concessions from the state by threatening to withdraw their operations.

Additionally, care should be taken to assure that private firms are not allowed to locate in prisons to evade union problems in existing plants. This can be accomplished by requiring that the Correctional Industries Commission conduct public hearings on all proposals from private firms interested in prison operations.

Fewer problems would be encountered by involving private firms in piece-work contracts with Correctional Industries. In such agreements, operations would be run by Industries, which would employ prisoners at prevailing wage rates.

To examine the economic and cost implications of efforts to upgrade California's prison industrial operations, Consultants conferred with Dave Craig, financial consultant to the American Foundation Institute of Corrections. In addition, Consultants reviewed the work of Neil M. Singer, Associate Professor of Economics at the University of Maryland.

Singer has extensively analyzed the economic effect of implementing standards recommended by the National Advisory Commission on Criminal Justice Standards and Goals. In his article, "Economic Implications of Standards Affecting Correctional Programs,"* Singer argues that, although upgrading prison industries is costly, the enormous increases possible in output and sales should more than repay the costs of capital equipment and prevailing market wages, provided that the goods could be sold to a widely expanded market.

Singer analyzed the potential productivity of inmate workers, using the California system as his example. California's capital stock investment per worker is only 20 percent of the rate Singer considers optimum, and the value added** per prisoner per year is 20 percent of the value added per worker in the private sector. With what he terms "massive"

*Neil M. Singer, "Economic Implications of Standards Affecting Correctional Programs," Crime and Delinquency, Vol. 23, No. 2 (National Council on Crime and Delinquency, April, 1977), p. 180.

**Defined as the amount left after using the proceeds from sales to pay for materials used in production.

infusions of capital equipment, a value added figure three to five times greater than that of present levels, "would seem to be well within reach."

Singer further argues that while optimum combinations of capital and labor might require an additional capital stock investment of \$22,000 per worker, the incremental value added (stemming from the investment) would allow for a payback period shorter than that typical of private industry.

However, Singer states that markets available under the State Use system (as in California, where sales of prison-made goods are limited to state and other public agencies) are too small to justify large increases in output; and he argues that a broadening of markets is essential to upgrading operations and increasing profitability of prison industries.

Given such a broadening, Singer argues that the potential increases in production and profitability will provide capital with which to subsidize the wages of non-industrial inmate workers (as in Minnesota). He further reports it is common practice to overassign prisoners to institutional operations jobs: as much as three workers to a job.** Singer claims that if the practice of overassignment were ended by reducing the number of workers by two-thirds, the remaining institutional operations workers could be subsidized at the minimum-wage level. The excess workers (the two-thirds who were de-assigned) could be absorbed by Industries expansion.

In an interview with Consultants, Dave Craig, consultant to the American Foundation, was critical of one major area addressed in Singer's analysis. Craig told Consultants that Singer's recommendation for the optimum capital stock per worker rate is far too high. Craig said prison industries should operate as small-to-medium sized companies, and should avoid highly technical ventures. He pointed out that the higher the capital stock ratio, the less flexibility afforded in operations

Craig also told Consultants that the shift from current prison wages to minimum or prevailing wages as outlined by Singer should be viewed as a gradual process, and that wages should be paid in direct proportion to prisoners' productivity. As the shift toward prevailing wages is made, wages should be keyed to the degree to which production approaches standard production levels for free industry -- on a pro-rated basis.***

*Ibid., p. 190.

**This overassignment ratio is the same estimate given by CDC personnel interviewed by Consultants.

***CDC personnel estimated that prison workers in the current system are only 40 to 60 percent as productive as free industry workers.

When interviewed by Consultants, Craig said he thinks that California Correctional Industries is a very strong system, with a capacity for expansion and greatly increased productivity. He told Consultants that California is already closer to the Free Venture model than are most state systems, because California Industries managers are experienced in business management.

According to Craig, expansion should take multiple directions (as in Minnesota), including diversification, new ventures for Industries, and the bringing of private industry into the system. He emphasized that expanding the market for prison-made products is the key to upgrading productivity, and recommends a "revamping" of the state-use laws.

Consultants have attempted to project the potential effect of the Free Venture model for industrial work programs in the California system. The projection is based on the work of the American Foundation staff; Neil Singer's analysis of cost factors; and on information gleaned by Consultants during site visits, interviews with CDC personnel, and reviews of various reports and documents produced by the CDC.

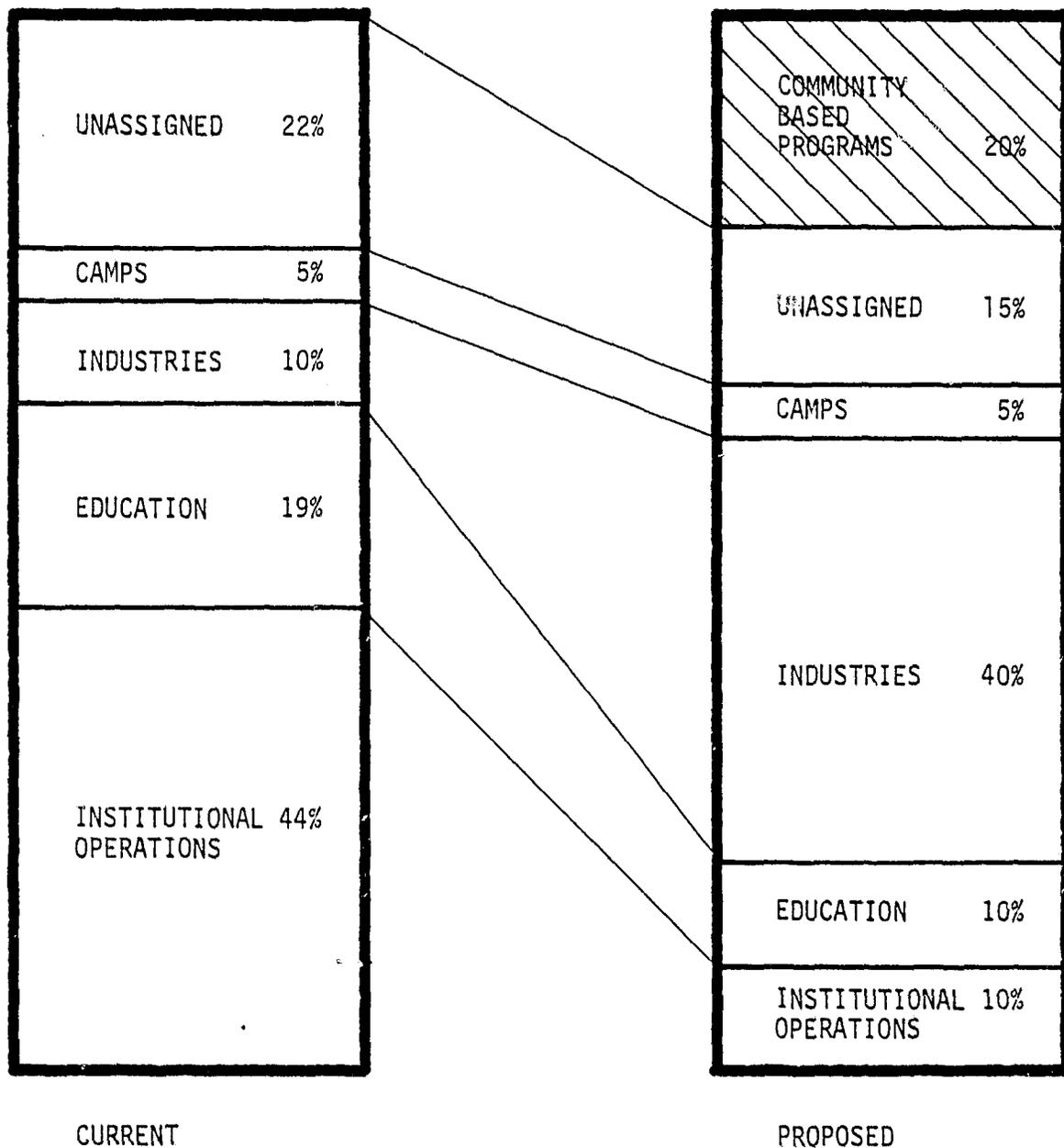
The graph on the following page represents the potential effect of Free Venture. The bar graph on the left represents the current pattern of work and education (including vocational training) assignments in the California prison system. On the right, the graph represents a projection of potential reassignment.*

The most striking shift portrayed by these graphs is the almost exact reversal of percentages between institutional operations assignments** and Industries. Singer estimates that prison maintenance can be accomplished efficiently by only 10 percent of the prisoner population if those workers are employed full-time and given adequate incentives. This argument is substantiated by reports that operations workers are currently overassigned by a ratio of three to one (along with Consultants' observations that many of these workers are employed less than half-time).

*Consultants wish to stress that the right graph represents the end result of a gradual process, and that the pace of such movement would be difficult to project as it is greatly dependent on California's economic growth (since prison industries do not exist in a vacuum). Since indentifying the rate at which private industry can be encouraged to enter the prison setting to employ prison workers is far beyond the scope of Consultants' current effort, we are unable to project a time-line for this process.

**For a listing of these jobs, see Consultants' Inventory Report on Institutional Programs, p. 56.

CHART
POTENTIAL EFFECTS OF FREE VENTURE



Furthermore, since it may be assumed that Industries can handle some aspects of operations (e.g., food service, laundry,* and others) on a service-contract basis, the 10 percent projection seems reasonable.

The apparent shift in education assignments downwards from 19 percent to 10 percent does not indicate any actual reduction of students. It is assumed that a substantial number of those prisoners housed in alternative programs (according to Consultants' recommendations; Vol. II of Consultants' Final Report) will be engaged in academic and vocational education programs (see also Section D of this report). Consequently, the percentage of students within the institutions will decline, since much of this activity will take place outside the prisons.

Some reduction in the rate of unassigned prisoners is projected by Consultants because of the current emphasis on expanding program opportunities to prisoners located in special housing units (which make up 43 percent of those currently unassigned). Past efforts to program for these prisoners have not been very successful, especially in the area of finding work for prisoners who are confined to their cells. Additional planning in this area is essential; an expanded industrial program can ensure a greater degree of accomplishment, especially if piecemeal contracts are secured with private industry.

*Laundry operations are already handled by Industries in some California prisons, and plans to expand this mode of operation are underway.

Recommendations



D. RECOMMENDATIONS FOR EXPANDED WORK PROGRAMS

In this section, Consultants will detail some specific recommendations for the expansion and upgrading of California's correctional work programs.

In formulating and discussing these proposals, Consultants have kept in mind the difficulties and constraints faced by those who attempt to change institutions.

Both Consultants and CDC personnel are convinced that very substantial change is imperative in this area. These changes must take place in the existing institutions, even if new prisons are eventually built. To the maximum extent possible, incentives for accommodating changes should be built into plans.

- Consultants recommend the repeal of Penal Code Section 2709, which provides that "all articles, materials, and supplies, produced or manufactured . . . (by inmate labor) . . . shall be solely and exclusively for public use . . .

The so-called State Use laws were passed throughout the nation during the 1930s, when it was thought that inmate labor unfairly competed with free labor on the open labor market. The laws were also passed as a response to the concern that inmate workers' uncompensated labor was being sold to private interests.

Analysis of the California State Use law shows that, although it restricts the market available for sales of prisoner-made products, it does not prevent competition between Industries and the private sector.

Goods bought from Industries by State agencies displace potential sales by private vendors, and the regulation of Industries by the Correctional Industries Commission operates to balance these interests (as when Industries production limits are set below the Penal Code limits to control competition with specific vendors).

Further, PC 2709 does not help prisoners to gain fair compensation for their work as directly as would alternative measures, such as prisoner labor organizations.

As to competition between inmate workers and organized labor, CDC's experience has shown that unemployment is the pivotal issue: tolerance toward the use of inmate workers in lieu of union members declines as the number of unemployed members increases.*

In fact, the key to balancing prison industries interests with those of both private industry and organized labor is neither legislation nor regulation. If prison-made products are produced by workers who receive wages in line with those of free workers engaged in the same occupations and are then sold at prevailing market prices, the elements of unfair competition are removed.

Short of repeal of PC 2709, Consultants support proposed legislation to expand the market for Correctional Industries goods to include non-profit agencies and the sale of agricultural produce on the open market.

Many people interviewed by Consultants said that even within the limits of PC 2709 there is much room for market expansion. They argued that all State and local government agencies should be required to buy Industries products in preference over privately-produced goods.

- Consultants recommend expansion and diversification of industrial and agricultural operations, according to the principles of Free Venture as discussed in Section IV.

As Consultants previously pointed out, the CDC plan is in harmony with the principles of Free Venture, as developed by Nagel and his staff. Current Correctional Industries operations should be scrutinized, and non-profitable operations should be either upgraded or discontinued. (They should not be discontinued if they provide such important benefits to CDC as to justify continued operation despite financial losses.)

*In the report of a study of prison industries conducted for the Law Enforcement Assistance Administration by ECON, Incorporated, researchers concluded that "the political climate surrounding prison industry operations is ripe for change Unless the low profile operating mode, which was forced upon prison industry by the political realities of the times, can be lifted, few substantial improvements can be realized from efforts devoted to lower level, subsidiary problem areas." ("Study of the Economic and Rehabilitative Aspects of Prison Industry," Vol. I (1976), p. 29.)

A plan should be drawn up for expansion that will allow for economic development by both Industries and the private sector, including business opportunities for prisoner entrepreneurs.* (The CDC plan is in agreement on this point.) The Correctional Industries Commission should be expanded to include representatives of government agencies (e.g., the Department of Commerce and the Small Business Administration) that can offer resources to economic development efforts, and representatives of inmate-worker organizations. Funds for loans should be made available to interested parties submitting solid proposals for expansion.

All appropriate institutional operations should be allowed open for bid by Correctional Industries, private firms willing to hire inmate workers, and prisoner entrepreneurial groups. In interviews, Industries' managers expressed considerable interest in bidding for contracts to provide a wide range of services to CDC (including maintenance and some aspects of programming, such as recreational services).

The plans by CDC to let inmates operate small service shops for both prisoner and employee customers should be explored, and prisoners should be invited to submit proposals for such operations.

- Consultants recommend that inmate workers be compensated for their labor at prevailing market wage rates for workers in like occupations. The process of upgrading inmate compensation will have to be a gradual process.

Consultants agree that, only to the extent that prisoners are as productive as free workers, should they be compensated at free work rates; and as productivity increases, differentials will decline.

Standards for production can be set on the basis of average production rates attained by free workers; prisoners would receive a percentage of the prevailing wage rate as determined by productivity. (An inmate worker

*The ECON, Inc. study suggests that there is no single best combination of business forms and operating procedures that can be recommended on an a priori basis. The "optimal" strategy is the testing of several variations simultaneously, discarding those which do not work, and pursuing vigorously those which do. (Ibid., p. 29.)

who produced at a rate of 80 percent would receive 80 percent of the prevailing wage.)* A program should be developed to apportion prisoner earnings between fair rates for room and board (set on a sliding scale by an independent body of review); a savings program; payment of restitution and family support; and an ample amount for daily expenditures. If insufficient wages remain for inmates' personal use, the incentive value will be lost.

This incentive system depends largely on the availability of a widely expanded range of goods and services (such as better quality and more choice of clothing, food, books, and other items not available for purchase with "unearned" funds), to be bought by prisoners with earned money.

This expansion of buying power and increased availability of purchasable amenities may to some extent undercut the market for contraband items -- which thrives on the severely meager prison economy -- though any impact would be small, since alcohol, drugs, and sexual favors will remain beyond the official scope of the earned money economy.**

- Consultants recommend a revamping of the assignment process to allow for direct hiring (and firing) of workers by work supervisors.

The role of the classification committee in determining work assignments should be restricted to developing explicit, written guidelines to determine which prisoners within various custody rankings are available for employment in specific work operations. Work supervisors could then

*The ECON, Inc. study set a scale of average target wages for the first year of Free Venture operations:

Trainees	\$1.00/day
Unskilled	.96/hour
Semiskilled	1.09/hour
Average skilled	1.64/hour
Highly skilled	2.47/hour

(Ibid., p. 35.)

**Some would argue that the introduction of more buying power will increase gambling and avarice among prisoners, thus producing more violence.

be free to recruit and hire from among the available groups. Participation in work programs should be entirely voluntary (and current efforts in Free Venture have demonstrated that an incentive system based on more adequate wage level is sufficient to ensure participation by large numbers of inmates).

As suggested in the CDC report, career ladders should be developed in the various areas of work operations to provide mobility and opportunity for advancement. New workers should be hired in entry-level positions, and there should be frequent raises in pay and status based on specific performance standards.

Such a system may work to the disadvantage of the new, highly skilled worker because he or she must enter at the bottom of the ladder like the others. However, skilled prison workers are few in number. For the unskilled worker, a career ladder offers important incentives for hard work and skill enhancement.

Criticism of opening up the prison labor market centers on the supposition that most skilled prisoners will be absorbed into Industries jobs (where wage levels are higher), leaving institutional operations short-handed. However, one possible solution would be to contract directly with Industries for maintenance services.

Furthermore, training programs should concentrate on efforts to upgrade the skills and work habits of low-grade workers. This would ensure that they are not relegated to a pool of "unemployables."

- Consultants recommend that steps be taken to upgrade the planning and management capabilities of CDC in the area of work programs.

Although the Correctional Industries organization chart shows that Industries managers report directly to the General Manager in Sacramento, Consultants have determined, through interviews and site visits, that in fact the managers are largely under the supervision of the institutional superintendents.

Recognizing that Industries operations are dependent in many important ways upon decisions made by superintendents, and that the relationship between custody and Industries is both vital and delicate; nevertheless, it seems to Consultants that the lines of authority should be clarified, and that decision-making should rest within Industries -- except where the security of the institution is in question.

The experience of the American Foundation staff in implementing the Free Venture model in other states suggests that strong support for the necessary changes involved can be elicited from both administrative and custody staff. In fact, their experience has been that the strongest work resistance to implementation comes from Industries middle-management and work supervisors, who find that they are now measured by more rigorous standards of productivity than they are accustomed to.

Planning efforts must be broadly drawn to include participation by all segments of CDC: administrators and managers; program and custody staff; supervisors and inmate workers. Management opportunities should be developed for prisoners beyond the current "lead man" positions, to provide added incentives and mobility, as well as to offer practical training in management skills.

Vocational Training

2

E. VOCATIONAL TRAINING

In the preceding discussion of work programs, Consultants have said little about training. The CDC report states that the Department intends to develop a much closer tie between vocational training and work programs, whether Industries or maintenance, by developing short-term training modules to relate training to work activities. Further, the report mentions providing training that relates to expected job opportunities in the community, relying heavily on the use of community resources.

Vocational training programs in California prisons have traditionally been closely related to institutional operations. The CDC report notes that 60 percent of available training programs serve a dual maintenance purpose.

Recently, efforts have been made to combine training with Correctional Industries operations. At Vacaville, the new Eyewear shop is a jointly funded operation of Industries and the Vocational Education Division. The shop manager is a vocational instructor. At Soledad, a vocational education classroom has been established in the furniture plant, and daily instruction periods are given to workers in the plant.

In its 1977 report, "California Youth Authority and California Department of Corrections Vocational Program Effectiveness," the Department of Finance states that vocational training programs in California's correctional institutions are not highly effective. The report cites low placement rates (31 percent immediately after release; 22 percent six months later), and compares wages received by those placed with expected earnings if prisoners had no training. The report concludes that many CDC classes are not cost effective.

According to the report, skills learned in vocational education classes are often no greater than those learned by members of a work crew, on-the-job, and the cost is greater.

When, in addition, wage levels offered graduates upon release from prison are very low (as is the case in fields such as shoe repair, dry cleaning, housekeeping, building maintenance, and baking) the cost benefit ratio may even be negative.

The report recommends that CDC discontinue classes in eleven training areas.* Where the students are performing work of value to the institution, the report suggests that the class be converted to a work crew. Short vocational courses should be offered to work-crew members to improve their vocational knowledge and give them up-to-date information about the labor market.

For the remaining classes, the report recommends incentive pay for productivity, and bonuses for achievement and for completion of the class.

Finally, the report recommends a formalized placement program, making use of existing teaching and parole personnel.

Consultants' analysis of the problem of vocational training in CDC institutions is that a sharp distinction should be drawn between two types of training:

1. Training to enhance the skills of inmate workers to meet standards of performance and production for the work opportunities available in prison.
2. Training to prepare prisoners for job opportunities available when they are released.

In the first case, efforts should be geared to providing short courses or training modules that are directly related to prison work activities. For Industries operations, short courses could be designed to prepare prisoners for entry-level jobs. Where intensive on-the-job training is required (as in the more technical operations, e.g. optical lens grinding), Consultants agree that training subsidies should be provided for new workers since much of their time will be spent in training and not production.

Furthermore, training units can be designed to expand the skills of inmate workers. These could include training in management and business techniques to encourage prisoner entrepreneurs, and could offer technical assistance to prisoner-operated businesses.

In the second case, Consultants think that job training for work opportunities in the community can best take place in a community setting, and

*Building maintenance, housekeeping, baking, dry cleaning, shoe repair, cosmetology, drafting, upholstery, data processing, culinary arts, and landscaping.

for this reason Consultants recommend that the resources for such training be channeled for use by prisoners in the urban skills and pre-release centers. (See Volume II of Consultants' Final Report.)

There are several reasons why this should be the case. Consultants think that training should be offered directly prior to release, and should focus on placement of the trainee in a job upon graduation. There is very limited value in training an individual months or years before release and then allowing the skills learned to become stale.

Job training should be offered to prisoners in a setting where they will have access to programs in the community to which they are returning. Vouchers could be issued for classes in community programs, vocational schools, and junior colleges -- and training money could be packaged with local CETA funds to enhance the opportunities available for prisoners in skills training, work experience, on-the-job training, as well as job placement.*

In this way, prisoners will receive the same training available to free persons, and will not be disadvantaged or penalized by certification through a prison program when applying for work.

By dividing the resources for vocational training as Consultants have suggested, the concerns of the Department of Finance report can be met in the most efficient way, and the value of each program can be more precisely determined.

Skills training programs in the prisons can be evaluated on the basis of their ability to provide workers with the fundamentals necessary for productivity and satisfactory performance. Job training programs in the community can be evaluated on the basis of successful placement of graduates in jobs.

*In one state contacted by Consultants, a new program is being developed whereby prisoners are processed by CETA Prime Sponsor staff prior to release so they can be placed in jobs with CETA sub-contractors directly upon their release.

Appendix



APPENDIX

NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE

STANDARDS AND GOALS, CORRECTIONS (1973)A. AVAILABILITY OF EMPLOYMENTStandard 11.10

Each correctional agency and each institution operating industrial and labor programs should take steps immediately to reorganize their programs to support the reintegrative purpose of correctional institutions.

1. Prison industries should be diversified and job specifications defined to fit work assignments to offenders' needs as determined by re-release planning.

2. All work should form part of a designed training program with provisions for:

a. Involving the offender in the decision concerning his assignment.

b. Giving him the opportunity to achieve on a productive job to further his confidence in his ability to work.

c. Assisting him to learn and develop his skills in a number of job areas.

d. Instilling good working habits by providing incentives.

3. Joint bodies consisting of institution management, inmates, labor organizations, and industry should be responsible for planning and implementing a work program useful to the offender, efficient, and closely related to skills in demand outside the prison.

4. Training modules integrated into a total training plan for individual offenders should be provided. Such plans must be periodically monitored and flexible enough to provide for modification in line with individuals' needs.

5. Where job training needs cannot be met within the institution, placement in private industry on work-furlough programs should be implemented consistent with security needs.

Standard 16.13

By 1975, each State with industrial programs operated by or for correctional agencies should amend its statutory authorization for these programs so that, as applicable, they do not prohibit:

1. Specific types of industrial activity from being carried on by a correctional institution.
2. The sale of products of prison industries on the open market.
3. The transport or sale of products produced by prisoners.
4. The employment of offenders by private enterprise at full market wages and comparable working conditions.
5. The payment of full market wages to offenders working in State-operated prison industries.

B. WAGES AND CONDITIONS OF EMPLOYMENT (Standard 16.13, cont.)

6. Inmates should be compensated for all work performed that is of economic benefit to the correctional authority or another public or private entity. As a long-range objective to be implemented by 1978, such compensation should be at rates representing the prevailing wage for work of the same type in the vicinity of the correctional facility.

COMMISSION ON ACCREDITATION FOR CORRECTIONS,
MANUAL OF STANDARDS FOR ADULT CORRECTIONAL INSTITUTIONS (1977)

A. AVAILABILITY OF EMPLOYMENT

4386 There are sufficient employment opportunities for inmates.
 (Essential)

DISCUSSION: An inmate work program should include industrial, agricultural, maintenance, and service jobs, and should ensure full-time employment for all eligible inmates. Sufficient jobs should be provided so that there is no idleness. Jobs should be genuine; no more inmates should be assigned a task than necessary.

4387 Inmate work assignments provide work experience relevant to
 the current job market. (Important)

DISCUSSION: The institution should provide a wide variety of work assignments that afford inmates an opportunity to learn job skills and develop good work habits and attitudes that they can apply to jobs after they are released.

4388 An effort is made to structure the inmate workday to approximate
 the workday in the community. (Important)

DISCUSSION: The inmate working day should last approximately eight hours so that inmates will be familiar with what will be expected of them in their post-release jobs. To the extent possible, scheduling of counts and other activities should not interfere with the normal working day of inmates.

- 4389 The inmate training and work programs utilize the advice and assistance of labor, business, and industrial organizations. (Important)

DISCUSSION: The institution should actively pursue cooperation from labor and industry to help plan and evaluate institution work programs and assist in work release, job training, and job placement. The establishment of advisory boards or joint councils should be considered.

B. WAGES AND CONDITIONS OF EMPLOYMENT

- 4390 Inmates are paid for work performed. (Essential)

DISCUSSION: Inmates should be paid sufficient wages so that they can make purchases from the canteen and accumulate funds to assist them upon their release from prison.

- 4391 There is a written plan for providing incentives to inmates in work programs. (Important)

DISCUSSION: An incentive system for working inmates should be developed to reinforce positive behavior. Rewards such as: increased or bonus wages, special housing considerations, extra privileges, and good time credits should be distributed according to written guidelines to ensure fairness.

- 4392 Inmates employed by public or private organizations are compensated at the prevailing rates. (Essential)

DISCUSSION: Compensation for all work performed for public or private organizations should be at the prevailing rate and should include all fringe benefits. Inmates receiving such compensation should be required to reimburse the jurisdiction for a reasonable share of its cost in maintaining them, where applicable.

JOINT COMMITTEE ON THE LEGAL STATUS OF PRISONERS,
AMERICAN BAR ASSOCIATION, "TENTATIVE DRAFT OF STANDARDS RELATING
TO THE LEGAL STATUS OF PRISONERS", (1977)

A. AVAILABILITY OF EMPLOYMENT

4.1 Availability of Remunerative Employment

Correctional authorities should ensure that prisoners have access to remunerative employment while confined. To implement this principle, the following standards should apply:

a. Correctional authorities should establish furlough and work release programs to provide employment opportunities for prisoners.

b. Prisoners not employed outside the institution on furloughs or work release programs should be provided with remunerative employment within the institution.

c. Legal provisions that restrict the goods that can be produced by prisoners or the type of employment that can be offered to prisoners should be repealed.

d. Legal provisions that restrict the marketing, sale, or transportation of goods produced in correctional institutions or by prisoners should be repealed.

e. Private enterprise should be authorized and encouraged to operate within correctional institutions and to employ prisoners.

f. Prisoners should be entitled to operate their own legal businesses provided that the security or order of the institution is not unduly affected.

B. WAGES AND CONDITIONS OF EMPLOYMENT

4.2 Wages and Hours of Employment

Prisoners should be entitled to receive compensation and other benefits for employment within correctional facilities comparable to what they

could receive if the employment occurred in free society. The following standards should apply to all prison employment:

- a. Prisoners should be governed by provisions comparable to those of the Fair Labor Standards Act.
- b. Prisoners should receive the same wages and be required to work no more than the number of hours that prevails in free society for similar work for persons of like training and experience.
- c. Prisoners should receive the same fringe benefits that prevail in free society for similar employment.

4.3 Conditions of Employment

Prisoners should be entitled to work under the same conditions that prevail in similar employment in free society. Prisoners working at remunerative employment within an institution should not be exempted from:

- a. The Occupational Safety and Health Act.
- b. The Applicable Worker's Compensation System.
- c. The Federal Unemployment Tax Act.
- d. The Federal Social Security Act.
- e. The Pension Reform Act.
- f. The National Labor Relations Act and other legal provisions regulating labor-management relations in private employment, unless employed by a state agency in an occupation that provides essential services to the prison community.
- g. Any legislation authorizing, prohibiting, or regulating the unionization or collective bargaining of public employees if engaged in employment excluded in Subsection (f).
- h. Any other law or program relating to the wages, hours and conditions of employment of persons in similar occupations in free society.

C. DISPOSITION OF WAGES

4.4 Prisoner Payments

Upon implementation of the above standards, prisoners working at remunerative employment should be required to pay the following:

a. The costs of their room and board. Correctional authorities with the assistance of the jurisdiction's public auditing agency or a private accounting firm should determine periodically the charge to be made for housing which may include an allocation for depreciation of personal living quarters, utilities, and other services provided primarily for personal comfort and benefit. Costs related primarily to custody and rehabilitation should not be included.

b. Any contributions or withholding required by law or normally paid by workers in private industry working at comparable employment at comparable wages.

c. Taxes.

d. Any costs associated with their employment such as transportation, tools, and uniforms that would normally be borne by workers in private industry working at comparable employment at comparable wages.

e. Any other legal obligation including family support and court ordered restitution.

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, "UNIFORM
CORRECTIONS ACT" (DRAFT), (1977) (PARAPHRASED BY CONSULTANTS)

A. AVAILABILITY OF EMPLOYMENT

Sections 4-400 through 4-405:

Provides for a wide variety of employment and training opportunities by:

1. Permitting private business, commercial, industrial and agricultural enterprises to operate on the grounds of a facility.
2. Administration of Correctional Industries by the Department of Corrections.
3. Permitting the employment of confined persons by public and private enterprises.

Provides for the leasing of land or other space to private enterprises, and for adjustments for additional costs incurred because of the nature and size of the work force and the location of the facility.

Section 4-412:

Provides that goods produced by confined persons may be transported and sold in the same manner as goods produced by free persons (repeals the State Use Law).

B. WAGES AND CONDITIONS OF EMPLOYMENT

Section 4-408:

Provides that a confined person employed in either a private or a Correctional Industries enterprise is subject to the same laws governing

employees of private industry with respect to the terms and conditions of employment, and shall be paid no less than prevailing wages.

Provides that a confined person employed in work that assists the maintenance and operations of the facility shall be paid a wage at least comparable to the minimum wage.

C. DISPOSITION OF WAGES

Section 4-409:

Provides that wages paid to confined persons shall be distributed in the following manner:

1. Payment of necessary work-related incidental expenses.
2. 10 percent retained by the worker.
3. 25 percent for room, board, and maintenance (may be waived when deemed unreasonable).
4. 10 percent saved in a release fund.
5. The remainder to be paid for restitution, fines, support of dependents, etc.

END