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Juvenile Corrections/Industries Joint Ventures: An Operational Program Literature Review

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Abstract

This paper reviews the literature related to the operational issues for corrections/industries ventures in juvenile institutions. It reviews briefly the interactional theory of delinquency and extends its concepts to recidivism. Risk factors associated with recidivism are then linked to joint venture program elements. The organizational sections of the theoretical framework also are summarized and related to program structure. Program elements also are drawn from pertinent educational literature addressing vocational training and academic preparation.

In addition to theoretical and conceptual issues that influence program design, relevant legal issues are examined, and concerns raised by organized labor are reviewed. Program implications arising out of those areas are explained. The last substantive portion of this paper addresses environmental factors related to contract and fiscal issues affecting program design. An outline of the prototype's program areas is presented in the final section.

Introduction

Many things must coalesce for ideas about a program to develop into a definable policy and course of action. The theoretical needs to blend with legal, practical, and political considerations for a program to become reality. The nature of corrections/industries ventures is such that concepts and ideas from many areas must be united. Understandings of delinquency, complex organizations, and community decision making will undoubtedly influence the shape and character of emerging programs by pointing toward program elements that would be valuable components of joint venture models. In addition to these conceptual issues, programmatic details concerning education, legal issues, and labor concerns must be considered. This document assembles information from all these arenas in order to raise central issues and identify program implications that grow out of those issues.

The integration of this information serves several purposes. One purpose is to guide the analysis of operational programs. Ideas from theory and research, written descriptions of program operations, and practical lessons of those operating similar programs will be reduced to operational indicators that can be found within programs. Second, the information will assist in the selection of programs for site visits. It is very unlikely that a single operational program will be located that reflects all those elements viewed as necessary and/or desirable for a prototype model. Therefore, different aspects of several programs will have to be analyzed in order to construct a prototype model. Lastly, the information will furnish an outline for the prototype model. The prototype will address all areas of corrections/industries ventures including program planning and design, program

content, policies, operational procedures, implementation, management, oversight, and how joint ventures interact with other agency programs.

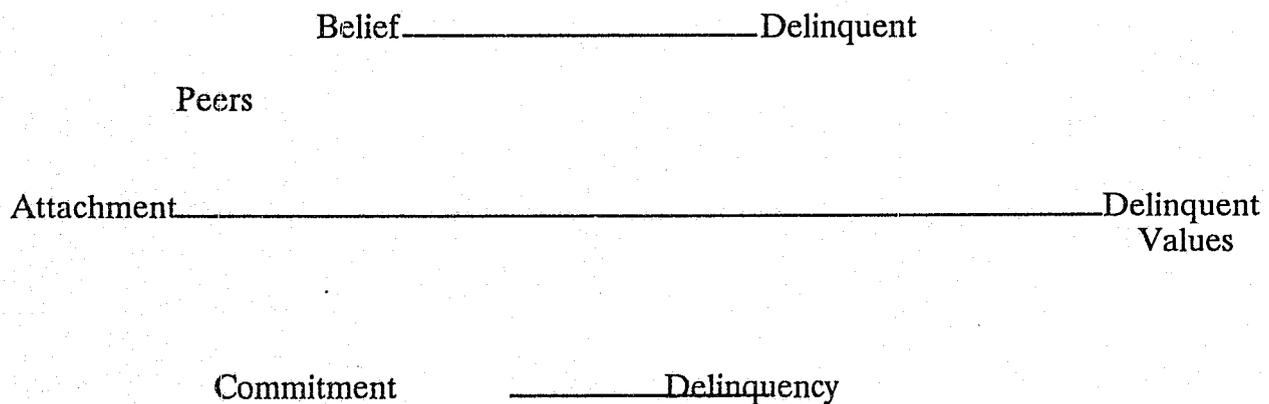
This review begins with a brief summary of the interactional perspective on delinquency that was developed in the theoretical framework, and goes on to review the theory's application to questions of recidivism. The second section reviews the major educational issues that work in concert with joint venture work programs. Next, there is a section that addresses the organizational issues surrounding the design, implementation, and operation of joint ventures. This section also is based on material that is part of the theoretical framework guiding the development of corrections/industry ventures in juvenile corrections.

The fourth section of the review examines major legal issues affecting the structure and content of joint ventures. This is followed by a section that raises six specific labor-related issues that affect the design and operation of joint ventures. The sixth substantive section concentrates on issues related to funding and the community environment. The program elements that were identified in the substantive sections are then summarized to show how they form an outline for prototype development.

The Interactional Perspective on Delinquency

Summary of Interactional Theory

The interactional perspective on delinquency unites major propositions from social control and social learning theories in a reciprocal causal model of delinquency. This perspective, summarized briefly, maintains that weak bonds (attachment to parents, commitment to conventional activities, belief in dominant values) between individuals and conventional society free people to consider a wide range of non-conforming behaviors, including associating with deviant peers and committing delinquent acts. The peer group's reinforcement of deviant values and behaviors erodes further the weak social bonds, thereby increasing the likelihood of continued delinquency. The bonds of social control and the reinforcement of social learning combine to form behavior cycles that make delinquency more or less likely. Primary relationships among the theory's major concepts can be seen in the following diagram:



[A + sign indicates a positive relation; a - sign shows an inverse relation]

Interactional Theory and Corrections/Industries Ventures

Joint venture programs represent opportunities to shape policies that interrupt behavior cycles leading to delinquency. By the time most youth reach juvenile institutions, they are chronic offenders in their mid-teens. This is precisely the time when the relative strength of social bonds is shifting away from parents toward the external world of peers and school. The corrections/industries venture concept addresses this shift through the structures of work sites. The work is real in the sense that it is not of the same character as make-work projects sometimes found within institutions (the proverbial making of license plates). The nature of the job is such that it resembles work performed by people earning a living in the larger society, it is not simply a way to earn money or points within the artificial world of confinement. Furthermore, the selection of offenders, and the preparation they must complete before starting work, changes the typical peer group relationships within the facility. The conventional work activity is learned and reinforced, thereby intervening into the behavioral loop that was characterized by weak social bonds when the youth entered the institution. This process should, according to interactional theory, enhance belief in conventional values and contribute to the youths' commitment to conventional activities. This should, in turn, discourage involvement with delinquent peers and further strengthen conventional social bonds.

The niche filled by joint venture work programs in interactional theory's reciprocal causal scheme of delinquency can be summarized succinctly. The realistic work circumstances of joint ventures, coupled with supplemental programs (e.g., training and education; placement), serve to strengthen offenders' ties with conventional society (attachment, belief, commitment) which, it is assumed, are weak when offenders enter

correctional institutions. The nature of peer-group associations change as a result of the work programs, commitment to conventional activities is reinforced, and exposure to delinquent values and illegitimate activities decreases. The program elements, inasmuch as practical, ought to be linked to the conceptual understanding of the relation between social bonds, social learning, and delinquency.

Interactional Theory, Recidivism, and Program Structure

Although interactional theory focuses on the etiology of delinquency, the causal structure of its behavior cycles applies equally well to recidivism. Just as the reciprocal causal relationship between social bonds and social learning explains the onset of delinquent behavior, this cycle explains the repetition of criminality. Assuming that released offenders are bonded weakly to conventional society, there is greater freedom to engage in deviant behavior and associate with deviant peers. The behavior pattern related to recidivism is the same as it is with respect to initial deviance. Following release from incarceration, weakened social bonds lead to an increased likelihood of criminal behavior and the exposure to deviant values through the deviant peer group. The reinforcement received from peer group relations influences continued criminal behavior, and ties to conventional society are weakened further.

To the extent, however, that commitment to work and positive peer relationships are strengthened through corrections/industries ventures, there is a greater likelihood of successful reintegration into society and reduced chances of recidivism. Efforts to forge stronger links between offenders and society can be seen in several aspects of joint venture

programs. Paying prevailing wages for real jobs connote societal value for the work and talents of the individual. Work performed by offenders is not simply part of the institution's regimen; rather, it is the same work done by workers outside correctional institutions, and the pay is comparable. Furthermore, the item or service produced is consumed by general society, which also conveys feelings of value and worth for the work performed by the incarcerated worker.

The bond with conventional society is reinforced in other ways. The availability of prevailing wages enables the individual to satisfy obligations. Paying taxes, helping support a family, contributing to room and board, and satisfying restitution are all things valued by society, and the earning of wages enables the offender to live up to societal expectations. This helps instill psychological benefits associated with accountability and the increased self-worth that comes with satisfying legitimate obligations.

Corrections/industries programs will undoubtedly change the peer relationships of incarcerated youth. In most forms of joint venture work programs, the participants are self-selected. That is, they apply as if they were looking for work on the outside. The initiative comes from the person, signifying a recognition of the value associated with participation. This self-selected work group might differ from the general institutional population with respect to values about work, and if the program strengthens attitudes about the value of conventional work, individual offenders are more likely to associate with a similar positive peer culture following release.

This effect is augmented by the special circumstances of the work site which provide those in the program with an environment that more closely resembles the larger society than the institution as a whole. Evidence of the positive effects exerted by this alternative

environment can be seen in two different ways. All the wards who work for *El Pollo Loco* live together at the Nelles School in Whittier, California. It is a racially integrated group which experiences none of the same violence, theft, and gang activity that disrupts other living units in the School. Statements made to the author by an individual ward at another institution also illustrate how joint ventures furnish an opportunity for offenders to bond with the world of work explained that one of the differences he noticed about himself since he began work was how he reacted to others in the school. He explained that it was easier for him to refrain from violent outbursts when provoked by other residents. He elaborated by saying that it was easier for him to not strike another resident if that person called him a name or cursed at him. The benefits he received from being part of the program, he said, were too important to jeopardize by getting involved in a fight. The program contributes to an improved, normalized climate within the institution. Exposure to this alternative environment contributes to a reduced likelihood of recidivism by reinforcing the value of bonding to conventional society. Social control theory and related research show that strong ties to the larger society reduces the incidents of deviance and criminality because the individual has too much to lose by non-conformity.

The nature of corrections/industries ventures also addresses another aspect related to the difficulties confronted by offenders attempting to re-enter society. A recent poll of offenders nearing parole shows that one of the difficulties most often mentioned by the inmates as complicating their efforts to cope with life outside of confinement, is their self-doubt (Chaiken, 1986). Their lack of confidence has two dimensions. One concerns their ability to compete in the job market, and the other involves doubts about how they will be received by the larger society. Joint ventures address both aspects of this problem. The

real-world nature of these ventures provides valuable work experience that is an asset for those seeking work, especially for offenders who frequently have little or no work experience. This work experience, combined with academic preparation and transferable vocational skills are a powerful combination that is attractive to potential employers and should help relieve some of the self-doubt experienced by ex-offenders.

Corrections/industries programs are intended to address both short and long term needs of released offenders. Two risk factors associated with repeat criminality that are addressed by corrections/industries programs are the availability of financial support immediately upon release and gainful employment. Research shows that early stages of the post-release period is crucial to offenders' ultimate success on parole; early success of released offenders is an good predictor of subsequent success (McCleary, 1980). Experiments with different forms of financial aid, job placement, and unemployment compensation for released felons demonstrate that monetary support immediately upon release helps offenders cope with the adjustments required by their new freedom (Rossi, Berk, and Lenihan, 1980). These same experiments find that financial support reduces recidivism or at least delays the recurrence of criminal behavior. The higher pay rates earned by offenders while they are incarcerated provide a means of saving money that is available to the individual immediately upon release. These savings are funds the offender can use for things such as a security deposit for an apartment, rent, and/or living expenses while seeking employment.

Joint ventures address the need for gainful employment by enhancing the offenders' attractiveness as potential workers through sound training and the development of an established work record. Preliminary results from one of California's free venture programs at the Ventura School support this idea. Of the 51 parolees who had completed

the TWA work program and could be traced after release, one had been re-committed to the Youth Authority and one violated parole, but could not be found. Six were employed right after release, but had dropped out of the work force to raise families or pursue their education. The remainder a working full or part-time (See Bottcher, 1987 for a fuller discussion of these results).

The public-private partnership that characterizes joint ventures is another program characteristic that relates to recidivism. As discussed in the development of the theoretical framework, one of the strengths of this program is that it does not focus exclusively on fixing certain individual characteristics in the hope that the offender will be better able to cope with life. Certain aspects of corrections/industries projects address elements of the social structure that also influence criminality. Joint ventures' specific inclusion of business and other major actors in the community holds the potential for altering the environment faced by offenders when they are released. Wider, routine contact between corrections and community actors can reduce some of the hostility and distrust often confronted by released offenders. This might, coincidentally, address a part of the doubts expressed by inmates in the poll cited earlier when they wondered about how they will be received by the larger community. If community skepticism about released offenders diminishes, acceptance of ex-offenders into society might be less difficult.

It is possible to envision joint venture programs that are interventions designed consistent with interactional theory and research beginning with incarceration and continuing after release. Offenders receive education and vocational training as preparation for a real-world job while imprisoned, and to the extent that the skills and education are transferable to general society, they are better prepared for independent living upon release. The skills

learned and education received combine with the establishment of a work record to enhance potential employability after release. This continues the process of positive peer relation begun in the institution, and as the rewards from gainful employment accumulate, bonds to society become more secure, thereby reducing the likelihood of recidivism. Effective post-release placement and follow-up are the keys to continuing the process of strengthening social bonds that begins in the institution. The only way that positive ties built through the work program can be translated to larger society is if the released offender finds employment and is monitored as part of the parole or probation process.

Although there is good reason to expect that corrections/industries ventures will reduce recidivism, it should be mentioned that other measures of success exist. Indicators such as the maintenance of a positive work record, changes in behavior patterns, altered peer relations, improved family relations, placements after release, reduced seriousness if re-offending occurs, and an increased time interval until a subsequent offense are a few variables that also gauge program success. These items do not necessarily affect the program's design, but they do point toward data collection and evaluation needs once a program is operational. These, as well as other, variables would need elaboration as the corrections/industries developmental project continues to later stages.

Joint Venture Program Elements Related to Interactional Theory

The joint venture concept represents a policy intervention that supplies some new elements which potentially can help curb chronic delinquency. The introduction of realistic work and training circumstances makes it possible to link ideas about commitment to work with concepts that relate social bonds and learning theory to delinquent behavior. This is demonstrated in the following list of program elements that grow out of the theory. These elements represent structural characteristics that will be analyzed during the site visits and eventually find their way into the prototype development.

Structure of work site. As indicated in the theoretical framework, this is a key element because it is through the work process that theoretical concepts such as instilling conventional values and commitment to conventional activities are operationalized. These concepts form a large part of the societal bond central to the framework that undergirds the program. Several structural features of the work activity contribute to the strengthening of the bond between offenders and conventional society. Program elements that cause the work to resemble the real world of work: the operation of company rules and procedures, selection and application procedures, eligibility criteria, disciplinary procedures, and reward structure all set the stage for grounding the participants' activities in the socially valued world of work. To the extent that the residents are successful in the program, reap rewards, and find their needs satisfied through the work activity, then joint ventures help instill conventional values and a commitment to conventional activity. The work process is a crucial element of joint ventures that helps strengthen bonds with conventional society.

As these bonds are strengthened, as interactional theory states, the costs of deviance and criminality become too high. The offender knows that inappropriate behavior could mean the loss of work and its benefits. The bond, therefore, acts as a deterrent to crime that applies to behavior while incarcerated as well as to the post-release period. The earning of prevailing/comparable wages not only shows value associated with the work, but satisfies the basic needs of survival and security. Moreover, the physical and social environment at the work place furnishes a positive alternative to the usual climate encountered by the offender.

Designations for money earned.¹ Requirements that the participants' wages be used in certain ways also contribute to the development of a social bond. The fact that participants will earn wages comparable to those found outside correctional institutions makes it possible to impose certain responsibilities on the wage earners. Things such as taxes, restitution, room and board, savings, family support, and controls on disposable income all help teach responsibility and accountability. These are two central values that can be taught quite clearly through this program.

Opportunities for growth/success. In one respect, the singular fact that youthful offenders can participate in joint ventures work programs and successfully complete (e.g., good work record, demonstrated competency) the structured program represents a valuable opportunity for growth and success. Beyond that observation, however, other features associated with the work program could present additional learning opportunities. For example, jobs that have an internal progression from basic to more sophisticated skills, task

¹See the section on legal issues for the legal concerns and requirements that surround this subject.

identity, task variety, raises, and leave accrual (features found in some of the operational programs identified in a preliminary assessment) present other opportunities for growth that would develop personal traits that would be quite valuable on the open job market. A program that provides individuals with the opportunity to succeed, grow, and satisfy obligations has the potential to be a powerful teacher.

Peer associations. The fact that peers in joint ventures will to some extent be self-selected means that they will differ in some respects from the general population found in the institutions. This will automatically mean that routine interpersonal relations of those involved in the venture will be atypical. Also, most job structures involve some degree of cooperation with others which teaches elements of teamwork and the value of cooperation. As this grows along with the social relations which inevitably develop, the work group becomes a powerful reinforcer of the work-related behaviors (e.g., punctuality, dependability, perseverance) learned by individuals through the work activity. Coincidentally, this group support furnishes the foundation for important psychological reinforcers of the new behaviors. Social relations and ego development (acceptance and recognition by a peer group) are individual needs that are partially fulfilled through work activity and also will help tighten the bond between the individual and the group.

Linkages with other institutional programs and services. No program can operate successfully in a vacuum since it must work together with other policies in order to address the many variables that influence delinquency. Of particular interest with respect to the operation of corrections/industries programs is the connection with education and vocational training. A symbiotic relation between the needs of business and the educational and

training mission of juvenile corrections agencies seems essential.² Employers are currently struggling with segments of the work force who are ill-prepared in basic academic skills and work skills. The fact that offenders fall into this category is one of the reasons that ex-offenders have difficulty remaining employed. Educational preparation, enhanced employability skills, and vocational training combined with solid work experience can, as mentioned earlier, make the released offender more attractive as a potential employee.

This combination has particular significance with respect to the strengthening of social ties. Since a single cause does not account for delinquency and recidivism, it is not likely that a single intervention in isolation will be effective. This is as true for joint ventures as any other policy initiative. Although these ventures will furnish some valuable elements in the effort to curb delinquency, the ingredients of education and training are necessary to prepare the individual to enter the job market after release. Someone who develops a specific work skill through on-the-job training inside the institution, but cannot read basic directions, will not compete effectively for work after release. The work experience, training, and education form a three-legged stool; if one is missing, the stool will not stand.

Post-release placement and follow-up. While the mechanisms for strengthening social bonds through work activity begin within the institution, this process must continue after release. Corrections/industries are intended to inject some reality into the correctional milieu, but the nature of correctional facilities necessarily limits how much reality is possible. It is one thing to succeed within the artificial environment of a corrections facility,

²Refer to the section on education for a detailed discussion of educational services and the related program elements.

it is quite another to succeed on the outside. This means that placement and follow-up are crucial elements within joint ventures programs. Aggressive placement efforts combined with rigorous follow-up is needed to continue the lessons begun within the institutions. This also is an important component from the standpoint of the offenders' perspective. They can easily become disillusioned if the benefits of corrections/industries withers after release.

Educational Issues

Introduction

The relation between corrections/industry ventures and education must be complementary if joint ventures are to be integral parts of the mission to prepare youthful offenders for successful re-entry into society. Educational programs and joint ventures can, if properly integrated, each support and enhance the effects of the other. All juvenile institutions have a variety of academic and vocational training, as well as social and employability skills programs which should feed into the training and work components of joint ventures. General academic education improves the residents' literacy and math competencies, the vocational training furnishes marketable skills, and the employability and social skills classes teach residents life survival skills. The training and work experience which are parts of corrections/industries ventures provide job-specific training and work experience, both of which are valuable commodities for finding work after release. For this combination of training, education, and experience to form a correctional strategy that reduces recidivism, agency programs and joint ventures must merge in the overall program design. In order to accomplish this, it is helpful to consider the educational issues separately.

Vocational Training

A few years ago corrections-based vocational training switched from a job-specific approach to an emphasis on more general competency in marketable skills. This switch grew out of a concern in the vocational training field that an overly specific focus on job training was not serving offenders' needs. Vocational educators noted that narrowly focused training quickly becomes obsolete in our rapidly developing economy (Taylor, 1980). Technology is either replacing human labor or changing the roles of workers. The growth of computers is perhaps the clearest example of this trend. At one time typing was an indispensable skill for many entry level jobs, but now knowledge of word processing must accompany typing skills if a person is to compete for many positions. Many other fields, such as car repair, warehouse inventory control, and sheet metal work have been transformed by technology. Anyone who hopes to earn their living now must be capable of working with the technological tools that are now available. This requires a broader skill development.

There has been increased attention to competency based vocational training. Nelson (1985) points out that approximately 50 percent of work-related technologies in place at any given time change completely in three years. This means that product or job-specific training needs to be supplemented by training programs that illustrate the concepts and techniques necessary to understand the new technologies. This does not necessarily refer to high-tech jobs. As Nelson goes on to show, for every engineer or highly trained technician in a highly technical position many support jobs are created inside and outside that company. These support jobs also are changed and the workers who hold them must

possess the requisite skills and understanding. Competency-based vocational training provides specific training in job related skills, and also furnishes a breadth of knowledge allowing the person to cope with the changes that job will undergo.

Competency-based vocational training also involves life-coping (survival) skills. Sound preparation in work-related skills is only part of the problem. Even if offenders leave confinement well trained, they are not familiar with the interpersonal dynamics that characterize the work place and social living in general. Employability skills such as how to prepare an application/resume, how to interview for a job, and how to present oneself to a prospective employer are examples of skills needed to get a job. Once employed, getting along with co-workers, teamwork and cooperation, following directions, and profiting from criticism are a few of the traits that enable young people to succeed in the job. Outside of work, training in social skills and practical experience with life's necessities (e.g., budget money, manage a checking account, find an apartment) are necessary for independent living. This dimension of competency-based training prepares offenders for life in the community.

Some people suggest that the social skills training is perhaps more important than job-specific training. In interviews with several employers, Coffey (1987) finds that many of them rank the importance of social skills ahead of specific work skills. Their reasoning is that necessary work skills easily be taught, especially for entry level jobs. It is much more difficult to teach social and interpersonal skills. These employers indicate they would rather have a young person trained in how to get along with co-workers and how to interact with the public, but lacking in job-specific skills than vice versa. This is particularly important

for jobs where entry level positions have direct contact with customers.³ Such observations do not de-value the importance of specific vocational preparation. They do suggest, however, that vocational training alone is insufficient to prepare young offenders adequately for employment.

General Academic Preparation

If vocational training and social skills are viewed as working together to prepare released offenders for successful re-entry into society, then academic education also should be seen as part of a training/education package that enhances the employability of released offenders. Massey and Rice (1985) view this as an education continuum providing offenders with the academic and technical skills needed for work-related success after release. It is well documented that offenders' literacy rates and math competencies lag behind the general population, and this fact impedes the ability of offenders to find and keep satisfactory jobs after release. The employer survey referred to in the previous section also indicates that basic reading and computing skills are prerequisites for young people to compete in the job market. Offenders who develop the ability to follow written directions and use basic math skills will undoubtedly be in a stronger position to compete for work. General academics also help in other areas of life. Decision-making,

³N. Ben Johnson, a member of this project's Advisory Committee, made the same point during a Committee meeting. Speaking from personal experience as a corporate officer and an entrepreneur, he explained how difficult it is to teach a new employee appropriate skills for dealing with the public. He stated clearly that he would rather hire a young person who knew little about the job, but knew how to behave interpersonally, than another person who knew the job but had poorly developed social skills.

interpersonal relations, and empathy with other people are strengthened through the education process. These life skills are important pieces of offenders' efforts to succeed after release. This type education must be part of the overall effort to prepare young offenders for reintegration to society.

Program Structure

Competency-based vocational training and academic preparation can be accommodated in a program that unites facility-based education and training with the work place experience. The program's structure must facilitate close links between the education/training components and work experience in order to assemble a package of training and experience that benefits released offenders by putting them on a personal and career development path. This does not necessarily mean that different program areas will lose autonomy or identity. Educators, trainers, and work-site supervisors all have valuable program components to operate, but since they are each part of an overall intervention strategy, they can each profit from the others. This requires communication and flexibility in the structure, management, and operations of corrections/industries. The potential exists for realities of the private work place to influence the type of training and education provided by the institution. In turn, the structure of the work site will have to cope with institutional needs and routines. Within this program setting, the role of work, besides being a means to earn and produce, becomes an educational forum that reinforces and expands the lessons of the classroom.

The overall structure that contains these ventures has elements that precede the actual beginning of work or education. It begins at the intake phase when residents are first evaluated and classified. Classification schemes serve many purposes; including treatment and counseling needs, management, risk assessment, and rehabilitation needs. Intake is an ideal time to make a preliminary determination of offenders' suitability for a joint venture work program. Deficiencies that might prevent an offender from participating (e.g., reading level) could be identified and addressed (if possible) so that a program leading to the venture could be designed. On the other hand, if a deficiency were too significant to allow participation in joint venture, then other arrangements could be made. This would make planning for joint ventures a part of the overall treatment plan designed for newly incarcerated offenders. However, it is important to remember that this planning will often be tempered by the nature of joint ventures. As businesses, these companies' need for personnel are driven by market and economic forces, not the treatment needs of incoming residents. Moreover, application procedures and any on-the-job training programs will eliminate some potential workers, just as they would if the residents were applying for work outside the institution. Beginning the process at intake still makes sense, however, because for those who ultimately participate, there will be a continuity in their treatment plan that would be very beneficial.

Organizational Context of Joint Venture Programs

Introduction

The sections of the theoretical framework that reviewed the organizational context of corrections/industries programs adopted a planned change perspective. A major premise underlying any consideration of planned change is that the acceptance of change is not an entirely rational process. The fact that proposed changes might be based on sound ideas is not sufficient to guide the innovations through to a successful, lasting conclusion. Resistance to change from individuals and groups, besides being a seemingly inherent human trait, arises for many reasons; including, among others, diverse interests, different definitions of the problem, different perspectives on the solution, different priorities and feelings of insecurity.

The voluminous literature on the dynamics of change (some of which is reviewed in the organizational sections of the theoretical framework) generally concentrates on two factors as keys for overcoming resistance to change. One factor is support from those at the top of the hierarchy. Unless those in control of organizations and those who set policy are behind program or policy innovations, it is not possible to begin an innovation or for the change to develop momentum. The second factor concerns the early involvement of major stakeholders other than those in charge. The support of those in power gives the innovation formal legitimacy and the support of the formal organization, and participation by other segments of the organizational field furnishes broader support throughout the informal network.

The rationale for expanding the scope of involvement does not rest solely on strategic considerations. The different people who have a stake in the project (i.e., public policy-makers, management, private companies, community leaders, workers at the institution participants) all have valid observations and contributions to make that are based on their unique experiences and insights. Their active participation enriches the outcome and enlarges the opportunity to create a program that is comprehensive and multi-dimensional.

Issues related to the program's organizational context fall into two categories. The first is the community dimension, which includes the inter-organizational field comprised of the correctional agencies and the community is (public and private) decision-making network. The second dimension is the host organization and its internal environment.

The Community Dimension

The theoretical framework details a scheme whereby the various resources and contributions of major Community Decision Organizations (CDOs) are combined in planning and implementing joint ventures. This permits the program originators to harness resources necessary for the program to be successful, and also to shape the program in a way that fits their particular community. CDO networks have considerable influence within their communities to mold programs both in the planning stages and in actual operation. It is necessary to think broadly regarding the relevant CDOs in a given locale when considering which ones ought to be included in the process of designing and implementing a program. Some of the more obvious examples that should be considered include: businesspeople, corrections administrators, business organizations, political leaders, civic

groups, and non-profit organizations. Much of the research done in this area highlights the need to involve these groups as early as possible in the planning and design phases of policy initiatives.

Organizational Context

Ample evidence shows that sound programs can easily wither away if no attention is given to the organizational setting. For example, during the 1960s, the California Department of Corrections initiated an experiment referred to as a C-Units (Community Units) in a maximum security facility. Despite noteworthy results with respect to improved morale, better living conditions, and a reduction in violence, these programs were short-lived. The primary reason for their demise, as seen by the designers of C-Unit programs, was inattention to organizational factors by those who implemented the policies (Studdt, et al., 1968). The programs never became integrated with the entire agency. Instead, they became innovation ghettos that never received broad-based organizational support.

A central tenet associated with overcoming resistance to organizational change is that the goals and values of the informal organization (with respect to the planned change) must coincide with those of the formal organization. Involvement by the various segments of the organization enables all participants to invest ownership in the change effort because they are part of the change process from its inception. The investment of ownership is the factor which makes it possible for innovation to become a permanent part of the host organization. Without ownership by major stakeholders, the likelihood of failure or sabotage is much greater, and the chance of instilling a permanent change that is linked

organically to the host agency is greatly reduced.

The participation of line level and supervision personnel in the change process seems necessary given the potential for conflict contained in this initiative. Nearly all change prompts conflict, but corrections/industries ventures are likely to generate an unusual amount of controversy among institutional staff because these ventures seek to integrate the core domains of different organizations. The traditional core concerns of juvenile corrections (custody, education, treatment, rehabilitation) must merge with the central functions of business (profit, efficient production, employment). As the theoretical framework explains, this is a condition ripe for conflict. From a change perspective, it is better to expect the conflict and deal with it through the change process than to ignore it and allow it to fester below the surface. The research on successful change efforts indicates that the way to structure the conflict constructively is through early and continued involvement of the interested parties (Toch & Douglas, 1982).

A change process that aims toward successfully implementing policy innovations within complex organizations should involve staff throughout the entire project, from its early stages to the routine operation of the program. This means that operational policies and management structures are as important as the planning and implementation procedures that lead to the beginning of corrections/industries ventures. Any new program that alters an organization's traditional operations affects all segments of that agency. This is especially true for programs like joint ventures which involve fundamental changes in routine work patterns and staff relationships. The program should have policies that detail staff relationships, manage staff interactions, and resolve routine conflicts. In addition, these policies ought to reflect the input of the various staff who participated in the

program's implementation, and they should be such that line and mid-level personnel are involved directly in program operation.

In addition to the conflict discussed earlier, there is another factor that points toward meaningful staff involvement. The nature of corrections/industries ventures is such that there is a strong potential for changing the relationship between the keepers and the kept. A well documented characteristic of life within a total institution (e.g., prison, mental hospital) is that the inmates and the staff work out intricate behavior patterns in order to cope with the effects of the institutional environment. The restrictive nature of institutional life effects the workers just as much as those under sentence, so individuals in both groups create routines that help them do their time. Changes in these routines can provoke hostility. Power relationships between staff and inmates are established within the institution and members of each group are expected to display appropriate role behavior.

Corrections/industries ventures will change dramatically the roles for residents. Participation in this type of work program can give participants a new sense of independence that might change their relation with staff. The residents, to a certain degree, will stop being totally dependent on and under the control of institutional staff. Instead, certain portions of the residents' lives will be guided by the employers' needs, not the staff's. This can easily fuel antagonism between staff and residents. The likelihood of this antagonism can be reduced by involving the staff in the change process. Their involvement extends some control to the staff and enables them to influence the shape of the program based on their own experiences and perspectives.

In order to understand and analyze the organizational context of corrections/industries ventures, it is necessary to identify specific program elements that correspond to the

organizational environment. Listed below are six major organizational factors. The first three relate to the internal environment; that is the structure of the joint venture program and its fit within the correctional facility's structure. The other three relate to the community dimension. Specific program elements are listed under each factor. These elements point toward particular operational characteristics that can be observed during on-site analysis.

Organizational Factors and Program Elements

I. Joint venture (JV) structure

- A. how was enterprise initiated within facility
- B. number of employees
- C. number and type of site managers
- D. facility staff involved in routine operations
- E. facility staff involved tangentially
- F. training
- G. application procedures
- H. unions
- I. existing conflicts within agency (e.g., labor-management, on-going or recent grievances)

II. Description of JV work site

- A. company rules/procedures
- B. selection procedures
- C. minimum eligibility criteria
- D. source of minimum eligibility criteria
- E. threshold criteria
- F. mechanisms that trigger flow of workers into program
- G. nature of work
- H. pay and benefit scale
- I. profile of participating residents

III. Links between JV operation and facility

- A. communication
- B. management
- C. operating relationship with management
- D. operating relationship with staff
- E. JV/institution coordinator
- F. institution-company training links
- G. informal interactions among JV and institutional staff
- H. orientation for new JV staff
- I. problem-solving mechanisms
- J. unions

IV. Links between JV operation and external world

- A. home company
- B. unions
- C. placement
- D. other companies
- E. community groups (business and civic)

V. Links between institution and external environment

- A. roles of agency staff
- B. roles of JV staff
- C. roles of central office staff
- D. business community
- E. community groups
- F. political leaders
- G. unions

VI. Community environment

- A. nature of surrounding area
- B. economy
- C. large employers in area
- D. small entrepreneurs
- E. business groups
- F. existing conflicts; e.g., community opposition, community relations

Legal Issues

Introduction

Legal requirements are best viewed as guides for program development rather than obstacles. Although legal constraints can sometimes impede a program's progress, knowledge of legal guidelines is an essential ingredient to the design of social programs. Identifying salient legal issues stimulates analysis, which in turn leads to remedial action before a program begins operating. It can be devastating for a program's survival if some aspect of its operation is found to be illegal while the new program is trying to develop momentum and build a constituency. In addition, major legal issues, along with potential pitfalls, need to be identified since they will influence the ultimate shape of prototype models.

Prison industries in various forms have operated in adult facilities for several years, whereas corrections/industry ventures for incarcerated juveniles is quite new. It is not surprising, therefore, that most of the court cases and legal analyses in this area focus on adult corrections. This means that some of the legal conclusions will have to be interpreted to fit the context of juvenile corrections.

The material presented in this section is intended to accomplish two primary objectives. One is to identify the major legal issues that potentially affect the design, implementation, and operation of corrections/industries ventures. The second objective is to identify any legal controversies or obstacles that exist, and when possible, to suggest potential avenues for resolving the controversies and/or overcoming the difficulties.

Statutory Authorizations

One of the complexities associated with building national prototypes is that they will be applied within state jurisdictions, and laws differ considerably among the states operating or planning corrections/industries programs. Specific state legislation must, of course, be examined before designing and implementing a particular program. Beyond that obvious point, however, it is useful to review some legal characteristics that are relevant to a general consideration of corrections/industries programs in juvenile institutions. According to a recent analysis of state statutes affecting corrections industries (Auerbach, Sexton, Farrow, and Lawson, 1988), 20 states authorize private sector employment of prisoners⁴, 21 are silent on the issue⁵, 6 prohibit the employment of prison labor⁶, and 3 are unclear on the matter.⁷ Since most states either authorize private employment explicitly or allow it tacitly by being silent on the issue, there are no overwhelming statutory obstacles to the development of corrections/industries ventures in most states.

Even where a statutory prohibition exists, two interesting points should be kept in mind. The first is that statutes forbidding the private employment of prison *labor* may not apply

⁴These include: Arizona, California (for Youth Authority only), Colorado, Connecticut, Florida, Indiana, Iowa, Kansas, Louisiana, Minnesota, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington.

⁵These states are: Alabama, Alaska, Georgia, Hawaii, Idaho, Kentucky, Maine, Maryland, Missouri, Montana, New Hampshire, New York, North Carolina, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

⁶Illinois, Michigan, Mississippi, New Jersey, North Dakota, and Pennsylvania.

⁷Arkansas, Delaware, and Massachusetts.

to the provision of *services*. In other words, while such statutory wording may block prisoner employment for manufacturing and physical labor, it seemingly permits service sector employment (Auerbach, 1986). Second, legal provisions that proscribe the hiring of prisoners may not apply to juveniles or youthful offenders who are not under the control of the adult penal system. In many states, juvenile court proceedings are not concerned with criminal guilt. Furthermore, young incarcerated offenders are often supervised by welfare departments or youth authorities. This puts them in an entirely different category than adult convicts since they are not classified as prisoners. Therefore, wards of the state may not be covered under the prohibition on prison labor. This latter point was an argument advanced successfully by the California Youth Authority (CYA) when they maintained that offenders incarcerated in Authority facilities were wards of CYA, not prisoners under the control of California's Department of Corrections. Similarly, juvenile institutions in Michigan are under the supervision of the State's Department of Social Services, so juvenile offenders involved in work program do not come under the State's ban on prison labor. It is an open and unaddressed question whether this interpretation circumvents the intent and spirit of state laws that block the private employment of prisoners. At the very least, it would be less convincing to argue that juveniles do not come under a ban on employment of prisoners in states where juvenile corrections is a subunit of an adult department of corrections.

Other areas important to the operation of joint venture programs may need specific statutory authority in order to operate. The first such area involves permission for open market sales. Two different surveys (one in 1984, the other in 1988) report that 26 states

permit the sale of prison-made goods on the open market.⁸ Auerbach et al (1988) find that eighteen states specifically prohibit private sector sales of prison-manufactured items.⁹ The remaining states are either silent or ambiguous on the issue.¹⁰

A second issue involves the impact these types of projects have on the external labor market. Although most states do not currently have a law requiring that the labor force impact be assessed prior to a project's commencement, Auerbach, et al (1988) found that eight states require an assessment of how a prison-based industries will affect the general labor market.¹¹

The legislative authority to rent or lease public property to private concerns also may

⁸According to Grieser, et al (1984) these states include Alaska, Arizona, Arkansas, Connecticut, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oregon, Rhode Island, Utah, Vermont. Auerbach et al (1988) report that the following 24 states authorize private sector sales: Alaska, Arizona, California, Connecticut, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, South Carolina, Texas, Utah, Vermont, and Washington. The discrepancies between the two surveys is accounted for by the repealing of laws in some states and by different definitions used in the two surveys.

⁹These states include Alabama, Florida, Georgia, Hawaii, Illinois, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Dakota, Virginia, Wisconsin, and Wyoming.

¹⁰Auerbach et al (1988) report that the following states are silent with respect to open market sales: Colorado, Montana, Oklahoma, Tennessee, and West Virginia. In the same publication, they list the following states' legislation as unclear: Arkansas, Delaware, and Massachusetts.

¹¹These states are Arizona, Connecticut, Indiana, Iowa, Kansas, Nevada, Oregon, and Vermont.

be required. Auerbach et al (1988) report that 13 states currently have laws that permit leasing.¹² None specifically prohibit leasing.

The last pertinent issue that may require state legislative authority involves the granting of incentives to private companies in order to encourage participation in corrections-based businesses. Some examples of incentives include capitalization, operating space, and expansion of work facilities. There are no state laws that forbid such incentives and only two expressly authorize the granting of incentives.¹³

Federal Laws and Regulations

There are several federal laws and regulations that may influence the design and operation of work programs within correctional agencies. Each is listed below followed by a brief synopsis of the provision.

Occupational Safety and Health Administration (OSHA). In general the myriad of regulations that fall under OSHA jurisdiction concern the physical conditions of the work place. Things such as the condition of equipment, building ventilation, use and storage of hazardous substances, design of work stations, sanitation, and other environmental factors that affect the health and safety of workers.

Hawes - Cooper Act. This Congressional Act stipulates that prisoner-made goods which move between states are subject to the laws of the importing states.

¹²The states include Arizona, Florida, Indiana, Iowa, Minnesota, Mississippi, Nebraska, Nevada, Oklahoma, Oregon, Tennessee, Texas, and Washington.

¹³Auerbach, et al (1988) report that Indiana and Washington are the only states which authorize incentives to businesses who participate.

Sumners - Ashurst Act. This Act prohibits interstate commercial activity with prison-made goods and preempts state laws permitting the transportation of such goods for private use. This Act does *not* cover items manufactured for the federal government, or for another state government; also, it does not include services

Walsh - Healy Act. Prison labor can not be used to fulfill federal government contracts that exceed \$10,000.

Percy Amendment. This measure provides exemptions to the Sumners - Ashurst Act and the Walsh - Healy Act for prison-based employment programs that are certified under the Prison Industries Enhancement (PIE) program.

Fair Labor Standards Act (FLSA). This provision contains two parts relevant to joint venture programs. The most widely known is one establishing the national minimum wage. (This issue is discussed in the next section.) In addition, the FLSA also contains child labor provisions that regulate minimum ages and working conditions for children.

Job Partnership Training Act (JPTA). This is an Act of Congress establishing training provisions and limited work experience for youth as young as 14 years of age.

It is necessary to mention that many states have state-level versions of these provisions that will influence the design of corrections/industries programs. A summary of these state laws is beyond the scope of this document, but they must not be overlooked during the planning stages for local applications of a joint venture model.

Compensation

One of the first pay-related issues that arises is the rate of pay. Only one state legislatively prohibits the payment of minimum or prevailing wages to prisoners¹⁴, and 12 states specifically authorize such payments¹⁵. The rest of the states are silent on the issue, many of which authorize private sector employment. As of last year, seven states¹⁶ authorize private sector employment, but do not require the payment of minimum or prevailing wages (Auerbach, et al., 1988). Without a state statute to the contrary, the courts have ruled consistently that inmates do not have a constitutional right to wages for work performed during their incarceration, even if the work is done voluntarily (Grieser, Miller, and Funke, 1984 citing *Newell v. Davis* [1979] and *McGinnis v. Stevens* [1975]).

However, this does not mean that minimum or prevailing wages are not required in all cases. In fact the FLSA (discussed earlier) and court decisions (e.g., *Souder v. Brennan* [1973] and *King v. Carey* [1979]) indicate specific criteria that trigger the applicability of minimum wage laws to incarcerated workers. They include:

1. The company's freedom to fix the size of its work force and to maintain control over the people hired.
2. The company's control over dismissals and disciplinary actions.
3. The company's autonomy with respect to employee supervision.
4. The necessity that employees pay taxes.

¹⁴Mississippi

¹⁵Arizona, Indiana, Iowa, Kansas, Louisiana, Minnesota, Nebraska, Oklahoma, Oregon, Tennessee, Utah, and Washington.

¹⁶Colorado, Connecticut, Florida, Nevada, New Mexico, Ohio, and Texas.

5. The profit-seeking goal of the company.

These factors focus collectively on the type of relationship between the inmates and the company. The extent to which these factors, taken together, are present, then a legally mandated wage floor is indicated.¹⁷ It seems clear that minimum or prevailing wages would be necessary in a joint venture program that copies or approximates the model of the programs in the California Youth Authority. As those programs are structured, they meet all five of the listed criteria that trigger the applicability of minimum wage.

Worker Compensation Law. The applicability of worker compensation provisions to incarcerated workers is less clear than the minimum wage issue, but it deserves attention in the consideration of institution-based work programs. Although most courts examining this issue have held that worker compensation laws do not apply to inmates (e.g., *Frederick v. Men's Reformatory* [1973]; *Watson v Industrial Commission of Arizona* [1966]), the main rationale has concentrated on the conditions of employment. In these cases, the work was involuntary (part of prison routine), there was no contract for hire, and the wages did not rise above the level of a gratuity. After reviewing several cases that have focused on issues related to worker compensation, Grieser et al (1984) conclude that the trend of the courts suggests some type of scheme is necessary to compensate inmates for work-related injuries when the work is voluntary and meaningful compensation is provided for the work. In other words, just as in questions about minimum wage, the closer the work situation resembles the real world, the more likely it is that injury compensation is necessary. If workers' compensation is granted, then due process must be built into the scheme.

¹⁷For a discussion and analysis of the laws and cases leading to this conclusion, see Auerbach, 1986 and Grieser, et al., 1984.

There is a liability issue related to worker compensation that should be mentioned. In the event of a work-related injury, the state cannot claim sovereign immunity to bar inmate tort claims where the business is a proprietary operation (Grieser, et al., 1984). This seems to apply to injuries that last beyond the term of incarceration. As Grieser and his colleagues go on to explain (p. 110), "[t]he trend in the court decisions is to place greater demands on the state employer's safety precautions for inmate workers than that required for other employees, so to compensate for the relative inexperience of inmate workers." With respect to corrections/industries, this suggests that the state and the private employer need to be diligent and proactive in their consideration of worker safety. This is a particularly salient issue for juvenile programs because juvenile inmates have even less work experience than adult inmates.

Mandatory Wage Deductions

Once wages rise above the level of a gratuity, then the law considers them to be earned, and subject to taxes. As wage earners, incarcerated workers become subject to the same set of required and potential deductions from their pay as workers outside of correctional facilities. A general rule seems to be that the same rules governing withholding from pay earned by the public applies to incarcerated workers. Tax and social security payments must be made by those working inside a correctional facility since I.R.S regulations apply to all earned income.

It is common in prison industries to see payroll deductions for other obligations such as restitution (to a general victims' fund or as the result of sentencing), support of dependents,

debts, savings for release, and contributions toward the costs of custody and care in the institution. At a minimum, legislative authority is needed for corrections agencies to make specific deductions from inmates' earnings (Grieser, et al., 1984). On the federal level, for example, the Percy Amendment empowers states to make deductions. Laws in 20 states¹⁸ authorize various wage deductions for all or some of the reasons listed above (Auerbach, et al., 1988). Beyond these general statements, a few specific points need to be made with regard to each of the deductions that might apply.

Savings. Mandatory savings have been upheld by the courts (*Harris v. Yaeger* [1968]). The account may be selected by the worker or by the state, however, the account must be an interest-bearing account (*Douglas v Ward* [1977] as cited by Grieser, et al., 1984). The state may not simply hold the savings for use by the inmate upon release.

Third Party Payments. Items such as restitution, family support, and debts fall within this category. There is no constitutional requirement that blocks such payments, but since these deductions involve the deprivation of property, due process is required for their implementation (*Siegler v. Lowrie* [1969] as cited in Grieser, et al., 1984).

Room and Board Charges. Notwithstanding the popularity and social utility of these charges, their mandatory imposition raises significant constitutional issues not present in the other deductions. These issues have persisted in the adult system and carry over to the juvenile justice system. There are two separate lines of inquiry regarding the constitutionality of requiring room and board payments from offenders in custody. Each requires elaboration.

¹⁸Alaska, Arizona, Colorado, Florida, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Nebraska, Nevada, New Hampshire, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, Utah, Vermont, and Washington

The first is an 8th Amendment issue of whether compelling incarcerated inmates to contribute toward the costs of their imprisonment is cruel and unusual punishment (conditions of incarceration). Over time the meaning of cruel and unusual punishment has evolved away from a sole focus on conditions of punishment that are barbarous or shocking. Judicial considerations of these conditions currently take a more general focus that examines the standards of decency. These standards are seen as flexible and dynamic, likely to change as our culture changes. This broader focus means that the 8th Amendment proscribes punishments that, although not barbarous or cruel in a physical sense, involve the "unnecessary and wanton infliction of pain," among which are those "totally without penological justification" (Evans, undated, p. 30).

Although assessing a financial contribution from an incarcerated offender taking part in a venture work program does not inflict pain, nor physical cruelty, nor deprive the individual of minimal civilized living conditions, Evans anticipates another avenue of attack. "It may be argued" he writes, "that there is a fundamental indecency or cruelty, perhaps even barbarity, in asking those people who are already subject to punishment and incarceration to help the state prevent itself from exceeding minimal limits on the permissible cruelty of that punishment" (p. 30).

This seems misdirected. A rationale for requiring room and board payments is not to assist the state from falling below a minimally acceptable standard of decency for the conditions of incarceration. There is no doubt that the state is responsible for maintaining constitutionally acceptable standards, and meeting the needs of incarcerated offenders. Contributions by offenders in no way purchase minimum conditions of incarceration. This is seen in the fact that conditions of confinement for someone participating in a venture program are no different than before acceptance into the program, do not differ from the

conditions for those not in the program, and they do not change if the offenders' participation in the program ends for any reason. It is not as though an individual would face substandard conditions if the job ended for some reason (e.g., company closed) or the person was fired for cause. The opportunity to participate in an income-producing activity works is a direct outcome of states' obligation to provide affirmative opportunities for those who are incarcerated. As joint ventures are designed, they certainly exceed minimum conditions of imprisonment that are required constitutionally.

Furthermore, it is possible to articulate a clear penal justification for room and board; as in the case of restitution, financial contributions to room and board by offenders is a means of holding an individual accountable for their criminal behavior and instilling a sense of responsibility for the consequences of that behavior. Evidence shows that offenders change positively when forced to confront the consequences of their illegal behavior (Schneider, 1986).

In addition to 8th Amendment considerations, an Equal Protection issue exists with respect to required contributions by incarcerated offenders toward room and board. It is a well established principle, based on the Equal Protection Clause of the 14th Amendment, that a particular class of people cannot be arbitrarily assessed to pay the costs of government programs that benefit the public or society in general. The perceived public benefits that flow from incarceration seem clear, and there is no doubt that the state must pay the costs of providing required services and maintaining mandated conditions. To the extent that care and custody provided for incarcerated juveniles is a public benefit, mandatory deductions for room and board are problematic and could have difficulty surviving a court challenge.

Some potential avenues for resolving the Equal Protection issue exist, however. Grieser et al (1984), suggest that the definition of the class of people who are required to pay be drawn very carefully to also include others who have the means to pay, but are not participating in the program. Although this presents a possible avenue for adult facilities, it might be difficult to apply within a juvenile institution. The ages of residents in juvenile institutions would mean they are not likely to possess independent means with which to contribute toward room and board.

A second suggestion sometimes made is to levy the costs against the parents, but some state court decisions indicate this approach also has difficulties. Some states have experimented with laws requiring parents to reimburse the state for the costs of incarcerating their child modeled after laws mandating reimbursement for mental health commitments. Although, most states have mental patient reimbursement statutes, the federal and state cases validating such laws typically base their decisions on the reasoning that "...there is a much greater *public* benefit from incarceration of ... offenders and a far greater *individual* benefit from treatment of mental patients" (Evans, Undated, p. 35). The California Supreme Court, extending its reasoning in an earlier case (*Department of Mental Health v. Kirchner* [1964]) where it invalidated a state mental patient reimbursement law, ruled that parents can not be charged for the costs of confining their child who had been arrested based on a court order (*In Re Jerald C.* [1984]). Some states (e.g., Oregon) continue to experiment with parent-responsibility laws that will withstand scrutiny by the courts.

A third suggestion, still untried and untested, is to link the payment of room and board to sentencing (Evans, Undated). This would, of course, require specific statutory

authorization for imposition of room and board as part of offenses' punishment. This would put these payments on par with restitution; they are imposed through a judicial procedure and tied directly to the purposes of punishment and rehabilitation.

Equal Protection

There is another Equal Protection issue that is separate from questions of mandated room and board payments. It concerns the differential availability of the opportunities presented by corrections/industries ventures. Thus far, the courts have rejected claims brought by inmates who contend they are denied equal protection because another institution has work opportunities through corrections industries that are unavailable at their prison (*Rowe v. Fauver* [1982]). There is no legal requirement that states deciding to move forward with joint ventures must do so at every facility. The courts are apparently willing to leave such decisions to the administrative discretion of corrections officials.

This reasoning does not apply, however, if differential work opportunities adversely affect women. As protected a class of people, women must be accorded work & training opportunities comparable to those available to men. *Glover v. Johnson* [1979]

This same reasoning can be applied to minorities viewed legally as protected classes of the population.

Labor Issues

Introduction

Labor unions have a long history of involvement in job-readiness programs for different segments of the population. Local and national unions had policies and programs working for the rights of working women prior to the growth of feminism as a cultural and political force in this country beginning in the late 1960s. They were and remain active allies in women's efforts to gain parity in the work place. During the 1950s and early '60s, when blacks began their public struggle for civil rights, unions were deeply involved in providing vocational and job skills training to help black workers qualify for apprenticeship programs.

Union organizations also have experience with prison industry programs. They have participated actively since the inception of UNICOR, the industry program operated by the U.S. Bureau of Prisons. Lane Kirkland, Chairman of the AFL-CIO, is a member of UNICOR's Board of Directors, and the national union is active in UNICOR projects. State and regional involvement of unions is now commonplace, with several industries programs in state prisons working closely with union representatives. In fact, the Prison Industries Enhancement (PIE) Certification Program, managed by the Bureau of Justice Assistance, mandates local union involvement before a program can be certified.

Union activity also extends to programs in the field of juvenile delinquency. A recent development in Michigan's juvenile justice system illustrates that now unions and state

officials are collaborating in the design and implementation of a corrections/industries venture for juvenile offenders. In this program, juvenile authorities, labor unions, and building contractors have established a mechanism whereby the training and work performed by incarcerated youth lead directly to an apprenticeship program and a guaranteed job upon release. Unions' history and tradition of assisting people to gain a foothold in shaping a productive work life has furnished union officials with a valuable reservoir of experience that can be extremely useful in the effort to design and institute corrections/industries ventures in juvenile institutions.

There are reasons beyond historical experience that make union input crucial. Working conditions affecting all workers represent a core concern of organized labor, and it is logical this concern should extend to workers who are incarcerated. This does not imply the organizing of inmate workers; courts have explicitly prohibited the organization of prisoners for purposes of collective bargaining. Unions are interested, nevertheless, because joint venture programs involve private companies as profit-making enterprises, and the program is supposed to mirror the real world of work as closely as possible. Unions' traditional focus on the work environment naturally extends to the prison environment. Furthermore, unions are understandably concerned about the effects of institution-based work programs on the community's job market. Since it is difficult to imagine a joint venture program where there is no impact on the job market outside of the institution, the issue becomes how to manage and direct program effects on external job availability. These certainly are part of organized labor's central mission.

Labor-Related Program Issues

The concerns of organized labor, and issues related to worker protection, lead inevitably to program structure and content. There are six general issues with respect to the structure of joint ventures. The primary intent of this section, as in the other sections, is to raise salient issues likely to influence the design, implementation, and operation of corrections/industries programs. As stated in the introduction of the discussion of legal issues, the significance of identifying issues at a relatively early stage of program design is that the process of identification leads to analysis, which in turn points the way toward solutions. In this way, the specific issues will help guide the analysis conducted during site visits, thereby directing the search for operational solution(s). Moreover, the outline of prototype model components also will contain programmatic elements related to the issue areas. Each labor issue is listed below followed by a brief discussion.

1. The program's rationale should be tied to rehabilitative objectives for offenders. As stated earlier, it is probably not possible to construct a corrections/industries program that has no effect on the external labor market. However, a rehabilitative rationale for the work program would be a benefit that offsets a cost to the general labor market. The underlying reason for existence of corrections/industries ventures ought to be rooted firmly in existing knowledge about reducing recidivism. The section entitled *The Interactional Perspective on Delinquency* (p. 3 - 15) explains how joint ventures fit as an intervention within current thought about patterns of delinquency and risk factors associated with recidivism. In addition, since these venture programs are directed at a population of youth who have

special needs, the program should be integrated with the larger network of rehabilitative and educational programs available at the correctional institutions.

Links between work enterprises and other programs (e.g., basic academic preparation, vocational training, placement services) must be explicit. The compatibility between education and training and a corrections/industry venture seems clear. Sound preparation in academic skills such as reading and math will make the youth more valuable employees inside the institution and after release. In addition, improved reading and other basic skills will serve released offenders well in life's pursuits outside the work place. Vocational training in the classroom can be coordinated with training at the work site, and both can be valuable assets for post-release placement and work opportunities. Enhancing these basic skill areas (academic, vocational, work experience) would represent a significant advancement for offenders who are usually more deficient in these skills than the general population.

It is important to remember that joint venture programs are not intended to replace or interfere with ongoing treatment-oriented programs such as counselling or drug abuse treatment. Those types of programs serve special needs and address a variety of concerns, and would continue to do so. A multi-faceted approach to rehabilitating juvenile offenders enables a corrections agency to direct interventions toward an array of factors influencing delinquency.

2. The work should not exploit participants. From organized labor's perspective, this aspect is significant in two respects. The first concerns job conditions, including such things as the physical surroundings, safety conditions, and pay rates. Some, but not all, of these

items would be covered under various labor laws and regulations. The second area of significance involves the nature of work performed and is less obvious than the former. Organized labor is concerned that jobs made available to incarcerated youth should not simply be low level work that is so unpleasant or tedious that industry has difficulty recruiting workers from the general population. In other words, incarcerated workers should not become a captive population that employers can turn to when the labor market contracts. There ought to be a way to distinguish this type of work from entry level jobs which are low level, but still have a developmental track that holds some promise for the youth upon release. There are several ways this trait can be structured into corrections/industry venture.

One possible way to differentiate dead-end work from more meaningful entry level work is whether the work itself has some internal progression built into the job. For example, *Pine Grove Electronics Inc.* at the Nelson School in Stockton, California places new employees in the most basic positions of loading and unloading, and cleaning blank electronic boards. However, youth who do well progress within the company and receive training in the increasingly sophisticated areas of assembly, soldering, inspection, quality control, and testing. In other words, the low skill work at the beginning of a youth's work experience in this program is not an end in itself, rather it serves as a stepping stone for future growth that can easily continue after the person is released.

In contrast to the *Pine Grove* site is the *El Pollo Loco* work site at the Nelles School in Whittier, California. The work here involves the packaging of plastic eating utensils for the fast food chain operation. It does not take long for individuals to master the regimen,

and once learned, the nature of the work does not change. There are real limitations in the design of this type of work. Many of the youthful offenders in juvenile institutions are savvy individuals who know that filling plastic bags with plastic knives and forks (or the equivalent) will not get them far in the larger society.

Of course, this does not mean that the experience is meaningless. Most young people, in and out of institutions, begin their exposure to the world of work with fairly simple kinds of jobs, and learn a variety of useful skills. Incarcerated youth certainly need to learn values such as self-discipline, punctuality, and dependability which are instilled and reinforced through work, even low level work. In addition, participation in joint venture programs provides an environment that is a positive alternative to the typical institutional climate.

These benefits should be viewed in context, however. The rehabilitative value intrinsic to low skill work that is sheer drudgery may be debatable. Although the population of incarcerated youth certainly needs to learn the lessons imparted by real work, the effort to teach the value of work is not new to juvenile corrections. This is the fundamental rationale for many of the traditional make-work tasks that inmates currently perform for little or no pay. There is little reason to think that this approach has been very successful in the past as a tool for rehabilitation. In fact, dissatisfaction with the results of traditional work projects is one of the factors that led to the call for involving the private sector.

A fundamental assumption of corrections/industries ventures is that real work is a more effective teacher of work values than make-work projects. A question raised by organized labor, which needs to be addressed, is whether the introduction of minimum or prevailing wage makes the program's work opportunities real in the sense that they can be expected

to be therapeutic and form an effective intervention. Work that is primarily repetitive drudgery and has no future when it is performed for 25 cents an hour, may not become interesting and promising for \$3.35 an hour.

Studies by the United States Department of Labor (1982) show that people who become dependent upon minimum wage work tend to remain in a series of low paying jobs with few benefits and little chance of advancement. Commitment to these jobs is low, and employee turnover is high. This self-perpetuating cycle is often cited as one of the factors contributing to the growth of a permanent underclass in society (Johnson, 1981). Chronic offenders comprise a part of the population segment that is caught in the employment track characterized by short-term, low paying jobs.

A corrections/industries program is not intended, indeed could not be designed, to alter shortcomings in the economic system, but it ought to address the employment and life related difficulties faced by offenders. It is conceivable that other conditions might salvage a low-skill work structure as a meaningful component of a rehabilitative work structure. For example, in the case of Nelles School, the California Youth Authority changed the living arrangements of those working for *El Pollo Loco*. The 23 young men were transferred to the same living unit with some intriguing results. This racially integrated group grew into a cohesive social group that does not experience the same violence, clique-formation, and theft victimizations that characterize the rest of the institution. Other possibilities exist. One example might be guarantees of employment by the private employer for successful graduates, or entry level opportunities for work at the company where the work performed and training received at the institution count toward seniority, pay increases, and entry into company-wide opportunities. Another example might be the

active cooperation of private employers with placement programs for those who successfully complete the joint ventures experience. An example of the former is currently operating in Florida and Michigan, and the latter is a common component in some of California's programs.

3. Job displacement. This is an important concern for labor, legislators, and the public. It is likely that corrections/industries ventures will have some impact on the general labor market. The issue involves the nature of the market occupied by incarcerated workers and the ways in which the impact is managed. The concern over managing the impact on job availability would begin with a job market analysis. Nine states currently mandate that some type of labor market impact assessment be performed before starting a corrections/industry program.¹⁹ These studies are neither difficult nor expensive. Such analyses performed in connection with adult work programs show a minimal loss of jobs to the working public as a result of prison industries (Parsons, 1987).

Concerns about job displacement also apply to the public sector job market, many such groups are represented by unions. Groups representing workers within departments of correction and juvenile institutions have expressed concern about how these programs will effect the availability of security, teaching, counseling, and other jobs. For example, if incarcerated youth begin spending half their day at work rather than a full day in classrooms, it is logical to ask how the change will effect the need for teachers. This issue is separate from the ones involving changes in the nature of staff jobs and the loss or

¹⁹The states include Alaska, Connecticut, Kansas, Louisiana, Mississippi, New Mexico, Tennessee, Utah, and Washington (Auerbach, et al., 1988).

perceived loss of authority/responsibility.

4. Safeguards built into the work process. This issue does not refer to the physical conditions of the job, since safety regulations coming from federal and state regulations would apply to work sites inside juvenile institutions. The focus here concerns the effects of organizational and social pressures that emanate from the special context of joint venture projects. The nature of this issue is probably best explained through a brief example. Evidence from the programs operating in California indicates high morale among participating wards. It is possible to envision scenarios in which the work group's camaraderie and esprit de corps contribute to exploitative circumstances such as uncompensated overtime. A company, especially a small entrepreneurial one, might cajole workers into working extra time in order to complete an order on time for the good of the program, because if the contract is lost, the company will have to cease operations at the institution. There could be a real temptation for all parties (the company, the workers, and the institution) to go along with short term measures that might save a program. The problem, of course, is the slippery slope phenomenon: once such practices begin, they become easier to justify in the future and more difficult to stop.

5. Due process at the work place. This category includes procedures built into the work process to cover things such as work standards, safety issues, dismissals, and denial of work opportunities. The presence of due process are needed in three program areas: 1. OSHA provisions, Fair Labor Standards Act, and other applicable regulations provide their own due process provisions with respect to work standards and safety conditions; 2. clear

standards and criteria for hiring and dismissal; and, 3. grievance procedures for employees. Of course, some of these areas would be covered by company personnel rules and businesses participating in joint venture programs would understand that normal company procedures apply within the institution. In addition, due process requirements would apply to public authorities as well if they play some role in deciding who may work or be retained. This means that if agency officials participate in selecting employees --- for example, if initial diagnosis and classification of a newly admitted offender influence work opportunities --- then the standards should be specific and would fall under grievance procedures.

6. Continuous management oversight. This refers to management activities at the board-of-directors level, and is probably a structure that would be formed after the joint venture programs within a particular state system expanded to the extent that oversight by a Board of Directors made sense. One experimental project at a single site would probably not need a state-wide Board of Directors, since the operation would be quite limited in scope, and an Advisory Committee would serve the same function as a Board. However, a state-wide program operating in several sites seems to call for systematic oversight. A useful model which might apply here is the one used by UNICOR. This Board of Directors would be concerned with general issues of policy, and would not replace the daily management and policy responsibilities of an institution's staff and the work site manager.

The issue of representation on this Board is crucial. Major stakeholders in the design, implementation, operation, and outcome of joint ventures should be seen as potential participants in a Board of Directors. There are probably at least six major groups that might become involved at this level. They include: labor, government, industry, community,

inmates, and educators. If it is not feasible to have representative(s) of all these groups as members on the Board, there should be explicit mechanisms for seeking regular input from these groups.

Miscellaneous Environmental Elements

Introduction

In addition to the many issues discussed thus far, there are two others that deserve brief mention because they are part of the context that encompasses the implementation and operation of corrections/industries ventures. The first concerns contracts. Corrections/industries represent a radical concept for juvenile corrections, and many functions that used to be part of routine agency operations either will be performed by a private company or will be shared between the agency and the company. This requires a formal contractual relationship.

The second area concerns the budget. As alluded to earlier, joint venture operations necessitate new types of spending by the state and individual facility, and also may require new funds, or at least the re-direction of money. In addition, there are budget issues that concern the business that is involved in such a venture or is contemplating participation. Budget details will, of course, vary according to location, the type of joint venture model, the scope of the operation, and the nature of the enterprise. Nevertheless, certain general issues should be mentioned.

Contracts

Corrections/industries ventures depart from business as usual for juvenile corrections, and the necessary arrangements will require contracts with the private companies who

become involved with the programs. There are several types of contracts, depending on the specific joint venture model, that specify working arrangements. One such contract which any type of program needs is a standard agreement that formalizes the relationship between the government entity and the private company. Such a contract would cover general terms and conditions, work activity, company responsibilities, government and facility responsibilities, and areas of mutual responsibilities.

In addition to a standard agreement, specific program areas may need contractual arrangements. These can be part of the standard agreement or separate documents. The areas that may need contracts include: leasing agreements, cooperative capitalization, space needs that the state will build or purchase for the company, and joint ownership.

Budget

Any new business operation requires capital to finance its inception. Equipment and space are two of the major concerns in this area. Even an established business will likely need equipment, since existing equipment is committed to other facets of the operation that are outside of the institution. The need for space also is a major concern and may require the construction, purchase, or lease of work space. If an institution has space available, then money can be saved, but even existing space might need remodeling or renovation. If, on the other hand, space conditions at the facility do not permit the business to establish operations, then arrangements must be made to construct appropriate work facilities or purchase modular units to accommodate business operations. Agreements about which party (the public agency or the business) will bear the costs will, of course, need to be

negotiated and agreed to as part of the general agreement discussed in the previous section. However, whatever agreement is reached between the parties, starting and operating a corrections/industries venture will require resources from the public agencies and private companies involved.

There also will be hidden costs for all involved. Training for personnel, training for residents, changes in established work routines, and the learning curve associated with the participants learning a new job are a few examples of the kinds of things that influence the costs of commencing joint ventures in juvenile facilities. These types of costs are sometimes easy to overlook, but should not be ignored.

Agencies and businesses considering the implementation of corrections/industries ventures will undoubtedly be interested in operating budgets associated with the programs. Public agencies are likely to be interested in budget comparisons between pre- and post-program periods, and business will be concerned about the revenue-profit ratio. These should be program elements that are examined during site visits. Although comparisons among different businesses and locales would be difficult, indicators of what has happened in places with experience in this area will be helpful.

Summary and Outline of the Operational Literature and Program Elements

Given the diversity of literature that influences the design, implementation, and operation of corrections/industries ventures, a brief summation will help clarify the nature of program elements. The list of these elements will influence the selection of promising programs for site visits. (Refer to the attached document for the details of which programs are recommended for site visits.) In addition, the program elements will guide the development of a protocol instrument to be used for analysis during the site visits.

The identification of program elements originates from five substantive areas. The first is the interactional theory of delinquency (and related research). This theory combines concepts from social control and learning theories to explain delinquency. As the discussion illustrates, these ideas are equally applicable to recidivism. The second area involves education. The specific focus of educational issues concerns the content of vocational and academic preparation for incarcerated youth, and explores linkages between education and training on one hand, and the corrections/industries ventures. The third body of substantive literature that influences program structure is work focusing on organizational issues. The organizational context contains two parts: the community dimension and the complex organization. Legal issues and specific court rulings form the fourth area of concern for developing a new juvenile corrections program. The need for statutory authorization, applicable federal and state laws, compensation issues, and mandatory wage deductions are all will affect particular program elements. The fifth subject area is organized labor. Their involvement with other corrections-based industry programs and their concern over workers' welfare lead to specific program issues. A sixth area is a miscellaneous category that

contains two environmental elements that affect program structure: the use of contracts and budget issues.

This operational review develops each of the topic areas and places the program elements within their appropriate substantive contexts. The program elements listed below summarizes this information and draws a direct line to an outline for a prototype program.

I. Interactional perspective on delinquency

The structure and operation of work site is the crucial element here and can be analyzed through the following program elements:

- ☐ realistic work circumstances
- ☐ conventional values of work and productive use of time
- ☐ wage structure
- ☐ environment
- ☐ designations for earnings
- ☐ growth and learning opportunities (evaluation)
- ☐ peer associations
- ☐ training and education linkages
- ☐ placement and follow-up mechanisms (evaluation)

II. Education-related program elements

- ☐ competency-based vocational training
- ☐ specific job skills
- ☐ life-coping survival skills
- ☐ social skills
- ☐ general academic preparation
- ☐ communication links with corrections/industries program
- ☐ substantive links with corrections/industries venture
- ☐ diagnosis and evaluation of needs at intake
- ☐ evaluation measures

III. Organizational elements

- ☐ planning and design process
- ☐ involvement of organizational actors
- ☐ commitment of top administrators
- ☐ roles of community actors
- ☐ list of specific elements on pages 27-28
- ☐ implementation procedures and strategy

IV. Compliance with legal prescriptions

- federal
- state and local
- court cases

V. Labor

- rehabilitative focus
- non-exploitive circumstances
- job displacement
- due process in the work place
- oversight

VI. Miscellaneous environmental considerations

Contracts

- standard agreement
- leasing arrangements
- capitalization
- joint ownership

Budget (public and private)

- start-up capital
- operating budget
- revenue-profit ratio
- training costs
- potential sources of funding

Prototype Model Outline

All of the program elements point directly to a general outline for a prototype corrections/industries model. The prototype model, to be developed during the next phase of the project, will contain policies, procedures, and elements that guide the development of joint ventures from very early stages to placement and follow-up once residents are released. With the development of an overall theoretical framework complete, and specific program elements identified through an operational program literature review, it is possible to outline a basic structure for a future prototype model. This outline is the result of theoretical literature, educational literature, program literature, legal analysis, court cases, and environmental considerations. The next step is to test these ideas against the observations made during site visits. The experiences of operational programs will undoubtedly require revisions to the basic prototype outline. This outline is intended to provide a picture of the prototype's scope. Policies, procedures, and program elements reflecting these areas will be developed and combined in the prototype model.

1. Implementation.

The organizational literature that addresses implementation stresses the need for early, broad-based involvement of major actors and stakeholders in the change process. This applies at the community level and within the organization. Community Decision Organizations are seen as very influential in the shape and direction of policy initiatives that affect their community. The correctional facility that hosts the initiative should be prepared for accepting the change through organizational development and by making the different segments of the agency active participants in the change process.

2. Program structure.

Intake and diagnosis. Since corrections/industries ventures are envisioned as one part of an overall rehabilitation strategy, needs assessments completed at the intake stage of a youth's incarceration should assess the individual's eligibility. As discussed earlier,

intake procedures are the ideal time to begin assembling a treatment package that appropriately addresses offenders' needs. This is the time a treatment plan is formulated and considerations of joint ventures should be part of the plan. For example, the opportunity exists to create a track leading toward employment in corrections/industries for a resident who is likely to leave the institution and move into independent living. If the resident has some deficiency that is an obstacle to employment, the problem can be addressed before the person applies for work.

Application procedures. Notwithstanding comments in the previous section, application procedures should reflect the real world of work as much as possible. There are theoretical reasons (teaching offenders to cope with and bond to the real world) and practical reasons (employers need access to the best available workers) for this procedure. Employers would be encouraged to use the application and hiring procedures they have in place.

Performance evaluations. Evaluations of worker performance also should mirror the real world for the same set of theoretical and practical reasons. One objective is to inject some reality into offenders' experiences, and their success will be more meaningful if it occurs within the real world of work. On the practical side, the business must be concerned with productivity.

Wage and benefit structures. Beyond legal considerations and wage floor requirements, other criteria might apply. If circumstances permit, opportunities for wage increases and leave would add to the realism sought by corrections/industries ventures.

Wage deductions. Deductions from pay present the means to join accountability and responsibility (conventional values) with the work experience.

Management. The work site ought to be managed by the company. In addition, there need to be linkages between the business and agency operations at both administrative and staff levels. Ongoing communication and involvement should aid routine operations and help resolve conflicts that will certainly arise.

Placement and follow-up. The aftercare components are crucial elements to corrections/industries ventures in order to continue the lessons and benefits of the program into the community. This is the point at which the combination of education, training, and work experience gained during incarceration must be brought to bear for the offender released into the community. Just as a public-private partnership is essential to the creation of corrections/industries ventures, cooperation between these two sectors can greatly enrich placement and follow-up efforts.

Due process provisions. This is related to the work site's structure and refers to the legal and procedural requirements surrounding health and safety, hiring, dismissals, promotions, demotions, and the other factors that comprise the quality and nature of the work place.

3. *Educational/training support programs.*

Linkages with corrections/industries ventures. Correctional facilities provide a variety of educational and training programs that are vital to offender's successful re-entry into society. The introduction of corrections/industries ventures means that they must be linked with the work experience. The content of some training courses might need to change in order to coincide more closely with the nature of the work. Certain skills (e.g., social skills, reading level) might need attention before some offenders are eligible for employment, others (e.g., basic welding skills) might need to be sequenced with training provided by the employer, and others (e.g., continued academic preparation) could be provided at the same time offenders are working. It is likely that deficiencies (e.g., getting along with co-workers) might become evident during participation in joint ventures and could be addressed in the classroom.

4. *Budget considerations and analysis.*

The different budget and fiscal issues will need to be outlined as part of the planning and implementation phases, and monitored and analyzed once the venture is operating.

5. *Contract guidelines.*

The need for contracts in particular areas of operations will have to be detailed.

6. *Legal guidelines.*

Besides the applicable federal guidelines and court precedents, requirements of individual states must be part of the program design from its inception.