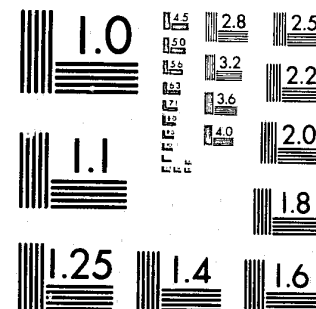


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*Research Report*

# Private Sector Involvement in Prison-Based Businesses:

## A National Assessment

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# Private Sector Involvement in Prison-Based Businesses: A National Assessment

Criminal Justice Associates

November 1985

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National Institute of Justice

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*Director*

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## ABSTRACT

This study investigated contemporary forms of private sector involvement in prison-based businesses and examined the statutory, organizational, and procedural strengths and weaknesses of these forms.

The study posed five research questions directed at private sector involvement, and sought answers to these questions through mail surveys, site visits, and statute analysis.

Significant interest in the concept of private sector involvement in prison-based businesses was found among most officials polled, with the strongest support for the concept voiced by corrections directors.

The study identified twenty-one states that have statutes specifically authorizing private sector involvement in prison-based businesses, and six states with statutes explicitly prohibiting such involvement.

Twenty-six prison-based businesses with significant private sector involvement were operating in seventeen different prisons at the time of this study. These prisons were located in nine different states and ranged in size from small community facilities to large, isolated maximum custody institutions. Approximately 1,000 prisoners were employed in such businesses.

Six models for private sector involvement in prison-based businesses were identified by the study. No one model was found to be ideal for all situations; three factors were identified to help a corrections agency choose the most appropriate model for a given set of circumstances.

Both private sector managers and corrections officials have reported specific benefits resulting from private sector involvement in prison-based businesses. This involvement, however, is not a panacea for either the corrections system or the private firm. Private sector involvement does, however, appear to be a developing trend in corrections rather than a passing fad.

Many issues concerning this topic remain unresolved. The resolution of these issues at the local level will largely determine the success or failure of this corrections innovation.

## EXECUTIVE SUMMARY

This study explored the nature and extent of private sector involvement in prison-based businesses and identified the statutory, organizational, and procedural strengths and weaknesses of contemporary practices. The report is designed to serve as a state-of-the-art information base for both public officials and private firms contemplating some form of cooperative venture.

Through mail surveys, site visits, and analysis of enabling statutes, this study produced the most complete, up-to-date description of current practices nationwide. Five research questions were articulated, and the report is structured around the answers to them:

1. How much interest do public officials have in the topic of private sector involvement in prison industries?
2. What states have statutory authority to involve the private sector in prison-based businesses, and what is the nature of that authority?
3. What states currently have private sector projects, and how are they structured?
4. How can private sector initiatives now underway be grouped and classified to aid analysis and evaluation?
5. Under what circumstances is it reasonable for correctional systems to expand their involvement with private industry, and what factors should be considered in doing so?

### Existing Projects

On December 31, 1984 there were 26 prison-based businesses. These businesses operated inside 17 prisons in nine states and in connection with 19 private firms. Located in prisons ranging from small community-based facilities to large, rural, maximum-security institutions, they employ almost 1,000 prisoners, or 0.2 percent of the total prison population of the United States. Since the first of these projects began in 1976, these businesses have paid more than \$4.4 million in wages to their prisoner workers, and workers have paid over \$775,000 in taxes and \$470,000 for room and board.

In most of these projects the private firm owns and operates the business, makes all business decisions, bears the financial risk, and has control of the hiring, firing, and job-related supervision of inmate workers. The correctional agency typically provides the physical plant and custodial supervision, in addition to the labor force.

In the second most common approach to private sector involvement, the state assumes the role of owner-operator of the business, with all of the attendant responsibilities, but sells prisoner-produced goods or services on the open market. Sometimes the state-run business sells to a single private sector customer, which contributes raw materials, training, supervision, or other capital or management resources. In only one instance noted by this study has a private sector firm become involved in a prison-based business in the role of an investor.

#### Statutory Authority

Prison industry operations have been highly regulated by state and federal laws for several decades. Most of these laws were enacted prior to the current re-emergence of interest in private sector participation in prison-based businesses. In the last ten years there have been changes at both state and federal levels aimed at encouraging private sector prison industries. With prominent exceptions in the area of wages and benefits, these new laws serve as clear guidelines for the implementation of prison work projects with private sector involvement.

Twenty-one states have statutes specifically authorizing the private sector employment of prisoners or the contracting of prisoner labor by the private sector, or both. Most of the remaining states have no statutes that specifically authorize or prohibit these activities. Eight states specifically prohibit private sector employment of prisoners, and 14 prohibit either the contracting of prisoner labor or contracting with private firms for the production of goods or services. Six prohibit all three forms of private sector involvement.

Open market sales of prisoner-made goods are prohibited in 25 states and authorized in 20, with five states silent on the issue. Only two states specifically authorize the use of incentives to encourage private sector participation, and six have statutes designed to protect the jobs of non-prison labor.

Twelve states mandate payment of either the prevailing wage or the minimum wage to prisoners working in private sector projects, but only one of these extends to inmates all benefits offered non-prison employees, including unemployment compensation.

#### Support for Private Sector Involvement

The overwhelming majority of state governors and legislators surveyed saw work, especially paid productive work, as either an essential or a very important part of a state prisoner's experience while incarcerated. Of the 30 governors and legislators responding to the question, 27 also expressed interest in the concept of private sector employment, and about 40 percent said they were "very interested." These respondents listed reduction of prisoner idleness and increased ability of prisoners to pay family support and victim restitution as the major benefits of private sector participation in prison industries.

State corrections directors expressed even more interest in the concept of private sector involvement in prison-based businesses: of 49 directors responding to the question, 45 expressed interest and 31 of these said they were "very interested." Reduction of prisoner idleness and decreased costs of incarceration were the most important benefits mentioned by this group.

The larger percentage of corrections directors as compared with governors and legislators who said they were very interested in the concept of private sector involvement in prison industries suggests that directors may need to play a leadership role in this area. In many states they will find considerable support for the idea within the executive and legislative branches.

#### Models for Private Sector Involvement

Six models for private sector involvement in prison-based businesses have been identified: the Employer Model, the Investor Model, the Customer Model, the Manager Model, the Joint Venture Model, and the Controlling Customer Model. With the exception of the Joint Venture and Manager Models, all of these models are currently found in the field.

1. Employer Model: the private sector firm owns and operates a business that uses inmate labor to produce goods or services, and has control of the hiring, firing, and supervision of inmate labor.
2. Investor Model: the private sector firm capitalizes, or invests in, a business operated by a state correctional agency, but has no other role in the business.
3. Customer Model: the private sector firm purchases significant portion of the output of a state owned and operated business, but has no other role in the business.



4. Manager Model: the private sector firm manages a business owned by a correctional agency, but has no other role in the business.
5. Joint Venture Model: the private sector firm has a role in both the ownership and operation of a prison-based business, sharing these responsibilities with the correctional agency.
6. Controlling Customer Model: the private sector firm does not own or operate the business, but strongly influences its management due to its role as dominant or exclusive customer and possibly some role in financing.

There is no one ideal model for private sector involvement in prison-based businesses, although the Employer Model is currently the most common. Choosing among these models requires the correctional agency to evaluate three factors: the agency's own expertise in business management; its existing resources or production capacity; and the level of control the agency wants to exercise over the business.

Considering these three factors together, the Employer Model is most appropriate for agencies with few resources and little desire to operate a business. Conversely, for agencies with experienced management staff, resources, and an interest in running a business, the Customer or Controlling Customer Models may be appropriate.

The Joint Venture and Investor Models are good options for an agency with limited resources and a desire to participate in business management. The Manager Model is a reasonable approach for agencies with a need for qualified management personnel to effectively utilize existing production capacity.

#### Conclusions

1. There is no one ideal form of private sector involvement in prison industries

Of the twenty-six private sector prison industries operating as of December 31, 1984, fifteen represent the Employer Model, with the private sector both owning and operating the projects. The other eleven projects are operated by corrections agencies and represent the Customer, Controlling Customer, or Investor Models. Seven of the nine states with active projects have implemented only one model of private sector involvement in all of their businesses. Arizona and Utah have experimented with two different models, and Minnesota's industrial operations reflect three different models. This diversity suggests that there is no one ideal form of private sector involvement in prison industries.

2. Small businesses are more likely to prefer the Employer Model, while large corporations tend to favor the Controlling Customer or Customer Model.

With the exception of Best Western in Arizona, Howard Johnsons in Oklahoma, and P.R.I.D.E. in Florida all of the identified examples of the Employer Model are small businesses. Virtually all of these are owned and operated by individuals who founded their own small companies. Many of these entrepreneurs do not believe that it is possible for the public sector to operate a work project as a business. Some private business people express disbelief that any business involved in prison industries would do other than directly employ prisoners itself.

Conversely, some of the larger corporations are uninterested in direct operation of a prison industry. While voicing the same motivations for using prison labor as their small business counterparts (e.g., teach the work ethic, give inmates something to do, provide work experience translatable to the street), corporate managers seem to feel these objectives can be achieved without operating and owning the plant themselves. The large corporation often seems content to contract for business, while the small business generally wants to control the business.

This finding is probably more illustrative of the differing business philosophies of small entrepreneurs and large corporations than of conditions inherent in the correctional setting. It does, however, have implications for a corrections agency attempting to design a strategy to involve the private sector in its industry operations.

3. Private sector prison industries require extra resources from the prison and the business.

Private sector businesses based in prisons will be successful only if both the department of corrections and the private company devote talented professional staff full-time to the project. An on-site production supervisor usually is a necessity for the company, especially during the initial operational period, because the work force must be trained in production processes, quality control standards, and inspection procedures. A full-time project coordinator is usually a necessity for the correctional agency given the continuous need for coordination and communication between the prison and the company and because of the politically sensitive nature of private sector work projects. The correctional agency must have the professional resources to keep organized labor and competitor manufacturers informed about its private sector projects, and whenever possible should attempt to involve them in the project's development.



4. Communication and cooperation between the business and the prison will not guarantee success, but their absence may guarantee failure.

Businesses and prisons are fundamentally different in nature: Businesses require constant flexibility for success, prisons demand predictable routines. This basic difference between the two primary organizational partners in a private sector prison industry is often aggravated by a mutual lack of understanding of each partner's purposes and needs. This lack of understanding, coupled with an inability to communicate clearly, has contributed directly to the failure of some projects.

5. Wage disparities do not lead to friction among prisoners.

Private sector involvement in prison industries often introduces significant wage disparity into the prison environment, since in most cases prisoners who work in private sector projects are paid much more than those who do not. For example, the average state prisoner assigned to an institutional service crew or a traditional state-use industry receives 35¢ to 60¢ per hour, while most prisoners working in private sector projects earn about \$3.35 per hour.

There has been considerable speculation about the practical implications for prison administrators of such income differentials, with much concern centering on the possibility that wage disparities might cause hostility among prisoners. However, every prison superintendent interviewed in the CJA study indicated that this has not been a significant or widespread problem.

6. Private sector involvement in prison-based business offers specific advantages to businesses offers specific advantages to companies with specific labor needs.

Some general benefits can accrue to virtually any company that agrees to employ prisoners. The principal economic benefit is free use of space and utilities. Some personnel cost savings can be realized by employing prison labor, primarily because employer-paid health insurance coverage is not required. These projects typically also provide some public relations benefits for at least the larger companies involved and fill a philanthropic or altruistic need for some organizations.

There are also some specific benefits that can help companies with special labor needs. Prison labor is attrac-

tive to the employer with seasonal labor needs, who can fine-tune labor costs much more precisely, and with much less risk of losing workers, with a prison labor force than with non-prisoner workers. Prison labor is also attractive to companies with shift demands that are difficult to fill consistently (e.g., weekend or night work), and to companies with short-term product manufacturing cycles followed by long idle periods.

7. There are hidden business costs inherent in prison-based businesses.

Businesses that make use of a prisoner work force are confronted with a set of personnel costs unique to the prison setting. These hidden costs of doing business inside prison revolve around four factors:

- . turnover
- . training
- . mobility
- . manipulation

It is a widespread misconception that prisoners remain in the same institution for years on end. The average length of incarceration in the United States is approximately two years, and in many states a prisoner will spend that time in more than one facility. Such movement through the prison system contributes to high turnover rates among the prisoner work force.

The combination of high worker turnover and the general lack of both work experience and skills inherent in most prison work forces, results in high training costs for many prison-based businesses. These costs may be further inflated by the fact that, unlike businesses outside the prison which encourage upward mobility within the work force as a means of developing leadmen and supervisors, the prison industry is faced with outward mobility as prisoners leave the facility.

Finally, the manager of a prison industry is often confronted with a problem that prison administrators have been dealing with for years--prisoner manipulation. Many prisoners devote considerable time and effort to "con games" both on the job and elsewhere, and the time spent by private sector managers and supervisors in learning to deal with such behavior is costly. Growing disenchantment of a private business person with prisoners as a work force could bring an end to his participation in such ventures.

8. Private sector involvement in prison industries has created problems in defining the legal status of inmate workers.

Inmates employed by state owned and operated prison industries in the past have not been considered employees in the strict legal sense of that term. With the private sector now becoming involved in prison industries, the status of inmate workers has become more complex. The issue is critical in the area of wage policy, for its resolution will determine whether the Fair Labor Standards Act (FLSA) is applicable to prisoners involved in privately owned and operated businesses.

The courts have consistently rejected prisoners' claims to minimum wages and benefits under the FLSA, but have not rejected such claims out of hand. Instead, the courts have based their decisions on whether or not prisoners come within the coverage of minimum wage laws. The changing nature of prison work programs--especially the increased involvement of the private sector in operating such programs--may change the courts' conclusions.

#### RECOMMENDATIONS FOR CORRECTIONAL AGENCIES

Correctional officials interested in developing private sector/prison industries should heed the following recommendations and caveats:

1. Before beginning, ensure that appropriate state enabling statutes exist, and that the project meets federal legislative and administrative requirements for shipment in interstate commerce, if appropriate.
2. Develop a plan for recruiting the private sector and for maintaining the businesses once they are operational. The plan should address internal organizational development, targeted public education, and organized private sector recruiting.
3. Identify groups likely to react adversely to the private sector initiative and consult with them early in the planning phase.
4. Clearly state in a formal contract the responsibilities and obligations of both the private sector and the correctional agency.
5. If the correctional agency has a strong correctional industry program, it should seriously consider implementing either the Customer or Controlling Customer Model. Larger corporations would be good candidates to approach regarding possible interest in these models.

6. If the agency has no correctional industry program or has a weak program, it should seriously consider implementing the Employer Model. Smaller businesses or entrepreneurs would be good candidates to approach regarding possible interest in these models.
7. Note that there are models other than the three mentioned above. An agency with a weak correctional industry program might benefit, for example, from the Manager Model or the Joint Venture Model.

#### RECOMMENDATIONS FOR PRIVATE BUSINESSES

Private sector firms interested in becoming involved with prison industries should heed the following recommendations and caveats:

1. Obtain the active support of key corrections officials (in both the central office and the institutions) before attempting to implement a project.
2. A private business without a standard product line should be cautious about participation in a prison based operation because of the high cost of retraining prisoner workers each time a new product or production process is introduced.
3. Examine the relevance of the Fair Labor Standards Act to the proposed project. If a genuine employer-employee relationship will exist between the private businesses and the prisoner worker, then the minimum wage provisions of the FLSA may apply to that business.
4. Consider staffing the project with specially trained production supervisors. Private sector production management personnel should receive special training from the correctional agency in security and safety procedures.

#### LONG TERM OUTLOOK

Private sector involvement in prison-based businesses seems to be a lasting trend rather than a passing fad. But many issues--including the status of prisoner workers and the concerns of labor and business outside prison--remain only

partially resolved. How these issues are handled at the local level, and the decisions made by local designers of policies and programs, will largely determine the success or failure of this promising innovation on a nationwide scale.

## I. INTRODUCTION

This study explored the nature and extent of private sector involvement in the operation of prison-based businesses in the United States and identified the statutory, organizational, and procedural strengths and weaknesses of contemporary practices. The report is designed to serve as a state-of-the-art information base for both public officials and private firms contemplating private sector participation in prison-based businesses.

There is today a growing interest in this area among private firms and in government at state and federal levels. Almost half of the states have legislation authorizing some form of private sector involvement with prison industries, and the federal government has recently eased its restrictions on the interstate sale of prison-made goods. Governors, legislators, and corrections directors express considerable interest in the concept of private sector employment for prisoners, and private firms with operations in prisons are expanding in number and variety.

### HISTORICAL DEVELOPMENT

Private enterprise is no stranger to the American prison. When the United States replaced corporal punishment with confinement as the primary punishment for criminals in the early nineteenth century, the private sector was the most frequent employer of convict labor. Prisoners were typically either leased to private companies who set up shop in the prison, or were used by prison officials to produce finished goods for a manufacturer who supplied the raw materials to the prison. The former arrangement was called the contract system, while the latter came to be known as the piece-price system. In both instances a private company paid the prison a fee for the use of prison labor, which was used to partially offset the expense of operating the prison. Blatant exploitation of inmates sometimes developed as a consequence of these systems.

Opposition to the use of prison labor from rival manufacturers and from the growing organized labor movement began to emerge in the latter part of the nineteenth century as more and more prisoners were put to work for the private sector. Opposition reached a peak during the Great Depression, when Congress passed a series of laws designed to prohibit the movement of prison-made goods in interstate commerce, thus insuring that these products would not compete with those made by outside labor. Many state legislatures followed suit, forbidding the open market sale or importation of prison-made goods within their borders and effectively barring the private sector from the prison. As a consequence, prison-based manufacturing operations became state owned and operated businesses, selling goods in a highly restricted market.

This situation continued well into the 1970's, when there was a shift in thinking about prison industries, as these state-run manufacturing operations came to be called. Long seen as rehabilitative programs designed to teach prisoners specific vocational skills, prison industries now came to be viewed as a way to generate revenue for the state while combating the ever-growing problem of prisoner idleness. This led to renewed interest in the commercial aspects of correctional industries, an interest that has spurred a rethinking of the role of the private sector in the operation of prison-based businesses.

By 1980 many states had replaced restrictive legislation barring the private sector from using prison labor with legislation that encouraged private sector participation in prison-based businesses. The federal government had initiated a pilot program to test the feasibility of private sector involvement in prison industries. Under this program both the contract and piece-price systems of convict labor have been recreated in modified form, accompanied by strong safeguards to protect the interests of competitors, labor, and the prisoner workers themselves.

Chief Justice Warren Burger has been a prominent and enthusiastic supporter of private sector involvement in prison-based businesses. He has proposed the creation of "factories with fences" --penal facilities devoted to the production of goods and services-- and he has publicly supported the repeal of legislation that restricts the production and sale of prisoner-made goods.

It can be assumed that future expansion of private sector involvement in prison-based businesses will depend on the interest of correctional administrators in the concept, the willingness of private companies to contract with prisons, the availability of prison labor, and acceptance of the idea among important segments of the public. Statutory authorization of private sector involvement is a fundamental prerequisite.

Our survey has indicated strong interest in the concept on the part of correctional administrators. We have identified a number of companies that are now involved with prison labor, and we see more companies considering the idea. With prisoner idleness so prevalent today, it is clear that prison labor is readily available. Over the past ten years almost half of the states in this country have adopted legislation calling for some form of private sector involvement in their prison work programs, and the federal government has relaxed some of the barriers to this type of activity. The concept of private sector employment of prisoners also has received strong support from interest groups and public officials.

## PURPOSE AND ORGANIZATION OF THE REPORT

With the field of corrections poised to move forward in this area, this report should serve as a useful tool for both public officials and firms contemplating private sector participation in prison-based businesses.

Five research questions were articulated to provide the information needed to guide policy and action in this area, and the report is structured around the answers to these questions:

1. What states currently have private sector projects, and how are they structured?
2. How can private sector initiatives now underway be grouped and classified to aid analysis and evaluation?
3. What states have statutory authority to involve the private sector in prison-based businesses, and what is the nature of that authority?
4. How much interest do public officials have in the topic of private sector involvement?
5. Under what circumstances is it reasonable for correctional systems to expand their involvement with private industry, and what factors should be considered in doing so?

Chapter II of the report describes the study methodology. Chapter III describes private sector prison-based businesses in ten states. Chapter IV develops a set of models for private sector involvement and classifies existing projects into groups according to these models. Chapter V looks at state and federal statutes governing private sector involvement in prison-based businesses. Chapter VI reports on the level of interest in the concept expressed by public officials. Chapter VII offers some conclusions and recommendations to guide future efforts, and Chapter VIII assesses the longterm outlook for private sector involvement in prison-based businesses.

## II. PROJECT METHODOLOGY

Information about private sector involvement with state prison industries was gathered during this project through analysis of state and federal laws, mailed questionnaires, and site visits to selected prison industries with private sector involvement. Data from these sources were used to create theoretical models of private sector involvement in prison-based businesses and to develop recommendations for corrections officials and private business people who may be contemplating a collaborative venture. An advisory board, with representatives from both corrections and the private sector, participated in the construction and review of survey instruments, the articulation of important issues, and the interpretation of study results.

The data-gathering tasks are described in this chapter. The information obtained from these tasks is presented in Chapters III, V, and VI of this report.

### STATUTORY ANALYSIS

The director of corrections in each state was asked to forward to project staff a copy of the state's laws pertaining to prison industries. The statutes were then reviewed with respect to twelve key issues identified through discussions with the project's advisory board and with other corrections officials and private sector managers involved with prison-based businesses. The issues fall into four general categories:

- authorization of private sector involvement in correctional industries;
- definition of wages and benefits for private sector prisoner workers;
- creation of incentives for private sector involvement in industries;
- attention to factors that may influence implementation of prison work programs with private sector involvement.

The twelve specific issues examined in the statutory analysis are presented in Chapter V. The findings of the statutory analysis are presented in that chapter in narrative and tabular form.

After reviewing state legislation, project staff analyzed relevant federal laws and executive orders relating to private

sector involvement in prison-based businesses. The findings from this analysis also appear in Chapter V, following the discussion of state laws.

### MAILED QUESTIONNAIRES

Mailed questionnaires or surveys were used to gather information for each state on (1) the extent and nature of private sector involvement in correctional industries and (2) the attitudes of key policymakers in the state (specifically the governor, the corrections director, and legislators) regarding private sector involvement in prison-based businesses. Copies of the survey instruments are appended to this report.

#### Status of Private Sector Involvement

A questionnaire (the Correctional System Questionnaire, appended) mailed to the director of corrections in each state sought to identify those states that currently host prison industries with private sector involvement and those states that do not. Those states with private sector involvement in prison industries were asked to provide the following information:

- project start-up date;
- name and address of private firm involved;
- products or services produced;
- size of prisoner work force;
- gross sales of project for a twelve-month period;
- range of hourly wages to prisoner workers;
- total wages paid to work force;
- total deductions from salary for specified categories;
- incentives provided for private sector involvement.

Those states not hosting private sector prison industries were asked whether they had ever hosted such projects; whether there was interest within their state department of corrections in the concept; whether any plans for private sector involvement were in place; and what factors now inhibit (or prohibit) the development of such projects in the state.

Of the 51 correctional System Questionnaires mailed to each state and the District of Columbia, 48 (94 percent) were completed and returned. The information generated by the Correctional System Questionnaire is summarized in Table 1 and discussed in Chapter III of the report.

Those states that identified themselves as hosting private sector projects were mailed a second set of questionnaires. Each of the private sector firms involved in the state's prison industries received one of two questionnaires (the Private Sector Operator's Questionnaire or the Private Sector Contractor's Questionnaire, appended). Depending upon the role of the firm involved with the prison industry, the following information was solicited:

- . size of firm (by number of employees);
- . firm's total capital investment in the project;
- . what incentives, if any, should be offered to the private sector;
- . what role both federal and state governments should play in such projects.

The information gathered from the Private Sector Questionnaire is discussed in Chapter III.

In those states with operating private sector prison industries, the superintendents of the host institutions were also mailed a questionnaire (the Superintendent's Questionnaire, appended), which sought information in the following areas:

- . advantages and disadvantages of private sector involvement;
- . effects of private sector prison industries on the prison;
- . attitudes of institutional staff toward such projects;
- . the superintendent's own interest in such projects;
- . factors that would lead toward either expansion or termination of private sector prison industries.

Due to time constraints, only eight Superintendent's Questionnaires were mailed to potential respondents. (However, each superintendent of a host facility was interviewed during the site visits.) Of these, seven were completed and returned. Information from the Superintendent's Questionnaire is not presented separately but is reflected in the conclusions and recommendations presented in Chapter VII.

#### Policymakers' Attitudes

The attitudes and interests of key policymakers in each state were surveyed by questionnaires mailed to each governor, each state director of corrections, and the chairperson of each state's house and senate judiciary committees. Copies of these questionnaires are appended.

The Governor's and Legislator's Questionnaires solicited qualitative information as to the respondent's:

- . interest in the concept of private sector prison industries;
- . attitudes regarding selected kinds of work normally available to prisoners;
- . perception of potential benefits resulting from private sector prison industries;
- . attitudes regarding various possible incentives to encourage private sector involvement in prison industries.

Of the 50 questionnaires mailed to each governor, 30 (60 percent) were completed and returned. Of the 100 questionnaires mailed to key state legislators, 30 were completed and returned. (Despite the low rate, 25 states were represented in this response.) The information gathered from these completed surveys is presented in both tabular and narrative form in Chapter VI of the report.

The questionnaires mailed to each state's director of corrections solicited such information as:

potential benefits resulting from private sector industries;



- incentives that could be used to encourage private sector involvement in prison industries;
- prisoners' interest in various work projects;
- departmental employees' attitudes regarding private sector involvement in prison industries;
- the director's own interest in the concept;
- potential positive and negative impacts of private sector prison industries on a corrections system.

Forty-eight (96 percent) of the 50 state directors of corrections completed and returned this questionnaire. The information gathered from the Director's Questionnaire is presented with the results of the Governor's and Legislator's Questionnaires in Chapter VI of the report.

#### SITE VISITS

Information gathered from the completed Correctional System Questionnaires showed that eight states were operating prison industries involving the private sector. In addition, two states had plans for private sector prison industries expected to be operational within a period of months. These ten states are: Arizona, California, Florida, Kansas, Minnesota, Mississippi, Nevada, Oklahoma, Utah, and Washington.

The director of corrections in each of these states was contacted for permission to visit the private sector work programs in that state, and in each case permission was granted. A team of project staff visited each site for about three days to observe the operation of the programs and to conduct structured interviews with the prisoner workers, the private sector contractors and owner-operators, the director of corrections, superintendents of host institutions, corrections staff responsible for coordinating the programs, and institutional staff.

The interviews explored economic issues; management and operation of private sector work projects; obstacles to effective implementation; community response to private sector work projects; impact of projects on institutional operations; advantages and disadvantages of private sector work projects for different interest groups; incentives for each participating group; and other relevant topics. In most cases, follow-up phone calls were made after the

site visits to confirm facts, gather additional information, and clarify issues raised during the site visits.

Copies of the structured interview guides are appended. Information from site visit interviews is not separately reported, but is integrated into descriptions of the states' projects and reflected in the conclusions and recommendations presented in Chapter VII.



### III. RESULTS OF CORRECTIONS SYSTEM AND PRIVATE SECTOR SURVEYS AND SITE VISITS

On December 31, 1984, there were 26 prison-based businesses with significant private sector involvement. These businesses are operating in nine states:

Arizona	Mississippi
Florida	Nevada
Kansas	Oklahoma
Minnesota	Utah
	Washington

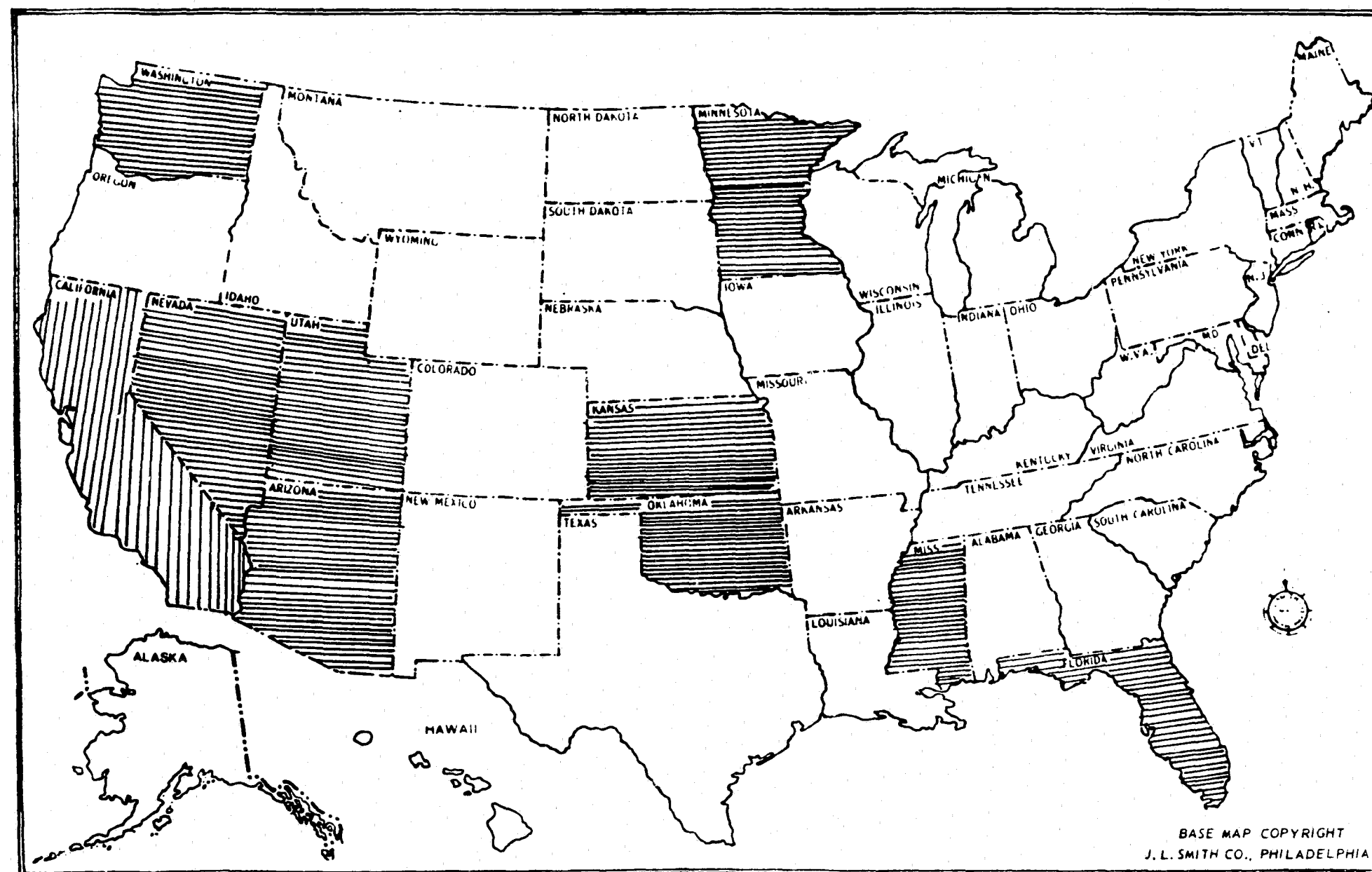
Nineteen private sector firms are involved with the 26 prison-based businesses as employers, customers, managers, or investors. These companies range in size from small proprietorships to multi-national corporations. The 26 prison-based businesses produce 14 distinct product lines and five service activities. These diverse products and services are generally reflective of the mainstream American economy, and represent such categories as agricultural commodities, customer service industries, heavy manufacturing, and high technology component assembly.



The businesses surveyed for this study operate in 17 different minimum, medium, and maximum-security prisons, which range in size and type from small community-based facilities to large, rural, walled institutions. The majority of these businesses were started within the last three years. The businesses have a total initial private sector capital investment of over \$2 million, and their total gross sales for 1983 exceeded \$21 million.

There are nearly 1,000 prisoners employed in these businesses, representing about 0.2 percent of the total prison population in the United States. They are paid hourly wages ranging from a low of .25¢ to a high of \$7.75 (except in Mississippi, which is prohibited by law from paying wages to prisoners). Since the start-up of the first project in 1976, these 26 businesses have paid at least \$4.4 million in wages to their prisoner workers. These workers have, in turn, paid over \$775,000 in taxes and \$470,000 in room and board charges.

Map 1 shows the states in which private sector prison-based businesses are located. Descriptive information about 17 of these 26 businesses is presented in Table 1. Only those businesses that were operating prior to June 30, 1984, and that employed at least five prisoner workers are included in the table. All 26 businesses are described in the state descriptive narratives that follow Table 1.

MAP I  
STATES WITH ACTIVE PRIVATE SECTOR PROJECTS



-  = States with active private sector projects
-  = States with advanced plans for private sector projects

STATE	PROJECT	PRODUCT/ SERVICE	INSTITUTION	MODEL ****	START UP DATE	PRIVATE CAPITAL CONTRIB.	STATE CAPITAL CONTRIB.	1983 SALES	NO. EMP	WAGE RANGE	WAGES AS OF JUNE, 1984	TAXES PAID	ROOM AND BOARD PAID
ARIZONA	COMMERCIAL+ PALLET CO.	Wooden Ship Pallets	Perry- ville	6	3/ 84	\$ 5,000	\$ 50,000	\$ 70,000	26	25¢- 40¢	\$ 8,000	0	0
	ARCOR/ WAHLER'S	Office Furniture	Perry- ville	2	6/ 83	\$ 13,792	\$ 16,642	\$ 246,926	15	\$3.50 -3.75	\$ 63,788	\$ 12,763	Data Not Available
	BEST WESTERN INTERNAT.	Tele. Travel Reservations	ACIW	1	8/ 81	\$ 8,000	\$ 500	\$ 10,527,961	29	\$3.75 -3.98	\$ 337,666	\$ 54,595	\$ 101,300
	P.R.I.D.E. PRINTING	Printing	Zephyr- hills	1	9/ 82	\$ 204,774	\$ 0	\$ 1,372,851	54	50¢ - \$1.00	\$ 59,634	0	\$ 41,273
FLORIDA	P.R.I.D.E. AGRI-BUS.	Agri.- Products	Glades	1	2/ 83	\$ 457,652	\$ 362,000	\$ 3,353,980	213	50¢ - \$1.00	\$ 24,992	0	\$ 4,987
KANSAS	ZEPHYR PRODUCTS	Sheet Metal Products	Lansing	1	12/ 79	\$1,000,000	\$ 0	\$ 1,403,801	15	\$3.60 -4.00	\$ 981,272	\$ 166,281	\$ 257,326
MINN.	MN. CORR. IND/CDC	Comp.Disk Dr./Mr.Harn	Still- water	6	9/ 81	\$ 100,000	\$ 52,000	\$ 559,372	160	\$1.50 -4.00	\$ 690,347	\$ 48,868	0
	MN. CORR. IND/METAL	Farm Equip. Tar Buggies	Still- water	4	7/ 83	\$ 0	\$ 177,500	\$ 1,307,767	100	\$3.35 -4.55	\$ 315,927	\$ 23,902	0
	STILLWATER DATA PROC.	Data Process.	Still- water	1	5/ 76	\$ 55,000	\$ 0	\$ 252,152	8	\$3.35 -7.75	\$1,409,240	\$ 436,864	0
	B. DALTON + INC.	Data Entry	Shakopee	6	8/ 80	\$ 35,000	\$ 2,500	\$ 75,768	17	\$2.40 -2.60	\$ 144,310	\$ 7,231	\$ 9,368
	SPERRY CORP.	Computer Disassem.	Lino Lakes	6	3/ 84	\$ 0	\$ 6,000	\$ 21,000	25	55¢ - \$2.65	\$ 2,001	\$ 410	0
	LAS VEGAS FOODS	Mixed Salads	Indian Springs	1	9/ 83	\$ 80,000	\$ 0	\$ 1,054,000	30	\$1.00 -2.85	\$ 119,900	\$ 18,000	\$ 27,000
NEVADA	KEY DATA PROCESS, INC.	Data Process.	Women's Prison	1	1/ 82	\$ 110,000	\$ 0	Data Not Available	25	Data Not Available	Data Not Available	Data Not Available	Data Not Available
WASH.	INSTOE-OUT INC.	Garments	Purdy	1	7/ 82	\$ 7,000	\$ 320,000	\$ 125,212	20	\$1.96 -4.40	\$ 84,671	\$ 12,115	\$ 13,493
	BELL BAGG, INC.	Soft Luggage	Firland	1	1/ 82	\$ 8,000	\$ 2,000	\$ 150,000	5	\$1.96 -4.40	\$ 9,000	\$ 1,062	\$ 1,529
	REDWOOD- OUTDOORS	Recreat. Clothing	Monroe	1	3/ 84	\$ 40,000	\$ 500	\$ 62,828	41	\$1.96 -4.40	\$ 29,620	\$ 6,994	\$ 7,355
UTAH	U.C.T. GRAPHICS	Print./ Rd.Signs	Draper	4	5/ 82	\$ 0	\$ 50,000	\$ 638,321	26	\$3.35 -4.00	\$ 169,880	\$ 3,130	\$ 15,699
=====													
TOTALS	17	PRODUCTS:14 SERVICES: 5	14	4	'76- '83	\$2,124,218	\$1,039,642	\$ 21,221,939	809	25¢- \$7.75	\$4,450,248	\$ 792,215	\$ 479,330

MODELS ****	
1 = EMPLOYER	4 = CUSTOMER
2 = INVESTOR	5 = JOINT VENTURE
3 = MANAGER	6 = CONTROLLING CUSTOMER

+ = Data is for 1984 only

TABLE 1  
PRIVATE SECTOR PROJECTS IN OPERATION AS OF JUNE 30, 1984

## STATE DESCRIPTIONS

### Arizona

In 1981 the Arizona Legislature passed S.B. 1191 (later codified as Article 3, Ch. 281, Sec. 41-1621-1630), which created Arizona Correctional (ARCOR) Enterprises as a separate division within the department of corrections. The law encouraged private sector business involvement in ARCOR activities by establishing a private sector advisory board and by authorizing private sector employment of prisoners and contracting with the private sector for the production of goods or services.

The director of the corrections department at that time, Ellis MacDougall, was actively involved in the development of private sector employment projects for prisoners. Among other things, the department tried unsuccessfully to enter into a working relationship with a group that hoped to take over a soon-to-be-abandoned meat packing plant. A number of factors, including opposition from organized labor, prevented this relationship from developing. Other projects also were considered during this period, but none materialized.

Then, in August 1981, Best Western International began hiring female prisoners for its telephone reservation center, located inside the Arizona Correctional Institution for Women (A.C.I.W.). Best Western, with headquarters in Phoenix, needed a readily available work force to process phone calls for room reservations during peak call volume periods. The firm also needed trained reservation agents who were willing to work on holidays and weekends. Because of the prison's proximity to Best Western's headquarters, the firm was able to install trunk lines at a reasonable cost and take advantage of a willing work force.

Currently at A.C.I.W., Best Western employs 12 to 35 women full-time. The reservation center is supervised by a Best Western operations manager and two supervisors. The women are paid at the same rate as other reservations agents at Best Western --\$3.75 per hour for the first 90 days, and \$3.98 per hour after this training period.

Best Western managers see three principal advantages from the project for their firm: flexibility in staffing, valuable management training for supervisors, and positive public relations value.

ARCOR also has two private sector work projects located inside the Arizona Correctional Training Facility at Perryville. In one project, the Commercial Pallet Company (C.P.C.) has a labor contract with ARCOR. C.P.C., which

refurbishes and manufactures wooden shipping pallets, began its Perryville operation in March 1984. C.P.C. provides all equipment, materials, and transportation, while ARCOR provides the plant and 26 workers who earn 25¢ to 42¢ per hour.

A second project, known as ARCOR/Wahlers, represents a unique relationship between corrections and the private sector in that the company's role is currently limited to that of an investor. Wahlers, a subsidiary of Prestige Systems, Inc., is a Phoenix-based manufacturer of office furniture that specializes in partitions. This firm's managers had been hiring work releasees, but found they wanted a more readily available work force and so decided to help capitalize a small plant inside the prison. Wahlers provided the equipment and a supervisor for the first year of the project's operation, and ARCOR built the plant. About 15 prisoners work in the plant earning \$3.50 per hour for the production of office partitions, computer tables, and other office furniture. The goods are marketed by ARCOR in both state-use and open markets.

#### California

In 1981 the California Youth Authority Department, which is the state agency responsible for handling youthful offenders, received legislative authorization to establish a work program in conjunction with private industry. Prior to 1981 no industrial program existed in the institutions for youth in California, which had emphasized academic and vocational education.

The department is now moving to implement a program entitled Free Venture-Private Industry. More than most other existing or planned private sector projects, this one will have strong vocational training component, reflecting the need for vocational preparation among youthful offenders.

The department is currently negotiating with two manufacturers of electronic equipment and a major manufacturer of women's wear to establish plants inside its institutions.

The department's approach to the private sector has been marked not only by careful planning, but by the involvement of a broad-based advisory committee composed of 14 members representing several segments of the department, private industry, labor, the public, and the California Youth and Adult Correctional Agency (the state umbrella agency of which the Youth Authority is a part). The committee began its work in October 1983 to develop a plan for the department. Its April 1984 report provided the basis for subsequent activities of departmental staff involved in the program's development.

#### Florida

Florida is the first state to experiment with the wholesale transfer of its correctional industry program from the public to the private sector. On June 23, 1981, Governor Bob Graham approved Senate Bill 97, which authorized the establishment of a private non-profit corporation (Prison Rehabilitative Industries and Diversified Enterprises, Inc.--P.R.I.D.E.) to manage and operate Florida's prison industries. The bill became law on July 1, 1981, and has been codified as F.S. 945.135, commonly called the PRIDE Act. P.R.I.D.E.'s initial mission has been described in terms of creating more jobs for prisoners, compensating prisoners fairly for their labor, and generating savings for the state.

In November 1981 Governor Graham appointed Jack Eckerd (retired president and chairman of the Jack Eckerd Corporation, which operates a retail drug store chain in the Southeast) as chairman of the board of directors of P.R.I.D.E. The 12-member board is made up of some of the most influential citizens in the state. Eckerd, who had run unsuccessfully against Graham for the gubernatorial post, brought years of both private and public sector experience (including directing the General Services Administration under President Gerald Ford) to the task of establishing P.R.I.D.E. as an organization. He also brought a commitment to the belief that if government and business act as a team, certain social problems could be addressed more effectively and economically. This belief was reflected in Eckerd's choice of a chief executive officer for P.R.I.D.E., Floyd Glisson, who also brought years of both private and public sector management expertise to his job as president of P.R.I.D.E.

In August 1982, when P.R.I.D.E. began the gradual takeover of prison industries with the acquisition of the department of corrections' Zephyrhills-based print shop, Florida Correctional Industries was providing over 150 product and service lines from 62 industries in 16 different institutions with \$24 million in annual sales. Governor Graham's and Jack Eckerd's business experience told them that the private sector could run this conglomerate more cost-effectively than could the public sector, especially if it were freed from cumbersome government purchasing and personnel regulations. F.S. 945.135 exempts P.R.I.D.E. from civil service and purchasing regulations.

P.R.I.D.E. management has used its freedom in the purchasing area to help re-capitalize Florida Prison Industries' plant, equipment, and raw material inventories. Floyd Glisson also has hired a qualified management team with extensive private sector experience in the areas of finance, administration, planning and development, marketing, and human

resources development. In key technical areas, P.R.I.D.E. has gone to the private sector to hire experienced supervisors to operate selected agribusiness and production and service lines.

Among P.R.I.D.E.'s achievements in its first two years of operation are the payment of a nominal wage for prison labor, and its contract with U.S. Sugar Corporation, by which 3,600 acres have been cultivated in sugar cane. U.S. Sugar provided a \$2.5 million development package, and it is expected that the cane crop will yield annual sales of \$1.1 million for at least the next six years.

Projects earmarked for special attention by P.R.I.D.E. staff in the upcoming year include the development of an integrated vocational training, industry, and post-release job placement system for prisoners, and the development of new P.R.I.D.E. industries (a request for a \$9 million state appropriation has been submitted to the governor), possibly in the automotive repair and construction trades.

From its beginning, P.R.I.D.E. directors and management have viewed the transfer of Florida's prison industries from the department of corrections as a classic business takeover, to be completed as swiftly and completely as possible. Key departmental managers, on the other hand, expected the program to be a pilot project that would experiment with transfers at the Glades and Zephyrhills sites for a period of time, evaluate that experience, and then determine the appropriateness of any additional transfers. These divergent perceptions of both the timetable and the acquisition process have resulted in some strained relationships between P.R.I.D.E. and the department. It should be noted that during the transfer process the department also transferred \$1,474,037 to P.R.I.D.E. for the operation of industrial programs.

#### Kansas

In December 1979 Zephyr Products, Inc., began producing sheet metal products with a work force of male and female prisoners from the Kansas Correctional Institution at Lansing. Zephyr, which previously had been operating in Missouri, was purchased by Fred Braun and relocated near Lansing solely for the purpose of providing real work for prisoners.

Braun, who had operated and then sold another Kansas based firm (Tectank, Inc.) and had unsuccessfully run as the Republican nominee for lieutenant governor of Kansas, developed this project as a means of applying his business expertise for the public's benefit.

The initial capital investment in the project was approximately \$1 million, including a \$500,000 industrial

revenue bond issued by the city to pay for the building. Fred Braun personally guaranteed the bond and capitalized the purchase of Zephyr (at \$500,000) and its site location (at \$70,000) with his own funds.

Prisoners working at Zephyr are expected to become proficient in the company's entire production process. This means that workers acquire skills in six basic metal fabrication operations. Zephyr management insists that workers become familiar with the entire process rather than specializing in one area because of the belief that such general skills will improve the prisoner's chances of obtaining metal fabrication employment upon release.

In 1981 Zephyr was charged by a competitor with unfair bidding advantages due to the use of inmate labor. The competitor contended that Zephyr was taking advantage of cheap inmate labor to submit low bids to customers in the Kansas City area. The Kansas Department of Corrections contracted with Arthur Young and Company to determine if Zephyr was in a "unique competitive cost position" due to the use of inmate labor.<sup>1</sup> Arthur Young and Company used an incremental benefit/cost analysis to identify the areas (both direct labor and overhead) affected by the use of inmate labor at Zephyr.

After reviewing Zephyr's operations and wages and comparing them to the operations and wages of four similar plants in the area, Arthur Young concluded that the use of inmate labor did not place Zephyr in an advantageous competitive cost position. The study pointed out that reduced productivity related to the use of an unskilled and inexperienced inmate labor force more than offset any potential advantage resulting from low pay scales. Beyond its vindication of Zephyr, the Arthur Young report is valuable because it is the only detailed independent analysis of the labor-related costs of employing a prisoner work force in a production setting that requires skilled techniques.

Since its inception, Zephyr has paid its prisoner work force over \$1 million in wages, from which over \$200,000 has been returned to the state in room and board payments, and over \$100,000 has been paid in federal and state taxes. Zephyr employs approximately 20 prisoners at an hourly wage of \$3.60.

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<sup>1</sup>Arthur Young & Co., "Cost Impact of Using Inmate Labor in a Manufacturing Environment," September, 1981.

## Minnesota

The Minnesota Department of Corrections has a long tradition of private sector involvement in its industrial program. Perhaps the most significant reason for this is the fact that, unlike most state correctional industry programs, Minnesota never lost the ability to sell to the private sector. The Minnesota Legislature, anxious to preserve the interest of Minnesota farmers who purchased farm equipment and binder twine from the prison, never enacted the kind of restrictive laws that largely removed the private sector from other state prison systems.

As early as 1973 the department was utilizing advice from a Control Data Corporation task force convened by then Corrections Commissioner Kenneth Schoen to bring private sector characteristics to its industrial operations. In 1976 Minnesota provided space to a local entrepreneur to run an upholstery shop on the grounds of a correctional facility using an inmate labor force. During the same year a private sector data processing firm was created by a consortium of computer companies to operate out of Minnesota's maximum security prison. These two businesses ushered in the modern era of private sector employment for prisoners in Minnesota, and perhaps for the United States as well.

In 1977 Control Data Corporation provided an executive on loan to Minnesota Correctional Industries (MCI) who functioned as MCI's director for two years, further solidifying the department's ties with the private sector.

There are at present ten businesses with some form of private sector involvement operating within Minnesota's correctional system. At Stillwater, the state's largest correctional facility with 1,000 beds, MCI operates two shops with significant private sector involvement. The electrical/mechanical assembly shop employs 160 prisoners in the assembly of disk drives and the construction of wiring harnesses for Magnetic Peripherals, Inc., a subsidiary of Control Data Corporation. The metal products shop, which employs about 100 inmates, manufactures farm, garden, and highway repair equipment for a variety of private sector customers.

Two private businesses are also based at Stillwater. Stillwater Data Processing, Inc., employs eight inmates in the design, installation, and maintenance of customized data processing applications for a variety of Minneapolis-St. Paul companies. Insight, Inc., employs three to five inmates in the provision of telemarketing services to various businesses and in the delivery of computerized instruction to homebound and disabled individuals via computer terminals.

At Shakopee, Minnesota's 60-bed facility for female offenders, MCI operates a data entry shop. The bulk of this shop's work is performed for B. Dalton Company, Inc., which has provided most of the equipment for the shop. Between 15 and 20 women are employed as data entry operators, entering B. Dalton purchase orders into receivables files in a disk-to-tape system. MCI also employs about six women at Shakopee on a contract with the Sperry Corporation, constructing wiring harnesses for computers.

Lino Lakes is a 200-bed medium custody facility with a strong industry orientation; about 120 of the 150 medium custody offenders housed at this facility are employed by the industry program. The Sperry Corporation is the principal private sector presence at Lino Lakes. MCI has a contract with Sperry Corporation to disassemble obsolete computer equipment and salvage parts for remanufacture. About 25 inmates are employed under this contract. The Lino Lakes furniture and print shops produce more than 50 percent of their output for a variety of private sector customers; these two shops employ about 70 inmates. The subcontract industry shop at this facility has employed up to 30 inmates on de-burring and buffing contracts with Western Electric, Control Data Corporation, and Magnetic Peripherals, Inc.

At Oak Park Heights, the state's 400-bed maximum security facility, MCI employs 125 inmates in five different industrial ventures. Of these, the vinyl office products shop, which employs about 20 inmates, is the only industry with a private sector client base at this time. This shop produces vinyl and canvas three-ring binders and miscellaneous vinyl office products for various private companies. The other four shops at this facility are more strongly focused on governmental clients at this time as part of the program's start-up strategy at this newly opened institution. The industry program's five-year plan, however, calls for significant private sector sales for all five shops at Oak Park Heights.

## Mississippi

In 1983 the Mississippi Legislature, in its passage of H.B. 921, authorized the establishment by the department of corrections of contracts with the private sector for the production of goods or services.

In March of that year Jim Lindsey, president of Cool-Mist, Inc., contracted with the department for the assembly of his company's air conditioner companion--a mechanical device that sprays a fine, cooled mist onto air conditioner coils, thereby reducing the operating temperature of the unit and saving energy. Lindsey became aware of the department as a potential source of labor when both the



department and his firm were exhibiting products at the state fair. Initial negotiations between the parties indicated that Cool-Mist could acquire a work force that would accommodate its highly seasonal demand for labor.

Cool-Mist pays the department \$2.50 per assembled unit. The department, in turn, pays this sum into the state's general fund. Prisoners assembling the units receive no payment from either the department or Cool-Mist, as it is illegal to pay wages to prisoners in Mississippi. The units are sold by Cool-Mist, Inc., to retail outlets in the state.

Projected 1984 sales for the Parchman-based assembly shop total \$40,000; however, as of June 30, sales had amounted to only \$1,500 and the shop (which employs between four and ten prisoners) had been closed for weeks at a time. The operation is unofficially supervised by a prisoner, and the principal motivation for working in the shop seems to be avoidance of boredom.

#### Nevada

Nevada has three private sector firms operating within its correctional facilities. Las Vegas Foods, Inc., a supplier of mixed fresh salads to the Las Vegas hotel industry, employs about 20 inmates at the Southern Desert Correctional Center in all phases of salad assembly. Southern Desert is a 900-man medium-custody facility located 30 miles northwest of Las Vegas.

Key Data Processing, Inc., employs about 30 women as data entry operators at the Nevada Women's Correctional Center in Carson City. Data processing services are provided to customers throughout the Southwest by this prison-based business. Key Data offers a comprehensive training program in all phases of data processing to all employees as a preliminary step to employment with the company. The business was incorporated by four partners in January 1982 for the specific purpose of employing female offenders in Nevada.

Vinyl Products Manufacturing, Inc., employs about 50 prisoners from the Northern Nevada Correctional Center in Carson City. Fifteen prisoners work at the company's community-based plant, while the rest work inside the prison. The company, which produces rubber mattresses for waterbeds, pays prisoners between \$3.35 and \$5. per hour. Vinyl Products Manufacturing, Inc., began its prison-based operation in September 1984.

A fourth prison-based business in Nevada was General Household Items, Inc., a manufacturer of brooms and mops. This firm employed about 20 inmates at the Southern Desert

Correctional Center until April 1984, when the company ceased its prison-based operations due to a combination of bad business decisions, wage problems with the U.S. Department of Labor, and chronic difficulties in coordinating production activities with institutional staff.

Nevada has turned to the private sector for inmate employment out of expediency. The department of corrections has a very small prison industry program, and Nevada corrections officials in the past have relied heavily on work release for inmate work assignments. In the 1970s groups of inmates were often taken by bus to private firms, sometimes to staff second- and third-shift operations. Having become comfortable in dealing with the private sector in this way, the department believed that bringing firms into the institution was a logical next step. A number of businesses have been proposed for operation within Nevada's prisons, including van conversion and the manufacture of offshore oil drilling parts and supplies.

Nevada is now negotiating with at least two companies to set up operations within a prison: one a well-known manufacturer of athletic shoes currently based overseas, and the other a maker of "fast track" construction materials used in the building of prisons and jails.

#### Oklahoma

Oklahoma has one active private sector prison-based business. Early in October 1984, Howard Johnson's, Inc., established a telephone reservation operation at the Mabel Bassett Correctional Center in Oklahoma City. Similar to the Best Western telephone reservation project in Arizona, this project employs ten female prisoners at a starting wage of \$4.85 per hour.

The principal reason for Howard Johnson's interest is the prison labor force's availability and flexibility, since the service demand has daily, weekly, and seasonal variability. By using an inmate work force, these demand changes can be quickly accommodated. Howard Johnson's also has a social commitment to the community, and may employ some inmate workers after release as well.

Oklahoma has another project that may become operational in 1985. First Step, Inc., is an Oklahoma corporation organized specifically to develop a prison industry project. Jointly owned by an automobile remanufacturer, a construction company, and an architect, the company proposes to design, build, and operate a \$2.5 million plant at a maximum security site to recondition school buses and state road maintenance vehicles and to manufacture road signs. Initially, 112 in-

mates would be employed, with a projected eventual employment of 300. There would be eight supervisors and a facility manager.

Funding would come from county revenue bonds and possibly from grant funds. Title to the plant and facilities would pass to the state once bond indebtedness and lease rights to the land expired. Sales would be solely to the prison industry market inside the state, and wages would be at the normal Oklahoma prison industry rates.

Legislation authorizing private sector involvement with corrections in Oklahoma was created several years ago to encourage development of an industrial park adjacent to a prison. However, nothing of significance came of the effort. As the legislation was about to expire, Corrections Director Meachum, determined to seek its extension and use, appointed an industrial development coordinator with full-time responsibility for developing and implementing private sector employment projects. (Oklahoma is one of three states in which such a position has been created, the others being Washington and Kansas.)

The industrial development coordinator works closely with a statutorily authorized Private Prison Industries Board. The board is mandated to recruit private industry and to establish guidelines and standards for the training and employment of prisoners working in private industry. Guidelines are provided in such areas as employee wages and benefits, training and supervision of inmates, location and facility development, and inmate employment and termination.

Oklahoma's interest in the private sector is centered upon the following four goals:

- (1) to introduce private sector attitudes and skills into the correctional setting;
- (2) to reduce idleness;
- (3) to realize financial benefits such as a reduction in the cost of confinement;
- (4) to make it possible for victim restitution to be paid.

The only significant incentive offered to the private sector is space at a nominal cost. The concept of private sector involvement continues to have the support of the governor and several key legislators.

## Utah

Private sector involvement with Utah's graphics shop inside the state prison at Draper is limited to the role of customer. However, because more than 40 percent of the shop's output is purchased by the private sector, the marketplace has influenced the state-run industry to operate in ways that resemble a private sector business.

The shop provides two main product lines: road signs, decals, and safety barriers; and a full range of printing services. The two principal private sector customers for the signs are both firms that resell to customers throughout the Northwest--Walker Safety Sign Company and Pace Industries. The main advantages for these firms in dealing with Utah Correctional Industries (U.C.I.) are: (1) the unique capabilities of the shop and its staff, particularly their knowledge of the legal specifications for various signs; (2) pricing; (3) local availability; and (4) timely deliveries (evidently many of U.C.I.'s private sector competitors place customers on long waiting lists). The printing services are sold to many small private sector firms in the Salt Lake City area.

U.C.I. began selling its signs and printing services to private firms in May 1982, when it received a Prison Industry Enhancement Project certification from the U. S. Department of Justice.

Utah also subcontracted with a Salt Lake City firm called Cobblestone, Inc., for the production of velcro-fastened cloth wallets and nylon gym bags. However, this project, which at one time employed 15 prisoners, was discontinued in September 1984 because the firm failed to pay prisoner workers the same wage as its sewing operators outside. Utah in the past has operated several other small private sector subcontract shops.

U.C.I. managers cite a number of advantages in dealing with the private sector, including the dramatic improvement in meeting quality control standards and the increased attention to reducing waste on the part of the prisoner work force. U.C.I. employs 26 workers in its graphics shop and pays them \$3.35 to \$4. per hour.

## Washington

Washington's most recent involvement with the private sector as an employer of inmates has stemmed largely from the passage of House Bill 235, enacted into law in 1981 by the Washington State Legislature. This law defines five classes of work for inmates incarcerated in Washington prisons, with Class I being private sector employment.

There are at present six Class I employers operating businesses within Washington prisons. Inside-Out, Inc., is a garment manufacturer employing about 20 women at the Purdy Treatment Center, a 170-bed maximum-security prison for female offenders. These women manufacture recreational clothing for several national companies.

Redwood-Outdoors, Inc., is also a garment manufacturer, employing about 40 male inmates at the Washington State Reformatory, a 900-bed facility for male offenders, in the manufacture of sportswear.

Two employers are based at Firland Corrections Center, a 50-bed minimum-custody facility. Bell Baggs, Inc., manufactures a line of canvas luggage and sports bags, employing five male inmates who work alongside the company's regular labor force within the institution. The David L. Jones Co., a large wholesale florist in the Seattle area, employs two inmates in a commercial greenhouse operation at Firland. The company plans to take over the institution's vocational horticulture program in the fall of 1984 and expand employment at Firland at that time; a second prison-based operation is being planned by the company for the Pine Lodge Correctional Center.

Carol's Ceramics, Inc., employs two inmates at the Washington State Reformatory on a part-time basis. This business grew out of the owner's involvement with the institution's hobbycraft program. Inmates employed here manufacture various ceramic items for local florists and gift shops.

Two prison-based businesses in Washington failed recently. Madrona Industries, Inc., established a wood-stove manufacturing plant at the McNeil Island Corrections Center, a 600-bed medium-custody facility for male offenders located on an island in Puget Sound. The plant closed in July 1984 due to a combination of financial and market problems, as well as the seasonal nature of the work; Madrona employed up to 50 inmates in all stages of the production process. Widget, Inc., a manufacturer of pitchforks and solar panels, also ceased operations after employing six reformatory inmates for about five months.

Washington's move to private sector employment for prisoners is the result of a direct mandate from the state legislature, as embodied in the statute referenced above. The intent of this effort is to both counter the widespread idleness that has plagued the state's prisons and "to provide training and experience to offenders in the real world of work so that they would be better able to follow satisfying and lawful careers upon their release."<sup>2</sup>

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<sup>2</sup>Washington Department of Corrections, "Institutional Industries 1982-83 Report to the Legislature," January, 1984.

In addition to creating a Division of Institutional Industries as a part of the department of corrections, the legislation also created a Board of Directors for Institutional Industries, whose responsibility is to provide "advice and expertise to help the Division evolve towards the free enterprise model."<sup>3</sup> To accomplish this task the board created a series of task forces composed of government officials, business people, educators, and labor officials. As a consequence, Washington's industry effort has had the benefit of input from hundreds of private citizens. The division also employs a full-time business development specialist, whose principal responsibility is to attract and retain private sector employers for the institutional industries Class I program.

#### SUMMARY

In December 1984 there were 26 prison-based businesses with significant private sector involvement inside 17 prisons in ten states and operated in connection with 19 private firms. These businesses, located in prisons ranging from small community-based facilities to large, rural, maximum-security institutions, employ almost 1,000 prisoners, or 0.2 percent of the total prison population in the United States.

In most of these projects the private firm owns and operates the business, makes all business decisions, bears the financial risk, and has control of the hiring, firing, and job-related supervision of inmate workers. The correctional agency typically provides the physical plant and custodial supervision, in addition to the labor force. Examples of this approach include, among others, the Best Western International project in Arizona, P.R.I.D.E. in Florida, Zephyr Products in Kansas, and Stillwater Data Processing in Minnesota.

In the second most common approach to private sector involvement, the state assumes the role of owner/operator of the business, with all of the attendant responsibilities, but sells prisoner-produced goods or services on the open market. Minnesota Correctional Industries' metal shop and Utah's graphics shop are examples of this approach. Sometimes the state-run business sells to a single private sector customer, which contributes raw materials, training, supervision, or other capital or management resources. Examples of this approach are found in Arizona's relationship with Commercial Pallet Co. and Minnesota's relationships with Sperry Corp. and B. Dalton.

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<sup>3</sup>Ibid.

In only one instance reported here has a private sector firm become involved in a business in the role of investor. In the ARCOR/Wahlers office furniture project in Arizona, Wahlers provided the equipment and a supervisor for the first year of the project while the state agency built the plant.

Benefits of collaboration between corrections departments and private businesses were mentioned by both parties. For state prison systems such ventures are seen as providing more jobs for prisoners, more realistic work experience to prepare prisoners for employment after release, and potential cost savings for the state. For private firms the prison-based business offers low-cost space, a work force compatible with seasonal changes in demand for products and available for holiday and weekend work, and positive public relations value. Some firms have found the prisoner employee to be more reliable, more motivated, and more loyal to the company than comparable labor outside.

#### IV. MODELS FOR PRIVATE SECTOR INVOLVEMENT

The private sector can play a variety of roles in the operation of a prison-based business. This study examined those various roles to determine which are most influential in shaping the business practices of the industry along private sector lines. From that examination we have concluded that the private sector exerts a significant influence on the operation of a prison-based business when it acts as:

- employer; i.e., the private sector owns and operates a business that employs prison labor;
- investor; i.e., the private sector owns all, or a significant portion of, a prison-based business operated by the state;
- customer; i.e., the private sector purchases a significant portion of the output of a prison-based business owned and operated by the state;
- manager; i.e., the private sector manages a prison-based business that is owned by the state.

The private sector can, of course, play other roles in relation to a prison-based business. For example, most correctional industries use the private sector as a supplier of raw materials, and many correctional industries involve individual representatives of private sector firms as advisors. No doubt there are other valid roles as well. In our judgment, however, no role we can identify requires the public sector to emulate private business practices in the significant way that the four roles listed above do. In these four roles, the private sector's relationship to the business is both economic and influential. That is, the private sector firm both influences the way the business operates and derives direct economic benefit from that influence. These four roles, then, form the basis for our models of private sector involvement in the operation of prison-based businesses.

#### DEVELOPMENT OF THEORETICAL MODELS

It should be noted that models, as defined here, represent pure types, and as such do not necessarily portray exactly the relationships found in the field. Models are abstractions, constructed for the purpose of classifying and ordering observed events or phenomena, and there is rarely a perfect fit between the abstract model and the real event. Nevertheless, models are powerful tools for analyzing real

relationships, in that they allow us to focus on the key elements of a relationship without being distracted by the myriad other elements that make all relationships unique. The models described here represent all roles, and combinations of roles, that the private sector might play in influencing the operation of a prison-based business.

Each of the four roles identified above can be defined as a model of private sector involvement in itself, yielding the following:

1. The Employer Model

The private sector owns and operates a business that uses inmate labor to produce goods or services, and has control of the hiring, firing, and supervision of the inmate labor force.

2. The Investor Model

The private sector capitalizes, or invests in, a business operated by a state corrections agency but has no other role in the business.

3. The Customer Model

The private sector purchases a significant portion of the output of a state owned and operated business, but has no other role in the business.

4. The Manager Model

The private sector manages a business owned by a corrections agency, but has no other role in the business.

It is also possible for the private sector to play a combination of roles in relation to a prison-based business. In some instances the private sector's assumption of multiple roles changes the nature of the relationship between the private sector and the corrections agency so significantly that none of the pure-type models can adequately define that relationship. This is especially true when the private sector does not fulfill a given role exclusively, as when ownership or operation is shared by the private firm and the corrections agency. It is important, then, to examine potential roles for the private sector by combining various models. To develop these hybrid models, it is necessary to look more closely at the definitions of each role.

It is clear that the employer role is distinct and mutually exclusive from the other three. An employer is

already an owner and an operator (i.e., investor and manager); the strength of the employer role makes the addition of the customer role immaterial in defining the private sector relationship to the corrections agency. Thus, the employer role cannot be combined with any other role to form an additional model.

The three remaining roles, however, can all be combined in various ways to form hybrid models. The private sector's role as a manager can be combined with the role of investor or customer to form two additional models, and the investor role can be combined with the customer role to form a third model. Finally, all three roles can be combined to form a fourth hybrid model. This exercise yields the following hybrid models:

1. Manager/Investor Model

The private sector has a role in both the ownership and operation of a prison-based business, sharing these responsibilities with the corrections agency.

2. Manager/Customer Model

The private sector plays a role in the management of a prison-based business, and that same private sector entity purchases a significant portion of its output.

3. Investor/Customer Model

The private sector owns, or shares ownership of, a prison-based business, and that same private sector entity purchases a significant portion of its output.

4. Investor/Manager/Customer Model

The private sector plays a role in the ownership and operation of a prison-based business, and that same private sector entity purchases a significant portion of its output.

#### IDENTIFICATION OF VALID MODELS

Having created these four additional hybrid models in a theoretical sense, we must examine each one to determine whether or not it is sufficiently distinct to constitute a separate model.

The manager/investor model has many examples in the business world, where it has been termed a "joint venture". This



is an accepted business structure, operationally distinct from the other models defined so far, and thus a valid model of private sector involvement. We label it the Joint Venture Model.

The investor/manager/customer model is essentially a joint venture in which the private sector partner purchases much of the business's output. In this instance the addition of the customer role does not significantly modify the relationship between the partners. This theoretical model, then, is not a distinct form of private sector involvement, but a variant of the Joint Venture Model.

The manager/customer model defines a relationship in which the private sector entity purchases the output of a prison-based business and also assists with the operation of the business. In the investor/customer model, the private sector firm owns or has helped to capitalize the business and purchases its output. For either of these models to exist as distinct from the pure Customer Model, the nature of the private sector firm's involvement as manager or investor must be essential to the existence of the business. If it is not, we are simply defining a variant of the Customer Model.

For these two combinations of private sector roles to be distinct from the Customer Model, the business from which these customers buy must have been essentially created by the customer, and must exist essentially to serve that one customer. In this dual role, then, control of the business by the private sector customer is much more extensive --by virtue of the management or investment role played by this customer-- than would be found in the previously defined Customer Model. Consequently, this type of involvement by the private sector represents a distinct model, which we label the Controlling Customer Model. This model describes a business that, while not owned or operated by a private firm, is nevertheless wholly dependent for its survival on a single dominant private sector customer. In essence, the prison-based business operated by the corrections agency is controlled by the dominant customer of the business, both by virtue of the amount of business generated from that customer and by the customer's critical role in the management or financing of the business.

From the four pure and four hybrid models we have theoretically constructed, we can now identify six legitimate models of private sector involvement in prison-based businesses. Each of these models, along with examples, is presented in more detail in the following section. Table 2 indicates, for each private sector work project described in the previous chapter, which model type is most closely represented.

TABLE 2

CLASSIFICATION OF PRIVATE SECTOR PROJECTS  
INTO  
MODEL TYPES

P R O J E C T	E M P L O Y E R	I N V E S T O R	C U S T O M E R	M A N A G E R	J O I N T U R E	C O N T R O L L I N G
<b>ARIZONA:</b>						
Best Western	X					
Commercial Pallet						X
Wahler's		X				
<b>FLORIDA:</b>						
PRIDE Printing	X					
PRIDE Agri-business	X					
<b>KANSAS:</b>						
Zephyr Products, Inc.	X					
<b>MINNESOTA:</b>						
Electronic Assembly/Control Data						X
Metal Products			X			
Stillwater Data Processing	X					
Data Entry/B. Dalton						X
Computer Reclamation/Sperry Corp						X
Insight, Inc.	X					
Lino Lakes Furniture			X			
Lino Lakes Printing			X			
Lino Lakes SCI			X			
<b>MISSISSIPPI:</b>						
M.C.I./Cool Mist						X
<b>NEVADA:</b>						
Vinyl Products Mfg., Inc.	X					
Las Vegas Foods, Inc.	X					
Key Data Processing, Inc.	X					
<b>OKLAHOMA:</b>						
Howard Johnson's, Inc.	X					
<b>UTAH:</b>						
U.C.I./Graphics			X			
<b>WASHINGTON:</b>						
Inside-Out, Inc.	X					
Bell Bagg, Inc.	X					
Redwood-Outdoors, Inc.	X					
David L. Jones Co.	X					
Carol's Ceramics, Inc.	X					
=====						
<b>TOTALS:</b>	<b>15</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>5</b>

## MODELS OF PRIVATE SECTOR INVOLVEMENT

### The Employer Model

This is the most common model of private sector involvement in prison-based businesses that our survey encountered. In this model, the business is exclusively a private sector operation, with the corrections agency typically providing the labor force, custodial supervision, and the physical plant. All business decisions in this model are made by the private sector firm, which also bears all the financial risk.

This model requires less involvement by the corrections agency than, for instance, the Customer Model, but it is the one most likely to need incentives to obtain the participation of the private sector. Examples of the Employer Model are:

- Vinyl Products Manufacturing, Inc. (NV)
- Zephyr Products, Inc. (KS)
- Stillwater Data Processing, Inc. (MN)
- Insight, Inc. (MN)
- Inside-Out, Inc. (WA)
- Bell Bagg (WA)
- Redwood-Outdoors (WA)
- Carol's Ceramics (WA)
- David L. Jones Co. (WA)
- Las Vegas Foods, Inc. (NV)
- Key Data Processing, Inc. (NV)
- Best Western International (AZ)
- PRIDE Printing (FL)<sup>4</sup>
- PRIDE Agribusiness (FL)<sup>5</sup>

With the exception of Zephyr Products, all of these businesses are located inside correctional facilities; 13 of these 15 businesses "inside the walls" are operating in medium- to maximum-custody facilities. With the exception of the P.R.I.D.E. businesses, all of these sell products and services to private sector customers on the open market.

<sup>4</sup>We have classified P.R.I.D.E. as an example of an Employer Model project even though we realize that the Florida statute specifically refutes the identification of P.R.I.D.E. as an employer of Florida prisoners (Florida Statutes Annotated, Ch. 83-209, Sec. 946.04). Our definition of "employer" is taken from Simms v. Parke Davis, 334 F.Supp. 774 (E.D. Mich., 1971), where the court defined an employer as one who "can hire, fire and control . . . inmates." All of the businesses cited above, including P.R.I.D.E., meet this test, and thus for our purposes are classified as employers.

<sup>5</sup>Ibid.

### The Investor Model

In the Investor Model, a private firm purchases, invests in, or creates a business that is operated by a corrections agency. In this model the private sector fills the role historically played by the state legislature when it provides capital via appropriation to a traditional correctional industry.

This model raises a series of interesting legal questions, the answers to which will strongly influence the way the Investor Model is implemented. These questions include the definition of employer and employee, access to markets (open market sales, state use only, etc.), and wage levels required for the inmate labor force. The Investor Model is similar to the piece-price system in effect in many prisons in the late Nineteenth Century.

We have identified only one example of the Investor Model. In Arizona, the Wahlers Co. has invested in a furniture plant operated by the Arizona Department of Corrections (ARCOR) by providing ARCOR with the equipment necessary to run the plant in exchange for a share in the plant's financial outcome. This project was initiated as a joint venture (see below), but has evolved into an Investor Model operation.

### The Customer Model

This model represents the classic "free venture" prison industry as defined by the Law Enforcement Assistance Administration projects of the middle to late 1970's. In this model, the state itself assumes the role of the private sector owner/operator, with all of the related responsibilities, risks, and rewards engendered by that role. The state-run business sells its goods and services on the open market, and is subject to the same rules and regulations that govern businesses outside prison. In this model, the private sector's influence is felt in the form of expectations regarding quality, timeliness, and price; the prison-based business must meet these expectations or it will fail to meet the needs of its private sector customers.

There are five known examples of this model now in existence, four of which are operated by the Minnesota Department of Corrections. The five examples are:

- Stillwater Metal Products,
- Lino Lakes Furniture,
- Lino Lakes Printing,
- Lino Lakes Subcontracting,
- Utah State Prison Graphics



All of these businesses operate within the confines of medium to maximum custody facilities, and together employ over 300 prisoners. The Stillwater Metal Products factory and the Utah Graphics shop are both part of the U.S. Department of Justice's Prison Industry Enhancement project. These two businesses sell their products in interstate commerce and pay prevailing wages to the inmate labor force.

#### The Manager Model

As Table 2 shows, there are no current examples of the Manager Model, although its potential should be explored by jurisdictions contemplating involvement of the private sector in prison businesses. In this model, a corrections agency contracts with a private sector firm to manage a prison-based business owned by the state. The state in essence replaces state civil service employees with an outside management team, typically to take advantage of technical and management expertise not usually available through civil service. If such a management contract were tied to business performance, this model might also reduce the cost of operating the business for the state.

A form of this model was implemented in the mid-1970's by the Connecticut Department of Corrections, when it contracted with the Hartford Economic Development Corporation to manage the state's correctional industry program. Another company has proposed a similar management contract to another department of corrections in the past two years. Variants of this model may develop in the future as more private firms become involved in prison-related service areas.

#### The Joint Venture Model

We found no current examples of the Joint Venture Model of private sector involvement, but this model also represents an option that should be explored. This model refers to a business that is jointly owned and operated by a private sector firm and a state corrections agency under a partnership agreement. Financial risks and rewards and management responsibilities are shared by the two parties, with the terms of the sharing typically spelled out in the partnership agreement. This model combines some features of the Employer and the Customer Models, in that both parties are employers and both parties manage the business. The legal issues raised in regard to the Investor Model are all applicable to this model as well, given the ambiguity surrounding the definition of the employer/employee relationship in the prison setting.

The Wahlers project operating in Arizona, referenced above under the Investor Model, was initiated as a joint venture. In addition to start-up capital to equip the plant,

Wahlers also placed a full-time supervisor in the plant for the first twelve months of operation, thus assisting in the management of the business. As mentioned above, Wahlers has terminated its involvement in the plant's management and now acts solely as an investor.

#### The Controlling Customer Model

In this model, a state corrections agency owns and operates a business that sells its products or services either exclusively or almost exclusively to one private sector customer, and that customer plays a critical role in the capitalization and/or management of the business. While the state technically owns the business and earns its profits or absorbs its losses, the state could not realistically be in this business if the customer did not supply the equipment necessary for production or provide essential management assistance, as well as buy the product.

In many ways this model resembles the wholly owned subsidiary, which has many examples in the business world, except that strictly speaking the customer in this model does not own the business (i.e., control the assets and earn the profits). This model also parallels the relationships that a large purchaser such as Sears, Roebuck & Co. has with its vendors. Sears owns a significant portion of the stock of a number of its vendors, and the company's buyers spend a good portion of their time in vendors' plants assisting with quality control and related production issues. Sears itself does not own any production facilities, but some vendors would not remain in business long if Sears did not buy from them.

There are similar examples in the automotive industry, with individual parts suppliers almost totally dependent on one of the three major automakers. Some firms in the defense industry also operate in this fashion. Firms such as General Dynamics, Inc, for instance, have divisions whose sole client is the U.S. Department of Defense, and whose fate is entirely in the hands of that agency. The Department of Defense does not own General Dynamics, Inc., but strongly influences its operations and its future.

This type of business structure, for which there is no precise term in the business world, and which we have labeled "controlling customer," has been created in a number of corrections systems. We found five examples of the Controlling Customer Model in correctional settings. Those five, along with the companies that "control" them, are as follows:

## BUSINESS

## "CONTROLLING" COMPANY

Shakopee (MN) Data Entry	B. Dalton Co.
Lino Lakes (MN) Computer Reclamation	Sperry Corp.
Stillwater (MN) Electronic Assembly	Control Data Corp.
Perryville (AZ) Shipping Pallets	Commercial Pallet Co.
Mississippi State Prison Air-Conditioning Components	Cool Mist, Inc.

All of these businesses are owned and operated by a state corrections agency. Each of them, however, has one exclusive or clearly dominant customer, which has provided most of the plant's manufacturing equipment, and in some instances provides ongoing management and technical assistance in the production process.

This model appears to combine the best elements of the Employer and the Customer Models in that it involves private sector capital, expertise, and markets, while allowing the corrections agency to control the business and earn the profits. It requires, however, that the corrections agency have a good business system already in place and employ talented business managers.

### SELECTING A MODEL

The six models described above all represent viable forms of private sector involvement in the operation of prison-based businesses. Given this fact, a corrections agency interested in involving the private sector in a business is faced with a basic question: Which model will best meet its needs and objectives? Answers are rarely clear-cut, and in some instances the decision will be made by the demands and expectations of the private firm. However, a corrections agency interested in involving the private sector must evaluate its own objectives and resources before committing itself to a particular approach. The resources required and the level of agency involvement in business operations differ for each model.

Some factors to be considered in evaluating the relative merits of the models are:

- management expertise;
- production capacity;
- level of control desired.

Analysis of these three factors should help the corrections agency to select the approach best suited to its interests and resources. This is not to say that these are the only issues that should be taken into consideration. For

any project being evaluated, there will be a long list of factors that must be weighed before the project can be implemented. It is also important to note that statutory authorization for private sector involvement is an absolute precondition for operating a prison-based business with private sector participation.

Assuming the presence of authorizing legislation, the corrections agency interested in involving the private sector should examine the available options in terms of the three factors discussed below.

### Management Expertise

The successful operation of a business requires competent, experienced business managers and production supervisors. A corrections agency considering any of the models that require the agency itself to operate the business must have business expertise available through the state's civil service system. If the agency already employs or can hire such expertise within its system, the following models of private sector involvement should be examined more closely: Customer; Controlling Customer; Joint Venture; and Investor Models.

All of these models assume that the corrections agency will be an active partner (or the sole decision-maker) in the day-to-day operation of the business. Any agency that is unable to employ experienced business managers on its staff would be hard pressed to implement these forms of private sector involvement. When the required expertise is not available, the Employer and the Manager Models are more likely to produce successful prison-based businesses.

### Production Capacity

Beyond management expertise, certain physical resources are necessary to operate a successful business. Space and equipment, and a system to efficiently utilize these resources, must be available before the business can start up. The corrections agency seeking private sector involvement in a prison-based business should estimate the amount of space and equipment necessary to generate products or services at the production levels required to insure financial survival.

The corrections agency that has the necessary plant, equipment, and a production system to effectively operate a business should consider the Customer and Controlling Customer Models. These models provide corrections agencies with the best opportunity to realize a financial return, the greatest level of control, and most of the other advantages offered by other forms of private sector involvement.

Agencies possessing the necessary management expertise but lacking production capacity should explore the Investor and Controlling Customer Models, since both of these models involve private sector provision of production resources. The Joint Venture Model might also be appropriate in this situation.

If the production resources are available from the corrections agency, but production management expertise is lacking, the Manager Model may be an appropriate way to involve the private sector. The Manager Model allows the agency to contract for required expertise while retaining ownership of the business, its assets, and the attendant financial returns.

When the corrections agency possesses neither the resources nor the expertise necessary to successfully operate a business, the Employer Model is the most expeditious form of private sector involvement. Through the Employer Model the agency can provide private sector employment for inmates with less commitment of agency staff or resources than are required under the other models.

#### Level of Control

The level of control that a corrections agency wants to exercise over the business should influence selection of a model for private sector involvement. Obviously, the greatest control over a business is attained when the agency owns and operates the business. This approach places the greatest demands on the agency, but also offers the highest potential for financial reward.

Agencies that have the necessary expertise and resources, and that wish to closely control the business, should consider the Customer and Controlling Customer Models. The Joint Venture Model can also offer a significant level of control to the corrections agency.

Agencies lacking either management or production resources, but still desiring some level of control over the business, should investigate the Manager and Investor Models. The Manager Model allows the agency to retain ownership of the business and contract for its operation, while the Investor Model allows the agency to operate the business for a private sector owner. Both of these models offer the corrections agency some measure of control over the business.

The Employer Model places both ownership and operation of the business in the hands of the private sector, and therefore offers the corrections agency little control of the business. An agency implementing the Employer Model can still exercise

control over the correctional and security elements of the business' operation, but most business decisions will be made by the private sector employer.

#### SUMMARY

Six models for private sector involvement in prison-based businesses have been identified: the Employer Model, the Investor Model, the Customer Model, the Manager Model, the Joint Venture Model, and the Controlling Customer Model. Examples of each of these theoretical models are found today in the field, with the exception of the Manager Model and the Joint Venture Model.

Choosing among these models requires the corrections agency to evaluate three factors: the agency's own expertise in business management; its existing resources or production capacity; and the level of control the agency wants to exercise over the business.

Evaluating these three factors together, it can be seen that the Employer Model is most appropriate for agencies with few resources and little desire to operate a business. Conversely, for corrections agencies with experienced management staff, resources, and an interest in running a business the Customer or Controlling Customer Models may be appropriate.

The Joint Venture Model and the Investor Model are good options for an agency with limited resources and a desire to participate in the business operation. The Manager Model is a reasonable option for agencies with the need for qualified management personnel to effectively utilize existing production resources. The price of this model, however, is some loss of control over the operation of the business.

It should be understood that virtually none of the projects now operating were decided upon by evaluating agency preferences for models in a systematic manner. In all cases the model chosen reflects either the company's or the agency's predisposition regarding private sector involvement in a prison-based business. It is not possible to determine the extent to which that predisposition was informed by objective consideration of the corrections agency's needs and resources.

Nevertheless, a close and objective analysis of agency strengths and weaknesses in the industrial area, and an assessment of the agency's position on control of business operations, can lead to a second generation of prison-based businesses that are better tailored to the interests and capabilities of the host agency. Such planning should produce a better return for all parties involved.

## V. RESULTS OF THE STATUTORY ANALYSIS

State statutes form the policy, procedural, and organizational framework within which private sector involvement in prisons must operate. It is important, therefore, to conduct a statutory analysis to identify key features of existing laws and options currently available.

The statutes underlying and supporting private sector interaction with prison industries are in many respects more complex than those authorizing publicly owned and operated prison industries. A number of new legal issues have been raised by the entrance of the private sector into prison industries, an area which in the recent past had been the sole responsibility of government. The basic question raised by private sector involvement is how responsibilities for prisoner workers are to be divided between the public and private sectors. Related questions raised by public/private cooperation include:

- What forms may the relationship between a department of corrections and the private sector take?
- Who may act as the employer of prisoners? Can prisoners be employees?
- What are the rights of prisoner workers with respect to wages, benefits, and the various legal protections provided to workers generally?
- To what extent are markets regulated by federal and state law?
- What protections exist for competitors and labor outside the prison?

To provide a framework for the statutory analysis, twelve issues were identified as relevant to the development and operation of private sector prison industries. State statutes then were analyzed in reference to these issues, and the various state positions were contrasted and compared. The results of this analysis are presented in this chapter, following the list of primary legal issues. Samples of statutory language are provided to illustrate how different state legislatures have addressed the twelve issue areas. Federal statutes and their impact on private sector involvement in prison industries are also described.

## THE PRIMARY LEGAL ISSUES

Following are the key policy issues we considered in reviewing enabling statutes for public/private ventures in prison industries:

1. Private sector employment of prisoners authorized or prohibited:

Statutes authorize or prohibit the private sector employment of prisoners and the private sector's direct control of the daily operations of the work place.

2. Private sector contracting for goods or services authorized or prohibited:

Statutes address the department of corrections' ability to enter into contracts to provide goods or services for the private sector.

3. Open market sales authorized or prohibited:

Statutes authorize or prohibit the sale of goods or services produced in whole or in part by prisoners to any buyer within the state.

4. Incentives to encourage private sector prison-based businesses authorized:

Statutes authorize the state to provide incentives aimed at encouraging private sector involvement in prison-based employment projects.

5. Prevailing and/or minimum wage mandated:

Statutes mandate that those prisoners participating in private sector employment projects be paid at least the minimum wage or the prevailing wage for work of a similar nature in the area in which the prison is located, or they set limits on the amount of pay provided to prisoners.

6. Unemployment compensation authorized or prohibited:

Statutes define prisoners as eligible for unemployment compensation benefits or deny such benefits.

7. Workers' compensation authorized or prohibited:

Statutes define prisoners as eligible for workers' compensation benefits, or some form of financial compensation for injury, or deny such benefits.

8. Prisoner voluntarism mandated:

Statutes require that those prisoners participating in prison-based private sector employment projects do so by their own choice.

9. Project's impact on non-prison labor addressed:

Statutes provide assurances that any prison-based private sector employment project will either not displace labor within the state or not compete unfairly with similar competitive firms within the state, or both.

10. Rent/lease of property authorized:

Statutes authorize the state to rent or lease space or property to the private sector for the purpose of employing prisoners.

11. Deductions from prisoner wages authorized:

Statutes authorize the department of corrections to make deductions from the wages of prisoners employed in prison-based private sector employment projects for such purposes as payment of court fines, victim restitution, family support, taxes, etc.

12. Employment status of prisoners addressed:

Statutes define the employment status of prisoners.

SUMMARY OF STATE STATUTORY POSITIONS

1. Private sector employment of prisoners authorized or prohibited:

Seventeen states specifically authorize private sector employment of adult prisoners in some form (in one of these, Florida, a private nonprofit firm now runs correctional industries, but the law states that prisoner workers are not employees of that firm):

Arizona  
Colorado  
Florida  
Indiana  
Iowa  
Kansas

Louisiana  
Minnesota  
Nebraska  
Nevada  
New Mexico  
Ohio

Oklahoma  
Oregon  
Tennessee  
Utah  
Washington

In most cases the statutes are intended to encourage private sector involvement by authorizing the rental or lease of state property or space to firms to establish businesses in or near prisons. In Louisiana and Tennessee, the law establishes special "restitution industries." In California, private sector employment is authorized for youthful offenders (wards) in the custody of the California Youth Authority, but such employment is constitutionally banned for adult prisoners.

Twenty-five states have no statutes that either specifically authorize or prohibit private sector employment of prisoners. In South Carolina attorneys for the department of corrections have interpreted this silence to mean that private sector employment is permitted.

Eight states have statutes that specifically prohibit private sector employment of prisoners (in one of these, Kentucky, an attorney general's opinion authorizes private sector operation of correctional industries, but a constitutional prohibition has prevented the state from becoming involved in the private sector employment of prisoners):

California (prohibited for adult offenders only)  
Illinois  
Kentucky  
Michigan (legislation to remove prohibition pending)  
Mississippi  
New Jersey  
North Dakota  
Pennsylvania

The following examples of statutory language show how two state legislatures have addressed the issue of private sector employment of prisoners:

"It is the purpose of this chapter to authorize the commissioner of the department of correction to establish demonstration-type projects involving inmate labor and private industry to be known as Tennessee Restitution Industries; to authorize the commissioner to contract with private industry to lease state land, improvements and facilities at adult correction institutions for the establishment of such industries; to provide for the employment of the inmates of such

institution by such private industries and the term of such employment; and to designate the uses to be made of deductions from wages earned by such inmate employees." (Tennessee Code Annotated, Chapter 24, Section 41-2401.)

"The commissioner may establish programs for the employment of offenders by private persons. In establishing these programs, the commissioner may enter into agreements with any private person under which that person establishes, by construction, lease, or otherwise, facilities within the exterior boundary of any state adult correctional facility, for the manufacture and processing of goods or any other business, commercial, or agricultural enterprise." (Indiana Statutes Annotated, Chapter 7, Section 11-10-7-2.)

2. Private sector contracting for goods or services authorized or prohibited:

Sixteen states have statutes that specifically authorize contracts with the private sector for the production of goods or services:

Alaska	Iowa	Ohio
Arizona	Minnesota	Oklahoma
Colorado	Mississippi	Oregon
Connecticut	New Mexico	Tennessee
Indiana	Nevada	Utah
	West Virginia	

Fourteen states have statutes prohibiting either the contracting of prisoner labor or contracting with private persons for the production of goods or services:

California	New Jersey	South Dakota
Georgia	New Mexico	Texas
Illinois	New York	Vermont
Massachusetts	North Dakota	Wyoming
Michigan	Pennsylvania	

Twenty-one states have no statutes that either specifically authorize or prohibit the contracting of prisoner labor or contracting for the production of goods or services:



Alabama	Kentucky	New Hampshire
Arkansas	Louisiana	North Carolina
Delaware	Maine	Rhode Island
Florida	Maryland	South Carolina
Hawaii	Missouri	Virginia
Idaho	Montana	Washington
Kansas	Nevada	Wisconsin

Map 2 indicates which states have statutes specifically authorizing either private sector employment of prisoners or the contracting of prisoner labor by the private sector.

The following are examples of how two state legislatures have addressed the issue of private sector contracting for goods/services:

"The director may contract with any state agency, political subdivision, state department or any private person, firm, corporation or association to provide services or labor rendered by prisoners." (Arizona Revised Statutes, Chapter 281, Section 41-1624.01.)

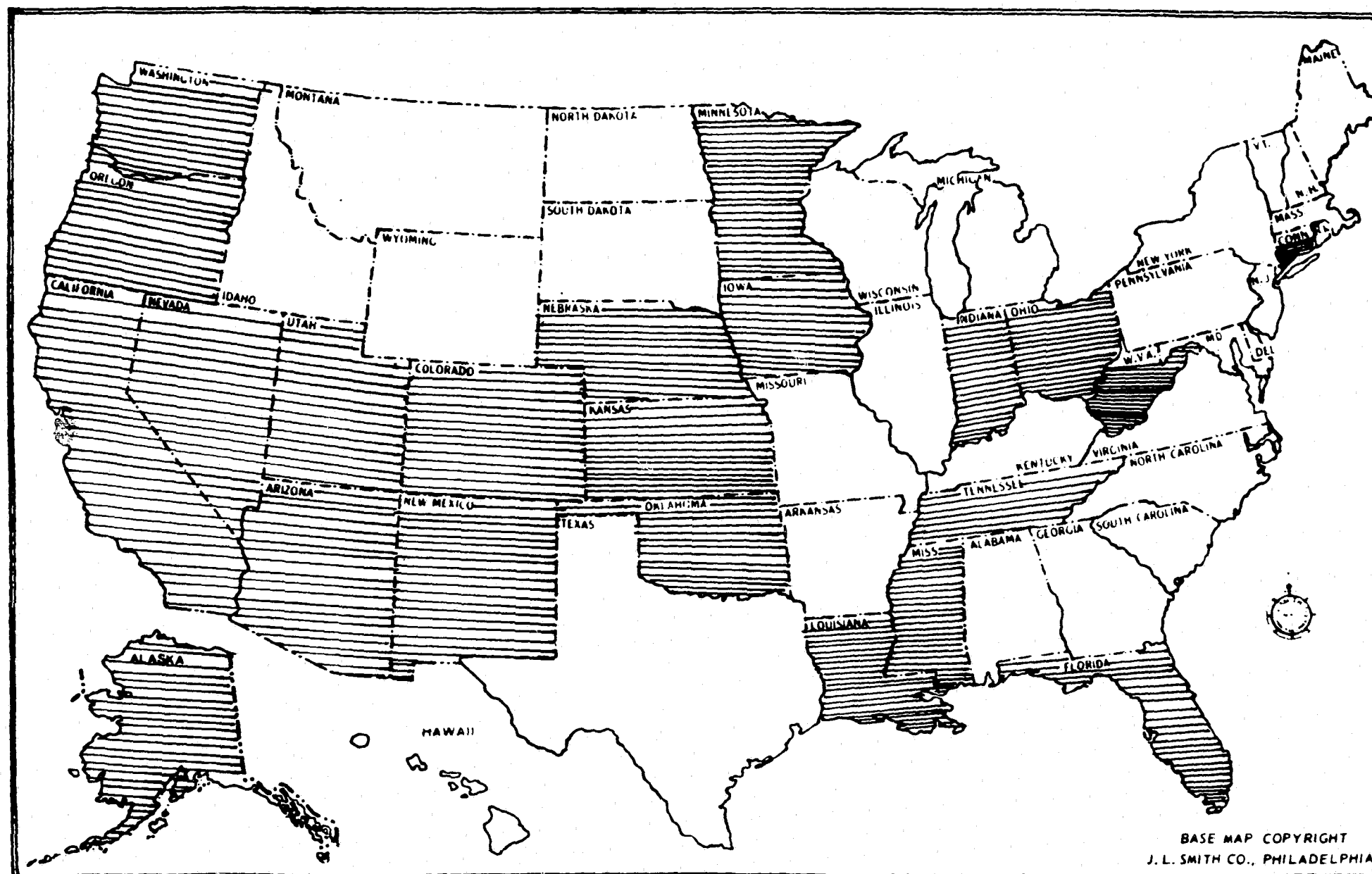
"No contracts for leasing the labor of prisoners confined in any such institution, at a certain rate per diem, giving the contractor full control of the labor of the prisoners, shall be made; but such prisoners shall be employed, under regulations established by the commissioner of corrections, in such industries as shall, from time to time, be fixed upon by the officers in charge and the commissioner, or in the manufacture of articles by the piece, under the so-called 'piece price system,' by contracts with persons furnishing the materials. The chief officer, under the direction of the commissioner, shall purchase such tools, implements, and machinery as he shall deem necessary for the work." (Minnesota Statutes Annotated, Chapter 243, Section 243.61.)

### 3. Open market sales authorized or prohibited:

Twenty states have statutes specifically authorizing open market sales of prisoner-made goods and services:



MAP 2  
STATES WITH LEGISLATION AUTHORIZING PRIVATE SECTOR INVOLVEMENT



= States with legislation for private sector involvement

Alaska	Kansas	Nebraska	Oregon
Arizona	Louisiana	Nevada	South Carolina
Idaho	Maine	New Hampshire	Utah
Indiana	Minnesota	New Mexico	Vermont
Iowa	Mississippi	Ohio	Washington

Twenty-five states have statutes specifically prohibiting open market sales:

Alabama	Illinois	New Jersey	South Dakota
California	Kentucky	New York	Tennessee
Connecticut	Maryland	North Carolina	Texas
Florida	Michigan	North Dakota	Virginia
Georgia	Missouri	Pennsylvania	W. Virginia
Hawaii	Montana	Rhode Island	Wisconsin
			Wyoming

Florida and Kentucky do authorize private sector management and operation of correctional industries; in both cases, however, the market for goods produced is restricted to state and local governments and nonprofit organizations. In Connecticut and West Virginia, the state may contract prisoner labor to the private sector, but the market for goods produced remains restricted to the state. In Tennessee open market sales are banned, but it can be assumed that the state's special restitution industries are exempt from this prohibition.

Five states have no statutes either authorizing or prohibiting open market sales:

Arkansas  
Colorado  
Delaware  
Massachusetts  
Oklahoma

In Arkansas this silence can probably be interpreted as a prohibition. In Colorado and Oklahoma open market sales are probably not prohibited, since in each state the legislature has specifically authorized both private sector employment and contracting. In Massachusetts the legislature repealed the prohibition on open market sales in 1971.

The following are examples of how two state legislatures have addressed the issue of open market sales:

"Except prohibited by applicable provisions of the United States Code, inmates of state correctional institutions may be employed in the manufacture and processing of goods, wares and merchandise for introduction into interstate commerce, provided that they are paid no less than the prevailing minimum wages for work of a similar nature performed by employees with similar skills in the locality in which the work is being performed." (Minnesota Statutes Annotated, Chapter 243, Section 243.88.)

"Goods in whole or in part by committed persons in this state may be sold on the open market." (Indiana Statutes Annotated, Chapter 7, Section 11-10-6-5.

#### 4. Incentives to encourage private sector prison-based businesses authorized:

Only two states have specific statutory authorization for incentives to encourage private sector involvement in correctional industries: Indiana offers tax credits and Washington offers bidder's preference on state contracts.

The following examples of statutory language show how these two states have addressed the issue of incentives to encourage private sector prison-based businesses:

"A taxpayer who enters into an agreement is entitled to receive an income tax credit for a taxable year equal to:

(1) the taxpayer's state income tax liability for the taxable year;

(2) an amount equal to the sum of:

(A) 50 percent of any investment in property made by the taxpayer as part of the agreement; plus

(B) 25 percent of the wages paid to inmates as part of the agreement; or

(3) one hundred thousand dollars, whichever is least.

"A tax credit shall be allowed under this chapter only for the taxable year of the taxpayer during which:

(1) the investment in qualified property is in accordance with Section 38 of the Internal Revenue Code; or

(2) the wages are paid to inmates, as part of an agreement."

(Indiana Statutes Annotated, Chapter 3.2, Section 6-3-3.2-2.)

"The supervisor of purchasing for the state of Washington is authorized to enter into contracts for production of goods and supply of services and shall give preference in the purchase of materials and supplies for the institutions, departments and agencies of the state, to those produced by industries in state correctional institutions." (Revised Code of Washington, Chapter 72, Section 72.60.190.)

#### 5. Prevailing or minimum wage mandated:

Twelve states have laws specifically mandating that prisoners working in private sector projects be paid either the prevailing wage or the minimum wage (Washington allows employers to pay up to 60 percent of prevailing wage but not less than the federal minimum wage):

Arizona	Louisiana	Oregon
Indiana	Minnesota	Tennessee
Iowa	Nebraska	Utah
Kansas	Oklahoma	Washington

The following are examples of how two state legislatures have addressed the issue of prevailing or minimum wage:

"Employers participating under the provisions of this act shall pay inmates the prevailing wage for similar work in private industry." (Utah Code Annotated, Chapter 9b, Section 64-9b-4 (2).)

"Goods produced in whole or in part by persons confined to the in this state may be transported and sold in the same manner as goods

produced by free persons, if persons confined to the department are paid at least minimum wage under state law. The minimum wage requirement does not apply to hobby and craft items produced by persons committed to the department on their own time with their own resources." (Nebraska Revised Statutes, Chapter 83, Section 83-151.)

6. Unemployment compensation authorized or prohibited:

Of the states that authorize private sector employment of prisoners, only Iowa's statute appears to implicitly extend unemployment compensation coverage to prisoner workers: "Inmates will be employees of a private business and eligible for all benefits and wages the same as other employees of the business..."(see below).

Two states have laws making prison industry workers potentially eligible for unemployment compensation. California has the most far-reaching unemployment compensation program for workers in prison industries, but the state does not allow private sector employment of adult prisoners. In Washington, which does authorize private sector employment, prisoners are not eligible to collect benefits until their release.

Four states specifically prohibit payment of unemployment compensation to prisoners:

Indiana  
Louisiana  
New Mexico  
Tennessee

The following are examples of how two state legislatures have addressed the issue of unemployment compensation:

"The state director with the advice of the prison industries board may provide an inmate work force to private industry. Under the program inmates will be employees of a private business and eligible for all benefits and wages the same as other employees of the business engaged in similar work." (Code of Iowa, Chapter 216, Section 216.11.)

"Free inmates...are not eligible for unemployment compensation benefits until they are released on parole or discharged on expiration of their maximum sentences. Thus a free venture participant could be paroled from the institution and thereby immediately qualify for unemployment com-

pensation benefits based on the employment they held in the institution. It therefore appears that Class I employers are not exempt from unemployment compensation taxes. This means that they would be responsible for payments required by state statutes but would also be liable for federal unemployment taxes." (Letter from the Office of the Attorney General, Washington State.)

7. Workers' compensation authorized or prohibited:

Nineteen states authorize payment of workers' compensation:

California	Montana	North Carolina	Utah
Connecticut	Minnesota	Oklahoma	Virginia
Kansas	Nebraska	Oregon	Washington
Iowa	New Jersey	South Carolina	Wisconsin
	Louisiana	Tennessee	Wyoming

Three states (Alaska, Idaho, and New York) prohibit such payments. Arizona's authorization expired in July 1984 and was limited to prisoners participating in the U. S. Department of Justice's Prison Industry Enhancement Project<sup>6</sup>

The following are examples of how two state legislatures have addressed the issue of workers' compensation:

"Any inmate employed in institutional industries shall be eligible for the benefits provided by Title 51, RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions herein provided. No inmate as herein described, until released upon an order of parole by the state board of prison terms and paroles, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability... Any inmate who is

<sup>6</sup> For an explanation of worker's compensation coverage for prisoners, see Barbara Auerbach, "Worker's Compensation Programs for Prison Labor: An Assessment of State Practices", in The American Foundation, A Guide to Effective Prison Industries, Vol. 1, 1979.

either not paid any wages or paid a gratuity shall not be considered employed under this section." (Revised Code of Washington, Title 72, Section 72.60.102.)

"The employment of inmates shall be subject to the provisions of Workmen's Compensation Law." (Tennessee Statutes Annotated, Chapter 4, Section 41-2405.)

8. Prisoner voluntarism mandated:

Eight states mandate that prisoners participating in private sector shops do so voluntarily:

Alaska	New Mexico
Kansas	Tennessee
Louisiana	Utah
Mississippi	Washington

The following are examples of how two state legislatures have addressed the issue of prisoner voluntarism:

"An offender may be employed under this chapter only on a voluntary basis and only after he has been informed of the conditions of his employment." (Indiana Statutes Annotated, Chapter 7, Section 11-10-7-3.)

"Rehabilitative and job opportunities at the Utah state prison shall not be forced upon any inmate contrary to the Utah Constitution, Article XVI, Sec.3(2), but instead, shall be on a completely voluntary basis." (Utah Statutes Annotated, Chapter 9b, Section 64-9b-4.)

9. Impact on non-prison labor addressed:

Six states have legislation designed to protect the jobs of workers outside the prison:

Alaska	Oregon
Iowa	Nevada
Indiana	Vermont

Alaska and Iowa statutes include general language indicating that non-prison labor cannot be displaced by prison-based projects. Oregon law prohibits private sector projects

in a "work area where the unemployment rate in that industry providing the products...exceeds the average state-wide unemployment rate in that industry" (see below). Indiana prohibits private sector employment if it will cause increased unemployment in the community in which the prison is located. Nevada and Vermont prohibit open market sale of any prisoner-made product that is also manufactured within the state by non-prison labor.

The following are examples of how two state legislatures have addressed the issue of impact on labor outside the prison:

"The board shall adopt rules reasonably to insure that products and services provided under this section: (a) do not adversely affect existing production or delivery of such products or services by private industry within the state; (b) are not introduced or perpetuated in any work area where the unemployment rate in the industry providing the products or services exceeds the average state-wide unemployment rate in that industry." (Oregon Revised Statutes, Chapter 574, Section 421.305.)

"Such paid employment will not result in displacement of employed workers." (Iowa Code Annotated, Chapter 216, Section 216.12.)

10. Rent/lease of property authorized:

Twelve states have statutes that specifically authorize the department of corrections to rent or lease property or space to the private sector for the purpose of establishing businesses that would employ prisoners (in most cases, the law restricts the term of such leases to twenty years or less):

Arizona	Minnesota	Oklahoma
Florida	Mississippi	Oregon
Indiana	Nebraska	Tennessee
Iowa	Nevada	Washington

The following are examples of how two state legislatures have addressed the issue of rent/lease of property:

"The director, consistent with sound business judgment, may, with the approval of the board, construct, reconstruct or lease one or more buildings or portions of buildings on the grounds of any state correctional institution or location

under ARCOR control, together with the real estate needed for reasonable access to such buildings, any lease to have a term not to exceed twenty years, to a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of products or any other commercial enterprise deemed by the director to provide employment opportunities for inmates in meaningful jobs for wages..." (Arizona Revised Statutes, Chapter 164, Section 41-1623(D).)

"The director may enter into such contracts as may be necessary to fully implement the terms of section 81-1801 to 81-1841. Such contractual arrangements may include, but not be limited to, rental or lease agreements for such buildings or portions thereof on the grounds of any Department of Correctional Services facilities, together with the real estate needed for reasonable access to and egress from the leased buildings, with a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of goods, wares, or merchandise, or any other business or commercial enterprise deemed by the director to be consistent with the proper training and rehabilitation of persons committed to the department." (Revised Statutes of Nebraska, Chapter 81, Section 81-1831.)

11. Deductions from prisoners' wages authorized:

Twenty states have laws authorizing deductions from prisoners' wages for taxes, court fines, victim restitution, family support, savings, or room and board:

Alaska	Kansas	Nevada	Oregon
Arizona	Kentucky	New Hampshire	Tennessee
Colorado	Louisiana	New Mexico	Utah
Florida	Minnesota	Ohio	Vermont
Indiana	Nebraska	Oklahoma	Washington

The following are examples of how two state legislatures have addressed the issue of deductions from prisoners' wages:

"The earnings of an offender employed under this chapter shall be surrendered to the department. This amount shall be distributed in the following order:

(1) Not less than 20% of the offenders gross earnings to be given to the offender or retained by the department. If retained by the department, the amount with accrued interest, if interest on the amount is earned, must be returned to the offender not later than at the time of his release on parole or discharge.

(2) State and federal income taxes and social security deductions.

(3) The expenses of room and board, as fixed by the department and the state budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(4) The support of the offender's dependents, when directed by the offender or ordered by the court to pay this support (if his dependents are receiving welfare assistance, the appropriate welfare department shall be notified of these disbursements).

(5) Ten percent of the offender's gross earnings, to be deposited in the violent crime victims' compensation fund... " (Indiana Revised Statutes, Chapter 7, Section 11-10-7-5.)

"A person committed to the department, who is earning at least minimum wage, and is employed pursuant to sections 81-1827 and shall have his or her wages set aside by the chief executive officer of the facility in a separate wage fund. The director shall promulgate rules which will protect the inmate's rights to due process, provide for hearing as necessary before the Crime Victim's Reparations Board, and govern the disposition of a confined person's gross monthly wage minus required payroll deductions and payment of necessary work related incidental expenses for the following purposes:

(1) For the support of families and dependent relatives of the respective inmates;

(2) For the discharge of any legal obligations, including judgments for restitution;

(3) To pay all or a part of the cost of their board, room, clothing, medical, dental, and other correctional services;



(4) To provide for funds payable to the person committed to the department upon his or her release;

(5) For the actual value of state property intentionally or willfully and wantonly destroyed by such person during his or her commitment; and

(6) For reasonable costs incurred in returning such person to the facility to which he or she is committed in the event of escape." (Revised Statutes of Nebraska, Chapter 81, Section 83-183.01)

12. Employment status of prisoners addressed:

Six states have statutes addressing the status of prisoner workers:

Alaska	Iowa
Florida	Mississippi
Idaho	New York

With the exception of Iowa, all of these specifically note that prisoners are not employees of the state, the department of corrections, or the private firm. Iowa describes prisoners as employees of the private business.

The following are examples of how two state legislatures have addressed the issue of the employment status of prisoners:

"Under the program, inmates will be employees of a private business and eligible for all benefits and wages the same as other employees of the business engaged in similar work." (Iowa Code Annotated, Chapter 216, Section 216.11.)

"Nothing contained in this chapter is intended to restore in whole or in part the civil rights of inmates. No inmate compensated under this Chapter or by the corporation or the department shall be considered as an employee of the state, the department, or the corporation." (Florida Statutes Annotated, Chapter 83-209, Section 946.04.)

Table 3 shows how each state's prison industry statutes address the twelve issues pertinent to private sector involvement in prison-based businesses. Table 4 identifies the specific state law that is relevant to the operation of public/private industries in each state.

TABLE 3  
PRISON INDUSTRY STATUTE ANALYSIS

S T A T E S	I S S U E S												S T A T E S
	Private sector employment authorized	Private sector contracting authorized	Open market sales authorized	Incentives for private sector authorized	Prevailing and/or minimum wages mandated	Unemploy- ment Compensation authorized	Workers' Comp. authorized	Prisoner voluntarism mandated	Project's impact on free world labor addressed	Rent/Lease of property authorized	Wage deductions authorized	Employee status of prisoners addressed	
Alabama			No										Alabama
Alaska		Yes	Yes				No	Yes	Yes		Yes	Yes	Alaska
Arizona	Yes	Yes	Yes		Yes					Yes	Yes		Arizona
Arkansas						Yes	Yes						Arkansas
California	No	No	No										California
Colorado	Yes	Yes									Yes		Colorado
Connecticut		Yes	No				Yes						Connecticut
Delaware													Delaware
Florida	Yes		No							Yes	Yes	Yes	Florida
Georgia		No	No										Georgia
Hawaii			No										Hawaii
Idaho			Yes				No					Yes	Idaho
Illinois	No	No	No										Illinois
Indiana	Yes	Yes	Yes	Yes	Yes	No			Yes	Yes	Yes		Indiana
Iowa	Yes	Yes	Yes		Yes	Yes	Yes		Yes	Yes		Yes	Iowa
Kansas	Yes		Yes		Yes		Yes	Yes			Yes		Kansas
Kentucky			No								Yes		Kentucky
Louisiana	Yes		Yes		Yes	No	Yes	Yes			Yes		Louisiana
Maine			Yes										Maine
Maryland			No										Maryland
Massachusetts		No											Massachusetts
Michigan	No	No	No										Michigan
Minnesota	Yes	Yes	Yes		Yes		Yes			Yes	Yes		Minnesota
Mississippi	No	Yes	Yes		No			Yes		Yes		Yes	Mississippi
Missouri			No										Missouri
Montana			No				Yes						Montana
Nebraska	Yes		Yes		Yes		Yes			Yes	Yes		Nebraska
Nevada	Yes	Yes	Yes						Yes	Yes	Yes		Nevada
New Hampshire			Yes								Yes		New Hampshire
New Jersey	No	No	No				Yes						New Jersey
New Mexico	Yes	No	Yes			No		Yes			Yes		New Mexico
New York		No	No				No					Yes	New York
North Carolina			No				Yes						North Carolina
North Dakota	No	No	No										North Dakota
Ohio	Yes	Yes	Yes								Yes		Ohio
Oklahoma	Yes	Yes			Yes		Yes			Yes	Yes		Oklahoma
Oregon	Yes	Yes	Yes		Yes		Yes		Yes	Yes	Yes		Oregon
Pennsylvania	No	No	No										Pennsylvania
Rhode Island			No										Rhode Island
South Carolina			Yes				Yes						South Carolina
South Dakota		No	No										South Dakota
Tennessee	Yes	Yes	No		Yes	No	Yes	Yes		Yes	Yes		Tennessee
Texas		No	No										Texas
Utah	Yes	Yes	Yes		Yes		Yes	Yes			Yes		Utah
Vermont		No	Yes						Yes		Yes		Vermont
Virginia			No				Yes						Virginia
Washington	Yes		Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes		Washington
West Virginia		Yes	No										West Virginia
Wisconsin			No				Yes						Wisconsin
Wyoming		No	No				Yes						Wyoming

Yes = Legislative Authorization Exists  
No = Legislative Prohibition Exists  
Blank space indicates that legislation neither  
specifically authorizes nor prohibits.

TABLE 4  
CITATIONS FOR STATE LEGISLATION

Alabama	- Act 14 -7
Alaska	- Chapter 53, Section 33.30.225 - 450
Arizona	- Article 3, Section 41-1621 - 1630
Arkansas	- Statute 46-237 - 250
California	- Article 14, Section 5, Constitution and Chapter 5, Article 1, Sec. 2700-2716 California Penal Code
Colorado	- Article 24, Section 17-24-102 to 120
Connecticut	- Title 18
Delaware	- Title 11, Section 6532
Florida	- P.R.I.D.E. Act F.S. 945.135
Georgia	- Georgia Laws, 1975, No. 218 and Section 77-318
Hawaii	- Chapter 354 of Prison Made Goods Act of 1963
Idaho	- Chapter 4 of Correctional Industries Act; Section 20-403 to 418
Illinois	- Chapter 38, Section 1003-12-2 to 7
Indiana	- Indiana Code, Chapter 7 and Chapter 3.2
Iowa	- Chapter 216 of Code of Iowa
Kansas	- KSA -5288 (1980 Chapter 286, Section 1) and KSA 44-7-108
Kentucky	- KRS 1978, Chapter 70, Section 365.240 and O.A.G. 73-629, Kentucky Constitution, Chapter 253
Louisiana	- Louisiana R.S. 51:661-692 and Part XIV, Chapter 7, title 15 of L.R.S. 1950 - RS 15:1151 through RS 15:1159
Maine	- 34 MRS 7 and 34 MRS 503 and 504
Maryland	- Article 27, Section 681 - Annotated Code of Maryland
Massachusetts	- Massachusetts General Law, Chapter 127, Section 48 and 51
Michigan	- Chapter 28, Section 1540 Michigan Compiled Laws
Minnesota	- Chapter 243
Mississippi	- H.B. 921 (signed by Governor in 1983)
Missouri	- Chapter 216, Missouri State Use Law
Montana	- Chapter 80, Section 1501 - 1503
Nebraska	- Revised Statutes of Nebraska Chapters 81 and 83
Nevada	- Nevada Revised Statutes 209.461 (c) and 2-E; AGO 614 (5-8-1948)
New Hampshire	- RSA 622
New Jersey	- Title 30, Article 5, State Penal Code
New Mexico	- Chapter 127 (Laws of 1981), Article 20, Section 18 Constitution
New York	- Article 7 of Corrections Law
North Carolina	- Article 3, Chapter 148, State Penal Code
North Dakota	- Chapter 12-48 Corrections, Parole and Probation Laws
Ohio	- H.B. 654 (signed January 1, 1981)
Oklahoma	- Chapter 57, State Penal Code
Oregon	- ORS 421 and S.B. 775
Pennsylvania	- Chapter 2, Penal Code
Rhode Island	- G.L. 1956, Section 13
South Carolina	- Section 24-3-410, Penal Code
South Dakota	- Section 24-7-3, Penal Code
Tennessee	- Chapters 4 and 24; Tennessee Code Annotated
Texas	- Title 108, Article 6203 c
Utah	- Chapter 9 b, Penal Code
Vermont	- Chapter 11, Title 28, Section 751, Public Institutions Law
Virginia	- Chapter 53, Virginia Penal Code
Washington	- RCW 72.09.100, RCW 72.60.120, RCW 72.65.120
West Virginia	- West Virginia Code 28-5-11
Wisconsin	- Chapter 56, Prison Labor
Wyoming	- Laws 1973, Chapter 245, Section 7-13-711 and 9-6-310

## IMPLICATIONS OF FEDERAL STATUTES

Access to interstate markets is one of the crucial requirements of most private sector manufacturers, since today's markets tend to be regional or national. It is in this area--the regulation of interstate commerce of prisoner-made goods--that Congress has been most active.

The power to regulate interstate commerce is an exclusively federal power and one that has been interpreted broadly by the courts over the years. Generally, the pressure to limit or prohibit access to interstate commerce for prisoner-made goods has stemmed from business and labor concerns over unfair competition or from reform-minded citizens' groups concerned about the exploitation of prison labor.

A wave of restrictive legislation was passed in the 1930s and 1940s that totally prohibited prisoner-made goods from entry into interstate commerce, thus confining such goods to what is known as the state-use market. This situation continued until 1979, when Senator Charles Percy of Illinois introduced what is now called the Prison Industries Enhancement Act, Section 827 of the Justice Systems Improvement Act, allowing a small number of states to experiment in the interstate market if certain safeguards were provided to non-prison labor and industry and to prisoner workers themselves.

### Federal Regulatory Statutes

The following is a list of federal laws relevant to the marketing and distribution of prisoner-made goods.

#### 1. The Hawes-Cooper Act (49 U.S.C. 60, 1929)

This law provides that prisoner-made goods that move from one state to another are subject to the laws of the importing state once the goods cross its borders.

"Goods, wares, and merchandise produced or mined in a penal institution or by a prisoner not on parole or probation and transported into and used, sold, or stored in a State or territory or possession of the United States, is subject to the laws of that State, territory, or possession. This section does not apply to commodities produced in a penal institution of the United States Government for its use." (Pub.L.95-473, Oc. 17, 1978, 92 Stat. 1449.)

2. The Ashurst-Sumners Act (49 Stat. 494, 1935)

This law provides for federal criminal enforcement of a valid state law promulgated under the Hawes-Cooper provision.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institution, from one State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares, and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal and correctional institutions for use by the Federal Government."

3. The Sumners-Ashurst Act (18 U.S.C. 1761, 1948)

It is a federal offense to transport prisoner-made goods in interstate commerce, and state law permitting the transportation of prisoner-made goods for private use is preempted.

"(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

"(b) This chapter 18 USCS §§ 1761, 1762 shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State." (June 25, 1948, Ch. 645, §1, 62 Stat. 785.)

4. The Walsh-Healey Act (41 U.S.C. 35-45, 1936)

Prison labor cannot be used to fulfill federal government contracts that exceed \$10,000.

"In any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States (all the foregoing being hereinafter designated as agencies of the United States), for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding \$10,000, there shall be included the following representations and stipulations:

(d) That no male person under sixteen years of age and no female person under eighteen years of age and no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract; and . . ."

5. Executive Order 11755 (1973)

This executive order permits "the employment of non-federal prison inmates in the performance of federal contracts under terms and conditions that are comparable to those now applicable to inmates of federal prisons." That is, state prisoners on parole or probation may be employed by a contractor in the performance of contracts involving the use of appropriated funds by agencies and departments of the federal government. Such work-release projects are certified by the United States Attorney General, who attempts to assure that "the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of this order." (Approximately 20 states have been certified to date.)

6. P.L. 96-157, Sec. 827 (1979) "The Prison Industries Enhancement Act"

This act exempts up to twenty<sup>7</sup> pilot projects from the provisions of both the Sumners-Ashurst Act and the Walsh-Healy Act, described above. The projects are certified by the United States Attorney General, who attempts to assure that the law's provisions have been met. Provisions included in the act are:

- that wages paid are "not less than that paid for work of a similar nature in the locality in which the work was performed";
- that prisoner workers are not deprived, solely by their status as prisoners, of employment benefits;
- that prisoners participate voluntarily;
- that organized labor be consulted before the initiation of any project;
- that the project does not displace employed workers or enter areas in which there is a surplus of available gainful labor or impair existing contracts for services;
- that deductions (totalling no more than 80 percent of gross wages) may be taken from inmates' wages for taxes, room and board, family support, and victims' restitution, and only for those purposes.

Other Acts

In addition to these broad-based acts, there are several federal laws prohibiting specific activities. Three examples are:

1. Inmate labor cannot be used as an integrated part of highway or airport construction, unless the offenders employed in such projects are on parole or probation.

<sup>7</sup>The Justice Assistance Act of 1984 (P.L. 98-473, Section 819) increased the number of allowable pilot projects from the original seven stipulated in the 1979 act to twenty.

23 U.S.C. 114(b), (1958); 49 U.S.C. 1722(c), (1970)

2. The Postmaster General is forbidden by law to purchase supplies and equipment manufactured by inmate labor for use in the postal service.

39 U.S.C. 2010 (1960); 39 U.S.C. 2201 (1970)

3. With the exception of products manufactured by prisoners on parole or probation, all packages that contain goods produced by prisoner labor must be clearly labeled as prisoner-made goods.

18 U.S.C. 1762 (1948)

SUMMARY

Twenty-one states have statutes specifically authorizing the private sector employment of prisoners or the contracting of prisoner labor by the private sector, or both. A majority of the remaining states have no statutes that specifically authorize or prohibit one or both of these activities. Eight states specifically prohibit private sector employment of prisoners, and 14 prohibit either the contracting of prisoner labor or contracting with private firms for the production of goods or services. Six prohibit all three forms of private sector involvement.

Open market sales of prisoner-made goods are prohibited in 25 states and authorized in 20, with only five states silent on the issue. In some of the latter, silence can be interpreted as prohibition, while in others it probably should not be.

Only two states specifically authorize the use of incentives to encourage private sector participation. Six have statutes designed to protect the jobs of non-prison labor.

Twelve states mandate payment of either the prevailing wage or the minimum wage to prisoners working in private sector projects, but only one of these extends to inmates all benefits offered non-prison employees, including unemployment compensation. A total of 20 states authorize payment to prisoners of workers' compensation benefits, but only 11 of these specifically authorize either private sector employment of prisoners or contracting with the private sector.

Legislative Patterns

Looking at legislative activity in the states overall brings out several different patterns. As is evident from

Table 3, there are states that are silent on almost all of the issues identified as relevant to private sector involvement in prison-based businesses. Two states have no statutes addressing any of these issues. More common are those that address only the question of open market sales (generally to prohibit them), or deal with open market sales and one or occasionally two other issues. Typical combinations are prohibitions against both open market sales and private employment or contracting with the private sector; and prohibitions against open market sales with workers' compensation or wage deductions authorized.

At the other end of the scale of legislative activity are those states that are vocal on half or more of these issues, some speaking out on as many as nine. Most of these active states have authorized open market sales, plus either private sector employment or contracting or both. Most have also authorized payment of prevailing or minimum wages to prisoner workers and workers' compensation (workers' compensation, however, is authorized in some states that are silent on virtually all other issues or in those that prohibit all forms of private sector involvement). Most of the statutes mandating prisoner voluntarism occur in these active states, although some of the most vocal have not dealt with this issue.

Prison industry operations have been highly regulated by a complex network of state and federal laws for several decades. Most of these laws, which are restrictive in nature, were enacted prior to the current re-emergence of interest in private sector participation in prison-based businesses. However, in the last ten years an increasing number of changes aimed at authorizing and encouraging private sector prison industries have been made at both state and federal levels.

In most cases, recently enacted state laws serve as clear guidelines for policymakers regarding the basic issues relevant to implementation of private sector prison industries. For example, statutes typically address such issues as the allowable relationships between a department of corrections and a private sector firm, whether or not prisoners can be employed by a private firm, and in what markets products can be sold.

However, in most cases these new state laws do not serve as clear guidelines for policymakers regarding wages and benefits. Many corrections officials are designing and implementing prison industry programs without benefit of clear-cut legal guidelines in this important area.

## VI. RESULTS OF ATTITUDE SURVEYS

The attitudes of key policymakers in each state toward private sector involvement in prison industries are critical, since without the support of these individuals implementation of such programs is unlikely. For this study policymakers' attitudes were surveyed by the use of questionnaires mailed to each governor, each state director of corrections, and the chairpersons of each state's house and senate judiciary committee. Key results of these three sets of questionnaires are presented below.

### IMPORTANCE OF WORK FOR PRISONERS

Each governor and legislator was asked to characterize the importance of work for state prisoners. In so doing, they were asked to describe work for state prisoners as: (a) essential, (b) very important, (c) somewhat important, or (d) not important. A total of 30 governors and 30 legislators responded to this question.

The overwhelming majority of both governors and legislators saw work as either an essential or very important part of a state prisoner's experience while incarcerated. In the case of the governors, 22 out of 30 characterized work as essential, while the remainder saw it as being very important. Nineteen of the 30 legislators described work as essential, while ten saw it as being very important and one thought it was somewhat important. Table 5 summarizes the governors' and legislators' responses to this question.

TABLE 5

IMPORTANCE OF WORK		
	N = 30 GOVERNOR	N = 30 LEGISLATOR
ESSENTIAL	72 %	64 %
VERY IMPORTANT	28 %	33 %
SOMEWHAT IMPORTANT	0 %	3 %
NOT IMPORTANT	0 %	0 %



**CONTINUED**

**1 OF 2**

# IMPORTANCE OF DIFFERENT TYPES OF WORK

Governors and legislators were asked to rank the importance of four different types of work: (a) unpaid hard labor, (b) institutional support work, (c) paid productive employment, and (d) public works. Both governors and legislators ranked paid productive employment as the most important type of work and unpaid hard labor as the least important type of work. This general response pattern existed both on the national level and in each regional area of the country. Table 6 depicts the rankings of the different types of work.

TABLE 6

IMPORTANCE OF TYPES OF WORK GOVERNORS AND LEGISLATORS	
TYPE	RANKING
PAID EMPLOYMENT	1
INSTITUTIONAL SUPPORT WORK	2
PUBLIC WORKS	3
UNPAID LABOR	4

## INTEREST IN PRIVATE SECTOR EMPLOYMENT

The governors, legislators, and directors of corrections in each state and the District of Columbia were asked to describe their personal interest in the concept of private sector employment of prisoners in terms of the following four categories: (a) very interested, (b) somewhat interested, (c) not interested, and (d) opposed.

Forty-nine directors responded to the question; 45 expressed interest in the concept of private sector employment, and 34 of these said they were "very interested". Two expressed no interest, and one was opposed. One director did not answer the question. In explaining their lack of interest, the director in Ohio cited the need to concentrate resources on traditional state-use industries, while the director in Texas said he feared private sector exploitation of prisoners. The director in North Carolina cited a variety of reasons for his opposition to the concept, including security problems, diversion of resources from state-use industries to the private sector, and outside interest group

opposition to the concept.

The governors and legislators surveyed also were overwhelmingly interested in the concept of private sector employment for their state's prisoners. Twenty-seven of the 30 governors and legislators responding expressed interest. However, the much larger percentage of directors (69 percent) as compared to governors (38 percent) and legislators (43 percent) who said they were very interested in the concept suggests that corrections directors may need to play a leadership role in promoting action in this area. The respondents' interest in private sector employment is depicted in Table 7.

TABLE 7

INTEREST IN PRIVATE SECTOR EMPLOYMENT			
	N = 49	N = 30	N = 30
	DIRECTORS	GOVERNORS	LEGISLATORS
INTEREST LEVEL			
VERY INTERESTED	69 %	38 %	43 %
SOMEWHAT INTERESTED	23 %	50 %	47 %
NOT INTERESTED	5 %	8 %	10 %
OPPOSED	3 %	4 %	0 %

# BENEFITS OF PRIVATE SECTOR EMPLOYMENT

Governors, legislators, and corrections directors were asked to rank by order of importance seven benefits that could accrue from involving the private sector in prisoner employment projects.

All three groups of respondents overwhelmingly ranked reduction of prisoner idleness as the most important benefit. Income for prisoners and revenue for the state were seen as the least important benefits. Rankings of the potential economic benefit to crime victims and prisoners' families varied from group to group. Table 8 depicts the respondents' rankings for each potential benefit of private sector involvement.

TABLE 8

RANKING OF BENEFITS OF PRIVATE SECTOR EMPLOYMENT			
BENEFIT	DIRECTORS N = 49	GOVERNORS N = 30	LEGISLATORS N = 30
Reduce Prison Idleness	1	1	1
Reduce Cost of Incarceration	2	4	5
Compensate Crime Victims	3	2	4
Enhance Post-Release Employment	4	5	3
Increase Family Support	5	3	2
Income for Prisoners	6	7	7
Revenue for State	7	6	6
1 = highest rank 7 = lowest rank			

# INCENTIVES FOR PRIVATE SECTOR INVOLVEMENT

Governors, legislators, and corrections directors were asked to indicate what kinds of incentives they would offer the private sector to encourage involvement in prisoner employment projects. Eight choices were offered, and respondents were free to choose as many incentives as they wished.

The incentives that received the greatest percentage of responses were subsidized space and tax credits. The incentives receiving the lowest percentage of responses were loan guarantees and development grants. Table 9 depicts the respondents' choices of incentives.

TABLE 9

CHOICE OF INCENTIVES			
INCENTIVES	DIRECTORS N = 49	GOVERNORS N = 30	LEGISLATORS N = 30
TAX CREDITS	65 %	28 %	58 %
LOW INTEREST LOANS	28 %	0 %	23 %
WAGE SUBSIDIES	18 %	0 %	42 %
LOAN GUARANTEES	10 %	0 %	30 %
DEVELOPMENT GRANTS	20 %	0 %	19 %
SUBSIDIZED SPACE	78 %	60 %	42 %
BIDDERS PREFERENCE	28 %	12 %	50 %
FREE EQUIPMENT	20 %	24 %	19 %

# IMPACTS OF PRIVATE SECTOR EMPLOYMENT ON THE CORRECTIONS SYSTEM

The director of corrections in each state was asked to identify positive and negative impacts that private sector involvement in the employment of prisoners could have on his corrections system.

The potential positive impacts most often identified included rewards for both prisoners and the corrections system. The most frequently cited negative impacts included concerns about institutional security and opposition from outside interest groups. Table 10 identifies the positive and negative impacts most frequently cited by corrections directors.

TABLE 10

RANKING OF IMPACTS BY CORRECTIONS DIRECTORS	
POSITIVE IMPACTS	NEGATIVE IMPACTS
1. Reduction of prisoner idleness	1. Institutional security concerns
2. Provision of a realistic work experience	2. Opposition from labor unions
3. Financial benefits for the state	3. Opposition from the general public
4. Increased chances of post release employment of ex-offenders	4. Opposition from competitive firms

## SUMMARY

Questionnaire responses revealed considerable interest in the concept of private sector involvement in prison-based businesses among corrections directors, governors, and legislators nationwide. Corrections directors expressed a somewhat higher level of interest, indicating that these officials may need to assume a leadership role in this area. Their efforts likely will be supported by many governors and

legislators, as suggested by the high proportions of these two groups who reported being somewhat or very interested in the concept. Work for prisoners generally, and paid work in particular, also were ranked very high.

It is perhaps unfortunate that reduction of prisoner idleness and reducing the costs of incarceration are so widely seen as the primary benefits of private sector employment of prisoners. Only about 0.2 percent of the total prison population in the United States now works in private sector industries, and an enormous increase in the number and scope of these programs would be necessary if prisoner idleness and correctional budgets were to be substantially affected. The overall impact of private sector programs in both of these areas is likely to be limited, at least for the foreseeable future.

For those inmates involved in private sector job programs, however, there are opportunities for a realistic work experience, enhanced post-release employment, and increased ability to compensate victims, reimburse the state, and provide family support. Private sector employment is one important tool in the arsenal of corrections officials for combating prisoner idleness and defraying some prison costs.

## VII. CONCLUSIONS AND RECOMMENDATIONS

Conclusions and recommendations derived from this study are organized here according to their special relevance for particular readers. Conclusions of a general nature are presented first, followed by those of special interest to corrections officials, and then those that should be of particular interest to private sector managers. Recommendations are similarly subdivided.

### CONCLUSIONS

#### Conclusions of a General Nature

1. Private sector involvement in prison-based businesses is an idea in good currency with key policy-makers at the state level.

Survey results show that the concept of private sector involvement in prison-based businesses is endorsed by the overwhelming majority of governors, legislators, and directors of state corrections agencies.

These key policymakers generally favor such public/private ventures because they expect that private sector participation in correctional industry projects will reduce idleness and provide revenue for the state. Other reasons for the growing popularity of the concept of private sector participation include: the opportunity for prisoners to earn income to pay taxes, family support, room and board, and victim restitution; the provision of real work experience that will help prisoners upon release; the introduction of private sector business characteristics into prison industry operations; and the opening up of new markets for prisoner-made goods.

2. Private sector involvement in prison-based businesses is a phenomenon of the 1980's.

With a few exceptions, the projects identified in our survey have been in existence for less than four years. As a result, there is little information on the long-term success or failure of these public/private ventures in any state. Civil servants involved in these projects are working in an area new to most state government agencies. Correctional employees currently involved in recruiting and/or operating private sector businesses for prisons are pioneers, sometimes operating without any clear job definitions or well-defined procedures for dealing with the private sector. This has required them to rely on trial and error in identifying potential employers, developing realistic incentives for employers, and negotiating contracts with interested businesses.

3. Private sector involvement in prison-based businesses is more prevalent in the West.

Twenty-one states have statutes specifically authorizing significant private sector involvement in prison-based businesses. Fourteen of these states are in the West, four are in the South, two are in the Great Lakes region, and two are in the East.

Nine states currently have private sector prison industries in operation. Eight of these states are in the West; two are in the South. Map 1 in Chapter III depicts the exact location of these states.

4. There is no one ideal form of private sector involvement in prison-based businesses.

Twenty-six prison-based businesses have been identified in our survey. Of these, 15 represent the Employer Model, with the private sector both owning and operating the projects. The other 11 projects are operated by corrections agencies and represent the Customer, Controlling Customer, or Investor Models. Seven of the ten states with active projects have implemented only one model of private sector involvement in all of their businesses. Arizona and Utah have experimented with two different models, and Minnesota's industrial operations reflect three different models. This diversity suggests that there is no one ideal form of private sector involvement in prison-based businesses.

#### Conclusions of Special Interest to Corrections Officials

5. Private sector firms become involved with prison-based businesses for a variety of social and economic reasons.

The chief executive of a private sector firm contemplating involvement with prison-based industries may be influenced as much by the desire to do social good as by economic considerations. The decision to maintain involvement with the prison after a specified period is also frequently influenced as much by altruism as it is by pragmatism. For almost every business attracted by the low cost of prison labor there is one that is motivated principally by values of corporate responsibility, and for each of the latter there is another that is attracted to the prison because it happens at the time to fulfill practical business needs.

In Kansas, the president of Zephyr Products, Inc., approached the task of establishing his company with a zeal

for doing good, and he continues to maintain his involvement (and plans to expand it) in the face of sizable financial losses. In Arizona, Best Western International originally hired prisoners because such a program met the firm's need for a readily available labor force on weekends and holidays. In Minnesota, Sperry Corporation is able to contract with the department of corrections for disassembly services because of the low cost of the operation. Control Data Corporation, which has a history of corporate involvement in community projects, contracted with the department of corrections because, among other reasons, it was looking for a labor force with built-in attrition to make a product line that will eventually be phased out. Middle management personnel at B. Dalton proposed the idea of contracting for data entry services at the women's prison in Minnesota because of their desire to do something for the inmates; upper management approved the idea after a study showed that it would be cost-effective. In Florida, P.R.I.D.E. was established by political and business leaders because of their conviction that the private sector could run a prison industry more efficiently than the state and at the same time produce social benefits for everyone involved. In Washington, two small businesses became involved with the prison system because the low-cost space met their needs at the time, while another textile firm (Inside-Out, Inc.) was influenced principally by its owner's sense of social responsibility.

After becoming involved with prisons, some business people maintain their interest for reasons different from those that originally attracted them --whether altruistic or practical. But in the final analysis, any business will be able to maintain its involvement only as long as it can financially justify doing so.

6. Small businesses are more likely to prefer the Employer Model, while large corporations tend to favor the Controlling Customer or Customer Model.

With the exception of Best Western in Arizona, and Howard Johnson's in Oklahoma, all of the identified examples of the Employer Model in our survey are small businesses. Virtually all of these are owned and operated by individuals who founded their own small companies and who use their businesses to engage their entrepreneurial talents. Many of these entrepreneurs do not believe that it is possible for the public sector to operate a work project as a business. Some private business people express disbelief that any business would do other than directly employ prisoners itself if that business wanted to get involved in corrections.

Conversely, some of the larger corporations represented in our survey were uninterested in direct operation of a

prison-based business. While voicing the same motivations for using prison labor as their small business counterparts (e.g., teach the work ethic, give inmates something to do, provide work experience translatable to the street, etc.), corporate managers feel these objectives can be achieved without operating and owning the plant themselves. The large corporation is content to contract for business, while the small business generally wants to control the business.

This finding is probably more illustrative of the differing business philosophies of small entrepreneurs and large corporations than of conditions inherent in the correctional setting. It does, however, have implications for a corrections agency attempting to design a strategy to involve the private sector in its industry operations.

7. Private sector prison industries require extra resources on the part of the prison and the business.

Private sector businesses based in prisons will be successful only if both the department of corrections and the private company devote talented professional staff full-time to the project. An on-site production supervisor is a necessity for the company, especially during the initial operational period, because the work force must be trained in production processes, quality control standards, and inspection procedures. A full-time project coordinator is a necessity for the department because of the continuous need for coordination and communication between the prison and the company and because of the politically sensitive nature of private sector work projects with such interest groups as organized labor and trade associations. The department must have the professional resources to keep such groups informed about its private sector projects, and whenever possible it must attempt to involve them.

8. Communication and cooperation between the business and the prison will not guarantee success, but their absence may guarantee failure.

Businesses and prisons are fundamentally different in nature, the former requiring constant flexibility for success, the latter demanding predictable routines. This basic difference between the two primary organizational partners in a prison-based business is often aggravated by a mutual lack of understanding about each organization's purposes and needs.

Prison staff frequently say that private sector personnel do not appreciate either the difficulties of their role as



"keepers" or the fundamental importance of security procedures. Private sector personnel just as often accuse prison staff of a failure to appreciate the essential importance of making a profit.

This lack of understanding, coupled with an inability to clearly communicate, has directly contributed to the failure of some projects.

9. The relationship between traditional prison industry shops and private sector operations varies widely.

In some cases there is a close working relationship between shops operated as traditional prison industries and shops in the same institution in which the private sector is involved. In other cases there is little interchange or even overt hostility. Much appears to depend upon the effectiveness of institutional management in expressing and enforcing a policy of support for private sector operations. The attitude of the manager of the prison industries program also plays a crucial role in defining the relationships that develop, which in turn are affected by the extent of his involvement in the planning of the private industry program.

10. The introduction of private sector businesses into the prison affects institutional procedures.

The introduction of private sector businesses into a prison typically alters some aspects of institutional procedures, especially scheduling and movement. For example, in several institutions changes have been made in established institutional schedules to allow prisoner workers to work full days, including changes in feeding times and count procedures. In the case of movement of raw materials and finished products, changes have been made to accommodate the timely flow of materials into and out of the prison.

11. Decisions regarding local private sector projects may have effects on the national level.

The operations of local private sector prison-based businesses have national implications for the corrections community both because they are regulated by federal laws and because such projects are receiving a great deal of national attention. For example, the payment of very low wages to prisoners in an area in which local labor organizations do not oppose the practice has been cited by labor at the national level as justification for opposition to the entire concept of private sector involvement in prison-based industries.

Officials involved with private sector projects should understand that the decisions they make may have a significant impact on the national level.

12. Inmates strongly support private sector involvement in correctional industries.

During site visits we interviewed about 50 inmates in various states who were involved with private sector prison industry projects. Every person interviewed identified his present assignment as the best form of employment in the institution. Two reasons were most often cited in support of this choice. First, wages in private sector projects were significantly higher than in any other institutional job. Second, many inmates expressed a strong hostility toward working for the state (i.e., their "keepers"), and felt that producing goods for a restricted, state-use market consigned them to an inferior job.

Whatever the merits of these arguments, it seems evident that more than money was involved in these inmates' strong preference for private sector projects. In almost every instance there were complaints raised about room and board charges levied by the state against inmate wages, yet the majority said they would work for the private sector employer even if the pay were no more than what they could make in traditional prison industries.

13. Wage disparities do not necessarily lead to friction among prisoners.

Private sector involvement in prison-based businesses often introduces significant wage disparities into the prison environment, since in most cases prisoners who work in private sector projects are paid much more than those who do not. For example, the average state prisoner assigned to an institutional service crew or a traditional state-use industry receives 35¢ to 60¢ per hour, while most prisoners working in private sector projects earn about \$3.35 per hour.

There has been considerable speculation about the practical implications of such income differentials for prison administrators, with much concern centering on the possibility that wage disparities might cause hostility between prisoners with and those without private sector jobs. However, every prison superintendent with whom we spoke indicated that this has not been a significant or widespread problem. This may be due to a number of factors. Some prisoners do not want to work (for either the state or the private sector) and do not care what those who choose to work get paid. Many others who

work at lower-paying jobs for the state recognize that the expectations placed on those working for the private sector are greater and do not begrudge them their higher earnings, especially if they too may some day have the opportunity to earn similar wages.

14. A prison-based business that generates an acceptable rate of financial return for its owners while providing stable, long-term employment for prisoners is a success.

Given the diversity in both types of private sector projects and their purposes and goals, it is difficult to construct a definition of success that could be fairly applied to all private sector projects. However, a business that meets the principal objectives of both the firm's owners and the corrections system can be generally considered a successful enterprise.

Any business should be expected to generate an acceptable financial rate of return, whether it operates in a prison or in the outside world. That rate of return may be set as low as the break-even point if this is acceptable to the owners, but the business could not be called successful if it continues to lose money indefinitely. Any prison-based business also should be expected to provide stable, long-term employment for prisoners if it is to meet both its own production requirements and the correctional objectives of most prison systems.

#### Conclusions of Special Interest to the Private Sector

15. Charismatic private sector leadership has played an important role in the development of prison-based businesses.

One of the hallmarks of many private sector projects is the commitment of private business people to the concept of prison-based businesses. The charismatic leadership provided, for example, by Fred Braun at Zephyr, Jack Eckerd at P.R.I.D.E., William Norris at Control Data Corporation, and Joan Lobdell at Inside-Out has been at least as responsible for the initiation and continued existence of these projects as has any business plan or contract. In each case, the commitment of these individuals to their projects has far outweighed the economic potential these projects presented at their outset, and in some cases has sustained the business in the face of financial loss.

16. Private sector involvement in prison-based businesses offers specific advantages to companies with specific labor needs.

Some general benefits can accrue to virtually any company that agrees to employ prisoners. The principal economic benefit is free use of space and utilities. Some personnel cost savings can be realized by employing prison labor, primarily because employer-paid health insurance coverage is not required. These projects typically also provide some public relations benefits for at least the larger companies involved and fill a philanthropic or altruistic need for some business people.

There are also, however, some specific benefits that can help companies with special labor needs. Prison labor is attractive to the employer with seasonal labor needs, who can fine-tune labor costs much more precisely, and with much less risk of losing workers, with a prison labor force than with non-prisoner workers. Prison labor is also attractive to companies with peak demand followed by slack periods throughout the year, again because labor needs can be seasonally adjusted with less need for constant retraining and interviewing.

Companies with shift demands that are difficult to fill consistently (e.g., weekend or night work) may be able to substitute prison labor for those periods when labor is most difficult to obtain.

Companies with short-term product manufacturing cycles followed by long idle periods for workers may find a prison labor force an attractive alternative to mass hirings followed by mass layoffs. The natural attrition inherent in a prison labor force allows the employer to phase out work with few or no lay-offs.

Finally, companies needing labor for unskilled jobs may find the prisoner employee more reliable, more highly motivated, and more loyal to the company than comparable labor available for the same work outside the prison.

17. There are hidden business costs inherent in prison-based businesses.

Businesses that make use of a prisoner work force are confronted with a set of personnel costs unique to the prison setting. These hidden costs of doing business inside prison revolve around four factors:

- turnover
- training
- mobility
- manipulation

It is a widespread misconception that prisoners remain in the same institution for years on end. The average length of incarceration in the United States is approximately two years, and in many states a prisoner will spend that time in more than one facility. Such movement through the prison system contributes to high turnover rates among the prisoner work force.

The combination of high worker turnover and the general lack of both work experience and skills inherent in most prison work forces results in high training costs for many prison-based businesses. These costs may be further inflated by the fact that, unlike businesses outside the prison, which encourage upward mobility within the work force as a means of developing leadmen and supervisors, the prison-based business is faced with outward mobility as prisoners leave the facility.

Finally, the manager of a prison-based business is often confronted with a problem that prison administrators have been dealing with for years: prisoner manipulation. Many prisoners devote considerable time and effort to "con games" both on the job and elsewhere, and the time spent by private sector managers and supervisors in learning to deal with such behavior is costly. Growing disenchantment of a private business person with prisoners as a work force could bring an end to his participation in such ventures.<sup>8</sup>

18. Some private sector employers have become quasi-social workers in their relationships with inmate employees.

Many people have predicted that the introduction of private industry into the prison would result in a more business-like approach to inmate employment, which would, in turn, teach the inmate something about what to expect from employers upon release. However, from our interviews we found that employers often behave more like correctional counselors than business people. Some employers seem more concerned with prisoner rehabilitation than with profitability, and focus as

<sup>8</sup> Fred Braun, of Zephyr Products, Inc., first discussed these four points in June 1984 at a conference on private sector prison industries in Washington, D.C.

much attention on the welfare of the worker as they do on productivity. More than one employer we talked to balanced a business's mounting losses against the good that he was doing by working within the prison.

19. The negative effect of poor business decisions on private sector prison-based businesses may be magnified by the prison setting.

Poor business decisions can have disastrous consequences for any business, whether it is located inside a prison or not. However, it is likely that the effects of such decisions will be magnified if the business is located inside a prison because of the overall difficulty of operating a business in that environment. The hidden costs of operating inside a prison (see Conclusion #17 above) aggravate the negative effects of poor business decisions on a prison-based business.

20. Small businesses that employ prisoners have so far not generated significant financial returns for their owners.

Ten of the small businesses identified in our survey have yet to generate a profit for their private sector owners. Virtually all of these businesses are still in their infancy, and the overall lack of profitability may be indicative of the cost of starting a new business. Still, this finding does demonstrate that the use of prison labor does not quickly produce a financial return for the private company.

21. Private sector involvement in prison-based businesses has created problems in defining the legal status of inmate workers.

Inmates employed by state owned and operated prison industries in the past have not been considered employees in the strict legal sense of that term. With the private sector now becoming involved in prison industries, the status of inmate workers has become more complex. The issue is critical in the area of wage policy, for its resolution will determine whether the Fair Labor Standards Act (FLSA) is applicable to prisoners involved in privately owned and operated businesses.

The Fair Labor Standards Act is the basic law governing the wages and hours of workers in the United States; among other things it establishes conditions for payment of the federal minimum wage to employees. The FLSA defines both

"employer" and "employee" broadly, but it does not apply to all employers and employees.

The courts have consistently rejected prisoners' claims to minimum wages and benefits under the FLSA, but have not rejected such claims out of hand. Instead, the courts have based their decisions on whether or not prisoners came within the coverage of minimum wage laws. The changing nature of prison work programs--especially the increased involvement of the private sector in operating such programs--may change the courts' conclusions. The courts have tried to develop more specific and more useful definitions of employer and employee for purposes of determining whether the FLSA applies to prisoner workers. This has resulted in a test of economic reality, which examines in detail the role of the prisoners in a company's operations. Some issues frequently cited by the courts as integral to determining the economic reality of the relationship between prisoner workers and a private company include the company's ability to:

- hire workers and determine the size of the work force;
- fire workers and discipline workers;
- control supervision of the work force.

In those instances where a company has the ability to perform these functions, the courts might conclude that an employer-employee relationship exists. As a consequence, the FLSA would apply to that relationship and the federal minimum wage would be applicable as a floor for prisoner wages. Other issues a court might consider in ruling on the existence of an employer-employee relationship include:

- the existence of a "contract" with prisoner workers for the payment of compensation;
- the primary purpose of the project;
- the ability of state policy regarding the rehabilitation of prisoners to nullify the employer-employee relationship;
- the intentions of Congress regarding workers in settings similar to a prison when enacting the FLSA.

None of the businesses we surveyed have yet been subject to the scrutiny of the courts in the area of prisoner wages. In Nevada, however, the U.S. Department of Labor, Wage and

Hours Division, which administers the FLSA, determined that General Household Items, Inc., owed approximately \$90,000 in back wages to prisoner workers participating in that company's prison-based business, ruling against officials of both the company and the Nevada Department of Prisons, which claimed there was no employer-employee relationship between the prisoners and the company.

22. Prior experience in starting and operating projects of similar size in the same industry is helpful for those planning to establish an enterprise in a correctional setting.

Starting a new business in a prison is in many ways even more difficult than starting one in the community, since the problems imposed by the correctional environment are added to the difficulties that produce a high mortality rate among new small businesses generally. The manager's experience in the industry in question, and his experience in the development of similar projects, are good preparation for the task of starting a new business in a prison. It is asking a great deal for a manager to learn both a new industry and the problems of operating in a prison with an inmate work force at the same time.

The skills and attitudes of supervisors also will be important. Their technical skills are particularly crucial because of the strong training requirements of inmate workers, but relevant supervisory experience will help them to cope with problems posed by the work force.

## RECOMMENDATIONS

### Recommendations of Special Interest to Corrections Officials

1. Ensure that appropriate enabling statutes exist before starting a private sector project.

As pointed out in Chapter V, private sector involvement in prison-based businesses is an area of public policy that is highly regulated by both federal and state laws. The production, marketing, and distribution of prisoner-made goods are all subject to legislative action.

It is therefore essential for any corrections department contemplating involvement with a private firm to first examine whether authorization exists for the type of operation planned. If specific statutory authorization does not exist

and enabling legislation must be passed before a private sector project can become operational, the parties should anticipate at least one year for that legislative process to be completed.

2. Policymakers should consider the twelve legal issues discussed in Chapter V when developing enabling legislation for private sector prison-based businesses.

As noted in Chapter V, state laws generally serve as clear guidelines with regard to the basic operational aspects of private sector prison-based businesses. However, most state laws do not specifically address prisoner workers' entitlements to wages and benefits when those workers are involved in private sector prison-based businesses. This is an area that may increasingly be subject to review by the courts, and the absence of clear legislative purpose may result in judicial decisions that have surprising consequences. Policymakers who want to promote implementation of projects that are fair to all concerned, and that can withstand independent review, should first develop enabling legislation that explicitly addresses all relevant aspects of private sector prison industries.

When designing enabling legislation policymakers should consider the twelve legal issues discussed in Chapter V and the conditions discussed in Conclusion #21 above.

3. A department of corrections interested in private sector prison industries should develop a comprehensive plan for recruiting and maintaining such businesses within its prisons.

The focus of such a plan should be economic development for the prisons and career development for prisoners. The plan should serve as a practical document to guide the department through the following three steps in the development of private sector industries. Each step should be characterized by the completion and documentation of a number of tasks, including:

(1) Internal Organizational Development

- legal analysis
- labor force analysis
- space analysis
- site location analysis
- policy and procedures analysis
- staff development/training

(2) Targeted Public Education

- development of an information brochure/package
- identification of interest groups
- education of interest groups/constituency building

(3) Organized Private Sector Recruiting

- identification of unique business needs and motivations
- targeted recruiting of private companies
- orientation for interested businesses
- contract negotiations

4. Corrections agencies planning a private sector prison-based business should identify groups with potential adverse reactions and advise them ahead of time of plans regarding the project.

There is a tendency on the part of public administrators to avoid controversy by introducing new projects quietly and hoping they will go unnoticed. They rarely do. In the case of private sector involvement with prison-based businesses, contacts with labor and trade associations before the project gets underway may avoid more serious problems in the long run. Such consultations are no guarantee that objections will not be raised later, but they do indicate the intent of the corrections department to take a responsible approach toward project administration.

5. The responsibilities and obligations of both major parties to a private sector prison-based business should be clearly stated in a formal contract.

Whatever the model, the relationship between the two participants should be defined in a business-like manner. There should be considerable specificity in the contractual descriptions of the duties and obligations of each party. The process of developing a detailed contract also will help in project planning. The provisions of the contract should be monitored periodically by each party to assure that expectations are being met and that the project is proceeding in accordance with the contract.

6. Corrections agencies should develop only those businesses that will be fair to each major interest group affected.



In the end, private sector prison-based businesses will succeed only if they are fair to the major interest groups affected by them. In general, this means that such projects should provide:

- for prisoners, at least the federal minimum wage;
- for owners, the opportunity to earn profits;
- for customers, quality products at a competitive price;
- for competitors, protections against unfair competition;
- for labor, protections against job displacement;
- for taxpayers, cost savings through payments by prisoners of taxes, family support, victims' compensation, and room and board.

7. A department of corrections with a strong correctional industry should consider developing either the Customer or Controlling Customer Model.

In states with appropriate enabling statutes, corrections agencies with prison industries that provide quality products and services should consider developing private sector markets as a logical extension of their existing state-use market. In a time when state and local government budgets are being cut back, thereby reducing the purchasing level of many traditional state-use customers, it makes sense to examine the feasibility of developing alternate customers in the private sector marketplace.

In order to compete successfully in the private sector marketplace, a prison industry must have the management and production resources to provide quality products or services in a timely manner at a competitive price that at least covers the costs of the operation. The essential resource required to do this is a skilled and motivated staff. In order to compete successfully in the marketplace a correctional industry should have management staff with a business background, production supervisors with technical expertise, and production workers with the capability to produce quality items within given cost and time guidelines.

Administrators should consider using outside resources to conduct operations audits of their industrial programs to obtain an objective assessment of the ability of their

industrial operation to compete in the private sector marketplace.

Corrections agencies lacking the resources needed to successfully recruit and maintain private sector customers, but that want to encourage private sector participation in the employment of prisoners, should concentrate on developing the Employer Model of private sector involvement.

8. Departments of corrections that want to pursue the Employer Model of private sector involvement should recruit small businesses.

As noted in Conclusion #6 above, small businesses are more likely to become involved with prison industries via the Employer Model than are large corporations. In dealing with small businesses the corrections agency should be particularly careful to do some independent checking on the companies to determine their competence, financial status, and standing in the business community.

9. Regardless of the model developed, the state should assure that the work place is inspected by the appropriate agencies for adherence to fire and safety requirements.

While in some instances the private sector partner may be in charge of the shop and responsible for meeting occupational, fire, and safety requirements, the state should assure that the necessary inspections are carried out and that required changes are made. Prisoner workers are entitled to safe working conditions.

10. The department of corrections should match its labor resources to the unique labor requirements of a prospective business.

As noted in Conclusion #16 above, some businesses have special labor force requirements. Seasonal labor, shift work, peak production labor demands, and short-term production cycles are just a few examples of the special needs of many large and small businesses. The corrections agency that can flexibly meet such needs will enhance its chances of recruiting and maintaining private sector businesses.

11. Corrections agencies should not expect the private sector to dramatically reduce prisoner idleness.



It is reasonable for corrections officials concerned about prisoner idleness to view the private sector as a potential partner in this effort. It is unrealistic, however, to expect the private sector to significantly reduce prisoner idleness, especially in the short term. Generally it is wise to proceed cautiously during the early stages of implementation, involving a small initial work force and gradually increasing its size as warranted by production demands.

The overall impact of private sector work projects on prisoner idleness in any correctional system also is limited by the high probability of opposition by organized labor as the number of prisoners involved increases. A single prison may be able to employ a significant proportion of its inmates in private sector projects, but involving sufficient numbers to impact idleness throughout an entire prison system is, in all likelihood, a much less feasible goal.

#### Recommendations of Special Interest to the Private Sector

12. Obtain the active support of key corrections officials before attempting to implement a private sector business in a prison.

The private firm that is contemplating a prison-based operation should establish close, cooperative relations with the commissioner of corrections in the state, the director of correctional industries, the directors of education and vocational education programs, the superintendent of the host institution, the chief of security of the host institution, and other key correctional staff. The private business should not assume that the support of the commissioner or superintendent assures the active support of other key people in central office or the institution. Middle-management institutional staff such as shift lieutenants and sergeants also may influence the operation of any business in a prison.

During planning and development stages, key personnel (both top and middle management) from both the private firm and the department of corrections (on both the central office and institutional levels) should review both parties' policies, procedures, and operational requirements. The discussions that take place at this time should set a precedent for communication and cooperation between the business and the prison throughout the life of the project.

If the active support of key correctional personnel at all levels is not apparent during the planning and development stage and cannot be encouraged, plans for locating the business operation inside the prison may have to be abandoned. By

the same token, the state administration should assure that the employee responsible for negotiating with the private sector involves key departmental and institutional staff in planning in order to avoid difficulties as the project is implemented.

13. The private sector should not be seduced by the apparent low cost of prison labor.

Some correctional agencies offer low-cost prison labor as an incentive to private sector participation in prison industries. To the entrepreneur starting a small business labor cost savings may seem to offer a significant competitive edge. However, while some legitimate cost savings can be achieved by hiring a prisoner work force (for example, the provision of medical benefits is usually not necessary), low wages do not necessarily mean inexpensive labor. Most prisoner workers need training in both skills and work habits before they can become productive. In some prisons training costs are compounded by high and continuous employee turnover.

Private sector businesses contemplating prison-based operations should be wary of involving themselves with any corrections agency that emphasizes cheap labor as the primary incentive for locating inside a prison. It is important to identify and assess the hidden costs of doing business in prison prior to project implementation.

14. A private business considering a prison-based operation should examine the relevance of the Fair Labor Standards Act to the proposed project.

If a genuine employer-employee relationship will exist between a private business and a prisoner, then the minimum wage provisions of the Fair Labor Standards Act may apply to that business. When conducting initial feasibility studies of a proposed project, the private business should evaluate the impact on costs of at least minimum wage levels for its prisoner work force. State wage laws should also be evaluated for their potential impact on labor costs.

15. A private business without a standard product line should be cautious about participation in a prison-based operation.

The private business without a standard product line and a standardized production process should examine the costs of retraining prisoner workers (whose initial work experience and job skills are generally poor to begin with) each time a new

product or production process is introduced. The private business should also keep in mind the prison's inherent resistance to change when considering the establishment of a business requiring frequent operational changes.

This is not to say that changes in product lines and production processes cannot be successfully introduced in a prison-based business. As "controlling customer" for the Stillwater-based computer assembly plant, Control Data Corporation has successfully introduced major changes in both products and production processes over the last two years. But no change has been made until a current production process has been mastered by the work force and all changes have been introduced gradually and intermittently. Any private business should be aware that changes in product lines and processes are more likely to be successful if they are introduced slowly and carefully planned in advance.

16. Private businesses considering prison-based operations should staff such projects with specially trained production supervisors.

Private businesses considering involvement in a prison-based business as employer, manager, or controlling customer should anticipate devoting full-time, on-site production management staff to the project. Such staff should receive special training from the department of corrections in security and safety procedures.

## VIII. THE LONG TERM OUTLOOK

This study has shown that private sector involvement in the ownership and operation of prison-based businesses is an innovation that has captured the attention of many people in corrections. Given the long tradition of work as a fundamental prison activity, one could argue that this "innovation" is not really new, but a re-emergence of an old idea temporarily upstaged by the programmatic emphases of the so-called medical model. Whether the idea is new or old, however, is less important than whether it constitutes a lasting trend or a passing fad. The potential for private sector involvement in prison-based businesses to change the way prisons operate rests on the outcome.

Fads are typically expounded with exaggerated zeal by a small band of followers and then abandoned. Their impact is generally minimal. Trends, on the other hand, reflect a larger, more general acceptance of an innovation, are much more persistent than fads, and lead to clear, observable movement in a given direction. Innovations that become trends lead to social change in the institution affected by the innovation, while fads do not.

The social sciences have developed a body of knowledge regarding the spread, or diffusion, of innovation.<sup>9</sup> It is possible to identify certain key indicators whose presence suggests that an innovation is successfully diffusing or will successfully diffuse. If successful diffusion is occurring, then it is reasonable to conclude that a trend is in the making. The key indicators include:

1. the existence of an "S"-shaped diffusion curve;
2. organizational adaptation to the innovation;
3. the interest and/or involvement of opinion leaders;
4. a positive correlation between the innovation and powerful trends or ideas in good currency;
5. the occurrence of key events indicating organizational concern about or interest in the innovation;
6. the existence of a widely accepted name or label for the innovation.

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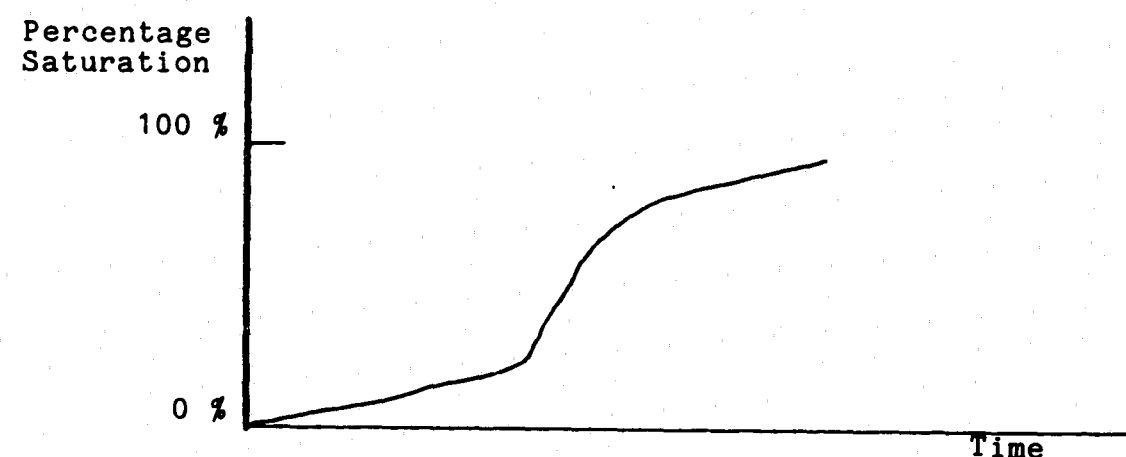
<sup>9</sup> Everett M. Rogers, Diffusion of Innovations, New York, New York, Free Press, 1983.

Each of these key indicators is discussed below in the context of information relevant to private sector prison-based businesses.

#### 1. The "S"-shaped diffusion curve.

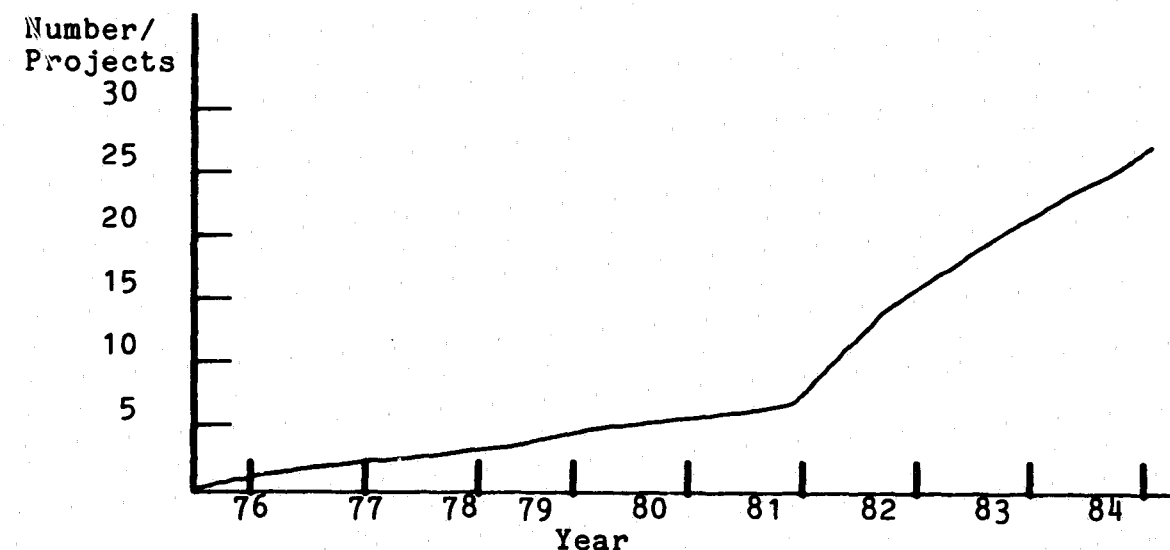
Successful diffusion is usually characterized by behavior over time in which adoption of the innovation begins slowly, rises steeply, and then tapers off at a point at which the innovation has saturated the social system in which it is diffusing. This behavior is depicted in Figure 1 as an S-shaped curve.

FIGURE 1: The S-Shaped Diffusion Curve



At the end of 1984 there were twenty-six prison-based businesses in operation. A plot of the number of these businesses in operation over time is given in Figure 2.

FIGURE 2: Private Sector Business in Operation, 1976-1984



The data in Figure 2 indicate that in 1981-82 the innovation may have entered the steep-rise segment of an S-shaped curve characteristic of successful diffusion. This tentatively suggests that a trend is in the making, although that conclusion would have to be reassessed if the curve levels off in the near future. It should be noted that legal constraints on private sector employment of inmates and on the sale of prisoner-made goods may produce a leveling of the curve at a point that is significantly lower than that which would occur in the absence of such constraints. It is likely that successful diffusion of this innovation will depend on the eventual relaxation of such constraints.

#### Organizational Adaptation

Organizations can adapt to innovations either by modifying to accommodate the innovation or by modifying (reinventing) the innovation to meet the organization's needs. Either activity is a favorable indication of successful diffusion because:

1. an innovation that better fits an organization's circumstances is more likely to be retained;
2. it indicates an active organizational involvement with the innovation; and
3. it suggests that the innovation is becoming routinized within the organization.

In the case of private sector prison-based businesses, the following examples of adaptation are noted:

#### 1. Organizational Modifications

Four state correctional agencies have created full-time positions responsible for developing private sector prison-based businesses. These agencies are the departments of correction in Kansas, Oklahoma, and Washington, and the Department of the Youth Authority in California.

Correctional agencies have made substantial changes in institutional procedures to accommodate private sector prison-based businesses. These changes include an accelerated return of inmates to work after a lockdown (Minnesota); adjusted visiting and counseling hour (Minnesota, Kansas, Utah); and adjusted meal schedules (Utah).

#### 2. Reinvention

Perhaps the most convincing indication of adaptation is found in the way departments of correction have modified

the innovation to accommodate their particular circumstances. This is reflected in the fact that private sector prison-based businesses have taken many different forms, broadly encapsulated in six different models. Because of this development, no one ideal form of the innovation is to be found.

#### Involvement of Opinion Leaders

The interest and involvement of opinion leaders are important because they enhance both the visibility and the credibility of an innovation. The following individuals can be cited as opinion leaders who have shown interest in or involvement with the concept of private sector prison-based businesses:

- Chief Justice Warren Burger (originator of the "factories with fences" label).
- Senator Charles Percy (sponsor of Sec. 827 of the Justice System Improvement Act of 1979, which has stimulated a variety of joint ventures between corrections agencies and the private sector).
- William Norris (Chairman of Control Data Corporation who provided the support and backing for CDC's disk drive assembly project with the Minnesota Department of Corrections).
- Governor Robert Graham (early supporter of P.R.I.D.E. in Florida).
- Jack Eckerd (Chairman of Eckerd Drugs and Chairman of P.R.I.D.E.).

#### Correlations with Trends

An innovation is strengthened if it correlates in a positive way with powerful trends or ideas in good currency. Such positive correlation transfers some of the momentum of these trends or ideas to the innovation itself. The concept of private sector prison-based businesses correlates positively with the following current trends:

- Private sector provision of public services, and in particular the private sector's entrance into the fields of prison financing and management.
- The re-emergence of the acceptance of work by prison officials as an effective way to occupy prisoners' time.
- Increasing prison populations and overcrowding leading to increasing idleness and the need for more programs to reduce idleness.

Increasing realization on the part of many public officials that prisoners who earn real world wages can be expected to reimburse some of the costs of their incarceration, pay taxes, and compensate their victims.

#### Key Events

During the successful diffusion of an innovation it is typical to find a gradual formalization of institutional interest or concern with the innovation, often manifesting itself in studies, books, dissertations, courses, conferences, changes in legislation, and other events pertaining to the innovation and its impacts. The following such events are noted for the prison industry/private sector concept:

- The provisions of the "Percy" legislation have been expanded in the Comprehensive Crime Control Act of 1984 to allow an increase in the number of pilot projects to twenty.
- More than twenty states have revised their statutes over the last ten years to authorize and encourage private sector prison-based businesses.
- The National Institute of Justice commissioned this survey and a survey of the privatization of corrections by Abt Associates, Inc. The National Institute of Corrections has funded similar studies.
- The Johnson Foundation and the Brookings Institution co-sponsored a major conference on "factories with fences" at Wingspread, The Johnson Foundation's conference center in Wisconsin, in January, 1984.
- The last two American Correctional Association's national conferences have devoted sessions to the topic of private sector participation in prison industries. The National Association of Counties and the advisory Commission on Intergovernmental Relations have also devoted sessions to the topic at their recent annual meetings.
- Noted criminal justice publications such as The Prison Journal and Corrections Magazine have focused on the topic of private sector participation in prison industries.
- In June, 1984, ABC devoted an entire segment of its "Nightline" Show to a discussion of private sector prison-based businesses.

### Concept "Captured by a Label"

During the successful diffusion of an innovation the concept is frequently "captured by a label" or given a name that has widespread acceptance. During the 1970's increasing institutional interest in the total environment of the workplace came to be symbolized by the phrase "quality of work life", which in turn has been abbreviated into the generally accepted label QWL. Three of the ten states visited for this project (California, Minnesota, and Washington) label their private sector prison-based businesses as "free venture" industries; however, it is too early to determine whether this phrase will become generally accepted as being synonymous with the concept of private sector participation in prison-based businesses.

### CONCLUSION

There are positive findings with respect to five of the six indicators. Although this does not guarantee that the developments discussed in this report constitute a trend, it is an encouraging sign to that effect. The ultimate outcome cannot be foretold, but it can be influenced. In particular, it may well depend on if and how policymakers address a number of as yet unresolved issues, a list of which is included:

#### • Prisoner Wages:

How can wage rates for prison labor be set at a level that is fair to workers, owners, and competitors?

How can wages that reflect actual production capacity and allow for a profit be balanced against the need to protect prisoner workers and firms not using prisoner labor?

#### • Prisoner Benefits:

What benefits should be provided to prisoner workers involved in private sector prison-based businesses?

When should these benefits be made available to prisoner workers?

Who should bear the cost of benefits provided to prisoner workers?

#### • Voluntarism:

Can truly voluntary participation by prisoner workers in private sector prison-based businesses be assured by corrections administrators in the future?

#### • Selection of Private Sector Participants:

Can formal procedures for selecting private sector firms to participate in prison-based businesses be developed to guard against unfair selection of participating companies?

#### • Wage Deductions:

Do the political and programmatic benefits of deducting funds from prisoners' wages for such items as room and board, family support, taxes, and victims' compensation outweigh the administrative costs of collecting such funds?

#### • Prisoner Worker Status:

How can the employment rights and obligations of prisoners be determined and protected so that everyone is treated fairly?

#### • Interest Group Opposition:

Can the concept of private sector prison-based businesses withstand entrenched and vocal opposition from outside interest groups?

Future researchers would do well to structure their analyses of the success or failure of private sector involvement in prison-based businesses around a detailed examination of both the process by which these issues have been addressed and the resolutions achieved by that process.

CRIMINAL JUSTICE ASSOCIATES  
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PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT  
OF PRISONERS

CORRECTIONAL SYSTEM QUESTIONNAIRE

IF YOU NEED ASSISTANCE IN THE COMPLETION OF THIS QUESTIONNAIRE, PLEASE CONTACT  
JACK SCHALLER OR GEORGE SEXTON AT THE TELEPHONE NUMBER LISTED AT THE TOP OF  
THIS PAGE.

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DIRECTIONS:

This questionnaire has two main parts, Part A and Part B. Part A has four questions; Part B has six questions. Please answer each question in Part A first. If you answer yes to ANY question in Part A, DO NOT complete Part B. If you answer no to ALL questions in Part A, please complete Part B.

Please provide the following information:

Name of person completing questionnaire: \_\_\_\_\_

Title or Position: \_\_\_\_\_

Telephone Number: (     ) \_\_\_\_\_

APPENDIX

PART A

1. Are any prisoners in your correctional system employed by private sector firms?\*
- \_\_\_\_\_ YES \_\_\_\_\_ NO

IF YOU ANSWERED YES TO QUESTION #1, PLEASE ANSWER THE QUESTIONS IN APPENDIX 1.

2. Are any prisoners employed by your correctional system producing goods or services for private sector firms?
- \_\_\_\_\_ YES \_\_\_\_\_ NO

IF YOU ANSWERED YES TO QUESTION #2, PLEASE ANSWER THE QUESTIONS IN APPENDIX 2.

3. Are any prisoners in your correctional system operating businesses (other than traditional arts and crafts) which sell goods or services to the private sector?
- \_\_\_\_\_ YES \_\_\_\_\_ NO

4. Other than those identified in questions #1 or #2, does your correctional system have any plans to initiate additional employment projects in the next twelve months for prisoners involving private sector firms as either employers or customers?
- \_\_\_\_\_ YES \_\_\_\_\_ NO

IF YOU ANSWERED NO TO EACH QUESTION IN PART A, PLEASE PROCEED TO PART B.

IF YOU ANSWERED YES TO ANY QUESTION IN PART A, DO NOT COMPLETE PART B. YOU HAVE COMPLETED THE QUESTIONNAIRE. THANK YOU FOR YOUR COOPERATION.

\*Please do not provide information on prisoners who are engaged in work release employment or are on work furlough.

PART B

1. Were any prisoners in your correctional system employed by private sector firms in the past seven years?\*
- \_\_\_\_\_ YES \_\_\_\_\_ NO

2. Have any prisoners employed by your correctional system in the past seven years produced goods or services for private sector firms?
- \_\_\_\_\_ YES \_\_\_\_\_ NO

3. How would you characterize the level of interest in your correctional system regarding private sector involvement in the employment of prisoners? (Please check the one answer that best applies)

- a. \_\_\_\_\_ Very interested  
b. \_\_\_\_\_ Somewhat interested  
c. \_\_\_\_\_ Not interested  
d. \_\_\_\_\_ Opposed

4. What are the administrative, legal, socio-political, and/or correctional barriers which have prevented your correctional system from involving the private sector in the employment of prisoners? (Check each barrier that applies and give specific examples)

- a. \_\_\_\_\_ Administrative, e.g., \_\_\_\_\_  
b. \_\_\_\_\_ Legal, e.g., \_\_\_\_\_  
c. \_\_\_\_\_ Socio-political, e.g., \_\_\_\_\_  
d. \_\_\_\_\_ Correctional, e.g., \_\_\_\_\_  
e. \_\_\_\_\_ Other, e.g., \_\_\_\_\_  
f. \_\_\_\_\_ No barriers to private sector involvement

\*Please do not provide information on prisoners who are engaged in work release employment or are on work furlough.



PART B (continued)

5. If all the barriers identified by you in the preceding question were removed, would this be sufficient to allow for the initiation of private sector involvement in the employment of prisoners in your correctional system?

\_\_\_\_\_ YES \_\_\_\_\_ NO

6. If you answered no to the preceding question, under what circumstances could private sector involvement in the employment of prisoners occur in your correctional system?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THANK YOU FOR YOUR COOPERATION IN THIS RESEARCH EFFORT.

APPENDIX 1

Please provide the information requested below for each private sector employer if you answered "yes" to Part A, question #1. (Use additional sheets of paper if necessary to provide all information for all shops that fit the definition).

DESCRIPTIVE INFORMATION	EMPLOYER A	EMPLOYER B
A. Name of firm	_____	_____
Name of contact at firm	_____	_____
Address of firm	_____	_____
Telephone number of contact	_____	_____
B. Date firm first employed prisoners in this shop	_____	_____
C. Products/services provided by private sector shop	_____	_____
D. Institution in which shop is located(specify if shop is outside institution)	_____	_____
Institution's Warden/ Superintendent	_____	_____
E. Number of prisoners employed on 12/31/83	_____	_____
F. Security classification(s) of prisoners employed	_____	_____
G. Average length of time prisoner employed in shop	_____	_____

APPENDIX 1 (continued)

DESCRIPTIVE INFORMATION	EMPLOYER A	EMPLOYER B
H. Program eligibility criteria for prisoner employment in this shop		
I. Range of hourly wages paid to prisoners in shop	\$ _____ to \$ _____	\$ _____ to \$ _____
J. Total gross wages paid to prisoners employed in this shop to date	\$ _____	\$ _____
K. Number and annual cost of state custodial staff assigned to this shop	# _____ \$ _____	# _____ \$ _____
L. Total funds deducted from prisoner wages to date for:		
1) victims' compensation	\$ _____	\$ _____
2) room and board	\$ _____	\$ _____
3) family support	\$ _____	\$ _____
4) other (specify): _____	\$ _____	\$ _____
M. List all benefits offered to firm as an incentive to hire prisoners (e.g., space, equipment, tax credits, etc.)		

APPENDIX 1 (continued)

DESCRIPTIVE INFORMATION	EMPLOYER A	EMPLOYER B
N. Benefits provided to prisoners by employer or correctional system: (check all that apply)		
1) vacation with pay	_____	_____
2) sick leave with pay	_____	_____
3) holidays with pay	_____	_____
4) workers compensation	_____	_____
5) special food	_____	_____
6) special housing	_____	_____
7) other (specify): _____	_____	_____

PLEASE RETURN TO PART A, QUESTION #2 ON PAGE 2

# APPENDIX 2

Please provide the information requested below for each shop that produces goods or services for the private sector if you answered "yes" to Part A, question #2. (Please use extra sheets of paper if necessary to provide all information for all shops that fit the definition.)

<u>DESCRIPTIVE INFORMATION</u>	SHOP _____	SHOP _____
A. Gross sales for most recent fiscal year (specify ending date of fiscal year ____/____/____)	_____	_____
B. Percent of reported gross sales generated by private sector purchases	_____ %	_____ %
C. List three largest private sector customers	_____ _____ _____	_____ _____ _____
D. Type of private sector involvement beyond purchase of shop output (check all that apply):		
Private sector has provided:		
1) planning assistance	_____	_____
2) financial assistance	_____	_____
3) raw materials	_____	_____
4) production schedules	_____	_____
5) quality control stand.	_____	_____
6) equipment	_____	_____
7) training	_____	_____
8) other (specify):	_____	_____
E. Date on which shop began selling to private sector	_____	_____
F. Products or services provided by this shop	_____ _____ _____ _____	_____ _____ _____ _____

# APPENDIX 2 (continued)

<u>DESCRIPTIVE INFORMATION</u>	SHOP _____	SHOP _____
G. Institution in which shop is located (specify if shop is outside institution) Instit. Warden/Superintendent _____	_____	_____
H. Number of prisoners employed in this shop on 12/31/83	_____	_____
I. Security classification(s) of prisoners in this shop	_____	_____
J. Range of hourly wages paid to prisoners in this shop	\$ _____ to \$ _____	\$ _____ to \$ _____
K. Total gross wages paid to prisoners employed in this shop since sales to private sector began	\$ _____	\$ _____
L. Total funds deducted from prisoner wages to date for		
1) federal income tax	\$ _____	\$ _____
2) state income tax	\$ _____	\$ _____
3) FICA	\$ _____	\$ _____
4) victims' compensation	\$ _____	\$ _____
5) room and board	\$ _____	\$ _____
6) family support	\$ _____	\$ _____
7) other (specify):	\$ _____	\$ _____

APPENDIX 2 (continued)

DESCRIPTIVE INFORMATION	SHOP	SHOP
M. Benefits provided to prisoners employed in this shop (check all that apply):		
1) vacation with pay		
2) sick leave with pay		
3) holidays with pay		
4) workers compensation		
5) special food		
6) special housing		
7) other (specify):		
N. Average length of time prisoner employed in shop		
O. Program eligibility criteria for prisoner employment in this shop		
P. Number of civilian supervisory and administrative staff assigned to this shop on 12/31/83		

APPENDIX 2 (continued)

DESCRIPTIVE INFORMATION	SHOP	SHOP
Q. Total wages paid to civilian staff in this shop for most recent fiscal year		
	\$	\$
R. Please attach an income statement for the most recent fiscal year for each shop described above		

PLEASE RETURN TO PART A, QUESTION #3 ON PAGE 2

CRIMINAL JUSTICE ASSOCIATES  
BOX 125  
LAFAYETTE HILL, PA 19444  
(215) 828-8284

PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT  
OF PRISONERS\*

DIRECTOR'S QUESTIONNAIRE

IF YOU NEED ASSISTANCE IN THE COMPLETION OF THIS QUESTIONNAIRE, PLEASE CONTACT  
JACK SCHALLER OR GEORGE SEXTON AT THE TELEPHONE NUMBER LISTED AT THE TOP OF  
THIS PAGE.

---

1. How would you rank the importance of the following benefits which could  
result from private sector employment of state prisoners?  
(1=most important, 8=least important)

- \_\_\_\_\_ Reduce cost of incarceration through wage garnishment
  - \_\_\_\_\_ Compensate crime victims through wage garnishment
  - \_\_\_\_\_ Increase level of support prisoners can provide to dependents
  - \_\_\_\_\_ Reduce prisoner idleness
  - \_\_\_\_\_ Provide additional revenue to state through wage tax applied to prisoner salaries
  - \_\_\_\_\_ Provide income for prisoners
  - \_\_\_\_\_ Enhance post-release employment opportunities
  - \_\_\_\_\_ Other (specify) \_\_\_\_\_
- 

\*Please do not provide information on prisoners who are engaged in work  
release employment or are on work furlough.

2. If you wanted to encourage the private sector to employ prisoners, what incentives, if any, do you think the state should provide to attract businesses? (check all that apply)

- |  |  |
|--|--|
| <input type="checkbox"/> Tax credits           | <input type="checkbox"/> Development grants                    |
| <input type="checkbox"/> Low interest loans    | <input type="checkbox"/> Bidders preference on state contracts |
| <input type="checkbox"/> Wage subsidies        | <input type="checkbox"/> Staff                                 |
| <input type="checkbox"/> Loan guarantees       | <input type="checkbox"/> Equipment                             |
| <input type="checkbox"/> Space                 |  |
| <input type="checkbox"/> None                  |  |
| <input type="checkbox"/> Other (specify) _____ |  |

3. How would you rank the interest of prisoners in your correctional system in the following types of employment, assuming that all of these choices were available within your system? (1=highest interest, 7=lowest interest)

- ☐ Private sector owned and operated shops
- ☐ Prison industry shops selling to the state
- ☐ Prison industry shops selling to private sector customers
- ☐ Prisoner owned and operated businesses
- ☐ Institutional support/maintenance services
- ☐ Choose not to work at all
- ☐ Other (specify) \_\_\_\_\_

4. How would you characterize the attitude of your department's employees regarding private sector involvement in the employment of prisoners?

- ☐ Supportive
- ☐ Tolerant
- ☐ Opposed
- ☐ Other (specify) \_\_\_\_\_

5. How would you characterize your own level of interest regarding private sector involvement in the employment of prisoners? (Please check the one answer that best applies)

- a. ☐ Very interested
- b. ☐ Somewhat interested
- c. ☐ Not interested
- d. ☐ Opposed

(a) If you personally have no interest or if you are opposed to private sector involvement in the employment of prisoners, please list the major reasons for this position.

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(b) If you personally are interested in involving the private sector in the employment of prisoners in your correctional system, please list the major reasons for this position.

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(c) If you personally are interested in involving the private sector in the employment of prisoners in your correctional system, please describe your plans (if any) for doing so.

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6. Please list what you would expect to be the principal positive and negative impacts which private sector involvement in the employment of prisoners would have on your correctional system.

POSITIVE

NEGATIVE

_____	_____
_____	_____
_____	_____
_____	_____

7. To which of the following would you be likely to turn for assistance in involving the private sector in the employment of prisoners? (check all that apply)

_____ Correctional industry staff	_____ Economic Development Agency
_____ Educational/voc. ed. staff	_____ State Labor Department
_____ Custodial staff	_____ Correctional Industry Advisory Board
_____ Institutional Management	_____ Other state agencies (specify) _____
_____ Central office staff	_____ Chamber(s) of commerce
_____ Other correctional staff (specify) _____	_____ Organized Labor
	_____ Community agencies
_____ Governor's office	_____ Private business
_____ Attorney General's office	_____ other(specify) _____
	_____

CRIMINAL JUSTICE ASSOCIATES  
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Lafayette Hill, PA 19444

215/828-8284

PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT  
OF PRISONERS\*

GOVERNOR'S QUESTIONNAIRE

IF YOU NEED ASSISTANCE IN THE COMPLETION OF THIS QUESTIONNAIRE, PLEASE CONTACT JACK SCHALLER OR GEORGE SEXTON AT THE TELEPHONE NUMBER LISTED AT THE TOP OF THIS PAGE.

1. How would you characterize the importance of work for state prisoners?

- a. \_\_\_\_\_ Essential  
b. \_\_\_\_\_ Very important  
c. \_\_\_\_\_ Somewhat important  
d. \_\_\_\_\_ Not important

2. Please rank the following types of work for prisoners in their order of importance/interest to your administration. (1=most important  
4=least important)

- \_\_\_\_\_ unpaid hard labor  
\_\_\_\_\_ institutional support work \*  
\_\_\_\_\_ paid productive employment  
\_\_\_\_\_ public works

\*Please do not provide information on prisoners who are engaged in work release employment or are on work furlough.



3. How would your administration rank the importance of the following benefits which could result from private sector employment of state prisoners? (1=most important, 8=least important)

- \_\_\_\_\_ Reduce cost of incarceration through wage garnishment
- \_\_\_\_\_ Compensate crime victims through wage garnishment
- \_\_\_\_\_ Increase level of support prisoners can provide to dependents
- \_\_\_\_\_ Reduce prisoner idleness
- \_\_\_\_\_ Provide additional revenue to state through wage tax applied to prisoner salaries
- \_\_\_\_\_ Provide income for prisoners
- \_\_\_\_\_ Enhance post-release employment opportunities
- \_\_\_\_\_ Other (specify) \_\_\_\_\_

4. If your administration wanted to encourage the private sector to employ prisoners, what incentives, if any, would you provide to attract businesses? (check all that apply)

- |                             |   |
|-----------------------------|---|
| _____ Tax credits           | _____ Development grants                    |
| _____ Low interest loans    | _____ Subsidized space                      |
| _____ Wage subsidies        | _____ Bidders preference on state contracts |
| _____ Loan guarantees       | _____ Free use of state owned equipment     |
| _____ Other (specify) _____ |   |

5. How would you characterize your administration's level of interest in the private sector as a provider of paid productive employment for state prisoners? (please check the one answer that best applies)

- a. \_\_\_\_\_ Very interested
- b. \_\_\_\_\_ Somewhat interested
- c. \_\_\_\_\_ Not interested
- d. \_\_\_\_\_ Opposed

THANK YOU FOR YOUR COOPERATION IN THIS RESEARCH EFFORT

CRIMINAL JUSTICE ASSOCIATES  
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215/828-8284

PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT  
OF PRISONERS\*

LEGISLATOR'S QUESTIONNAIRE

IF YOU NEED ASSISTANCE IN THE COMPLETION OF THIS QUESTIONNAIRE, PLEASE CONTACT JACK SCHALLER OR GEORGE SEXTON AT THE TELEPHONE NUMBER LISTED AT THE TOP OF THIS PAGE.

1. How would you characterize the importance of work for state prisoners?

- a. \_\_\_\_\_ Essential
- b. \_\_\_\_\_ Very important
- c. \_\_\_\_\_ Somewhat important
- d. \_\_\_\_\_ Not important

2. Please rank the following types of work for prisoners in their order of importance/interest to you. (1=most important 4=least important)

- \_\_\_\_\_ unpaid hard labor
- \_\_\_\_\_ institutional support work
- \_\_\_\_\_ paid productive employment
- \_\_\_\_\_ public works

\*Please do not provide information on prisoners who are engaged in work release employment or are on work furlough.

3. How would you rank the importance of the following benefits which could result from private sector employment of state prisoners?  
(1=most important, 8=least important)

\_\_\_\_\_ Reduce cost of incarceration through wage garnishment  
\_\_\_\_\_ Compensate crime victims through wage garnishment  
\_\_\_\_\_ Increase level of support prisoners can provide to dependents  
\_\_\_\_\_ Reduce prisoner idleness  
\_\_\_\_\_ Provide additional revenue to state through wage tax applied to prisoner salaries  
\_\_\_\_\_ Provide income for prisoners  
\_\_\_\_\_ Enhance post-release employment opportunities  
\_\_\_\_\_ Other (specify) \_\_\_\_\_

4. If the legislature wanted to encourage the private sector to employ prisoners, what incentives, if any, would you provide to attract businesses?  
(check all that apply)

_____ Tax credits	_____ Development grants
_____ Low interest loans	_____ Subsidized space
_____ Wage subsidies	_____ Bidders preference on state contracts
_____ Loan guarantees	_____ Free use of state owned equipment
_____ Other (specify) _____	_____ None

5. Is any legislation concerning private sector involvement in the employment of prisoners now pending in your state legislature?

• \_\_\_\_\_ YES \_\_\_\_\_ NO

If you answered yes, please identify the legislation and send a copy along with this completed questionnaire.

\_\_\_\_\_

6. How would you characterize your level of interest in the private sector as a provider of paid productive employment for state prisoners?  
(please check the one answer that best applies)

a. \_\_\_\_\_ Very interested  
b. \_\_\_\_\_ Somewhat interested  
c. \_\_\_\_\_ Not interested  
d. \_\_\_\_\_ Opposed

THANK YOU FOR YOUR COOPERATION IN THIS RESEARCH EFFORT.

CRIMINAL JUSTICE ASSOCIATES  
Box 125  
Lafayette Hill, PA 19444

OPER.

215/828-8284

PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT OF PRISONERS

PRIVATE SECTOR QUESTIONNAIRE

OPERATORS

If you need assistance in the completion of this questionnaire, please contact either JACK SCHALLER or GEORGE SEXTON at the telephone number listed at the top of this page.

PART I - GENERAL BACKGROUND INFORMATION

1. Date company started: \_\_\_\_/\_\_\_\_/\_\_\_\_
2. Type of business: \_\_\_\_ MFG. \_\_\_\_ ASMBLY. \_\_\_\_ SVC.
3. Products/services contracted: \_\_\_\_\_
4. Type of company: \_\_\_\_ Corp. \_\_\_\_ Partnership \_\_\_\_ Propriet. \_\_\_\_ Non-Profit  
\_\_\_\_ Other
5. Size of company: \_\_\_\_ 1-10 employees \_\_\_\_ 51-100 employees  
\_\_\_\_ 11-30 employees \_\_\_\_ 101-250 employees  
\_\_\_\_ 31-50 employees \_\_\_\_ 251-500 employees  
\_\_\_\_ 500 employees
6. Background of chief executive officer:  
\_\_\_\_ finance \_\_\_\_ management/administration  
\_\_\_\_ production \_\_\_\_ other (specify): \_\_\_\_\_  
\_\_\_\_ marketing sales \_\_\_\_\_
7. Has CEO or senior management personnel operated a similar business in the past?  
\_\_\_\_ YES \_\_\_\_ NO
8. Date company first hired prisoners: \_\_\_\_/\_\_\_\_/\_\_\_\_

PART II - FINANCIAL INFORMATION

NONE OF THE FOLLOWING INFORMATION WILL BE  
MADE PUBLIC IN AN ATTRIBUTABLE FORM  
WITHOUT YOUR WRITTEN PERMISSION.

1. Total initial capital investment required to start that part of your business that employs prisoners:

\$ \_\_\_\_\_

- (a) Of that total capital investment, percent provided by:

department of corrections	_____ %
company funds	_____ %
bank financing	_____ %
federal/state/local grants	_____ %
bonds	_____ %
personal investment	_____ %
other sources (specify)	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

2. Gross sales from prison based shop(s) for most recent fiscal year:

\$ \_\_\_\_\_

3. Net profit from prison based shop(s) for most recent fiscal year:

\$ \_\_\_\_\_

4. Total wages paid to prisoners to date: \$ \_\_\_\_\_

PART II - FINANCIAL INFORMATION (continued)

NONE OF THE FOLLOWING INFORMATION WILL BE  
MADE PUBLIC IN AN ATTRIBUTABLE FORM  
WITHOUT YOUR WRITTEN PERMISSION.

5. Prisoner wage tax withholdings to date:

federal income tax \$ \_\_\_\_\_

FICA \$ \_\_\_\_\_

state/local taxes \$ \_\_\_\_\_

6. (a) Total number of company employees: \_\_\_\_\_  
(b) Total number of prisoner employees: \_\_\_\_\_  
(c) Total number of civilian employees: \_\_\_\_\_

Please provide a balance sheet and income statement  
from your last fiscal year, if available.

PART III - ATTITUDINAL INFORMATION

1. What incentives, if any, would increase your company's interest in employing prisoners? (check all that apply)

_____ tax credits	_____ development grants
_____ low interest loans	_____ bidders preference on state contracts
_____ loan guarantees	_____ none of the above
_____ other (specify) _____	

PART III - ATTITUDINAL INFORMATION (continued)

2. What role, if any, should the federal government play in private sector employment of prisoners? (check all that apply).

<input type="checkbox"/> oversight to guarantee compliance with relevant federal laws	<input type="checkbox"/> loan guarantees
<input type="checkbox"/> certify initial compliance only	<input type="checkbox"/> provide tax incentives
<input type="checkbox"/> no role at all	<input type="checkbox"/> preferential treatment for sales to federal agencies
<input type="checkbox"/> other (specify) _____	

3. What role, if any, should state government play in employing prisoners? (check all that apply).

☐ source of labor for the private sector

☐ employ prisoners in state use industries

☐ provide incentives for private sector involvement

☐ none of the above

☐ other (specify) \_\_\_\_\_

4. If the state were to offer incentives to the private sector to employ inmates, which type would be most attractive to your company?

☐ incentives to increase potential for financial reward

☐ incentives to reduce financial and personal risk

☐ both equally important

☐ not interested in incentives for employing prisoners

5. What do you see as the single most important incentive the state can offer to companies to increase the employment of prisoners?

\_\_\_\_\_

\_\_\_\_\_

6. What are your principal reasons for employing prisoners?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CRIMINAL JUSTICE ASSOCIATES  
Box 125  
Lafayette Hill, PA 19444

C.C.

215/828-8284

PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT OF PRISONERS

PRIVATE SECTOR QUESTIONNAIRE

CONTRACT COMPANIES

If you need assistance in the completion of this questionnaire, please contact either JACK SCHALLER or GEORGE SEXTON at the telephone number listed at the top of this page.

PART I - GENERAL BACKGROUND INFORMATION

1. Type of company: \_\_\_\_\_ Corp. \_\_\_\_\_ Partnership \_\_\_\_\_ Propriet. \_\_\_\_\_ Non-Profit  
\_\_\_\_\_ Other
2. Size of company: \_\_\_\_\_ 1-10 employees \_\_\_\_\_ 51-100 employees  
\_\_\_\_\_ 11-30 employees \_\_\_\_\_ 101-250 employees  
\_\_\_\_\_ 31-50 employees \_\_\_\_\_ 251-500 employees  
\_\_\_\_\_ over 500 employees
3. Date company first contracted with correctional agency: \_\_\_\_/\_\_\_\_/\_\_\_\_
4. Type of work contracted to correctional agency: \_\_\_\_\_ MFG. \_\_\_\_\_ ASMBLY. \_\_\_\_\_ SVC.
5. Specific products/services contracted: \_\_\_\_\_
6. Does your company presently produce the products or services for which you are now contracting with the correctional agency?  
\_\_\_\_\_ YES \_\_\_\_\_ NO
7. Has your company ever produced these products or services in the past?  
\_\_\_\_\_ YES \_\_\_\_\_ NO

PART II - ATTITUDINAL INFORMATION

1. What incentives, if any, would encourage a business like yours to contract with a correctional agency? (check all that apply)
- |  |  |
|--|--|
| <input type="checkbox"/> tax credits           | <input type="checkbox"/> development grants                    |
| <input type="checkbox"/> low interest loans    | <input type="checkbox"/> bidders preference on state contracts |
| <input type="checkbox"/> loan guarantees       | <input type="checkbox"/> none of the above                     |
| <input type="checkbox"/> other (specify) _____ |  |
2. What role, if any, should the federal government play in private sector employment of prisoners? (check all that apply).
- |   |   |
|---|---|
| <input type="checkbox"/> oversight to guarantee compliance with relevant federal laws | <input type="checkbox"/> loan guarantees                                      |
| <input type="checkbox"/> certify initial compliance only                              | <input type="checkbox"/> provide tax incentives                               |
| <input type="checkbox"/> no role at all   | <input type="checkbox"/> preferential treatment for sales to federal agencies |
| <input type="checkbox"/> other (specify) _____  |   |
3. What role, if any, should state government play in employing prisoners? (check all that apply).
- ☐ source of labor for the private sector
  - ☐ employ prisoners in state use industries
  - ☐ provide incentives for private sector involvement
  - ☐ none of the above
  - ☐ other (specify) \_\_\_\_\_
4. If the state were to offer incentives to the private sector to employ inmates, which type would be most attractive to your company?
- ☐ incentives to increase potential for financial reward
  - ☐ incentives to reduce financial and personal risk
  - ☐ both equally important
  - ☐ not interested in incentives for employing prisoners

5. What do you see as the single most important incentive the state can offer to companies to contract with correctional agencies?
- \_\_\_\_\_
- \_\_\_\_\_

(a) What is the single additional incentive the state should offer to induce companies to directly employ prisoners?

\_\_\_\_\_

\_\_\_\_\_

6. What are your principal reasons for contracting with a correctional agency?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_



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PRIVATE SECTOR INVOLVEMENT IN THE EMPLOYMENT  
OF PRISONERS\*

SUPERINTENDENT'S QUESTIONNAIRE

IF YOU NEED ASSISTANCE IN THE COMPLETION OF THIS QUESTIONNAIRE, PLEASE CONTACT  
JACK SCHALLER OR GEORGE SEXTON AT THE TELEPHONE NUMBER LISTED AT THE TOP OF  
THIS PAGE.

1. Please list both the positive and negative impacts which private sector  
involvement in the employment of prisoners has had in your institution.

POSITIVE

NEGATIVE

_____	_____
_____	_____
_____	_____

2. Please list the ways (if any) in which private sector involvement in  
the employment of prisoners has affected your institution's policies  
and procedures.

_____
_____
_____

3. On the institutional level, what has to be present to initiate private  
sector employment of prisoners?

_____
_____
_____

\*Please do not provide information on prisoners who are engaged in work  
release employment or are on work furlough.

4. What are the principle attributes of a successful private sector employment project?

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5. How would you rank the interest of prisoners in your institution's system in the following types of employment, assuming that all of these choices were available within your system? (1=highest interest, 7=lowest interest)

<input type="checkbox"/> Private sector owned and operated shops	<input type="checkbox"/> Prison industry shops selling to the state
<input type="checkbox"/> Prison industry shops selling to private sector customers	<input type="checkbox"/> Prisoner owned and operated businesses
<input type="checkbox"/> Institutional support/maintenance services.	<input type="checkbox"/> Choose not to work at all
<input type="checkbox"/> Other (specify) _____	

6. How would you characterize the attitude of your institutional employees regarding private sector involvement in the employment of prisoners?

☐ Supportive  
☐ Tolerant  
☐ Opposed  
☐ Other (specify) \_\_\_\_\_

7. How would you characterize your own level of interest regarding private sector involvement in the employment of prisoners? (Please check the one answer that best applies)

a. ☐ Very interested  
b. ☐ Somewhat interested  
c. ☐ Not interested  
d. ☐ Opposed

8. Under what circumstances would you expand private sector involvement in the employment of prisoners?

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9. Under what circumstances would you terminate private sector involvement in the employment of prisoners?

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I N T E R V I E W   G U I D E

COS

CENTRAL OFFICE STAFF

STATE: \_\_\_\_\_

1. What were the principal reasons for involving the private sector in work projects?
2. Where did the initial impetus for private sector involvement in prison work project(s) come from?
3. Describe the process by which the private sector became involved with prison based work projects; specifying key individuals and organizations involved, and the role of each. Identify roadblocks and/or problems.
4. Describe the D.O.C.'s experience with private sector involvement in prison based work projects. Has the project conformed to your plans?
5. What have been the principal intended and unintended consequences and/or impacts of private sector work projects within the D.O.C.?
6. What incentives (if any) have been given to the private sector firms involved with prison work projects? (Be specific and distinguish between incentives to employment vs contract model.)
7. Why did the department choose to get involved with the private sector in the particular manner or form that it has? (i.e., contracting, employer, customer, etc.)?
8. What (if any) reactions are you aware of from outside group(s) to the private sector's involvement with prison based work projects?
9. Do you think that a prisoner's involvement with a private sector work project (either positive or negative) will have an impact on his parole eligibility decision?
10. What would you do differently if you had the chance to start all over again?

Probe in the following areas:

•Planning Stage  
•Negotiating Agreements with Private Sector  
•Preparing institutions and department staff  
and organization

•Implementation/Operations Phase  
•Outside "interest" groups: feds,  
labor, trade assoc., competitors

INTERVIEW GUIDE

PRIVATE SECTOR OPERATORS

11. What is your role in the department's private sector work projects?

(a) What issues do you become involved with?

Probe in the following areas:

- Planning Stage
- Negotiating Agreements with Private Sector
- Preparing institutions and department staff and organization
- Implementation/Daily Operations
- Outside "interest" groups

12. Under what circumstances would you expand the department's involvement with private sector work projects?

13. Under what circumstances would you terminate the department's involvement with private sector work projects?

14. What specific plans does the department have regarding private sector work projects?

15. Based upon your experience what kinds of things are essential for private sector work projects to be successful in corrections.

Probe in areas of:

- Planning support of Governor and Legislature
- Institution and department preparation of staff and organization
- Outside "interest" group(s)
- Negotiations with private sector
- Daily Operations

16. What do you see as the principal risks and rewards created by private sector involvement in prisoner employment for the State and for the private sector?

17. What are your goals in involving the private sector in prisoner employment?

STATE \_\_\_\_\_ COMPANY \_\_\_\_\_

CONTACT \_\_\_\_\_ TELEPHONE \_\_\_\_\_

1. Where did the initial impetus for your company to hire prisoners come from?

\_\_\_\_\_ contact/interviewer \_\_\_\_\_

\_\_\_\_\_ someone else in company \_\_\_\_\_

\_\_\_\_\_ D.O.C. \_\_\_\_\_

\_\_\_\_\_ Legislator \_\_\_\_\_

\_\_\_\_\_ Governor \_\_\_\_\_

\_\_\_\_\_ Other \_\_\_\_\_

2. Describe the process by which the company became involved with prisoners: Specify key individuals and organizations involved, and the role of each. Identify roadblocks and/or problems:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Describe the businesses' experience with a prisoner workforce to date:

Has the project conformed to your plans? \_\_\_\_\_ Yes \_\_\_\_\_ No

(If Yes, why is it working well?) (If No, what is different and why?)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. What are the unique advantages and disadvantages for a business like yours of hiring a prisoner workforce?

ADVANTAGES

DISADVANTAGES

_____	_____
_____	_____
_____	_____

5. What (if any) are the unique costs (not necessarily \$) for a business like yours of hiring a prisoner work force?

\_\_\_\_\_

\_\_\_\_\_

6. What (if any) reactions are you aware of from outside groups to your company's hiring of prisoners?

\_\_\_\_\_ Competitors \_\_\_\_\_

\_\_\_\_\_ Labor \_\_\_\_\_

\_\_\_\_\_ Trade Assoc. \_\_\_\_\_

\_\_\_\_\_ Other \_\_\_\_\_

\_\_\_\_\_ No reactions \_\_\_\_\_

7. What are the differences (if any) between how your company operates with a prisoner work force and how your company would operate with an entirely free world work force?

\_\_\_\_\_

\_\_\_\_\_

8. What would you do differently if you had the chance to start all over again?

\_\_\_\_\_

\_\_\_\_\_

9. What are the three most important things which need to occur for your company's prison project to become more successful?

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

10. What incentives (if any) have you received to hire prisoners?

\_\_\_\_\_

11. If you were offered the opportunity, would you be interested in subcontracting with the Department of Corrections directly for [inmate labor] [your production] instead of employing inmates yourself as you do now?

Yes \_\_\_\_\_ No \_\_\_\_\_

Why? \_\_\_\_\_

If no, what would it take to change your mind? (incentives/guarantees/assurances)

\_\_\_\_\_

Follow-up on the questionnaire as needed.

\_\_\_\_\_

INTERVIEW GUIDE

PSCS

PRIVATE SECTOR CONTRACT SHOPS

-3- PSCS

STATE \_\_\_\_\_ COMPANY \_\_\_\_\_  
CONTACT \_\_\_\_\_ TELEPHONE \_\_\_\_\_

1. Where did the initial impetus for your company to contract with the D.O.C. come from?

\_\_\_\_\_ contact/interviewee \_\_\_\_\_  
\_\_\_\_\_ someone else in company \_\_\_\_\_  
\_\_\_\_\_ D.O.C. \_\_\_\_\_  
\_\_\_\_\_ Legislature \_\_\_\_\_  
\_\_\_\_\_ Governor \_\_\_\_\_  
\_\_\_\_\_ Other \_\_\_\_\_

2. Describe the process by which the company became involved with the D.O.C. Specify key individuals and organizations involved, and the role of each. Identify roadblocks and/or problems:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What were the principal reasons for your company's decision to contract with the D.O.C.?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Has your company received any incentives for contracting with the D.O.C.?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, specify: \_\_\_\_\_

9. If you were offered the opportunity, would you be interested in actually operating the shop for whose output you have contracted, with you as the employer of the inmates instead of the state?

Yes \_\_\_\_\_ No \_\_\_\_\_

Why? \_\_\_\_\_

If initial answer was No, what would it take to make you change your mind?  
(any incentives/guarantees/assurances)

\_\_\_\_\_  
\_\_\_\_\_

If initial answer was Yes, was this an option that was available to you when you set up the contract, and if so, why didn't you choose it?

\_\_\_\_\_  
\_\_\_\_\_

What do you think could be the principle advantages and disadvantages of employing prisoners yourself as opposed to your present contracting role?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Follow-up on the questionnaire as needed.

\_\_\_\_\_



P/W

INTERVIEW GUIDE

PRISONER - WORKER

STATE: \_\_\_\_\_ SHOP: \_\_\_\_\_

DATE OF INTERVIEW: \_\_\_\_/\_\_\_\_/\_\_\_\_

- I. Explain that the Fed. DOJ. is sponsoring this study.
- II. Describe purpose of study.
- III. Explain what the interview is about, what it will cover and how long it will take.
- IV. Explain "safeguards":  
whatever they say will not be linked to them  
whatever they say will not be used against them  
whatever they say is unlikely to improve their condition.
- \_\_\_\_\_

1. Why have you chosen to work at all while you're in prison? \_\_\_\_\_

\_\_\_\_\_

2. Have you come to work here voluntarily? \_\_\_\_\_ YES \_\_\_\_\_ NO

3. Why did you choose this particular shop? \_\_\_\_\_

\_\_\_\_\_

4. Assuming that you could choose from among any of the following three jobs at this institution, which would you pick first? (Put a "1" in front of the choice.)

\_\_\_\_\_ Private sector owned and operated shops

\_\_\_\_\_ Prison industry shops selling to the state

\_\_\_\_\_ Prison industry shops selling to private sector customers

Which one would be your next choice? (Put a "2" in front of the choice.)

(Put a "3" in front of the choice.)

5. Why this order of choices? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Do you see any differences between private sector industries and the more typical prison industries run by the state? \_\_\_\_\_

7. We would like to know something about whether or not earning money here has had any effect on your life. Would you say that earning a salary in this shop has changed:

YES

NO

the kinds of things you buy? \_\_\_\_\_

your way of handling money? \_\_\_\_\_

friendships with other inmates? \_\_\_\_\_

relations with shop superintendent? \_\_\_\_\_

relations with custodial staff? \_\_\_\_\_

(by type?) \_\_\_\_\_

any outside relationships? \_\_\_\_\_

your plans after release? \_\_\_\_\_

Any other things which you think have changed as a result of your earning a salary? \_\_\_\_\_

FOR EACH STATEMENT ANSWERED YES, GO BACK AND PROBE FOR DETAILS (HOW, WHY, ETC.).

8. How do you feel about the salary deductions taken from your pay? \_\_\_\_\_

Would you work here anyway even if the pay was no more than what you could make in traditional prison industries?

YES

NO

9. Do you feel that earning a regular salary has increased your financial responsibilities in any way? e.g., pay back loans, support family, etc. \_\_\_\_\_

10. Do the staff at the institution treat you any differently now that you're working here? \_\_\_\_\_

YES

NO

If YES, how? \_\_\_\_\_

11. What do you have to do to get picked to work here? \_\_\_\_\_

12. How did you get your job? \_\_\_\_\_

13. Are there any programs you would like to participate in, but cannot because of your work hours? \_\_\_\_\_ YES \_\_\_\_\_ NO

\_\_\_\_\_ Vocational Education

\_\_\_\_\_ Academic

\_\_\_\_\_ Counsel

\_\_\_\_\_ Other: \_\_\_\_\_

14. Do you plan to look for a job like this one when you get out? \_\_\_\_\_ YES \_\_\_\_\_ NO

15. What do you see as the three most important advantages of working for the private sector?

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

16. What disadvantages do you see to this kind of employment? \_\_\_\_\_

FINANCIAL INFORMATION

Gross Salary: \$ \_\_\_\_\_ Circle One  
week ]  
month]  
Net Salary: \$ \_\_\_\_\_

1. How long have you been working in this shop? \_\_\_\_\_ months
2. How much of your pay do you spend on personal purchases in a typical week (e.g., commissary, mail order, etc.)? \$ \_\_\_\_\_
3. How much of the total salary you have earned on this job have you saved? \$ \_\_\_\_\_
4. Are you providing any family support?  
\_\_\_\_\_ YES \_\_\_\_\_ NO  
(a) If YES, how much of your salary have you paid in family support so far? \$ \_\_\_\_\_
5. Have you been sentenced to make restitution?  
\_\_\_\_\_ YES \_\_\_\_\_ NO  
(a) If YES, how much of your salary have you paid in restitution so far? \$ \_\_\_\_\_

INTERVIEW GUIDE

IW

INSTITUTIONAL WARDEN

1. What are the positive and negative impacts which private sector involvement in the employment of prisoners has had in your institution?
2. Has private sector involvement in the employment of prisoners affected your institutions' policies and procedures? If so, how?
3. On the institutional level, what has to be present to initiate private sector employment of prisoners?
4. What are the principle attributes of a successful private sector employment project?
5. How would you rank the interest of prisoners in your institution's system in the following types of employment, assuming that all of these choices were available within your system? (1=highest interest, 7=lowest interest)  

*Private sector owned and operated shops	*Prison industry shops selling to private sector customers	*Institutional support/maintenance services
*Prison industry shops selling to the state	*Prisoner owned and operated businesses	*Choose not to work at all
		*Other (Specify)
6. What (if any) are the principle differences between the private sector shop(s) in your prison and other work assignments available to prisoners? Probe for wages, physical environment, schedule, special privileges.
7. What are your duties and responsibilities regarding the private sector shop(s)?
8. What are your goals in involving the private sector in prisoner employment?
9. How are utilities allocated?
10. How many inmates could ultimately be employed by the private sector in your facility?
11. What factors currently limit achievement of this numerical goal?
12. Under what circumstances would you expand private sector involvement?
13. Under what circumstances would you terminate private sector involvement in the employment of prisoners?

**END**