

ABSTRACT

Title: **PRISON INDUSTRIES IN SOUTH CAROLINA: 1996–2005
WHY AND HOW THE PIE MODEL PROSPERED**

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Directed By: **Charles F. Wellford, Department of Criminology and
Criminal Justice**

The purpose of this study is to determine why the enhanced prison industries (PIE) model has prospered for more than 10 years in South Carolina, when in other states it has struggled to survive—or even been abolished. A history of prison industries in the United States will provide context for a review of legal, economic, and political issues affecting the PIE program in South Carolina and elsewhere. The leadership style of the state’s director of prison industries (under whose tenure the PIE model has developed and flourished) will be described. Additionally, a cross-jurisdictional comparison of the PIE programs in five other states will be presented, to facilitate future research initiatives, and to provide policymakers and correctional administrators with preliminary guidance for development or improvement of PIE initiatives. In this regard, a conceptual model of enhanced prison industries will be developed and described. Finally, policy and program recommendations will be made, based on the study’s findings.

PRISON INDUSTRIES IN SOUTH CAROLINA: 1996–2005

WHY AND HOW THE PIE MODEL PROSPERED

By

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PREFACE

Originally, my dissertation was to be a search for the “ideal” American prison. It was my intention to research and describe key components essential to establishing and identifying a prison “ideal.” While I was not convinced that such a prison currently existed, I believed that a number of prisons might be identified where research-based programming revealed success measured in terms of reduced recidivism and perhaps even cost effectiveness.

Some elements I identified to make up an ideal prison were prison industries, drug treatment, vocational training and education. My dissertation committee, however, asked me to narrow my focus to one element, or component, of a successful prison.

At least two members of my committee knew that my focus for many years had been on identifying effective prison-based drug treatment programs for offenders with a history of substance abuse. Indeed, the choice of narrowing my focus to prison-based drug treatment seemed compelling, certainly the most expedient path toward completing my dissertation.

However, in my reviews of successful prison-based drug treatment programs, I had noticed that a common Achilles heel for inmates who graduated such programs was difficulty in finding gainful employment. Recent research (Knight et al., 1999; Martin, et al., 1999; Wexler, et al., 1999) revealed, however, that inmate drug treatment graduates who received assistance in finding post-prison employment were

more likely to remain both drug- and crime-free than inmates who did not receive such assistance.

For a long time, I had observed that inmate employment, like substance abuse treatment, appeared to be associated with reduced recidivism. It seemed unlikely to me, however, that an offender—even a gainfully employed offender with a high-paying job—could sustain a crime-free lifestyle in the post-prison world, if he or she had an untreated history of substance abuse. Just as treatment alone was not sufficient for treatment graduates who needed jobs, employment alone might not be sufficient for an inmate who needed treatment for substance abuse.

Substance abuse has been called a *primary* (as opposed to secondary) problem. In other words, until and unless the problem of substance abuse is successfully addressed, other rehabilitative measures are likely to be ineffective. In short, an ex-offender with a history of drug abuse is likely to relapse to drug use—no matter how splendid his or her education, training or job. Indeed, a higher salary might facilitate the purchase of more or “better” drugs. The research of the past few decades, however, while not complete, has made important inroads into the issues related to treatment of substance-abusing inmates. I did not feel that I had much to contribute in my dissertation, other than adding to the already considerable extant research findings in the area.

Prison industries, on the other hand, seemed ripe for examination. The research on prison industries was not as developed, and could hardly be described as “considerable.” Besides, from a personal perspective, it seemed to me that I had

more room to grow in pursuing what for me was “the unknown”—in short, I wanted to attempt to develop a modest expertise in another area.

For these reasons, I chose to narrow the focus of my dissertation to prison industries. I wanted to learn more about a crucial ingredient for post-prison success. Employment is fundamental to the post-prison lives of most offenders, just as a crime-free environment is fundamental to the lives of citizens. Could there be a link between the two?

The search for the answer has been long and tedious. Many times I felt discouraged by the enormity of the goal I had set for myself. How much easier (and faster!) it might have been, had I stayed with the issues associated with drug treatment— issues that I knew well. But my topic, enhanced prison industries (better known by its acronym PIE), did not disappoint. At the end of my journey, I remained as exhilarated by my subject as I had been when I began.

ACKNOWLEDGEMENTS

I am indebted to many people. As I seek to acknowledge them, my only apprehension is that I may overlook someone who helped me along the way. In fact, there was a small army of such people.

I cannot begin without thanking the individual members of my committee. My committee chair, Charles Wellford, warned me at the outset that my task would be difficult, yet he took on the thankless task of overseeing my study from beginning to end. Dr. Wellford has been a source of enormous encouragement to me from the moment I arrived at the University of Maryland. He always responded promptly to my calls, and I always appreciated it. Doris MacKenzie, knowing that I was familiar with substance abuse issues and unfamiliar with prison industries, tolerated my change in direction and gave not a hint that she might have misgivings. Eric Wish, my long time dear friend, supported me from the beginning. It was Eric who—in an earlier iteration of a (different) dissertation, observed that I did not seem interested in my topic. When I acknowledged that I had lost interest in the topic, he urged me to reconsider, and explore something that really interested me. I took his advice, and will forever be indebted.

Tom Kane, assistant director of the Federal Bureau of Prisons, a man that I admire very much, not only sat on my committee but introduced me to Steve Schwalb, then Federal Prison Industries Chief Operating Officer, who provided invaluable insight early on in my dissertation forays. Likewise, Bobby Vassar, U.S.

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Paula Allen, executive administrative assistant to the Dept. of Criminology and Criminal Justice, has helped me in countless ways, and always with a smile. Thank you, Paula, for everything! And thank you to Bill Falk, who generously read my lengthy study and arrived at my defense, armed with probing questions and insights.

I am indebted to Doug Lipton, mentor and friend who urged me for years to complete my Ph.D. His constant prodding helped to keep it in the forefront of my mind, when it occasionally lapsed into the background of my busy career. Greg Falkin, too, of NDRI, must be acknowledged as someone whose encouragement I never forgot. Harry Wexler, also of NDRI, counseled me during one particular rough patch, when I wondered if I would ever really finish.

I could not have started, much less completed, this study without the full cooperation and assistance of Tony Ellis, South Carolina's Director of Prison Industries. Tony was unstinting in providing me with myriads of records, documents, brochures, and even catalogs and DVDs. He was helpful, informative, forthcoming, and at all times, candid. He was generous in his assessment of his peers, and just as generous in helping me locate them. Tony introduced me to Rickie Harrison, administrative manager of prison industries, who escorted me to prison industries programs around the state, and was always available to answer questions. Rickie was a goldmine of information and assistance, mailing, faxing, or emailing me endless streams of data.

Thank you to numerous other interviewees, including former South Carolina SCDC Director Bill Leeke; Former SCDC Deputy Commissioner of Administration Dr. Hugh Clements; SCDC Plant Manager of Tyger River Correctional Institution Ray Quinn; SCDC Production Manager of the Tire Retread Plant at Lieber Correctional Institution Jack Staudt; SC State Senator Chauncey “Greg” Gregory; U.S. Textiles CEO Hans Lengers; several SCDC PIE inmate workers; Cleveland-Marshall College of Law Professor Emerita and labor lawyer Joan Baker; Federal Bureau of Prisons UNICOR Chief Administrative Officer and 2007 NCIA Board of Directors member Robert C. Grieser; Florida PIE Program Manager, Brian Connett; SCDC Legal Counsel Lake Summers (who has represented SCDC Prison Industries in several lawsuits).

In particular, I thank Gwyn-Smith Ingley and Gina Honeycutt, past and current NCIA executive directors. Gwyn made herself available for more than one interview, and could not have been more helpful. Gina was always gracious in seeing to it that I obtained needed data. Tom Petersik, distinguished economist and expert on prison industries, was yet another source of endless encouragement and assistance, offering advice and information when asked (frequently). Roger Baysden could not have been more helpful. Former Texas Representative Ray Allen’s insights were invaluable, and those of Dr. Hugh Clements were also invaluable. Bob Carter and Pat Weiland were both helpful and accommodating, answering my questions, and providing me with Texas and Tennessee prison industries background. Dr. Cindy Smith put up with my endless emails, inquiring as to when her research would be available—thank you, Cindy, it was worth the wait.

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CHAPTER ONE

Introduction and Statement of the Problem

For decades, criminal justice researchers have examined the issue of why some offenders succeed following release from prison, and others don't.

Research demonstrates that jobs are important. It follows that prison industries and training can facilitate the likelihood of post-prison employment for inmates.

The enhanced prison industries (PIE) program is a contemporary model shown to be associated with reducing recidivism and increasing post-release employment.

But not all PIE programs are thriving. Indeed, at least one such initiative has been terminated. The question of why one such program has prospered during the past decade, while others have struggled to survive is the topic of this study.

For those committed to reducing recidivism, the answer is crucial.

The purpose of this study is to determine why the enhanced prison industries (PIE) model has prospered for more than 10 years in South Carolina, when in other states it has struggled to survive—or even been abolished. A history of prison industries in the United States will provide context for a review of legal, economic, and political issues affecting the PIE program in South Carolina and elsewhere.

As a long-time student of “what works” in prison treatment programs, my objective is to discern “what works” in developing a robust prison industries program. In correctional literature, the issues of “what works” have been associated with reductions in recidivism. In drug treatment literature, “what works” has been associated with

reductions in recidivism and drug use. It seems logical, therefore, to explore the question of what works in prison industries, and whether the evidence demonstrates persuasively that prison industries are indeed associated with reductions in recidivism and increases in the post-release employment of prison industries participants. In fact, there is a growing and persuasive body of such evidence, although until recently (2006) there has been little focus on following up Prison Industries Enhancement Certification Project (PIECP) participants. Those who are interested in “what works” may want to know more—whether, for example, the PIE model compares favorably to traditional and “service” prison industries.

Although the primary purpose of this study is to discover how and why the PIE model prospered in South Carolina, collateral and relevant issues are numerous in any discussion of the problems associated with prison industries. What are the goals of imprisonment? What are the goals of prison industries? Are prison industries cost effective, and if so, how? A consideration of recent U.S. corrections will provide context for framing the issues of offender employment and recidivism, and a brief review of the characteristics of effective treatment for offenders will be provided. Also, the costs and benefits of prison industries programming will be briefly considered.

What Are the Goals of Imprisonment?

In order to consider the goals of prison industries, the observer may benefit by considering the goals of imprisonment. It is unlikely that prison industries can prosper in an environment with conflicting goals. As a component of corrections, industries must be considered, implemented and developed in that context; hence, a brief review of the goals of imprisonment may sharpen our focus on the goals of prison industries.

For decades, controversy and debate have been generated by a lack of consensus about the appropriate goals of imprisonment. Disagreement among scholars and those who manage prisoners—as well as those who devise criminal policy—continues to this day. Is the purpose of imprisonment meant to be punishment? Rehabilitation? Incapacitation? Deterrence? Or retribution? Researchers (Sherman et al., 1997) at the University of Maryland maintain that the appropriate goals of imprisonment should be crime prevention. In a report to Congress, these researchers rendered a rationale that outlined research findings related to leading philosophical and theoretical models of punishment, incapacitation, rehabilitation, deterrence, etc. As a long-time proponent of correctional treatment, I was impressed with their findings. Effective rehabilitation and treatment, it seemed to me, should lead to reductions in criminal behavior, and hence, to crime prevention.

In the mid-70s, two decades earlier, when the “Nothing works (in correctional treatment)” philosophy reached its peak, I observed that the report by Lipton, Martinson and Wilks (Lipton et al., 1975)—although calling attention to the shortcomings and effectiveness of many then-current correctional treatment programs—still found a few that appeared to be effective. Why not focus on those few that did work? What about improving and replicating them? The treatment research of the next 20 years did exactly that.

Few would disagree that reducing crime is one appropriate goal of corrections, and by implication, correctional treatment programs. If retribution renders increasingly hardened offenders, have we not lost sight of our objective? A novice psychologist will predict negative outcomes for most human subjects locked in a small space under harsh

conditions for prolonged periods of time. Social learning theory predicts that frequent or long-term association with criminal peers will result in an increase in criminal behavior. Similarly, frequent or long-term association with positive peers is likely to result in a decrease in criminal behavior. Is it not true that to an extent, prisons that offer rehabilitation programs (e.g., drug treatment, prison industries) to offenders are still somewhat responsive to incapacitation, deterrence, and retribution principles? After all, the simple taking of freedom is retributive and incapacitative as well. Deterrence principles, also, may be realized.

What Are the Goals of Prison Industries?

Given the historical and controversial backdrop of prison and its purpose, it may not seem surprising that controversy also has long surrounded the topic of inmate labor and/or prison industries. And—just as there are many different prison models—there are more than a few contrasting models of prison industries. For this study, I will focus on three contemporary models: traditional, service, and private sector prison industries.

Although many experts would say—and researchers have demonstrated—that there are profound links between unemployment, poverty and crime, the prison system in this country struggles to justify the merits of employing inmates and paying them minimum wage for their work. The reasons for this are numerous and complex, and are part of this study. Why—when once U.S. prison leaders sought to make prisons pay for themselves through prison programming—did this country's prison system move from self-supporting to taxpayer-supported? Although prison labor was originally seen as a means of rehabilitating criminals, that view for awhile was supplanted by a parallel view: inmates should pay for their own maintenance. The prison literature reveals that inmate

labor was fraught with controversy from the beginning. This study will review the history and the controversy surrounding prison labor and industries.

Recent U.S. Correctional Industries Background

The “get tough on crime” trend of the 1980s resulted in the incarceration of ever-escalating numbers of offenders (a European phenomenon as well). A concomitant escalation in prison building resulted in record-breaking expenditures to maintain these prisons and their residents. In many instances, taxes that once flowed to education and school-building were re-directed to fund prisons. Justice professionals argued the merits of supplying rehabilitation and even educational services to inmates. Critics maintained that prison treatment was too costly, often ineffective, and should be curtailed. Emphasis should be placed on security, not programming, they said. Those who sought to provide services or treatment to offenders were called “soft on crime.” Elections were won or lost, depending on political platforms that often highlighted crime and justice issues (e.g., the Bush/Dukakis presidential race of 1988). Among the programs criticized were correctional industries, especially those that paid inmates for work that was seen as taking jobs from law-abiding citizens. The entrepreneurial principles upon which this country rests were seen as not applying to offenders. Certainly, competition—hailed by many as part of the American “spirit”—was seen as threatening if correctional industries appeared to compete with local industry.

Offender Employment and Recidivism

Critics of the criminal justice system demand to know the causes of recidivism. Why, they ask, does an inmate who has been locked up for many years often revert to criminal behavior following release from prison? Why hasn't s/he “learned a lesson?”

Proponents of capital punishment sometimes justify their views with another question: why, for example, should taxes support convicted murderers and felons? The resentment towards offenders in this regard might seem ironic, since the prison system was designed by “experts,” not prisoners. Prisons are the product of political and economic influences, scholarly research and debate. Occasionally, though not always, researchers may arrive at a kind of consensus. However, for the most part, consensus is rarely achieved, as we shall see.

The links between prisoner post-release employment and recidivism have been studied (Maguire et al., 1988; Flanagan, et al., 1989; Saylor and Gaes, 1992, 1996; MacKenzie and Hickman, 1998; Smith et al., 2006) with mixed findings. Recent evidence, however, suggests that inmates who participate in prison industries are more likely to find jobs and to remain crime-free following release from prison. Saylor and Gaes (1992, 1996) reported that inmates who participated in prison industries had lower rates of recidivism. The differences were small but significant. Other studies have reported larger effects (Smith, et al., 2006). If these studies are correct, one might ask how these effects might be improved. Even more relevant, one might ask how effective prison industries are implemented in the first place, and why prison industries with proven track records aren’t replicated more frequently.

Central Assumption

My central assumption is that an ideal prison industries program will be cost-effective and reduce recidivism for its participants. All prison industries programs are not created equal; I will attempt to identify and describe prison industries programs in more than one category.

In framing this study, three things seem essential: first, the study should focus on current prison industries models, with historical background information to facilitate understanding of economic, legal and political issues that influence their development; second, the study should include at least one traditional prison industries, a service prison industries model, and a private sector/prison industries enhancement (PIE) project model; and third, the study should be comparative and exploratory. The advantages and disadvantages of each model will be compared, along with the political and economic milieu that spawned their development.

Study Issues

In 1979, when Congress passed enabling legislation for state departments of corrections to partner with the private sector in what became known as the Prison Industries Enhancement Certification Project, observers of prison industries in the U.S. might have anticipated a seismic shift in possibilities for correctional industry participants and their advocates. Similarly, some might have expected substantial interest in developing PIE programs in state prison systems, flowing from correctional directors and prison administrators. Optimists might have thought labor and business had signaled their willingness to cooperate in the development of PIE programs—or, at a minimum, to withhold objection to PIE development. How else had the legislation passed? The purpose of the legislation (USC 1761) was to enable state prison industries to partner with the private sector. Inmate employees would be paid wages in line with comparable industries in the area. But as 2005 drew to its close, only 4,354 inmate participants were working in PIE programs across the country (National Correctional Industries Association [NCIA] Directory, 2005). The total correctional population was 1,604,737,

of which 686,235 inmates were eligible for employment. This meant that less than 1% (or .6 percent) of inmates eligible to work were employed in a PIE program.

Why hasn't the PIE model prospered nationally? Why didn't prison industries stakeholders in the United States exhibit enthusiastic endorsement of PIE? Who could resist the concept of inmates being paid wages comparable to those paid in individual localities, when such wages were to be used to pay room and board during incarceration, to compensate victims, to pay taxes, to pay child support, and to save for release from prison? To some it appeared that the PIE model held enormous promise, including the ability to become the gold standard of prison industries.

The PIE program has the extraordinary potential to pay for itself—not only in terms of post-release reductions in recidivism and unemployment, and the concomitant costs of both—but in terms of pre-release cost reductions made possible by a program that virtually pays for itself.

Restating the Problem

The problem of contemporary prison industries can be framed as a question: Why, in consideration of the promise that the PIE model appears to hold—to reduce recidivism and increase post-release employment—has it struggled to survive in a correctional environment plagued by escalating costs and the search to reduce recidivism?

When the PIE certification program was established in 1979, the Congressional intent was to facilitate collaboration between corrections and the private sector, and to explore the possibility that private sector prison industries might facilitate development of a self-supporting segment of corrections.

Recent barriers to correctional funding may eventually prove to hold a key to loosening the resistance the PIE program has encountered through the years, much of which will be reviewed in this study. Budgetary shortfalls and unanticipated national crises (e.g., 9-11 and hurricane Katrina) have necessitated increased Congressional funding, and corrections expenditures have moved down the ladder of priorities in the view of both the public and policymakers. These kinds of challenges have led to a renewed search for other means of funding for existing correctional programs. The result has been a new interest in self-sustaining programs. Observers—and attendees at recent National Correctional Industries Association conferences—may note a gradually increasing interest in the PIE program among the states. However, well before the recent growth of national interest in PIE, South Carolina was in the vanguard of those states implementing the PIE program with more than modest success.

Exploratory Case Study

This is an exploratory case study of the implementation and development of prison industries in one state, South Carolina, with an emphasis on the PIE model of prison industries. John DiIulio has written:

Exploratory studies do not provide settled answers. They are a beginning where none has been made. Exploratory research is appropriate at the earliest stages of our knowledge, when we do not know what variables are important, how they relate one to the other, or how (if at all) they can be measured. The explorer has to get out into the field, talk to people, and observe things first-hand.

Where DiIulio's goal in his book Governing Prisons: A Comparative Study of Correctional Management, was to open up the study of prison management, the goal of

this study is to frame and open up the study of prison industries, particularly enhanced prison industries (the PIE model).

A case study is most likely to be responsive to questions of “how” or “why.” Whereas many case studies require the researcher to develop at least one proposition, the exploratory case study is often appropriately explained by its purpose (Yin, 1994). This study will seek to identify legal, political and economic factors that may have contributed to the successful implementation and development of South Carolina’s PIE program.

Why South Carolina?

I chose the state of South Carolina because of the vigor of its PIE program, as well as its other prison industries. Additionally, there was a general consensus among prison industries professionals that the state presented a broad array of industries and prison industry types.

To strengthen my rationale for selecting South Carolina prison industries as my “laboratory,” I have developed a graph that shows the progress (in terms of program size) of the ten largest PIE programs during the relevant decade. The graph will show that while some state’s PIE programs grew slowly and gradually, and others shrank or disappeared, South Carolina’s PIE program maintained a steady growth. Separate graphs will also demonstrate that South Carolina’s PIE program has ranked first among the southern states in terms of growth and size. The graphs and charts will be a springboard for identifying some of the catalysts and impediments to implementation of the PIE model. They will also provide a guide for discussion—not only of what the problems associated with enhanced prison industries have been and continue to be—but for how South Carolina has dealt with similar problems. After identifying key factors affecting

the implementation and development of prison industries in the state, I will explore the leadership style, skills and philosophy of the state's prison industries director, under whose tenure the program has developed and flourished.

I have gathered reports, documents, and data from the South Carolina Department of Corrections (SCDC) and from its Division of Prison Industries; in addition, I have obtained relevant data from five other states. My study includes interviews with state and national prison industries stakeholders, site visits, and personal observation (List of Interviewees in Appendix A).

This study will seek to show how and why the state of South Carolina became home to the largest PIE program in the country during the decade 1996 – 2005. Specifically, I will explore the prosperity of the PIE model in the state, its early history, its implementation and development, and (comparatively speaking) rapid growth. I will also describe the state's traditional and service prison industries. Additionally, a cross-jurisdictional comparison of PIE programs in five other states will be presented to facilitate future research initiatives, and to provide policy makers and correctional administrators with preliminary guidance for development or improvement of PIE initiatives. A conceptual model of enhanced prison industries will be developed and described.

One research question for this study will be: How did South Carolina's prison industries become a leader in development of enhanced prison industries in the U.S.? How were challenges met and overcome?

A review of relevant South Carolina statutes will be conducted, as well as interviews with key administrators and knowledgeable others. The economic context in

which the state's PIE development occurred will be described, along with the state's political environmental fluctuations over a period of 27 years. When other factors or influences are noted, these may be explored as well.

Other Study Issues

At the beginning of the new millennium, virtually all U.S. state correctional systems had established traditional prison industries models. As a result of the multitude of problems, criticisms and challenges associated with such programs, other models have evolved. In particular, service prison industries and enhanced prison industries appear to be the "wave of the future." The common ground shared by the two models is their ability to overcome legal obstacles to profit-making, and to circumvent or replace laws that were designed to obstruct prison industries' competition with the private sector. The two models are different, however, in two important ways. In the first instance, Congress intended to facilitate collaboration between correctional industries and the private sector with the passage of USC 1761, which enabled the PIE initiative. On the other hand, so-called "service industries" appear to have evolved from the ground up, more profitable than traditional industries for both inmates and the state, though less profitable than PIE.

This study will seek to identify distinguishing characteristics of prison industries models, and I will report research findings. Few prison programs can be easily matched or compared. Recidivism measures, for example, cannot be readily interpreted and compared when regional program and individual inmate characteristics can't be matched. Even two apparently identical programs—in terms of size, services, security levels, etc. can be very different in terms of regional differences, or legal criteria that lead to incarceration. The definition of felon—or the length of prison sentences for specific

crimes—can vary substantially between states. Such differences ultimately contribute to the difficulty in comparing prison programs that may appear, on the surface, to be almost identical.

For this study, I attempted to locate virtually all relevant correctional industries literature and research. The work of one of my dissertation committee members, Doris MacKenzie, was particularly helpful. Dr. MacKenzie was a major researcher/contributor to two important reports: *Preventing Crime: What Works, What Doesn't, What's Promising* (1997) and *An Examination of the Effectiveness of the Type of Rehabilitation Programs Offered by Washington State Department of Corrections* (1998). Both reports are relevant to this study. Additionally, I found the work of at least one other scholar to be helpful: Elaine Cummins' *Private Prisons in Texas: 1987-2000: The Legal, Economic, and Political Influences on Policy Implementation* (2000).

Cross-Jurisdictional Comparisons

My cross-jurisdictional comparison of PIE programs will review the states of Florida, Iowa, Tennessee, Texas, Washington, and South Carolina. While primary focus will be on South Carolina, the other states will provide contrasts and similarities, as well as an array of factors that plausibly function as antecedents to the success of a PIE program. This will include:

- Individual state economies at the beginning of the relevant decade (1996-2005)
- Individual state total tax burdens for the initial year of the study period
- Jurisdictional (state) prison expenditures per inmate for the initial year of the study period

- Liberal vs. Conservative (Democratic vs. Republican) leanings of individual states
- PIE program organizational structures (Intra-DOC PIE or Extra-DOC PIE)
- PIE model types (Customer, Manpower, or Employer models)
- Political Factors (Executive branch, Legislative and union support)
- Program Outputs and Outcomes, including costs covered by inmate wages (room and board, taxes, restitution to victim(s), and family or child support; inmate post-release performance (employment and recidivism); and PIE sales/revenues.

Ultimately, the writer will attempt to develop a conceptual model of PIE, linking specific antecedents and consequences in hypothesized relationships. The model will be provided, not as a fixed blueprint, but as a kind of preliminary loose framework for those interested in pursuing the PIE model further.

Parallel Objectives

I have two parallel objectives: one is to identify key differences and similarities in the PIE program in South Carolina compared to other states, and thus frame the issues. The second is to frame and encourage the study of prison industries policy. I have participated in criminal justice programs at three top-tier graduate schools: University of Maryland, SUNY-Albany, and Harvard's Kennedy School. Strikingly, I encountered little emphasis on prison industries. Ironically, too, although I had been working in the field of criminal justice for more than 25 years, I had not even heard of the PIE program until 2003. This study should rectify the latter, and hopefully, the former.

CHAPTER TWO

REVIEW OF THE LITERATURE

This chapter, divided into two parts, is meant to present not only a review of prison industries literature and research, but to introduce the seminal passage of the congressional legislation which established the Prison Industries Enhancement (PIE) Certification Program. Part I will focus on the prison industries literature in general, while Part II will focus on PIE literature in particular. Both sections will review relevant research and findings.

Part I. History of Prison Industries in the United States

U.S. Prison Industries: The Past

Early History

The notion that inmates should work is a natural outgrowth of a society that values the work ethic. If those of us who are law-abiding citizens must work, surely the criminal should work. This philosophy has contributed to the development of prison industries in this country (and others). But as Miller and Greiser (1986) have pointed out, concepts of inmate labor and prison industries are not synonymous. Both have a rich history, however, in U.S. corrections.

Cesare Beccaria, viewed by many as one of the fathers of criminal justice as we know it today, became prominent throughout Europe in the mid-1700s. His view of imprisonment was that it could and should deter criminal behavior by making the “pain”

of punishment out-weigh the “pleasure” of criminal behavior. Reformation, he believed, would occur if prisoners were required to work. His 1764 essay “On Crimes and Punishments” called for penal slavery for robbers, and “perpetual” slavery in lieu of capital punishment. His ideas had an immediate and enduring impact on European (particularly English) and U.S. criminal justice policies and practices.

The establishment in 1775 of a prison in Ghent, Belgium marked one of the earliest recorded linkages between imprisonment and labor. The prison instituted a labor program that emphasized work as a means of rehabilitating criminals. A major consideration, even then, was that inmate labor should not be competitive with free labor (Miller and Grieser, 1986).

The earliest concepts of putting inmates to work were rooted in the idea that prisoners should pay for their maintenance. The costs of confinement were viewed as burdensome, something that could and should be obviated by the work of prison residents.

In the early days of U.S. criminal imprisonment, jails were seen as places wherein inmates could work for their keep, while prisons focused more often on inmate rehabilitation (Miller and Grieser, 1986). In 1786, the “public work system” of inmate labor was used by the city of Philadelphia. Inmates in iron shackles worked in road gangs, repairing city streets.

The establishment of the Walnut Street Jail in Philadelphia in 1790 was part of a movement toward a new kind of prisoner labor (Miller and Grieser, 1986; Christianson, 1998). Modeled after a jail located in Norfolk, England, the objective of the Walnut Street Jail was to reform inmates by means of “contemplation,” solitary confinement, and

hard work. The creator of the English model, Thomas Beever, had boasted that prisoners there earned more than twice the costs of their own custody. The Pennsylvania model required that inmates “study the Bible, meditate about their misdeeds, and do penance for their crimes” (Schwalb, 1996). Additionally, they worked in their cells at solitary pursuits like shoemaking, tailoring, and weaving.

In the late 1790s, a prison was built on the Hudson River in New York City. The intent of the state legislature was for the prison to pay for itself through inmate labor. Thomas Eddy, a Quaker from Pennsylvania, came to be known as the “Father” of the New York Prison (Christianson, 1998). Eddy was influenced by the Pennsylvania prison model that combined convict “penance” and work; however, he instigated congregate housing in favor of solitary cells (though he later regretted it).

Eddy placed a high premium on inmate cleanliness. In his book *With Liberty for Some: 500 Years of Imprisonment in America* (1998), Scott Christianson described the procedures at the prison:

Accordingly, as soon as a new inmate was admitted, he or she was bathed, provisioned, interrogated, and told the rules. Prison regulations strictly prohibited uncleanness, swearing, indecent language or vulgar stories, and quarrelling, and called for any infraction to receive immediate punishment by confinement in a solitary cell on bread and water. . . . On the second day, the convict was assigned to the prison workshop (pp. 97-8).

Prisoners at the facility worked both separately and together, depending on their jobs, but were not allowed to talk to each other. When possible, inmates who had

shoemaking, weaving or other skills, were allowed to practice those skills. With a focus on developing prison industries, Eddy promoted the idea of allowing shoemakers to train other inmates in the trade, weavers to train weavers, and so forth. Inmates paid for their own clothing, maintenance (15 cents per day), and even educational classes. An inmate who completed imprisonment with an exemplary record might expect to receive a percentage of his overall earnings when leaving prison.

Eventually, Eddy's critics expressed the belief that congregate housing for prisoners had been a mistake, contributed to the spread of contagious diseases, and increased the likelihood of riots. Eddy himself later said that he wished he had used John Howard's "separate cells" for inmate, instead of congregate housing (Christianson, 1998).

Other prisons, opened in Massachusetts and New York in the last decades of the 18th century, also emphasized inmate labor—again, however, primarily as a tool for economic maintenance. The Newgate Prison in New York City was particularly successful. After paying nearly all of its operating expenses for several years, it reported a small surplus in 1803 (Reynolds, 1996).¹

The New York general assembly passed legislation stipulating that prison authorities use prisoner labor to fund all prison expenses to the extent possible. The success of the Newgate Prison had demonstrated that full economic maintenance by inmate labor was possible.

In 1823, a prison "fortress" opened in Auburn, New York. The Auburn model featured military discipline, inmate "penitence" and individual cells for sleep, allowing

¹ The early 1800s also saw the introduction of the concept of convict labor as a means of making restitution to victims of crime (Florida Senate Committee on Corrections, Probation, and Parole, 1991).

inmates to work in communal areas during the day. The model forbade inmates to talk—or even to exchange glances—while working, the better to enforce “penitence.” Such constraints were believed necessary in order to avoid inmate-to-inmate “negative” influences (Mauer, 1999). The prison was set up like an industrial center. According to Christianson, “(a) whole routine was developed to impose the regularity, discipline, and frugality of factory work. Although it was already commonplace in some British mills to lock the factory gates and impose absolute discipline over everybody inside, the fortress factory of Auburn prison would take such features to radical new extremes. ‘Industry, obedience, silence’ were the guiding principles of the system.”

Thomas Eddy’s “cleanliness” rites of passage were carried to new heights:

Each arriving convict was admitted according to a carefully developed ritual. First his irons were taken off and he was stripped naked by other convicts (usually Negro men) under the watchful eyes of a keeper. Then he was subjected to a thorough cleansing process known as the ‘ceremony of ablution.’ Dunked into a high wooden tub of hot soapy water, he was scrubbed and scoured of the filth and vermin he had brought from the county jail. His face was shaved and his hair was cropped. After being clad in a coarse, clean prison uniform, he was brought to the clerk’s office, where a detailed description of him was taken and entered in the prison register. Each admission was assigned a number, his new identity. . . .Then (he) was brought to the agent’s ornate office for a face-to-face meeting with his new master. . . . the agent made sharp remarks that were calculated to impress upon the new arrival his guilt and degraded status, the

justness of his punishment, and the importance of his using his seclusion as a means of improving himself and showing deep repentance. . .

An assistant keeper then assigned the convict to a trade and a cell
(Christianson, 1998, pp. 114-15).

Auburn authorities went to elaborate means to monitor prison factory laborers. A series of secret passages were built behind factory walls, with small openings arranged here and there to facilitate covert observation of inmates at their tasks (Christianson, 1998). Violators of factory rules were subjected to severe penalties, sometimes without knowing how they were caught.

Visitors to the Auburn facility came from near and far, reporting their amazement at what they saw. Some expressed admiration at the degree of silence of inmates, whether on the job or at mealtime. One Boston clergyman described “(t)he unremitted industry, the entire subordination and subdued feelings of the convicts.” His associates concurred, adding their belief that the model was “worthy of the world’s emulation” (Boston Prison Discipline Society, 5th Report, 1830; Christianson, 1998).

Tocqueville and Beaumont (1831) wrote that once inmates were returned to their cells, the silence was “that of death” and “a desert solitude (Morris and Rothman, 1995, 1998).” Nothing could be heard during the day, they reported, “but the steps of those who march or sounds proceeding from the workshops.” The march they referred to was the result of a strict military regimen that was imposed, requiring inmates to march, lockstep, in single file, each inmate with his head turned slightly to the right, his eyes fixed over the shoulder of the inmate in front of him (Morris and Rothman, 1995, 1998).

The daily routine also followed a military model. At the sound of a horn or bell, the guards opened the cells, and the prisoners stepped onto the deck and then in lockstep went into the yard. In formation they emptied their night pails, which they then washed; they took a few more steps and placed the pails on a rack to dry. They then moved in lockstep to the shops and worked at their tasks while sitting in rows on long benches. . . . [T]hey ate their meals . . . by regulation, sitting erect with their backs straight. At the bell they stood, reentered formation, and in lockstep returned to their shops or cells. (Morris and Rothman, p. 110, 1995/1998)

Prison factories facilitated other kinds of inmate labor, including production of goods that were not possible in solitary confinement. Such goods included carpets, engines, harnesses, furniture and clothing. Products were sold on the open market, again with the goal of supporting prison operations. The Auburn model was soon implemented in another New York prison, Sing Sing (Rothman, 1995, 1998; Christianson, 1998). Both prisons were widely recognized as being economic successes. Inmates working together were more productive, and the economic benefits of prisoner labor were welcomed by New York authorities. Prison industries were the order of the day.

Sing Sing, the largest prison in the United States at the time, was well known for its strict regimen. Inmates were forced to be stonecutters, owing to the facility's location at a site where marble was plentiful.

(C)onvicts lugging heavy sledgehammers pounded . . . the rocks, leaving large marble chunks to be transported from the quarries to the prison yards. To

accomplish this, four to six convicts were yoked to a cart, and a heavy block of stone was fastened to it; they were forced to haul the load away by brute strength . . . (Christianson, p. 122, 1998).

A different version of the Auburn model was instigated at Pennsylvania’s Eastern Penitentiary, where newly arrived inmates were hooded on arrival, led down a winding corridor to the cells where they would reside until release (Christianson, 1998). Inmates were thus psychologically reduced to virtual nonhuman status, given numbers, and forbidden contact with the outside world, or even other inmates. At Eastern, work was seen not as a punishment, but as a reward. Inmates worked in solitary confinement, if they were lucky. Otherwise, as Christianson puts it, they did not get to work at all.

By 1850, the Annual Prison Report for New York revealed that the Sing Sing Prison (for men) reported a “surplus per prisoner” of \$51.11 for the most recent 12-month period. Massachusetts Prison reported \$46.71. Sales per Prisoner for each prison were reported to be \$100.69 for Sing Sing’s male facility, \$107.38 for the Massachusetts Prison, and \$106.93 for the Auburn, N. Y. Prison. That same year, prisons in Ohio, Connecticut and New Jersey also reported substantial surpluses per prisoner (Figure 1, “Selected Annual Prison Industry Earnings, 1848-1849”, Reynolds, 1996).

Selected Annual Prison Industry Earnings, 1848-1849				
Prison	Sales per Prisoner	Costs of Ordinary Support per Prisoner*	Calculated Surplus or (Loss) per Prisoner*	Reported Surplus or (Loss) per Prisoner*
Auburn, NY	\$106.93	- \$51.75	= \$55.18	\$45.30
Connecticut Prison	\$90.00	- \$63.00	= \$27.00	\$39.00
Maine Prison	\$83.00	- \$70.82	= \$12.18	\$12.18

Massachusetts Prison	\$107.38	-	\$51.00	=	\$56.38	\$46.71
New Hampshire Prison	\$30.91	-	\$65.16	=	(\$34.25)	(\$11.34)
New Jersey Prison	\$92.19	-	\$63.00	=	\$29.19	\$28.78
New Penitentiary, Philadelphia, PA	\$43.00	-	\$43.00	=	\$0	(\$17.00)
Ohio State Prison	\$93.54	-	\$43.00	=	\$50.54	\$30.90
Rhode Island Prison	\$49.00	-	NA	=	NA	NA
Sing Sing, NY, Male Prison	\$100.69	-	\$48.49	=	\$52.20	\$51.11
Sing Sing, NY, Female Prison	\$29.65	-	\$91.38	=	(\$61.73)	(\$62.75)
Vermont Prison	\$70.72	-	\$60.87	=	\$9.85	\$8.30
*Excludes salaries of Prison officials. The discrepancy between the calculated and reported surplus or loss may be due to sales or costs not reported in the original table.						
Source: <i>Annual Prison Report for New York, 1850</i> , reprinted in American Correctional Association, <i>The American Prison: From the Beginning...A Pictorial History</i> , p. 55.						

Proponents of the Auburn model of prison industries were convinced that the marriage between prisoner “reform” and labor had produced compelling results. Other states were quick to follow suit. By the early 1860s, at least 24 states had established prisons based on Auburn concepts (Miller and Grieser, 1986).

The emergence of prison industries, however, was not without problems. While many legislators and prison officials extolled the economic benefits of inmate labor, others deplored the loss of the rehabilitation ideal. Forcing inmates to pay for their own upkeep, while appealing to economic concerns, was viewed by some as unfair and producing diminishing returns. Proponents of rehabilitation believed its role should be central, not incidental (Miller and Grieser, 1986). If work was primary, then rehabilitation appeared to be relegated to secondary status. Economic concerns were unavoidable, in the view of some, but had prison administrators and legislators lost sight of the importance of rehabilitation?

Additionally, as already mentioned, the concept of prisoner labor and productivity was seen by many as threatening to free industry.

Prison Contracting and Manufacturing

The open market sales of prisoner products brought about several systems for inmate employment. In the mid-1820s, the “contract” system was instigated (Parker, 1976; Christianson, 1998). This system, in place from 1825 to 1840 (Parker, 1976), enabled manufacturers to contract with prisons for inmate labor, while supplying needed materials and equipment. Security was overseen by the contractor, while the state was reimbursed for inmate services on a per capita basis. The contract system evolved in two distinctive directions: the “piece-price” system, where payment was based on the quantity (and quality) of finished products, and supervision of inmates overseen by the state. The “public-account” system was created, where the state was itself the contractor of services. In the latter, the state was ultimately responsible for both the manufacture and sale on the open market of inmate products. The state was also responsible for acquiring materials needed for production (Parker, 1976). A system based on leasing of inmate labor was also established (described below). The common denominator to all these models was that goods and services were sold on the open market.

One of the best known contract arrangements in place in the early 1830s was in place at New York’s Sing Sing prison:

. . . (T)he state owned only the bare walls of the prison workshop, with the prison contractors functioning as ‘the owners of the slaves and stock’ and ‘owners of the prisoners.’ The contractors purchased from the state the labor of a certain number of prisoners per month, pledging their property in the shops as security in the event that they defaulted on their monthly payments. Besides

operating a marble shop, contractors employed convicts at shoemaking, hatmaking, and carpentry, and they maintained a blacksmith shop, a brass foundry or saddler's stirrup shop, and other industries, depending upon what businessmen contracted with the state. (Christianson, p. 126, 1998)

Within a few years, the state's stonecutters objected to the use of inmate labor in building a local university. Throughout the northeast, labor leaders were beginning to protest the use of inmate workers in trades that they claimed took jobs from law-abiding citizenry (Parker, 1976; Christianson, 1998).

Another way of viewing these models of prison labor was to identify the recipient of profits. It was the private sector that profited from the contract, piece-price, and leasing system, while in the public account models the state reaped the profits (Table 1, "Industry Systems", reprinted from Miller and Grieser, 1986). The public account system eventually split into two types: state use, first adopted in Nevada in 1887, and public works (Miller and Grieser, 1986).

Industry Systems						
	Private benefit			No private benefit		
	Contract	Piece-price	Lease	Public Account	State-use	Public Works
Inmates' location	Inside prison	Inside prison	Outside prison	Inside prison	Inside prison	Outside prison
Supervision by:	Private sector	Public sector	Private sector	Public sector	Public sector	Public sector
Payment to:	State	Inmate	State	Inmate	Inmate	Inmate
Profit to:	Private sector	Private sector	Private sector	State	State	State
Products sold by:	Private sector	Private sector	Private sector	State	State	State
Products	Open	Open	Open	Open	Government	Government

sold to:	market	market	market	market	only	only
Source: <i>A Study of Prison Industry: History, Components, and Goals</i> (1986), Chapter 1, page 5. N. Miller and R. Grieser, U.S. Department of Justice, National Institute of Corrections, Washington, DC.						

By the end of the 1800s, the contract system was in use in 28 states; the lease system in 25; the piece-price system in six. The public-account system was in place in 47 states and territories, and the state-use system in 24 (Miller and Grieser, 1986).

Inmate Leasing

An inmate leasing system was first used by the state of Kentucky in 1825, although it did not become widespread until after the Reconstruction era (Reynolds, 1996). The “lease system” enabled inmates to be released to private individuals who paid the state a specified amount for the inmates. Lessors provided food and shelter to the inmates, and maintained their security.

In Tennessee, a 200-cell prison was established in 1831 where inmates worked at labor ranging from rock quarrying to blacksmithing (Reynolds, 1996). The state’s capitol was constructed of stone cut and quarried by inmates. Although the state legislature was pleased with the profitability of the new prison and its labor practices, local tradesmen complained that leased inmate labor and products infringed on their livelihoods, and also degraded their trade.

Post-Civil War Inmate Labor

Abuses of inmate labor were perhaps inevitable in a post-Civil War environment in the United States. In his book, *Accomplices to the Crime: The Arkansas Prison*

Scandal (1969), former prison superintendent Tom Murton described what his research revealed:

This whole system of exploitation began in the days after the Civil War, when the farmers and plantation owners who were forced to free their slaves looked for a new source of cheap labor and found it in the prisons. The same thing happened intermittently in other states, but it became a way of life in Arkansas.

State records show that on May 5, 1875, “the entire penitentiary, its buildings, equipment and the labor of all convicts confined then or after,” were leased to a Mr. Jno. Peck for ten years. State supervision of such an arrangement was minimal, and anyone who submitted critical reports would be dismissed by the Penitentiary Commission. . . .

In 1892, the penitentiary lease earned the state a profit of \$32,128.42. The next year, the highest bid for a ten-year lease was \$31,500 a year. As a result, the state decided to eliminate the middle man and lease individual prisoners and groups of prisoners. In a one-year period from 1898 to 1899, over two hundred inmates died in mines, quarries, and turpentine camps.

A public scandal ensued . . . (Murton, pp. 101-2, 1969)

Murton, whose efforts at reform rocked the Arkansas corrections system in the 1960s, claimed that much of what he found in place more than six decades later was effectively equivalent to inmate slavery. He described parole in the state as “tantamount to indentured servitude and an extension of penal slavery.”

In Mississippi, prison administrators initially paid private contractors for taking over the custody of inmates. Eventually, Mississippi saw the potential for profit, whereupon contractors were required to pay for the use of prisoner labor (Mauer, 1999).

In his book *Worse Than Slavery* (1996), Oshinsky described the economic benefits to employers:

Under the sublease, an employer was not stuck with a set number of prisoners over a long period of time. He did not have to feed, clothe, and guard them when there was little work to be done. He could now lease convicts according to his specific, or seasonal, needs. (p. 32)

Prisoner laborers suffered extreme abuse, however, as revealed by the state's inmate mortality rates in the 1880s, which ranged from 9 to 16 percent. Blacks in particular suffered; in 1882 Oshinsky reports that 126 black inmates (out of 735) died, while two of only 83 Whites died.

Other southern states followed suit. After the Civil War, Texas also made liberal use of leasing prisoners to private individuals and businesses (Reynolds, 1996). Although the state attempted to maintain profitable prison industries inside the institution, they were rarely successful. In contrast, the leasing of prisoners to individuals and commercial concerns was typically profitable, effectively allowing the prison system to pay for itself. Black inmates were used in sugarcane fields at rock-bottom prices. Black inmates in top physical condition "cost" \$31 per month, while comparable white inmates cost \$29 (Reynolds, 1996). In the four decades stretching from the 1870s to 1912, the state of Texas recorded net revenues of \$3.4 million.

Many black inmates found themselves building railroads in Southern states, including (but not limited to) North Carolina, Alabama, Tennessee, Georgia, Virginia and Texas. Nathan Bedford Forrest, the first head of the Ku Klux Klan and a prominent Mississippi Confederate war hero, leased inmates to build his Selma, Marion and Memphis Railroad (Christianson, 1998).

By 1866, the governor of Virginia boasted that the state's prison system was paying for itself by means of convict labor, and that the work of black convicts working on excavation projects (e.g., railroads) was beneficial not only to the state and the contractors, but to prisoners as well, who enjoyed "the benefit of open air" (Keve, 1986; Christianson, 1998).

By the end of Reconstruction, convict-leasing was prevalent throughout the South: North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee, and Kentucky (McKelvey, 1936). In one Virginia case, *Ruffin v. Commonwealth* (1871), the appeals court ruled that "during his term of service in the penitentiary, [the prisoner] is in a state of penal servitude to the State. . . . He is for the time being the slave of the State. He is *civiliter mortuus*; and his estate, if he has any, is administered like that of a dead man." (Christianson, 1998)

Growth of Resistance to Prison Industries and Convict Labor

Resistance to prison labor took two forms: resistance by organized labor and private tradesmen, and moral indignation at penal slavery (Friedman, 1993; Christianson, 1998).

Resistance to inmate labor by private tradesmen and even unskilled workers evolved early, and the states responded. In New York, the 1842 Legislature prohibited the training of inmates in “any other mechanical trade” than those practiced (by prisoners) prior to imprisonment (Lewis, 1965; Reynolds, 1996). Within a short time, both the Auburn and Sing Sing facilities recorded budgetary shortfalls; no longer were they able to be self-sustaining.

The last few decades of the 19th century saw the triumph of resistance to prison industries in the northeast. In 1883, legislation was enacted in Pennsylvania that paved the way for the eventual termination of prison industries in the state altogether (Reynolds, 1996). Similarly, New York legislators enacted the “Yates Law” a few years later, proscribing use of “motive-power machinery” by inmates (Reynolds, 1996). Constraints on inmate labor in the state ultimately resulted in the termination of sales of prison goods to all public entities except state agencies. Other states (Illinois, New Jersey and Ohio) also abolished prison labor contracts (Reynolds, 1996), limiting inmate labor to handicrafts and intrastate sales only.

In one southern state, Tennessee, outraged union miners, objecting to the use of inmates for mining, broke into local prisons, overwhelmed prison guards, and released miner-inmates (Wilson, 1933; Reynolds, 1996). Ultimately, mining officials gave in to the demands of the union’s miners, and stopped using inmate labor.

The opposition of unions to convict labor—evident in the 1800s—remained a constant obstacle to the development of prison industries for more than a century. The impact of the opposition of organized labor did not abate in Tennessee. Even in the late 1990s, inmates were still barred from working for the private sector, and limited to

producing goods and services for government agencies only (Reynolds, 1996).² An influential essay by George Washington Cable of Louisiana in 1883 called for an end to the convict-leasing. The high rate of mysterious deaths in Southern prisons was viewed with suspicion by many, along with unusually high “escape” rates. At least three Southern states, Alabama, Louisiana and Mississippi, were suspected of deliberately failing to maintain statistical prison records in order to hide widespread prisoner maltreatment and exploitation (Cable, 1885; Christianson, 1996).

Correctional Industries in the 20th Century

As the 1800s came to an end, so did support for prison industries. The view of inmate labor as a threat to free industry was almost universal, and advocates of free trade joined forces to urge the passage of legislation to halt prisoner production of goods to be sold on the open market.

In Florida, the governor reported to the state’s legislature in 1909 that state prisoners were leased to the Florida Pine Company at a rate of \$281.60 “apiece”. However, he assured them “the employment of convicts in our turpentine farms, and in phosphate mines, does not conflict with free labor” ([Florida] Senate Journal, 1909; [Florida] Senate Committee on Corrections, Probation and Parole, 1991). By the governor’s accounting, 1,681 of leased convicts in 1908 were Black, and 75 White. Conditions under which the inmates labored were so severe that many died. However, in the governor’s view the death rate of 12.25 per 1,000 “was a remarkably low death rate” when one considered the fact that “many of the convicts were diseased before entering

² In 1996, an exception was made for 50 Tennessee prisoners who were allowed to work for Goodwill Industries, a nonprofit agency.

the camps” ([Florida] Senate Journal, 1909; [Florida] Senate Committee on Corrections, Probation and Parole, 1991).

Nevertheless, the turn of the century brought with it a gradual end to the flourishing of inmate labor for profit. Proponents of rehabilitation were beginning to raise their voices, adding to the pressures to end support for prison labor. At the arrival of the twentieth century, the vast majority of prison inmates (more than 80 percent) were involved in prison industries. But resistance and controversy—and the publicized abuses of prison laborers in some quarters (particularly the South)—combined to usher in a new emphasis on rehabilitation and reform (Miller and Grieser, 1986; Reynolds, 1996).

In 1912, a representative of the National Committee on Prison Labor referred to the use of convict labor as “the last surviving vestige of the slave system” (Whitin, 1912). Gradually, publicized abuses resulted in an end to the lease systems of states like Georgia and Florida. Mississippi’s lease system had been terminated in 1890, but it was 1923 before Florida abolished convict-leasing, and 1928 before Alabama followed suit (Christianson, 1998).

Establishment of Federal Prison System

The development of the federal prison system was the direct result of Congressional objections to the leasing of inmates. Historically, the federal government had paid the states to maintain custody of federal prisoners (Roberts, 1996). However, the evolution of inmate labor into inmate leasing spawned resistance by Congress, and in 1887 a law was passed which made leasing of federal prisoners illegal. Since many states depended on the profits facilitated by inmate leasing, federal prisoners were turned away

in many quarters following the passage of the new Congressional legislation. In 1891 Congress responded by calling for the establishment of federal prisons (Miller and Grieser, 1986; Reynolds, 1996).

Initially, work opportunities for federal prisoners were limited to construction of two of the new federal penitentiaries in Atlanta and Leavenworth (Roberts, 1996). Following that, federal prisoner labor consisted of work related to maintaining the three federal facilities (Atlanta, Leavenworth, and McNeil Island). Such work included farming, maintenance and repair, janitorial work, and clerical jobs for prison officials. Also, inmates made, mended and laundered their own clothing (Roberts, 1996).

In 1919, the USP Atlanta opened a textile mill; five years later, USP Leavenworth opened a shoe factory. From the start, federal prison authorities were careful to avoid the ire of unions. Products from the textile mill and the shoe factory could be sold only to federal agencies. Keenly aware of the need to keep inmates busy, federal officials sought to involve as many prisoners as possible in prison work. Nevertheless, work opportunities were inadequate to the population (Roberts, 1996).

Conditions in the new prisons were unsanitary and crowded. A 1928 U.S. Bureau of Efficiency report, followed by a report issued by the U.S. House of Representatives, was critical, and called for reform. Rehabilitation programs were all but non-existent, and work opportunities were the exception rather than the rule. Records show that at the Atlanta facility, for example, out of more than 3,000 inmate residents, only 850 could work in the textile mill. While a few hundred more were able to work at farming or prison maintenance, hundreds of inmates were chronically idle (Roberts, 1996).

State Prison Industries After the Depression

Federal restrictions on state inmate labor and the shipment of inmate-produced goods arrived with the Depression (Parker, 1976; Reynolds, 1996). The prevailing imagery of convicts taking profits from law-abiding citizens was exacerbated by the loss of jobs and incomes that accompanied the Depression. In 1929, the Hawes-Cooper Act was passed to require that states sending prisoner-made products abide by the laws of the receiving state. This allowed states to bar the sale of inmate-produced goods. The new law took effect in 1934 (Miller and Grieser, 1986; Reynolds, 1996; Roberts, 1996).

The following year, 1935, brought with it the Ashurst-Sumners Act which banned transport of inmate products into states where their receipt was prohibited. The Act also mandated labeling of all prisoner-made goods. Union leaders did not believe the 1935 Act was strong enough in that its enforcement depended on the diligence of receiving states. As a result, five years later, the Ashurst-Sumners Act of 1940 was passed to reinforce the earlier Act (Miller and Grieser, 1986; Reynolds, 1996; Roberts, 1996). The effect of the 1940 Act was to outlaw interstate shipment of inmate products except for agricultural products and goods produced expressly for state government use.

In 1936, the Walsh-Healy Act (Reynolds, 1996) barred the use of inmate labor attached to federal procurement, specifically with regard to the manufacture, production or supplying of materials or equipment to be used in government contracts exceeding \$10,000.

The deconstruction of prison industries was virtually complete. One observer, a southwestern state attorney general, commented with more than a trace of irony that prison labor had become, literally, “a federal offense” (Frum, 1995; Reynolds, 1996).

By 1933, more than 20 states had enacted legislation restricting the marketing of prison goods. By 1940, the percent of prisoners productively employed in contract, piece-price, and leasing systems had declined to zero. The open-market systems declined from 74 percent in 1905 to 12 percent in 1940 (U.S. Bureau of Labor Statistics). The Bureau also revealed that only 44 percent of state prisoners were productively employed. The concepts of custody and retribution reigned supreme once more in U.S. state prisons.

Concomitant Establishment of Federal Prison Industries

In 1934, Federal Prison Industries, Incorporated (FPI) was born. A corporation belonging to the U.S. Government, FPI was established in part to end the abusive practices of state prison labor, and to provide work opportunities to federal inmates that might contribute to inmate progress both in and outside of prison. Another important factor central to the thinking of the creators of FPI was the need to avoid competition with organized labor and small business owners alike (Roberts, 1996).

The inadequate federal prison work programs, unsanitary conditions and prison crowding described earlier resulted in recommendations by the U.S. House of Representatives Special Committee on Federal Penal and Reformatory Institutions, which urged the creation of additional shops and factories in federal prison facilities. The Special Committee believed that prison work programs could be self-supporting, and that expansion of prison industries could be achieved without special Congressional appropriations (Roberts, 1996). In 1930, federal prisons, which previously functioned autonomously, were consolidated under a single agency, the Federal Bureau of Prisons (BOP).

The first director of the newly established centralized agency was Sanford Bates, who sought at the outset to be responsive to Congressional recommendations to improve the abysmal conditions of federal facilities. Bates and his assistant, James V. Bennett, introduced classification of inmates and worked to expand federal prison space (Roberts, 1996). Their focus was on establishing uniform policies throughout the BOP, with an emphasis on chain-of-command administrative structure. Training of prison staff was implemented, and special attention was paid to organization of prison industries. The goal was to ensure that federal prisoners were productively employed, and to end inmate idleness.

Recent laws forbidding shipment and sale of inmate goods (Miller and Grieser, 1986; Reynolds, 1996; Roberts, 1996) complicated the determination of the new director and his assistant to employ federal prisoners at meaningful work. However, four sub-categories of work assignments were devised: farming; institutional support activities (including food preparation, janitorial work, and clerical work); prison factories; and public service (forestry, highway construction, and service provision to other federal agencies). In spite of the opposition to prison industries, special attention was given to development of prison industrial work that could be rehabilitative for inmates and financially beneficial to the prison. Another objective was to pay inmates a modest wage for the work they did. Core concepts included devising a prison work structure that would not threaten free industry, and would require the least possible support from taxpayers (Roberts, 1996).

Prison Industries Development

Miller and Grieser (1986) have divided prison industries history into five periods: the *Development* period, prior to the Civil War; the *Wide-Scale Adoption* period, which followed the Civil War and ended at the turn of the century (1900); the *Decline of Industry* period, the result of antipathy that led to strict legislation to curtail prison industry; and the *Industry Stagnation* period, which prevailed, they write, until approximately 1967. The fifth (and current) period, which they call the *Contemporary Era*, is distinguished by a renewed interest in prison industry as well as evolution in correctional philosophy.

We have already reviewed the Development and Wide-Scale Adoption periods, along with the Decline of Industry which followed passage of the Hawes-Cooper, Ashurst-Sumners and Walsh-Healy Acts. The prevailing negative attitude toward prison industries had set the “mood,” and prison industry stagnation was perhaps inevitable thereafter.

The growth of the “medical model” approach to inmate rehabilitation led to a de-emphasis on work as a means of reform (Miller and Grieser, 1986). Instead, an emphasis on inmate psychology, therapy, counseling (Lipton, et al., 1975) and education were viewed by many as more important than inmate work (Curran, 1957; President’s Commission on Law Enforcement and Administration of Justice, 1967). A brief exception to the new thinking was brought about by the war with Germany and Japan (Lewisohn, 1943; Miller and Grieser, 1986; Reynolds, 1996); inmate labor was often at full-throttle during that period, as all Americans, incarcerated or not, joined in the effort to respond to the needs of American soldiers and allies. But following the war, interest in

prison industries gradually diminished, while interest in treatment and rehabilitation began to flourish.

Prison riots during the early 50s served to remind corrections officials of the importance of an inmate work ethic. Many believed that inmate idleness was a critical factor that led to the riots (Olgardt, 1961; Miller and Grieser, 1986), and this belief fueled a new interest in inmate work. This was further fueled by the work of Daniel Glaser in the early 60s. Glaser (1963) demonstrated the links between pre-release preparation, post-release employment, and recidivism. His study was followed by inmate training in the “real world”—the U.S. Department of Labor introduced programming for prisoners made possible by the Manpower Development and Training Act (Miller and Grieser, 1986).

President’s Commission Task Force Report

In 1967, the President’s Commission on Law Enforcement and the Administration of Justice Task Force Report on Corrections called for a work-oriented philosophy to facilitate prisoners’ return to society. The Report reviewed prison industries in the U.S., and identified problems that had beset correctional industries of the past: the resistance of labor and private industry to prison industries; curtailment of appropriate markets for inmate goods, a result of legislative restrictions; inferior quality of inmate-produced goods; poor delivery of goods. Pricing of goods was criticized as being unrealistic, along with inadequate pay scales.

The authors of the President’s Commission Report saw the need for more emphasis on prisoner reintegration. This could not be achieved without use of the same

goals used by labor outside prisons: prisoners should be trained in the way that ordinary citizens were trained. Inmates needed the same skills and training if they were to be prepared for entering private industry after release. As Guynes and Grieser (1986) have pointed out, this preparation was also viewed as rehabilitative for the inmate.

The self-defeating abandonment of an emphasis on inmate work was noted. Prisons must emphasize the same work ethic utilized by private industry. A reduction in inmate idleness must be replaced by a strong work ethic. The Report called on public officials and politicians alike to recognize the inefficiencies and dangers of idleness in prisons.

Key ingredients necessary to improving prison industries were also noted. These included a scale of operation that could be competitive; a sales force; and an inmate incentive structure to include adequate wages. This might be achieved only with the involvement of private industry and labor. The Task Force called for economic return to the state, something that could be achieved only by means of an effectively functioning prison industries program.

The Report specified three subject areas for consideration: (1) external milieu or negative and positive influences on prison industries—standards, court rulings and legislation, marketing regulations, and private sector involvement; (2) internal management (management, inmate wages and incentives, types of industry and production concerns); and (3) prison industry goals.

In spite of the Task Force Report, however, a study conducted by Econ, Inc. less than a decade later described an extant virtual dichotomy between prison industries and rehabilitation. The author (Parker, 1976) found that “the increased popularity of

individualized rehabilitation-oriented treatment programs [have] progressively supplanted the work ethic in American prisons.”

Nothing Works: The Move from Rehabilitation to Punitiveness

In the mid-1970s, two opposing movements crossed paths, both affecting correctional industries. The first came to be called the “nothing works” philosophy of rehabilitation (Martinson, 1974; Lipton et al., 1975). Prisoner rehabilitation was dubbed a failure, and was soon supplanted by a subsequent movement toward a more punitive approach toward offenders. The way was paved by David Fogel (1976) and others (e.g., van den Haag, 1975; von Hirsch, 1976). These researchers urged that sentencing be “appropriate” to the seriousness of the offense, the amount of harm inflicted on society, and the extent of the offender’s responsibility for the crime. Fogel embraced a “just deserts” philosophy, while van den Haag supported retribution as a viable concept. Von Hirsch, also a proponent of just deserts and retribution, felt that the penalty was a means of crime prevention, and that it was an essential response to the offender’s wrongdoing. The punitive approach, perhaps not surprisingly, led to longer sentences, resulting in increasingly crowded prisons, and, collaterally, a more difficult-to-manage prison population.

A simultaneous increase in costs of incarceration—combined with concerns that inmates not be “idle”—eventually led to more emphasis on inmate work programs. A parallel move towards standards (National Advisory Commission on Criminal Justice Standards and Goals, 1973) combined with court rulings affecting prison crowding and

inmate rights to facilitate the trend, and also contributed to significant change and improvement in prison industries as well (Guynes and Grieser, 1986).

Private sector involvement in prison industries also led to the growth of correctional industries (Guynes and Grieser, 1986; Miller and Grieser, 1986). This involvement reflected a growing awareness that prison industries, if they were to flourish, must follow virtually all the same rules and philosophies that contributed to the growth of private industries. (This included standards.) As a result, many states began to pass legislation to allow for the sale of prison industries products to the private sector.

The renewed interest in correctional industries was, in the view of some, a natural outgrowth of the prison riots of the 1950s and 1960s, and the eventual denunciation of rehabilitation. “Idle hands” were thought to have contributed to the deterioration of prisoner morale, and the pronounced inadequacies of rehabilitative programming exacerbated the problem. But some (including the writer) believed that the condemnation of treatment was premature, and that practitioners “threw out the baby with the bathwater” when they abandoned treatment. Nevertheless, the renewal of interest in prison industries brought with it many benefits, as we shall see.

Prison Industries in the Last 30 Years of the 20th Century

In the mid-70s, findings from three studies conducted by the Institute of Criminal Law and Procedure at Georgetown University Law Center, the Batelle Institute, and the John Wald Company were reported (Parker, 1976). Conclusions from the three studies appeared to coincide. Prison industry personnel believed that rehabilitation, not profit, should be the primary goal of prison industries, although numerous factors were

acknowledged which served to impede progress. Over-employment, low productivity levels, obsolete machinery and techniques, lack of investment capital—were but a few of the constraints identified by the studies. Other barriers identified were lack of qualified staff, scarcity of skilled inmate employees with proper work habits, constant labor turnover, and restricted markets (the result of passage of the Hawes-Cooper, Ashurst-Sumners and Walsh-Healy Acts). At .027 percent, the total value of prison manufactured products was calculated to be a miniscule portion of all private manufactured products.

Parker (1976) reported a hierarchically arranged (in terms of importance) ranking of the problems associated with prison industries. Political “realities” were cited as the single greatest barrier to progress, along with limited markets for prison-made products. A lack of defined goals and accountability standards were also cited as problems, as well as constraints imposed by institutional routine. Finally, industry management and operations problems were seen as impeding progress.

The report found that there was no prevailing consensus as to the definition of prison industries, and no concurrence as to the distinction between prison industries and prison work programs. Prison industries, the author found, were “whatever the State Legislature and administration define them to be.”

As already mentioned, the work ethic had been replaced by rehabilitation, in the view of many correctional administrators (Parker, 1976). In the aftermath of the President’s Commission on Law Enforcement and Administration Task Report of 1967, its findings seemed to be forgotten. The possibility that perhaps *both* treatment and jobs were crucial to inmate reform was rarely addressed. The treatment contingent and the industries contingent did not often commingle.

A Batelle Institute study (Levy et al., 1975) found that in 1974 the average pay of state prison inmate employees was \$.13 per hour, “although prisoners in some states earn(ed) no pay.” The same study reported that garment-making was the most common industry, along with furniture manufacturing and repair. The third most common industry was tag and sign making, with printing in fourth place.

In a 1971 report, the John R. Wald Company had found that in 1970, prison state-use industry products were valued at only .027 percent of the value of all products manufactured by private industry. (The John R. Wald Company worked closely with prison industries throughout the U.S. for several decades.) In short, it might be said that the only “success” story, if there was one in U.S. prison industries by the mid-70s, was that *some* inmates were not idle.

But a few states were already beginning to explore change (Parker, 1976). One of these states, Oklahoma, initiated a 10-year plan in 1976 to attempt to increase prison industries profit to cover at least half of the state’s correctional budget. The plan was dependent on an increase of fifty cents per license tag.

South Carolina correctional authorities were investigating the possibility of collaborating with private industry inside the prison (Parker, 1976). A brochure was developed to elicit interest in locating a factory behind the walls. Although the prevailing economic climate of the time was problematic, prison industries officials identified industries that had the potential to meet specific criteria set by the state.

Minnesota was a leader in prison industries and private sector collaboration, partly because the state had not passed legislation prohibiting the sale of prison-made goods on the open market. According to one knowledgeable source, “Republican farmers

wanted the farm machinery and twine produced in the prison at Stillwater,” home to the state’s largest penitentiary. This facilitated the private sector’s ability to establish industries within the state prison when the Justice System Improvement Act was passed in 1979. Inmates were paid *above* the federal minimum wage requirement.

Other states involved in exploring improvements to prison industries were Connecticut, Florida, Georgia, Illinois, Maryland, and Texas.

Econ, Inc. (Parker, 1976) concluded its report by proposing the Free-Venture Model of prison industries. The Model’s goals were described:

- *a realistic work environment, including:
full work day; inmate wages based upon work output; productivity standards comparable to those of outside world business; hire and fire procedures, within the limits of due process rights; transferable training and job skills.*
- *partial reimbursement of the state by inmates for custody and welfare costs, as well as restitution payments to victims.*
- *graduated preparation of inmates for release into community.*
- *fixing responsibility with financial incentives and penalties for job placement of inmates upon release into the community.*
- *financial incentives to industry for successful reintegration of offenders into the community.*
- *self-supporting or profit-making business operations.*

The Free Venture Model was specifically cited in the Congressional Act that subsequently paved the way for the return of private sector involvement in prison industries.

Part II. The Development of Prison Industries Enhancement (PIE)

The Justice System Improvement Act of 1979

A seismic shift in prevailing prison industries philosophy took place in 1979, when Congress passed the Percy Amendment (named after Illinois' U.S. Senator Charles Percy[R]), also known as the Justice System Improvement Act. (The Act was supported by both U.S. Senator Strom Thurmond (R) of South Carolina and U.S. Senator Ted Kennedy (D) of Massachusetts, among others.) Not only did the Percy Amendment waive the Sumners-Ashurst and Walsh-Healy bans on interstate sale of prison industries products, it allowed sale to the federal government. Certain limitations and rules applied:

- Local labor union officials must be consulted prior to establishment of the prison industry;
- Inmates were to be paid wages comparable to those paid in the locale for comparable work;
- Local officials must agree that local (non-inmate) labor was not affected;
- Industry products must be in a locale where unemployment was not a problem.

The Congressional Record of May 21, 1979, quoted Senator Thurmond of South Carolina:

. . . I think the Percy amendment would be helpful and would encourage many prisoners. I am very pleased to support it, and I congratulate the able Senator from Illinois for offering this amendment. (p. S 6217)

The Record goes on to describe the history of the Free Venture Prison Industries Program, attributing the original model to Econ's research (Parker, 1976). The goal, as stated in the Record, was to "replicate real world working conditions in a correctional environment. The fundamental assumption is that a work experience which closely replicates the real world will provide the inmate with an opportunity to prepare himself for successful transition to the community and will provide the state with self-supporting industries (ibid)."

Senator Percy asked for ten states to be pilots, while Kennedy wanted five; a compromise of seven was reached. In 1976, the first three states to participate in the Free Venture pilot had been Minnesota, Illinois and Connecticut. In 1978, the three original states were awarded continuation grants, and four other states were added to the program: South Carolina, Iowa, Colorado and Washington.

A letter from the American Correctional Association voicing its strong support for the program was added to the Record. The letter, signed by ACA President Anthony Trivisano, noted that the legislation was "built upon the Free Venture Program developed by the LEAA." (The Law Enforcement Assistance Administration had funded the Econ research.)

The Justice System Improvement Act, based upon the success of the original Free Venture pilot programs, established the Private Sector/Prison Industry Enhancement Certification Project (PIECP), which came to be known as the PIE program. Private companies were permitted to employ prisoners, but were required to adhere closely to restrictions. Perhaps the most ground-breaking aspect of the PIE program was its authorization for inmates to be paid wages comparable to those paid in individual locales;

authorization was also given for individual states to require deductions from inmate wages to pay child support, room and board, taxes, and/or restitution to victims. In this regard, Barbara Auerbach provided a brief history:

Originally, restitution (versus victims' comp) was not allowed under BJA's interpretation of the statute. There was serious politics involved at that time in that the then director of BJA came out of the victims' movement and she made certain, via BJA's program Guideline, that only state sanctioned victims' comp programs could receive these monies (not victims' assistance programs and not individual restitution orders). That changed with the most recent (1999) Guideline, which included restitution under the victims' comp section.³

Ultimately, when the PIE initiative was established, however, it was left to the states to develop their own PIE deduction requirements. This appeared, at least on its face, to respond to the long-time complaint of citizens that their taxes should not be used to support the comforts and maintenance of prisoners.

It cannot be said that there was a stampede by the states to implement the PIE program. To the contrary, the constraints of PIE contributed to an apparent reluctance to participate on the part of most states. In fairness it should be pointed out that enabling legislation—a difficult hurdle—was required in any state wishing to start a PIE program. (Note that the PIE initiative was designed for the states only—not the federal prison system.)

There were, however, some distinct advantages for the private sector. They were not required to pay fringe benefits or the usual employment taxes. Whereas interest in

³ Personal communication, September 2007.

inmate employment had been at a low for awhile, the benefits attached to PIE elicited the interest of at least some private business.

Chief Justice's Case for Prison Industries

The impact of a speech delivered by Chief Justice Warren Burger in 1983 cannot be minimized. Still cited in correctional industries literature more than a decade later (Haas and Alpert, 1995; Cikins, 1996; Reynolds, 1996), Burger's speech got the attention of Congress as well as the media.

. . . (A)re we going to build more "human warehouses" or should we change our thinking and create institutions that are training schools and factories with fences around them where we will first train the inmates and then have them engage in useful production to prepare them for the future and to help pay for their confinement?

Burger called attention to recent congressional action, where a rider was attached to a gas tax prohibiting the use of prison made products in construction of federally funded highway projects. This, he predicted, would harm state prison industries where sign-making (for highways) was common. In the same breath, however, he praised the House of Representatives for repealing the prohibition and opening the door for increases in prison industry projects. Now, he said, it was all up to the Senate. He praised the state of Minnesota for being an early participant in the PIE program. Participants in the Minnesota correctional industries program would have jobs waiting for them when they were released, he said. He called for transforming prisons into places for education,

training and factories. He called for the repeal of laws constraining or limiting prison industry production, as well as the repeal of laws prohibiting the transport or sales of inmate-made products. He urged business and labor leaders to cooperate in the development of productive prison facilities. Finally, Burger called for paying reasonable compensation for such work, and requiring inmate workers to pay room and board. This, he said, would enable inmates “to secure gainful employment” and allow inmates to live normal, productive lives.

To the critics of correctional industries—those who complained that inmates should not be “coerced into work and training programs,”—Burger said that *every inmate should be “induced” to cooperate by the same methods that are employed in many other areas. Life is filled with rewards for cooperation and penalties for non-cooperation. Prison sentences are shortened and privileges are given to prisoners who cooperate. What I urge are programs in which the inmate can earn and learn his way to freedom and the opportunity for a new life. . . . At the core of the American private enterprise system is the idea that good performance is rewarded and poor performance is not.*”

(In 1991, Burger was quoted in the Washington Post: “To put people behind walls and bars and do little or nothing to change them is to win a battle but lose the war. It is wrong. It is expensive. It is stupid.”)

The Path from Free Venture to PIE

The history of PIE cannot be told without acknowledging its strong links to the Free Venture program of the 1970s. The original intent of Congress was to facilitate private sector involvement with prison industries, and the Free Venture program paved the way for the PIE initiative. It seems fair to note that when the PIE legislation was passed in 1979, legislative intent to reduce recidivism was not clearly articulated, although it was implied by the scheduling of a future evaluation which would measure Free Venture (PIE) participants' outcomes against the incomes of non-participants.

A close reading of the original legislation (Congressional Record, 1979) and its purpose is worthy of note (and quote):

It is the purpose of this program to develop prison industries that will duplicate the conditions of private industry as closely as possible. The Free Venture Model includes the following points:

- a. A full work week*
- b. Inmate wages based on worker output*
- c. Real world productivity standards*
- d. Hire and fire authority at the shop supervisor level and within the limits of due process*
- e. Self-supporting or profit-making business operations*
- f. Post release job placement mechanism.*

The long range objective of the program is to effect a change in the role that work has traditionally played in the prison and concomitantly, to move the institution as a whole toward a more humane posture. . . . a richer and more

realistic work experience for the inmate than has been the case in the past: he is expected to function as a responsible adult member of the work force and he is regarded accordingly. The institution is no longer able to view its industry programs simply as a solution to idleness—it must now attempt to provide a productive work experience in a profitable industrial setting (A)n institution must make basic changes in its attitudes, policies and procedures (pp. S 6217-18, May 21, 1979).

Clearly, the Free Venture Model was the prototype or forerunner of the PIE Model. The first three Free Venture Models were located in the states of Minnesota, Illinois and Connecticut, while the next four were located in Colorado, Iowa, South Carolina and Washington State. Two evaluations were mentioned in the original legislation, a “preliminary” evaluation to examine the quality of prison industry goods produced; productivity; effects on institutional management (in terms of scheduling conflicts); inmate accident levels; and the economic viability of the various prison industries operations.

The second evaluation (also mentioned in the original legislation) was to be completed in 1981, and would attempt to measure initial post-release employment; length of employment; income and recidivism, and more.

The Impact of Free Venture (FV) Prison Industries: Two Studies

In January, 1981, the first (Grissom, 1981) of two studies of the Free Venture model of prison industries was published. Its purpose was to evaluate the impact of FV

prison industries programs at 12 prisons in seven states: Colorado, Connecticut, Illinois, Iowa, Minnesota, South Carolina and Washington.

Characteristics of Free Venture industries were specified in the Executive Summary (p. i):

- *A full work week for inmate employees.*
- *Wages based upon productivity.*
- *Economic viability.*
- *Hire/fire authority exercised by (civilian) shop supervisors.*
- *Private sector productivity standards.*
- *Post-release job placement mechanism to assist industries' inmates in finding post-release employment.*

The report evaluated the impact of the FV program on inmate-participant behavior and attitudes during incarceration, compared to non-participant inmates.

Program implementations differed considerably (as they continued to differ in 2007). The percentage of inmates participating in the FV programs ranged from 2 percent to 65 percent, earning wages from \$.20 to \$3.74 per hour. Work days varied from six to eight hours in length. FV programs were established at minimum, medium and maximum security prisons. In spite of such differences, however, the report's author noted distinctions between FV industries and traditional industries:

Work hours were longer, wages higher and featherbedding reduced in comparison to traditional prison industries. Free Venture personnel procedures,

productivity expectations and shop psychosocial atmosphere were more similar to private sector enterprises.

But problems were noted with FV programs: “inadequate planning, lack of coordination with other institutional programs and too little emphasis upon post release job placement mechanisms.” (Similar problems continued to plague some PIE programs as recently as 2007.)⁴

The report issued the following conclusions:

- 1. Residents working in Free Venture shops are similar to non-Free Venture inmates on demographic and criminal history variables.*
- 2. Free Venture has a favorable effect upon the behavior of participating inmates while incarcerated, as reflected in disciplinary records. The rate of disciplinary incidents for Free Venture inmates declined relative to the rate for a non-participating control group.*
- 3. In most states there is no evidence of program impact upon the behavior of non-participating inmates. (In states with particularly large or well developed programs observers report a favorable impact upon non-participating inmates⁵.)*
- 4. Implementation of Free Venture requires modifications to institutional operating procedures.*

⁴ Personal communications to writer, Auerbach (2007) and Ellis (2007).

⁵ Improved behavior of non-participants in larger programs was ascribed by some to inmate hopes of being selected for the FV program. Smaller programs were less visible and hence inmates had less exposure to them.

5. *Free Venture has had a favorable impact upon the tranquility of most institutions.*
6. *Free Venture has had only minor impacts upon other institutional programs. However, the potential exists for strong positive or negative impacts upon other programs. (p. ii)*

Minnesota Free Venture Findings

The Minnesota Free Venture Evaluation (1981), funded by the Law Enforcement Assistance Administration (LEAA), was intended to explore and document the effects of the experimental Free Venture prison industries program on its participants, as well as the prisons where they worked and resided. In particular, the researchers attempted to investigate the extent to which the program succeeded in replicating a “real world” working environment, and whether it contributed to the “post-release success” of its participants compared to controls. The researchers concluded that there was scant evidence that the program was associated with either improved participant behavior, or reductions in recidivism. The data, however, did support an association between program participation and post-prison employment. Researchers reported a possible self-selection bias, believed to be the result of demographic variables that distinguished Free Venture participants from their peers in the general prison population.

To the extent that the 1981 research was fraught with problems, it is difficult to view the findings as conclusive. Nonetheless, the study’s abstract did conclude that

. . . the higher wages of Free Venture workers allowed them to send more money home, to pay taxes and, in certain cases, chargebacks for room and board, and to accumulate greater savings for their release . . . (ibid.)

Minnesota Mission Statement for Institution Work Programs

Early in the evaluation report, Minnesota's lengthy mission statement, detailed and surprisingly specific, was provided (See Appendix A: "Mission Statement for Institution Work Programs"). The statement called for development of a sound inmate work ethic and a wage compensation equivalent to that for similar work outside of prison. With inmates being paid competitive wages, the mission statement also called for prison industries workers to "automatically" pay taxes and retirement insurance, family support and victim restitution. In addition, inmate workers should be required to pay expenses associated with their upkeep (e.g., rent, food and laundry)

The Statement's detail suggested that the State of Minnesota was somewhat unique, compared to many if not most states of that era (and even today's).

In a personal communication to the writer, Auerbach (2007) provided some background for the state's progressiveness:

Minnesota's (commissioner of corrections) was named Ken Schoen, and he was seen as pretty radical for a number of reasons, not least of which was his support of private sector prison industries. He was responsible for pushing Minnesota into PIE He dragged his industries director kicking and screaming into it, and created a truly creative program, mainly by using Control Data (a Minnesota corporation) to get the ball rolling. Warren Burger was of course a Minnesota

man as well and it was no accident that he got behind the program. (Schoen could be very persuasive.) Burger came to Stillwater prison in Minnesota to make that speech about factories behind fences.

The authors (unknown) of the Minnesota Free Venture research acknowledged more than once that there were limitations to the methodology used in the evaluation:

Our samples were far from clean in that membership in the Free Venture group was afforded by a mere ten-days experience in a Free Venture shop in 1976 or 1977 regardless of where the individual was employed during the remainder of his or her sentence. Consequently, it was possible for a Free Venture subject to have worked longer in a traditional industry or support service position than many of the individuals who represented those programs. Furthermore, inmates who began working in traditional industry or support service jobs in 1976 or 1977 and were selected on that basis for those respective groups might have worked in a Free Venture shop at a later point prior to release, without receiving credit for their Free Venture experience. (p. 15)

In addition, the author called attention to the fact that four “very different institutions were sampled” as well as both males and females, adding additional uncertainty to the comparisons that were made. Further, groupings were made of individuals who had been involved for a week or more in assorted institution programs. (These groupings often overlapped in their membership.) The groups included vocational

and educational programs, traditional and FV industries, support services, therapeutic/treatment programs, “permanent idle”, work release and pre-release.

Additionally, institutions often overlapped, and inmates who were ascribed to one facility had served part of their sentence in another facility, and vice versa. The limitations of the overlaps were numerous enough to strain the reader’s confidence in the findings.

Another limitation was one of the earliest acknowledged by the evaluation’s author. The evaluation’s Table 8 entitled “Number of Individuals in Free Venture Samples Who Were Also Included In Other Groups” revealed that of the 274 males who worked on Free Venture Operations:

156 were involved in education (N = 373)

85 were involved in vocational training (N = 254)

160 were involved in traditional industry (N = 340)

190 were involved in support service (N = 455)

50 were involved in treatment program (N = 139)

62 were idle at some time (N = 251)

40 were involved in work release (N = 66)

72 were involved in pre-release (N = 153).

ANOVA results indicated a significant difference in number of days worked during the initial year following release from prison, although findings were mixed. Post-release workers with no FV experience worked a mean of 146.95 days, compared to 222.97 days for releasees of 6 to 12 months FV participation. The latter (FV participants

of 6 to 12 months) also worked significantly longer (222.97 days) than FV participants (139.82 days) with less than six months FV experience. (Similar ANOVA findings were reported regarding “Days of Productive Activity During the First Year Post-Release.”)

Multiple regression findings were that “the number of days of Free Venture activity bore a significant relationship to (2) measures of recidivism such that individuals who spent between 6 and 12 months in a Free Venture position fared best on the outside. Ironically, the men who had the longest experience with Free Venture did almost as poorly as those with much less experience or even none.”⁶

The Minnesota FV evaluation’s authors (unknown) reported that the researchers’ regression analyses produced findings somewhat consistent with their prediction regarding long-term effects of FV participation in post-release work. Calling the tests “somewhat preliminary” and necessitating “very cautious interpretation, they point to a positive relationship between Free Venture experience and post-release employment when the effects of critical background variables are [parceled] out.”

Ultimately, it was difficult to be optimistic about even the more positive findings, with so many acknowledged limitations of substantial import. Additionally, the Minnesota evaluation findings were often inconsistent with the earlier (Grissom) report on Free Venture programs in seven states. Also, the Minnesota findings were not consistent with much later findings of Smith et al. in 2006. (Smith and her colleagues reviewed PIE programs in five states, with more positive findings than either of the FV reports.)

⁶ This finding reminds the writer of similar findings in the past, demonstrating that inmates who participated for 6-12 months in a prison-based drug treatment program did better than those who participated longer, suggesting that perhaps there is an “optimal dosage” of some programming.

Prison Industries in the 1980s

In 1986, Guynes and Grieser identified a typology of prison industries goals.

- *Offender-based goals stress the value of industry work for the individual offender. These goals focus on elements of rehabilitation or preparation for reintegration into society.*
- *Institutional goals generally stress the contribution prison industry makes toward maintaining an incarcerated population. A central issue here is the degree to which industries can assist in reducing idleness and sustaining institutional order.*
- *Societal goals center around an offender's responsibility to repay society for the costs generated by criminal activity.*

Guynes and Grieser explored the potential for conflict among, for example, offender-based goals and institution-oriented goals. For example, good work habits—appropriate goals for offenders—go well beyond the simple reduction of idleness. Similarly, the institution-oriented goal of reducing idleness falls short of restitution or child support. Indeed, these goals may compete with one another, and it is the responsibility of correctional and legislative authorities to maintain a kind of macro-vision that can encompass “all of the above.” And, as Guynes and Grieser pointed out, both authorities need to be able to distinguish between profit-making and cost reduction, while simultaneously striving to achieve both.

All of these issues, and others, must be addressed within the constraints of appropriate prison security, an added consideration and expense not normally required in the private sector. Such considerations may conflict with production requirements.

Guynes and Grieser cited the President's Commission Task Force Report (1967) as the line of "demarcation" for the Contemporary Era of prison industries, a time when the need for a return to an emphasis on prison industries was noted and called for. The introduction of the PIE legislation in 1979 signaled Congressional interest in improving correctional industries by involving the private sector. By 1986, though private sector involvement was minimal, its effects were far-reaching and profound. At a minimum, private industry was seen as a role model for prison industry (Miller and Grieser, 1986). There was a general understanding among correctional officials that—to the extent they could enforce industry goals and standards in their industry programs—they might improve output, quality—and maybe even profit.

By the mid-1980s, 27 states reported efforts to recruit industry personnel from the private sector. Another change could be seen in the trend toward payment of inmate wages. By 1986, the average daily wage for a prison industries inmate had quintupled to \$3.00 per day (Grieser et al., 1984), compared to approximately \$.60 per day in 1972 (Congressional Research Service, 1973). While the increase was primarily attributable to the move toward prevailing wage offered by the few Free Venture/PIE programs, it signaled a new day in prison industries approaches. (Nevertheless, one might reasonably ask how such meager earnings might encourage the work ethic.)

Other changes were ongoing in the area of financial management of prison industries. As the prison population increased in states across the country, so did the

costs associated with prison management. Prison industries began to be seen as one means of resolving the mounting costs of managing expanding prison counts.

Correctional and state officials saw the potential for prison industries to defray costs. But major changes were needed. Prison industry officials, if they were to manage profitable ventures, must model their programs after the private sector. A new day had dawned in the evolution of correctional thought where it applied to prison industry and its full potential. Gradually, old ways of managing prison industries gave way to the realization that a new way of doing business was mandated. In some states, the department of corrections had often been awarded funding for correctional industry programs; this began to change, and the corrections department was charged for services and supplies that once were funded by the state (Guynes and Grieser, 1986).

Yet another change was in the relationship between vocational education/training programs and prison industries. Increasingly, vocational training was required prior to prison industry employment. Many states began to require coordination between their vocational programs and their prison industry programs.

The importance of quality control began to be appreciated. In the past, prison industry products were often seen as inferior to those of the private sector. However, with the advent of private sector involvement, quality control measures were implemented to assure the quality of prison-made products.

The role of the prison industries director gradually achieved greater status, as some states moved toward elevating prison industries to semi-autonomy. Correctional industry directors were bumped up to deputy commissioner level in some states, or at least to the same level as warden. According to Guynes and Grieser, by 1986, prison

industries directors attended executive-level departmental meetings in the majority of states. This new status of prison industries and its directors occurred in the federal prison system as well.

Finally, the importance of prison industries came to be seen in the classification process as well. Whereas in the past, prison industries were virtually ignored by classification staff, industry officials now had much more involvement, and often participated in classification committees (Guynes and Grieser, 1986).

A frequent problem confronted by prison industries, still unresolved in many quarters, was the interruption of work and production caused by lockdowns or callouts. While some states have succeeded in reducing such interruptions to a minimum, a complaint heard by the writer in one state (in 2005) related to the issue of lockdowns and callouts. In some states, however, prison industries inmates are given priority status in terms of returning to work following a lockdown.

A separate but related problem is the issue of prison transfers. When an inmate who has become fully trained to work at full capacity is suddenly transferred to another facility, the repercussions can be felt at both the individual (inmate) level, and the prison industries level. Although in 2006 such problems continued, the new status of prison industries suggested that this issue may abate as departments of corrections strive to support their industries and the potential to make them more profitable. Profitability, of course, may facilitate corrections departments' ability to become more self-sustaining.

U.S. Correctional Industries: Transition from the 1980s to the 1990s

As the eighties moved into the nineties, a survey conducted by the Correctional Industries Information Clearinghouse (CI-Net) focused on traditional prison industries (as opposed to the Private Sector/Prison Industry Enhancement Certification Program, which collected its own data). The purpose of the survey, published in 1992, was to facilitate development of prison industries in the United States (Correctional Industries Survey Report, 1992). The survey had an 89 percent response rate in terms of completely filled-out questionnaires, but at least partial data were obtained for 100 percent of those polled.

The Bureau of Justice Statistics (BJS) facilitated in conducting the survey, reporting that U.S. adult state and federal prison populations had soared 144 percent between 1980 and 1991. While the survey found that there had been “a 100 percent increase in offender employment in correctional industries since 1980,” the reality remained that the national average for prison industries employment was only 8 percent. The percentage was slightly above 12 percent when total number of inmates residing in prisons where prison industries programs were located was part of the equation (Correctional Industries Survey Report, 1992).

The survey distinguished between correctional industries and traditional prison inmate employment in several ways:

. . . (correctional industries) strive to operate according to private sector standards—in terms of organizational structure, management, training and product development . . . Some correctional industries have formed joint ventures with private sector companies, in which inmates produce goods and use markets. However, prison-made goods can only be sold in interstate commerce if the

industry program is certified under the Private Sector/Prison Industry Enhancement Certification Program (PS/PIECP). (CI-Net, 1992)

Acknowledging the difficulties associated with operating correctional industries—security issues and legal constraints—the survey also identified benefits: reduction of “idleness” among inmates, and sales exceeding \$991 million in the most recent 12-month period. This figure was offset by the total annual planned operations budget for the same industries, which was projected to be \$839 million during the same period. Eighty-two percent of correctional industries were required legislatively or administratively to be self-supporting.

Revolving funds were typically used for maintaining correctional industries operations. Slightly more than three-quarters (76 percent) of prison industries’ capital improvements were covered for the most part by a revolving fund, although 54 percent of capital improvements were covered by state appropriations. And although 84 percent of correctional industries were supported by revolving funds, 55 percent of industries were mandated to obtain approval from the legislature for expenditures (Correctional Industries Survey Report, 1992).

While most inmates were paid, inmates in correctional industries in Georgia, Texas and Arkansas were not paid. The other correctional industries programs obtained their primary wage funding from their industries’ budgets, although a few (nine percent) received wage supplements from private sector partners. Almost as many (eight percent) were supplemented by DOC or state appropriations budgets.

Fifty-eight percent of correctional industries did not withhold deductions from inmates' wages, although 42 percent withheld deductions for court fines, victims and restitution, room and board, and family support. Remaining funds could be retained by inmates for their future release from prison.

Change was in the air. Nearly 40 percent of survey respondents reported the passage of new legislation to affect at least one aspect of their industries (e.g., inmate wage deductions, new market availability, or the right to work with the private sector).

Nearly 90 percent of respondents expressed interest in joint ventures, although a small minority reported that they had not explored the possibilities, or lacked interest in doing so. Reasons given included excessive transportation costs and legal restrictions.

Additional findings:

- 88 percent of correctional industries programs had written policies and procedures
- 82 percent issued annual reports
- 78 percent developed business plans
- 78 percent reported automated information management systems.
- 33 percent of respondents had conducted feasibility studies
- 17 percent had conducted economic impact studies
- 15 percent had tracked recidivism (presumably of inmate correctional industries participants).

Another finding was that correctional industries programs hired their staff from various sources, including:

- 58 percent from the private sector

- 33 percent promotions or transfers from existing correctional industries staff
- 29 percent from prison staff
- 6 percent from central office staff
- 4 percent from administrative or state personnel connections.

The report found that most (78 percent) correctional industries programs had catalogs, or planned to develop catalogs to promote their products. Approximately one-third (32 percent) telemarketed their products. Seventy-one percent offered discounts to customers who bought in volume.

Inmate employees were likely to receive “on-the-job” training. Twenty-nine percent of programs had established training, industries and education (TIE) programs in an effort to maximize development of inmate skills (Correctional Industries Survey Report, 1992). Consistent with this finding, a different survey conducted at about the same time found that most correctional industries programs were “*not part of an integrated plan. The need for systematic educational and apprenticeship training that provides a foundation for quality work experience, and ultimately better employment prospects (was) a common theme of survey comments* (Henry, 1991).”

Henry’s survey, which was meant to be an investigation of correctional industries and related issues in the late eighties, had an 85 percent response rate. A questionnaire was mailed to 54 correctional industry administrators, and 46 questionnaires were returned. The five most prevalent industries programs were (1) furniture manufacturing; (2) license tags and signs; (3) garment textile and upholstery; (4) printing; and (5) farm enterprises (Henry, 1991).

Thirty-seven of Henry's survey respondents indicated specific markets for correctional industries goods or services; 43 percent of that number reported state and/or local governmental markets only; 24 percent indicated state use and/or nonprofit organizations; and 27 percent sold products on the open market also.

Yearly salaries ranged from \$11,364 (the base income of a correctional industries financial management employee) to \$125,000 (for a senior correctional industries administrator). Salaries varied widely among states, with lower salaries tending to be in southern states. Correctional wages could not readily be extrapolated or compared to wages outside of prisons.

Henry's survey also reported that nine percent of respondents provided job placement assistance prior to release from prison, although "a means for tracking the job placement of former industry inmates after release (was) virtually nonexistent." Additionally, respondents indicated that little was being done to track post-release recidivism of industry participants—only 10 percent of the respondents indicated a mechanism for obtaining recidivism rates for industry participants (or even the general inmate population).

Recurring themes in some of Henry's open-ended questions included the following:

- 1. Prison industries should be designed and operated in accord with private sector business practices and prevailing job opportunities upon release;*
- 2. pre-industrial vocational and educational training should be integrated with industry programs;*
- 3. "life skills" training should be offered to facilitate the transition after release;*

4. *teaching the “work ethic” should be a primary objective of industries;*
5. *resources must be made available to implement preparatory programs that are often under-funded due to tight budgets.*

Henry’s survey found that among respondents, the issue of post-release job placement was only one issue that needed to be addressed:

. . . although arguably the most important. . . . Job placement has greater potential when conceived within a comprehensive effort to “reintegrate” exoffenders by building and maintaining their ties to the community.

In the CI-Net Survey, attention was called to an apparent dichotomy: while some members of the private sector were eager to explore involvement in correctional industries, others complained vigorously that correctional industries unfairly competed with private citizens and robbed them of job opportunities and earnings.

In 1990, voters in the state of California had rebuffed a \$450 million bond issue to fund prison construction, but voted in favor of changing the state’s constitution to allow private sector correctional industries—as long as civilian workers were not deprived of work (Reynolds, 1996). A few years later, an Oregon vote resoundingly approved an amendment to provide work for all inmates. However, these events were not representative of the states nationwide.

The Effectiveness of Correctional Industries Participation in Reducing Recidivism

In fact, a small body of evidence was growing to suggest that, as Henry pointed out, “Careful program evaluations typically have the unsettling result of demonstrating no significant effects of a given program.” (Henry called attention to 1983 research conducted by Rossi and colleagues.) In 1984, the Association of the Bar of the City of New York issued its own indictment of prison industries; in the judgment of the Bar, there was “no empirical study showing lower recidivism rates among inmates who have participated in meaningful vocational training and/or prison industry programs.”

At approximately the same time, Johnson (1984) reported that a two-year follow-up study of correctional industries participants found no significant difference in recidivism rates compared to industries non-participants. In Ohio, Basinger (1985) found small but non-significant differences in the recidivism rates of prison industries participants and non-participants.

In Utah (also in 1984), the Governor’s Task Force on Correctional Industries had come to a happier conclusion: a year after release, 13 percent of correctional industries participants had returned to prison, compared to 29 percent of non-participants.

Additional research by Flanagan and his colleagues (1989) and Maguire and her colleagues (1988) also raised questions as to the effectiveness of prison industries work in reducing recidivism in New York. Flanagan, Thornberry, Maguire and McGarrell found that prison industry participants were likely to have long sentences, to be older than prison industry non-participants, and to have less serious criminal and substance abuse histories. Thus, when the researchers compared recidivism among inmates who participated in prison industries and those who did not participate, they found that the

lower rates of recidivism “disappeared” when other characteristics were controlled (e.g., prison industry participant groups being older, or having less serious criminal and substance abuse histories). Similarly, Maguire and her colleagues’ finding that industry participants had fewer felony rearrests (29 percent compared to 34 percent of non-participants) was not statistically significant. Maguire and her colleagues also found that correctional industries inmates frequently used inferior machinery and methods in the manufacture of their products, making it difficult for them to transition to post-release employment. Additional problems associated with post-prison employment were related to certification or licensing requirements that were sometimes difficult if not impossible for inmates to obtain (Maguire et al., 1988; MacKenzie and Hickman, 1998).

Meta-analytic Findings of Correctional Industries Effectiveness in the 90s

MacKenzie and Hickman conducted a systematic review of correctional programming in 1998, and rated the methodological rigor of correctional industries studies at that time. Only Maguire et al.’s research was rated a “4”—the second highest rating—among then-extant studies.

In conducting their review of correctional treatment programs, MacKenzie and Hickman turned to a statistical technique known as meta-analysis. The technique was useful for measuring effect sizes of treatment programs, and had the advantage of including large numbers of studies, both published and unpublished. While research findings of “non-significance” were often overlooked in the past, the meta-analytic technique included such findings (of researched statistical non-significance) in its overall measurement. Thus, research findings of non-significance can be combined with

significant findings to obtain an overall combined effect size of (in this instance) effectiveness of correctional industries participation. MacKenzie and Hickman assessed only studies that met the following parameters:

- The study must have been conducted within the past decade.
- The study must have used a control group.
- Studies employing a “high level of methodology would be accorded more weight than those using a “weaker methodology.”
- Response rate, attrition rate, and appropriateness of statistical tests would be considered.
- The University of Maryland Scale was used to rate seven dimensions based on the study’s ability to control for extraneous variables that might be misleading.

MacKenzie and Hickman’s assignment of a methods score, they reported, had the following (rank-ordered) features:

1. *Correlation between the program and measure(s) of recidivism crime and no control group.*
2. *Temporal sequence between the program and recidivism can be clearly observed (e.g., pre-and post-program research design); or a comparison group is present but lacks a demonstrated comparability to the treatment group.*
3. *A comparison between two or more groups, one with and one without the program.*

4. *Comparison between a program group and one or more control groups, controlling for other factors; or a nonequivalent comparison group that is only slightly different from the program group.*
5. *Random assignment and analysis of comparable program and comparison groups, including controls for attrition.*

Random assignment, they wrote, would be the “gold standard”—a “5”. The title of their 1998 paper was “What Works In Corrections? An Examination of the Effectiveness of the Type of Rehabilitation Program Offered by Washington State Department of Corrections.”

MacKenzie and Hickman did not include Level One studies in their review, but they did include Level Two studies. In their correctional industries and recidivism studies, recidivism reduction was the measure of effectiveness. The programs they identified as effective were those that had a minimum of two Level Three evaluations with statistical tests demonstrating effectiveness, as well as “the preponderance of all available evidence.” Programs were classified into four groups, “What Works,” “What Doesn’t Work,” “What’s Promising,” and “What’s Unknown.” Ultimately, the researchers identified one prison industry study (Maguire et al., 1988) as a Level Four, and two studies by Saylor and Gaes (1992, 1996) as Level Threes. Two studies (Anderson, 1995a and Boudouris, 1985) were scored as Level Twos. (They found no Level Fives.) Hence, MacKenzie and Hickman reviewed a total of five correctional industries programs.

MacKenzie and Hickman scored the 1992 study by Saylor and Gaes as a “3” in terms of methodological rigor because it compared two groups, one with and one without

the correctional industries program. Saylor and Gaes, in their study entitled “PREP Study Links UNICOR Work Experience with Successful Post-Release Outcome,” found that federal correctional industry participants had significantly fewer parole violations at six months and one year, following release from prison. While statistically significant, however, the differences were slight: 4.9 percent of participants were revoked after six months, compared to 6.6 percent of non-participants, while at one year, 6.6 percent of participants had been revoked, compared to 10.1 percent of non-participants (Saylor and Gaes, 1992).

Saylor and Gaes in 1999, called the 1992 study “the most comprehensive and rigorous study of the effect of prison work and vocational training” conducted by the Office of Research and Evaluation of the U.S. Federal Bureau of Prisons.

Unlike previous studies . . . the Post-Release Employment Project (PREP) used a prospective, longitudinal design that featured careful matching of study group participants . . . and control cases . . .

(Fifty-seven percent of participants worked in correctional industries only, 24 percent received vocational and apprenticeship training, and 19 percent received both vocational/apprenticeship training and correctional industries experience.) Saylor et al. (1999) described the evaluation of prison-based education and work programs as a complex and arduous undertaking, citing the difficulties attached to unraveling the “many diverse elements” of prison life. (Undoubtedly a partial response to such considerations, Gaes and colleagues published a 2004 book entitled *Measuring Prison Performance*, which explored the myriad issues that need to be addressed when evaluating and

comparing prison programs. The book sought to review the numerous factors that correctional researchers constantly confront in their work.)

Another study by Saylor and Gaes (1996) also scored a “3” by MacKenzie and Hickman. Again, the study compared those who had participated in correctional industries with those who had not. Like their earlier (1992) study, the number of participants was large (more than 7,000 in the 1996 study, and more than 4,700 in the 1992 study). The second study reviewed “new offense commitments” of industry participants after 8 to 12 years, and found that prison industries experimental subjects had a 24 percent lower risk of new offense commitment than control subjects. (The finding was statistically significant.) Similarly, after the same period of follow-up, vocational/training/apprenticeship participants exhibited a 33 percent lower risk of new offense commitments than matched non-participants. The writer infers that the fact that the second study was longitudinal added to the strength of the researchers’ confidence in their findings. (Although effect sizes of .07 and .13 were reported for the Saylor and Gaes 1992 study, effect sizes were not reported for the 1996 study.)

In another article, Saylor and Gaes concluded that the body of scientific evidence surrounding prison programs, education and work programs was persuasive in its ability to contribute to post-release success in the community (Saylor and Gaes, 1999).⁷

MacKenzie and Hickman scored a 1985 study of correctional industries and recidivism by Boudouris and a study by Anderson (1995a) as Level Two studies; both Boudouris and Anderson were assigned “2’s” because although there were comparison

⁷ In a 1999 summit of economists (see Appendix A) called to examine the economics of inmate labor force participation, several of the country’s leading economists cited Saylor & Gaes’ studies as evidence of the apparent effectiveness of inmate prison-based employment (Marshall, 1999; Freeman, 1999).

groups in both studies, the comparison groups were not demonstrably comparable to the treatment groups. This introduced the possibility of selection biases due to the fact that many (if not most) correctional programs require academic achievement that may result in participants who are better educated than non-participants, and hence (in the view of many) more advantaged and therefore likely to exhibit better post-release performances (than less educated non-participants). Similarly, attrition from a program (e.g., correctional industries) may be the result of differences (e.g., more or less serious criminal histories) that could explain contrasting findings when comparisons are made and interpreted. Boudouris found that after two years, participants in prison-based vocational, industry or farm work experience were nine percent less likely to return to prison than those with education alone (of whom 23 percent returned to prison); the finding was statistically significant. Also after two years, Boudouris found that 30 percent of participants in prison-based vocational, industry or farm work were rearrested or had their paroles revoked, compared to the controls, 38 percent of whom were either rearrested or revoked; this finding was also statistically significant.

Anderson (1995a) was ranked a “2” in methodology for his evaluation study findings—that those who completed a correctional industry program had a lower rate of return to prison (28.7 percent) than non-completers (30.1 percent) or non-participants (31.3 percent).

MacKenzie and Hickman’s findings were of crucial importance to prison industries advocates. If certain prison industries programs were associated with recidivism reduction and increased post-prison employment, shouldn’t they be replicated? Reasonable observers and knowledgeable others might infer that such

programs would be worth emulating and expanding. Finally, if prison inmates could acquire job skills, be self-supporting, pay taxes, support their families, compensate their victims or make restitution, *and* be law-abiding, contributing citizens upon release, who could object? But in fact, prison industries continued to have its detractors.

Correctional Industries Detractors and Their Responders

In spite of the promising research findings of Saylor and Gaes and MacKenzie and Hickman—and the establishment of the Prison Industries Enhancement Certification Program (enabled by the Congressional legislation known as the 1979 Justice System Improvement Act), prison industries advocates continued to struggle. The abuses of the past remained fresh in the minds of many, and the development of PIE programs within each state was complicated by the need to alter state statutes to facilitate PIE. Unless each state had a proactive commissioner of corrections or prison industries director (preferably, both), the PIE program was unlikely to be implemented. “Proactive” meant that the corrections commissioner and/or industries director must possess political and negotiating skills in addition to an in-depth understanding of correctional industries and PIE requirements. Additionally, the state’s prison industries director must be able to overcome bureaucratic resistance to private sector involvement, and persuade union leaders and community leaders—not only that the PIE program would not harm them—but that it could benefit the community, public welfare, and society-at-large.

Opposition came in the form of labor leaders and prison advocates who still recalled the serious abuses of the early 1900s and the reasons for federal legislation banning interstate commerce of prison made goods. Such opponents decried the

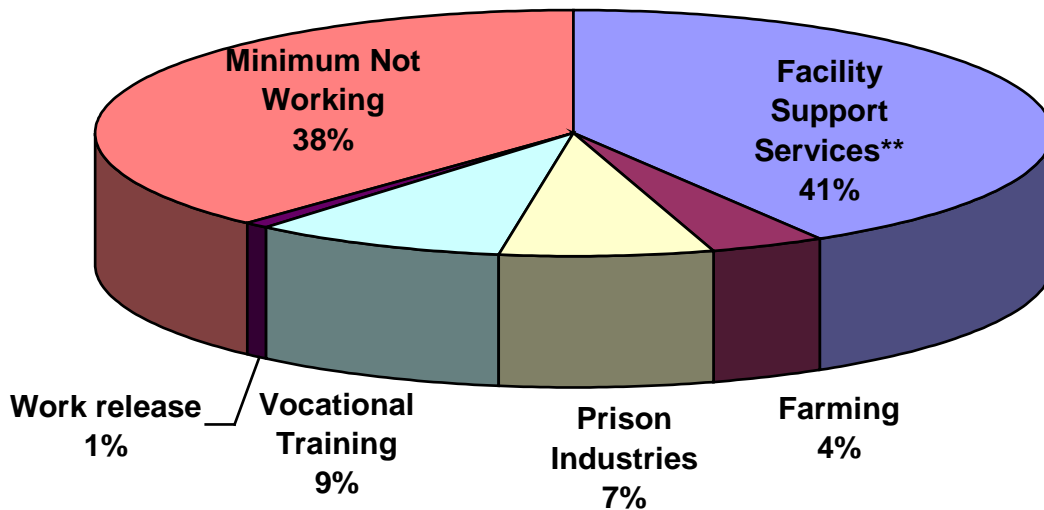
mistreatment and exploitation of inmate workers. Congress had attempted to address such issues in careful deliberations and political deal-making to minimize objections (Congressional Record, 1979) and to maximize the potential for rehabilitating inmates and overhauling a costly corrections system—one with soaring populations of long-term offenders (Reynolds, 1996; Beck et al., 2000; Gilliard, 1998). But prison industries officials—even without PIE—often fought an uphill battle.⁸

PIE opponents have long complained also that the program takes jobs and wages away from law-abiding citizens (Reynolds, 1996; *Washington Water Jet Workers v. Yarbrough*, Administrator of Division of Correctional Industries, 2002; 2003). In spite of the advent of the PIE Certification Project and its reported successes, Reynolds reported in 1996 that less than 2/10 of one percent of prison inmates were participating in PIE programming. As Reynolds pointed out, approximately half of all inmates performed some kind of work, although much of the work was menial, e.g., maintaining the prison and prison grounds (See Figure 2, “Maximum Share of Prisoners at Work – 1990”). Such workers received only nominal compensation, and thus were unable to contribute toward the costs of incarceration. Reynolds’ 1996 estimate (that half of all inmates were working) included those who were participating in vocational training. Calling most work performed by inmates “shoddy”, Reynolds called for increased private sector involvement, citing the advantages of not only offsetting incarceration costs, but of rehabilitating prisoners and in the process, apportioning part of their wages towards

⁸ The Federal Bureau of Prisons (BOP) has long had to defend its industries program (UNICOR) from critics who maintain that federal inmate products have an unfair pricing advantage over private sector products (Nicknish, 1996; Reynolds, 1996). However, FPI is prohibited from participating in the PIE Certification Project, which was established for state correctional systems only.

victim restitution and family support. Economic gains would also accrue, not only to inmates but to taxpayers.

Maximum Share of Prisoners at Work* (1990)



* Some inmates participate in more than one work program. The chart ignores such double counting, thereby maximizing the estimated share of prisoners in work programs and minimizing prisoners' idleness.

** Laundry, food services, office work, building maintenance, repairs, etc.

Source: U.S. Department of Justice, Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics 1993, p. 634.

Acknowledging some of the problems attached to hiring inmates (e.g., some inmates may be illiterate or of less-than-average intelligence), Reynolds proposed expanding private sector involvement in prison production.

Reynolds called an average of \$5.00 per hour "feasible," and projected that inmates working 40 hours a week could make \$10,000 annually. Projecting taxpayer compensation of 60 percent, he said that taxpayers would reap significant benefits, especially if 25 percent of inmates were involved in working for the private sector, and

the prison population continued its ascent. Only then, he suggested, could inmate workers be realistically expected to pay restitution, as well. After all, many probationers were required to pay restitution, but prison inmates could not be expected to pay restitution without at least a minimal wage income.

Correctional practitioners and researchers alike have long maintained that inmates prefer work to inactivity (Auerbach et al., 1998). (In 2005, this writer found that PIE participants in South Carolina were particularly proud of their jobs, and of their ability to support their families; thus it seemed that such inmates were motivated by more than a preference for work over inactivity.)

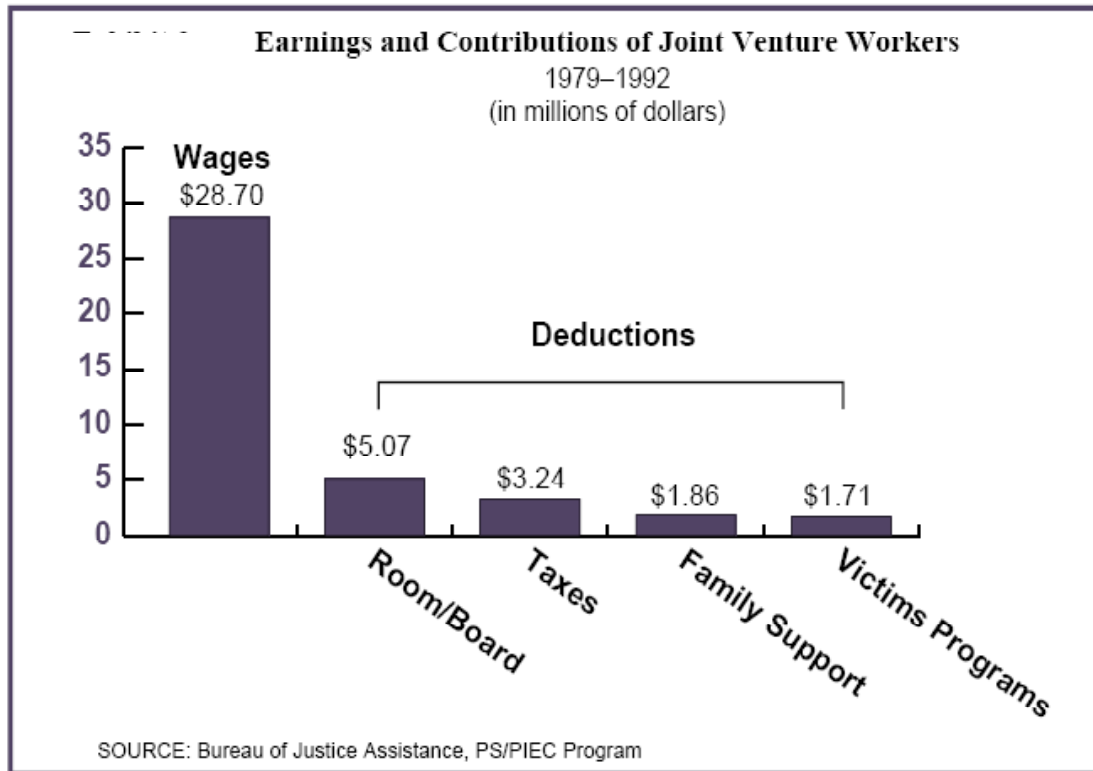
Ultimately, some might say that the strongest case for correctional industries may be the increasing number of studies showing that recidivism among industries participants is less than that of non-participants (Saylor and Gaes, 1995 and 1996; MacKenzie et al., 1998; Smith et al., 2006).

The economics of inmate labor have been reviewed by economists from a policy perspective. In particular, in a 1999 conference held at George Washington University, potential advantages and disadvantages were debated by five prominent economists. (See Appendix A for a synopsis of the National Symposium on “The Economics of Inmate Labor Force Participation.”)

A Decade and a Half of the PIE Program

By 1993, 32 correctional agencies had been certified by the Department of Justice, and approximately 1,000 inmates were employed in PIE programs (Sexton, 1995). In the years between 1979 (when Congress passed the enabling legislation for

PIE) and 1992, inmates had earned wages of more than \$28 million [see Figure 3: “Earnings and Contributions of Joint Venture Workers (1979-1992)”].



Such “modest results,” he wrote, reflected the difficulties associated with the Percy Amendment which established PIE.

Sexton (1995), in a report on prison joint ventures with the private sector, studied successful partnerships between private sector companies and correctional agencies in three states: California, Connecticut and South Carolina. He listed the “challenges” of PIE ventures:

- *Absenteeism and rapid turnover of employees.*
- *Limited opportunities for training.*
- *Logistical problems, such as appropriate access for deliveries.*

Sexton also saw some positive aspects:

- *A cost-competitive, motivated work force, which can continue to work after release from prison.*
- *The proximity of a prison-based feeder plant to the company's regular facility.*
- *Financial incentives, including low-cost industrial space and equipment purchase subsidy that are offered by some corrections officials.*
- *Safe work environment due to the presence of security personnel and a metal detector that keeps weapons out of the shop area.*
- *The partial return to society of inmate earnings to pay State and Federal taxes, offset incarceration costs, contribute to the support of inmates' families, and compensate victims.*

Sexton in his 1995 report for the National Institute of Justice (NIJ) recalled the involvement of the private sector in prison industries in the early years of the 20th century. He noted that one of the benefits of the PIE legislation was its potential to keep jobs in the United States that might otherwise be sent offshore. The ability to put “made in the U.S.A.” labels on prison products played an important role in persuading purchasing agents of two large corporations to buy prison products over competing offshore products. Sexton quoted an executive as saying that “keeping the jobs in the country helped line workers in our other plants [to] accept the idea of a prison-based work force.”

Characteristics of Three Types of PIE Models

Sexton described three types of joint ventures (see Table 2, “Principal Characteristics of Three Types of Joint Ventures”): the Manpower Model, the Employer Model and the Customer Model. In the **Manpower Model**, inmates are employed by the state (typically, the DOC), and are supervised by correctional staff in prison-based industries. Private sector companies are charged a burden rate for their labor. This model is based on the concept developed by a well known temporary employee agency that allows companies to lease their workforce.

Principal Characteristics of Three Types of Joint Ventures					
Model	Workers Employed By	Workers Supervised By	Workers Trained By	Benefits for Company	Benefits for Prison
Manpower	Prison	Company	Prison	<ul style="list-style-type: none"> • Workforce • Rent/utility • Money for equipment • Administrative support 	<ul style="list-style-type: none"> • Employment • Overhead rate • Wage deductions • Payback on equipment
Employer	Company	Company	Company	<ul style="list-style-type: none"> • Workforce • Rent • Utilities 	<ul style="list-style-type: none"> • Employment • Wage deductions
Customer	Prison	Prison	Prison	<ul style="list-style-type: none"> • Product or service 	<ul style="list-style-type: none"> • Payment for finished Goods
Source: National Institute of Justice (November 1995). Work in American Prisons: Joint Ventures With the Private Sector. NCJ 156215.					

The **Customer Model** allows the private company to negotiate a contract with the correctional organization. The corrections agency owns and operates the business, and is paid a price (determined previously by agreement) by the company for the products it manufactures. (The Manpower Model is a category of the Customer Model.)

In the **Employer Model**, the private sector employer owns and operates the business in the prison, acting as both employer and supervisor of the inmate employees.

The state prison provides the space and qualified workers who are hired and paid by the private sector business.

Sexton reported that the customer model offers the least exposure to risk to the company, in that their involvement entails only payment for finished products or services. Corrections officials are more vulnerable in the customer model scenario because they must operate a viable business within the limits imposed by prison constraints. In contrast, both the employer and manpower models require cooperation and collaboration between the business and prison officials to minimize risks and maximize rewards. Both parties must make commitments to ensure the success of the joint venture.

Benefits accrue to both sides in such arrangements. Prison officials benefit from improved inmate morale and reduced idleness. The private sector benefits by gaining access to a labor pool of entry-level workers where absenteeism is low, and the “price” is likely to be “right” when it comes to comparing the costs of work space in a prison-based business versus work space in the community.

South Carolina Leads Nation in PIE Numbers

Reynolds reported that in 1996, the state of South Carolina was leading the nation in number of inmates (325) employed in PIE programs. California was second with 274, followed by Washington (201) and Nevada (198)—modest numbers when we consider that the PIE legislation was enacted 17 years earlier. Interestingly, as these numbers suggest, state prison population size appeared to be unrelated to PIE growth.

In its 1997 directory, the Correctional Industries Association (forebear of NCIA) published the dates of the states then-certified. (See Table 3, “Certified Prison Industry Enhancement Programs: Fiscal Year 1996 Listings”.)

Certified Prison Industry Enhancement Programs: Fiscal Year 1996 Listings						
Jurisdiction	Certification Date	Inmates		Jurisdiction	Certification Date	Inmates
Arizona	8/81	31		Iowa	8/89	12
Idaho	7/85			Colorado	1/90	24
California YACA	8/85	305		South Dakota	1/91	44
Nevada	8/85	199		Tennessee	1/91	93
Minnesota	11/85	113		Delaware	7/92	
Utah	12/85	94		Indiana	7/92	
Kansas	7/86	134		Texas Red River County	7/92	11
New Mexico	11/85			Maryland	8/92	31
Washington	3/87	233		Hawaii	10/92	19
Oklahoma	7/87	11		Vermont	1/93	5
Nebraska	10/87	41		Wisconsin	1/93	8
South Carolina	12/87	296		Texas and DCJ	2/93	124
Maine	10/88	6		North Carolina	5/93	32
NH Belknap County	10/88	4		Louisiana	1/94	12
NH Stafford County	10/88	16		Montana	1/94	
Connecticut	1/89	31		Virginia	3/95	
Missouri	3/89	42		Florida	1/95	
Oregon	3/89	102		Ohio	10/95	
Alaska	5/89	5			TOTAL INMATES:	2078
Source: 1997 Correctional Industries Association Directory						

Table 4, “Characteristics of 1996 PIE programs” reveals that the average number of inmates in PIE states in 1996 was 343,640. Reynolds (1996) called attention to the fact that the total was less than 2/10 of one percent of all prison inmates were participating in the PIE initiative, and that the average number of industries per state was

six. Inmates worked an average of seven hours per day, for a pay range of \$4.25 – 9.50.

All 25 PIE states collected victim restitution or court costs from inmate wages, as well as incarceration costs or mandatory savings.

Characteristics of 1996 PIE programs

P.I.E. Programs	Correctional population	Number of industries or operations	Avg number of hours worked per industry per day	Number of inmate assignments or workstations	Inmate hours worked in FY1996	Pay range of inmate workers per hour	Law allowing inmate labor for use in construction or renovation	Victim restitution court costs or fees paid through earnings	Incarceration costs or mandatory savings deducted from inmate wages	Offer product catalog
Alaska	3,571	1	7	7	75	5.00-7.80	No	Yes	Yes	No
Arizona	21,813	3	7.5	48	43,569	4.25	No	Yes	Yes	Yes
California Joint Venture	130,000	16	7	225	290,793	4.25-4.75	Yes	Yes	Yes	No
California Youth Authority	9,724	6	5	128	168,997	4.25-5.12	Yes	Yes	Yes	N/A
Colorado	10,514	1	8	25	34,169	4.25-4.85	Yes	Yes	Yes	No
Connecticut	15,000	13	7	30		4.27-6.50	Yes	Yes	Yes	Yes
Hawaii	2,228	3	8	30	N/A	5.25-7.00	Yes	Yes	Yes	Yes
Iowa	6,193	2	8	15	N/A	6.00-9.00	Yes	Yes	Yes	N/A
Kansas	7,055	7	8	200	416,000	4.25-6.00	Yes	Yes	Yes	N/A
Louisiana	24,937	1	7	30	43,344	4.25	Yes	Yes	Yes	Yes
Maine	1,470	1	6.5	6	1,150	6.36	Yes	Yes	Yes	No
Minnesota	4,720	5	6	92	128,660	4.25-6.00	Yes	Yes	Yes	Yes
Missouri	19,300	25	7	1206	2,185,000	4.25	No	Yes	Yes	Yes
Montana		1	8	9	8,837	4.25	Yes	Yes	Yes	No
Nebraska	3,125	4	8	60	90,000	4.25-9.50	Yes	Yes	Yes	Yes
Nevada	7,500	20	7.5	350	N/A	4.25-8.50	Yes	Yes	Yes	No

Oklahoma	14,200	2	8	25	40,000	4.35	Yes	Yes	Yes	N/A
Oregon	8,509	4	7.25	95	139,098	4.75-8.00	Yes	Yes	Yes	Yes
South Carolina	20,000	4	7.5	325	308,999	5.00-5.50	No	Yes	Yes	Yes
South Dakota	1,795	10	7.5	80		Min-5.50	No	Yes	Yes	No
Tennessee	14,000	6	5.1	200	200,000	4.25-5.75	Yes	Yes	Yes	N/A
Texas*	128,140	3	8.3	152	163,416	4.25-6.00	-	Yes	Yes	Yes
Utah	4,294	3	7	77	170,235	4.25-5.05	Yes	Yes	Yes	N/A
Vermont	1,000	1	4	3	3,724	4.50	No	Yes	Yes	No
Washington	12,192	14	8	311	373,659	4.90-8.00	Yes	Yes	Yes	N/A
Summary of P.I.E. Programs										
Total	343,640	156		3729	4809725		Yes 18	Yes 25	Yes 25	Yes 10
Average	14,318	6	7	149	240486	4.25-9.50	No 6	No 0	No 0	No 8
Note: Although certified in January 1995, Florida was not yet active at the time of the data collection for this chart										
Note: Original error in Texas prison population corrected above										
Source: 1997 Correctional Industries Directory										

Economic Benefits of PIE Programs

In 2003, Petersik and colleagues published a study of the Prison Industries Enhancement (PIE) Program. The study was conducted at The George Washington University Center for Economic Research for the National Correctional Industries Association (NCIA), and funded by the U.S. Department of Justice, Bureau of Justice Assistance (BJA). The research was aimed primarily at identifying the beneficiaries of PIE inmate incomes and the extent of their benefits, specifically responding to the question: Who benefits from wage earnings of inmates working in the PIE program? A secondary objective of the survey was to answer the question: What if PIE inmates earned average American salaries? Information obtained was intended to assist policymakers, stakeholders, corrections departments and beneficiaries in establishing priorities. Additionally, identification of the beneficiary groups could facilitate improvements or modifications of PIE programs in order to maximize the equitable distribution of available benefits (Petersik et al., 2003).

The study was conducted to fulfill the call for collection of data to establish whether the PIE program was meeting its charge, as outlined in PIE Certification Program Guidelines:

Through inmate wage deductions, to increase advantages to the public by providing departments of correction with a means for collecting taxes and partially recovering inmate room and board costs, by providing crime victims with a greater opportunity to obtain compensation, as well as by promoting inmate family support.

The research was also a response to the need to clarify the specific beneficiaries of the PIE program for corrections departments, policymakers, and the public. It was believed that clarification of the beneficiaries could enhance stakeholder and public support. “Beneficiaries” were considered to be those persons or groups who received PIE monies deducted from inmate wages, or who realized savings from a reduction in the needs of inmates whose PIE earnings improved their ability to be self-sufficient. Beneficiaries, according to the researchers, would include those who realized tax reductions or savings, as well. (Indirect or secondary beneficiaries were not explicitly researched.)

The study utilized records and information supplied by a statistical sample of state-operated PIE programs and employers. In the study “inmate gross income” (gross inmate wages) referred to total inmates’ PIE wages for a single calendar year between 1998 and 2001. Research estimates used were based on *inmate gross income* and *employer gross payroll* (including PIE worker gross income plus employer contributions to Social Security, workers’ comp or employment compensation).

Sampling was based on individual state PIE inmate counts reported to NCIA for the year ending December 31, 2001. The researchers’ assumption was that the static one-day counts would have the same proportion of inmates in the U.S. total as the individual state’s unreported share of the total number of inmates who were employed at any time during the sample year (1998-2001). The study used PIE payroll and other data recorded and provided by a 10-percent sample of PIE workers who were employed at any time during the selected year. The sample was taken from a stratified random sample of PIE-certified States. GWU staff estimates of federal and state income tax liabilities rather

than recorded deductions were used (due to confidentiality constraints). The study was based on state PIE worker wages as well as employers' payroll tax contributions for an unspecified year between 1998 and 2001. The PIE inmates were working in state prison-based Employer and Customer (including Manpower) Model prison industries programs. State participation was voluntary. State programs, individual firm industries, and the year of the study year were not revealed (although anonymity was not guaranteed). Inmate records were confidential.

At the outset, Petersik and his colleagues noted several reasons for difficulties attached to understanding PIE benefits. They pointed out that PIE deduction categories were sometimes ambiguous, thus obscuring precise identification of beneficiaries and making it difficult for researchers to quantify benefits (e.g., it was unclear whether "taxes" included federal and state income taxes, or whether (or to what extent) Social Security and Medicare deductions were taken. Petersik and his colleagues also maintained that PIE firms incurred "significant" employer payroll costs not manifest in national PIE data. Also, they said, net benefits to beneficiaries might differ substantially from gross benefits identified by aggregate deductions. They called attention to the fact that almost half (47 percent) of inmate gross incomes included an unspent residual that was unaccounted for among aggregate PIE data; the disposition of that income was, they said, "of interest." Anecdotally, they said, inmates often had PIE obligations (e.g., court costs, fines, etc.) over and above their ordinary deductions. Ultimately, they said, the aggregate data obtained revealed "little of the potential PIE beneficiaries and benefits, were U.S. state prison inmates fully employed year-round in skills and jobs yielding more typical U.S. annual incomes."

The researchers acknowledged that their survey was limited to the financial benefits and identification of direct beneficiaries of PIE wages. It was not meant to be a comprehensive assessment of the PIE program, nor was it designed to identify demographic characteristics of PIE participants. Jail-based PIE programs were not included.

Petersik Findings

Petersik and his colleagues found that “(v)irtually every American belongs to a group that benefits from PIE inmate work.” Beneficiaries included victims of crime; taxpayers (both federal and state, household and business); as well as those individuals and programs who rely on state or federal income taxes or Social Security, Medicare, workers’ compensation, unemployment compensation, including all levels of education (elementary, high school or college), welfare programs, an extensive variety of state and federal programs maintaining medical and/or retirement services, and “other goods and services.”

Petersik et al. estimated that 53 to 57 cents of every dollar earned by PIE inmates benefited non-inmate recipients. “Others, not the inmates, are the primary beneficiaries of contemporary PIE incomes,” they wrote. The single greatest beneficiary of PIE incomes was the PIE employee (who received 43 percent of gross employer payouts and 47 percent of his or her gross income), while the single largest non-inmate beneficiary group included state household and business taxpayers, as well as all state programs benefiting from state income taxes, accounting for approximately one-third of PIE inmate incomes. The researchers maintained that about one-third of PIE incomes alleviated state

taxpayer costs as a result of deductions taken for room and board. The second largest non-inmate beneficiary group benefiting from state inmate PIE employment included social security taxpayers and recipients. Other beneficiaries, they found, were current crime victims and household and businesses bearing the costs of crime; these beneficiaries ranked as the third-largest non-inmate beneficiary group. Federal income tax payers and programs dependent on the federal budget constituted the fourth largest beneficiary group, they wrote. The researchers called attention to the fact that PIE inmate deductions for federal income taxes could be said to support national defense, income security (Supplemental Social Security, food stamps, Temporary Assistance to Needy Families, , the earned income tax credit), and Medicaid—as well as others not listed here.

[See Table 5, “Estimated Gross Employer Payouts, PIE Wages, and Deductions One Unspecified Year 1998-2001—Weighted Sample State PIE Programs Only (Revised)”]

Estimated Gross Employer Payouts, PIE Wages, and Deductions One Unspecified Year 1998-2001 — Weighted Sample State PIE programs Only (Revised)			
Category	(\$ Million)	Percent	
Gross Employer Payout:	32.04	100.0	
Social Security (OASDI)	1.42	4.4	
Social Security (HI-Medicare)	0.33	1.0	
Federal Unemployment Insurance	0.11	0.3	
State Unemployment insurance	0.11	0.4	
Workers Compensation	0.76	2.4	
Employer Contributions	2.74	8.6	
	(\$ Million)	Percent	Percent
Inmate Gross Income:	29.30	91.4	100.0
Room and Board	9.60	30.0	32.8
Taxes, Federal Income (Liability)	1.14	3.5	3.9
Taxes, State Income (Liability)	0.12	0.4	0.4
Social Security (OASDI)	1.42	4.4	4.9
Social Security (HI-Medicare)	0.33	1.0	1.1

Victims Compensation	2.64	8.2	9.0
Family Support*	0.23	0.7	0.8
Other PIE deductions*	0.05	0.2	0.2
Total inmate PIE deductions	15.53	48.5	53.0
PIE Residual**	13.76	43.0	47.0

* Some sampled States include other court-ordered deductions, interpreting the final deduction category as “family and other court-ordered deductions.”

** Residuals are not net savings and do not equal the net amount accruing to the inmate because of the post PIE deductions not accounted by PIE.

NOTE: Totals may not equal sum of components due to independent rounding.

Source: Petersik, T.W., Nayak, T.K., Foreman, M.K. (July 31, 2003). Identifying Beneficiaries of PIE Inmate Incomes: Who benefits from Wage Earnings of Inmates Working in the Prison Industry Enhancement (PIE) Program? Page xiii.

In addition to asking (and answering) the question, “Who benefits from wage earnings of inmates working in the PIE Program?” the researchers asked (and answered) a second question: “What if PIE inmates earned average American salaries?” Petersik and colleagues sought to estimate both the beneficiaries and the financial benefits that might accrue if state inmates were permitted to participate in open-market jobs comparable to national averages based on productivity, annual hours worked, wage levels, and skills. Acknowledging that estimates of “potential incomes, beneficiaries, and benefits” were dependent on certain assumptions, the researchers devised a series of assumptions to establish a range of “low-to-high ‘reasonable’ incomes, benefits and beneficiaries which might be anticipated, in the event that the PIE program could be implemented throughout the United States.

“Critical assumptions” for both cases (high and low) were described:

- In the low-case scenario, one half of PIE workers (700,000 inmates) would work full-time for the minimum wage of \$10,500 annually. In the high-case scenario, three-quarters of PIE workers (1,050,000) would work at the average yearly wage of \$32,000. (Calendar year 2000 was used in both scenarios.)

- In both scenarios, PIE workers would pay the marginal 28-percent federal income tax rate (about \$7,150). Petersik et al.’s low-case scenario assumed one-half of PIE workers would pay the average state income tax rate of 4.4 percent above \$4,700 (bearing in mind that some states have no income tax); their high-case scenario projected that 67 percent of PIE workers would pay state income taxes.
- Petersik et al. noted that some low- and high-case assumptions would be affected by the number of PIE inmates working in employer versus customer model prison industries, which would affect payroll taxes and deductions—assuming higher deduction rates in the high-case scenarios.

[See Table 6, “Results: Low Case Assumptions . . . “ and Table 7, “Results: High Case Assumptions . . . “ for summaries of the results of low and high case scenarios.]

Results: Low Case Assumptions, U.S. PIE income, Benefits, and beneficiaries, if PIE Were Generally Applied in U.S. Federal and State Prisons (Assumed Income per PIE Inmate \$10,500 per Year)			
Category	(\$ Billion)	Percent	
Gross Employer Payout:	7.68	100.0	
Social Security (OASDI + HI)	0.28	3.7	
Social Security (HI-Medicare)			
Federal Unemployment Insurance	0.03	0.3	
State Unemployment insurance			
Workers Compensation	0.03	0.3	
Employer Contributions	0.33	4.3	
	(\$ Billion)	Percent	Percent
Inmate Gross Income:	7.35	95.7	100.0
Room and Board	2.08	27.1	28.3
Taxes, Federal Income (Liability)	0.66	8.6	8.9
Taxes, State Income (Liability)	0.09	1.1	1.2
Social Security (OASDI)	0.28	3.7	3.8
Social Security (HI-Medicare)			
Victims Compensation	0.78	10.1	10.6
Family Support*	0.15	1.9	2.0
Other PIE deductions*	0.00	0.0	0.0
Total inmate PIE deductions	4.03	52.5	54.9

PIE Residual**	3.32	43.2	45.1
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**Total exceeds PIE deductions limit of 80 percent.

Source: Petersik, T.W., Nayak, T.K., Foreman, M.K. (July 31, 2003). Identifying Beneficiaries of PIE Inmate Incomes: Who benefits from Wage Earnings of Inmates Working in the Prison Industry Enhancement (PIE) Program? Page xvii.

Results: High Case Assumptions, U.S. PIE income, Benefits, and Beneficiaries, if PIE Were Generally Applied in U.S. Federal and State Prisons
(Assumed Income per PIE Inmate \$33,250 per Year)

Category	(\$ Billion)	Percent	
Gross Employer Payout:	36.84	100.0	
Social Security (OASDI + HI)	2.57	7.0	
Social Security (HI-Medicare)			
Federal Unemployment Insurance	0.34	0.9	
State Unemployment insurance			
Workers Compensation	0.34	0.9	
Employer Contributions	3.24	8.8	
	(\$ Billion)	Percent	Percent
Inmate Gross Income:	33.60	91.2	100.0
Room and Board	10.85	29.5	32.3
Taxes, Federal Income (Liability)	7.31	19.8	21.7
Taxes, State Income (Liability)	0.85	2.3	2.5
Social Security (OASDI)	2.57	7.0	7.7
Victims Compensation	3.70	10.0	11.0
Family Support*	2.08	5.7	6.2
Other PIE deductions*	0.07	0.2	0.2
Total inmate PIE deductions	27.42	74.4	81.6**
PIE Residual**	6.18	16.8	18.4

**Total exceeds PIE deductions limit of 80 percent.

Source: Petersik, T.W., Nayak, T.K., Foreman, M.K. (July 31, 2003). Identifying Beneficiaries of PIE Inmate Incomes: Who benefits from Wage Earnings of Inmates Working in the Prison Industry Enhancement (PIE) Program? Page xviii.

Petersik and his colleagues found that (“if assumptions and outcomes occurred as depicted in either scenario”) benefits might accrue, including:

First, were the United States to succeed in engaging a large share of the U.S. State and Federal inmate labor force, their gross labor contributions would

*likely be much greater than currently realized. Whereas PIE inmates' annual gross incomes nationwide today total about \$32 **million** per year, generalized State and Federal inmate PIE work suggests total U.S. prison inmate labor income potential ranging from about \$7 **billion** to nearly \$37 **billion** per year.*

*Second, were U.S. State and Federal inmates generally successful in PIE at the assumed levels, (1) the primary beneficiaries of general PIE inmate work would be Federal and State taxpayers, Social Security contributors and beneficiaries, crime victims, families, and others than the inmate; and (2) the greater the inmates' productivity and incomes, the greater the proportional benefits to others than the inmate. Said otherwise, the greatest beneficiaries of widespread inmate PIE work would not be inmates but others than inmates, and **the most significant stakeholders negatively affected by current non-work by U.S. prison inmates are these same groups.***

The researchers noted that since some benefits have more than one beneficiary, the likelihood was that (in those instances) both taxpayers and tax benefit recipients might be affected resulting in a sum total of beneficiary shares “much greater than 100 percent.”

If PIE inmate employment was successful in general, the single greatest non-inmate beneficiary class was projected to be state taxpayers, both household and business, who would receive approximately a third of total benefits of general PIE inmate work. However, Petersik and his colleagues called attention to the fact that the many inmates who were not PIE workers would still require maintenance, so that state taxpayers would continue to shoulder the preponderance of imprisonment costs. In spite

of this, however, they maintained that between \$2-11 billion in savings to state taxpayers would be realized from PIE workers' room and board payments.

The second greatest non-inmate beneficiary class was projected by Petersik to be "Social Security and other social safety net wage-earner and employer payees, and retired, widowed, disabled, dependent, and other Social Security recipients. By combining worker and employer contributions, the researchers estimated PIE inmate total contribution levels at between \$500 million and \$5 billion annually.

Depending on income assumptions for PIE workers, federal income taxpayers (and programs that depend on income tax collections) were projected to be the second or third largest beneficiaries group.

Additionally, Petersik and his colleagues predicted that compensation funds for crime victims would "gain significantly" and that family support might also "increase substantially."

Overall, the PIE inmate workers would still likely be the single largest beneficiaries of PIE employment, Petersik said, but the implications for policy appeared to be that whatever the benefits to inmate workers, non-inmate beneficiaries would gain "at least as much" as inmate workers.

In a section entitled "Caveats" the researchers pointed out that while it was an interesting and informative exercise to estimate the benefits of PIE in a correctional world where PIE was widely accepted, there were some unknown issues to consider:

- Changes that needed to be made by corrections to enhance safety, efficiency, profitability and competition in (correctional) workplaces;

- Enhancement of methods for supplying equipment, building, land and services;
- Techniques to enhance the attractiveness and competitiveness of both correctional sites and PIE businesses;
- Expanded assimilation of prisoner manufacturing into the overall economy.

While there were admitted hurdles still ahead (e.g., attracting public acceptance of PIE), the assimilation of inmate labor into the nation's economy could produce benefits extending beyond those traditionally viewed by PIE proponents.

Researchers' Review of PIE Inmate Accounts in Single Month Period

In an attempt (separate from the primary research reported thus far) to obtain an introductory view of PIE inmate spending, the researchers sought account information of the 968-inmate sample, but obtained information for only 462 inmates, a total that included some data from every sampled state. (Inmate post-PIE spending was a secondary component of this voluntary survey.)⁹ Researchers also attempted to obtain pre-PIE account information for the sampled population, but succeeded in obtaining the data from only 106 inmates (not every state provided the requested data). The findings, in spite of these limitations, are of interest.

⁹ Petersik, in a personal communication with the writer, summarized the difficulties of obtaining the additional data: "Prudence, time, and resource constraints limited efforts for these data to that [already] provided by participating jurisdictions, and thus many records were not available in many instances."

- Child support or victim restitution deductions did not appear to be substantially supported outside PIE deductions. Indeed, the average state deduction beyond PIE worker deductions was just 3 percent.
- PIE inmates appeared to acquire significant savings, 14 percent of their gross income and approximately a third of their discretionary PIE incomes after PIE deductions. This was in marked contrast to non-PIE inmates, who saved virtually nothing (perhaps not surprisingly, given their typically limited earnings).
- In spite of what might seem to be an opportunity for PIE inmates to exercise “normal” financial responsibility, inmate account data suggested that they did not do so. It appeared that, thus far, PIE inmates continued to remain outsiders when it came to ordinary economic participation.

Nevertheless, PIE inmate earnings contributed substantially to crime victims, taxpayers, families, social support programs—and themselves. Petersik and his colleagues concluded that “Comparisons of pre-PIE and PIE incomes and outlays (left) little doubt that PIE work yields significantly larger financial benefits to important National constituencies than idleness or traditional inmate work.”

2006 Research Findings: Impact of PIE on Recidivism and Post-Release Employment

In June 2006 a report was released to address the paucity of policy research in the area of prison industries. The authors (Smith et al., 2006) stated that their research constituted “the first national review of the recidivism and post-release employment

effects of the Prison Industries Enhancement Certification Program (PIECP).” The findings of Smith and her colleagues are directly relevant to this study and its purpose, the identification of key factors in the implementation of a successful PIE program. The research design was quasi-experimental, and used matched samples with sample PIE participants and two control groups: inmates working in traditional prison industries (TI) and inmates engaged in “other than work” (OTW). The samples were matched in six criteria: race; gender; crime type (person and other); age; time served; and number of disciplinary reports. A cluster sampling strategy was utilized and six states selected that had large numbers of PIE workers. Researchers included all major U.S. geographic regions, rural and urban populations, each of the three PIE models, and genders. Each state selected had PIE certification prior to 1996. (One state was forced to drop out, and the study ultimately included five states.) Smith’s PIE sample consisted of PIE workers (who worked for any length of time) in the five states and who were released between January 1996 and June 2001, permitting a minimum of a two year follow-up and a maximum follow-up of 7-1/2 years.

Note that under the MacKenzie-Hickman method rating system, the Smith et al. study would be considered somewhere between a “3” or a “4” because although it sought to compare “a program group and one or more control groups, controlling for other factors or a non-equivalent comparison group that is only slightly different from the program group”—this proved to be difficult and problematic for reasons outlined by the researchers. A “3,” we recall, is “a comparison between two or more groups, one with and one without the program.”

The research questions were:

1. *Does PIECP participation increase post-release employment as compared to traditional industries (TI) or other than work (OTW) activities?*
2. *Does PIECP participation reduce recidivism as compared to traditional industries work or other than work?*

Survival analysis was used. Time to obtaining employment was measured, as well as time to loss of employment. Time from release to first recidivism was measured. (Recidivism was considered to be arrest, conviction or incarceration.)

Smith et al. provided a rationale for use of survival analysis, stating that it measured failure rates of groups receiving different treatments, measuring time between release from prison to employment and/or recidivism, thus facilitating group comparisons. Survival analysis, they wrote, had an advantage over fixed-period analysis because it provided details (“proportion”) about failure at any given point of analysis, instead of proportion at the end of a given point.

Primary findings were that PIE participants were “significantly more successful in post-release employment. That is to say,” researchers wrote, “they became tax-paying citizens quicker and remain(ed) in that status longer than TI and OTW releasees.” Smith and her colleagues found that approximately 55 percent of PIE participants and 40 percent of the traditional industries (TI) and “other-than-work” (OTW) inmates obtained employment within the first quarter following release. Similarly, 48.6 percent of PIE participants were employed continuously for at least one year following release from

prison, compared to 40.4 percent of TI releasees and 38.5 percent of OTW releasees. PIE participants obtained employment significantly faster than either TI or OTW, while TI participants obtained employment significantly faster than OTW. In addition, PIE workers earned significantly more than OTW releasees, and were employed significantly more post-release quarters than TI and OTW releasees.

Of equal interest was the researchers' finding that PIE participants remained crime-free significantly longer than TI and OTW releasees. (TI participants were not significantly different from OTW releasees, however.)

Smith et al. concluded that their results suggested that

. . . work plays an integral part in successful re-entry upon release in terms of employment and recidivism. Based on the employment survival analysis, employment assistance should be focused during the first year after release to assist those who obtain work more readily and additional research should be focused on the 20 to 30 percent who do not obtain employment for the remaining follow-up period to determine the causes.

The researchers concluded also that both federal and state coffers benefited from room and board and taxes paid. They maintained that private sector partnerships and the PIE program should be increased and carefully monitored.

Smith and her colleagues pointed out that since their matching techniques led to selection of TI and OTW inmates with characteristics that matched PIE participants, it is important for future researchers to determine the percentage of the general prison population that matches PIE participants, who are carefully selected based on specific

criteria. This caused some concern among the researchers and others as to the generalizability of their results.

Smith wrote that “(i)n the strictest definition of research methods, we are able to generalize only to the five states involved and then only to the participants in the sample. However . . . (t)his study informs the stakeholders of the impacts of PIECP on a much larger scale than (was) currently known.”

Smith Study Limitations

Smith and her colleagues called attention to limitations of their study. For example, they pointed out that OTW inmates might have been involved “in education, vocational education, training, counseling, or other preparatory programs” or have been “idle.” PIECP inmates might have been involved in some of these programs, too, as well as TI on one or more occasions, thus blurring the distinctions somewhat, or creating what Smith calls an “additive” effect (a term also used by MacKenzie et al. previously). Other limitations were identified.

Overall the study selected inmates whose characteristics matched PIE characteristics; thus, they were not randomly selected, and as mentioned already, were not representative of the overall prison population. Any inmate who participated in the PIE program at any time was considered a PIE participant, regardless of the length of time s/he participated.

In particular, it was noted that PIE participation was limited to those without recent disciplinary infractions. Also, PIE involvement was limited to voluntary participation. Such criteria necessarily excluded general population inmates with

significant disciplinary write-ups or who refused to work, a process Smith and her colleagues referred to as “creaming.”

Smith pointed out, too, that some work (e.g., laundry) might be considered TI in one state, and OTW in another.

It is not uncommon in some states (e.g., South Carolina) for some inmates to work part-time in PIE programming, and part-time in TI. Similarly, they may also work sometimes in service industries and other times in PIE, or sometimes in service industries and other times in TI. Such inmates are paid accordingly: PIE workers earn minimum to prevailing wage for PIE tasks; less for service tasks; and even less for TI. (Some TI participants are not paid anything.) Service work can be considered (and paid) as PIE labor, but federal law does not require it (because no goods are produced, and federal laws apply only to products that may cross state lines.). However, service industries involve partnerships with the private sector, which means service workers are always paid more than TI workers. In the Smith study, service workers were classified as TI workers (unless they were identified as PIE workers). It seems reasonable to speculate that TI workers who may have also worked in service industries might have produced more positive findings than otherwise (had they not worked in service industries).

PIE Participant Criteria of Smith Research

PIE criteria vary across states, prison, and industry. However, Smith listed “general criteria that seem to fit *most* of the sites and industries” (though not consistently):

- PIE participants were free of disciplinary reports for at least six months;
- PIE participants were primarily minimum and medium security levels;
- They were enrolled in either high school or a GED program, or had completed one or the other;
- They had at least six months remaining of their sentences;
- They did not have major medical problems.

PIE Stakeholder Benefits Identified

Smith noted that in 2004 the Bureau of Justice Assistance (BJA) identified a range of stakeholders who benefit from the PIE program, over and above those identified by Petersik et al. in their 1999 research. BJA's stakeholders who benefit from PIE include corrections administrators, crime victims, the private sector, and the public.

Attitudes Toward PIE Program: Changing or Solidified?

In spite of the PIE program's potential to benefit taxpayers and many other groups, in 2007, resistance endured in many (if not most) jurisdictions. Progress was impeded, also, by the apparent inability of prison industries in general to keep pace with the increase in the nation's prison population. Additionally, progress was hindered by a post 9/11 reduction in funding for prison programming in general, (e.g., decreases in prison-based drug treatment, educational programming, vocational training, and prerelease preparation [Reynolds, 2004]). Nevertheless, researchers continued to

maintain that drug treatment, vocational, and work programs for offenders effectively reduce recidivism. (e.g., Seiter and Kadela, 2003; Wexler et al., 1999).

Some see a modicum of progress. Robert Grieser (2005), Chief Administrative Officer for UNICOR, has written extensively on prison industries and maintained that the PIE program has grown in recent years, probably the result of the funding and efforts of the NCIA. This growth—and increasing interest in PIE—has been observed by the writer as well. This growth and this interest have been particularly evident in escalating attendance at PIE presentations at the NCIA annual conferences of 2005, 2006 and 2007. Grieser also mentioned the success of the South Carolina PIE program, the result, he said, of the efforts of the state’s prison industries director (Tony Ellis), who has worked closely with the South Carolina business community, and who was “proactive” in marketing inmate labor. But Grieser said that implementation of the PIE program in the northeast has been difficult, because of the resistance of unions in states like Rhode Island, New Jersey and Massachusetts.

Grieser was asked why the BOP doesn’t have PIE. When PIE started, he said, the federal population was much smaller. They didn’t push for it, probably because it didn’t seem necessary at the time. However, FPI would now welcome the PIE program, he added (a sentiment echoed by Steve Schwalb, FPI Chief Operating Officer¹⁰). Grieser also called attention to differences between the federal and state systems, noting in particular that the federal system has many more constituencies to consider and to negotiate with, and that these constituencies are “nationwide.”

¹⁰ Schwalb expressed this feeling in the presence of the writer on two separate occasions, at a meeting in the offices of the Bureau of prisons in 2005, and at a correctional industries conference in March 2007.

One national prison industries expert¹¹ reminded the writer of problems afflicting the PIE program at the national level. In 2004, the budget of the Bureau of Justice Assistance (BJA) had been slashed by \$1.5 million. Additionally, the “new people” at BJA over prison industries had “no loyalty” either to the PIE program or NCIA—particularly ironic considering the fact that the PIE program is “one of the few that gives back.” (As mentioned in another section of this paper, political appointees often make major changes in funding or program emphasis when there is a change in Administrations. Such changes often impede progress, and fuel the frustration of long-time program administrators.)

In spite of the recent modest spate of interest in the PIE program among state prison industries directors and corrections officials in dire need of self-sustaining and profitable programs, the full potential of the PIE initiative seems tragically unrealized. The early promise associated with the passage of the 1979 Justice System Improvement Act—and the passage of a quarter of a century—seem to confirm the conclusion reached by the former Chief Economist of the U.S. Department of Labor, and author of a 2004 study of post release job markets, who called “the tiny number of private sector PIE projects and jobs . . . a glaring deficiency in prison industry programs today (Reynolds, 2004).”

European Prison Industries: The European Industries Forum

As the new millennium approached, prison industries in Europe were undergoing many of the experiences common to U.S. prison industries. While European correctional industries were (and are) not monolithic, a shared consensus existed—much like that in

¹¹ The prison expert requested that I withhold his/her identity.

the United States—that inmate labor was important at a minimum because it facilitated management of inmates who—left to idleness—might be difficult to manage (Smartt, 1998). A review of correctional populations and criminal justice issues in several European countries (England, Germany, France, Spain, Sweden and The Netherlands) revealed that—other than the Nordic countries—there had been an increase in inmate populations in most countries (Smartt, 1998). (See Table 8, “Summary details of selected correctional establishment systems” below.) This was the result of more punitive criminal justice policies that resulted from a swing toward conservative values in most of those countries in the 1980s, as well as a less tolerant public attitude toward crime and criminal behavior. (Again, the parallels to American attitudes and policies are difficult to overlook.) Additionally, economic issues led many to conclude that the solution to correctional budgetary woes might be found in income-producing or self-sustaining correctional programs (Smartt, 1998).

Summary details of selected correctional establishment systems¹							
	England	France	Baden Wurtten- berg, Germany	Lower Saxony, Germany	The Nether- lands	Spain	Sweden
Total correctional establishment population 12/31/96							
	57,000	57,000	10,000	8,000	15,000	39,000	8,700
No. of correctional establishments 12/31/96							
	135	187	20	24	48	74	68
Young offenders (under 21) as % of population							
	8.2	9	7	14.2	NA	NA	4.4
Prison population as % of total population, 1996							
	1.0	0.9	0.8	0.7	0.8	0.8	0.5
Prison population as % of total population, 1986							
	0.95	0.84	NA	NA	0.34	0.65	0.49
Prison population as % of total population, 1983							
	0.88	0.70	NA	NA	0.28	0.39	0.43
¹ Total population of countries as per questionnaire returned 12/31/96 by each Ministry							

of Justice and the HM Prison Service. Source for other figures: Council of Europe, Prison Information Bulletin, various years.

Source: Ursula Smartt, Privatization Explosion – Prison Industries in Europe: Is correctional establishment labour becoming big business? Paper presented at Correctional Industries Association Training Conference. Cincinnati, Ohio. October 29, 1998.

In England, a seminal report (The Gladstone Report, 1895) a century earlier had promoted a strong belief in the efficacy of inmate work, although subsequent evidence of the implementation of a policy of inmate work was described as “patchy” (Smartt, 1998). But by 1995, an inquiry into a prison escape resulted in a call for increased productivity and higher wages to facilitate management and rehabilitation of inmates, and to reduce costs (The Learmont Report, 1995).

At a forum held in 1996 in London, the leaders of European Departments of Justice and Correctional Industries commissioned a survey of European prison industries. Countries participating in the 1997 survey included Belgium, England, France, Germany (Lower Saxony and Baden-Wurttemberg), Italy, the Netherlands, Spain, and Sweden. Results of the survey demonstrated that increasing attention was being given to correctional industries and joint ventures with the private sector (Smartt, 1998). While the author of the Forum report maintained that few countries continued in the almost “naïve” beliefs of the 60s and 70s that inmate work would enhance “diligence” and promote “honesty,” there was consensus that educational, recreational and other programming should be scheduled around inmate work.

In spite of recent empirical findings in the U.S., the author, Ursula Smartt, in a 1998 presentation to the Correctional Industries Association Training Conference in Cincinnati, complained that there was “little research evidence” to indicate that prison industries were associated with reduced recidivism. Smartt called the findings of the

1995 Post Release Employment Project (PREP) “unclear.” Nevertheless, she conceded that policymakers in both the U.S. and Europe remained convinced that prison-based work was likely to be associated with post-release work success. Additionally, a number of European policymakers maintained that inmates were more likely to benefit from prison employment if they received enhanced wages, or other incentives. Again, however, Smartt maintained that empirical evidence of this was unavailable, although a research project was reportedly underway to determine whether the newly-established British “incentive regimes” were effectively operating. (The “Incentive Regimes for Inmates in English Penal Establishments” was implemented in 1996, and consisted of a “basic and enhanced” regime for prisoners. Good behavior incentives provided for a “room with a view” or other desirable cell accommodations, increased telephone time or visiting privileges, or more commissary spending money.)

Variations in European Correctional Industries in the Late 90s

Smartt reported that in Sweden’s correctional industries, all contracts were with private sector businesses, and that Swedish Prison and Probation Service goods were not manufactured within penal institutions—unlike England, where virtually all such goods and articles were (and are) produced in prison. The Prison Enterprise Services (PES), though not involved (since 1995) in management of prison-based workshops, instead aids in developing contracts between the private sector, and advises prison administrators in sales and marketing.

In France, at the beginning of the millennium, prison inmates were not legally required to work, the result of a new law passed in 1992. French correctional industries

maintained an “open job market” wherein private sector contractors paid enhanced wages to inmates in exchange for free prison-based work space. Wages were often linked to the French minimum wage, and inmate wages were the highest in Europe. Similar to PIE in the United States, some of the inmate wages were withheld for “personal maintenance” and victim “reparations,” with the remainder set aside for inmates at release from prison. The Regie Industrielle des Etablissements Penitentiaire (RIEP) in France is part of the Penitentiary Administration, and primarily monitors inmate maintenance work in the prison setting. The French Prison Administration maintains a wide network of vocational training and education. Prior to release, inmates are linked to outside employment by the Department for Inmate Labour and Vocational Training (ibid.).

Italian correctional industries were reported to be virtually “dormant” due to a vigorous and influential trade union lobby that led to inmate entitlement to wages reflective of external industry pay scales. As a result, correctional industries in Italy were effectively priced out of the market (ibid.).

In the Netherlands, correctional industries were not emphasized. Instead, the emphasis was on post-release employment of offenders, who were required by law to work a minimum of 26 hours per week in order to qualify for participation in other “regime [work] activities.” The passage of a new Dutch penal code in 1997 paved the way for inmate “resettlement into the workplace” following release. These changes have created an environment in the Netherlands where work and vocational training are perceived as incentives (ibid.).

In Sweden, the correctional industries work day provided a range of programs, including education, occupational rehabilitation, social-skills training, and inmate

preparation for post-release reintegration into the external workforce. Swedish correctional industries contracted only with outside firms; prison-based manufacturing of goods was not allowed. However, since the mid-40s, the Swedish emphasis on work for inmates has been the prevailing philosophy (ibid.).

Table 9, “Work places available and taken up, selected countries,” (below) reveals correctional populations for six countries as of December 31, 1996. The countries include England, France, Spain, Sweden, the Netherlands, and Germany (Baden Wurttemberg = BWB and Lower Saxony = LSX). The Figure “Summary details of selected correctional establishment systems” (pp.72-3) also reveals the prison populations as a percentage of the total population for each country in 1996, 1986 and 1983.

Work places available and taken up, selected countries							
	England	France	Baden Wurttemberg, Germany	Lower Saxony, Germany	The Netherlands	Spain	Sweden
Total correctional establishment population 12/31/1996							
	57,000	57,000	10,000	8,000	15,000	39,000	8,700
Total work places available 12/31/96							
	13,828 ¹	10,700	6,103	2,800	4,400	Not given	2,000
Total number of work places taken up by inmates							
	10,265	10,700	4,739	2,600	4,400	Not given	1,600
Percentage of work/industries places taken up by inmates							
	74.23	100	77.65	92.85	73.33	Not given	80.00
¹ The English figure includes 2,000 inmates employed in ‘Farms and Gardens.’							
Source: Ursula Smart, Privatization Explosion – Prison Industries in Europe: Is correctional establishment labour becoming big business? Paper presented at Correctional Industries Association Training Conference. Cincinnati, Ohio. October 29, 1998.							

The European Industries Forum called attention to the conflicting need of correctional facilities to collaborate with the private sector to obtain inmate employment, and the need to avoid competing with community industry. As in the United States, the

Forum also stressed the avoidance of inmate idleness and the importance of keeping inmates productively occupied. Also as in the United States, the Report referred to the “ever increasing correctional population” resulting from harsher (longer) sentences and reduced parole and home leaves. The Forum noted that it might play an important role in working with key stakeholders in prison industries: trade unions, chambers of commerce, correctional authorities and the private sector.

Table 10, “Deductions from inmates’ wages/earnings” reveals that the Netherlands alone among European countries took deductions for room and board, victim and family support, social security, “compulsory savings” and “debts.” England took the same deductions, minus social security, while Spain, the polar opposite, took no deductions whatever—in spite of the fact that (together with France) it paid the highest wages to inmates among the European countries. But the issue of inmate wage deductions was of increasing interest in most countries, although it was not known whether they affected inmates’ motivation to work, or whether they might have unintended consequences (Smartt, 1998).

Deductions from inmates’ wages/earnings							
	England	France	Baden Wurttemberg, Germany	Lower Saxony, Germany	The Netherlands	Spain	Sweden
Compulsory savings	yes	10%	33%	yes	Yes		yes
Board/lodging	yes	10% to max. 300F p. month			Yes		
Victim support	yes	20%			Yes		yes
Family support	yes				Yes		yes
Debts	yes		Yes	yes	Yes		yes
Social Security/state		Yes	3.25%	yes	Yes		
Tax	(¹)				Yes		

¹When the *Prisoner's Earnings Act 1996* has been implemented via Secondary Legislation, social security, tax, etc. will be payable when an inmate earns wages high enough to do so. Usually this occurs only where an inmate is working outside the correctional institution prior to release. Although the subordinate legislation dealing with deductions is not yet in place, deductions are already being made at some open or semi-open correctional establishments such as HMP Leyhill in West England and HMP Latchmere House in London's Richmond Park.

Source: Ursula Smart, Privatization Explosion – Prison Industries in Europe: Is correctional establishment labour becoming big business? Paper presented at Correctional Industries Association Training Conference. Cincinnati, Ohio. October 29, 1998.

Non-monetary incentives were offered in many countries. France, in spite of its high inmate wage rates, also offered the broadest range of non-wage incentives. On the other hand, England—paying the lowest inmate wages—offered the fewest incentives.

While there are clearly similarities in correctional practices in European nations in the area of prison industries, there are also clear differences (e.g., France has ended the requirement for inmates to work, while the Netherlands have initiated it). Similarities include efforts in many countries to link inmate wages to productivity; initiation of inmate wage deductions like room and board and “victim support,” as well as social security and taxes and attempts to collaborate with the private sector.

One perplexing finding is that not every potential inmate job is filled. It is not known whether this is the result of inmates refusing to work (possibly because of inadequate wages) or structural shortcomings of undetermined origin.

Remarkably (from the U.S. point of view), there are no legal restrictions to the production of goods by the private sector in correctional facilities in any European nation.

Conclusion

The significance of the history of prison industries in the United States cannot be overlooked if one is to have a substantive understanding of the development of prison

industries in the 21st century, particularly with regard to the PIE program. Union resistance began early, along with resistance from those who considered their jobs to be threatened by inmate employment. The fact that such resistance continues today does not mean that there has been no progress, only that progress has been tedious.

Additionally, the abuses of the past, particularly regarding the exploitation of inmate labor, are not forgotten, nor should they be. At least one state (as we shall see) has discontinued its PIE program because of a constitutional amendment passed more than 100 years ago—the direct result of past abuses and exploitation of inmate labor.

If we are to reduce recidivism, the importance of cultivating the work ethic among inmates can be viewed as a crucial step in the rehabilitation process. Knowledge of and familiarity with past problems and their causes is essential if we are to avoid them in the future. Those whose task it is to implement effective prison industries are not unmindful of much of the history of inmate labor in the U.S.

As we have seen, our European neighbors have faced some of the same issues that we have—including get-tough-on-crime public attitudes and collateral growth in correctional populations—and explored comparable correctional programming. As the trend toward globalization continues, the potential for sharing information and techniques may increase.

Political, economic and legal issues have affected the development of prison industries in the past, and continued to do so in the early days of the new millennium.

CHAPTER THREE

METHODOLOGY

In this chapter, the study's methodological rationale is introduced. The researcher's experience as an interviewer is described, and a detailed description of methods used for the study is provided. Limitations of the study are itemized and specified.

Case Study Methodology

A case study is most likely to be responsive to questions of “how” or “why” (Yin, 1994). Whereas many case studies require the researcher to develop at least one proposition, an exploratory case study is often appropriately explained by its purpose (ibid.). One purpose of this study is to identify legal, political and economic factors that may have contributed to the successful implementation and development of the PIE program in South Carolina.

This study combines overlapping aspects of exploratory, explanatory, and historical case study. It is *exploratory* in the sense that the PIE program, even after nearly three decades of existence, remains virtually unknown in the larger society; the general public, the media—and indeed, even policymakers—remain largely uninformed about the program, how it works, and what its full potential may be. As a consequence, this study will explore and identify issues related to development and implementation of the PIE initiative.

The study is *explanatory* in that it seeks, ultimately, to respond to the “how” and “why” questions of the South Carolina PIE program (i.e., how were challenges met and overcome? How did the state become a leader in development of enhanced prison industries in the United States? Why was the state’s PIE program the largest in the country, even though South Carolina is a mid-sized state?).

Finally, this study is *historical*, in that it includes a macro-view of correctional history to facilitate analysis of prison industries, problems, and policies today.

Yin tells us that

(t)he case study relies on many of the same techniques as a history, but it adds two sources of evidence not usually included in the historian’s repertoire: direct observation and systematic interviewing. And although case studies and histories can overlap, the case study’s unique strength is its ability to deal with a full variety of evidence—documents, artifacts, interviews, and observations—beyond what might be available in the conventional historical study.¹²

Much has been written—and much of it critical—about case study research. The prevailing attitude of many researchers is to view the case study as a kind of stepchild or “weak sister” of (what critics view as) the stronger, more robust family of social science methodologies (ibid.). In spite of this, however, many researchers continue to favor the case study method in certain kinds of research, e.g., when a “how” or “why” question is asked, or when improved understanding of a contemporary phenomenon is sought and the researcher has little or no control over the phenomenon being examined (ibid.).

¹² Case Study Research: Design and Methods (1994), p. 8.

For research purposes, my unit of analysis is the South Carolina PIE program. Yin recommends establishing “time boundaries” to define the beginning and end of a case study. My time boundaries are 1996 to 2005.

Methods

As a newcomer to the area of prison industries and as aspiring researcher, it was clear that I must begin with a literature review of both the research and the history of U.S. prison industries. By the time I had conducted these reviews, I had a solid footing and sense of what the issues were, and who at least some of the key players and stakeholders might be. I was now confronted by the need to begin my interviews, gain entry into actual PIE programs and prisons, specifically in South Carolina. I knew, too, that I needed to access the resources of the National Correctional Industries Association to interview the executive director—and a host of others. How could I persuade people I had never met to grant me interviews? Indeed, how could I get them to even accept my calls?¹³

But I was not inexperienced in the criminal justice field, and as a result of my years in the field as a state parole board member, as a federal parole commissioner, and as a researcher and writer, I was not without contacts, at least in the corrections community.

My experience as a journalist and writer for magazines like *Parade* and *Reader's Digest* stood me in good stead. It was as a result of my writing for *Parade Magazine*, in particular, that I had mastered the art of tracking down sometimes reluctant interviewees

¹³ Michael Agar (1996) refers to this as the need to “find a social trail from yourself to your first informant.”

and difficult-to-reach public figures (e.g., the civil rights icon, Rosa Parks, controversial New York City cop Frank Serpico, and others), persuading them to meet me and grant extended interviews. I was not a person who gave up easily. I prided myself on being “courteously persistent.” I did not allow my pride to get in the way of an important interview, even when it took many calls to reach the subject I needed to interview.

As a long-time student, I knew how to take notes, and as one whose magazine pieces were scrutinized by “fact checkers¹⁴” in the past, I knew that the ability to take *accurate* notes was even more important than the ability to take *copious* notes.

My criminal justice experience, above all, facilitated my efforts. I started at the “top” by calling a former old friend from my days as chairman of the Tennessee Board of Pardons and Paroles, Bobby Vassar, the former chair of the Virginia Parole Board, who was now Legislative Counsel of the Judiciary Committee of the U.S. House of Representatives. Bobby, I knew, had been very much involved with prison industries controversy associated with the Federal Prison Industries (FPI). I contacted Tom Kane, Assistant Director of the Federal Bureau of Prisons (BOP)¹⁵, and asked for advice as to how best to proceed. Both Bobby and Tom gave me a boost by encouraging me to use their names as I embarked on my preliminary search for appropriate interviewees.

From my literature review, I identified at least a dozen subjects who were “musts” in terms of interviews: e.g., Tony Ellis, Director of S.C. Prison Industries, Gwyn-Smith Ingly, Executive Director of the National Correctional Industries Association (NCIA); Barbara Auerbach, National Prison Industries Enhancement Program Coordinator; Tom Petersik, George Washington University Professor of Economics, and one of the authors

¹⁴ Magazines like *Parade* and *Reader’s Digest* employ professional fact checkers whose job it is to verify and confirm virtually every possible detail of nonfiction articles.

¹⁵ Tom Kane, Ph.D. was also a member of my dissertation committee.

of a recent, groundbreaking study of PIE program beneficiaries. I resolved to attend NCIA annual conferences in order to “network”, attend workshops, and obtain a clearer picture of what the issues were. (Note list of interviewees in Appendix.)

Having been in many prisons around the country, I was comfortable with inmates. As a member the Tennessee Parole Board, I had maintained a rapport with prisoners, and I was frequently invited to speak to such groups as the “Lifers Club,” a prison-based association whose membership consisted only of those with life sentences. This kind of experience was invaluable, in that I knew the “culture” of prisons and the correctional bureaucracy, as well as the inmate culture itself. I was not easily “conned”¹⁶.

I had been briefly involved in an ethnographic study of battered women in New York City in the 1990s. As a former battered wife, it was not difficult for me to relate to my interviewees. One ethnographer, Michael Agar (1996), has written:

*... group members are going to wonder who you are. They will listen to you and watch your behavior and they will draw on their own repertoire of social categories to find one that fits you. At the beginning, you will offer some explanation of what your interests are and what it is you intend to do.*¹⁷

This was precisely what I did. On first meeting—or calling—my subject, I would introduce myself as a long-time member of the criminal justice field, briefly citing my

¹⁶ There is no question that my years of professional experience in the criminal justice field facilitated my ability to evaluate what I saw. When, subsequently, I visited actual prison industries sites, and interviewed inmate workers, I was astounded by the industriousness and energy I witnessed—radically different from the inmates I had seen years earlier, indolently pushing mops around the floors of the reception area, for example, of the Tennessee State Prison.

¹⁷ The Professional Stranger, 1996, pp. 104-05.

experience, and then explain that I was now conducting research for my dissertation. I emphasized my interest in prison industries, and my awareness of its importance.

Agar, a career ethnographer, maintains that cultural differences and similarities (between the interviewer and interviewee) are important in that they provide the initial framework with which the researcher/interviewer gauges his or her findings. But I found this to be a two-way street. My experience reassured them that I was not a novice. As a member of the criminal justice system, I was accorded at least a modicum of respect as one who understood what the correctional administrator was up against; this engendered a willingness to give me the benefit of the doubt, and rightly so—as in fact, I understood very well what bureaucratic and political hurdles correctional officials must constantly make, having attempted some of those hurdles myself in the past.

On the issue of taking notes, Agar points out that that the ethnographer just beginning his study has a problem: “because you don’t yet know what is significant, you don’t know what to record.” While I found this to be true initially, over time I began to have a surer sense of what to ask, and what to record. I tape recorded some (though by no means all) interviews. (I sensed that a tape recorder would make most people uneasy, and thus less likely to extemporaneously expound.) Instead, I asked questions, and allowed my interviewees to respond and elaborate. Of course, some were less forthcoming than others, but on the whole, I succeeded in establishing a comfortable rapport with the people I talked to, virtually all of whom volunteered the names (and telephone numbers, email addresses, etc.) of other appropriate contacts.

I did not use a standardized questionnaire. I considered this, but realized that the scope and breadth of experience and variety of roles of my subjects were too varied to

accommodate standardization. In her research on private prisons in Texas, Cummins (2000) alluded to this reality. "I would argue," she wrote, "that because of the uniqueness and complexity of implementing any given public policy, it is unlikely that any real methodological standardization is possible. To standardize is to lose the richness and texture of the data."

Agar, too, makes reference to the issue of systematic interviews or testing when conducting ethnographical research:

Systematic means that each informant's behavior is fit into the same framework. The assumption is that if the framework is the same, then any differences among informants will be due to their response, not to changes in the framework. Long ago we surrendered that fiction. Even in the most carefully controlled situation, the ethnographer-informant relationship is too complicated to support that assumption.

*On the other hand, there are degrees of standardization. In informal fieldwork, one strength is the ability to adapt questions to the personal and situational demands of the moment.*¹⁸

Agar maintains that better information may be obtained when the interviewer is able to adapt questions appropriate to individual situations, but he also emphasizes that difficulties accrue, related to recording nuanced meanings and interpretation. But he reiterates that standardization is virtually impossible in informal fieldwork.

Other issues, of course, are associated with the interview process. I found that many of those interviewed were articulate and wide-ranging in response to my questions.

¹⁸ Ibid., p. 181.

It can be difficult to record every word, of course, and I sometimes jotted down key words and phrases during my interview. Afterward, I would adjourn to a private area as soon as possible, where I could review my notes, filling in and clarifying my notes. My notes always indicated direct quotes from subjects.

A more complicated process was pulling together my interview notes into topical areas. Obviously, when we're conversing, most of us move freely from subject to subject, which can result in scattered note-taking. To interrupt the informative interviewee may be to lose important data. My solution for this (after ensuring that I had attended to the filling in and clarification in my notes as mentioned previously) was to circle topical areas, and number them by topic. When writing, I tried to present related topics cohesively, crossing out each topic as I used it. Agar describes this process:

. . . one should lay out the entire stretch of talk to see what one has . . .

The simplest way to begin is to take a pencil and go through the transcripts, marking off stretches of talk that cohere because they focus on the same topic. This is not an automatic procedure by any means. . . .

*As you go through the transcripts, you'll begin to notice that some topics recur.*¹⁹

Data Sources

The interviews, documents, observations and artifacts that Yin calls "the full body of evidence" obtainable in case studies were all included in this study. I gathered reports, documents and data from the South Carolina Department of Corrections (SCDC) and many other sources (listed in the Appendix). Additionally, I obtained NCIA records that

¹⁹ Ibid., p. 153.

assisted in the development of several graphs to facilitate understanding of the extent to which South Carolina's PIE program grew over the decade 1996-2005, compared to other states' PIE initiatives.

I visited individual SCDC prison industries located around the state. I visited the off-site offices of the state's largest PIE program, Anderson Flooring, in Clinton, South Carolina. I attended three consecutive NCIA annual conferences, observing and occasionally participating in PIE-related workshops. I observed and listened to many of the country's prison industries leaders in such workshops. My presence was not advertised, but often after workshop presentations, I introduced myself to presenters, explaining my interest and asking for business cards, leads, and interviews.

Agar talks about the need for ethnographers to "always try to falsify their conclusions," and Yin writes of the need to "triangulate" interviews and data obtained. Journalists approach the same challenges by maintaining a healthy skepticism, and constantly seeking additional information or witnesses to "back up" their findings. (A good journalist is, after all, somewhat of an ethnographic researcher.) This I did, even when I found my interviewees to be wholly credible. By doing so, I was better able to ensure the accuracy and detail of my writing.

By visiting actual prison industries sites, I was able to observe the prison-factory setting firsthand, and to see the manufacturing process in all its iterations. Inmates rarely glanced my way, as their work required focus and almost constant activity, and precluded loss of concentration.

I did not limit my prison industries observations to PIE programs; I also visited traditional and service industries, some of which were located at or near the PIE sites. Also, I collected brochures, business cards, and samples along the way.

Limitations of This Study

As a student of research, I have made every effort to identify and explore key issues and factors essential to a thorough understanding of enhanced prison industries. Nevertheless, there are limitations to my study. In particular, I regret not being able to reach the chairman of the South Carolina Penology Committee. Although I called repeatedly, it eventually became clear that he did not want to be interviewed for this study. Since the Penology Committee had spearheaded a critical review of South Carolina's prison industries, my expectation was that the Chairman or his designee would be all-too-willing to explicate on their report. This was not the case.

Eventually of course, I sought other interviewees who could address this issue, but I was not able to identify or locate a spokesman for the legislative report or its contents. On the other hand, several people told me they were convinced that it was "politically motivated" although they were not knowledgeable about specifics. My inclination, overall, was to wonder about the authenticity of the report itself. And, granting that it had been critical, why was it that apparent good-faith efforts by SCDC to respond to the report were disregarded? At any rate, as a researcher and as a professional, I can only speculate on this; it is not possible to make informed conclusions.

Other limitations relate to my efforts to contrast and compare South Carolina's economic environment to that of the five other states I reviewed. I did not visit the five

states' PIE programs. In particular, my study could have been enriched if I had been able to observe other prison industries models of such states. Likewise, it would have been informative and helpful to have interviewed the PIE directors of the five state programs—and to have spent time with their staff (as I did in South Carolina)—but time and budgetary constraints made that impossible. I wish to emphasize that virtually all of the contacts I established in the states of Florida, Iowa, Tennessee and Texas were helpful and forthcoming. The one exception was the state of Washington, where, ironically, the PIE program had been abolished. Perhaps this was the root cause of my unreturned calls and emails, but again, this is only speculation.

I would have preferred to interview chambers of commerce and labor representatives, although there was ample evidence and documentation of the complicated relationships that exist between and among these officials and PIE leaders.

In spite of these limitations, however, I believe this study contributes to the knowledgebase needed to improve, replicate, and expand the PIE program, now and in the future.

CHAPTER FOUR

SOUTH CAROLINA PRISON INDUSTRIES: 1996 – 2005

In this chapter, South Carolina's PIE program, the largest in the U.S., is introduced. Its economic conditions and political environment are described in order to establish differences and/or similarities with five states to be examined in the following chapter. Many factors affect the successful implementation of a PIE program, and while most are common among other states, individual prison industries directors meet the challenges entailed in distinctly personal and contrasting management styles. We will review how South Carolina's director of prison industries has met such challenges.

South Carolina: A Mid-Size State with a Large PIE Program

Before reviewing prison industries in South Carolina, it should be reiterated that—although there are often similarities among state criminal justice systems—there are also numerous differences. It would be inaccurate to say that a specific state can be representative of all or even most other states. As already mentioned, criminal laws vary among virtually all the states, and thus the definition of who may be designated a felon or a misdemeanor may vary among states. These differences (and many others) contribute to the difficulties attached to comparing state justice systems (Gaes et al., 2004).

Similarly, prison populations differ in important ways. Some issues that relate to the study of prison industries participants include variations in gender, age, length of terms of imprisonment and security levels, as well as the kind of prison industry and its

requirements, including criteria for participation and other factors. However, this study is of prison industries models and categories, and the identification of factors which explain or impede their progress.

In 2005, South Carolina, a mid-size state with a mid-size prison population, had the largest Prison Industries Enhancement program in the nation, as well as a representative range of prison industries. A telephone survey of knowledgeable prison industries leaders in the U.S.²⁰ resulted in consensus that the state offered a thorough assortment of prison industries programs, whether traditional, service, or enhanced. (The state also has four federal prison industries programs.)

Indeed, the fact that this mid-sized state had an unusually well developed PIE program made it ripe for examination, especially because South Carolina's establishment of the PIE program paved the way for other southern states, according to at least one knowledgeable PIE proponent, Barbara Auerbach (National Prison Industries Enhancement Certification Program (PIECP) Coordinator. While most states have had only modest success in establishing PIE programs, what factors contributed to South Carolina's achievements? Cumulative data maintained by the NCIA beginning in 1979 through the second quarter of 2005 indicated that South Carolina ranked first (among PIE states) in gross wages collected (\$46,660,876); victim program contributions (\$7,367,567); family support contributions (\$5,312,225); taxes paid \$6,364,460; total deductions \$25,533,729); and Net Wages (\$21,127,146). The state ranked fifth in room and board collected, and second in mandatory savings (\$2,775,283). (See Graphic,

²⁰ Those surveyed included the (then-current) executive director of the National Correctional Industries Association (NCIA), Gwyn Smith-Ingley; the National PIECP) Coordinator, Barbara Auerbach; George Washington University (GWU) Research Professor of Economics, Tom Petersik; Cleveland-Marshall College of Law Professor Emerita, Joan E. Baker; Federal Bureau of Prisons UNICOR Chief Administrative Officer, Robert C. Grieser; and others.

“Prison Industry Enhancement Certification Program Cumulative Data for 1979 through 2nd Quarter 2005.”)

Prison Industry Enhancement Certification Program
Cumulative Data for 1979 through 2nd Quarter 2005

Agency	Gross Wages	Victims Programs	Room Board	Family Support	Taxes	Total Deductions	Net Wages	Mandatory Savings
AK	309,689	15,761	110,294	8,986	40,051	175,092	134,597	0
AZ	9,157,764	934,164	2,395,665	74,337	1,328,879	4,733,045	4,424,719	1,139,751
CA	29,642,066	4,847,092	5,015,196	2,974,347	4,678,974	17,515,609	12,126,457	1,293,133
CO	2,538,350	486,043	486,087	128,564	201,318	1,302,012	1,236,339	167,111
CT	2,272,845	114,941	460,008	33,496	261,838	870,283	1,402,562	0
DE	0	0	0	0	0	0	0	0
FL	3,353,772	510,852	1,334,935	107,390	330,317	2,283,494	1,070,278	11,459
HI	1,507,923	126,954	300,516	58,974	265,465	751,909	756,014	37,842
ID	5,556,298	295,399	2,079,743	248,550	697,845	3,321,536	2,234,762	100,478
IN	14,943,297	1,495,518	5,988,827	321	2,486,725	9,971,391	4,971,906	2,823,511
IA	17,929,981	1,649,518	6,156,296	1,595,973	3,696,641	13,098,428	4,831,553	1,480,612
KS	35,341,341	1,525,329	8,187,128	205,178	5,989,799	15,907,435	19,433,906	858,543
LA	1,294,237	113,074	339,133	0	204,837	657,045	637,193	84,691
ME	852,430	42,589	166,785	18,550	41,010	268,935	583,495	0
MD	384,507	37,767	115,355	8,458	16,898	178,478	206,029	0
Hennepin County, MN	60,639	0	23,427	2,387	1,569	27,383	33,256	0
MN	23,549,440	1,515,746	8,903,173	726,884	2,125,945	13,271,749	10,277,691	0
MS	109,064	13,134	33,117	25	25	46,302	62,762	0
MO	785,341	39,267	196,338	59,229	91,963	386,797	398,544	0
MT	127,684	10,363	54,910	3,455	4,114	72,842	54,842	0
NE	12,012,821	604,801	2,752,999	1,714,627	1,610,810	6,683,237	5,329,584	290,881
NV	16,381,558	815,055	4,260,865	336,835	1,479,408	6,892,163	9,489,395	96,550
Belknap County, NH	121,555	5,811	41,317	906	15,922	63,957	57,598	0
Strafford County, NH	1,175,404	58,630	660,787	1,230	10,271	730,919	444,485	4,521
NM	64,358	10,203	0	2,696	5,381	18,280	46,078	0
NC	7,526,250	410,875	1,970,227	352,374	1,300,924	4,034,400	3,491,850	0
ND	1,032,053	51,641	457,629	160,620	113,306	783,196	248,857	39,866
OH	83,075	16,598	21,786	93	15,432	53,909	29,166	0
OK	3,792,018	176,229	1,015,327	188,543	561,284	1,941,383	1,850,636	513
OR	9,155,746	452,293	5,230,036	466,221	658,442	6,806,992	2,348,754	0
SC	46,660,876	7,367,567	6,489,477	5,312,225	6,364,460	25,533,729	21,127,146	2,775,283
SD	4,261,211	255,460	1,266,150	255,460	609,716	2,386,786	1,874,424	0
TN	4,353,317	218,847	2,261,909	0	30,164	2,510,920	1,842,397	113,344

TX Oversight Authority	26,599,814	3,266,265	9,574,623	3,435,167	3,447,894	19,723,948	6,875,865	427,275
Red River County, TX	43,565	2,178	7,908	4,726	7,909	22,721	20,844	0
UT County	2,589,749	140,007	1,669,976	0	261,647	2,071,630	518,119	167,530
UT	13,239,225	1,122,665	4,743,413	136,245	286,874	6,289,197	6,950,028	0
VT	695,017	136,000	211,447	119,494	72,949	539,889	155,128	0
VA	701,344	69,325	344,581	8,288	78,345	500,539	200,805	0
WA	35,859,750	2,827,609	7,405,345	1,843,743	5,525,641	17,602,338	18,257,412	465,207
WA Jail Industries	0	0	0	0	0	0	0	0
WI	2,833,676	148,362	1,410,446	99,665	223,980	1,882,453	951,223	0
WY	267,969	28,505	92,207	17,398	35,519	173,629	94,340	29,743
TOTAL	339,167,019	31,958,437	94,235,388	20,711,660	45,180,491	192,085,979	147,081,040	12,407,844

South Carolina Cumulative Data Compared to Five Other States

The Graphic “Prison Industry Enhancement Certification Program Cumulative Data, 2nd Quarter 1996 through 2nd Quarter 2005” reflects total inmate wages, contributions and deductions for the decade under review, 1996 through 2005. (For informational purposes, five states to be contrasted with South Carolina later in this paper are included.) The data demonstrate virtually the same profile for South Carolina: for the ten year study period, the state (still) ranked 1st in gross wages (\$38,777,503), victim program contributions (\$6,973,238), family support contributions (\$4,162,944), and total deductions (\$21,518,761); it ranked 2nd in taxes paid (\$5,058,215), and 5th in room and board paid (\$5,324,365).

Prison Industry Enhancement Certification Program Cumulative Data for Six States						
2 nd Quarter 1996 through 2 nd Quarter 2005						
State	Gross Wages	Victim Programs	Room & Board	Family Support	Taxes	Total Deducts
FL	3,353,772	510,852	1,334,935	107,390	330,317	2,283,494

IA	17,751,544	1,640,554	6,144,549	1,558,100	3,675,146	13,000,349
SC	38,777,503	6,973,238	5,324,365	4,162,944	5,058,215	21,518,761
TN	3,180,180	153,429	1,591,603	-0-	7,197	1,752,229
TX	25,154,703	2,940,030	8,998,510	3,134,236	3,156,152	18,288,837
WA*	27,360,855	2,401,135	5,981,646	1,719,256	4,587,555	14,689,592

Note: Washington's PIE program was terminated in 2004.

Source: National Correctional Industries Quarterly Reports

Cost Benefits of Prison Industries in South Carolina

Cost benefits can be measured in several ways. Benefits may accrue if the program that reduces idleness among prison inmates leads to a reduction in prison population management expenditures. Cost benefits may be associated with the monies saved as a result of reductions in recidivism (e.g., a drop in the costs of crime, or a drop in the costs of prosecution and re-incarceration, etc.). Cost benefits may accrue when prison industries graduates move into productive employment upon release, and become tax-paying citizens. Obviously, the cost benefits associated with reduced recidivism combined with the cost benefits of increased post-release employment are greater than the cost benefits associated with only reduced recidivism or increased post-release employment.

Because there are three contemporary types of prison industries (traditional, service and PIE), the interested observer may anticipate a different level of effectiveness (in terms of cost benefits) for each and such differentials may have distinct implications

for public policy. However, unlike many prison-based treatment programs (e.g., drug treatment or educational programming), prison industries have the potential to be both self-sustaining and profitable. In this regard, it is reasonable, therefore, to examine whether one model (e.g., traditional prison industries) may be less cost beneficial than another model (e.g., the PIE model, or enhanced prison industries). Indeed, while there are cost savings to be realized in identifying effective treatment strategies with almost any prison-based program, the potential for a program to be self-supporting or even profitable cannot be ignored.

Thus, a state that has a robust category of each type of prison industries (traditional, service or PIE) may provide rich investigative soil for academicians and researchers—and important policy implications associated with each category. South Carolina is such a state.

To maximize and enrich our analysis of the state's PIE program, the PIE initiatives of five other states (Florida, Iowa, Tennessee, Texas and Washington) will be examined subsequently. These other states will provide differential PIE models and types, as well as economic, political and legal contrasts.

State of the State of South Carolina: Crime, Jobs and Industry

The U.S. Census Bureau's 2003 Statistical Abstract of the United States revealed that South Carolina's imprisonment rate was 17 percent above the national imprisonment rate. The state ranked 42nd among the 50 states in Personal Income Per Capita, while the state's unemployment rate of 6.1 percent was higher than the national unemployment rate

of 5.7 percent. South Carolina lost 41,300 jobs the same year (U.S. Dept. of Labor, Bureau of Labor Statistics, 2003).

According to data published by the National Institute of Corrections (NIC), in 2004, South Carolina’s crime rate was approximately 29 percent higher than the national average. For every 100,000 citizens in the state, 5,289 crimes were committed, compared to a national average of 3,983. The state’s crime rate per 100,000 residents ranked second in the nation, at 5,289 compared to the national average of 3,983. For a 10-year overview of South Carolina costs per inmate, see Graphic, “South Carolina Department of Corrections Cost Per Inmate* Fiscal Years 1996-2006.”

South Carolina Department of Corrections Cost Per Inmate* Fiscal Years 1996-2006				
Fiscal Year	<i>Based on State Funds Spent</i>		<i>Based on All Funds Spent**</i>	
	Annual Cost Per Inmate	Daily Cost Per Inmate	Annual Cost Per Inmate	Daily Cost Per Inmate
1996	\$12,849	\$33.83	\$13,315	\$36.38
1997	\$13,141	\$36.00	\$13,857	\$37.96
1998	\$13,845	\$37.93	\$14,318	\$39.23
1999	\$14,210	\$38.93	\$15,336	\$42.02
2000	\$15,142	\$41.37	\$16,024	\$43.78
2001	\$15,968	\$43.75	\$17,076	\$46.78
2002	\$13,023	\$35.68	\$14,975	\$41.03
2003	\$12,353	\$33.84	\$13,962	\$38.25
2004	\$12,170	\$33.25	\$13,590	\$37.13
2005	\$12,096	\$33.14	\$13,988	\$38.32
2006	\$13,170	\$36.08	\$15,156	\$41.52

*Calculation of the SCDC per inmate costs is based on the average number of inmates in SCDC facilities and does not include state inmates held in designated facilities, institutional diversionary programs, or other non-SCDC locations.
**State, Federal and Special Revenues (Excludes Permanent Improvement, Purchases for Resale, Canteen, Prison Industries, Improvement Enterprise Funds, and Interest and Principle Payments)
Based on 365 days per year, except leap year when 366 days are used.
Source: South Carolina Department of Corrections website. Downloaded 3/6/07 from <http://www.doc.sc.gov/PublicInformation/StatisticalReports/BudgetAndExpenditures/Per%20Inmate%20Cost06.pdf>

In 2004, the FBI reported that the state ranked seventh in the nation in its incarceration rate: 539 state inmates per 100,000 residents, compared to the national average of 432. The South Carolina Department of Corrections (SCDC) managed 22,703 inmates at that time. In terms of cost per inmate, South Carolina ranked among the lowest, 11th in the nation in the same year. (Additional tables depicting the state compared to the five other states mentioned above will be presented later in this study.)

Reynolds (2004) described the state as “slightly advantaged” in terms of its post-release job market for offenders, compared to Texas, Indiana, Utah and Rhode Island, part of his five-state study of post-release job markets (where South Carolina was selected to represent mid-size states). His rationale was based on the state’s job opportunities for unskilled workers. Reynolds reported that the state’s jobs were concentrated in the areas of construction, manufacturing, leisure/hospitality and government. However, South Carolina’s 6.8 percent job decline in manufacturing exceeded the national decline of 3.9 percent, and was accelerated by the state’s loss of textile and apparel industries jobs (Reynolds, 2004).

Nevertheless, the U.S. Department of Labor Bureau of Labor Statistics (BLS) job growth projections from 2002 to 2012 anticipated a robust growth (nationally) in low-skill and low-wage jobs; 60 percent of the expected growth was in work where on-the-job training could suffice. This was not necessarily exciting news for inmates hoping for a better life on the outside, but it did suggest that at least some job opportunity existed.

Not surprisingly, the BLS reported an inverse relationship between earnings/education and unemployment; the more advanced the degree (e.g., the range between “some high school, no diploma” and “Master’s degree), the higher the median

earnings (e.g., in 2001, \$22,400 for the former and \$56,600 for the latter). As might be expected, the unemployment range inversely matched earnings and education (e.g., 2002 unemployment range from 9.2 percent for college graduate level to 2.8 percent for “some high school, no diploma”). Perhaps more surprisingly, college graduates who began their studies at a community college did almost as well as those who began in a four-year college (Gill and Leigh, 2003). Since it’s presumably easier for offenders to attend a community college than a four-year college, they, their families and advocates might feel encouraged.

It is common knowledge in the criminal justice field that minority population ratios are typically strong correlates of the crime rate (Reynolds, 2004); in 2003, BLS data showed that South Carolina ranked third in the nation in terms of its minority population.

Research has shown that the birth rate of out-of-wedlock mothers are associated with future crime rates (Morse, 2003). While a fatherless home may not be an inviolate predictor of crime, the majority of delinquent youth (more than 7 out of 10) are from single-parent homes (Reynolds, 2004). In 2001, South Carolina led the nation in the percentage of total births to unmarried women; and in 2003, the state was also nearly 43 percent above the national violent crime rate (BLS).

South Carolina’s Strong Local Economy: 1996 – 2005

According to an article in *The Atlanta Journal-Constitution* in September 2006, South Carolina could boast of one of the

hottest local economies in the country. Home to the new Federal Reserve Board chairman Ben Bernanke, the state historically has offered mostly agricultural and textile industries. However, Interstate 85, which slices through the western third of the state, has attracted international manufacturers like BMW and Michelin, along with a host of related “job-rich feeder companies. (Pinkerton, Atlanta Journal-Constitution, 2006).

But even as far back as 1995, the *National Real Estate Investor* (Sinderman, M., 1995) reported that the real estate market in the state was

robust due to the strong local economy that has enhanced the state’s reputation as a site for businesses. South Carolina’s positive reputation is attracting many firms that are relocating and are seeking a pro-business, economically vital location. The relocation of businesses to South Carolina has offset the negative economic consequences of the demilitarization of the area. (Sinderman, National Real Estate Investor, 1995).

In the early 1970s, the state’s population was 2.5 million, and by 2006 the population had grown to 4 million—a 60 percent increase. South Carolina is also home to the Clemson Institute for the Study of Capitalism, and known for its pro-business attitude and nonunion environment (Pinkerton, 2006).

BLS data reveal that South Carolina’s labor force rose from more than 1.8 million in January 1996 to nearly 2.1 million in January 2005 (See Graphic, “BLS Local Area Statistics, 1996-2006, States of Florida, Iowa, South Carolina, Tennessee, Texas and

Washington”). Labor statistics also reveal that employment rose during the same decade, from 1.7+ million to 1.9+ million, although the unemployment rate also rose, from 5.4 to 6.7 percent.²¹ In September 2006, Pinkerton reported that the unemployment rate for the state was at 4.7 percent. (State comparisons described in next chapter.)

**BLS Local Area Statistics, 1996-2006, States of Florida,
Iowa, South Carolina, Tennessee, Texas and Washington**

	Labor Force					
	Florida	Iowa	South Carolina	Tennessee	Texas	Washington
1996	7,207,707	1,609,270	1,892,377	2,758,346	9,736,646	2,882,432
1997	7,408,862	1,606,503	1,903,857	2,788,348	9,926,594	2,966,651
1998	7,572,631	1,602,865	1,918,305	2,811,700	10,097,882	3,032,019
1999	7,710,988	1,602,634	1,956,674	2,838,738	10,250,025	3,066,165
2000	7,869,690	1,601,920	1,972,850	2,871,539	10,347,847	3,050,021
2001	7,998,062	1,622,012	1,943,102	2,863,516	10,519,335	3,052,714
2002	8,124,930	1,632,108	1,956,803	2,867,108	10,803,187	3,104,698
2003	8,245,658	1,614,859	2,002,076	2,884,988	10,999,132	3,149,243
2004	8,451,099	1,617,955	2,039,060	2,891,533	11,127,293	3,208,946
2005	8,710,827	1,639,703	2,079,339	2,920,400	11,282,845	3,270,480
2006	8,988,611	1,664,339	2,126,439	2,990,152	11,487,496	3,326,524
	Employment					
	Florida	Iowa	South Carolina	Tennessee	Texas	Washington
1996	6,826,997	1,551,200	1,785,646	2,610,975	9,175,983	2,711,963
1997	7,040,660	1,555,837	1,819,508	2,640,005	9,395,279	2,822,223
1998	7,232,345	1,556,479	1,849,075	2,685,151	9,600,982	2,886,871
1999	7,401,659	1,560,848	1,876,895	2,722,124	9,766,299	2,917,577
2000	7,569,406	1,557,081	1,902,029	2,756,498	9,896,002	2,898,677
2001	7,624,718	1,568,638	1,842,291	2,728,523	9,991,920	2,863,705
2002	7,662,511	1,567,836	1,840,598	2,714,992	10,115,299	2,877,022
2003	7,811,887	1,543,507	1,8683,09	2,720,676	10,260,318	2,916,045
2004	8,056,259	1,542,342	1,900,122	2,733,793	10,456,224	3,008,352
2005	8,375,993	1,568,561	1,939,646	2,758,184	10,677,171	3,089,953
2006	8,692,761	1,602,849	1,988,378	2,835,530	10,921,673	3,160,350
	Unemployment					
	Florida	Iowa	South Carolina	Tennessee	Texas	Washington
1996	380,710	58,070	106,731	147,371	560,663	170,469
1997	368,202	50,666	84,349	148,343	531,315	144,428
1998	340,286	46,386	69,230	126,549	496,900	145,148
1999	309,329	41,786	79,779	116,614	483,726	148,588
2000	300,284	44,839	70,821	115,041	451,845	151,344
2001	373,344	53,374	100,811	134,993	527,415	189,009
2002	462,419	64,272	116,205	152,116	687,888	227,676
2003	433,771	71,352	133,767	164,312	738,814	233,198

²¹ 1996 data reflect BLS’s new modeling approach and reestimation as of March 2005, while 2005 data reflect revised population controls and model reestimation through 2005.

2004	394,840	75,613	138,938	157,740	671,069	200,594
2005	334,834	71,142	139,693	162,216	605,674	180,527
2006	295,850	61,490	138,061	154,622	565,823	166,174

Unemployment Rate

	Florida	Iowa	South Carolina	Tennessee	Texas	Washington
1996	5.3	3.6	5.6	5.3	5.8	5.9
1997	5.0	3.2	4.4	5.3	5.4	4.9
1998	4.5	2.9	3.6	4.5	4.9	4.8
1999	4.0	2.6	4.1	4.1	4.7	4.8
2000	3.8	2.8	3.6	4.0	4.4	5.0
2001	4.7	3.3	5.2	4.7	5.0	6.2
2002	5.7	3.9	5.9	5.3	6.4	7.3
2003	5.3	4.4	6.7	5.7	6.7	7.4
2004	4.7	4.7	6.8	5.5	6.0	6.3
2005	3.8	4.3	6.7	5.6	5.4	5.5
2006	3.3	3.7	6.5	5.2	4.9	5.0

Source: U.S. Department of Labor Bureau of Labor Statistics

A scan of the charts reveals that employment dropped in the state in early 2001, but re-gained its ascent in early 2002, and was still climbing from 2005 to 2006.

Economic Indicators in the State in 1996

South Carolina’s average per capita personal income in 1996 was \$19,977, compared to the national average of \$24,426 for the same year (see Graphic, “Per Capita Personal Income Calendar Year 1996-2007”). The state’s average state-local tax burden was 9.9 percent, compared to the U.S. average state-local tax burden of 10.5 percent.

Also, while the national average total tax burden was 32.0 percent, South Carolina’s total tax burden was 30.2 percent (See Graphic, “South Carolina State-Local Tax Burden Compared to U.S. Average (1996-2007”).

Per Capita Personal Income Calendar Year 1996-1997

U.S. Average	\$24,426				
State	Amount	Rank	State	Amount	Rank
Alabama	\$20,131	39	Montana	\$19,214	46
Alaska	\$24,398	19	Nebraska	\$22,917	27

Arizona	\$21,363	35	Nevada	\$26,011	9
Arkansas	\$18,959	47	New Hampshire	\$26,615	8
California	\$25,346	13	New Jersey	\$31,334	2
Colorado	\$25,704	10	New Mexico	\$18,803	48
Connecticut	\$33,875	1	New York	\$29,181	4
Delaware	\$27,724	5	North Carolina	\$22,205	32
Florida	\$24,226	20	North Dakota	\$20,448	38
Georgia	\$22,977	26	Ohio	\$23,457	21
Hawaii	\$25,404	12	Oklahoma	\$19,544	45
Idaho	\$19,837	41	Oregon	\$23,074	24
Illinois	\$26,848	7	Pennsylvania	\$24,803	17
Indiana	\$22,601	28	Rhode Island	\$24,572	18
Iowa	\$22,306	30	South Carolina	\$19,977	40
Kansas	\$23,165	23	South Dakota	\$20,895	37
Kentucky	\$19,797	42	Tennessee	\$21,949	33
Louisiana	\$19,664	43	Texas	\$22,282	31
Maine	\$21,011	36	Utah	\$19,595	44
Maryland	\$27,618	6	Vermont	\$22,470	29
Massachusetts	\$29,792	3	Virginia	\$25,212	14
Michigan	\$24,945	16	Washington	\$25,187	15
Minnesota	\$25,663	11	West Virginia	\$18,160	49
Mississippi	\$17,575	50	Wisconsin	\$23,320	22
Missouri	\$23,022	25	Wyoming	\$21,544	34

Source: Survey of Current Business, Bureau of Economic Analysis, U.S. Department of Commerce, October 1998. Acquired from Washington State Department of Revenue website on 3/27/07 from http://dor.wa.gov/docs/reports/1996/compare96/table_5.htm

South Carolina State-Local Tax Burden Compared to U.S. Average (1996-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1996	9.9%	35	20.3%	36	30.2%	41	10.5%	21.5%	32.0%
1997	9.9%	33	20.7%	39	30.5%	41	10.4%	22.1%	32.5%
1998	10.1%	30	21.2%	37	31.3%	40	10.5%	22.7%	33.2%
1999	10.1%	32	21.0%	41	31.0%	41	10.5%	22.9%	33.3%
2000	10.1%	31	21.1%	43	31.2%	43	10.5%	23.5%	34.0%

2001	10.1%	34	20.4%	41	30.5%	42	10.5%	22.5%	33.0%
2002	9.9%	33	18.3%	41	28.2%	40	10.3%	19.9%	30.3%
2003	10.0%	30	17.6%	39	27.6%	37	10.4%	19.1%	29.5%
2004	10.2%	26	17.6%	38	27.8%	37	10.6%	19.1%	29.7%
2005	10.5%	26	18.8%	42	29.3%	37	10.9%	20.6%	31.5%
2006	10.5%	27	19.5%	40	30.0%	38	10.8%	21.5%	32.3%
2007	10.7%	26	19.6%	40	30.3%	35	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce

South Carolina's Operating Expenditures Per Inmate in 1996

In 1996, the state's estimated average daily number of inmates was 19,880; the state's average operating expenditures per inmate per day was \$38.29. The state reported average operating expenditures per inmate per year of \$13,977, substantially less than the national average annual operating expenditures per inmate of \$20,100. Only seven states (Alabama, Arkansas, Louisiana, Mississippi, Missouri, Oklahoma and Texas) spent less per inmate in 1996. (See Graphic, "State prisons: Total operating expenditures per inmate, fiscal year 1996," presenting individual data for all 50 states.) Bolded states include South Carolina and the five other states (Florida, Iowa, Tennessee, Texas and Washington) to be compared cross-jurisdictionally later in this study.

State prisons: total operating expenditures per inmate, fiscal year 1996			
Region or jurisdiction	Operating expenditures in dollars per inmate		Estimated average daily number of inmates 1995-1996*
	Per year	Per day	
TOTAL	\$20,142	\$55.18	1,029,595
Alabama	\$7,987	\$21.88	20,753
Alaska	\$32,415	\$88.81	3,466
Arizona	\$19,091	\$52.30	21,433

Arkansas	\$13,341	\$36.55	9,333
California	\$21,385	\$58.59	136,492
Colorado	\$21,020	\$57.59	11,156
Connecticut	\$31,912	\$87.43	14,896
Delaware	\$17,987	\$49.28	4,851
District of Columbia	\$21,296	\$58.34	9,962
Florida	\$17,327	\$47.47	63,521
Georgia	\$15,933	\$43.65	34,363
Hawaii	\$23,318	\$63.88	3,599
Idaho	\$16,277	\$44.60	3,380
Illinois	\$19,351	\$53.02	37,870
Indiana	\$20,188	\$55.31	16,133
Iowa	\$24,286	\$66.54	5,920
Kansas	\$22,242	\$60.94	7,124
Kentucky	\$16,320	\$44.71	12,180
Louisiana	\$12,304	\$33.71	25,476
Maine	\$33,711	\$92.36	1,430
Maryland	\$22,247	\$60.95	21,616
Massachusetts	\$26,002	\$71.24	11,710
Michigan	\$28,067	\$76.89	41,371
Minnesota	\$37,825	\$103.63	4,874
Mississippi	\$11,156	\$30.56	12,900
Missouri	\$12,832	\$35.16	19,437
Montana	\$20,782	\$56.94	2,015
Nebraska	\$22,271	\$61.02	3,049
Nevada	\$15,370	\$42.11	7,744
New Hampshire	\$20,839	\$57.09	2,036
New Jersey	\$30,773	\$84.31	26,878
New Mexico	\$29,491	\$80.80	4,201
New York	\$28,426	\$77.88	68,556
North Carolina	\$25,303	\$69.32	28,999
North Dakota	\$17,154	\$47.00	617
Ohio	\$19,613	\$53.74	44,540
Oklahoma	\$10,601	\$29.04	18,260
Oregon	\$31,837	\$87.22	7,960
Pennsylvania	\$28,063	\$76.88	32,151
Rhode Island	\$35,739	\$97.92	3,041
South Carolina	\$13,977	\$38.29	19,880
South Dakota	\$17,787	\$48.73	1,888
Tennessee	\$22,904	\$62.75	15,245
Texas	\$12,215	\$33.47	128,140
Utah	\$32,361	\$88.66	3,455

Vermont	\$31,094	\$85.19	1,075
Virginia	\$16,306	\$44.67	27,742
Washington	\$26,662	\$73.05	11,669
West Virginia	\$17,245	\$47.25	2,535
Wisconsin	\$27,771	\$76.08	11,284
Wyoming	\$19,456	\$53.30	1,389

Note: Expenditures exclude adult community corrections, juvenile corrections, and probation and parole services. Inmate counts used to calculate operating expenditures per inmate were based on prisoners under the jurisdiction of State correctional authorities from June 30, 1995, to June 30, 1996. Detail may not add to totals because of rounding.
Note:Less than 1%.
Source: James, Stephan J. (August 1999). State Prison Expenditures, 1996. Bureau of Justice Statistics. Downloaded 3/4/07 from <http://www.ojp.usdoj.gov/bjs/abstract/spe96.htm>

Union Membership in South Carolina in 1996

South Carolina ranked 49th in the nation in union membership in 1996 at 5.0 percent; by 2005, the state ranked 50th. At the national level, the labor union membership average was 16.2 percent in 1996, although by 2005 the country's labor union membership was down to 12.5 percent. (Mid-range was considered to be 10 percent to 14.9 percent.) (See Graphic, "Labor Union Membership\1, 1996"; for 2006 data, see Chart 1, "Union Membership rates by state, 2006 averages.")

State Rankings: Labor Union Membership, 1996				
	Labor Union Membership,* 1996			
	Union workers		Workers covered by union	
	1,000	Rank	Percent	Rank
United States	16269.4	X	16.2	X
Alabama	200.7	22	12.8	27
Alaska	54.7	42	24.9	3
Arizona	106.8	32	7.5	48
Arkansas	74.4	36	8.4	44
California	2060.6	1	18.8	15
Colorado	167.1	25	10.8	36
Connecticut	239.5	19	17.2	18
Delaware	40.0	46	14.0	26
District of Columbia	39.5	X	19.4	X

Florida	429.8	12	9.9	41
Georgia	242.1	18	9.1	43
Hawaii	111.9	30	24.5	4
Idaho	42.5	45	10.7	38
Illinois	1043.1	3	21.5	8
Indiana	395.2	14	16.1	23
Iowa	168.7	24	15.7	24
Kansas	105.8	33	12.3	31
Kentucky	198.8	23	14.1	25
Louisiana	133.4	29	10.0	40
Maine	77.4	35	16.4	22
Maryland	353.5	16	17.4	17
Massachusetts	415.0	13	16.8	20
Michigan	983.3	4	25.4	2
Minnesota	437.4	11	21.2	9
Mississippi	62.0	39	8.1	45
Missouri	375.2	15	16.8	20
Montana	52.0	44	16.9	19
Nebraska	62.9	38	12.4	29
Nevada	147.3	26	24.3	5
New Hampshire	57.4	41	12.6	28
New Jersey	768.0	7	23.7	6
New Mexico	52.6	43	10.8	36
New York	1942.0	2	28.2	1
North Carolina	134.0	28	5.0	49
North Dakota	24.4	48	10.5	39
Ohio	933.2	5	20.8	10
Oklahoma	135.5	27	12.4	29
Oregon	246.2	17	19.5	13
Pennsylvania	885.8	6	19.5	13
Rhode Island	81.0	34	20.1	11
South Carolina	58.2	40	5.0	49
South Dakota	23.0	49	9.2	42
Tennessee	219.2	20	11.1	34
Texas	527.7	8	8.0	46
Utah	71.1	37	11.1	34
Vermont	24.9	47	11.3	33
Virginia	200.8	21	8.0	46
Washington	464.2	10	21.8	7
West Virginia	109.7	31	17.9	16
Wisconsin	469.7	9	19.8	12
Wyoming	20.1	50	11.6	32

X=Not Applicable

Note: When states share the same rank, the next lower rank is omitted. States may share the same value but have different ranks due to rounding.

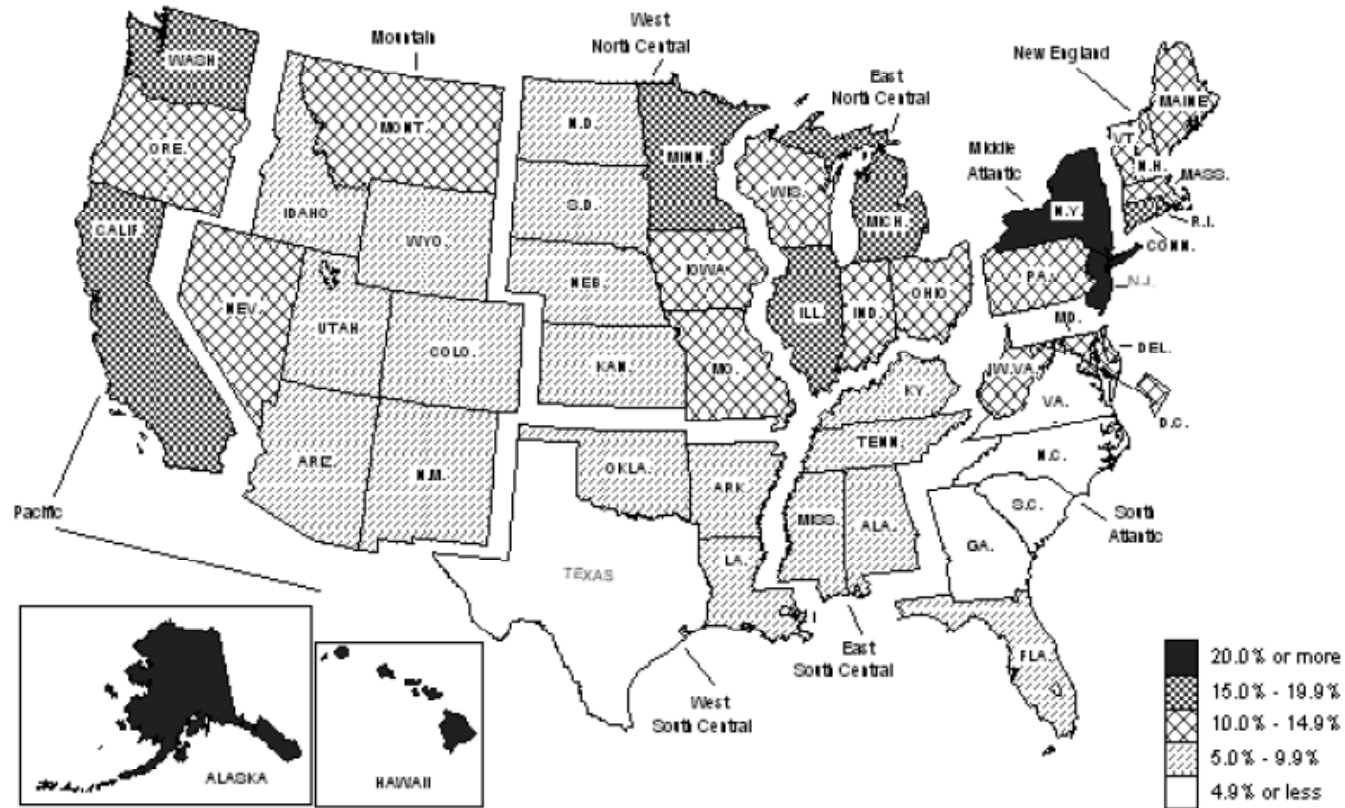
* Annual averages of monthly figures. For wage and salary workers in agriculture and nonagriculture. Data represent union members by place of residence. Copyright by BNA PLUS. See table A-22 for complete source.

Source: U.S. Bureau of the Census, State and Metropolitan Area Data Book 1997-98, table A-22. Downloaded 3/4/07 from

<http://www.census.gov/Press-Release/statel2.prn>

Chart 1. Union Membership rates by state, 2006 annual averages

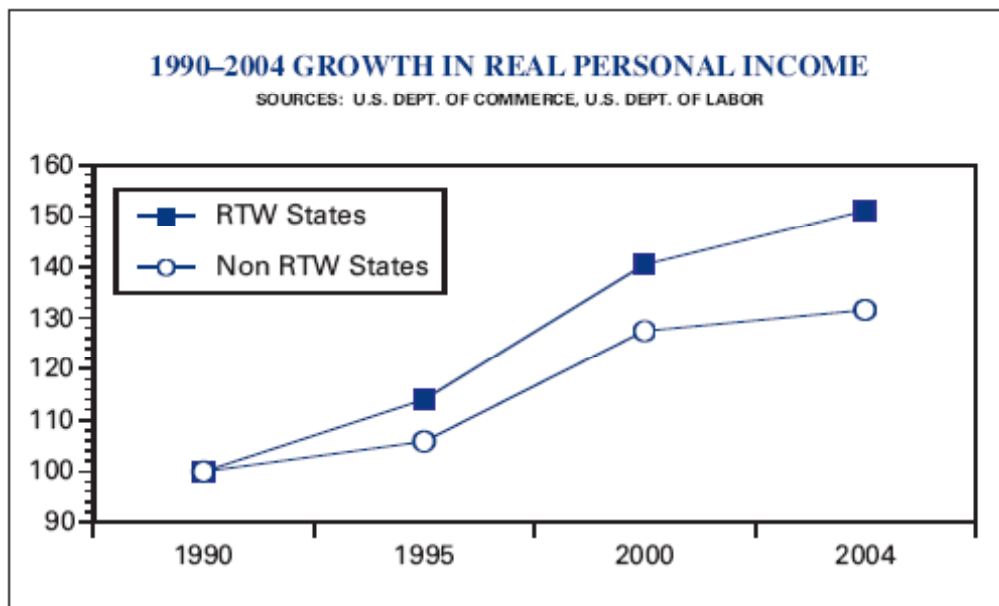
(U.S. rate = 12.0 percent)



Source: United States Department of Labor, Bureau of Labor Statistics, news release, January 25, 2007, "Union Members, 2006" Downloaded 3/4/07 from: <http://www.bls.gov/news.release/pdf/union2.pdf>

Right to Work in the State of South Carolina

South Carolina has been a right-to-work state since 1954 (U.S. Department of Labor, 2006). According to the National Right to Work Newsletter (May 2005) and the U.S. Department of Commerce, personal income has been growing twice as fast in right to work states as in non right to work states. (See Graphic, “1990-2004 Growth in Real Personal Income”). Commentary on the right to work issue follows later in this paper.

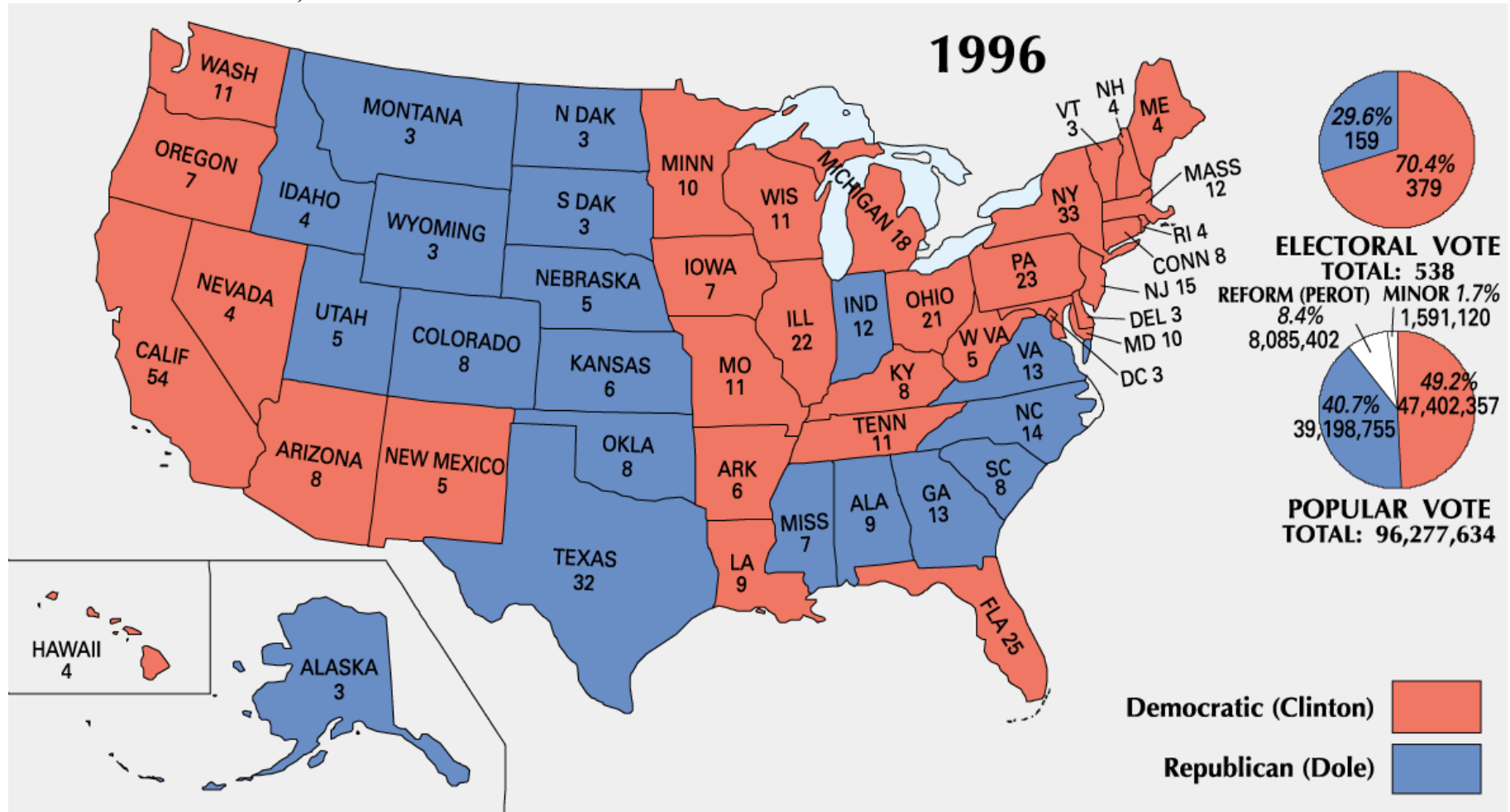


Source: National Right to Work Newsletter (May 2005), Vol. 51, Number 5.
Downloaded 3/4/07 from <http://www.nrtwc.org/nl/nl200505.pdf>

Political Party Popular Votes Cast in South Carolina, 1996-2006

South Carolina’s presidential election victories throughout the eighties and nineties were consistently Republican, in contrast to the country’s voting patterns of Republican in the 1980s and Democratic in the 1990s (see Graphic, “U.S. Presidential Election, 1996”). The state’s voting pattern held throughout the presidential elections of 1996, 2000 and 2004.

U.S. Presidential Election, 1996



Source: The National Atlas of the United States, U.S. Department of the Interior, U.S. Geological Survey
 Downloaded 3/4/07 from <http://nationalatlas.gov/printable/elections.html#list>

Although the state had a Republican governor, David Beasley, from 1995-1999, Democrat James Hodges was governor from 1999 to 2003, when once again, the governor's house was won by a Republican (Marshall Sanford) from 2003 to 2007.

In the South Carolina legislature, Republicans controlled the House throughout the decade, although the Senate was Democratic from 1994 to 2002, at which time it became Republican.

South Carolina Department of Corrections (SCDC) Adult Prison System

As of January 30, 2005, the South Carolina Department of Corrections (SCDC) reported that 22,685 inmates were managed in 29 facilities, managed by 5,623 employees (Ozmin, 2005). In FY 2004, the agency reported spending \$314 million (\$281 million in state funds) or \$13,590 per inmate, a daily cost per inmate of \$37.13, compared to the national average of \$62.22 per inmate (Camp, C.G., 2002). (Review Graphic "SCDC Cost Per Inmate: Fiscal Years 1996-2005".)

SCDC has statutory responsibility for the state's adult prison system which houses adult offenders aged seventeen and above, with sentences of three months or more. In FY 2004, the inmate to correctional officer ratio was 9:4 (Ozmin, 2005), compared to the national average of 5.8 (Camp, C.G., 2002).

South Carolina performance measures fall short of the national average in inmate health care, and are comparable in recidivism. The 2004 Average per Inmate Health Care Cost was \$6.99, compared to the 2002 national average of \$8.03. And in FY 2001 (the last year reported for recidivism), the state's 3-Year Recidivism Rate was 32 percent,

compared to the 2002 national average of 32.7 percent (Ozmint, 2005). (See Graphic “National Performance Measures for Corrections”).

National Performance Measures for Corrections

Performance Measures	South Carolina FY2004*	National Average Based on Corrections Yearbook 2002
3-Year Recidivism Rate**	32.0%	32.7%
Daily per Inmate Cost (Total Funds)	\$37.13	\$62.22
Average per Inmate Food Cost	\$1.13	\$3.32
Average per Inmate Health Care Cost	\$6.99	\$8.03
Inmate to Correctional Officer Ratio***	9.4	5.8

* With the exception of Recidivism Rates, South Carolina figures are derived from FY2004.

** Percentage among SCDC FY2001 releasees who returned to SCDC custody within 3 years.

***Correctional Officers for South Carolina include cadets, Correctional Officers I & II, and Corporals I & II.

Source: SCDC Report: Commitment to Safe and Secure Prisons, 2005. Jon Ozmint, Director. South Carolina Department of Corrections

Community supervision, including probation and parole, are under the jurisdiction of the Department of Probation, Parole and Pardon Services (DPPPS).

SCDC Mission Statement

The SCDC mission is outlined on its website as follows:

Safety - We will protect the public, our employees, and our inmates.

Service - We will provide rehabilitation and self-improvement opportunities for inmates.

Stewardship - We will promote professional excellence, fiscal responsibility, and self-sufficiency.

The SCDC mission statement is noteworthy for several reasons. Gaes et al. (2004) maintain that a good mission statement is clear and precise, and to the extent that it expresses specific purposes or goals, an agency or jurisdiction should be held accountable for meeting those goals—especially when measuring performance. Acknowledging that some might defend those agencies or jurisdictions that don't precisely meet their stated mission goals, Gaes and his colleagues maintain that the mission statement and its purpose should be thoughtfully conceptualized. Standards and objectives should be articulated, they say. One test of the efficacy of a mission statement can be observed by analyzing agency practices (e.g., if rehabilitation is stated as part of the mission statement, are programs funded toward that end?).

History of South Carolina Department of Corrections

The state's first penitentiary was established in 1866, when the Legislature named Thomas B. Lee as architect, engineer, and superintendent. Sixty-five thousand dollars was appropriated for construction and maintenance of the facility. Prior to 1866, counties in the state maintained custody of felons; subsequently, a legislative act mandated that control of sentenced felons be transferred to the state.

By the beginning of 1869, the population of the prison totaled 201, but by the end of the century it had virtually quadrupled to 795. During the years following establishment of the facility, inmate farming operations supported the prison at what is

now the Wateree River Correctional Institution. Prison industries—blacksmithing, carpentry, machine shops, and shoe and tailoring shops—were also established. Inmate labor was used to build several colleges, including Claflin, Clemson and Winthrop.

In the three decades beginning in 1900, another farming operation began, at the site now known as Walden Correctional Institution, while prison industries added a chair-caning factory. Inmates also began manufacturing road signs and license tags. This time period included establishment of a facility for women at the penitentiary, and the implementation of capital punishment, signified by the 1912 installation of the electric chair.

Chain gangs were operational across the state, and county supervisors had the right to retain convicts for construction of roads. Because of this, the prison population decreased to 687 by September 1930.

The next 30 years saw the population in the penitentiary triple. In 1937, a separate women's facility was built, the Stevenson Correctional Institution, which also housed the state's first pre-release center. Twelve years later (1949), a bookbindery was developed by prison industries.

In 1960 the South Carolina Department of Corrections was created, following abuses of prisoner labor, specifically, the use of inmate labor on private property, a form of political patronage. Governor "Fritz" Hollings called for the creation of a state correctional agency, and a State Board of Corrections to oversee its function. At the time, the prison population numbered 2,044, including 111 women.

During the next decade and a half, the state's prison system increased, along with policy emphasis on rehabilitation. The state also had three nationally prominent

Directors, Ellis MacDougall (1962-1968), William D. Leeke (1968-1987) and Parker Evatt (1987-1995). Under MacDougall's leadership, the department implemented a number of policy changes, emphasizing rehabilitation and correctional education programming. MacDougall eliminated inmate chains and striped uniforms, and implemented training for correctional officers (no longer to be called "guards"). A reception and evaluation center was opened, and separate facilities built for females and youthful offenders. Attention was also given to the need to prepare inmates for return to the community.

Leeke continued MacDougall's policies. The longest-tenured corrections commissioner in South Carolina (and U.S.) history, Leeke led the department while two research studies were conducted: *Emerging Rights of the Confined* (1972) and *Collective Violence in Correctional Institutions: A Search for Causes* (1973).

In 1973, the Governor's Office of Criminal Justice Planning recommended the elimination of the state's dual prison system for shorter-term and longer-term offenders, and giving the Department jurisdiction of all long-term adult offenders. A recommendation was also made to house inmates closer to their homes. In 1974, the General Assembly passed enabling legislation, and all offenders with sentences of more than three months were placed under SCDC. The new system, along with the state's rising crime rate over the next 20 years, led to acute prison over-crowding. This, in turn, led to expansion of the state's facilities; 18 new facilities were opened during this period.

As was true for most of the nation, South Carolina initiated "tougher" policies, beginning in 1986, leading to longer sentences. Class action suits²², the result of prison

²² In 1996, SCDC was the nation's first corrections system to be released from federal consent decree requirements, the result of the recently passed Prison Litigation Reform Act.

overcrowding, led to the Department's development of an objective classification system based on empirical data analysis. Inmate security, custody and program assignments were based on a risk assessment and criteria to be consistently applied across the inmate population.

The appointment of a new director, Parker Evatt, for SCDC in 1987 (and a new director, Tony Ellis, for SCDC prison industries in 1988), followed by stricter policies affecting management of inmates, combined with truth-in-sentencing policies that resulted in massive change. The SCDC website in 2005 described many of the changes:

- *Inmates were required to wear uniforms.*
- *Stricter grooming.*
- *Controlled movement within prisons – to prevent congregation of large groups of inmates in prison yards.*
- *Enforcing work ethics among inmates.*
- *Young offenders were required to attend education programs and participate in boot camp programs.*
- *Supervised furlough program was suspended.*
- *Violent offenders were banned from work release programs.*
- *Shock incarceration program was discontinued.*

Change from Board of Corrections

During Director Evatt's term, a significant change was made in the appointment process for SCDC directorship. Since 1960, the Director of Corrections had been responsible to a Board of Corrections, but during Evatt's tenure, the Board was dissolved.

Thereafter, the SCDC directorship was a cabinet-level position, and directly answerable to the governor. The change made the likelihood of director stability less likely, in that the position was more directly affected by politics—a change in governors could be expected to result in a change in SCDC directors. In fact, while Bill Leeke had served as SCDC director for 19 years (responsible to the Board of Corrections), the 19 year period following the new legislation brought with it six new directors, including an interim director who served for less than one year. Leeke’s successor, Parker Evatt, served from 1987-1995.

Economic Downturns for SCDC

As we have already seen, the arrival of the new millennium brought with it severe declines in the state’s revenues, resulting in a 21 percent decrease in SCDC’s budget—the largest decrease of any corrections department in the nation (Ozmint, 2005). Two institutions were closed, and enforced staff attrition led to the loss of more than 1,000 correctional employees. The loss of 148 additional staff in 2003 was the result of continued departmental budget cuts.

SCDC’s budget reductions led to a staff reduction in the accounting department for Prison Industries, although the same work load was required. In fact, when a subsequent (some said politically-inspired) audit resulted in criticism of company billing procedures in October of 2003, Jon Ozmint, SCDC’s Director, responded forcefully in writing:

Due to Department of Corrections’ budget reductions and reductions in force, the Industries’ accounting department is 40 percent smaller than three years ago,

with no reduction in work load. Some personnel had to be trained in areas in which they had not previously worked and other duties had to be realigned. The mentioned missed and erroneous invoices occurred during a time of transition between employees. (S.C. Legislative Audit Council, 2003)

SCDC Prison Industries: Policy Statement and Oversight

South Carolina's Department of Corrections prison industries administrators strive to meet American Correctional Association (ACA) published standards, as well as its own Operations Manual PS-09.01, "Correctional Industries." In addition, the PIE program must meet the Office of Justice Programs (OJP) BJA Guideline.

In its Operations Manual, the SCDC Correctional Industries Policy/Procedure describes its Purpose:

To provide guidelines for the management and operation of correctional industries within the South Carolina Department of Corrections.

Additionally, it lays out a Policy Statement:

The South Carolina Department of Corrections will operate correctional industries within the Agency under the supervision of the Director of Programs and Services. The Division of Industries will be authorized to purchase/sell products and services pursuant to all applicable Agency policies/procedures, state and federal statutes, and American Correctional Association standards. (3-4402)

PIE Final Guideline

The Federal Register of April 7, 1999 (Vol. 64, No. 66) published BJA's final guideline following publication the previous year (1998) of the guideline offered for public comment. In the Introduction, the PIECP Program Purposes and Objectives are stated:

Prison administrators find PIECP participation an effective way to address idleness among ever-increasing prison populations and as a cost-efficient method for providing inmates with marketable job skills. Taxpayers benefit because PIECP wage deductions result in reductions in incarceration costs. Inmate wages benefit society, generally, in that deducted amounts are authorized to address victim compensation, inmate family support needs and taxes. Lastly, PIECP industries obtain broad market access for their products because they are excepted from the Ashurst-Sumners Act prohibition against the interstate transport of prisoner-made goods and from the Walsh-Healey Act prohibition against certain contract sales of prisoner-made goods to the Federal government. . . . the agency [BJA] now publishes this Final Guideline to offer updated program clarification. . . . Refined administrative practices reflect experience gained by BJA over the past 14 years.

In the Program Guidance section of the PIE Final Guideline, PIE Certification Purposes are specifically delineated:

- *To provide a cost-efficient means to address inmate idleness and to provide inmates with work experience and training in marketable job skills. BJA*

encourages private sector PIECP partners to consider post-incarceration employment to PIECP inmate workers.

- *Through inmate wage deductions, to increase advantages to the public by providing departments of correction with a means for collecting taxes and partially recovering inmate room and board costs, by providing crime victims with a greater opportunity to obtain compensation, as well as by promoting inmate family support.*
- *Through PIECP participation conditions, to prevent unfair competition between prisoner-made goods and private sector goods.*
- *To prevent the exploitation of prisoner labor.*

Key changes in the new guideline included clarification of how to establish comparable wages for inmate labor; how to avoid displacement of civilian workers; and how to conduct the threshold test to distinguish between production and service labor. The executive director of NCIA reported that “organized labor responded favorably” to the new guideline.

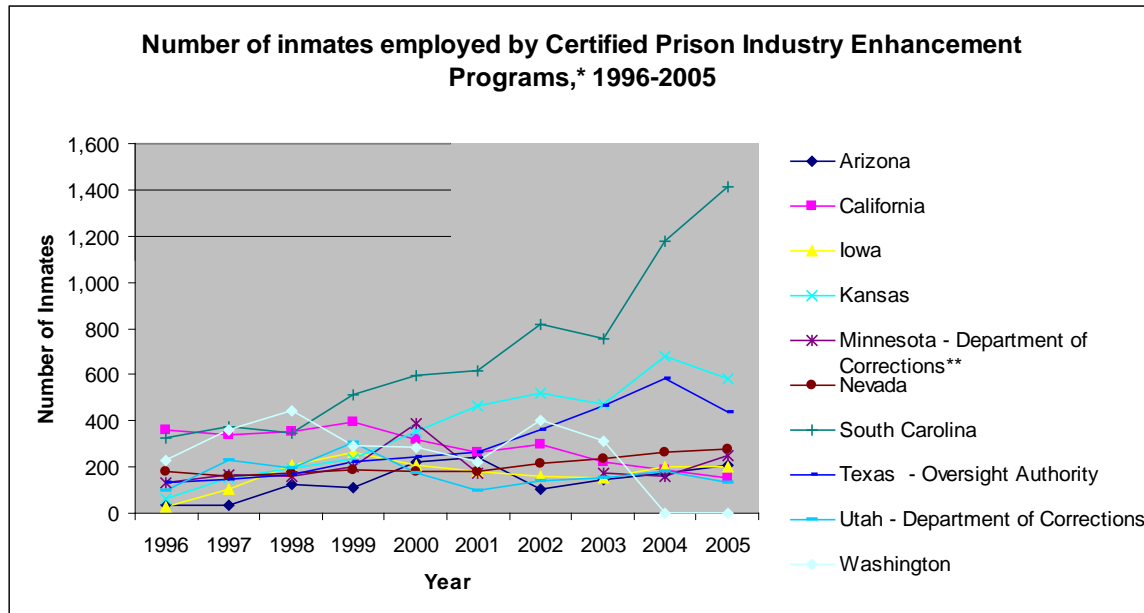
PIECP Compliance Reviews

The Guideline calls for Performance Reports to be submitted within 30 days following the close of each calendar quarter “in a form prescribed by BJA.” In addition, a consolidated activity report (of all individual PIE industries) must be submitted within 45 days following the close of each quarter. Perhaps most onerous, on-site monitoring reviews (or desk reviews) may be conducted by BJA representatives “as deemed

necessary.” On-site reviewers are authorized to access any and all information or documentation needed to verify compliance with the PIECP Guideline. Those monitored are notified (in writing) subsequently of reviewers’ findings, and must take corrective action where necessary, and/or respond as otherwise required.

South Carolina PIE Program Leads Nation: 1996 – 2006

A series of graphs depicts the lead (in number of PIE-employed inmates) that South Carolina has maintained nationally for the years 1996 – 2005. (Their lead continued in 2007.) The first graphic, “Number of inmates employed by Certified Prison Industry Enhancement Programs, 1996-2005” reveals the number of programs that employed more than 100 PIE inmates for at least 8-10 years of the decade. While California was slightly ahead of South Carolina in 1996 (357 PIE inmates in California, compared to 327 in S.C.), the smaller, southern state moved ahead by the next year. In 1998, the state of Washington was slightly ahead of South Carolina, but its lead was soon overcome by the southern state. Overall, however, the graph clarifies the steady ascent that South Carolina made during the decade, as well as the lead it has maintained.



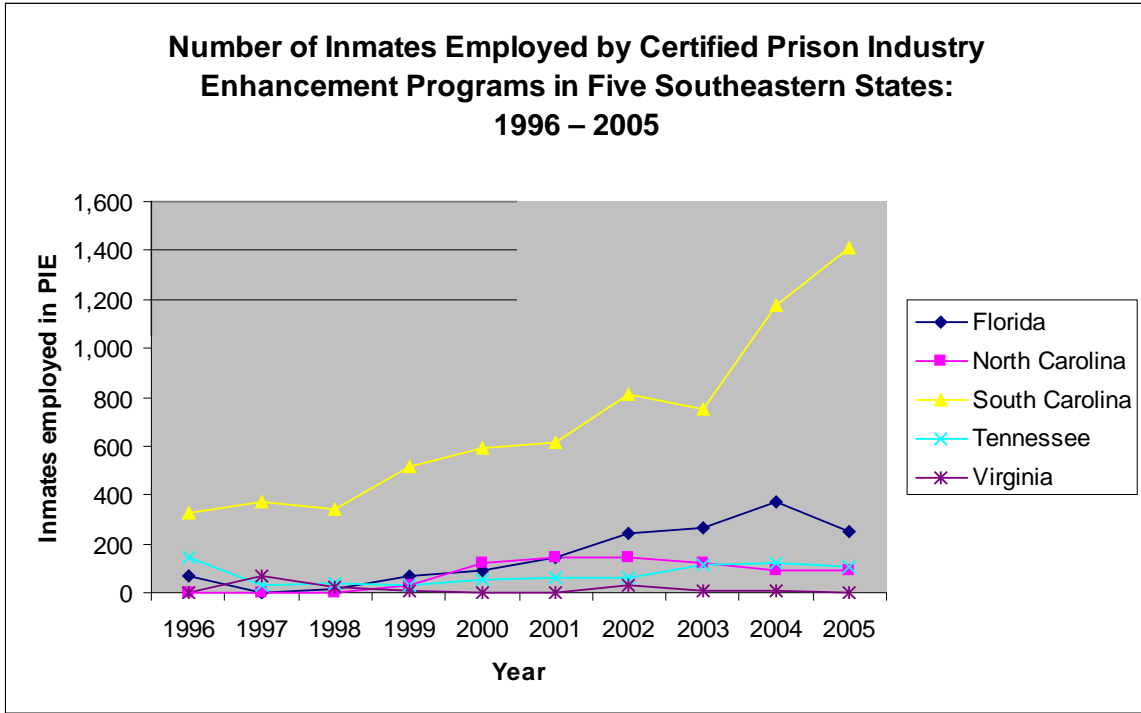
*Programs are included in this graphic if they had more than 100 inmates in the program for 8-10 years.

** Correct 2002 data for Minnesota was unavailable at time of computation.

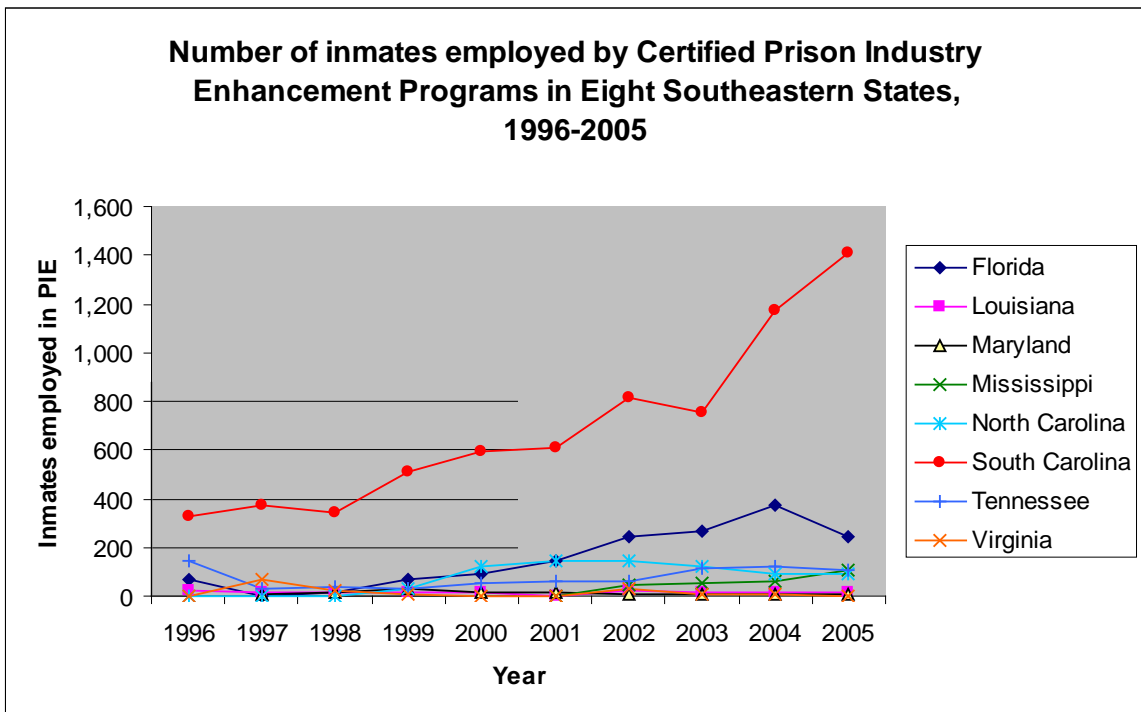
Source: National Correctional Industries Association Quarterly Reports, 1996-2005.

The Graphic entitled “Number of Inmates Employed by Certified Prison Industry Enhancement Programs in Five Southeastern States: 1996 – 2005” serves to make the point that the state has maintained a distinct lead compared to other states in “similar” (southern) environments. While the other states demonstrate consistent growth, the rate of growth is not as great as South Carolina’s. The following Graphic, “Number of inmates employed by Certified Prison Industry Enhancement Programs in Eight Southeastern States, 1996-2005 further clarifies the state’s leadership in the southeast in general. (Note that in 2007, both Georgia and Kentucky were in the process of working to develop the PIE initiative. Georgia’s prison industries director was in frequent contact with Tony Ellis, SCDC’s director of prison industries.²³)

²³ Personal communication, Tony Ellis, 2006.



Source: National Correctional Industries Quarterly Reports, 1996-2005.



Note: Alabama, Georgia and Kentucky did not have certified PIE programs between calendar years 1996 and 2005

Source: National Correctional Industries Association Quarterly Reports, 1996-2005.

It must be acknowledged that the PIE numbers, overall, remain small, especially when measured by the potential that the program has to provide benefits to taxpayers, states, victims, inmate families and inmates alike. Even in South Carolina, the nation's largest PIE program, the prison industries director maintains a constant struggle promoting the initiative.

Profile of the Director of SCDC Division of Industries

The director of the SCDC Division of Industries, Tony Ellis, is a congenial man who manages to convey a no-nonsense approach to running one of the country's premier correctional industries systems. Well-regarded nationally—and recipient of the 1998 Rodli Award for outstanding contributions to the field of correctional industries—he is liked and respected by his peers. At home, he fights the same up-hill battles that they fight. It's difficult to overlook, however, that Ellis's efforts appear to meet with more success than others. In particular, while many states can be said to have ostensibly successful traditional prison industries programs, Ellis has few peers when it comes to implementing the Prison Industries Enhancement (PIE) program—the largest in the country. (The program was certified in 1987 a few months before Ellis's arrival.)

According to the National Correctional Industries Association's (NCIA) 2005 Directory, South Carolina has paid \$46,660,876 in (cumulative) gross wages since the inception of the PIE program in the state—more than any other state in the nation. (Second-place Washington State (\$35,859,750) lost its PIE programs in 2005.) Third-place Kansas (\$35,341,341) was followed by California, Texas and Minnesota.

In 2005, SCDC's PIE program also claimed more PIE inmate workers than any other state—1,301 compared to 682 in Kansas, 466 in Texas, and 236 in Nevada.

Cumulative data compiled by the NCIA revealed that South Carolina's PIE program also led the nation in cumulative funds collected for victims' programs (\$7,367,567); family support (\$5,312,225); taxes (\$6,364,460); total deductions (\$25,533,729) and net wages (\$21,127,146).

Barbara Auerbach, National Prison Industries Enhancement Certification Program Coordinator, maintained that South Carolina was “probably the most sophisticated—and impressive” of the state PIE programs, mostly a result of the fact that “Tony (Ellis) has done an excellent job of liaison work between the prison system and entrepreneurs” in the State. She called attention to the “180-degree” shift that took place in South Carolina, noting that SCDC went from not paying inmates anything for their labor, to embracing the PIE program. She told me how important it was for the South when Ellis took over the reins in SCDC Prison Industries. “Until then,” she said, “the southern states were completely uninvolved. But when South Carolina's PIE program took off, [most of] the other southern states followed . . . “

After reviewing the statistics and talking to prison industries leaders and experts, I called Ellis and asked for a meeting. He was accessible and forthcoming, and agreed to meet with me. Subsequently, staff and peer interviews (combined with personal observation) contributed to my impressions of his leadership style.

In addition to his responsibilities as director of South Carolina's prison industries, Ellis has been a national consultant and seminar leader for over 12 years for both public and private sector clients in the areas of training, marketing, management, procurement,

contracting, auditing and technology. Clients have included Southern Bell, Diebold, Inc., Xerox, National Institute of Governmental Purchasing and Bid Net. (He periodically conducts audits of prison systems across the country for the U.S. Department of Justice, Bureau of Justice Assistance Prison Industries Enhancement Certification Project.) In short, a cursory review of his background and experience reveals that he has substantial experience in both the public and private sector. He received a Distinguished Service Award in 1987 from the National Institute of Governmental Purchasing and was chosen Outstanding Procurement Official for South Carolina in 1981.

Prior to becoming Director of Prison Industries for SCDC, Ellis was Director of another state agency, the S.C. Division of General Services, where he managed state procurement of \$300 million in goods and services. While there, he became the first Certified Public Purchasing Official (CPPO) in the state. Following that, he was executive vice president charged with administrative management of a \$50 million contracting/construction management company.

In a communication with a leading prison industries economist and researcher, I asked for an opinion of the reasons for the success of South Carolina's PIE program. The response I received was

“ . . . in response to your question – The PIE model is probably successful in [South] Carolina because (1) it has an effective champion, (2) it has an effective champion and (3) it has a well designed aggressive entrepreneurial plan.”

The thesaurus lists a handful of synonyms for the word “champion.” They include *defender, supporter, campaigner, advocate* and *guardian*. It is difficult to spend

time with Tony Ellis without concluding that he is all of these, when it comes to South Carolina's PIE program. Ellis also works hard to maintain the success and growth of the state's other prison industries (traditional and service).

Following the above-described communication with the economist, I talked to a labor lawyer who had visited Ellis's PIE program. "I was just amazed—it was outstanding in every respect." (The speaker had conducted PIE audits around the country, although not of the South Carolina program.)

I heard only one criticism of Ellis during the course of my interviews: the speaker expressed misgivings that the state sometimes appeared to "try to keep PIE wages as low as possible," and cited the Kansas PIE program as a "favorable example of a state trying to pay as much as possible." The same critic pointed out that "the fact that the private sector partner does not have to pay health insurance or pension is increasingly significant" and further precludes the need for PIE directors to "cut as close to the bone" as many do.

I do understand (the) view that wages should be as low as is legal . . . to attract customers, but I have never agreed with that view. I don't accept that wages are the only, or even the main, thing that attracts private sector companies to prison labor. I think it's much more than that—availability of labor that can be laid off when necessary, rehired when necessary is one factor that is underestimated by PIE managers, I think. And the quality of that labor, in the sense that they are not drunk or high, that they care inordinately about their work given how little else they have to do, and so can be highly productive. . . . Especially in manpower model projects like those in SC, which have heavy private sector involvement, I'm

not convinced they need a special wage break. That said, I do agree that it's an important PIE site, perhaps even remarkable, so I have no overall quarrel with (this writer's) findings.

The state of South Carolina, however, continues to maintain its growth as well as its lead. Indeed, the aforementioned speaker spoke glowingly of Ellis and the importance of the South Carolina program many times over a 2-1/2 year span.

The observer may wonder how much of South Carolina's PIE program's success is driven by its charismatic director, and whether it will continue to thrive under new leadership in the future. It is not uncommon to find that programmatic success is often tied to the energies and skills of a charismatic leader. It is also not uncommon to find that the program stumbles upon the departure of the same leader.

Ellis, when asked about this, is unwilling to speculate. It will be interesting to see what the future holds for the agency after he leaves, he says. He acknowledges a hand in "setting the foundation" for the program. During his 19-year tenure, he has taken the agency from \$6,000,000 to over \$31,000,000 in revenues in 2007.

In an interview with a member of Ellis's prison industries staff, I was advised that "Tony is a unique individual." When I asked for clarification, I was told that "Tony has tried to teach me—and others—everything he knows." Unlike many managers and administrators, he said, Ellis is eager to share "everything he knows."

When I asked what this person thought will happen to prison industries in SCDC if Ellis leaves in the future, I was advised that because of his efforts to train others in every aspect of the job he does, the Division would probably be able to "carry on.

“There might be a temporary setback, but then Tony’s training will kick in, and we’ll probably be all right.” Nevertheless, the writer was advised that the full potential of South Carolina’s PIE program was still unrealized. The relatively new director of SCDC and his aides were “not very familiar with prison industry issues.”²⁴

This same person (who had been with SCDC for 28 years—a decade longer than Ellis) spontaneously told me that “Tony built this program [SCDC prison industries].” This was in response to my inquiry about what SCDC prison industries was like at the time of Ellis’s arrival in 1988. “When he arrived, Tony had to borrow money from SCDC just to make payroll.” (South Carolina law requires prison industries to be self-sufficient.)

Ellis has a master’s in management, and a degree in business administration and marketing. His experience, while broad, did not include corrections until he joined SCDC. In a communication with an expert in prison industries, I was advised that debate in the past had centered on the issue of whether it’s more desirable to have an administrator from the private sector run prison industries, or to have one from corrections do so. (I was advised that it was probably more desirable to have the latter.) If so, Tony Ellis would appear to be an exception.

He first came to SCDC as a consultant, invited by Dr. Hubert Clements, deputy commissioner of administration for SCDC, to conduct an analysis of prison industries in the state—how they were managed, the problems, and the “state of the state” of operations. He was also asked to propose solutions.

²⁴ In the writer’s experience and observation, this is a common phenomenon, not just in S.C. but in other states as well, whenever there is a change in administration. Typically, a new governor (and/or DOC director) may arrive and apply brakes to many existing programs until they and their staff are able to judge for themselves whether or not the programs are “effective” or should be curtailed—often a political decision, ultimately.

“I looked at it for several weeks,” he said later. “I interviewed several levels of staff and wrote a report. Afterwards, I went over the findings with Dr. Clements. (I thought) things were essentially in poor shape as a business and revenue-generating industry. The product line was stagnant. There seemed to be no plan for increasing market share; overall, it was a dismal state of affairs.

“I left the report with him. A week or two later he called me to ask me to come on as a contract employee to take over operations and to ‘put the ship in order.’” I told him I would do it for a short term—that was 19 years ago.

“I saw a tremendous number of problems, and that I hadn’t even scratched the surface. I needed to persuade them to make a \$400,000 transfer to make payroll. The biggest problem was that there was no definitive direction for the staff to follow, no plan in place to move the division forward. There was poor communication between sales and marketing and production, with sales and marketing selling two for one, without any approval. Desks were stacking up in the warehouse, yet they were making desks one after the other.

“It took me two years to turn attitudes around and get everybody on the same page—two tough years to win back customer support (because customer service was failing).” Eventually, he said, he “did establish a plan.” He revised product offerings, and established sound financial controls, put a marketing plan in place, and improved customer service.

Asked about economic influences of the era, he responded that there have been “budget cuts at various times,” particularly “in the early nineties and more recently in 2002 – 2004.” At one point, he said, “state government froze procurement. That was the

impetus for me to diversify.” He reported that they were forced to reduce traditional industries staff. “Both the national and South Carolina economies were slowing down. Jobs went away. Tax revenues were decreasing. We got into the mode here (in S.C.) to provide food and medicine, but to cut back education, etc.

“I saw two new areas: PIE and leasing inmate labor. We could only use so many (license) tags, but we could capitalize on the one thing we did have: an abundant inmate labor force.”

Ellis says that after his arrival, there was a learning curve. “I had to parlay my business and government experience” into the correctional field. He continues, “I had to figure out how to market to the private sector.” One method he tried: “I wrote a lot of letters—more than 1,000—to S.C. companies. I sent letters to Georgia, North Carolina and Tennessee and other southern belt states. I figured I would generate interest. I got probably 10-15 responses. It gave me a chance to work with some companies, to learn what their concerns were, and what the availability of labor was.” Together they identified security and pay issues.

“Strangely enough,” he says, there was “minimal” business or labor concern about the (PIE) program. I took the time to assure them how we would not displace existing jobs. Labor saw that it was such a small program that it was no real threat. Labor per se has never been an opponent.”

Eventually, other states, particularly in the south, became interested in what he was doing, and traveled to South Carolina to see for themselves. (As already mentioned, Kentucky and Georgia were exploring the SCDC program at the time of our interviews.) “We have a track record to show people how it works,” he says. “It’s an educational

process, really”—one that took approximately two years in South Carolina. “I tell them [visitors] that the work should be at the entry level, not capital-intensive.” He stresses that products should be environmentally safe, and that the work should be repetitive in nature.

Companies tend to come in and stay, he says, although “to this day we only have about 10 companies.” But these companies tend to want to stay and expand. He cites two examples, Anderson Flooring and Kwalu, a South African company. “It’s been an interesting process,” he says. They had the marketing “down pat—most success was ultimately the result of networking. The South African company (Kwalu) was originally headed to another state.” Now, he reports, the company has expanded twice, and is about to do so again. “It’s the same with Anderson Flooring,” he says. “(We’ve) offered a proven track record of stability.” He refers to the 10 companies based in SCDC prison industries as their “mainstay.” He adds that this is true around the country, and cites the states of Iowa, Texas and Minnesota as examples of states where companies tended to come in and stay.

Auerbach maintains that she is “fascinated” by “this notion of companies staying a long time. I think it’s really key, and it says a lot about Tony that he makes it a point to find the right fit for his institutions. This is his great skill.”

He draws a profile of the kind of business he looks for. “Stable with approximately 50-100 employees. I network and deal with the CEO.” Some companies, he says, are “layered with bureaucracy.” In the past when he saw that the “top corporate people—larger corporations—feared public perception would be negative,” he made a conscious decision to go to family-owned or small private companies, where the decision

maker was the CEO. “Closely held companies, or privately held companies,” he says, are best. He makes one perhaps superfluous statement: “I am entrepreneurial in nature.”

There have been challenges. One company’s “competitor tried negative publicity.” They put out the word that “convicts” were making the product. “I advised (the PIE company) to counter with the positive”—taxes, restitution, rehabilitation, etc. “The company brought customers in—they saw the plant looked like any other plant. Now our companies regularly invite their customers in to visit and observe. They’ve turned the negative into a positive.”

Again and again, he stresses the importance of marketing. “You can’t be a total bureaucrat, and you can’t be totally business—you’ve got to be a hybrid. And you have to understand the political process.”

Ellis does not paint a rosy picture of the inmates’ attitudes about the PIE certification program: “They didn’t want deductions.” Inmate lawsuits, he indicates, are a “big headache.”

Returning to an earlier theme, he reiterates his rationale for maintaining service and traditional industries: “don’t have all your eggs in one basket.” Service and PIE are the income producers, he said, but traditional industries have their place. “It’s kind of like guiding a big ship—you can’t turn on a dime.” There are contracts, legal and financial considerations, the Bureau of Justice Assistance, he says. “In this job, you have to have patience.

“You have to implement a plan, but it takes time. It can’t be done overnight. This organization is dependent on outside economic forces. If the economy does well, government (can accomplish more) . . .

“We are revenue-based. When the economy goes down, I shift over to PIE. There’s always a demand in education, a market in schools (desks, etc.). For the last several years, the money has been in PIE and service (industries). You have to stay attuned to outside market forces, and you have to change from time to time.”

For awhile, he says, he went to more leased labor (the PIE “manpower” model), rather than traditional industries, but “now that the economy is coming back, (I’ll have) more traditional industries for more inmates.

“Leased inmate labor is a very valuable tool for us. It produces revenue for our agency. SCDC taps revenue funds to pay medical bills for inmates, and bedding, clothing, and officer salaries.” Later, he points out that “it’s exactly like Chief Justice Warren Burger said: (we) create jobs.”

Out-going inmate telephone calls, he says, generate revenue for the agency. Also, inmates pay for canteen products—cookies, cigarettes, etc. Their families send money, he says, to some inmates, while the greater bulk of canteen sales are purchased by inmates who earn money in either service or PIE programs.

One thing becomes apparent: Ellis is skilled at just about every aspect of prison industries, including aspects not frequently associated with correctional administrators. The ability to work with the private sector, for example, is a skill not often cultivated in correctional staff.

A former parole commissioner myself, I have observed the inherent difficulties attached to training probation and parole field staff to combine both “counselor” and “cop” approaches to managing offenders. A comparable adjustment may be even more difficult for the correctional administrator asked to work with the private sector. As Ellis

pointed out in our discussions, it is sometimes challenging to combine the correctional bureaucrat's approach with the private sector's entrepreneurial spirit. Likewise, company presidents are often reluctant to attempt to navigate government bureaucracy.

Ellis called attention to a range of contrasts. In the private sector, he said, you're rewarded if you do well; managers and administrators are encouraged to use initiative and resourcefulness to compete in industry. However, in correctional industries, the manager or executive is regulated and constrained from any appearance of competitiveness with the private sector. In particular, with PIE programs, there are severe limits that must be observed at all times. As Ellis put it, he must constantly ask himself what he can do that isn't threatening [to unions or local business]. He said that he looks for prison industries that don't pose a threat to industries in the state. You have to be good at what you do, he said, but "not too good." There are few accolades, he said, but plenty of complaints. He knows he's done "too good a job" when he receives a complaint. "You've got to make sure you're not endangering or threatening another industry or company."

In one interview, Ellis spoke to the problems encountered by most prison industries directors. "We all have them, to different degrees," he said. He added that "being able to penetrate different markets" was one challenge they all share. For example, he said, in North Carolina they have lots of furniture businesses in the state, so their prison industries do not make furniture."

When asked to give reasons for his success, he reiterated that he searched for companies that had only a few owners, or were family-owned. Also, he said, "you need a warden that believes . . ." Then, "You've got to have a certain type inmate." For

example, he said, for the jobs that require a lot of training, it's better to turn to maximum security inmates, because they're likely to be there longer. For simple tasks or work, he said, it was desirable to use minimum security inmates. "It's like a giant puzzle—you've got to put the pieces in place," he said. Some wardens, he said, may pay only lip service. An important key: the state director of corrections must be supportive of the PIE philosophy and program.

A big problem, he reports is the moving of inmates from medium to maximum or minimum security. This can (and often does) adversely impact PIE inmate employment.

When asked about the program's outstanding national reputation, he said, "In South Carolina, people take it for granted."

One requirement for prison industries directors, he said, was to "never, ever forget that you work in a political environment." He described one elected official he'd heard from. The official was displeased because his constituent complained that Ellis had gotten an order that caused the constituent to lose business. Even though the order saved the taxpayers money, Ellis said, the official complained because his constituent was unhappy.

At a subsequent meeting, Ellis maintained that "some legislators feel we shouldn't have this (PIE) program at all. 'That person killed my daughter-in-law and now he's earning \$10 an hour,' they'll say." His tone is matter-of-fact, not bitter, as if he realizes that this is part of the territory associated with the PIE program that can be neither avoided nor ignored.

In 2003, a report on SCDC prison industries by the State's Legislative Audit Council created a mild sensation, resulting in adverse publicity for the agency. Ellis is

convinced that the report was “political”, a complaint that is reiterated subsequently by several people in a position to judge (including an SCDC administrator) and others. (The LAC report is described in a following section of this paper.)

My attendance at three annual conferences (2005, 2006 and 2007) sponsored by the NCIA revealed that this kind of complaint is common among prison industries directors. Yet in South Carolina, as in other states, Ellis stated that prison industries must “pay as you go”—there is no state funding.

“I’ve learned to navigate the political minefield,” he says. The topic of political influences on correctional progress is raised. He talks about the prison industries director of Indiana: “a new governor, and new DOC director came in, and she was among the first to go. She’s now out of the loop.” He adds that he sees it happen more with DOC directors: “. . . (If things are going bad, there’s a very high turnover . . .” In Texas, he adds, “everybody serves at the pleasure of the director of TDCJ.”

He reminisces about the past. “During Parker (Evatt’s) administration, the legislature gave more power to the governor. As a result, he says, things became more political. “Every four years, there are changes in philosophy.” The changes are from the top down, he says, and the effects are far reaching. “It affects stability,” he says. Philosophies change, and become the philosophy of the agency director. “Nationwide, this happens, too, he says, and it affects prison industries.” Sometimes you can stay below the radar, he says, but not always.

“I work around it,” he says. I don’t worry about my tenure. I put my energy into making the program work. If I were starting out again,” he confesses, “I wouldn’t do this

[job] because of the risks and uncertainty, but I don't regret what I've done. . . . but if I had to start today—in the current environment—no.

“Being an administrator of inmates is the ‘low end of the food chain,’ he says. “But I see past that—to changing attitudes, lives—I see our jobs as taking those who society failed and (we) try to turn around. You take little victories one by one and wait for the next, day by day or week or month.

“The PIE program is a personal challenge to me, to change people's attitudes.”

“I don't see myself as an expert, but I believe the PIE concept works.” He says he has networked with the business community, and that he's taught his plant managers to do so. You need a vision,” he says, citing Martin Luther King, Jr. as a visionary. “I study leaders like Jack Welch, MLK, what they do, and how.”

He talks about the Christmas bonuses some PIE workers have received, and the Christmas dinner (sponsored by Anderson Flooring's CEO) where the food is catered in for the inmates. He talks of a 4th of July barbecue they've had.

“When quotas are met, he says, on Fridays those inmates [responsible] get Cokes and the pizza of their choice.”

Ellis does not limit his praise to the PIE program, however. He has much positive to say about other SCDC prison industries. For example, he reports that they received international ISO900 certification in manufacturing (“out of three in the country”). One of their projects has received the Good Housekeeping Seal of Approval.

Among the many impediments to PIE programs, labor unions have ranked high. The primary objection has been that prison industries threaten dues-paying unionists. As one prison industries director explained it, the perception is that “the average American is

losing a job to a criminal.” But the real threat to unions, Ellis says, is not PIE, but imports.

Ellis is perceptive as well as innovative—the latter trait a prerequisite for success in the private sector, according to the research of Borins (2001), Light (1998), Mulgan and Albury (2003).

“For the PIE program to continue and grow” Ellis says, “we need to educate legislators to how PIE can help the American people. Congress is hearing one side of the story—“They’re putting us out of business””—but Ellis says there are solutions. One is to explore the possibility of giving only **part** of the work to PIE. “Let the final stage, or the labor-intensive part, be done in prison.” Segregate or separate the tasks, he says. If there are 10 steps, let the private sector handle seven of them, and PIE the other three. He cites golf shirts as one example. The hard part, he says, is the collar, and the easy (low-skill) part is (e.g.) the sleeve, or cutting threads. He reports that one or two of his facilities have divided these tasks.

When asked how he has managed to overcome union objections in South Carolina, he doesn’t claim credit. In the Deep South, he says, unions are not as powerful as in the northeast.

Ellis, who has studied the history of unions, is optimistic about the future of PIE. Successful PIE models will be emulated, he predicts. He cites Iowa—a state where unions have supported PIE programming and training—as an example of what can happen. But it will take time, time to educate legislatures and time to build case studies that demonstrate how PIE can work. Smart entrepreneurial businesses will have to say,

“they’ve got something here”—and then PIE concepts may move into schools of higher education, he predicts.

He takes particular pride in the PIE program. He says PIE inmates are learning to manage money, and he notes a distinction between the money management skills of PIE workers and other inmate workers. He is convinced that the PIE workers are more acutely aware of their finances; to illustrate this, he shares an anecdote about a PIE inmate whose check to his wife was missing. (The inmate manifested a strong sense of responsibility and concern for his family.)

When the PIE inmates begin their new jobs, he says, change in their willingness to be responsible is “almost immediate.” He reports that PIE inmates also begin to develop a sense of self respect, which he says is “probably the highest benefit.”

There are 50 applicants for every (PIE) job, he says. One requirement is that inmates remain disciplinary-free. “If you screw up, you’re fired,” Ellis says. “The wardens will tell you that there are fewer discipline problems, and that PIE programs are much easier to run—inmates are more accountable.”

He acknowledges the problems associated with inmates. Typically, they are unmotivated and uneducated. Society has failed them, he says, and correctional authorities are expected to rehabilitate them with limited resources—a challenging task. In this regard, he maintains that the PIE program model teaches inmates responsibility, money management skills, and self-esteem. They have failed in society, he points out, but PIE gives them a second chance.

There are always problems, he says, including operations interruptions caused by unexpected inmate transfers or facility lockdowns. Ellis requires inmates to earn their

GED (if needed) to qualify for PIE. This may require working days and going to school at night. Some inmates objected and filed a lawsuit, but the court upheld his position, he says.

He provides a contrasting anecdote, describing a 55-year-old inmate who's been in prison most of his life. He had told Ellis that he "hated his guts" several times, but he finally acquired his GED. He stopped Ellis one day recently, to report that he'd "walked across the stage and gotten a piece of paper (GED).

I didn't lie, cheat or steal to get it. I hate to admit it, but I cried in my cell when I couldn't get a problem. You don't know the amount of confidence I have now. I've got savings, I've got my GED—I'll never be back. I've learned that I can accomplish something. You forced me to take responsibility. If I'd met you 20 years ago, I might not have been here these last 20 years.

Ellis said there were tears streaming down his face. "I encouraged him to talk to the younger inmates." (One prison industries expert I spoke with stated that Ellis's commitment to helping inmates was obvious, and a key to his success.)

Ellis maintains that success is dependent on the commitment of the correctional agency director, as well as facility wardens. (He reports directly to Director of Programs and Services, Geraldine Miro.)

There are contrasting prison industry organizational structures, he reminds me, referring to TRICOR in Tennessee and PRIDE in Florida, both respected agencies, with contrasting philosophies reflected in their organizational structures. (Ellis believes that various prison industry organizational structures should be studied to determine which

are associated with better outcomes.) Both TRICOR and PRIDE are autonomous agencies, separate from the state corrections departments, to be distinguished from (e.g.) states like South Carolina and Iowa, both of which are part of their state correctional agencies. The head of Tennessee's TRICOR answers to a board of directors. (In contrast, Ellis's salary and the agency are governed by state regulations.)

He feels strongly that a successful prison industries director needs to understand profit and loss statements, and how to navigate government bureaucracy. Additionally, s/he must have political skills. Of his peers he says, "we all have the same challenges. Will the legislature leave you alone and let you do what you do? Will the agency director leave you alone?"

"You've got to have business skills and political skills, because you're constantly barraged."

Ellis is convinced that PIE inmates are perfectly suited to the contemporary reentry emphasis in correctional circles. "Someone has got to marry these inmates into reentry programs. In ACA, they're trying to [move] traditional prison industries workers into reentry programs, but PIE inmates are much better prepared (something this observer, a former parole official, had noted also). "Your most successful reentry (inmate) will be the PIE inmates—they've already worked for several years, and have been more involved with their families."

He is not stingy with his praise for other programs, and encourages me to call the director of Iowa prison industries. In Iowa, he says, inmates wear civilian clothes, and are dropped off (to work) at Des Moines factories. Afterwards, they take buses back to

the facility. Ellis, who has visited the Iowa program, speaks highly of the program and its director. Although some inmates work in prison, most work on the outside, he says.

Ellis maintains a strategy of what he calls diversity in SCDC prison industries. He also stresses that “security is always #1.” After that, he says, he tries to maintain a “3-tiered program: 1/3 traditional industries, 1/3 service industries, and 1/3 PIE.

“Don’t have all your eggs in one basket,” he says. When asked, he says that their PIE program is the most profitable, followed by service industries—with traditional industries being “the most costly.” All three programs areas—traditional, service and PIE—are “revenue generated,” he says. They “don’t rely on PIE because if the market goes flat, then what?” He explains that his strategy is to have three tiers to work with as the economy rises and falls.

“In an ideal world,” he says, inmates would be trained in vocational education classes to prepare for PIE. The reality, I learn subsequently, is that the new SCDC director had been forced to RIF teachers and curtail vocational and education programs—although he was beginning to bring a few teachers back (in 2006). (Previously, classes had been filled.)

Ellis says that the PIE program is audited every two years. The Bureau of Justice Assistance (BJA) selects and sends practitioners (who are not paid) to ensure the integrity of the program.

“Labor unions, in conjunction with the legislature, are looking at us, waiting to see if we screw up. We don’t want a bad audit.” After the audit, he says, they are debriefed. (They are required to document and verify criteria established by BJA.)

In the future, Ellis says that prison industries will see more turn-over. “A lot of knowledge will walk out the door.” (He’s referring to retirements, etc.) But “there’s always room for more different philosophies. What you’ll see, in my opinion, are prison industry directors with shorter terms.” He calls attention to a well-known prison industry director whose PIE program started making money. “The legislature took it,” he says. “This was a disincentive. That legislature will destroy that program.

“If we could run (prison industries) with business principles, we would break records.” But the political barriers are too numerous, he adds.

He reiterates that the gains are not immediate, but long-term. “You’ve got to have vision and commitment.”

But he also finds rewards: “(t)here are very few jobs where the opportunity exists to affect policy . . . (but) now, what I’ve accomplished will be left behind.” That, he indicates, is all that matters. If an inmate says “thanks, you gave me an opportunity—that’s enough for me.” When asked what his biggest accomplishment has been, he doesn’t hesitate: “Seeing the program grow. I wanted to take it as far as I could, and I have.” His objective from “Day One,” he says, was “to build the most successful (PIE) program in the country.”

It was not difficult to obtain his assistance in arranging for me to visit several facilities, so that I could observe the state’s industries first hand. Clearly proud of the achievements of the Division in all three models (traditional, service and PIE), he arranged for me to visit several facilities, where I was free to interview industries managers, and afforded time alone with individual inmate workers.

An Interview with SCDC Prison Industries Administrative Manager

Rickie Harrison, a former warden for 18 years, has been with the Division of Prison Industries for three years. He looks at prison industries, he reports, from a “security point of view” as well as an “operational point of view.”

Many inmates, he says, will work in traditional prison industries “just to get away from the hassling and heckling of other inmates.” Some inmates, he says, don’t work— inmates with medical problems or those who refuse to work (who are sent to lock-up).

He maintains that “service prison industries workers want to be in the PIE program, but you don’t have that problem with traditional workers because they know they don’t qualify.” Inmates in facilities that have both service industries and PIE are first required to work in service. When asked, he says that they don’t usually have a problem with service workers. The work ethic, he says, is basically the same in the service and PIE programs.

“My rewards,” he says, “are in seeing the guys change. I was strict (as a warden). I made folks responsible for their actions. At first, he says, they resisted, but over time they saw others (and themselves) make meaningful changes. Now, he says, “I see guys on the street all the time. I may not recognize them, but they recognize me, and come up.

“Man, (they say), I really appreciate what you did. If I’d had a father like you I’d have never come to prison.’ I’ve never had one to approach me in a disrespectful manner.”

Harrison says that some PIE graduates get jobs in the community and /or return to work at their old job in the prison.

He makes one wry observation about the drawback of mandatory savings for the long-term inmates: “Lifers may never get their savings.”

Another unrelated observation provides food for thought, on the differences between female and male inmates: “Women just want you to listen, but the men are very different. They want you to listen, but they’ll also file a grievance.”

(Harrison is my guide through the SCDC prison system. Everywhere we go, he is greeted with obvious affection by the inmates.)

South Carolina Prison Industries

A visit to one of the prison-based factories is both instructive and memorable. If it were possible to bypass the fence, barbed wire and locked metal doors of the prison exterior to gain entry to the manufacturing section of the facility, a visitor might easily forget that s/he was in a penitentiary. The inmates appear to be as industrious and capable as workers in any factory. Indeed, the visitor must admit that no clear distinction can be made between the apparent energy and industry of the “service” inmate workers (paid \$1 per hour) and the PIE inmate workers (paid minimum to prevailing wage).

“Service” work in prison industries is to be distinguished from the manufacturing of a product. The distinction is crucial due to state and federal laws that prohibit the sale of prison-made products across state lines. Interested observers and the federal Bureau of Prisons maintain that provision of service falls outside the restrictions of such laws, and South Carolina officials (and those of other states) appear to agree.

As already mentioned, the SCDC Division of Industries operates three models of prison industries: traditional, service and PIE. Prison inmates working in **traditional**

industries are not paid for their work manufacturing bookcases, credenzas, desks, chairs, mattresses and modular office systems—all sold to municipal, state and county governments, and school districts. Traditional industries also provide printing services for a broad range of customers and businesses.

Service industries inmates earn from \$.35 to \$1.00 per hour, and rebuild and reupholster furniture for public and private sector customers. They also package gloves, Christmas decorations, plastic cutlery, tennis balls, hosiery, and attach UPC labels to plumbing parts. Because service work is distinct from manufacturing of products—and hence does not fall under federal minimum wage requirements--inmate wages can be negotiated with private sector companies.

Opponents of service prison industries maintain that they are more than a loophole between traditional prison industries and enhanced prison industries. (In Texas, commercial services are required to adhere to PIE requirements.) But in states where critics say that service industries employees are cheated of receiving prevailing wages, service industries proponents respond that many of the service programs would move offshore (if required to meet PIE requirements), leaving inmates with only traditional industries. Service industries, they maintain, allow inmates to receive more than they would otherwise receive (in traditional industries).

Prison Industries Enhancement (PIE) inmates earn from \$5.15 (increased to \$5.85 on July 24, 2007) to \$10.00 per hour, manufacturing hardwood flooring, apparel, furniture, computer wire harnesses, and faucet handles. The PIE program must follow strict guidelines, set by the state to meet federal requirements. Inmate participation is voluntary; PIE employees agree to deductions from their wages for taxes, victim

compensation, and room and board. They are paid prevailing wage (in the locale) for the work they do. PIE regulations require that inmate employees not displace community workers in the same industry.

In 2006, 2,221 inmates were employed in traditional, service or PIE programs, generating \$29,945,267 (by 2007, \$31,000,000) for the Division. According to the SCDC website, the Prison Industries Program is completely self-supporting, and provides training for inmates while generating funding for the Agency.

SCDC Prison Industries: Relevant State Code and Court Holdings

South Carolina's Prison Industries code (Article 3) acknowledges that "the means now provided for the employment of convict labor is inadequate to furnish a sufficient number of convicts with employment" Section 24-3-310 therefore stipulates that the intent of Article 3 is to

- (1) further provide more adequate, regular, and suitable employment for the convicts of this State, consistent with proper penal purposes;*
- (2) further utilize the labor of convicts for self-maintenance and for reimbursing this State for expenses incurred by reason of their crimes and imprisonment;*
- (3) effect the requisitioning and disbursement of prison products directly through established state authorities with no possibility of private profits therefrom;*
and
- (4) provide prison industry projects designed to place inmates in a realistic working and training environment in which they are able to acquire marketable skills and to make financial payments for restitution to their*

victims, for support of their families, and for the support of themselves in the institution .

Section 24-3-315 requires certain determinations to be made prior to use of inmate labor, ensuring that

. . . inmates participating in any prison industry program pursuant to the Justice Assistance Act of 1984 is on a voluntary basis. . . . [and that such inmate labor] . . . will not displace employed workers, that the locality does not have a surplus of available labor for the skills, crafts, or trades that would utilize inmate labor, and that the rates of pay and other conditions of employment are not less than those paid and provided for work of similar nature in the locality in which the work is performed.

Section 24-3-410 precludes sale of prison-made products on the open market, except for

. . . products sold intrastate or interstate produced by inmates of the Department of Corrections employed in a federally certified private sector/prison industries program if the inmate workers participate voluntarily, receive comparable wages and the work does not displace employed workers. . . . The Department of Labor shall develop guidelines to determine if the work displaces employed workers.

(The Section also provides for piece-price compensation for the handicapped or aged.)

Section 24-3-430 provides requirements and conditions:

- (A) *The Director of the Department of Corrections may establish a program involving the use of inmate labor by a nonprofit organization or in private industry No violent offender shall be afforded the opportunity to perform labor for nonprofit organizations if such labor is outside the confines of a correctional institution. . . .*
- (B) *. . . The contractual agreements may include rental or lease agreements for state buildings or portions of them on the grounds of an institution or a facility of the Department of Corrections and provide for reasonable access to and egress from the building to establish and operate a facility.*
- (C) *An inmate may participate in the program established pursuant to this section only on a voluntary basis . . .*
- (D) *No inmate participating in the program may earn less than the prevailing wage for work of a similar nature in the private sector.*
- (E) *Inmate participation in the program may not result in the displacement of employed workers in the State of South Carolina and may not impair existing contracts for services.*
- (F) *. . . No inmate compensated for participation in the program is considered an employee of the State.*
- (G) *No inmate who participates is designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90-351 is eligible for unemployment compensation upon termination from the program.*

(H) The earnings of an inmate authorized to work at paid employment pursuant to this section must be paid directly to the Department of Corrections and applied as provided under Section 24-3-40 (which specifies the disposition of wages for prisoners allowed to work at paid employment).

Lake Summers, an attorney who has represented SCDC prison industries in a number of lawsuits, summarized much of the code with a simple statement: “In our state, the labor of inmates is the property of the State.”

Summers discussed two S.C. private sector prison industries cases in particular, *Adkins v. South Carolina Department of Corrections*, and *Wicker v. South Carolina Department of Corrections*. In the *Adkins* case, the State’s Supreme Court ruled that South Carolina’s statutes provided no private right of action for inmates, who had filed tort claims action against the DOC for alleged violations of prevailing wage statutes. The Court held that inmates had no private civil cause of action, but that they were not without a remedy—they might file an inmate grievance to protest DOC’s failure to pay wages in accordance with mandatory statutory provisions. As Summers pointed out, on the same date that the Court issued that holding it also issued a holding in the *Wicker* matter. In the *Wicker* case, *Wicker* had filed a grievance with the Administrative Law Judge (ALJ), who ruled that the inmate was entitled to be paid prevailing wage while working in a (private sector) prison industries program; the Supreme Court affirmed the ALJ’s ruling.

“The philosophical conundrum that I face in trying to reconcile *Adkins* and *Wicker* is this,” Summers said, “in *Adkins*, our Supreme Court said that inmates may not

use the applicable statute, 24-3-430 as a statute that gives the inmate a private right of action. It means you cannot sue and invoke that standard. If you recall from the Fair Labor Standards Act (FLSA) . . . it says specifically that employees may sue. . . . There's nothing like that in 24-3-430 [the section that addresses private prison industry]. . . .

“Look at 24-3-410 and 24-3-420 and 24-3-430 . . . unlike the FLSA provision. . . . there's nothing . . . that gives an inmate the remedy of a lawsuit under those statutes. . . . The predominant purpose of those statutes . . . (was not) for the special benefit of the inmates, unlike the FLSA which was enacted for the special benefit of employees. The Supreme Court in *Adkins* recognized that the statutes at play in the case (the prison industries statutes) were enacted to prevent unfair competition. . . . inmates cannot use 24-3-430 or any other prison industries statute as a private right of action.

“I was thrilled when I saw *Adkins*. Then I went to *Wicker*, and very interestingly . . . our Supreme Court did not schedule an argument as it did in *Adkins*. The attorneys argued before the Court in *Adkins* (but) there was no argument of any kind undertaken in the Court by *Wicker*, so the Court issued its opinion in *Wicker* on the same day [that *Adkins* was issued]. So in *Wicker* . . . our Court sanctioned the remedy and the mechanism that inmate *Wicker* came up with all on his own, without a lawyer. *Wicker* chose a different course: *Wicker* filed a grievance; *Wicker* didn't file a lawsuit. Our Supreme Court sanctioned that and said, ‘*Wicker*, you did the right thing.’ But at the same time, in my mind, philosophically, our Supreme Court let in through the back door what it wouldn't let in through the front door. And so I think that tension, that philosophical difference at least as I see it, will be the subject of further litigation whether it's with our Court of Appeals, our Supreme Court, or both.”

Summers referred me to a Maryland case cited in Adkins: Harker v. State Industries, in which Harker (and other inmates) argued that inmates working in state prison industries [not private sector prison industries] must be paid federal minimum wage, per the Fair Labor Standards Act. The United States District Court for the District of Maryland disagreed, adding that “(i)f the FLSA’s coverage is to extend within prison walls, Congress must say so, not the courts.”

Summers also alluded to the Washington Water Jet Workers case, to be discussed in a following section of this paper. (In that case, union involvement was easily inferred.)

SCDC Prison Industries Products and Services Catalog

Like other state industries, the South Carolina Department of Corrections has a catalog of products and services for its traditional and service prison industries. Offered in CD-ROM format as well, the catalog is available as a large binder, divided into separate, labelled sections: General Information, Case Goods, Seating, Modular Furniture, Institutional Bedding, Janitorial, Dormitory Furniture, Apparel, Reupholstery, Printing, Signs, Retread and Framing. The catalog is attractive and professional in appearance, with glossy pages and expertly rendered photographs of products.

An introductory letter from the Director states:

It is with a great deal of pride that Prison Industries (PI) presents this catalog of products and services. PI, a division of the South Carolina Department of Corrections, has a proud history of more than forty years serving the State of South Carolina.

PI is a major element of the inmate programs in the South Carolina Department of Corrections. Using structured employment and training programs, PI provides a broad range of products to governmental agencies (wholly or partially tax supported), and non-profit organizations. PI offers formalized training through on-the-job experience, teaching a job skill and work ethic otherwise foreign to many in the inmate population.

We offer a variety of products and services, competitively priced with quality assurance guaranteed. PI continues to grow by expanding present facilities, developing new industries and adding new products and services.

Under General Information, the question “What is PI?” is answered:

We are the South Carolina Department of Corrections, Division of Industries, serving the State by employing and training inmates and returning them into society as useful citizens. In pursuit of the course, we reduce the cost of prison operation and offer products and services of a substantial savings to qualified businesses and organizations.

Information and instructions are provided concerning placement of orders by telephone (including an 800- number), fax number, email address and mailing address.

Orders for new products are limited to

- *Any office or agency that is wholly or partially tax supported*
- *Any non-profit business or organization*

Any appointed jobber or broker doing business solely within South Carolina.

Orders for services are limited to

- *All those who qualify to buy new products*
- *Any business or organization*

(The copy, however, specifies that tire retreading services are available to state agencies only.)

The prospective customer is invited to visit sales offices located in Columbia. (“Call in advance and we’ll have your personal representative standing by to answer your questions and design a solution for your office needs.”) Specialty and customized items, the reader is advised, may be available. (“For information, please contact Customer Service or your sales representative.”)

PI pays South Carolina sales tax on all orders, as well as shipping costs. PI warrants that all products are defect-free in material and workmanship for one year. Finally, merchandise may be returned (subject to approval by PI). If approved, merchandise will be picked up at no charge (within 30 days of purchase). Otherwise, a 15-percent restocking fee may be charged. (No returns after 6 months.)

Many PI products are available online.

Products and Services

The Case Goods section of the binder reveals glossy photographs of handsome office furniture: bookcases, desks, credenzas, file cabinets, tables, etc. The Citadel Collection ranges in price from \$219.00 for a foyer table (without drawer) to \$1,150.00

for an executive “L” desk. (The Lancaster and Calhoun Collections are priced in a slightly lower price range.)

The Seating section of the binder offers an impressive array of good-looking executive swivel chairs and side chairs, loveseats, office deluxe chairs, “T.U.F. Cop” chairs, ergonomic seating, stackable chairs, complete with fabric samples for upholstered chairs.

The Modular Furniture, Institutional Bedding, and Janitorial sections are all attractively displayed, and straightforward. The Dormitory Furniture ranges from a \$131.00 “student chair” to \$700.00 for a “Wardrobe.” Mattresses range in price from \$69.75 to \$77.50, all manufactured with “Staph-Chek Ticking.”

Apparel is limited to institutional clothing for inmates, as well as undergarments, bed linens, and clothing designed for hospitalized inmate patients.

The Printing section offers a range of services, including graphics. “Standard Features” include desktop publishing design service, single and multi-part forms, envelopes and letterheads, brochures and newsletters, a quick copy center, high volume copying, color copies, collating, folding and binding. Other services include shrink wrap and special packaging, off-set printing, carbonless forms, and “Rush Services.”

The Sign Center offers traffic, highway, and street signs; decals, desk markers, name plates and name tags, and customized signs. No Parking signs start at \$5.00 each (in lots of 25 or more), while a single 48x48x48” sign costs \$34.75; custom signs (6x12) cost as little as \$3.25 each in lots of 25-plus, while a single 48x72 custom sign may cost as much as \$216.75.

The copy for tire retreading services, offered only to state agencies, compares the cost of buying and replacing a new tire (\$182.00) twice, for a total of \$546.00, with the cost of buying the same new tire (\$182.00) and retreading it twice (@ \$86.23 both times), for a total investment of \$354.46.

The Frame Shop offers “custom framing at very affordable prices,” including documents, diplomas, prints, posters, photographs and state seals.

South Carolina Division of Prison Industries Programs (Specific Models)

Traditional Prison Industries

Visits to SCDC traditional prison industries (based at Broad River Correctional Institution) revealed unexpected and interesting variations in how prisoners may be paid. All automobile tags are manufactured in prison, as required by South Carolina law. The tags account for approximately 10 months’ work out of each year; approximately 1,000,000 tags are manufactured per year. Inmates also manufacture reflective street signs, as well as name tags, office signs and desk markers for state agency or non-profit purchase.

In this regard, Barbara Auerbach told me that she believes that the manufacture of license tags has gotten a “bad rap” in the past (from critics) because in fact, inmate workers learn skills (like sign-manufacturing) that are valuable upon release. She acknowledged that there are some “fabulous” traditional prison industries throughout the country. However, she added that there is “something intangible that is critical” gained by inmates who work for the private sector: “dignity.”

The labor in the Broad River facility is divided into traditional (TI) and PIE industry employment; 55.5 percent of hours worked are paid 50 cents per hour, while 44.5 percent of hours worked are paid at the PIE scale of \$5.15 per hour. Inmates rotate, and therefore, sometimes earn the lower rate, and other times earn the PIE rate. However, most TI inmates are unpaid. While at one time they may have been, the wages were stopped, with those who were already paid being grand-fathered in.

Another example of variations in paying inmates can be found in laundry employment at the Manning Correctional Institution. Although laundry labor for the State or SCDC is unpaid, laundry for a nearby hotel is paid at the “service” rate. (“Service” prison industries were developed in the early 1970s, and are discussed in the following section.)

When the writer visited another, smaller traditional industry program at a different facility, the inmate who showed me around said that there was “no motivation to improve or upgrade work or equipment because “no one expects [us] to make money.” There are no incentives to get more customers or a larger market share. Their only incentive, he said was that the Director says they must improve or be shut down. An additional incentive is that inmates working in traditional prison industries have an opportunity to prove themselves, and perhaps qualify for working in a service industry—which may lead to the most prized opportunity of all: a chance to qualify for the PIE program and its wages and status. In spite of such claims, however, it appeared to this novice observer that the inmates were doing a fine job.

Service Prison Industries

The Lieber Correctional Institution, opened in 1986, is located in Ridgeland, South Carolina. A Level 3 (high security) male facility, it has a single fenced perimeter and electronic surveillance. The state's Death Row population is also housed at Lieber, as well as a licensed infirmary for deaf and blind male inmates. Twenty-four hour coverage for "routine" medical and dental care is available. Literacy and GED classes are available, along with vocational training in carpentry.

As previously mentioned, the provision of a prison industries "service" is to be distinguished from the manufacturing of a product; thus, South Carolina (and other states, as well as UNICOR) use the resultant loophole as a means of partnering with the private sector while not requiring minimum or prevailing wages. Inmates who might otherwise be unpaid are eager to earn something more than nothing, and thus the service prison industry program endures—in spite of the objections of those who see it as an underhanded means of obtaining cheap labor. Corrections authorities, however, see it as a means of providing a small wage to inmates who might otherwise be unpaid.

In 2005, three service prison industries programs constituted Lieber's industrial complex: the Tire Retread Plant; Evans Rule, a spool recycling program²⁵; and Williams Technologies, an automotive transmission disassembly operation. The tire retread plant and the spool recycling programs are described below.

Inmate workers are paid by the hour, with a range of opportunities available to earn bonuses. Bonuses are intended to provide incentive for inmates to increase productivity and quality workmanship. Bonuses are also linked to attendance and seniority as measured by length of time with the program.

²⁵ Closed in 2006; a new program will soon replace it.

Base rate is \$0.35 per hour, the minimum that an inmate employee can receive. This rate increases with seniority and completion of special certification programming. The base rate also establishes over-time hourly rates. An inmate who transfers between industries can maintain eligibility for seniority bonuses. This “longevity” rate is \$0.15 per hour after 6 months; \$0.10 per hour after 12 months, and \$0.05 per hour for each subsequent 12-month period.

Bonuses are based on performance reflecting worker attendance and disciplinary issues, and completion of a probationary period. Leadman bonuses are also available, along with completion of a “Precure Retread Certification” program.

Inmate Service Industries Contract

The South Carolina Department of Corrections Prison Industries Inmate Agreement for service, one page in length, includes several stipulations. Each inmate service worker voluntarily agrees to terms and conditions regarding the disposition of wages received:

1. *Twenty percent (20%) contribution to court-ordered payments to a specific victim(s) or if restitution has been satisfied, to a particular victim, ten percent (10%) must be applied to the Victims’ Compensation Fund.*
2. *Ten percent (10%) for room and board²⁶.*

²⁶ South Carolina’s Code, Chapter 1, Title 24 was amended August 1, 2007 by the addition of section 24-1-290. The result was a bipartite provision which differed for service industries inmates with or without children, and which was virtually identical to the state’s PIE inmate deductions. Those with children have deductions of 20 percent for victims’ compensation, 35 percent for child support and 10 percent for interest-bearing inmate accounts; those without children will have deductions of 20 percent for victims’ compensation, 25 percent for room and board, and 10 percent for interest-bearing inmate accounts. Any remainder will go to inmate canteen accounts, known as “Cooper’s accounts).

Inmate service workers agree to work up to eight hours per day for a minimum of one year, providing they meet production and quality standards, maintain “a cooperative attitude and adhere to the conduct rules and all policies and procedures established” (by SCDC). They agree that they may be terminated for security, safety or custody reasons. They further agree that should they be transferred out of the Prison Industries Service Program and returned to the general population, their pay will revert to the regular inmate work scale. They sign agreements attesting to these stipulations, and further agree that institution work assignments (in the general population) are mandatory, not voluntary.

Finally, each worker agrees that he understands that he is not employed by the Service Sector Industry, to which his labor is leased, and that any grievance or complaint related to the Program will be addressed to SCDC. Signatures are dated and witnessed by the P.I. Business Manager.

Training for Tire Retread Plant Program

Initial training and continuous training for all tire retread plant inmate employees is mandatory. New employees begin training within a week of being hired, and have 45 days to fulfill qualification requirements. The Tire Retread Plant’s “Synopsis of Precure Retreading and Repairing Tire Certification Program” describes training objectives as follows:

- Provide classroom training and extensive hands-on skill development in the precure tire retreading industry.
- Ensure that technicians are trained in OSHA mandated safety requirements and tire retreading/repair industry procedural standards.

- Facilitate individual technical skills and development through continuing education.
- Obtain commercial certification in Precure Retreading and Tire Repair.

Inmate employees are encouraged to achieve industry certification in order to receive bonus pay. On-the-job refresher training sessions must be completed every six months to maintain certification. Failure to complete training results in cancellation of performance or certification bonuses. Bonuses can be reinstated when requirements are met and approved by the supervisor of the plant.

Tire Retread Plant

At the Tire Retread Plant, inmates work from 8:30 am to 4:30 pm Monday through Friday, excluding state and federal holidays. The plant is monitored and managed by a former Marine (whose responsibilities also include the Evans Rule program described below).

According to a glossy brochure entitled *Retread*, features include:

- Recognized “A” rating with national Tire Dealers and Retreaders Association.
- All tires must pass a 12- step PI (prison industries) quality assurance and testing program.
- All radial tires are high pressure tested.
- Recapping of radial and bias ply tires for most fleet vehicles.
- A nationally recognized tread supplier.
- PI’s tire staff is professionally trained by factory representatives.

- Electrostatic pre-treatment exams are conducted.
- All rims are steam cleaned at no charge and painted upon request for a nominal charge.
- Tires carry a DOT and PI identification code along with manufacturing completion date.
- Customer ID-Logo's stenciled or branded at no charge.

Benefits, according to the same brochure, include:

- A standard reached by only 30 percent of the tire retreading facilities in North America.
- The highest manufacturing quality and tire safety possible are maintained.
- Fleet service is not interrupted and tire inventories can be reduced.
- Technicians have a broad base of experience in fleet vehicles including highway maintenance, sanitation and school buses.
- Only the highest quality compounds are used in the retreading procedure.
- All the latest technologies and industry applications are used.
- Tire soundness is evaluated to avoid unnecessary processing.
- Tires offer above-average safety and appearance.
- Identification markings allow casings to be tracked throughout the manufacturing process.
- Identification of specific customer needs is provided to assure customer satisfaction.

Under a brochure section captioned “Satisfaction Guaranteed,” the text assures the reader that “(f)or more than 30 years, PI has been committed to complete customer satisfaction. The products we offer are of the highest quality, made in our own factories, and meet our strict specifications; similarly, our services are second to none. We have an extensive Quality Assurance program and inspectors spot check shipments to ensure accuracy and quality. Our modern Distribution Center allows us to keep a large inventory, ready and available to ship when we receive your order. And our Customer Services are unsurpassed. We want every customer of PI Products & Services to be completely satisfied in every way. Place your order with confidence.” Delivery is guaranteed within 15 working days, and PI pays South Carolina tax, regular shipping and handling charges on all orders delivered within the state (“unless otherwise specified”).

The reader is informed that resource conservation is observed, in that 15 gallons of oil are saved every time a truck tire is recycled. “Retreading conserves 400 million gallons of oil annually in the United States and Canada (The Retread Information Bureau, Pacific Grove, CA)”.

South Carolina Division of Motor Vehicle Management Policy

In November 1993, South Carolina’s Division of Motor Vehicle Management (DMVM) completed a study of the use of retreaded tires. The purpose of the study was to determine whether it was cost effective for the state to use retreaded tires on state vehicles exceeding 10,000 lbs. The study’s conclusions were that tires should be replaced before or when tread depth reached 1/8th of an inch; tires with tread less than 1/8th of an inch should be discarded and destroyed. The DMVM found that the

approximate cost for the state for a new Goodyear tire (size 10R-22.5) was \$195.00; for a retreaded tire not furnished by the state, \$165.00; and under the then-current DOT contract, a retreaded tire furnished by the state, \$60.00. The agency's new policy stipulated that effective not later than July 1, 1994, all vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 lbs. or more should use retreaded tires on non-steer axles. (The policy did not affect passenger cars or vans.)

Evans Rule

A division of Starret Industries, Evans Rule maintains a service contract with SCDC (Lieber) Prison Industries to disassemble, clean, sort and re-package returned merchandise (tape measures). The program's purpose is to recover recyclable materials from used products. The sound of yards and yards of metal tape measures, pulled from old casings, and flung to the floor, reverberates throughout the area. Inmates gather huge bundles of the metal tapes and crush them into bundles for shipment to other recycling destinations, while the tape measures' outer shells are retained for regrinding. Each tape measure's spring spool is also retained for processing, while screws and other miscellaneous parts are discarded. Belt clips are retained, also for additional processing purposes. Recycled components are inventoried and recorded. The bustling atmosphere has the familiar feel of any such operation. The visitor might easily forget that the workers are inmates.

Quality control standards are maintained by a Program Assistant, whose responsibilities include maintenance of accurate production records, compliance with safety standards, and provision of daily production reports to the Program Coordinator.

The Program Assistant also ensures that a trained inmate work force is available to meet production schedules.

Spools are hand cleaned and inspected for broken parts, rust and corrosion, then sorted by weight and color, and packed for shipping.

The Program Assistant maintains production records, while a clerk inmate assists the supervisor. The supervisor establishes the rate of production, and ensures that inmate time cards are completed and maintained.

Security is emphasized. Incoming and outgoing shipments are supervised and monitored by industry staff. Incoming shipments are inspected by correctional officers and prison industries staff before being turned over to inmate workers. Correctional staff randomly search for contraband.²⁷

Interview with CEO of U.S. Textiles, Prison Industries Service Program

Hans Lengers stated that he was CEO and partner of the textiles (service) prison industries initiative in South Carolina, where he said they have two programs. He stated that they opened their first program in North Carolina in 2002. Lengers said that most of their products are knit and sewn in North Carolina then sent to South Carolina where they are dyed, inspected and packaged. He confirmed a report to the writer (by SC State Senator Chauncey Gregory) that he was having difficulty competing with offshore companies based not only in China, but in Vietnam, Korea and Turkey as well.

²⁷ The program, however, was terminated in 2006 when the industry was relocated offshore. (It seems ironic that even service prison industries appear to be threatened by offshore labor.) In its place, a new service program was to be established, called "Removing Nails and Sawing Used Boards." The new industry represented the expansion of one of the Prison Industries Division's long time private sector partners. Inmates were to be trained to remove nails from old hardwood flooring which was then to be recycled.

Lengers said that U.S. Textiles continues to maintain community-based facilities, but that whenever there is a shortage of employees, he moves the job to the prison. He maintained that he has never laid anyone off [in order to employ an inmate], and that it would be inconsistent with his personal philosophy to do so. However, he said that in some instances, men resisted jobs like sewing as “women’s work” but that he had found that inmates offered no such resistance.

He said that Tony Ellis had approached him regarding the possibility of employing prisoners. He said that a lot of U.S. Textiles products could be packaged by machinery, but that some had to be hand-packed, and that he had found that he couldn’t compete with countries like China and Vietnam—that is, until he worked out an arrangement with Ellis that was advantageous to all: U.S. Textiles, South Carolina, and inmates.

When asked for his opinion about how the state’s legislature felt about the program, he said that he was “pretty sure” that they were supportive. He remembered an adverse audit (conducted by the Legislative Audit Council), and felt that it was politically motivated. However, he maintained his conviction that most legislators would be supportive of the program if they were familiar with its benefits. He pointed out recent reports of involvement of more than two million Americans in the criminal justice system. How, he asked, could anyone oppose employing inmates in a program that paid for itself? Otherwise, he said, inmates are a “drag to society.” With his program, he said, there are three beneficiaries: the state, the inmate, and industry. He also said that if stockholders analyze the situation, it’s easy to see how the state benefits. “Whatever stays in [this country] remains in the state”—the benefits are obvious.

Lengers pointed out that Chinese currency is getting stronger. This, he said, means that Chinese products are costing more. “Eventually,” he said, “we will be held hostage to their pricing.”

He spoke highly of Tony Ellis:

It really is nice to work with him. He’s accommodating—on one occasion when there was a lock-down, he managed to provide another work site right away.

Tony is doing a super job. He’s one of the few people I know that’s doing it from the heart. He’s very well-respected by inmates and the people working for him. He changes people’s lives. For him, it’s a mission.

He’s always there. He gave me his personal cell phone number, and told me I could call him anytime there was a problem day or night.

Lengers acknowledged that he himself considers it a kind of mission also. He reiterated that he would never fire anybody to give a job to a prisoner, but said that he can feel good about it when he is able to hire an inmate.

He described trying to persuade a business friend to explore a prison industries program comparable to his own, but said that the friend was intimidated by the possibility of negative media exposure or public reaction. He said that he thinks there should be more of an effort made to educate the public, politicians, and business. He expressed the view that the program is not well understood, and that its benefits are either unknown or under-appreciated.

He returned to the topic of jobs leaving the country, referring to the shoe industry, especially sports shoes, which he said are virtually all manufactured offshore. “I believe we should bring the shoe industry back [to the U.S.]. We should make special arrangements to take this (shoe) industry back, and bring it into prisons and let inmates perform the labor.” How, he asked, could anyone object to hiring inmates if it could bring jobs back from outside the country?

He related an anecdote about an Hispanic inmate who came up to him and thanked him very emotionally, and profusely, for “giving us a chance.” Lengers said that he listened to the inmate with “tears in my eyes.” His statement was followed with a quiet pause.

SCDC Prison Industries Enhancement (PIE) Program

In 2005, the SCDC PIE programs numbered 10 active, with two pending applications. The two largest programs were hardwood flooring, based at three separate facilities, and furniture, based in the southern part of the State in Ridgeland. The sites described below are at the Tyger River Correctional Institution and the Ridgeland Correctional Institution.

SCDC PIE Inmate Agreement

Participation in the SCDC PIE program is voluntary (as is required in all PIE initiatives). The inmate acknowledges his understanding that the Director of Corrections will specify deductions from his wages in the following priority:

- 1. State and Federal Income Taxes;*

2. *Social Security deductions;*
 3. *Twenty percent (20%) contribution to*
 - a. *Court ordered payments to a particular victim(s)*
 - b. *Court ordered restitution; or*
 - c. *Victim's Compensation Fund;*
 4. *Thirty-five percent (35%) for child support*
- OR Twenty-five percent (25%) for room and board;*
5. *Ten percent (10%) to long term savings;*
 6. *Remainder to Inmate Cooper Account.*

The inmate agrees to work up to eight hours per day²⁸. The inmate also agrees that he will be paid only for days worked, that he may be required to work shifts and a “reasonable amount” of overtime. He acknowledges that as an inmate, he is not considered an employee of the State and is not eligible for State benefits. He agrees that his assignment will be for a minimum of a year and that he may be terminated for “security, safety or custody reasons, failure to meet established production and quality standards, failure to maintain a cooperative attitude or failure to adhere to the policies, procedures and conduct requirements of the Department of Corrections.”

²⁸ Barbara Auerbach reports that “one major difference between the Free Venture model and the PIE (model) requirements is the lack of insistence on the 8 hour day. . . . The researchers put great stock in the 8 hour day because you need it to emulate the real world. If other needs were to shorten the word day, then it was clear that it was business as usual, just another program that could be manipulated to fit institutional needs. The hope of the Free Venture authors and their supporters was to use work to transform the institution. Thus, if shorter hours became the norm, one might suppose that not much was going to be accomplished.”

The inmate agrees also that he is not an employee of the private sector industry to which his labor is leased, and that if he has a grievance or complaint, he will address it to SCDC rather than the private sector company.

Perhaps the most sobering acknowledgement that the inmate makes in signing this agreement is that he understands

. . . that should I be transferred out of the Private Sector/Prison Industry Program, and returned to the general population of the Institution, my pay will revert to the regular Inmate wage scale. I also understand that Institutional work assignments are not voluntary (they are mandatory), and I will be expected to work at a job within the Institution. Furthermore, I understand that I will not be guaranteed the same job.

In spite of the contract, however, the Director of Prison Industries reports that there are 50 applicants for every PIE job.

Other PIE Program Requirements

The Division of Prison Industries is required to maintain a certification checklist for each PIE program. This is to ensure that BJA, statutory and program regulations are followed. A letter must be sent to the state's Employment Security Commission (ESC), describing the planned industry, and requesting the provision of a wage plan for the number of inmates who will be performing the work. The ESC must provide wage and displacement assurances to BJA, so that, in turn, BJA can approve the request to

authorize a new business. Thus, one of the ESC's key tasks is to provide assurance that the work described will not displace currently employed workers in the area.

The state office of the AFL-CIO is also contacted in writing, prior to establishment of the program. The work and salary range of the anticipated industry is described, and assurance given that "This project will not displace any employed workers and taxes will be generated." The form letter closes with the statement: "I invite your comments."

The State Chamber of Commerce is also sent a form letter with virtually the same information provided the AFL-CIO.

The Bureau of Justice Assistance PIECP program manager is also notified, in writing, that a new "Cost Accounting Center" (PIE program) is being implemented at a (specified) facility. An "application for categorical exemption" is enclosed with the letter and a request for advice if anything else is needed. (A copy of this letter is sent to the NCIA in Baltimore, Maryland.)

Other certification checklist items include meeting the requirements of the National Environmental Policy Act (NEPA); notification of the SC Department of Archives and History (which manages and retains state agency and local government records); obtaining a FEMA Flood Plain map; development of a history and drawing of the institution; and a provision of a copy of the contract agreement with the private sector partner.

SCDC Enhanced Prison Industries (PIE): Kwalu and Anderson Flooring

Site visits were conducted at South Carolina's two largest PIE programs, Kwalu, based at Ridgeland Correctional Institution in the southeastern corner of the state, and Anderson Flooring, located in the northwestern section at Tyger River Correctional Institution; both Ridgeland and Tyger River are Level 2 medium security facilities for males.

Ridgeland provides literacy, GED and high school courses, in addition to vocational training in carpentry and small appliance repair. A vocational program called IMPACT (Inmates Providing Animal Care and Training) is also offered. Twenty-four hour medical coverage is available for "routine" medical and dental care. Ridgeland's website states that "a private sector industry produces PVC-based furniture for the contract furnishings market," but the private sector company is not identified. The contract furnishing's market is, the website explains, "hotel, motel, restaurant, fast food, resorts and institutional markets."

Kwalu

A visit to Ridgeland Correctional Institution's PIE operation is an eye-opening experience. Only the walk through the yard and into the plant operation serve to remind the visitor that s/he is in a prison setting; inside the plant, one may easily forget that the workers are inmates. The sound of machinery, the steady stir of activity, the concentration of the workers, the coordination of individual tasks and movement is striking. The degree of creative energy is almost palpable, a conspicuous contrast to the deadening inactivity of other prison settings.

Kwalu, formerly based in South Africa, relocated to this facility in 1994. Tony Ellis persuaded them to visit South Carolina to determine whether the advantages of being based in the United States might supersede the advantages of being offshore. Apparently, they liked what they saw. Kwalu representatives are cordial and accommodating to the visitor. It becomes evident that they are accustomed to having visitors. The inmate workers, too, seem undistracted by my presence; it is clear that they must maintain focus on their work.

A comfortable camaraderie among prison staff and Kwalu staff is manifest. I am offered the opportunity to ask questions of prison and/or Kwalu staff. When I ask to interview a few inmate workers, I detect no resistance. The only questions: how many? Together or separate? I opt for individual interviews, and am left alone for the interviews, without time constraints or limitations.

I am provided a large loose-leaf binder of Kwalu informational materials: “seating, casegoods, tables, wall protection systems.” The Product Overview section of the binder provides company history, noting Kwalu’s “early South African roots.” They offer a 10-year warranty on construction and finish, along with:

- *Complementary casegoods, seating tables and wall protection systems*
- *32 standard finishes*
- *Custom capabilities: color, dimensions and design*
- *Patented products*
- *Made in the USA.*

They offer an environmental commitment: “non-toxic finish, no VOC’s, fully recyclable, recycled content in all products, preserves internal air quality.”

The word “Kwalu,” the reader is informed, derives from the Xhosa word for “bamboo” which is known for resilience, durability, flexibility and eco-friendly properties. (The copy states that “Kwalu” is pronounced “qua-lew”—“Think ‘qua’ for ‘quality.’”)

Nowhere in the copy is there mention of the plant’s prison-based location.

The company’s commitment to the environment is reinforced repeatedly when perusing the catalog and binder. Kwalu tables, we learn, contain no wood, but have a longer life cycle, do not release formaldehyde or VOC’s, preserve internal air quality, contain post-industrial recycled material, and can be fully recycled. A Kenyan proverb is quoted in the catalog: “Treat the earth well. It was not given to you by your parents. It was loaned to you by your children.”

A video developed by the NCIA to promote the PIE initiative, includes an interview with David Horwitz, owner of Kwalu, Inc.. “The situation here,” Horwitz says in the video, “allows us to control our costs far more than we could in the past.” The decision to relocate from South Africa to South Carolina, he says, “was a financial one.” They did consider relocating to China or the Far East where labor costs are exceptionally low, but in the end, they chose to relocate to Ridgeland Correctional Institution where they found a “select group of energized and motivated inmates.

“We are literally running at 94-96 percent productivity every day,” he says. There are “no problems with babysitters not showing up” and the inmates are

“hardworking and reliable.” The arrangement, he says, “allows us to control costs far more than we ever could before.

“Inmates are interviewed and hired selectively,” he adds, “with on-the-job training and supervision.”

What the Inmates Say

Informal interviews with several PIE participants in the Kwalu program reveal a sense of pride in the work. The first inmate I talk to says that he is saving for transportation and other needs he’ll have when he is released from prison in two years. The program, he says, helps him stay out of trouble, and feel productive. The experience here, he says, “makes a difference—whether or not I make it, or do life here on the installment plan.” He is now 30, he says. When you first arrive in the program, he says, your attitude in general is going to change. He says he looks at the guys in the dorm—this gives guys hope, a better outlook in general. On the other hand, he says, he’s seen resentment from the guys sitting in the dorm for eight hours a day.²⁹

A second inmate says that he pays court-ordered child support. He’s been in prison for a year and in the PIE program for 10 months. He says that he prayed for the PIE program. He has a 10 year sentence, he says, and (with truth-in-sentencing) won’t be eligible for release from prison until 2012. There’s a 12-18 month wait list for Tyger River, he says, and it was easier to get into the Kwalu program.

²⁹ Note: Rickie Harrison, Administrative manager of SCDC prison industries and a former warden, told me he believes PIE inmates should be segregated from the general population. “You don’t want the ‘haves’ living with the ‘have-nots,’” he said. Besides, “it may lead to stealing.” Additionally, he said, if the PIE inmates are living together and there’s a lockdown, “they can still go to work.”

He says he has seven children, and pays child support for three. Just being in the PIE program makes him want to stay out of trouble, he says, and he stays in his cell as much as possible to keep out of trouble. He says he works 40 hours a week, but stays late sometimes. He rooms with his cousin, who is also in the PIE program. He says his cousin worked in the kitchen for awhile, and was in service prison industries for awhile at Lieber.

Anderson Flooring

Anderson Flooring is located at the Tyger River Correctional Institution in Enoree, South Carolina. The facility has two yards; the Upper Yard opened in 1980, while the Lower Yard opened in 1983. Tyger River is an all-male institution, where GED preparation and high school courses are available, along with literacy classes. Two private sector industries operate: a buffing operation for faucet handles and a hardwood flooring plant, Anderson Flooring.

John Carson, manager of Tyger River's prison industries, states that the Anderson plant is the largest PIE program in the U.S. The PIE program, he says, is a "win-win" for the state and inmates, too. While he says it's often hard to tell the difference in TPI and PIE inmate workers³⁰, PIE inmates are motivated to work for money, and they try to train them to have a good work ethic. He says they operate three shifts, five days a week. He also says that the PIE inmate workers have "fewer problems and are easier to manage." He acknowledges that "they can buy dope—they've got the money," but they know if they do they'll be fired, and that it's easy to hire somebody else. Carson makes

³⁰ Gwyn Smith Ingley, former NCIA Executive Director, suggested that "one reason S.C. traditional workers appear to be (as) industrious (as PIE workers) is that in order to obtain PIE employment, they must do well at traditional employment."

an additional observation: “Killers are the best workers. Guys doing life sentences are some of my best workers.”

Carson also refers to what he calls a “two-edged sword”: if the inmates remain disciplinary-free long enough, they may be reclassified and transferred out of the facility, and thus out of the PIE program. He says that Classification can require them to move even when they want to stay, which makes the private sector unhappy but there is nothing that they (Ellis or Carson) can do about it. He expresses frustration that it appears that Classification sometimes “ignores or is indifferent to PIE.” Another problem: sometimes Security calls to say they’re transferring an inmate.

Such problems do not appear to have harmed the program’s reputation. Anderson Flooring’s PIE program has received national attention. In the September 15, 2003 issue of Forbes Magazine, the author focused on “Business Behind Bars.” One of the PIE programs highlighted:

Opening a factory inside South Carolina’s Tyger River Correctional institution enabled Anderson Hardwood Floors to reduce labor costs, improve productivity, and bolster its bottom line. “Turnover used to be a huge problem for us,” says chief executive Don Finkell. “In prison we hardly have any.” Inmates earn at least \$5.15 an hour—about \$2 after deductions for room and board, victim’s restitution, child support, and taxes—to produce labor-intensive, handcrafted floors now sold by Home Depot (EXPO), Lowe’s and other retailers. “Prisoners get really involved in their work,” says Finkell. “This isn’t just a day job for them. It’s their whole life.” (Stein, 2003)

The June 2003 issue of Wood & Wood Products, describes the plant in more detail:

The scene looks like any large shop that works with hardwoods. Veneer is graded and glued; plans are cut. Employees lift and load sheets of veneer into presses, push buttons and check the results.

Instead of jeans or khaki, however, these employees wear uniforms emblazoned with SCDC on the backs . . . Barbed wire and guards surround their workplace. When the workday ends, they head for a cell instead of a home.

(Miller, 2003)

Tony Ellis is quoted:

The idea was to put inmates to work in a real-world working environment. They learn how to maintain production, job skills and quality control. They learn to be responsible for completing a job.

You want to incarcerate them and let them pay whatever penalty is imposed on them by society, but you want to hopefully change the behavior that got them there in the first place.

The article mentions that the inmates are paid \$7 to \$10-an-hour wages, and that Anderson has paid \$7.3 million in inmate wages since 1996.

Anderson Flooring operates a total of 10 prison-based plants in the U.S. Sites include Patten, Maine and Port Gibson, Mississippi. The company is most heavily

invested in South Carolina, however, with plants located at several different facilities in the state. The Tyger River facility employs the largest number (410) of inmate employees in a 90,000 sq. ft. plant, not far from Anderson's headquarters in Clinton.

Anderson Flooring is a family-owned business, and the third largest engineered-hardwood flooring manufacturer in the country. (A reminder: Tony Ellis recommends working with family-owned companies when possible; otherwise, he says, there may be too many layers of bureaucracy to negotiate.)

In 2003, handcrafted product labor—much of it inmate labor—accounted for approximately a fifth of sales (Miller, 2003). Finkell maintained that they were developing products in prison that they couldn't do on the outside. Originally (in 1996), he said, they approached the project with caution, installing equipment that could be quickly removed, if necessary. They did so with 14 inmates who volunteered for a task that Anderson employees were reluctant to do: cutting out defects from imperfect pieces of flooring. (Finkell later told me that their civilian employees did the job until they found a "better one," but the inmates did high quality work, and were glad to have the opportunity.

After seven years, the Tyger River experiment was so successful that 60 percent of Anderson's production was moving through the prison.

Finkell reported that they typically had 10 applicants for every job, and that they have hired six inmates following their release, a couple of whom he described as "superstars."

In August 2003 they opened an automated finish line at Tyger River in a \$1 million building built by the state and leased by Anderson. In addition, they opened a

new handcrafting operation at Allendale Correctional Institution—all in addition to its two “real world” plants in Walterboro and Clinton.

The prison operations enable Anderson to have scheduling flexibility when needed. If business slows at their Clinton plant, for example, hours would be curtailed at the prison rather than at the main plant. However, this has apparently not been a problem, judging from the steady growth of the company in Tyger River and Allendale (another SCDC facility where Anderson is now based).

Initially, Finkell was apprehensive about how his customers would react. His apprehensions were assuaged when he discovered that they were supportive of the program as well as the output. Another advantage he reported related to employment problems that are universally shared by many: absenteeism and substance abuse. Because inmates are screened for drugs and alcohol, “(w)e’ve never even had anybody late, much less absent. We’ve never had a lost time accident.”

“These guys learned it, took to it and have been really enthusiastic. It didn’t take us too long to figure out it was going to work. I quickly decided I was in there for keeps,” he stated.

In a 2005 interview, Tony Ellis told me that “the waiting period for Tyger River [Anderson Flooring] is 18 months. The inmates have heard about it from other inmates.

“Inmates can ‘prove’ themselves in traditional prison industries to qualify for PIE. The plant managers can help, and do. If they see a good worker, they may recommend moving [him] to a PIE program.”

Interview with Anderson Flooring CEO

A meeting with Don Finkell, Anderson's CEO, revealed an enthusiastic PIE supporter. If the "voice of experience" is worth anything, Finkell is a walking advertisement for the efficacy of the PIE program. He related that he had received a letter from Tony Ellis, and decided to explore the feasibility of operating a prison-based plant. His initial meeting was with Ellis and the Director of Corrections. He describes that first meeting, attended also by his father-in-law (the founder of Anderson Flooring)—who "left the meeting and drove away."

He related that he had learned to see inmates as "people" but that he had originally had reservations about whether inmates would be productive. Other issues that concerned him were safety factors, and questions about whether the prison program was the morally correct path to take. He recounts the "sense of fear" he felt, when he heard the gates clang" shut for the first time. But then he describes an incident with an inmate who had wept, telling Finkell that he was "a good man." Clearly moved by the encounter, Finkell went to some of his customers. "They were supportive," he says—whether they were Republicans or Democrats. They saw the program as an opportunity to rehabilitate inmates

"I have lots of respect for what they do in corrections," he says. He adds that he wants them to feel the facility is safer because "we're there." The "worst thing that could happen," he says, would be an escape.

The Tyger River program began in the Lower Yard but ran out of space and eventually moved to the Upper Yard. Even after expanding, however, he said that they still didn't have enough space. He mentioned that there is little in the way of storage

space, and that it works as a disadvantage to both the warden and them. He pointed out that trucks coming in and out (as a result of inadequate storage space) requires “lots of logistics—it’s a pain and it’s costly, just keeping up with it.” One inmate had escaped, he said, on a day when the plant manager was absent, and the thinking was that he had locked himself in the truck prior to its exit from the plant. While it turned out that the inmate had not escaped in their truck after all, “it was a ticklish situation”, he said. “It really dawned on me—the risk, the security issues . . . (in particular) the political risks. He said by then they had been through seven or eight wardens who had “always read us the riot act” about the potential security issues.

All Anderson employees, he said, have to go through a security course. By 2006, Finkell reported that the company had gone from 14 to 605 employees at the prison.

In 2001, he said, customers had begun asking for hand-scraped floors. Other competitors had gone to China where labor was cheaper, but the quality fluctuated, whereas the inmates did high quality work that could be more easily monitored.

Finkell made the statement that “long-termers” [inmates] were best. The short-termers, he said, left before earning their keep. (Ellis, too, had acknowledged the advantages of employing inmates with long sentences.)

Inmate employees take pride in their work. “Inmates will ask if the customer is happy with the product. How can they improve? They identify with the product and the company, and they’re proud of it.” Meanwhile, he said, “Our customers feel like they’re contributing to society.”

(Ironically, in 2006 a fire in the community-based plant was set by one of Anderson’s “free world” employees. The resultant damage forced the company to turn to

Ellis for emergency help in the form of increased numbers of inmate-employees to maintain operations normally performed in the community-based plant.)

Finkell referred to the Fortune Magazine article. He had been “afraid,” he said, of what the writer would say, but his fears turned out to be groundless. (The article was positive.) On the other hand, he said, the Black Caucus said that “it looked like slavery . . .” (Some prisoner advocates are critical of the PIE program and its requirements that inmates pay room and board, etc.) He told a story about the death of a mother of four sons, three on the “outside” and one in prison. The PIE-employed inmate had paid for their mother’s funeral.

“I really believe in this program,” he said, and described an inmate who had managed to save nearly \$22,000. “He was the richest guy here.”

Finkell appeared at NCIA’s annual meeting in 2007, where he was a participant in the heavily-attended PIE track of the conference. His presentation—from the point of view of the PIE partner—was based on his experience working with inmates inside a prison. He indicated his intention of expanding his program in the near future.

Anderson Flooring Inmate Workers’ Perspectives

Inmate workers at Tyger River come from a variety of backgrounds, as exemplified by the first inmate I interviewed. He held a bachelor’s degree in science from a prominent southern university. He has a life sentence, which in South Carolina translates to a 20-year minimum to qualify for parole eligibility. “My parents and family are well to do compared to the families of most other inmates, but my parents retired and

I thought I should try to support myself. At that point, I became interested in PIE.” He reports that he initially came in as a general worker.

When asked about the work ethic of his peers, he said that some had a “real world work ethic” and some still had a bad attitude. “Some men you just can’t reach,” he said, but it was “evident that some really were grateful for the chance [that PIE provides].” But he expressed the view that a “better work ethic is required (in PIE). . . . A lot of guys really do take pride in being able to send money home. A lot of child support does go out. . . I think what’s going on here really does have a positive effect.” He said that he had worked in a bank prior to prison, and “there are whiners wherever you go.” He talked about success stories. “We have guys who’ve left here and gotten jobs with the parent company. The lead I.T. guy here went to work with Anderson on the street” (when he was released from prison).

A second inmate reported that “the guys in the yard try to stay disciplinary free just to be in PIE.” He said that he had been in prison since 1999, and couldn’t believe how much he was earning. In Indiana at the state farm he said he had told them about the PIE pilot program in South Carolina and “they didn’t believe me.

“Every inmate in the state is working hard to get into Tyger River because they’ve heard about PIE.

“The reason this job means so much to me is—before, I couldn’t send nothin’ home—now I send \$150-160 a month. Also, I will have \$5,000 when I leave here.” He said that an inmate gets up to three warnings in the program, but then can be booted out. A major charge, he said, could get you fired. “A guy got kicked out with a dirty urine.”

But he described “one of the biggest drug dealers” (at the prison), who had “never worked nowhere. He got here, and now the boss man says he’s one of the best workers here.” Now, he says he sends money home to (his) little girl every two weeks.

The inmate describing the drug dealer says he has two little girls of his own. “My parents raised the girls,” he says, but he doesn’t like them to come to the prison . . . “the barbed wire . . . “ etc. so every couple of days he calls them. “They’re 15 and 17 years old now. They want to go to summer camp, and I’m saving up now. . . .The only thing you’ve got to spend [your earnings] on in here is the canteen.

“Being inside of this plant, you almost forget you’re in prison. It’s basically a work place.” He described the tours that come through from time to time:

Anderson Hardwood brings tours here sometimes—they’re picking up the wood and lookin’ at it, and you feel pride. It kinda makes you feel good when the supervisor from Anderson knows your name—not number. It’s a much more personal level than with the administration.

He tells me that he’ll max out in 21 months then go back to the trucking industry. “I’ve talked to Anderson,” he says. “They told me I could be a foreman.”

Interview with S.C. Legislator

Repeated calls and emails to the chairman of South Carolina’s Penology and Corrections Committee failed to elicit a response. At one point the writer was advised that the committee’s research director would be calling; however, his call failed to materialize. Eventually, I contacted a member of the Penology and Corrections

Committee, Senator Chauncey Gregory. When asked about an unfavorable audit of the state's prison industries conducted by the Legislative Audit Council in 2003, Senator Gregory stated that he didn't remember the details, but that it might have been caused by an unhappy constituent of a member of the legislature. He described the state's legislature as "conservative," reminding me that the state had a very high—and violent—prison population, percentage-wise (compared to other states).

When asked about prison industries in the state, he maintained that he thought prison industries were worthwhile, and that the only problem or complaint he had ever heard related to occasional businesses who felt that the state's prison industries were unfairly competitive. I inquired about the PIE program, and whether he was familiar with it. He stated that he was aware of it. The person I should talk to, he offered, was a gentleman named Hans Lengers. Mr. Lengers, he said, was involved in the PIE program in South Carolina, and was "very pleased." He stated that Lengers was trying to compete with the Chinese.

Mr. Lengers' prison industries involvement, however, proved to be with service industries (described previously), not the PIE program. The mix-up appeared to the writer to be emblematic of the uncertainty and confusion that surround not only the PIE program, but prison industries in general--uncertainty and confusion found even within the statehouse.

SCDC Prison Industries Review by Legislative Audit Council

Authorized by the South Carolina Code of Laws, the Legislative Audit Council (LAC) was created in 1975 to review state agencies' operations and fiscal matters to

inform the state's General Assembly. The Council consists of five public members; at least one must be an attorney, and one must be a practicing certified or licensed public accountant. Additionally, four members of the General Assembly serve ex officio.

In October 2003, the General Assembly issued a request for an audit of SCDC prison industries. The request was the result, ostensibly, of interest among some members of the Assembly who expressed concern with the interaction and effect of prison industries with the private sector in the state. The review was sharply critical. According to its published Synopsis, findings included:

- *SCDC does not have adequate goals or performance measures for its prison industries program. Without adequate goals and performance measures, effectiveness of the program cannot be accurately assessed.*
- *Under federal law, the use of inmates for manufacturing jobs by private sector companies involved in interstate commerce may not displace private sector workers. Also, wages must be comparable to those paid for similar work in the community. The Employment Security Commission needs to improve its methodology for determining comparable wage levels and for ensuring that displacement does not occur.*
- *We reviewed whether the prison industries program is operated in a manner which results in a competitive advantage over private sector workers. We found that the employment of SCDC inmates may create a competitive advantage over private sector workers because companies that employ inmates pay low wages, do not pay fringe benefits, and receive subsidized rent and utilities. Whether this competitive advantage results in the displacement of private sector workers by*

SCDC inmates also depends on whether a company would transfer its operations out-of-state or to a foreign country if it were not employing inmates. [Note: this section refers to SCDC traditional and service industries workers.]

- *SCDC has not adhered to the requirements of the Prison Industry Enhancement (PIE) program by dividing the cost of inmate training between SCDC and a private sector company. In addition, SCDC has not consulted with the Employment Security Commission before establishing the training period for inmate workers.*
- *Contrary to state law, SCDC has not consistently made deductions from the wages of inmates in its prison industries who work for private organizations. As a result, funding has been reduced for items such as child support, victim restitution, and inmate room and board.*
- *South Carolina limits competition between SCDC and private vendors in the sale of goods and services to government entities. As a result, there is a reduced incentive for SCDC and its private competitors to limit the prices they charge to government entities.*

While the findings were well publicized, the SCDC Director's detailed response to the criticisms was not as well publicized. *The (Columbia, SC) State* (newspaper), in an article captioned "Inmate Work Program Gets Low Marks In Audit," quoted liberally from the text of the LAC Review, reinforcing its criticisms:

The Corrections Department's major inmate work program has shortchanged the state, prisoners, victims of crime and private businesses, South Carolina's watchdog agency said Thursday.

Most inmates in Prison Industries are underpaid and some who are learning job skills through the program will never get out of prison, the Legislative Audit Council said.

Corrections officials have routinely failed to take money from inmate paychecks to pay for restitution and child support—a violation of state law, auditors said.

Further, Corrections and state labor officials do not have a way of properly determining how much inmates should be paid in order to comply with federal wage laws, the auditors said. . . .

Prison officials dismiss the criticisms as misinformed and the recommendations as unrealistic in tight budget times.

An inspection, however, of the appendix to the full document revealed a detailed, six-page letter of response to the criticisms leveled by the LAC Review. The text of the letter, signed by the Director of Corrections, addressed the criticisms leveled by the Legislative Audit Council point by point:

The (LAC) report fails to note . . . that our Mission Statement . . . clearly stated on our web site and posted on the walls of each prison includes 'Delivering value by becoming more self-sufficient and by constant evaluation and improvement in the operations, services and programs.' Our Mission includes

self-sufficiency and rehabilitation that is required by enabling statute, SC Code Section 24-1-20. Promoting self-sufficiency and rehabilitation, and reducing recidivism are clearly part of our Agency Mission and are, therefore, part of the primary mission of PI.

The Director's response referenced studies that have demonstrated that inmates who work are less likely to recidivate, and referred to the then-ongoing national study (the Smith et al. research, released in 2006) comparing the recidivism rate for PI inmates to those of other groups of inmates.

In regard to the LAC accusation of inmate competition with private sector workers creating a competitive disadvantage for private business:

. . . PI has worked closely with the Employment Security Commission (ESC) which resulted in the ESC approving a wage plan for each cost accounting center (that is, each PIE project within our correctional institutions). The wage plan ensures inmates receive comparable wages, and complies with the Bureau of Justice Assistance Guidelines . . .

The Director's response informed the Council that ESC had analyzed the "degree of complexity, level of control by the worker, cross training, independent decision-making in the various jobs and other factors.

ESC learned from the companies that inmate tasks were more entry level, repetitive, heavily supervised, with little independent decision-making. Not all skill tasks performed by civilians were performed by inmates.

Accordingly, the Director wrote that the ESC established a wage plan that was adopted by PI in 2002 that provided that inmates with few or no skills be allowed to work a job for 90 days, be evaluated by PI and the private sector company, and (if retained) receive annual reviews for a raise.

In reply to the LAC allegation that Prison Industries failed to adhere to the requirements of federal law by dividing the cost of inmate training between SCDC and a private sector company, the Director stated unequivocally that “This conclusion is wrong.” PI, he wrote, required its private sector partners to pay the cost of inmate training. However, in one instance, a single company—strapped financially as the result of the 2001 downturn in the economy—had asked PI to share the cost of training. Approval was granted by BJA. However, during the LAC audit, the approval was rescinded; PI notified the company that the split system was to be terminated, and the company resumed payment of full training costs.

In response to the allegation that SCDC had not made appropriate deductions from wages of inmates who work for the private sector, the Director stated flatly: “This conclusion is wrong.

SCDC is currently in compliance concerning all wage deductions.

Additionally, SCDC has passed three compliance reviews by the Bureau of Justice Assistance in its PIE operations. Furthermore, inmates who work in the PIE program are paid through the Comptroller General’s (CG’s) payroll system as are all SCDC employees. Periodically, DSS runs a computer program against the

CG's payroll to detect any potential child support discrepancies. These discrepancies are then reported to the various agencies. . . .

Responding to the LAC's allegation that SCDC did not have adequate procedures for checking to see whether inmates earning wages had court-ordered obligations to pay child support/or victim restitution, the Director continued, "This statement is also incorrect. Inmate records are examined when an inmate is being hired into an Industries position."

Finally, in regard to the LAC criticism that accused SCDC of violating South Carolina laws limiting the ability of private companies to compete with prison industries in the sale of goods and services to state agencies:

In Articles 1 through 21 of the South Carolina Consolidated Procurement Code and accompanying regulations, the process is clearly set forth for the acquisition of goods and services by governmental entities from any source. State procurement law clearly allows the Budget and Control Board, upon recommendation of the Division of General Services, to exempt governmental bodies from purchasing certain items through the respective chief procurement office's area of responsibility in Section 11-35-710.

The SCDC response to the LAC Report called attention to the fact that the Prison Industries Division was operating under the same budgetary constraints as the agency as a whole, but that in spite of the current SCDC inmate-to-staff ratio—"well over double the national average"—the Prison Industries program was a model for the nation.

In fact, a subsequent (April 2004) letter from the Director of Corrections to the Chairman of the Senate’s Corrections and Penology Committee, reported that SCDC was (then) “managing over 3,000 more inmates than we were in 1998, before the budget cuts started. We are doing so with 1,500 fewer staff.”

As already mentioned, several SCDC employees maintained to the writer that the LAC audit was politically motivated.

In May of 2006, the LAC issued a “Follow-Up.” Referring back to the original 2003 audit entitled “A Review of the Department of Corrections’ Prison Industries Program,” the background statement maintained that “we found that 5 (38 percent) of our 13 recommendations had been implemented.” However, careful reading of the Follow-Up revealed that, included among the 13 recommendations, and noted as not yet implemented, were two recommendations that had been made to the General Assembly itself; one to the Employment Security Commission, and one to the Budget and Control Board. It is difficult for even the most objective observer to avoid wondering whether the report was politically motivated, since the report’s Background statement (that only five of LAC recommendations had been implemented) failed to note that nearly as many—four—of those not implemented were the responsibility of other agencies (including the General Assembly), and not SCDC.

The Follow-Up virtually ignored the detailed responses from SCDC Director Jon Ozmint in 2003 in all instances, but—after leveling additional criticism at both SCDC and the Department of Social Services (DSS)—eventually conceded that the two agencies had renewed efforts to ensure universal child support wage deductions from inmates.

(Ozmint had unambiguously stated in his 2003 response to the LAC that inmate records were examined when an inmate was hired into a prison industries position.)

The Past Speaks to the Present

Hugh Clements, former Deputy Commissioner of Administration in SCDC, was among the last of the interviewees contacted by this writer. His commentary provides an unusual opportunity to review the evolution of South Carolina corrections in recent decades from the perspective of a “major player” in the 1980s. When asked about the history of the PIE program in the state, he wrote:

I must warn you that I've been away from SCDC for more than 12 years. I have no files, and I expect that few still exist there. Tony Ellis is in the best position to know if there is any paper trail.

Be aware of the fact that the following people provided critical support:

- *SCDC Commissioner (retired) William D. Leeke;*
- *Former SC Governor Richard Riley; and*
- *SC State Chamber of Commerce.*

As Deputy Commissioner for Administration under Commissioner Leeke, [prison industry] was one of my areas of responsibility. The Law Enforcement Assistance Administration, US Department of Justice, and the American Correctional Association sponsored a workshop in DC to stimulate interest. I attended. It was obvious that “real” work opportunities provided by the private sector inside prisons would be effective in reducing idleness and make-work jobs as well as

providing real opportunities for rehabilitation. It also promised to be a boon for the private sector in their efforts to compete with off-shore competition.

In response to my questions, he wrote again subsequently:

Yes, Senator [Strom] Thurmond was in office and provided invaluable assistance. The private sector industries program began under Commissioner William D. Leeke and continued and expanded under Commissioner Evatt.

Tony Ellis was hired as a consultant because he had skills and experience in market research that our staff lacked. He was also very knowledgeable and experienced with SC state government and legislative matters. Making him Prison Industries Director was a logical and necessary step toward achieving agency and state objectives in making the private sector an active partner in [the] prison industries program.

Mr. Leeke retired . . . after Governor Campbell took office. . . . Mr. Evatt replaced Mr. Leeke.

The SC Board of Corrections ended during the Campbell Administration when legislation was passed abolishing the Board of Corrections and several other boards. The Commissioner of Corrections was then appointed and served at the pleasure of the Governor. From a governor's perspective, that was probably a very necessary and good move. In my opinion, it was neither necessary nor good.

Running prisons is a tough, long-haul job. There must be checks and balances to prevent abuses and to make concerted efforts to send those who've finished their sentences back into their respective communities as contributing citizens or at least, no worse than when they entered prison. That takes knowledgeable, experienced, capable

and relatively stable leadership over the long term, not leadership that changes [with] every election.

If I were running for governor, I'm sure I'd want control of all agencies, but that doesn't mean it would necessarily be a good idea.

From a different perspective, the SC Board of Corrections, and I suspect several other Boards, were set up to give the General Assembly more power than the Governor. Board members' terms were staggered so that the governor—until Governor Riley—couldn't appoint a majority of the members and gain control of the agency. If a new member wasn't appointed or an existing member reappointed, that member continued to serve until he/she was reappointed by the next governor.

When Governor Campbell took office, this enabled him to immediately appoint a majority of the Board and take control of the Department of Corrections. Not too long thereafter, the Board of Corrections was abolished, and Corrections became a cabinet position.

While I believe our Board of Corrections was a good and effective one, there are possible dangers to the board system. If members view their positions as honorary and do little more than attend monthly meetings, abuses of power could occur that would be detrimental to effective prison operations.

CHAPTER FIVE

CONTRASTING STATE PIE MODELS

Florida, Iowa, Tennessee, Texas, and Washington

There are a number of variations of the PIE model throughout the states, several of which will be examined here. Although most prison industries are a component of the state departments of corrections, a few are unique enough in their design to be highlighted; these will be briefly described. These models are offered primarily as contrasts to the South Carolina model. Each state's economy (as measured by per capita income, per capita state and local taxes, and state tax burdens), union representation, and state prison expenditures will be reviewed, as well as other relevant (e.g., political) factors.

Contrasting PIE Models: Florida, Iowa, Tennessee, Texas and Washington

The selected states represent a cross-section of the types of PIE models and contrasting factors. Each state maintained a PIE program during the past decade. Several were included in the Smith review of PIE programs.³¹ States will be compared to one another and/or South Carolina. At least one state, Washington, is included because of its formerly robust PIE program which was terminated in the latter part of the decade (1996-2005) being examined.

The states presented here represent the central part (Iowa) of the United States, the northwest (Washington), the southeast (Florida, South Carolina and Tennessee) and

³¹ Although the Smith research participant states were not disclosed, several of the states acknowledged to me privately that they were included.

the southwest (Texas). These states also represent a cross-section of state and prison population sizes; Florida and Texas are among the largest; Iowa and Washington are among the smallest, and South Carolina and Tennessee are approximately mid-sized. All are “right to work” states, except for Washington. This might seem to suggest that so-called “free bargaining” states like Washington are unlikely prospects for the PIE initiative. However, closer inspection of free bargaining (known by opponents as “forced unionism”) states reveals that several (e.g., California, Minnesota, Oregon, Indiana and Arizona) have been among the PIE success stories in the past decade (NCIA Quarterly Reports, 1996-2005).

Data and graphics for the states of Florida, Iowa, Tennessee, Texas and Washington will be presented in this chapter, and will reflect comparable data already considered in our review of South Carolina.

Half of the states examined in this section are from the southeast. A common theme among those who speculate about the success (or lack thereof) of the PIE program is that it is largely due to the strength or weakness of union membership in individual jurisdictions. In short, these observers say, the overall strength of unions in the northeastern section of the United States explains why there are so few PIE programs there, whereas the comparative weakness of unions in the south explains the stronger showing of PIE programs in the southern part of the country. (Another measure of the same phenomenon might be to identify “right-to-work” states.)

At first blush, this reasoning appears to offer one explanation for PIE success or failure. However, more in-depth evaluation of relevant issues suggests that while the explanation is often true, there are other factors at play.

We have learned that historically, unions have opposed prison labor. The reasons unions have opposed prison labor have been twofold:

- belief that prison labor unfairly competes with “free-world” labor, and
- belief that prison labor exploits inmate workers.

However, we have already learned that Iowa’s apprenticeship program was not only approved but eventually sponsored by the state’s union leadership. This suggests that a capable prison industries director (e.g., Iowa’s Roger Baysden) can work collaboratively with union leaders to overcome union resistance.

The PIE program pays inmates minimum to prevailing wages; thus—unless we object to inmates being required to pay taxes, room and board, and child support, like the rest of us—it may be said that PIE workers are not exploited. By virtue of the design of the project, they work voluntarily. Also, as demonstrated in the state of Iowa, union wage requirements can be satisfied, so that inmate labor does not unfairly compete with citizen workers. We will examine some of these factors in the following state evaluations.

Right to Work States and Issues

Most of the state right-to-work statutes were enacted in the 1940s and 1950s. However, a few were enacted more recently: Idaho in 1985; Texas in 1993; Indiana (applied only to school employees) in 1995; and Oklahoma in 2001. (Slightly less than 50 percent of the states are free-bargaining or non-right-to-work states.) The issues

associated with right-to-work laws ebb and flow enough that the National Right to Work Legal Defense Foundation posts the following advice on its website:

NOTE: State laws are in a constant state of flux. Before relying on the text of any state Right to Work statute, you should check the most recent edition of your state laws.

Generally speaking, right-to-work is a Republican Party issue, while union issues have long been considered Democratic turf. Both claim to hold the advantage. The 2007 AFL-CIO website posted the following claims:

***Right to work laws lower wages for everyone.** The average worker in a right to work state makes about \$5,333 a year less than workers in other states Weekly wages are \$72 greater in free-bargaining states than right to work states*

Federal law already protects workers who don't want to join a union to get or keep their jobs. . . .

Right to work endangers safety and health standards that protect workers on the job by weakening unions that help to ensure worker safety by fighting for tougher safety rules. . . .

Right to work laws just aren't fair to dues-paying members. . . .

The AFL-CIO has “Fact Sheets” that maintain that right-to-work hurts people of color and that unions increase wages for all workers. Several Fact Sheets are based on

the topic “The Truth About Right to Work for Less.” The union’s website presents Bureau of Labor Statistics data to make its case.

The Center for Policy Alternatives alleges that “Right to Work laws are designed to financially cripple the union movement” and that “It is in states’ economic interest to keep unions strong.”

In sharp contrast, the National Right to Work Newsletter maintained in its May 2005 issue that “Forced union dues cannot be justified” and that personal income was growing twice as fast in Right to Work states. The newsletter featured on its front page a chart entitled “1990-2004 Growth in Real Personal Income,” using data from the U.S. Departments of Commerce and Labor (Review Graphic “1990-2004 Growth in Real Personal Income”). The caption under the chart maintained that “Right to Work states have long outpaced forced-unionism states in real personal income growth. And inflation-adjusted Census Bureau data show the Right to Work advantage has grown wider in recent years.”

In 2004, the newsletter reported that “candidates who took public stands in favor of compulsory unionism lost hotly contested Senate races in South Dakota, South Carolina, Florida, Louisiana and Oklahoma.”

The National Institute for Labor Relations Research, in an article captioned “Real Earnings Higher in Right to Work States: Evidence from the AFL-CIO Empire” maintained that a study conducted by an American Federation of Teachers (AFT) researcher [indirectly and inadvertently] demonstrated that employees in Right to Work states have lower living expenses. The article presented tables to demonstrate the article’s claims:

The index for 2000, the most recent one available at this writing, shows that living expenses for employees in non-Right to Work states are overall 4.4% higher than the national average. Overall living costs in Right to Work states are 7.1 % more affordable than the national average. (See Graphic “Average Cost of Living Index in 2000: Right to Work vs. Non Right to Work”).

Average Cost of Living Index in 2000: Right to Work vs. Non Right to Work			
Non-Right to Work States	2000 AFT Cost of Living Index	Right to Work States	2000 AFT Cost of Living Index
Alaska	1.230	Alabama	0.910
California	1.219	Arizona	0.959
Colorado	1.081	Arkansas	0.891
Connecticut	1.087	Florida	0.942
Delaware	0.970	Georgia	0.938
Hawaii	1.312	Idaho	0.938
Illinois	0.992	Iowa	0.921
Indiana	0.924	Kansas	0.921
Kentucky	0.910	Louisiana	0.936
Maine	0.992	Mississippi	0.896
Maryland	1.009	Nebraska	0.927
Massachusetts	1.144	Nevada	0.934
Michigan	0.974	North Carolina	0.931
Minnesota	0.989	North Dakota	0.924
Missouri	0.930	South Carolina	0.930
Montana	0.979	South Dakota	0.917
New Hampshire	1.062	Tennessee	0.915
New Jersey	1.057	Texas	0.904
New Mexico	0.962	Utah	1.017
New York	1.070	Virginia	0.954
Ohio	0.964	Wyoming	0.997
Oklahoma*	0.898	Average	0.929
Oregon	1.036		
Pennsylvania	0.937		
Rhode Island	0.987		
Vermont	0.999		
Washington	1.073		
West Virginia	0.907		
Wisconsin	0.964		
Average	1.044		
*Oklahoma became a Right to Work state in September 2001.			
In the AFT's index, a state whose average cost of living is exactly equal to the U.S. average would score 1.00. If the average cost of living within a state is 10% higher than the national average, it will score 1.10. If living expenses are 10% lower than the national average, it will score .90.			
Source of data s: U.S. Census Bureau, Statistical Abstract of the U.S., 2001; U.S. Bureau of Labor			

Statistics, Employment & Earnings, May 2001; AFT Survey & Analysis of Teacher Salary Trends, 2001.

Source: Greer, Stan (2001). Real Earnings Higher In Right to Work States: Evidence from the AFL-CIO Empire, The National Institute for Labor Relations Research (NILRR), Springfield, VA. Available on NILRR website at <http://www.nilrr.org/archive/200101>.

In 2000, employees in Right to Work states earned a mean of \$638 a week, after adjusting for the cost of living, compared to \$632 in non-Right to Work states. (See Graphic “2000 Mean Weekly Earnings Adjusted for Cost of Living: Right to Work vs. Non Right to Work”).

2000 Mean Weekly Earnings Adjusted for Cost of Living: Right to Work vs. Non Right to Work			
Non-Right to Work States	Weekly Earnings Adjusted for Cost of Living	Right to Work States	Weekly Earnings Adjusted for Cost of Living
Alaska	600	Alabama	610
California	567	Arizona	630
Colorado	648	Arkansas	568
Connecticut	686	Florida	640
Delaware	637	Georgia	629
Hawaii	425	Idaho	563
Illinois	669	Iowa	621
Indiana	663	Kansas	632
Kentucky	636	Louisiana	598
Maine	551	Mississippi	568
Maryland	723	Nebraska	580
Massachusetts	620	Nevada	637
Michigan	682	North Carolina	629
Minnesota	680	North Dakota	518
Missouri	669	South Carolina	605
Montana	471	South Dakota	563
New Hampshire	610	Tennessee	642
New Jersey	693	Texas	686
New Mexico	558	Utah	558
New York	632	Virginia	722
Ohio	634	Wyoming	520
Oklahoma	607	Average	638
Oregon	573		
Pennsylvania	667		
Rhode Island	655		
Vermont	545		
Washington	603		
West Virginia	583		
Wisconsin	627		

Average	632
<i>NOTE:</i> In 2000, employees in Right to Work states earned a mean of \$638 a week, after adjusting for the cost of living, compared to \$632 in non-Right to work states.	
<i>Sources:</i> U.S. Census Bureau, <i>Statistical Abstract of the U.S., 2001</i> ; U.S. Bureau of Labor Statistics, <i>Employment & Earnings, May 2001</i> ; AFT <i>Survey & Analysis of Teacher Salary Trends, 2001</i> ; BNA <i>Union Data Book, 2001 edition</i> .	
Source: Greer, Stan (2001). Real Earnings Higher In Right to Work States: Evidence from the AFL-CIO Empire, The National Institute for Labor Relations Research (NILRR), Springfield, VA. Available on NILRR website at http://www.nilrr.org/archive/200101 .	

After subtracting state income taxes and all federal taxes, the 2000 cost-of-living-adjusted mean weekly earnings of employees in Right to Work states was \$484, compared to \$468 in non-Right to Work states. (See Graphic “2000 Mean Weekly Earnings Adjusted for Cost of Living, State & Federal Taxes: Right to Work vs. Non Right to Work”).

2000 Mean Weekly Earnings Adjusted for Cost of Living, State & Federal Taxes: Right to Work vs. Non Right to Work			
Non-Right to Work States	Weekly Earnings Adjusted for Cost of Living, State and Federal taxes	Right to Work States	Weekly Earnings Adjusted for Cost of Living, State and Federal taxes
Maryland	539	Virginia	531
Michigan	508	Texas	526
Missouri	507	Tennessee	496
Minnesota	503	Florida	481
Pennsylvania	502	Nevada	479
Indiana	500	Kansas	477
New Jersey	499	Arizona	476
Illinois	495	North Carolina	475
Rhode Island	491	Iowa	474
Kentucky	487	Georgia	470
Ohio	482	Alabama	466
Colorado	480	Louisiana	465
Connecticut	477	South Carolina	462
Delaware	471	Mississippi	443
Oklahoma	467	Nebraska	439
Alaska	463	South Dakota	437
Wisconsin	462	Arkansas	434
New York	460	Idaho	429
New Hampshire	456	Utah	424
West Virginia	454	North Dakota	405
Massachusetts	447	Wyoming	378

Washington	440	Average	484
New Mexico	429		
Oregon	427		
Maine	418		
California	413		
Vermont	407		
Montana	354		
Hawaii	326		
Average	468		
<i>Sources:</i> <i>U.S. Census Bureau, Statistical Abstract of the U.S., 2001; U.S. Bureau of Labor Statistics, Employment & Earnings, May 2001; AFT Survey & Analysis of Teacher Salary Trends, 2001; BNA Union Data Book, 2001 edition; Federal Tax Burdens & Expenditures, Tax Foundation, July 2002; State Policy Institute of NY State, www.bcny.org.</i>			
Source: Greer, Stan (2001). Real Earnings Higher In Right to Work States: Evidence from the AFL-CIO Empire, The National Institute for Labor Relations Research (NILRR), Springfield, VA. Available on NILRR website at http://www.nilrr.org/archive/200101.			

The Tables listed as Sources the U.S. Census Bureau, Statistical Abstract of the U.S., 2001; U.S. Bureau of Labor Statistics, Employment & Earnings, May 2001; AFT Survey & Analysis of Teacher Salary Trends, 2001; BNA Union Data Book, 2001 edition; Federal Tax Burdens & Expenditures, Tax Foundation, July 2002; State Policy Institute of NY State.

But as recently as January 2007, the Center for Policy Alternatives on its website maintained that

Because workers' organizing rights are diminished in states with Right-to-Work laws, an average worker earns about \$7,131 a year less than workers in free bargaining states (\$30,656 versus \$37,787). Across the nation, union members earn \$9,308 a year more than nonunion members (\$41,652 versus \$32,344). Clearly these laws only provide a right to work for less.

As already mentioned, the right to work issue traditionally has been a Republican issue, while support of unions has been a Democratic Party issue. These issues may be presumed to have an affect on jurisdictional receptivity to the PIE program. We have seen that unions have long opposed the PIE program, with few exceptions. Indeed, unions have long been among the most vociferous critics of UNICOR, or Federal Prisons Industries (FPI), as well, maintaining that UNICOR products harmed the rights of union workers. The issue, however, has become increasingly complex, and is no longer a simple “cut and dry” or “black and white” issue. The criticisms historically leveled at UNICOR undoubtedly paved the way for the negative response of unions toward the PIE certification program, which at first blush may have appeared to threaten union workers.

While PIE proponents are often encouraged by conservatives (i.e., Republicans) and opposed by liberals (i.e., Democrats)—justified in the first instance as encouraging inmates to be self-supporting and responsible—and justified in the second instance as “exploitive of inmate labor”—those in a position to look closely may find ample cause for reconsideration. The union in at least one state, Iowa, has been surprisingly supportive of the PIE initiative, as we have noted. And we cannot overlook the fact that Ted Kennedy—a prominent Democratic liberal—was an early supporter—indeed, sponsor—of the creation of the PIE legislation.

Some (including the writer) might say that the PIE initiative holds the potential to be a “win-win” for everybody: inmates, their victims and families, the state and taxpayers alike. And, as exemplified in Iowa, there is plenty of room for union involvement, and indeed, potential for important contributions unique to union concepts of fairness and worker protections and rights. The 1999 George Washington University Symposium on

Economics of Inmate Labor Force Participation called attention to what some of those contributions might be: arbitration and resolution of inmate complaints and collateral reductions in inmate litigation; and apprenticeship programs to facilitate training of new inmate workers, and to foster links to the community and employment upon inmate workers' release from prison. (See Appendix A.)

As we review the jurisdictional environments of other states, these issues will be revisited. Although the controversy between union and right to work proponents and opponents has yet to be resolved, for our purposes, it is worth noting that there appears to be a relationship between the success of the PIE program in right to work states: the right to work environment appears to be more hospitable to the PIE initiative—and a strong union presence appears to be less hospitable--although the relationship is not across-the-board.

In summary, the right to work vs. union issue has a direct impact on the implementation (or lack thereof) of PIE programs in virtually every state, including the five states examined in this chapter. Each one of the selected states represents one or more of a variety of enhanced prison industries models, and each state's prison industries director has dealt with the slings and arrows associated with union resistance or support. As might be expected, each administrator has met with varying degrees of success.

Florida Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)

In 2005, Florida had the third largest correctional population in the U.S., 81,000 more than 3-1/2 times South Carolina's prison population (NCIA 2005 Directory). Of that number, 26,000 were eligible for employment, but only 1,990 were employed in

traditional prison industries, and 49 in the state's PIE program (certified in 1995). During the decade between 1995 and 2005, the state sustained a 2.5 percent decrease in the percentage of the prison population employed.

Florida's prison industries program, PRIDE, is a non-profit (501c 3) corporation established in 1981. Jack Eckerd, President and CEO of Eckerd Drug Stores, was influential in its development, together with former Governor Bob Graham and the state's legislature. Prison industries were transferred from the Department of Corrections to the corporation, which has managed the state's prison industries ever since. The PIE project (consisting of customer and employer models) is a rather small component of PRIDE, which describes its mission as follows:

PRIDE's Statutory Missions (Florida State Statutes, Ch. 946)

Provide work training programs and post release job placement . . .

Reduce inmate idleness . . .

Reduce cost of state government . . .

Simulate a real-world working environment . . .

CORPORATE MISSION

To teach job skills and develop work ethics that will enable inmate workers to become productive citizens upon release from incarceration.

VISION

To be the best company in the world at transitioning inmates to successful citizens.

VALUES

Quality Driven

Customer Focused

Helping Others

Respect for Individuals

Integrity of Conduct

Honesty in Actions

The entity, PRIDE, has been beset with problems and negative publicity for years, the result of legislative and Inspector General audits and coverage by the *St. Petersburg Times*.

PRIDE's leadership was accused of inappropriate business dealings which led to substantial net losses to the PRIDE agency. In particular, PRIDE lost \$19.2 million between 2002 and 2004 (Florida Government Accountability Report, 2006). PRIDE's president and CEO were asked to resign in July 2004, but the agency suffered from negative publicity and related lawsuits for years. The 2006 Report did not mention the state's PIE program, and reported that "inmates who work in PRIDE industries earn between 20 cents and 55 cents per hour, depending on their skill level and length of service." The agency reported that it pays 15 cents in restitution on behalf of inmates for every \$1 earned.

The Florida Inspector General's report found

- Inadequate internal controls
- Inappropriate and/or poorly documented organizational and financial links
- Excessive executive compensation.

Although the agency appeared to be on solid footing by the beginning of 2007, the PIE program had not yet achieved its full potential. The situation, however, seemed likely to improve, and the program's coordinator and support staff remained committed.

The former CEO (who developed the PIE program and who was fired) was described by one interviewee as "autocratic," a manager who assigned responsibility but was not personally involved in day-to-day management or decision-making.

Economic and Political Indicators for the State of Florida in 1996

In 1996, the first year of the decade being examined, the state ranked 20th in the nation in per capita personal income: \$24,226, compared to the U.S. average of \$24,426 in the same year (Review Graphic "Per Capita Personal Income Calendar Year 1996-1997"). The state ranked 38th in its state-local tax burden of 9.8 percent, compared to the U.S. average of 10.5 percent and South Carolina's average of 9.9 percent (See Graphic "Florida State-Local Tax Burden Compared to U.S. Average [1996-2007]"). Florida's total federal tax burden ranked the state 5th in the nation at 22.8 percent. The state's total tax burden was 32.6 percent (compared to the national average total tax burden of 32.0 percent and South Carolina's total tax burden of 30.2 percent).

Florida
State-Local Tax Burden Compared to U.S. Average
(1996-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1996	9.8%	38	22.8%	5	32.6%	12	10.5%	21.5%	32.0%
1997	9.7%	39	23.7%	4	33.4%	11	10.4%	22.1%	32.5%
1998	9.7%	42	24.2%	7	33.9%	12	10.5%	22.7%	33.2%
1999	9.6%	42	24.2%	8	33.8%	15	10.5%	22.9%	33.3%
2000	9.5%	42	24.7%	9	34.2%	15	10.5%	23.5%	34.0%
2001	9.5%	43	23.6%	9	33.1%	15	10.5%	22.5%	33.0%
2002	9.5%	39	20.8%	9	30.3%	17	10.3%	19.9%	30.3%
2003	9.9%	35	20.1%	8	30.0%	14	10.4%	19.1%	29.5%
2004	9.9%	35	20.5%	5	30.4%	11	10.6%	19.1%	29.7%
2005	10.1%	36	22.3%	5	32.4%	11	10.9%	20.6%	31.5%
2006	9.9%	38	23.3%	5	33.2%	12	10.8%	21.5%	32.3%
2007	10.0%	38	23.7%	5	33.6%	12	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce

BLS Local Area Statistics, 1996-2006, Florida				
	Labor force	Employment	Unemployment	Unemployment rate
1996	7,207,707	6,826,997	380,710	5.3
1997	7,408,862	7,040,660	368,202	5.0
1998	7,572,631	7,232,345	340,286	4.5
1999	7,710,988	7,401,659	309,329	4.0
2000	7,869,690	7,569,406	300,284	3.8
2001	7,998,062	7,624,718	373,344	4.7
2002	8,124,930	7,662,511	462,419	5.7
2003	8,245,658	7,811,887	433,771	5.3
2004	8,451,099	8,056,259	394,840	4.7
2005	8,710,827	8,375,993	334,834	3.8
2006	8,988,611	8,692,761	295,850	3.3

Source: U.S. Department of Labor Bureau of Labor Statistics

Florida Correctional Operating Expenditures per Inmate in 1996

It is worth remembering that state correctional costs across the country more than doubled between 1985 and 1996. Also, according to the Bureau of Justice Statistics (James, 1999), in 1996 high overall inmate-to-staff ratios were typically associated with low average costs per inmate. The national average annual operating expenditure per inmate in 1996 was \$20,100.

In 1996, Florida reported an estimated average daily number of inmates of 63,521—the fourth largest in the country (behind California, Texas and New York, respectively). Florida’s operating expenditures per inmate per day was \$47.47, and the state’s operating expenditures per inmate per year was \$17,327. (By comparison, South Carolina’s reported estimated average daily number of inmates in 1996 was 19,880, with operating expenditures per inmate per day of \$38.29, and operating expenditures per inmate per year of \$13,977.)

Florida ranked 4th in the nation in terms of prison expenditures in fiscal year 1996; the state spent a total of \$1.2 billion (just behind Texas’s \$1.7 billion).

Union Membership in Florida in 1996

In 1996, the state of Florida ranked 41st in the nation in terms of the percentage of workers covered by unions: 9.9 percent (Review Graphic “Labor Union Membership\1, 1996”). This compared to the percentile of all U.S. workers covered by unions: 16.2 percent. It compared also to South Carolina’s 49th ranking, with only 5.0 percent of state workers covered by unions.

By 2005, Florida still ranked in the second tier of states with the smallest percentages (5 percent to 9.9 percent) of union membership annual averages.

Political Party Popular Votes Cast in Florida (1996-2005)

In 1996, as in 1992, the presidential elections included three parties: the Democratic, Republican and Reform Party (of Ross Perot). Although Florida's voters had voted Republican in presidential elections throughout the 1980s, election results were somewhat impacted by Perot's 3rd-party candidacy in 1992 and 1996. Although the Republican candidate won Florida's majority in 1992, this was not the case in 1996, when the Democratic candidate (Clinton) won the majority of the state's votes. The Democrat's majority was 48 percent, compared to the Republican and Reform parties' percentages of 42.3 percent and 9.1, respectively.

Florida's presidential voting patterns were similar to South Carolina's voting patterns: Republican presidential victories throughout the 1980s as well as 1992, but with a clear Republican victory of almost 50 percent in the 1996 election, in spite of the third party candidacy of Ross Perot. Unlike Florida, South Carolina appeared to lean Republican as the new millennium approached. Some might say that this is significant, as Republicans are believed to be more receptive to the PIE program. However, as we shall see, this is by no means an ironclad "rule of thumb."

Nationally, Republican presidential candidates received a majority of the votes throughout the 1980s, but in both 1992 and 1996, Democratic candidates secured majorities of 43 percent and 49.2 percent for the respective years.

In 1996, Democrat Lawton Chiles was governor of Florida, although in 1998, he was replaced by Republican Jeb Bush who served until 2006.

In 1996, the Republicans gained control of the state senate, and were still in control 10 years later. (Republicans controlled the Florida House for the entire decade (1996-2006)).

When asked for his opinion in early 2007, Brian Connett, PRIDE's business development and programs manager stated:

I believe that the control of the legislature of either house was not a factor nor had an effect on the development of PIE in Florida. The Florida Department of Corrections initially had the PIE Certificate for the State of Florida and [it] was transferred to PRIDE sometime later. I believe the Florida state PIE legislation was initially pushed through inclusive as a total Corrections package. Again, I do not believe the party controlling the legislature had a direct effect on the PIE legislation.

Iowa Prison Industries (IPI)

IPI Mission Statement:

To employ staff and inmates who are dedicated to providing:

Exceptional Service

Reasonable Prices

Quality Products

It is this commitment to excellence that will allow our business to remain self-funding, achieve growth, provide more jobs for inmates and staff and assume a national leadership role in correctional industries.

Vision:

By ensuring our mission is achieved, we will have assisted the Department of Corrections in protecting the public, staff, and inmate safety through vital work programs that will ensure the offenders' chances of a successful return to society as tax-paying citizens upon their release.

According to the NCIA 2005 Directory, Iowa Prison Industries employed 435 inmates in traditional industries, and 213 in Private Sector (PIE). The state's PIE initiative was certified in 1989. The Directory reported the State's prison population at 9,400—less than one-half the size of South Carolina's prison population. Iowa's Director of Prison Industries is Roger Baysden, who represents IPI with the IPI Advisory Board, which consists of seven representatives from the AFL/CIO, Voc-Tech Education; Governor's Office; Parole Board, and the financial, manufacturing and agricultural community. The Advisory Board meets quarterly, rotating between all prisons where industries are located. The Board approves new business ventures, overall operations, farm and private sector operations. The governor appoints five members, and the parole board and state director of corrections each appoint one member. Terms are staggered; the governor appoints two members for terms of two years, and three members for terms of four years. Parole and state director appointees serve at the pleasure of their appointing authority.

Unlike South Carolina, where a variation of the PIE customer model—the manpower model—is in place, Iowa's PIE program is based on the employer model. This means that private employers provide all supervision (without state assistance). In Iowa, the private employer may employ inmates, and is required to pay prevailing wage.

Significantly, private employers are *obligated* to offer inmates a job upon release from prison.

IPI's Director Roger Baysden enjoys a remarkably congenial relationship with the State's regional AFL-CIO, which has contributed to development of a widely-praised apprenticeship program for inmates. The program, spearheaded by the union, was the product of a spirited debate in Iowa union halls.

Because it is well known that states with strong unions often reject the PIE program (as is generally true of the northeastern part of the country, where the PIE program is all but non-existent), I was particularly curious as to how IPI's Director Roger Baysden had managed to obtain union collaboration in establishing the apprenticeship program. Baysden stated that he did not actively pursue private companies and responded only to inquiries. In response to the question of whether this was a philosophical or political decision on his part, he said that it was philosophical. "By doing this I never intrude on the notion that we are taking jobs from the public. The union recognizes that enquiries are genuine and that I prefer the jobs go to citizens and we are pretty much of a last resort option for the employer."

When asked whether his philosophy might be part of the secret of his success with Iowa's unions, he said simply, "Good government is open government. I have a personal policy of informing every interested party (unions, churches, Democrats, Republicans and so on) on what I am doing and who I am working with. I do believe that this philosophy of openness has reduced barriers."

A story about the Iowa PIE program ran in the May 15, 2000 issue of Fortune Magazine. At the time, Iowa had the lowest unemployment rate (2.2 percent) in the

country (Harrington, 2000), compared to the national average of 4.1 percent. The article highlighted the issue with a graph of the United States entitled “Where the Jobs Are (and the People Aren’t),” suggesting the reason for Iowa’s apparent openness to the PIE initiative:

The flip side of this labor shortage, of course, is an unprecedented opportunity for workers. Today someone like David Townsley, who scraped around on the fringes of society for a decade, can get a second chance. A high school dropout who spent most of his young life in search of a methamphetamine high and easy money, Townsley was on his second tour of the Iowa prison system when he heard about the chance to work at Rock Communications. He worked for six months as a stacker before completing his two-year term for drug dealing. He stayed on after his release. Today, at 27, he’s newly married, learning graphic design, and making \$12 an hour.

Economic Indicators for the State of Iowa in 1996

In 1996, Iowa’s per capita personal income averaged \$22,306, compared to the U.S. average of \$24,426 and South Carolina’s average of \$19,977 (Review Graphic “Per Capita Personal Income Calendar Year 1996-1997.”). In the same year, Iowa ranked 11th in the U.S. in its 10.9 percent state-local tax burden, compared to the U.S. average state-local tax burden of 10.5 percent, and South Carolina’s state-local tax burden of 9.9 percent (See Graphic “Iowa State-Local Tax Burden Compared to U.S. Average (1996-2007”). Iowa’s federal tax burden was 20.0 percent, and its total tax burden was 30.9

percent (again, compared to the national average total tax burden of 32.0 percent, and South Carolina's total tax burden of 30.2 percent).

Iowa State-Local Tax Burden Compared to U.S. Average (1996-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1996	10.9%	11	20.0%	42	30.9%	32	10.5%	21.5%	32.0%
1997	10.6%	17	20.5%	42	31.1%	37	10.4%	22.1%	32.5%
1998	10.6%	19	21.1%	38	31.7%	35	10.5%	22.7%	33.2%
1999	10.6%	16	21.2%	37	31.9%	31	10.5%	22.9%	33.3%
2000	10.8%	15	21.4%	39	32.1%	32	10.5%	23.5%	34.0%
2001	10.9%	12	20.6%	38	31.5%	30	10.5%	22.5%	33.0%
2002	10.4%	15	18.2%	42	28.6%	34	10.3%	19.9%	30.3%
2003	10.4%	15	17.8%	34	28.2%	29	10.4%	19.1%	29.5%
2004	10.4%	23	17.3%	44	27.6%	39	10.6%	19.1%	29.7%
2005	10.9%	18	18.8%	41	29.8%	34	10.9%	20.6%	31.5%
2006	10.8%	17	19.5%	39	30.4%	33	10.8%	21.5%	32.3%
2007	11.0%	18	19.6%	39	30.6%	33	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce

BLS Local Area Statistics, 1996-2006, Iowa				
	Labor force	Employment	Unemployment	Unemployment rate
1996	1,609,270	1,551,200	58,070	3.6
1997	1,606,503	1,555,837	50,666	3.2
1998	1,602,865	1,556,479	46,386	2.9
1999	1,602,634	1,560,848	41,786	2.6
2000	1,601,920	1,557,081	44,839	2.8
2001	1,622,012	1,568,638	53,374	3.3
2002	1,632,108	1,567,836	64,272	3.9
2003	1,614,859	1,543,507	71,352	4.4

2004	1,617,955	1,542,342	75,613	4.7
2005	1,639,703	1,568,561	71,142	4.3
2006	1,664,339	1,602,849	61,490	3.7
Source: U.S. Department of Labor Bureau of Labor Statistics				

Iowa’s Operating Expenditures per Inmate in 1996

(It is important to bear in mind that expenditures-per-inmate typically mirror disparities in wage structures, cost of living and various other issues over which the state director of corrections has no control.)

In fiscal year 1996, Iowa’s estimated average daily number of inmates was 5,920. The state’s operating expenditure per inmate per day was \$66.54, and its operating expenditure per inmate per year was \$24,266—compared to South Carolina’s estimated average daily number of inmates (19,880) for the same year, and South Carolina’s operating expenditures per inmate per day of \$38.29 and its operating expenditures per inmate per year of \$13,977. (The national average annual operating expenditure per inmate was \$20,100.)

Union Membership in Iowa in 1996

In 1996, the state of Iowa ranked 24th in the nation in percentages of workers covered by unions: 15.7 percent, compared to the national labor union membership percentile of 16.2 percent, and South Carolina’s ranking of 49th in the nation, with labor union membership at 5.0 percent (Review Graphic “Labor Union Membership\1, 1996”).

In 2005, Iowa was in the mid-range of union membership rates by state in terms of annual averages (10 percent – 14.9 percent); at the same time, the U.S. rate of union membership was 12.5 percent.

Political Party Popular Votes Cast in Iowa, 1996-2006

Although Iowa had voted Republican in 1980 and 1984 in presidential elections, by 1988 the state voted Democratic. The trend continued in 1992 and 1996, uninterrupted even by the arrival of the 3rd party candidate, Perot. The Democratic candidate, Clinton, won decisively in 1996, with 50.3 percent of the vote, compared to the Republican candidate's percentage of 39.9 percent, and the Reform Party's percentage of 8.5 percent. (Compare to South Carolina's Republican voting patterns in presidential elections for the 1980s and 1990s; and bear in mind the national voting patterns of Republican victories throughout the 1980s, changing to Democratic victories in 1992 and 1996.)

In Iowa, Republicans have controlled the state's House and Senate throughout the decade (1996-2006) in question. However, the governor during the same period has been a Democrat. (Terry Branstad (D) was governor from 1983 till 1999; he was followed by another Democrat.)

Tennessee Rehabilitative Initiative in Correction (TRICOR)

Tennessee's PIE program, TRICOR, is described in the NCIA 2005 Directory as a "quasi-state entity governed by a Board of Directors independent from the Department of Correction." The State's prison population for 2005 was 19,670, making it a mid-size, mid-south state somewhat comparable (in size and geography) to South Carolina (minus the beach). The number of traditional inmate workers in 2005 was 838; PIE inmate workers numbered 61. (Tennessee's PIE program was certified in 1991.)

TRICOR has been described as “hybrid” in organizational structure. When asked for a clarification, Pat Weiland, CEO for TRICOR, responded in some detail:

Even though prison industries have existed in Tennessee for decades, TRICOR (as currently structured) was statutorily created in 1994. . . . TRICOR is a standalone state entity governed by a Board of Directors appointed by the Governor. It is not part of the Department of Correction; however the Commissioner of Correction is an ex officio member of the Board. The statute gives TRICOR and the Board considerable autonomy to operate consistent with “free enterprise” rather than government. We receive no state appropriated funds and are required to be self-supporting. This is why TRICOR is often referred to as a “hybrid” because even though it is considered a state entity, we do not have to follow many of the state regulations governing hiring, contracting, purchasing, etc.

Iowa, South Carolina and the majority of other state industry programs are a division within the Department of Correction and most have to abide by all state government rules. Some have a Board of Directors but it is usually an advisory board (e.g., Iowa) rather than a governing board.

TRICOR is responsible for operating all of the industries in the state prisons in Tennessee. TRICOR also holds the PIE certificate for the State of Tennessee; therefore, any entity outside of the state prison system, such as county jails, would have to operate a PIE program under TRICOR’s certificate [note: in 2006, there were no other entities operating PIE programs in the state].

When asked, Ms. Weiland acknowledged that she was appointed by the Board and served at the Board's pleasure with no protection. The governor, she said, cannot "dissolve" TRICOR since it is statutorily established; legislation would be required to abolish it.

At the 2005 annual conference held by NCIA, Tennessee received substantial recognition for its prison industries.

Economic Indicators for the State of Tennessee in 1996

In 1996, Tennessee's per capita personal income average was \$21,949, ranking it 33rd in the nation (Review Graphic "Per Capita Personal Income Calendar Year 1996-1997"). This compared to the national average of \$24,426, and South Carolina's per capital personal income average of \$19,977, which ranked 40th in the nation.

Tennessee's state-local tax burden for 1996 was 8.3 percent, ranking it 49th in the country, compared to the national average of 10.5 percent, and South Carolina's state-local tax burden of 9.9 percent, 35th in the nation (See Graphic "Tennessee State-Local Tax Burden Compared to U.S. Average [1996-2007]"). Tennessee's total tax burden was 29.6 percent, compared to the national average total tax burden of 32.0 percent (and South Carolina's total tax burden of 30.2 percent for the same year).

Tennessee
State-Local Tax Burden Compared to U.S. Average
(1996-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1996	8.3%	49	21.2%	24	29.6%	44	10.5%	21.5%	32.0%
1997	8.3%	48	21.6%	28	29.9%	45	10.4%	22.1%	32.5%
1998	8.3%	48	21.9%	28	30.3%	46	10.5%	22.7%	33.2%
1999	8.2%	48	21.5%	30	29.7%	48	10.5%	22.9%	33.3%
2000	8.3%	47	21.9%	35	30.1%	48	10.5%	23.5%	34.0%
2001	8.3%	47	21.1%	30	29.4%	47	10.5%	22.5%	33.0%
2002	8.2%	47	19.0%	29	27.2%	47	10.3%	19.9%	30.3%
2003	8.3%	47	18.2%	29	26.5%	45	10.4%	19.1%	29.5%
2004	8.4%	47	18.2%	29	26.6%	44	10.6%	19.1%	29.7%
2005	8.5%	48	19.3%	30	27.8%	46	10.9%	20.6%	31.5%
2006	8.4%	48	20.1%	31	28.5%	45	10.8%	21.5%	32.3%
2007	8.5%	48	20.3%	31	28.8%	46	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce

BLS Local Area Statistics, 1996-2006, Tennessee				
	Labor force	Employment	Unemployment	Unemployment rate
1996	2,758,346	2,610,975	147,371	5.3
1997	2,788,348	2,640,005	148,343	5.3
1998	2,811,700	2,685,151	126,549	4.5
1999	2,838,738	2,722,124	116,614	4.1
2000	2,871,539	2,756,498	115,041	4.0
2001	2,863,516	2,728,523	134,993	4.7
2002	2,867,108	2,714,992	152,116	5.3
2003	2,884,988	2,720,676	164,312	5.7
2004	2,891,533	2,733,793	157,740	5.5
2005	2,920,400	2,758,184	162,216	5.6
2006	2,990,152	2,835,530	154,622	5.2

Source: U.S. Department of Labor Bureau of Labor Statistics

Tennessee's Operating Expenditures per Inmate in 1996

In fiscal year 1996, Tennessee’s estimated average daily number of inmates was 15,245—somewhat smaller than South Carolina’s 19,880, and roughly 2-1/2 times the size of Iowa’s 5,920. Tennessee’s operating expenditure per inmates per day was \$62.75, and its operating expenditures per inmate per year were \$22,904—compared to South Carolina’s per day expenditures for the same year of \$38.29 (and \$13,977 per year), and Iowa’s per day expenditures of \$66.54 (and \$24,266 per year). Remember that in 1996 the national average annual operating expenditure per inmate was \$20,100.

Tennessee allocated less than 1 percent of total expenditures to capital projects in 1996 (compared to the 13 percent allocated by the state of Washington).

Labor Union Membership in Tennessee in 1996

In 1996, the state of Tennessee ranked 34th in the nation in percentage of workers covered by unions: 11.1 percent, compared to the U.S. percentage of 16.2 percent, and South Carolina’s percentage of 5.0 percent (Review Graphic “Labor Union Membership\1, 1996”).

In 2005, Tennessee was in the second lowest tier of states in terms of union membership rates (5 percent – 9.9 percent). At that time, the U.S. annual average rate of union membership was 12.5 percent.

Popular Votes Cast by Political Party in Tennessee, 1996-2005

Tennessee’s presidential voting patterns were Republican throughout the 1980s, but switched to Democratic in both the 1992 and 1996 elections; in both elections, some

suspected that Perot's role as a third-party candidate might have had a "spoiler's" effect on election outcomes.

The state's voting patterns may be compared to its neighbor's South Carolina's consistent Republican victories throughout the decades of the eighties and nineties. However, Tennessee voting patterns appeared parallel to the national patterns of Republican victories throughout the 1980s, changing to Democratic victories in both 1992 and 1996.

In 1996, Tennessee's governorship changed from Democrat to Republican although both the state's house and senate were Democratic throughout the decade 1996-2005.

Texas Correctional Industries (TCI)

Texas Correctional Industries is a division of the Texas Department of Criminal Justice (TDCJ) which dates back to the passage of a senate bill in 1963 authorizing the sale of prison-made products to tax-supported agencies and "political subdivisions." According to its website, TCI's statutory objectives can be summarized as follows:

- *Provide work program participants with marketable job skills to help reduce recidivism through coordinated program of:*
 - Job skills training;*
 - Documentation of work history;*
 - Access to resources provided by Project RIO and the Texas Workforce Commission, including access to resources provided through assistance to local workforce development boards in referring work program participants to the*

Project RIO employment referral services provided under Section 306.002, Labor Code.

- *Reduce department costs by providing products and articles for sale on a for-profit basis.*

Although the TCI website does not mention the PIE project, it can be found under “Programs.” Two programs are listed: the PIE Certification Program and the Work Against Recidivism (WAR) Program.

The PIE program has been part of TCI since 1993, at which time it was under the state’s Parole Division. In 2000, it was moved to the Manufacturing and Logistics Division. The TCI website reports that the program “more than doubled” the number of offender employees, and is expected to “quadruple” the amount of money paid for room and board by inmate employees to the state. [See “TCI-PIE Chart for 2005” and “TCI-PIE Offenders’ Contributions 1993 thru 12-31-95”.]

The WAR Program is described on its website as a joint effort between Parole, Manufacturing and Logistics, the Texas Workforce Commission and the “private sector” with a goal of facilitating successful post-prison offender reentry to the community. The most recent post-release findings for FY 2001 WAR participants (N=241) after three years were:

Successful reentry rate of 81.7 percent.

88.6 percent of those unsuccessful were technical violations.

Employment rate of 90.6 percent.

Average hourly wage of \$10.57.

The 2005 NCIA Directory reported that there were 5,075 inmate workers in TDCJ, 466 of which were PIE workers. In the same year, Texas had a correctional population of 144,989 (second only to California). The PIE program was certified in 1993.

Interview with Former Texas State Representative

A former Texas legislator, Ray Allen, is credited by many as being instrumental in starting the PIE program for the state. Allen agreed to be interviewed in late 2006, and began by saying that some of the principal issues involved in establishing a PIE program are technical, for example, federal laws that deal with non-displacement of civilian workers and also ensure that inmates are not subjected to (so-called) slave labor. “My view is that the federal law is clear . . . the guidelines are clear . . . these issues have been resolved.” However, he went on to say, at the political level, there is always a political “agenda,” or there may be a “basic misunderstanding” about what the PIE program is.

Allen said that it is “a challenge to have legitimate discussion regarding the facts.” He stated that he had worked with labor. Texas, he pointed out, was a “late comer” to the PIE scene. He said that since certification (in 1993) there had been no real problem. Originally, he said, opposition came from labor unions in the state, and it took two years to gain expansion.

We discussed Lockhart briefly, where there are two PIE programs: one where inmates make computer components and one where they make heating and air conditioning components.

Allen said that it took time, but that he eventually developed a good working relationship with the representative from the state AFL-CIO. He said they had a mutual respect for one another, and that he had worked closely with (the labor representative) to craft legislation to address his concerns.

He related how his original legislative intention was to require inmates to pay room and board, and that this quest led to the discovery of the PIE initiative. He was very taken with PIE, and contacted BJA to learn all he could about it. Over time, he became convinced that this was the way to go, but it took him years of hard work.

Although originally the state of Texas had more than one certificate—TDCJ, a county jail, the Texas Youth Authority—BJA eventually asked them to combine under one umbrella agency, and that agency became known as the Texas Private Sector Prison Industries Oversight Authority (TOA). The Texas Oversight Authority (1995) was a new entity, with members representing TDCJ, TYA, the House, the Senate, the Texas Workforce Commission, inmates and their families, organized labor, business, etc. The entity also includes at-large memberships. (Originally, he said, the PIE programs were overseen by Texas Correctional Industries under TDCJ, but then PIE supervision was channeled to TOA.)

Allen stated that following that, there were very few negative articles, although since his retirement from the House, this appeared to be changing. The Texas prison industries director had recently retired and thus he said it was difficult to predict what the future holds for Texas. The state, he said, is “very political”—but he maintained that this is basically true for a lot of the states, and that ultimately, the PIE program can succeed only to the extent that it has a capable, politically astute prison industries director, who is

able to sell the PIE concepts to legislators, the public, unions, and local business. If the unemployment rate is high, the state is likely to be less receptive to the PIE program. But even when the existing economic climate may suggest the efficacy of the PIE program, if the prison industries director is not good at marketing the program, it is unlikely to succeed. Facilitating legislation is often called for, he pointed out, and that means the PI director has to be savvy enough to persuade policymakers to pass the appropriate enabling legislation. Sometimes, he said, the PI director must first persuade his own director of corrections, who may not be knowledgeable, or receptive to the program.

Allen told me that as a Texas state representative he became convinced that inmates should pay room and board whenever possible. In researching this philosophy, he learned about the PIE program, and was immediately interested in it. That was when he contacted BJA to learn as much as he could about the program. He decided that if paying room and board was desirable, paying taxes, victim restitution, and child support were even more desirable. He saw it as a “win-win” for everybody concerned, and immediately embarked on a path to bring the program to Texas.

He saw right away that the key to making it palatable to his colleagues in the Texas House of Representatives was to encourage implementation of the PIE program in rural areas, where there was more likely to be a surplus of labor (high unemployment). Happily, most state prisons in Texas are located in rural areas, where such conditions are often found. Ultimately, Texas’s 107 prisons had agreed to employ PIE inmates only where it was clear that, in fact, there was not a labor surplus—which was (after all) consistent with BJA and PIE stipulations.

Allen maintained that although it may be easier to start the PIE program in a right-to-work state like Texas or S.C., or where unions are not dominant—neither is a guarantee that the program will be welcome. I asked him whether most states with successful PIE programs were non-union or right-to-work states, and he said there was not necessarily a clear pattern. He cited Texas and Iowa as examples of states with successful PIE programs in strong union states.

When asked what the single biggest challenge to starting up the PIE program was, he said that since it is such a “small program” that “few details were clear to policymakers.” In short, he had to work from the bottom up to sell the concept.

He said that “every successful PIE program has a Tony Ellis or a Roger Baysden or a Ray Allen or former Texas TDCJ PI Director Benestante, whom he described as the “primary TDCJ PIE proponent.” As a result, he said, Benestante had been “at war with his own agency.” He referred more than once to the former California Director of Prison Industries, who was eventually “sacked;” thereafter, he said, the California program began to deteriorate. He also mentioned Lenny Ewell of Kansas (now retired) who had developed a strong Kansas program. (Both Ewell and Allen, like Tony Ellis, have worked as consultants with NCIA.)

In discussing union hurdles facing most states that seek to implement the PIE program, Allen said that California has strong correctional officers’ unions; as a result, although “Texas has three times as many correctional officers as California—California pays their correctional officers three times as much.”

The bottom line, he said, is that “you’ve got to have at least one local champion (to implement an effective PIE program), and even then, it’s a constant battle against

bureaucracy and inertia.” He said that the “reality is that most issues are not as important as politics.” Republicans, he said, tend to be uncomfortable with the PIE concept, and the Democrats are always watching to be sure that “you’re not exploiting the inmates.” He said that you can look at individual state economies and unions, etc., but in the end, the most important prerequisite for a successful program is that “you’ve got to have strong leadership ability, and support either inside the political arena, or inside the agency.” He called attention to the tendency of the prison bureaucracy to be “controlling, while true entrepreneurship needs to be loose and somewhat free-wheeling.”

Allen maintained that traditionally, Democratic states tend to be strong union states, and that Republican states often have strong business representation. The PIE program has the unusual potential to accommodate both local businesses and unions—the point is, he said, that only someone politically adept can accommodate both groups. (Allen said that Reagan was the only Republican within memory who succeeded in obtaining the support of the Teamsters in a presidential campaign.) He said that unions can be expected to oppose any kind of low wages, and to be watchdogs for what they call “inmate exploitation.”

He spoke admiringly of Tony Ellis, how he had built a large PIE program around a South African manufacturing industry that he successfully solicited to move to South Carolina—thus, not only did he not displace S.C. workers, but he spurred the growth of related industries in the state.

Allen said that some states are “more aggressive” about who they let into their PIE programs. Florida, for example, has implemented some practices that he said would never succeed in Texas. When asked, he cited split-wages (groups of inmates making

parts may be paid PIE wages for one part of their work, and traditional wages for another part); group wages (one group of inmates may be paid PIE wages for the same task for which another group of inmates is paid only traditional wages); and the use of PIE contracts for both the “free world” and government alike. Also, he reported, the Florida program sometimes pays piece wages (inmates are paid per number of products, or pieces, that they make or assemble).

Ultimately, Allen maintained that “all PIE issues are unique to each state, whether in business, labor unions, or laws.” He quoted a statement made by someone in the PIE hierarchy about the state of New York: “There will never be a PIE program in New York, because they are unwilling to fight the political battles that would be required.”

He concluded our conversation by stating that his conviction that the “real world experience (of PIE inmate employees) probably reduces recidivism more effectively than any other program.”

Economic Indicators for the State of Texas in 1996

In 1996, the per capita personal income for Texas was \$22,282, 31st in the nation, which compared to South Carolina’s per capita personal income of \$19,977, 40th in the nation (Review Graphic “Per Capita Personal Income Calendar Year 1996-1997”). Texas’s state-local tax burden was 9.5 percent, 42nd in the nation, compared to the national average state-local tax burden of 10.5 percent, and South Carolina’s state-local tax burden of 9.9 percent, 35th in the nation (See Graphic “Texas State-Local Tax Burden Compared to U.S. Average [1996-2007]”). The state’s total tax burden was 31.0 percent, while the national total tax burden average was 32.0 percent.

Texas
State-Local Tax Burden Compared to U.S. Average
(1996-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1996	9.5%	42	21.5%	18	31.0%	30	10.5%	21.5%	32.0%
1997	9.2%	45	21.8%	21	31.1%	38	10.4%	22.1%	32.5%
1998	9.2%	45	22.5%	20	31.8%	33	10.5%	22.7%	33.2%
1999	9.1%	45	22.4%	23	31.5%	37	10.5%	22.9%	33.3%
2000	9.1%	46	22.7%	24	31.8%	36	10.5%	23.5%	34.0%
2001	9.4%	44	21.9%	20	31.3%	32	10.5%	22.5%	33.0%
2002	9.5%	40	19.6%	20	29.1%	26	10.3%	19.9%	30.3%
2003	9.4%	40	18.8%	19	28.2%	30	10.4%	19.1%	29.5%
2004	9.4%	42	18.6%	22	28.0%	33	10.6%	19.1%	29.7%
2005	9.4%	43	19.7%	26	29.1%	40	10.9%	20.6%	31.5%
2006	9.1%	43	20.2%	26	29.4%	42	10.8%	21.5%	32.3%
2007	9.3%	43	20.5%	27	29.8%	41	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce

BLS Local Area Statistics, 1996-2006, Texas				
	Labor force	Employment	Unemployment	Unemployment rate
1996	9,736,646	9,175,983	560,663	5.8
1997	9,926,594	9,395,279	531,315	5.4
1998	10,097,882	9,600,982	496,900	4.9
1999	10,250,025	9,766,299	483,726	4.7
2000	10,347,847	9,896,002	451,845	4.4
2001	10,519,335	9,991,920	527,415	5.0
2002	10,803,187	10,115,299	687,888	6.4
2003	10,999,132	10,260,318	738,814	6.7
2004	11,127,293	10,456,224	671,069	6.0
2005	11,282,845	10,677,171	605,674	5.4
2006	11,487,496	10,921,673	565,823	4.9

Source: U.S. Department of Labor Bureau of Labor Statistics

Texas Operating Expenditures per Inmate in 1996

In fiscal year 1996, Texas's estimated average daily number of inmates was 128,140 (second in the nation), compared to South Carolina's average daily number of inmates of 19,880. Texas's operating expenditure per inmate per day was \$33.47, and its operating expenditures per inmate per year were \$12,215. (This compared to South Carolina's operating expenditures per inmate per day of \$38.29 and its operating expenditures per inmate per year of \$13,977—and the national average annual operating expenditure per inmate of \$20,100.)

In spite of the fact that Texas ranked 3rd in the nation in terms of largest state prison expenditures—\$1.7 billion—the state was among the five lowest in terms of operating costs (\$12,215) per inmate for the same year. (Texas and South Carolina were among eight states with annual operating costs per inmate below \$15,000.)

Labor Union Membership in Texas in 1996

In 1996, the state of Texas ranked 46th in the nation in terms of labor union membership. The percent of Texas workers covered by unions was 8.0 percent compared to the 16.2 percent of all U.S. workers covered by unions, and the 5.0 percent of South Carolina workers covered by unions in the same year (Review Graphic “Labor Union Membership\1, 1996”).

In 2005, Texas (like Florida) was in the second lowest tier of states in terms of union membership rates and annual averages (5 percent – 9.9 percent). Iowa was in the mid-range (10 percent – 14.9 percent), while South Carolina was in the lowest range (4.9 percent or less). The state of Washington, on the other hand, was in the second highest

tier of states in terms of union membership rates and annual averages in 2005: 15 percent – 19.9 percent (as we shall discuss below).

Popular Votes Cast by Political Party in Texas, 1996 - 2005

Texas, like South Carolina, produced an unbroken string of Republican victories for presidential candidates throughout both the 1980s and 1990s, including 1996, in contrast to the national patterns of Republican victories throughout the 1980s, changing to Democratic victories in 1992 and 1996.

In 1995, Republican candidate George Bush succeeded Democrat Ann Richards as governor of Texas. He remained governor until his election to the U.S. presidency in 2000. Prior to 1994, both the Texas House and Senate were controlled by Democrats; by the beginning of the new millennium, both the House and Senate were controlled by Republicans. (Former Texas State Representative Ray Allen told me that he managed to pass legislation for the PIE program in a Democrat-controlled House in 1993.

Washington State Correctional Industries (CI)

In an article captioned “Let prison inmates earn their keep,” in the May 1, 1996 issue of *The Wall Street Journal*, former U.S. Attorney General Edwin Meese called the Washington State Correctional Industries program “one of the most advanced prison industry programs in the country, with involvement from private companies.” (He also cited the Lockhart prison industries program in Texas.) In spite of these and other accolades, however, eight years later the PIE program was declared unconstitutional by the State’s Supreme Court. The program was promptly terminated, to the consternation

of many onlookers around the country. The Washington State Department of Corrections Secretary was quoted as saying, “The Court has concluded (Class I programs) are contrary to provisions of the constitution and the Department is obligated to terminate this class of industry. It is important to hold offenders accountable. We want as many prison inmates as possible doing useful work. The Court’s decision makes it harder to reach that goal (Lehman, J., 2004).”

Long one of the country’s PIE showpieces, the program—certified in 1987—was challenged by a local industry that alleged it was forced to compete unfairly with an unconstitutionally established program. In the case, *Washington Water Jet Workers Association v. Howard Yarbrough in his official capacity as the Administrator of the Division of Correctional Industries, Washington State Department of Corrections*, attention was focused on the Washington Constitution, article II, section 29:

After the first day of January eighteen hundred and ninety the labor of convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the legislature shall by law provide for the working of convicts for the benefit of the state.

At issue in the *Washington Water Jet Workers* case was the question of whether the PIE contract system of labor in the state violated the (state) constitution. Under the contract system of the time (pre-1890), the State had leased involuntary inmate labor to private contractors who exercised virtual complete control of the inmates. Eventually, the system had been found to be corrupt and inhumane. In 2003, the Court, in examining the (PIE) system subsequently established by the State Legislature, found that

By contrast, the Washington Legislature has created a system where prisoners may be gainfully employed by private business. This system is entirely voluntary and the statute requires that prisoners be paid a fair wage. We find that our constitution bars the State from selling the involuntary labor of prisoners by use of the contract system of labor. We also find that the contract system of labor bears no resemblance to the program established . . . and therefore, the legislature had the power to establish this beneficial employment program.

The five-to-four majority found that the Washington State PIE program was “not the [pre-1890] contract system revitalized.

It explicitly provides for voluntary labor at a competitive wage, for the express goal of rehabilitation, under the custody and control of the State for the benefit of our State. We therefore conclude that [the state’s PIE program] is constitutional.

Subsequent to that holding, however, the case was brought before a new Court, one whose membership had changed in a recent election (Summers, 2005). The new Court over-turned the original decision less than a year later (in 2004), and Washington State’s PIE program was terminated. (The controversy surrounding the case continued in 2006.)

Referring to the Washington State Supreme Court decision, South Carolina’s legal counsel Lake Summers subsequently observed, “It (the ruling) reflects that the law is a human endeavor—you can bring different interpretations, different meanings and

different reactions and different philosophies to bear, and it's not a science, it's an art. You have to be cognizant of that human endeavor at all times.”

What Summers didn't say but the writer inferred, is that the PIE program—even after 25 years—may be an endangered species in that it is constantly exposed to political influences. Even in Washington, viewed by many as a progressive state, alterations in the Court's membership resulted in the termination of a program designed to aid citizens, state departments of corrections, administrators, taxpayers, and inmates alike.

Washington State Correctional Industries Today

The 2005 NCIA Directory reported that Washington State's correctional population was 15,406, with 1,574 inmates employed in traditional industries. The Washington DOC website, under “Correctional Industries Program” in April 2005 referred the reader to the May 2004 Class I Industries Supreme Court Ruling. However, in January 2007, the ruling was no longer cited, although an excerpt from Meese's 1996 article in *The Wall Street Journal* remained—a shining example of a quote taken out of context: “The state of Washington has one of the most advanced prison industry programs in the country.”

In August of 2007, the state's DOC released a recruitment announcement for a new director of correctional industries.

Washington Correctional Industries Mission Statement

In 2005, Washington's CI mission statement was posted on its website:

As a business, Correctional Industries is committed to maintain and expand offender work training programs which develop marketable skills, instill and promote a positive work ethic and reduce the tax burden of corrections.

Some might say that the state's recent constitutional ruling made it more difficult to "reduce the tax burden of corrections."

Economic Indicators for the State of Washington in 1996

In 1996, the average per capita income for Washington was \$25,187, which ranked the state 15th in the nation (review Graphic "Per Capita Personal Income Calendar Year 1996-1997"). (The U.S. average per capita income was \$24,426.)

Washington's state-local tax burden was 11.5 percent, 8th in the country, compared to South Carolina, with a 1996 tax rate burden of 9.9 percent, 35th in the country, and the national average state-local tax burden of 10.5 percent (See Washington State-Local Tax Burden Compared to U.S. Average [1996-2007]"). The state's 34.1 percent total tax burden ranked 3rd in the nation, compared to the national average total tax burden of 32.0 percent. (South Carolina's total tax burden was 30.2 percent, ranking it 41st in the country.)

Washington State-Local Tax Burden Compared to U.S. Average (1996-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1996	11.5%	8	22.6%	7	34.1%	3	10.5%	21.5%	32.0%
1997	11.3%	8	23.5%	6	34.8%	3	10.4%	22.1%	32.5%
1998	11.1%	11	24.9%	3	36.0%	2	10.5%	22.7%	33.2%
1999	10.7%	15	25.8%	3	36.4%	2	10.5%	22.9%	33.3%
2000	10.5%	20	26.1%	4	36.7%	5	10.5%	23.5%	34.0%
2001	10.6%	17	24.2%	5	34.8%	6	10.5%	22.5%	33.0%
2002	10.4%	17	21.3%	6	31.7%	5	10.3%	19.9%	30.3%
2003	10.4%	17	20.5%	4	30.9%	5	10.4%	19.1%	29.5%
2004	10.4%	22	20.2%	7	30.6%	9	10.6%	19.1%	29.7%
2005	11.0%	17	22.1%	7	33.1%	7	10.9%	20.6%	31.5%
2006	10.9%	16	22.7%	7	33.6%	9	10.8%	21.5%	32.3%
2007	11.1%	16	22.9%	7	34.0%	9	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce

BLS Local Area Statistics, 1996-2006, Washington				
	Labor force	Employment	Unemployment	Unemployment rate
1996	2,882,432	2,711,963	170,469	5.9
1997	2,966,651	2,822,223	144,428	4.9
1998	3,032,019	2,886,871	145,148	4.8
1999	3,066,165	2,917,577	148,588	4.8
2000	3,050,021	2,898,677	151,344	5.0
2001	3,052,714	2,863,705	189,009	6.2
2002	3,104,698	2,877,022	227,676	7.3
2003	3,149,243	2,916,045	233,198	7.4
2004	3,208,946	3,008,352	200,594	6.3
2005	3,270,480	3,089,953	180,527	5.5
2006	3,326,524	3,160,350	166,174	5.0

Source: U.S. Department of Labor Bureau of Labor Statistics

Washington State Operating Expenditures per Inmate in 1996

In fiscal year 1996 the state of Washington's estimated average daily number of inmates was 11,669, roughly twice the average daily number of Iowa inmates (5,920) for the same year, and substantially less than South Carolina's average of 19,880.

Washington's operating expenditure per inmate per day was \$73.05, and the state's operating expenditure per inmate per year was \$26,662. These amounts were more than twice the expenditures reported by Texas, and almost twice South Carolina's operating expenditures as well. The state's average annual operating expenditure per inmate was well above the national average (\$20,100) reported by the Bureau of Justice Assistance in 1996.

As already mentioned, the state of Washington allocated 13 percent of its total expenditures to capital projects in 1996.

Labor Union Membership for the State of Washington in 1996

In 1996, the state of Washington ranked 7th in the country in labor union membership; 21.8 percent of the state's workers were covered by unions (review Graphic "Labor Union Membership\1, 1996"). This compared to the national percentage of U.S. workers covered by unions: 16.2 percent and the 5.0 percentage of South Carolina workers with union coverage.

In 2005, Washington was in the second-highest tier of states in terms of union membership rates and annual averages (15 percent – 19.9 percent)—again, compared to the national U.S. rate of 12.5 percent. In the same year, South Carolina reported the lowest union membership rate: 2.3 percent.

Popular Votes Cast by Political Party in Washington State, 1996 - 2005

Washington Republican presidential candidates carried the day in both 1980 and 1984, but by 1988, the pattern changed: Democratic candidates won the majority in the presidential elections of 1988, 1992 and 1996. Again, we may contrast with South Carolina's consistent Republican victories throughout the 1980s as well as the 1990s, and national voting patterns of Republican presidential victories in the 1980s, changing to Democratic presidential victories in 1992 and 1996.

In 1996, Washington's governor was Democrat Michael Lowry; however, the state's House and Senate were both Republican-controlled.

Washington PIE Ruling: Worst Case Scenario? Or Portent of the Future?

While some might see the Washington State court ruling that terminated the PIE program as cause for alarm, a more optimistic view is that the acceptance and growth of PIE may prove, ultimately, to be inevitable—due to the desperate need of many states to find innovative ways to fund their prison systems. Nevertheless, the debate and controversy engendered by the Washington case demonstrate the difficulties long associated with the PIE program. While the appeal to taxpayers appears to be obvious and irresistible, the perceived threat of inmates taking jobs away from “law-abiding citizens” is easily manipulated by opponents—especially, as in Washington, when those opponents may be politically well-connected. It is perhaps unfair to infer or inappropriate to imply that the membership of the Court was the well-planned, successful

result of a maneuver to destroy the state's PIE program; nevertheless, that is how it was perceived by some, both inside and outside the state.

A careful reading of the decision reveals that the Court was closely divided over whether legislation passed to stop the abuse of inmate labor in the late 1800s was applicable to the state's PIE initiative, a program designed to help both inmate workers and taxpayers—a program monitored by the federal Bureau of Justice Assistance as well as the state. What seems equally clear is that the resistance of the Washington State Water Jet Workers was a political force to be reckoned with.

At the national level, other prison industries leaders watched—but few expressed surprise, at least not at the 2005, 2006, and 2007 NCIA conferences attended by the writer. Instead, the news was met with disappointment and chagrin. While many states may not have state constitutional barriers to contend with, their correctional industries directors all know the difficulty of overcoming the obstacles and hurdles associated with implementing and maintaining the PIE program. To paraphrase Tony Ellis, they cannot afford to do too good a job.

Other Problematic Issues for Aspiring PIE State Administrators

Other issues include the inclination of many correctional directors—or even legislatures—of investing prison industries profits in other programs, rather than re-investing in prison industries. One director (as reported to the writer) had told a colleague in disgust—following his state legislature's takeover of prison industries profits (which were then invested in other, non-correctional state programs or entities)—that he was going to curtail his energy and efforts to expand the PIE program. Why should I

work myself to death, he asked, when we aren't even allowed to reinvest our profits in growth? While many prison industries directors appear to see the efficacy of reinvesting in corrections (if not industries), few are motivated by the drive to bankroll other, unrelated disbursements to the state.

One business executive told me that he often promotes the PIE program to other businessmen in other states. But he referred specifically to two states in the northeast, where he said that there was an “immediate wall” when the prospect of initiating the PIE program was suggested—the result, he was informed, of Mafia influences that would require a “slice” of any such endeavor.

Summary and Recapitulation

It is perhaps not surprising that South Carolina in 1996 was ranked 49th among the states in workers covered by unions, presumably making it less vulnerable to union objections and controversy. And perhaps it is also not surprising that Washington—the state where the PIE program was terminated—ranked 7th (see Chart, “Workers Covered by Union, Percent and Rank, and Right to Work, 1996” in Chapter Six).

At the beginning of the decade 1996 – 2005, the state of Texas, with by far the largest prison population (128,140) of the states reviewed, recorded the least individual inmate expenditures per year (\$12,215). South Carolina, with a population of 19,800, spent \$13,977 per inmate per year. Iowa, the smallest prison population (5,920) of our six reviewed states, spent \$24,286 per inmate. Tennessee, with a prison population of 15,245, recorded expenditures of \$22,904 per inmate, while the state of Washington (prison population of 11,669) spent the most per inmate (\$26,662) (see Chart, “1996

Correctional Population for Six States and Per Year/Per Day Individual Inmate Expenditures” in Chapter Six).

The structure and organization of the PIE programs of the six states we’ve examined in this study varied. At the beginning of the new millennium, South Carolina’s PIE initiative (like those of Iowa, Texas, and Washington³²) were components of each state’s DOC, while Florida’s and Tennessee’s initiatives were separate entities. Both South Carolina and Tennessee used the customer/manpower PIE models, while Iowa, Texas and Washington used the employer model. Florida used both the customer and employer models (see Chart, “PIE Organizational Structure and Model for Six States, 2004-5” in Chapter Six).

Because the five states examined in this chapter are disparate in many (if not most) respects, it is difficult if not impossible to generalize. However, the states (Florida, Iowa, Tennessee, Texas, and Washington) were selected partly because of their differences, and also because each provides a variation of the PIE model and the problems and issues typically associated with all PIE programs. In other words, although they are different in many ways, they confront most of the controversies and obstacles common to all PIE initiatives. South Carolina’s PIE program is no exception. Its distinction lies only in its longevity and constant growth over the decade 1996-2005.

³² Washington’s PIE program was terminated in mid-2004.

CHAPTER SIX

DISCUSSION, FINDINGS, AND CONCLUSIONS

This chapter presents a brief review of the original purpose of the study, the questions posed, and their answers. It summarizes the findings, and from them develops a conceptual model for use by those interested in future research. Implications and conclusions are presented.

Review of Original Purpose of Research

The purpose of this study was to determine how and why the enhanced prison industries (PIE) model prospered in South Carolina for the decade 1996 – 2005, while it struggled to survive in other states. Indeed, in at least one state, Washington, the PIE program was terminated altogether.

Legal, economic, and political factors have been reviewed, along with the leadership style of the director of prison industries for South Carolina. (As documented in the body of this study, the extraordinary evolution of South Carolina's PIE program occurred under the tenure of Tony Ellis.)

Research Questions and Issues

Several questions in the mind of the writer culminated in this paper. Why didn't the PIE model flourish across the country? Why weren't Congressional expectations fulfilled? What have been the impediments? Why is it that after more than a quarter of a

century, only a fraction (less than one percent) of U.S. inmates participate in the PIE program? What other kinds of prison industries programming do we provide in the U.S.?

In reviewing national PIECP data, I observed that a mid-sized southern state, South Carolina, had the largest PIE program in the country. Initially, I wondered whether this might be a one-time fluke, or exception, but a review of earlier data revealed that the state had ranked among the nation's top two or three largest PIE programs for more than a decade. That observation led to this study. My intention was to explore the implementation and development of South Carolina's PIE program in an effort to identify the factors that contributed to its growth and prosperity. I found, however, that while the program has been a consistent leader among the states for many years, the prison industries director must be diligent in monitoring economic influences, and constantly vigilant in piloting his agency around political landmines.

Additional objectives accrued in the course of this study. Analysis of the distinctions between the three types of prison industries seemed important. How did they compare? What were the advantages or disadvantages of each? Also central to my analysis was a resolution to the question of whether such industries have the potential to relieve the financial distresses engendered by budgetary shortfalls among the states. Which type of prison industries—traditional, service or PIE—has the most potential to contribute meaningfully to state correctional coffers?

Review of Framework and Methodology

A review of national data established that South Carolina's PIE program, in terms of size, was ranked at or near the top of all the states for the decade 1996-2005. A

graphic clarified the steadiness of the state's PIE program compared to other states. While there are several excellent PIE programs in the country, South Carolina has maintained its position as a leader for more than 10 years (still true in 2007). This study sought to account for that fact. While it is perhaps not surprising that establishment and implementation of the PIE program in any state may be difficult and subject to the rise and fall of political and economic influences, I sought to learn what this mid-size southern state's "secret of success" might be.

In the preliminary stages of the study, I observed that South Carolina—like other states—had three types of prison industries: traditional, service and PIE. Among the states that had PIE programs, many were comparatively small (e.g., Virginia, Vermont, Wyoming, and other states not included in this study). Preliminary exploration revealed that the PIE programs could not be taken for granted—often, they struggled to survive. I wondered whether South Carolina had encountered the same problems as other states, and if so, how the state had dealt with those problems.

This review noted the links between post-release employment and recidivism. While the association between inmate employment and reduced recidivism was questioned by some (Maguire et al, 1988; Flanagan, et al., 1989), the relationship was demonstrated by others (Saylor and Gaes, 1992, 1996). While Saylor and Gaes reported that the association was small but significant, Smith et al. (2006) found larger effects.

A brief review of the characteristics of effective treatment for offenders was reported in an effort to provide context for our evaluation of prison industries and its potential rehabilitative effects. Findings to demonstrate the costs and benefits of prison industries (Aos et al, 1999; MacKenzie and Hickman, 1998) were reported.

Discussion of the Study's Major Questions and Findings

Questions that needed to be answered were identified:

1. What were the prevailing models of prison industries at the beginning of the new millennium? What are the advantages and disadvantages of each? What are the economic and rehabilitative benefits and/or shortcomings of prison industries? What are the obstacles to improving extant prison industries?
2. How did it happen that South Carolina has the largest PIE program in the U.S.?

Research Questions and Discussion:

(1) Advantages and Disadvantages of Prison Industries Models

We have learned much about the advantages and disadvantages of the various types of prison industries. Advantages of traditional prison industries are associated with keeping inmates from being idle, and instilling the work ethic and a sense of productivity. Advantages associated with service industries include the same benefits as traditional industries but also provide opportunities for inmates to earn more money, along with the state, than is typical with traditional industries. Research has suggested that participation in some industries may be associated with reduced recidivism and increased post-release employment (Saylor and Gaes, 1992, 1996 MacKenzie et al., 1997).

Finally, we have learned that the PIE program provides many benefits to the inmate, to the state, and to taxpayers. Specifically, inmates who are paid prevailing wages are able to pay room and board to the state DOC; federal and state taxes; court-ordered (or voluntary) child support; and victim restitution. The state, together with the

private sector, is encouraged to make profit-making part of its goal. Inmates may link with the private sector to facilitate post-release employment.

Disadvantages to traditional prison industries include the poverty-level “wage” paid most inmates workers—barely enough to fund commissary purchases. Legal limitations abound; prison-made goods produced in traditional prison industries may not be sold in interstate commerce. Of the three categories of prison industries, the state profits least from the traditional model. Often, traditional correctional industries are ridiculed as “make-work” for inmates, due to a shortage of jobs. Inadequate or obsolete machinery may limit the ability of inmates to participate in jobs that may lead to future post-release employment (Maguire et al., 1988).

Although service industries allow the state to make more profit than traditional industries, they are still prohibited from making PIE-level profits. Also, advocates of service industries are sometimes criticized for not insisting that service industries be changed to PIE industries—a charge countered by service proponents as unrealistic—indeed, proponents maintain that most efforts to transform service industries into PIE industries would result in termination altogether of the service industries program, and movement of service jobs into third world countries.

We have also seen that the advantages which accrue to the state from the PIE program are frequently associated with political disadvantages (e.g., the struggle to demonstrate the rationale for changing state laws to facilitate PIE programming; difficulties associated with obtaining the approval of industry and union leaders; constant monitoring to ensure that the PIE industry does not encroach on the ability of ordinary citizens to remain gainfully employed, etc.). Other problems encountered by the PIE

program are operational; lockdowns, callouts, or inmate transfers may interrupt work. In addition, the list of BJA requirements can be tedious, yet must never be overlooked. Security issues and legal constraints also serve to complicate the PIE process.

Variations of the PIE Model

We have seen that there is more than one PIE model. The three most common models include the Manpower Model (where inmate workers are employed and supervised by the state, while private sector companies pay for inmate labor); the Customer Model (the DOC owns and operates the business, and is paid by the private sector company for products as part of a contractual agreement between the company and the correctional agency); and the Employer Model (the state supplies the space and qualified inmate workers who are hired and paid by the private sector company, which owns and operates the business).

The benefits of the PIE program, as we have seen, are considerable. From the perspective of the private sector, absenteeism is low, and the costs of prison-based work space are typically lower than community-based work space. From the perspective of prison staff, improvements in inmate morale and reductions in idleness facilitate management of prisoners.

Economic Benefits of PIE

In addition, a review of the economic benefits of the PIE program has demonstrated the considerable advantages to taxpayers, the state, victims, and inmate families alike. Petersik and his colleagues in 2003 published a study that sought to

identify primary beneficiaries of the PIE program. The study found that the single largest group of beneficiaries proved to be taxpayers.

Taken together, others, not the inmate, are the primary beneficiaries of contemporary PIE incomes. . . . The single largest non-inmate beneficiary group benefiting from PIE incomes includes State household and business taxpayers and all State programs benefiting from State income tax payments accounting for about one-third of PIE inmate incomes. About one third of PIE incomes reduce State taxpayer costs via the PIE room and board deduction.

This finding alone may offer a rationale to market the program more energetically than in the past. Ironically, however, the PIE program continues to be a virtual “rare exception” in correctional circles, although the pendulum appears poised to swing the other way.

The Petersik study called attention to the fact that (in spite of the positive implications of the findings), the aggregate statistics “reveal(ed) little of the potential [number of] PIE beneficiaries and benefits were U.S. State prison inmates fully employed year-round in skills and jobs yielding more typical U.S. annual incomes.”

Overall, however, the authors concluded that PIE inmate earnings contributed substantially to crime victims, taxpayers, families, social support programs—and inmates themselves.

Rehabilitative Implications of 2006 Prison Industries Post-Release Findings

A report released by Smith and her colleagues in 2006 compared post-release recidivism and employment among a sample of PIE participants, traditional industry (TI)

participants, and inmates engaged in “other than work” (OTW). Major U.S. geographic regions were included, as well as each of the three PIE models. The PIE programs had all been certified prior to 1996.

PIE participants were found to be significantly more successful in obtaining post-release employment. They also obtained employment significantly faster than the TI or OTW control groups. (TI participants obtained employment faster than OTW participants.) PIE workers also earned significantly more than OTW releasees and were employed significantly more post-release quarters than TI and OTW releasees.

Additionally, PIE participants remained crime-free significantly longer than TI and OTW releasees. (TI participants were not significantly different from OTW releasees in remaining crime-free.)

Like Petersik and his colleagues, Smith and her colleagues called attention to the fact that both federal and state coffers benefited from room and board and taxes paid by PIE workers. Smith concluded that private sector partnerships and the PIE program should be expanded and carefully monitored.

Obstacles to Progress

Nevertheless, as 2006 drew to its close, the PIE Certification Program was confronting problems at the national level. Funding changes at the Bureau of Justice Assistance resulted in reduced funding for the National Correctional Industries Association, thus threatening the work of the National PIECP Coordinator as well as the stability and life of the initiative. However, the combined efforts of key PIE leaders

(including the prison industries directors of both Iowa and South Carolina) and NCIA's executive director appeared to have gathered momentum enough to rescue the program.

In spite of the political mileage that might be expected from a program that virtually pays for itself, and provides benefits to the state, taxpayers, victims and families alike, the struggle to maintain the initiative continued into 2007—not only at the level of individual states, but at the national level as well.

Related Issues

In an era when politicians continue to link the problem of crime to successful campaign strategies, this observer has long wondered why more attention is not paid to programs that have been shown to effectively reduce crime and the costs associated with it. At the time of this writing, an on-going television ad was running regularly in one southern state that promised voters that the candidate—if elected—would sponsor a “constitutional amendment” to ensure that violent criminals served longer sentences (quote from Georgia gubernatorial campaign). Inflammatory rhetoric is often chosen over scientific evidence that certain programs are associated with reducing crime, and the public may be subjected to a barrage of carefully worded oratory designed to instill fear and uncertainty in the hearts and minds of those not well-acquainted with state laws (e.g., “state inmates are serving only a portion of their sentences” when in fact, the amount of time served by inmates is governed by carefully-crafted laws). A pledge is made by the candidate to abolish parole for all violent offenders, regardless of the fact that many crimes of violence may not merit a life sentence—and no mention is made of the costs to the state and taxpayers of life sentences for all such offenders.

“Taxpayers” have complained for years about the cost of maintaining prisoners and prisons. One of the rationales for the death penalty given by many proponents is that “we [taxpayers] shouldn’t have to pay for their upkeep.” Yet few people are knowledgeable about the PIE program and the benefits associated with it, including its potential to reduce the costs of both crime and prison management.

The same candidate who runs on a platform of promises to “throw away the key” often exhibits little interest in learning about the evidence available to support a pledge to ensure that effective programs (to reduce repeat crime or drug use or unemployment) are expanded and replicated.

The media contribute to this conundrum by describing the horrific crime committed by a single parolee, rather than calling attention to the crime-free lifestyle of the majority of parolees. While this may be understandable to journalists, the fact remains that the public is provided with a distorted view of reality.

The regularity with which the “crime problem” is incorporated into campaign rhetoric offers a prime example of why a state correctional board of directors may be superior to gubernatorial appointment of correctional agency heads. The SCDC board of directors that functioned during the 1970s-1980s allowed the state a period of unremitting stability in its correctional system. Bill Leeke, the longest-serving correctional commissioner in history, was able to focus on improving and strengthening the Department of Corrections through several gubernatorial administrations, Republican and Democratic alike. It should be noted, too, that the extraordinary length of his term facilitated opportunity for him to work more closely with the state’s U.S. Senator Strom Thurmond (one of the early sponsors of the 1979 Justice System Improvement Act).

Leeke's successor, Parker Evatt, was not so fortunate. He may have enjoyed being "promoted" to cabinet-level status, but that status was short-lived; the next governor, appointed his successor. As already mentioned previously, Bill Leeke served as SCDC Director for 19 years, reporting to a bipartisan board of directors, while his (several) successors over the following 19 years served under several governors and several ever-evolving and contrasting political landscapes. The important issue here is the fact that historically and traditionally, correctional progress is often hindered by political influences. This is not startling news; virtually any high-ranking corrections official will admit the political perils and difficulties associated with his or her office.

In the mid-seventies, the writer worked briefly in the office of the newly-elected governor of Tennessee. The experience was memorable, as it provided a glimpse of the inner workings of the inner sanctum of the state seat of power in its infancy. The activities of each day could be described as ranging from "hectic" to "chaotic"—not because of ineptitude, but because of inexperience. The new governor and his aides were consumed with a drive to replace as many state employees as possible with new ones of the governor's choice. This included correctional positions as well. I (with no relevant experience) was named extradition officer for the state. Subsequently, when the term of a member of the state board of pardons and paroles expired, I was asked whether I would like to seek the appointment. Surprised (to say the least) and unprepared for the question, I asked what was wrong with re-appointing the out-going member? After all, I noted, she had experience already and seemed to have done a fine job. I was assured that it didn't matter—if I wasn't interested in the position, they would appoint someone else—but not the experienced board member.

The point of this anecdote is to provide context to a rationale for why corrections should not be subjected to political whims and caprice. Shouldn't certain positions (e.g., correctional directors, parole board members, prison industries directors) be insulated from politics? But partly because they're not protected from political influences, the field of corrections pays a heavy price, and sometimes jeopardizes public safety, as well.

This is particularly true for prison industries. While on its face the PIE program appears to be a win-win for all concerned, the political maneuvering required can be difficult. Our review of the South Carolina PIE program has driven home this point. When the day comes that Tony Ellis retires³³, there are no guarantees that he will be replaced with a knowledgeable, experienced candidate. This holds true as well for appointment to most states' correctional directorships (not only S.C.). And if a newly appointed corrections commissioner is not knowledgeable or interested in prison industries, it will be the task of the director of prison industries to attempt to promote the strengths of the PIE program—and that can happen only if the prison industries director has the necessary skills, and takes the initiative.

When we observe the experiences of Tony Ellis and other prison directors in recent years, we see how daunting the challenges can be.

Other Issues

To further complicate these kinds of issues, those who manage even the most successful and effective programs are often reluctant to participate in research and evaluation. The writer, a consultant to correctional treatment programs in the past, often found that data collection in many programs was handled sloppily or ignored altogether.

³³ Tony Ellis retired as South Carolina's prison industries director in March 2008.

In fact, treatment clinicians were not often trained in—or interested in—data collection (just as parole officers are often unwilling or unable to be both “cop” and “counselor”). Often, too, clinicians are threatened by the prospect of evaluations (much as “taxpayers” may be threatened by an IRS audit).

For the state administrators of PIE programs, this observer initially saw only a “win-win” situation. The state stood to benefit—from taxes paid by the offender. The correctional department stood to benefit—from room and board paid, and from having a program that virtually paid for itself. The community stood to benefit—from reductions in post-release crimes committed and from increased employment of released offenders who might otherwise require law enforcement services (e.g., rearrest). Victims stood to benefit—from receipt of restitution, and a concomitant sense of reassurance that the criminal has literally paid for his offense. The children and families of inmates stood to benefit—from receipt of monetary and eventually even physical support provided by their erstwhile imprisoned family member. The inmate himself stood to benefit—from being trained in a “real” (prison-based) working environment to prepare for post-release employment—and from having proved to himself and others that he could (and had) developed a track record of responsibility and achievement.

No Good Deed Shall Go Unpunished

The writer, however, eventually came to see that many PIE administrators face a constant array of challenges—not only internally (e.g., programmatic challenges, as might reasonably be expected)—but externally. The programmatic challenges are only the beginning. When the governorship changes, a new correctional commissioner can be

expected—and thus a renewed effort by the prison industries director to justify, promote and maintain the PIE program will likely be required. Calls from legislators’ constituents can lead to months of friction, necessitating renewed efforts to justify the program once more to both the legislature and even the media. A politically-inspired, well-publicized audit can be time-consuming and destructive—even if there’s little merit to allegations.

The “positives” seem frequently to be out-weighted by the “negatives.” For even the most capable and committed PIE program director—one who successfully implements a profitable, successful PIE program—may receive little in the way of encouragement or compensation for his or her efforts. The private sector executive who brings in profits to his or her agency, is often rewarded with bonuses, pay raises, and promotions. At a minimum, typically, s/he can use the profits to strengthen and enhance his or her organization, which may lead to even more bonuses, pay raises, and promotions.

In contrast, however, the public sector PIE administrator may not be allowed to use PIE profits to further enhance or strengthen the program—instead, profits may be used by the correctional director for other prison programs. While this is often appropriate, perhaps, the PIE administrator (in some cases) may not receive even a small percentage of the profits s/he brings in to strengthen or enhance his or her program. Thus the PIE director—instead of being rewarded—may be frustrated. Is it any wonder that at least one PIE director confided that he was no longer going to toil to expand his successful PIE program, since the program failed to benefit from his efforts?

Research Question and Discussion:

(2) The Importance of the South Carolina PIE Program

If replication of successful programming is to take place, we have ample cause to focus on SCDC prison industries. The most recent research demonstrates the efficacy of the PIE program, and South Carolina has the largest PIE program in the country. As we have seen, the program has ranked at or near the top for more than a decade.

The primary findings of the report by Smith and her colleagues are best summarized in their own words:

The primary findings of this research are that the state prison inmates who worked in open-market jobs in the PIECP were found to be significantly more successful in post-release employment and in reducing recidivism than either inmates working in TI or involved in OTW. . . . findings for the PIECP releasees stood alone. . . . PIECP releasees were employed significantly more quickly after release . . . and remained employed significantly longer . . . PIECP participants recidivated significantly more slowly and less frequently . . .

Long before the Smith research was completed, Ellis had told me that South Carolina was one of the states being studied. He revealed a guarded optimism about the outcome of the report, but felt strongly that it was long overdue. From his point of view, the study had the potential to add to his arsenal of effective munitions, or reasons to support the growth of PIE in the State of South Carolina. In fact, the study should strengthen the argument for bringing the PIE program to most states.

But—again, as we have seen—the political hurdles are considerable. Although apprehensions related to the economic feasibility of the program appear to be waning, political factors appear to be the biggest challenge. Ultimately, of course, requisite statutory changes in many states cannot be passed without successful behind-the-scenes lobbying efforts. Lawmakers are politicians first, and constituent opposition to any program frequently overcomes reason. While Ellis may have peers of comparable ability (e.g., Baysden of Iowa or Crawford of Kansas), the political hazards of elections offer little hope for the longer terms and stability that are likely to facilitate effective program-building. In 2007, Ellis' 20-year tenure was as extraordinary as it was rare.

But the lessons provided by our survey of prison industries in South Carolina has shed light on a program (PIE) that continues to be virtually unknown, in spite of its extraordinary potential to remedy many correctional ills. While California, Texas and Florida are examples of large prison systems with PIE programming, Iowa, Kansas, Minnesota and Nevada are examples of smaller prison systems with successful PIE programs. (In 2005, South Carolina had the largest PIE program (1,301 participants), followed by Kansas (682) and Texas (466).)

The Growth of PIE

In spite of the challenges recorded in this study, the writer has concluded that a new era in U.S. prison industries has begun and is on-going: the Era of the Growth of PIE. Evidence of the PIE Era is substantiated by the growth of the program during the decade beginning in the mid-90s and continuing into the new millennium, and the currently prominent PIE track which has been on-going at the NCIA conferences of 2005,

2006,t and 2007. The fate of the PIE initiative in the state of Washington notwithstanding, the prison industries' directors in other states apparently view it as a cautionary tale, but not as cause for capitulation. To the contrary, at the 2007 NCIA conference, Tony Ellis' three-day track presentation on PIE certification was heavily-attended. Presenters were peppered with questions, and experienced attendees were generous in sharing their advice and experience. Today, PIE statutes exist in most states.

The 1999 Symposium on Economics of Inmate Labor Force Participation (Appendix A) produced a consensus among leading economists that inmate labor force participation would be good for the economy, and that such participation would be likely to reduce recidivism. The Symposium's findings provided fertile soil for the growth of the PIE program.

To reiterate: Petersik et al.'s research identified the beneficiaries of PIE inmate incomes, and found that

Virtually every American belongs to a group that benefits from PIE inmate work . . . (including) crime victims, State and Federal household and business taxpayers, all persons or businesses paying for Social Security and Medicare, and all persons and programs dependent upon State and Federal income tax funding or the social safety net (Social Security, Medicare, Workers Compensation, Unemployment compensation), including elementary, secondary, and college education , welfare, a wide range of State and Federal programs supporting medical and retirement services, and other goods and services.

And again: Smith et al.'s research showed that participants in PIE programs in five states were “significantly more successful in post-release employment,” and remained crime-free significantly longer than inmates who participated in traditional industries or inmates who participated in programs “other than work”.

These findings constitute significant evidence that the time is right for the continued growth of PIE in the United States.

Challenges Ahead

When we combine the Smith findings with the economic findings of Petersik and his colleagues, the implications are strengthened. The PIE program appears to have the extraordinary potential—not just to reduce recidivism and increase post-release employment, but to provide benefits to key stakeholders, including departments of correction, the state, taxpayers, victims and inmate families. The rationale for increasing PIE research is ample and compelling, although there continue to be challenges.

As Saylor and his colleagues point out in their 2004 volume (*Measuring Prison Performance: Government Privatization and Accountability*), and as we have already observed previously, there are many inherent difficulties attached to measuring prison program performance. Not only is it difficult to compare programs, but inmate-matching has its own attendant difficulties. In the Smith research, attention is called to the fact that many of the PIE participants may also have worked in traditional industries, or participated in other kinds of related (and unrelated) programming (e.g., vocational training, etc.).

MacKenzie and her colleagues (1998) also call attention to the challenges of determining program effectiveness when study participants may have benefited from other services like educational and vocational training, producing what they call “additive effects.” The same additive effects may be associated with other kinds of programming (e.g., drug treatment).

But the writer is reluctant to constrain PIE workers from participation in other services. Admittedly, as MacKenzie and others maintain, random assignment and analysis of comparable program and comparison groups is the “gold standard.” However, practically speaking, practitioners and policymakers may be more receptive to what might be called the “*gold-plated*” standard: Comparison between a program group and one or more control groups, controlling for other factors; or what MacKenzie calls “a nonequivalent comparison group that is only slightly different from the program group.”

The “gold-plated” method has the advantage of already being possible with many existing programs. (Smith et al. and others have used it, though not without problems.) This writer’s willingness to accept the “gold-plated” method of analysis is a result of an admitted bias toward providing inmates with as many rehabilitative services as possible. Also, from practical and policy perspectives, any potential for expediting rehabilitation and reducing recidivism is more desirable than delay.

Medical randomized research is often cited by criminologists as an ideal to strive for, and appropriately so. However, to carry the analysis/analogy further, once the benefits of a medication or treatment have been scientifically demonstrated, it becomes medically unethical to withhold the effective treatment from trial participants. Should correctional treatment known to be effective be any different? Should it be withheld?

Withholding effective treatment from offenders penalizes not only them, but the communities they return to, and Society at large.

In South Carolina and other states, PIE workers are required to obtain their GED to be eligible for participation in the program. Likewise, PIE participants are often selected from traditional and service industries. The requirement that PIE workers be disciplinary-free is unlikely to be rescinded. Researchers for years have worried about such issues, and whether they lead to what Smith calls “creaming” of program participants. Nevertheless, it seems desirable from a rehabilitative (clinical) perspective, to provide as many inmates as possible with something to work toward—much as most employees strive for a “raise” or a promotion. After all, incentives are considered to be important elements in most correctional treatment programs.

Also, contemporary statistical methods and meta-analytic techniques offer potential to factor in such considerations. Knight et al., Martin et al., and Wexler et al. demonstrated in 1999 that prison-based drug treatment completers who received aftercare (including assistance in finding employment) did better than completers who did not receive such assistance. Their research is a natural springboard for the researcher who wishes to explore the post-release success of PIE participants who have participated in other kinds of programming, including vocational education and training and/or drug treatment, as well.

Progress in the criminal justice system can be expedited if practitioners and researchers find mutually acceptable ways to collaborate, and when necessary, search for a middle ground—one that is as close to the gold standard as possible—but that can be

implemented sooner rather than later. The advantage to this strategy is that it has the potential to be implemented “here and now.”

Thinking Outside the Box

Many therapeutic communities are composed of “phases”—which require clients to start at the “bottom,” so to speak, and work (earn) their way up, with completion of the final phase culminating in a “graduation” of sorts.

Ellis maintains that for the time-being, it is advantageous to him (and the DOC and, presumably, the state) to have available all three prison industries models: traditional, service and PIE.³⁴

Is it possible that prison work could be designed in a kind of continuum of phases? Perhaps inmates could start their work careers in institutional maintenance, then traditional prison industries, with service industries and—the ultimate prize—the PIE program being a goal. Inmates who do not perform well, or who receive disciplinary write-ups, obviously would not advance, while attrition (e.g., via releases or transfers) might help to alleviate the potential bottleneck that could be anticipated by too many inmates seeking too few jobs.

While we may be a long way from being able to implement a process like this in most states, it appears that SCDC may have unofficially and informally (and perhaps even unintentionally) embarked on a comparable path for prison industries workers. The inmates and correctional officers and those in management that I spoke with in that state made it clear that inmates were aware of the importance of working hard and remaining

³⁴ When asked his opinion of this, economist Petersik nodded approvingly, and said, “yes—a free market!”

disciplinary-free—this appeared to be part of their motivation to work hard, whether in traditional or service prison industries.

Principles of Effective Treatment

When Tom Petersik looked at inmate account data (of PIE participants), he found that PIE inmates still did not exercise “normal” financial responsibility. In short, PIE workers remained outsiders when it came to ordinary economic participation. What, if anything, can be done to affect this phenomenon?

A review of the characteristics of effective treatment for offenders at the beginning of this paper found that a successful treatment program seeks to address dynamic criminogenic client characteristics. Effective treatment programs often emphasize social learning principles; such programs often include training and role-modeling. However, in one area of the PIE program, it may be said that inmates are constrained from active emulation of the exercise of “normal” economic responsibilities, or tasks. For example, instead of “paying their bills”—a task exercised by virtually all working Americans—PIE inmates instead have “deductions” taken from their wages. Although they earn the wages from which deductions are made, they are involved only passively in paying their own “bills.”

Perhaps a process could be considered to require more active involvement by PIE workers in the payment of their “bills.” Specifically, the writer suggests implementation of a pilot project within the PIE program, wherein PIE inmates might maintain a ledger of their “expenses” (now called deductions); they might also write checks (that require the co-signing of a prison administrator) to pay their “bills”—thus transforming what is now

a passive process (the inmate has deductions taken from his earnings) to an active one, requiring his involvement—and, by the way, the practice of a process by which millions of ordinary Americans manage their affairs. The simple act of maintaining a ledger could be a therapeutic step in the right direction—the future—even without managing a checking account.

Little has been said thus far about the reality that countless numbers of inmates lack even basic knowledge or experience in managing mundane tasks like bank accounts and paying bills. Why not explore the possibility of building such tasks and experiences into the PIE program?

Implications and Conclusions

At the beginning of this study, several questions were posed:

- What were the prevailing models of prison industries at the beginning of the new millennium? What are the economic and rehabilitative benefits and/or shortcomings of prison industries? What are the barriers to improving extant prison industries? Do PIE inmates have improved recidivism rates compared to participants of traditional prison industries programs?
- One mid-sized state, South Carolina, has the largest PIE program in the country. How did this happen?

We have answered the question of which were the prevailing models of prison industries at the turn of the century—traditional, service and PIE—and we have reviewed examples of each as implemented in South Carolina.

We learned from our review of SCDC’s prison industries that the PIE program is the most profitable, followed by service industries, and then traditional industries. We learned from Smith’s 2006 study that the PIE program, when compared to traditional prison industries, was significantly more likely to be associated with post-prison reductions in recidivism than traditional industries.

We learned that the barriers to improving prison industries are manifold, particularly when it comes to the PIE program. The requirements imposed by the Bureau of Justice Assistance are onerous, and complicated. The ingenuity needed to get all the key agencies “on the same page” would be challenging to even the most savvy and dexterous of politicians—and the role of the prison industries director is fraught with peril in this endeavor.

Our review of some of South Carolina’s peer states suggests that “right to work” states are more hospitable to the PIE program than “free-bargaining” states. Collaterally, it suggests that a pro-union environment may be less likely to provide fertile soil for implementation of the PIE program. But while this may be generally true, there are exceptions. The state of Minnesota, for example, has maintained its PIE program from the virtual beginning (of PIE certification), yet it ranked 9th in the nation in percent of workers covered by unions in 1996—and it was not a right-to-work state. Washington, too, ranked 7th in percent of workers covered by unions the same year—and it was not a

right to work state—yet it was home for years to the third largest PIE program in the country.

Iowa, also a state with strong union presence, has had notable success in working cooperatively with union leaders.

In contrast, in 2006 South Carolina was a right-to-work state with the smallest union presence in the country. But these factors alone fail to provide a complete explanation for South Carolina’s longstanding record of successful implementation of the PIE program.

We have reviewed other potential explanations, including state per-inmate expenditures and state per capita income. Again, while these factors appear to be relevant, the state of South Carolina and its prison industries director have overcome numerous obstacles—not the least of which was a well-publicized, excoriating legislative audit.

Other factors we have reviewed include Tony Ellis’s long tenure as SCDC’s Director of Prison Industries. As of this writing (2007), Ellis had entered his 20th year as prison industries director, a feat not often matched. He has served during the terms of several governors, both Republican and Democrat. And although his position was originally civil service with all the protections that implied, that changed in 2006, when his position was changed to serve “at the pleasure of the governor”, and thus became more vulnerable to political influences.

So why is it that Ellis has not only survived, but succeeded in establishing the largest PIE program in the country? The work of Sanford Borins provides food for thought.

Public Sector Innovation

In a 2001 report authored by Sanford Borins, “The Challenge of Innovating in Government,” five characteristics associated with successful, innovative public sector organizations were outlined (as mentioned in Chapter One of this paper):

The use of a systems approach

The use of new technology

Process improvement

The involvement of organizations or individuals outside the public sector to achieve public purposes

The empowerment of communities, citizens, or staff.

Tony Ellis, as steward of SCDC prison industries, has developed and cultivated virtually every one of these characteristics in the state’s correctional industries program—particularly in the PIE program.

Ellis’s Systems Approach

Borins, in a table developed to summarize the number of times he found the five characteristics of innovation used by sample respondents, described what he called a “total systems approach” thus:

Total systems approach = uses a systems analysis of a problem or coordinates organizations or provides multiple services to clients.

When Tony Ellis first arrived at SCDC to discuss prison industries in the state with the SCDC Deputy Commissioner of Administration, Hugh Clements, he was asked to evaluate and analyze the system of prison industries as it was practiced at that time (1987). Ellis complied, and spent considerable time reviewing the state's prison industries programs. He made recommendations which he was subsequently invited to implement as the state's new prison industries director. Thereafter, we know, he developed the PIE program from its infancy, along with traditional industries. He identified the problems of the state's traditional prison industries, and addressed them one by one with his staff. As both he and a high-level assistant subsequently reported, he was forced to "borrow" money to keep existing industries going. He found that, as he put it, "the left hand didn't know what the right hand was doing." Although there was a superfluity of office furniture, for example, the industries' inmates were continuing to produce even more furniture—which was "piling up," unsold and unused. Ellis rectified these and other problems.

Meanwhile, he began to search for ways to implement the new PIE model. He conducted a search of prospective businesses, and wrote letters to CEOs. One by one, he began to sell the PIE concept to them. Simultaneously, he began the laborious process of fulfilling BJA/PIE requirements: contacting other South Carolina agency heads whose cooperation was essential; calling and meeting with state legislators to explain the program; coordinating with the SCDC Director and/or Deputy Director; contacting union leaders, etc.

At the same time, and at all times, he monitored the state's traditional industries to ensure their prosperity, and implemented service industries in several prisons. These

activities called for sure-footed coordination of multiple organizations as well as multiple services.

By turning to the private sector to establish both the PIE program and service initiatives, he was able to take advantage of the private sector's more advanced technologies, and faster and more efficient processes. And, to the extent that SCDC prison industries were involved with the private sector, new management philosophies were ensured and facilitated.

Borins' third characteristic of successful and innovative programs he calls "process improvement." This refers to innovative procedures developed to facilitate governmental processes. Governmental bureaucracies, traditionally, do not often encourage innovation, and the criminal justice system is, some might say (e.g., Barbara Auerbach), more inflexible than others. The correctional environment, in particular, is by nature controlling in the literal sense of the word. Openness to new methods and ways of doing things are not words frequently used to describe the prison milieu. Nevertheless, Ellis has consistently attempted to facilitate prison industries' processes across a wide range of initiatives and systems. He searches for ways to accommodate the needs of private sector businesses, while simultaneously maintaining security. In so doing, he has won the respect of the private sector, prison industries staff, and workers alike.

Borins' fourth characteristic of successful and innovative programs he describes as "the involvement of organizations or individuals outside the public sector to achieve public purposes." Again, the very existence of the public/private sector PIE initiatives in South Carolina (and service industries as well) is proof-positive of Ellis's accomplishments in this regard. Borins' described specific examples of "initiatives

opening up some public sector activities . . . to private sector competition; partnerships entailing private sector delivery . . . the use of voluntary or non-governmental organizations for program delivery . . . “ (He could easily have been writing about the South Carolina PIE program.)

Finally, Borins’ fifth characteristic of successful, innovative programs is “the empowerment of communities, citizens, or staff.” To the extent that reduced recidivism (associated with post-release PIE participants) empowers communities, it empowers the individuals within it, the citizens. And although Ellis himself did not describe his approach to empowering staff, a close working colleague did. Unlike many administrators, he said, Ellis shared information freely. For this reason, he predicted, if and when Ellis retires, the prison industries program is likely to survive.* Unfortunately, the individual who said this has since retired himself, and the writer does not feel as optimistic about the future of SCDC industries without Ellis.

Marketing of the PIE Program

Perhaps the most difficult challenge has been the marketing and dissemination of the success stories that the PIE program has generated. While it is clear that Ellis has overcome hurdles in implementing new ideas and strengthening the state’s prison industries, it is also clear that—as he himself acknowledges—the program is not given the credit that many might say is due; if ever there was a “prophet without honor” in his own locale, that prophet appears to be Tony Ellis.

Borins, however, points out that the instigation of major awards to innovative public sector organizations by several non-governmental agencies may bring about needed change. Such awards, he says, share two key objectives:

*countering media criticism of and political hostility to the public service and encouraging the development and dissemination of innovations within the public sector. The best known award in the United States is the Ford Foundation's Innovations in American Government program, administered by Harvard University's Kennedy School of Government (Ford-KSG awards)*³⁵

Borins has analyzed the reasons for the differences in attitudes toward innovation and creativity in the private sector, compared to the public sector. For one thing, he points out, the private sector often benefits from venture capital—funding designed to encourage and protect so-called intellectual property rights in the development of copyrights and patents intended to facilitate profit for the organization and/or its innovators.

Contrast this with the traditional situation in the public sector. Innovations developed by public servants in the employ of government are generally government property. Public sector organizations are funded by legislative appropriations; there are no venture capitalists to seed public management innovations. There is no shared ownership in the public sector, and public servants are paid fixed salaries, with bonuses that, at best, are minuscule

³⁵ Borins utilized data from the Ford-KSG awards in his statistical survey, along with data from an awards program in the U.K., CAPAM.

in comparison to those in the private sector. In other words, the rewards for successful innovations in the public sector are meager.

On the other hand, the consequences of unsuccessful innovation are grave. The media and opposition parties are always eager to expose public sector failures and pillory the public servants involved, with potentially disastrous effects on their careers. . . . the public sector (is) a far less fertile ground for innovation than the private.

Alan Altshuler offered similar observations in 1997:

The predominant view of innovation in government has been one of suspicion. . . . (M)ajor obstacles to innovation . . . are deeply ingrained in the structure and practice of American government. Four, especially stand out:

First . . . (government agencies) . . . seldom experience an urgent need to abandon familiar routines.

Second, a paramount dread of government officials is newsworthy failure. Old programs may be inadequate, but their familiarity insulates them from much media attention. . . .

Third, the public sector lacks a common measure of success, such as profitability in the business world. As a result, very few departures from current practice—regardless of how effective they may prove in relation to their target objectives—escape controversy.

Fourth, Americans tend to be deeply ambivalent about encouraging non-elected bureaucrats to exercise discretion. . . . (The) most common expression in

the practice of public administration is routinization—insistence on compliance with vast numbers of rules and regulations designed to address every imaginable situation in which discretion might be exercised. Routinization, of course, is anathema to innovation.

In the private sector, by contrast, it is an article of faith that what is excellent today will be inadequate tomorrow.

As Borins and Altshuler seem to suggest, ultimately the phrase “public sector innovation” is a virtual non sequitur. General public sector innovation characteristics and concepts—observed, recorded and described by Borins and others—appear to predict the resistance that Ellis has so frequently encountered.

Then how, one may ask, do we account for the success of SCDC prison industries, particularly the PIE program? By virtue of his efforts to develop a successful PIE initiative, Ellis has shown himself to be an “innovation champion” (Howell et al., 2005). An innovation champion is that person in authority who has a macro-view of both his role and his organization; a broad understanding of strategic issues necessary to implement the innovation; the ability to obtain the involvement and commitment of stakeholders; and who is not intimidated by new ideas or challenges. “Champion” was the word used by a leading prison industries economist/researcher to describe Tony Ellis. (Recall that when I asked this individual why he thought the South Carolina PIE program was successful, he replied: “. . . The PIE model is probably successful in [South] Carolina because (1) it has an effective champion, (2) it has an effective champion and (3) it has a well designed aggressive entrepreneurial plan.”)

Borins defines innovation as the adoption of an idea by an organization. Clearly, the organization administrator must support and facilitate the idea. Borins maintains that innovation depends on the ability to see things differently. Again, it seems clear that the administrator must have that ability.

Developing A Conceptual Model

Having reviewed a host of issues and factors known to be associated with enhanced prison industries, we find ourselves asking whether a conceptual model can be developed and described to predict a successful PIE initiative. Our review suggests that the PIE program is more likely to be found in right to work states where, conversely, unions are not a powerful presence. A cursory review of the six states covered in this study reveals that in 2005 two of the three³⁶ largest PIE programs in the country could be found in the southern states of South Carolina and Texas. Indeed, in 1996, the beginning of the decade examined in this study, South Carolina ranked 49th and Texas ranked 46th, nationally, in percentage of workers (5.0 percent and 8.0 percent, respectively) covered by unions. (See chart below.)

Workers in Six States Covered by Union, Percent and Rank, and Right to Work, 1996			
	Percent	Rank	Right to work (yes or no)
Florida	9.9	41	Y
Iowa	15.7	24	Y
South Carolina	5.0	49	Y
Tennessee	11.1	34	Y

³⁶ Kansas was also in the top three.

Texas	8.0	46	Y
Washington	21.8	7	N
U.S. Average	16.2		
Sources: U.S. Bureau of the Census, State and Metropolitan Area Data Book 1997-98, table A-22; BNA Union Data Book, 2001 edition.			

PIE Organizational Structure and Model for Six States, 2004-5*		
State	Structure	PIE Model
Florida	extra-DOC	Employer and Customer
Iowa	intra-DOC	Employer
South Carolina	intra-DOC	Customer/Manpower
Tennessee	extra-DOC	Customer/Manpower
Texas	intra-DOC	Employer
Washington	intra-DOC	Employer
Note: Washington's PIE program was terminated in mid-2004.		

Organizational Structures of PIE Initiatives

In our search for a conceptual model of PIE likely to be associated with success, we must consider organizational structure. A brief review of our six states reveals two types that can be described as extra-DOC or intra-DOC. Extra-DOC refers to the fact that a few states' prison industries—Florida and Tennessee among them—are managed by agencies outside the state departments of correction. Intra-DOC, of course, refers to the fact that the PIE programs are managed within and by the department of corrections itself. Four of our states, including Iowa, South Carolina, Texas and Washington, are part of the state departments of correction. The observer might conclude that the DOC-based programs appear to be more likely to flourish, but there are so few extra-DOC

models that it's difficult to state this unequivocally. (The majority of prison industries, including enhanced prison industries, are intra-DOC.)

Length of Tenure of Prison Industries Directors

The writer would expect the success of a PIE program to be strongly linked to the length of tenure of its director. In the six states examined in this study, NCIA records revealed the length of prison industries experience for each state's prison industries director:

PIE Directors' Experience for Six States	
State	PIE Director's Experience in Years
Florida	10 years
Iowa	9 years
South Carolina	17 years
Tennessee	9 years
Texas	15 years
Washington	10 years
Source: National Correctional Industries Association 2005 Directory	

The Kansas prison industries director had 11 years experience at the same time, thus strengthening the writer's expectation, since again, the three largest PIE programs (S.C., Texas and Kansas) also had the most experienced prison industries directors among the states reviewed. Next in line were Washington, where the PIE program was abolished in 2004, and Florida, an extra-DOC structure organization.

However, the writer is obliged to call attention to the fact that the most experienced prison industries directors in 2005 were often at the helms of prison industries with no PIE programs at all: e.g., Alabama's PI director had 20 years' experience; Arizona's PI director had 36 years' experience; Arkansas' PI director had 22

years' experience; Kentucky's PI director had 26 years' experience; New Jersey's PI director had 24 years' experience; New York's PI director had 28 years' experience; West Virginia's PI director had 24 years' experience.

Nevada's PI director, Howard Skolnick and the state's PIE program, are both well-regarded in PIE circles; in 2005, Skolnick had 26 years' experience in prison industries, and 236 PIE workers.

So do the above data disprove the writer's thesis that PIE programs with PI directors of substantial prison experience are likely to be more successful than those with less experience? I conclude that the factors involved in the development and growth of any PIE program are inter-related in complex ways, and difficult to separate. Multiple regression or other statistical techniques may be useful for analysis of specific predictors or antecedents of the PIE initiative, but much more research and study is needed.

Correctional Population and Expenditures per Inmate

Additional factors we might expect to relate to PIE success (or failure) might be correctional population and/or inmate expenditures. The chart below suggests that, for our six states at least, only Expenditures per Inmate appeared to be associated with PIE success. Specifically, South Carolina and Texas, two of the three largest programs in 2005, paid only \$13,977 and \$12,215 per year in individual inmate expenses, respectively. This translated into only \$38.29 per day for South Carolina, and \$33.47 per day for Texas.

Quantitative analysis can be expected to yield much more specific and informative data.

1996 Correctional Population for Six States and Per Year/Per Day Individual Inmate Expenditures			
State	Correctional population	Expenditures	
		Per year	Per day
Florida	63,521	\$17,327	\$47.47
Iowa	5,920	24,286	66.54
South Carolina	19,800	13,977	38.29
Tennessee	15,245	22,904	62.75
Texas	128,140	12,215	33.47
Washington	11,669	26,662	73.05
U.S. Average	--	20,142	55.18

Source: State Prison Expenditures, 1996: Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs.

Conceptual PIE Model

As stated at the beginning of this paper, my study was meant to be exploratory, a preliminary effort to identify which economic, political or legal factors (variables) might be important, and how they might relate to one another. I believe I have met my goal, and laid the groundwork for future research.

I am willing to present a conceptual model, and leave it to others to add to it or tear it apart. Based on my study, my conceptual model of a successful PIE program suggests that a PIE program will more likely succeed if:

1. It is spearheaded by an innovative and politically astute Director of Prison Industries.
2. The Director of Prison Industries has substantial years of prison industries experience.
3. It has a supportive Commissioner of Corrections.

4. It has at least one committed and knowledgeable legislator to negotiate and facilitate necessary legislative changes.
5. The state has a right-to-work environment.
6. The state has a commitment from union and business leaders to support the initiative, or to negotiate key provisions essential to PIE implementation.
7. The PIE initiative is an intra-DOC model.
8. The PIE program, its workers AND its director have incentives. The program should receive a percentage of the profits to maintain growth; the director should oversee how such monies are allotted. PIE workers should also have incentives in the form of rewards (e.g., pizza on Fridays, etc.) or promotions.
9. The PIE director and/or his designees work closely with the warden and prison classification to forestall unnecessary work interruptions.
10. The PIE program has a robust marketing plan.

Generally speaking, the South and West as regions appear to be more hospitable to the PIE initiative, while the Northeast and Central regions' attitudes toward PIE appear to range from "less hospitable" to "hostile," largely, one suspects, due to union strength in those parts of the country.

But Roger Baysden of Iowa and the state's union-sponsored apprenticeship program, remind us that anything is possible.

Summary

The purpose of this study was to determine why the enhanced prison industries (PIE) model has prospered for more than 10 years in South Carolina, when in other states it has struggled to survive—or even been abolished. Legal, economic, and political issues have been reviewed, as well as the leadership style of the director of prison industries for the state, under whose tenure the PIE model has developed and flourished.

My objective was not to critique struggling PIE programs in other states, but to identify and describe hallmark characteristics of an “ideal” prison industries program.

We have learned that right-to-work, Republican-led states may be more hospitable to the PIE program, and that states with a strong union presence appear to be less receptive. We have learned also, however, that there are exceptions—that strong unionized, free-bargaining states like Washington, Iowa and Minnesota have maintained successful PIE programs in the past. Likewise, we have seen that some states during the decade examined (1996 – 2005) alternately changed from Republican to Democratic majorities, or vice versa. Ultimately, however, it seems clear that states with a strong union presence, generally speaking, are somewhat hostile to the PIE program.

We can study NCIA annual directories and statistics, and learn that, in fact, there are very few flourishing PIE models in place *anywhere*—and that even the most successful of these programs—e.g., South Carolina, Texas and Kansas—have relatively small PIE programs when measured in percentages. (In 2005, South Carolina reported that 6 percent of all inmates were PIE workers.) Other states, with well-regarded PIE programs, exhibited smaller percentages (e.g., Iowa and Minnesota, both two percent in

2005). These issues, and many others considered in this study, deserve further exploration in meaningful research.

South Carolina, however, remains a stand-out because of the vigor and variety of its prison industries overall. If replication and expansion of model programs is the name of the game, South Carolina belongs in the World Series.

Remember that 90 percent of them are going back [into the community]. If they can go out with money in their pocket and a good attitude . . . if they'll go out and work and pay taxes—I am fulfilled. I may not be rich, but I'll be fulfilled—and when I walk out the door at the end of my career that will be my legacy.

Tony Ellis, Director

South Carolina Prison Industries

CHAPTER SEVEN

POLICY AND PROGRAM RECOMMENDATIONS

The justice system in this country is often fraught with challenges and frustration, and the rewards are few. This study provided the writer with an opportunity to focus on what is best in corrections today, and how it can be replicated and expanded. My findings suggest a range of policy and program recommendations. The ones that follow are not meant to be exhaustive; rather, they are meant to be a beginning, a guide to be developed further by future prison industries researchers and advocates, particularly those interested in PIE.

PIE Incentives and Marketing

In the course of my research, I found that some prison industries directors are frustrated because their PIE profits are often taken to be used for other state expenses unrelated to their correctional goals. **My recommendation is that PIE administrators should reap rewards for the work they do. At a minimum, they should be guaranteed a percentage of their program profits to reinvest in further development and refinement of PIE programs and related initiatives.** Borins (2001) called attention to the need for the public sector to reward innovation and success; otherwise (as we have learned), prison industries directors may curtail their efforts at developing PIE initiatives out of sheer frustration and/or exhaustion.

The NCIA should meet with state PIE administrators and appropriate others to plan a course of action leading to possible legislation in this regard. Development and promotion of model legislation (providing incentives) should be the goal.

We have learned that the PIE initiative has been profitable, not only for individual DOCs but for the states, yet its implementation and growth are hampered by union resistance and poor marketing.

The PIE program has significant potential to contribute to the 21st century dilemma confronted by the American labor market: the export of jobs to Third World countries. South Carolina's Tony Ellis presents a model worth emulating: he imported jobs from overseas. The Chinese manufacturing market has appeared to be vulnerable in recent years (2007 and 2008), presenting an opportunity to resourceful PIE directors—who might benefit from a presentation sponsored by NCIA with Tony Ellis at the helm.

Congress and state legislatures should ask states without a PIE program to explore the potential for implementing enhanced prison industries, and offer funding incentives for those that do. However, this study has found that the PIE program and its successes are neither well known nor understood. **The writer urges the National Correctional Industries Association (NCIA) to sponsor a roundtable on how to more effectively disseminate the research findings and benefits of PIE to policymakers and appropriate others.** Some emphasis should be on marketing, and those with marketing expertise should be included at the roundtable for planning purposes. The benefits of the program should be identified and publicized. This would facilitate and enhance the receptiveness of state legislatures and correctional administrators to the PIE initiative. As

things now stand, the PIE initiative and its benefits are unclear to policymakers and citizens alike.

As a longtime member of the criminal justice system, I have observed that most members of the American Correctional Association (ACA), the Association of Paroling Authorities International (APAI), and the American Probation and the Parole Association (APPA) are unfamiliar with PIE. **I recommend that the NCIA and its members request opportunities to present at their conferences.** Common concerns should be explored and identified, as well as methods of enhancing communication and improving coordination among relevant agencies. **Relevant PIE research findings should be disseminated at professional meetings, and attendees invited to provide input.** Enhanced prison industries “best practices” should be investigated, described, and disseminated. States like South Carolina, Kansas, Texas, and Iowa provide fertile soil for evaluation.

I recommend that national PIE data collection be modified (to fulfill the needs of other correctional groups whose support and involvement is sought), expanded, and disseminated to a wider audience, including the media (to engender public support).

Reentry and Transition to the Community for PIE Participants

As Tony Ellis pointed out, the current emphasis on reentry in correctional circles presents an opportunity that is greatly under-utilized for PIE program administrators and those promoting the importance of reentry opportunities. The PIE program is a “natural” ally of reentry proponents. **Appropriate representatives from the ACA, the APAI and**

the APPA should be identified and invited to a roundtable of state PIE and NCIA representatives. At least one pilot program should be established to facilitate ties between reentry and the PIE initiative, and research findings describing the pilot should be disseminated.

I recommend that closer attention be paid to special transitional services for PIE inmates on release from prison in order to maximize recidivism reductions and increased post-prison employment; otherwise, the progress achieved via the PIE program may dissipate over time. PIE company representatives should be involved, to facilitate entry of PIE participants to post-release jobs in the community. In Iowa (an employer model state), employers are obligated to offer inmates work on release from prison. The effectiveness of this requirement deserves evaluation. Can it be replicated in other states? Can it be replicated with the customer or manpower PIE models?

Union Resistance to PIE

We have learned that union resistance to the PIE program is a frequent impediment to PIE implementation and growth. **I urge that Iowa's apprenticeship training program be reviewed, and its development and implementation process replicated where feasible.** At least one pilot program should be funded and implemented to facilitate collaboration between a single state's union leaders and enhanced prison industries. Such a cooperative endeavor might explore a range of potential purposes and functions, e.g., from the mediation of inmate work grievances with correctional authorities, to development of an apprenticeship program for inmate PIE participants.

Improving Communication and Coordination of Services

As we have learned from this study, a recurring problem has often been difficulty in the area of communication and coordination among PIE and prison staff (e.g., when PIE participants are transferred to another facility). **My recommendation is that the NCIA focus on this problem in one of its training tracks at a future conference.** Emphasis should be on developing improved communication and coordination between current PIE programs and prison classification and vocational and educational staff. Clear lines of communication should be established, to facilitate identification and training of potential PIE inmate participants. **The development of a written memorandum of understanding (MOU) could minimize the problems caused when PIE participants are transferred. Related issues include prison lockdowns or call-outs.**

We have learned that where the PIE program is in place, inmates compete to get in. This presents an opportunity to explore the concept of a kind of progression of “phases”, based on the possibility that those who work hard and do well in traditional industries jobs will be the first to be considered for promotion into the PIE program. In state systems where service industries already function, they could be an intermediate step, following traditional industries, on a path toward eventual PIE participation. In some states, e.g., South Carolina, an informal progression appears already to be in place, but the potential for formalizing phases should be explored. **I recommend that PIE administrators begin to collaborate with administrators of other (within-state) prison industries, to search for ways to coordinate program concepts.** Incentives

could be explored and developed to facilitate inmate interest in such phases. The efficacy of tying together vocational training, pre-industrial training, on-the-job training, and post-release planning should be reviewed and considered.

Active vs. Passive Management of Earnings

This study confirms that PIE participants are learning the work ethic, and the benefits associated with hard work. They are not learning, however, basic skills that most of us take for granted. In particular, instead of being actively engaged in managing and paying their “bills,” they are “passive payers”, meaning that funds are deducted from their earnings. For this reason, they are unfamiliar with fundamental bookkeeping skills. The current process appears to fall short of the mark. A method to more actively involve inmates in their tax, room and board, restitution and child support payments would provide needed experience that many inmates have never had. In this sense, the inmate’s experience of managing his own income would be “habilitative” (as opposed to *rehabilitative*). **As a means of addressing these issues, I recommend that PIE inmates be trained to maintain ledgers of their income and outgo.** Even more desirable might be the establishment of a kind of inmate “banking” system wherein participants write out “requests for payment” of funds to be handled by designated prison staff. While this additional burden may be unwelcome from the point of view of prison staff, it fits well with treatment principles and concepts of training and role modeling. The writer agrees with Petersik and his colleagues that “the continued absence of PIE inmates from normal economic behaviors even in the presence of growing incomes may suggest a need for additional education and guidance for PIE inmates in the future.”

Training and Technical Assistance

During the course of my study, Tony Ellis was frequently contacted by other states (e.g., Georgia) seeking his advice and counsel as they explored implementation of the PIE program. **I recommend that the National Institute of Corrections (NIC) be contacted and asked to work with PIE advocates to plan and develop training for PIE planners and administrators.** Technical assistance is needed for new state PIE program executives and managers; for example, assistance and training should be made available to those whose mission it is to promote the PIE concept among state legislators. **Specific implementation steps for developing a PIE program should be identified and disseminated via training for new PIE administrators and staff.** The NIC is a natural source of technical assistance and training. (The writer is familiar firsthand with the training they have long provided for new parole commissioners.) Given the political realities associated with corrections (e.g., a lack of continuity in leadership in DOC and prison industries directors), I urge that special training be offered to new corrections and prison industries directors. If necessary, **a special “training track” could be offered at NCIA’s annual conference.** (If the NIC can’t be enlisted to provide the kinds of training and technical assistance proposed above, the NCIA might explore and facilitate development of a Board composed of knowledgeable prison industries researchers, state PIE administrators, and at least one ex officio member of the NCIA and the Bureau of Justice Assistance to plan and implement such training and technical assistance.)

Research

This study and recent research demonstrate a number of benefits associated with the PIE initiative. Such benefits appear to include advantages to the state and taxpayers alike, including profits realized not only from PIE businesses, but the savings associated with reductions in recidivism and enhanced post-prison employment. For these reasons, **I advocate that future research be encouraged, funded, and disseminated.** (Specific components of prison employment associated with reductions in recidivism should be identified in such research.) The Office of Justice Programs (e.g., the National Institute of Justice and/or the Bureau of Justice Assistance) should issue requests for proposals (RFPs), as well as grants for students and researchers seeking to replicate and improve ongoing research.

We have learned that service prison industries are functioning in a number of states, yet little is known about them. **I recommend that service industries be surveyed and studied in order to clarify the effects of diversification on correctional industries.** Ellis maintains that diversification is an important component of his programs' success. Economic downturns can harm PIE initiatives, he says; therefore, a diversified program may provide a useful "fallback" position. Additionally, they may hold a key to unlock the gateway to PIE in those states where PIE has been rejected.

We have learned that there are three PIE models. I agree with Tony Ellis that the advantages, shortcomings, and challenges associated with each should be studied. **I recommend that the effectiveness and distinctions of the three PIE models (employer, customer and manpower) be explored, described, and documented.** The effects of the three PIE models on inmate wage deductions (victim programs, room and

board, family support, taxes and savings) should be studied. At least one knowledgeable PIE administrator, Bob Carter of Texas, maintains that employer model programs collect more room and board than the other models; indeed, 2005 cumulative data compiled by NCIA demonstrated that Texas collected more room and board than any other state, followed by Kansas (second, also employer model) and Minnesota (third, customer and manpower models). Washington³⁷ (employer model) ranked fourth. South Carolina (manpower and customer models) ranked fifth in room and board collections.³⁸ While it might seem intuitive that Texas would rank near the top, it does not seem intuitive to find that Kansas, a far smaller state, ranked second. These issues raise questions that merit study and evaluation.

Because of the many variations in correctional systems and economic and political environments in which PIE programs must function—not to mention varying managerial styles of prison industries directors, differences in PIE models (e.g., employer, customer and manpower), and numerous differences in types of labor, **individual state case studies are needed** to demonstrate how such variations affect the development and growth of the PIE program. Other factors include differences in levels of supervision of inmate participants, drug/alcohol and educational histories of inmate participants, etc.

More than once, Ellis told me that he was convinced that the organizational structure of PIE programs should be studied in order to better understand the advantages or disadvantages of each. **I recommend that case study research be conducted to determine whether various state prison industry organizational structures (e.g.,**

³⁷ The Washington program was terminated in 2004; because the data presented were cumulative, the state maintained its high ranking even in 2005.

³⁸ By 2006, South Carolina ranked 4th in room and board collections.

intra-DOC vs. extra-DOC) affect the growth and development of the PIE program, and if so, how.

The progress and performance of individual state PIE initiatives deserve special review. Given that few governmental programs—particularly correctional programs—are income-producing and profitable, the PIE program appears to have more potential than has been realized for providing relief to the state and taxpayers, while simultaneously benefiting inmates, their victims and their families. PIE practitioners should be encouraged to emphasize the importance of using research findings constructively—for improving rather than criticizing PIE programming.

While conducting this research, I found that alcohol and drug histories of inmates were not often included in criteria related to selection of PIE inmate participants. **I recommend the inclusion of drug and alcohol abuse histories of PIE participants in PIE selection criteria, and that effects (on post-release recidivism and employment) be subsequently studied.** The issue of whether a history of substance abuse has been successfully treated is hypothesized by the writer to be a predictor of post-prison employment success as well as reduced recidivism.

The resistance to PIE that we have learned about suggests my recommendation that research be conducted to determine the full impact of the potential expansion of prison labor, especially the impact on the economy, of paying inmates minimum to prevailing wages. My study revealed that economists (e.g., Petersik) have concluded that the effect on the nation's economy would be minimal if most inmates were paid minimum to prevailing wages, and that in fact, an extraordinary pool of benefits might be realized by taxpayers and the state. The full potential number

of PIE “beneficiaries” and benefits will remain unknown until additional research is conducted.

The termination of the PIE program in Washington State deserves to be studied, and I urge that a case study be conducted to determine what kind of assistance (if any) was provided the state’s prison industries director. Was it adequate? What assistance is available for PIE administrators who need it? At least one case study is recommended.

UNICOR

During the course of this study, I found that UNICOR is the object of criticism and Congressional threats. How can this agency be helped? While it would seem desirable for UNICOR to be eligible for PIE certification, the agency’s many adversaries appear unlikely to be receptive to the possibility. **I recommend that an objective, thorough and *bipartisan* study of federal prison industries be conducted** as soon as possible.

Summary

While the PIE initiative has made great strides in the 29 years since its inception (in 1979), its full potential is far from realized. It is the responsibility of national and state policymakers, corrections officials, PIE administrators and other stakeholders alike to support and foster the successes of the program, and to evaluate and resolve its shortcomings. Proponents must be energetic in nourishing and promoting the program, to ensure that taxpayers, the state, inmates and their families receive every possible benefit.

Appendix A

Economics of Inmate Labor

In 1999, a National Symposium on “The Economics of Inmate Labor Force Participation”³⁹ was held at The George Washington University (GWU). The symposium was led by five distinguished economists:

- Ray Marshall, Professor Emeritus and Audre and Bernard Rapoport Centennial Chair in Economics and Public Affairs at the Lyndon B. Johnson School of Public Affairs of the University of Texas at Austin and former U.S. Secretary of Labor
- Richard Freeman, Ascherman Chair of Economics at Harvard University, Faculty Co-chair at the Harvard University Trade Union Program, Program Director of the National Bureau of Economic Research’s Program in Labor Studies, Co-director of the Centre for Economic Performance at the London School of Economics and Visiting Professor at the London School of Economics.
- Alan B. Krueger, Bendheim Professor of Economics and Public Affairs in the Economics Department and Woodrow Wilson School at Princeton University, former chief economist at the U.S. Department of Labor.
- Jeffrey Kling, Assistant Professor of Economics and Public Affairs at the Woodrow Wilson School of Public and International Affairs, Princeton University, and former assistant to the Chief Economist at the World Bank and special assistant to the Secretary of Labor.

³⁹ This is a synthesis of highlights taken from the official transcript of the Symposium.

- Steven Levitt, Professor of Economics, University of Chicago, research fellow of the American Bar Association and John Olin Research Fellow in Law and Economics at the Harvard School of Law.

After the presentations made by the above-listed economists, they were questioned by a group of panelists, or stakeholders, including:

- Gus Faucher, U.S. Department of Treasury (representing taxpayers)
- Linda Haithcox, National Association for the Advancement of Colored People (NAACP) (representing the NAACP and minorities)
- Harry Holzer, U.S. Department of Labor (representing labor)
- Wendell Primus, Center on Budget and Policy Priorities (representing children and families)
- Steve Schwab, Federal Prison Industries (representing FPI)
- Brenda Smith, American University (representing women)
- Charles Sullivan, Citizens United for Rehabilitation of Errants (CURE) (representing inmates and inmate families)
- Gregory Woodhead, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) (representing union members)

The panelists were chosen to represent and advocate for their constituencies; in this respect, they were considered to be *stakeholders*.

The symposium, therefore, was a kind of summit of the experts in the area of prison labor and economics, a Who's Who well-positioned to analyze what was going on as the new millennium waited just around the corner.

The symposium was the result of the efforts of Thomas Petersik, Ph.D., himself an expert in the economics of inmate labor. Speakers were asked to offer opinions on

1. whether inmates participating in the labor force would be good or bad for the U.S. economy;
2. what would happen to civilian labor if inmates were to participate;
3. recommendations for U.S. inmate labor force policies.

The Executive Summary for the symposium found that there was a general consensus among the speakers in several areas:

- *Inmate labor force participation would be good for the U.S. economy by increasing the nation's output of goods and services. The resulting increase in the Gross Domestic Product (GDP) would be generally good for consumers, business, government and taxpayers, and especially good for victims, prisoners, and prisoners' children and families. But the economic good would be small because the percentage of inmate work in the overall workforce would be small and inmate production is likely to be somewhat less than average (compared to labor taken as a whole); thus, the GDP increase would also be small (substantially less than 1 percent of the GDP).*

- *The likely greatest social and economic good from inmate labor force participation would likely be reduced future crime and recidivism resulting from the improved legal income opportunities for ex-offenders.*

Certainty as to the magnitude of the good was viewed as unclear, however, and lower incomes that might result from lowering incomes for “low-wage civilians” might result in additional crime. Thus, the risk of “net harmful effects” could not be discounted.

- *Inmate labor force participation would have little or no discernible effect on U.S. civilian labor overall, but could slightly reduce the wage rate and employment levels for low-wage civilian workers.* The possibility existed in the view of some that any losses to low-wage civilians could be offset somewhat, since inmates often come from lower social economic backgrounds.

The economists, while not wholly in agreement about a myriad of details, found some room for agreement on policy recommendations, which will be addressed later.

The symposium did not attempt to address criminal justice issues per se, but focused on the issue of whether inmate labor in the private sector or open market might be desirable or undesirable for the economy as a whole. The “background” segment of the summit proceedings report reviewed inmate labor in the past, particularly with regard to inmate prohibition from open-market jobs. Participants were reminded that in spite of the passage of the Percy Amendment which enabled the Prison Industries Enhancement

Certification Project (PIECP), less than 3,000 inmates were employed in open-market jobs in 1998 (not counting approximately 40,000 work release inmates on the verge of release from prison).

The design of the symposium focused on *economic* aspects of inmate labor:

In sum, the design differs from typical debate in that it treats inmate labor as a standard economic issue in the broad context of general economic efficiency and not as a criminal justice or correctional issue. Therefore, economic consequences for Gross Domestic Product, employment, prices, and income are of greater importance to this presentation than traditional features such as prison order, rehabilitation, and compensation. By extension, the design emphasizes broader classes of economic winners and losers not traditionally identified or considered in inmate labor debate (Chapter 1 Background, p. 4).

Although not originally intended, the symposium led—perhaps inevitably—to discussions of recidivism or crime increases as a result of changes in economic costs and/or benefits.

Each speaker was asked to apply his economic specialty in addressing four questions:

1. Are bans on prison inmate labor force participation “good” or “bad” for the U.S. economy? (“Good” or “bad” was ultimately construed to be related to output of material goods and services as measured by the GDP.)
2. Will expanded inmate participation in the economy create, destroy, or have no effect on civilian employment in the U.S.? (Explain.)

3. What steps are essential to improving the economic contribution of the inmate labor force?
4. If you can identify criminal justice or correctional effects distinguishable from economic aspects, explain them, and their effects on net social benefits or costs (Chapter 1 Background, pp. 5-6).

Marshall (former U.S. Secretary of Labor in the Carter Administration) began by saying that “overall effects” of inmate labor force participation (ILFP) would likely be small and less important than the effects on “particularly affected groups,” such as inmates, their families and victims; workers, unions and companies in industries heavily impacted by the ILFP; the criminal justice system; and the general public. Marshall noted that inmate labor would have a very limited impact on the GDP because prison industry output (\$1.6 billion in 1997) was only a fraction of the total GDP of more than \$8 trillion. He also pointed out that the total prison labor force of 611,000 was quite small compared to the civilian labor force of 136 million. [Of the total labor force of 611,000, most (nearly 500,000) were employed as support workers at their institutions, while 75,000 were employed in the production of goods and services primarily for governmental agencies—and only 2,429 were employed by the private sector in the production of goods and services for the open market (Miller et al., 1998).]

As a labor economist concerned primarily with public policy, Marshall said, his interest was in outlining measures to increase public welfare. He also said that he did not think that purely economic analyses could or should be divorced from considerations like crime and recidivism, since both were serious economic, criminal justice and human

development issues. He pointed out that the criminal justice system of the time was viewed as inefficient, and did little to rehabilitate offenders or reduce crime. He called attention to the fact that the American criminal justice system was very different from those of other countries. He called for transformation of the American criminal justice system:

We therefore should attempt to develop policies that will help transform the criminal justice system and make it more effectively deter crime, rehabilitate and punish criminals, and reintegrate ex-offenders into society. Such policies would greatly reduce the enormous and growing human and economic costs of crime and incarceration.

Marshall noted the trend of recent years on state and federal prison inmates. Between the years of 1990 and 1997, he said, the federal prison population increased from 66,000 to 113,000, while the number of state inmates increased from 708,000 to 1,132,000 during the same period. In 1988, one third of federal inmates were employed, but eight years later (1996), only 18 percent were employed.

Marshall reported that the industrial pay scale for federal inmates ranged from \$0.23 to \$1.15 per hour. (A 1993 report to the U.S. Senate Committee on Labor and Human Resources found that prison workers in non-industrial activities in 1991 earned between \$0.12 and \$0.40 per hour, and that most (55 percent) earned \$0.12 while 5 percent earned \$0.40.)

Having cited the meager wages given to inmates, Marshall noted that ILFP critics were concerned about both the potential for inmate exploitation, and the likelihood that

low-paid inmate workers would “undercut free labor wages.” He called attention to the fact that the prohibitions on inmate employment coincided with the growth of unions in the 19th century and during the 1930s. Prior to the imposition of restrictions on inmate employment, he said, it was common for prisoners to be used to break strikes, a fact not overlooked by union leaders today.

Marshall cited Garvey (1998) as a prison labor expert who believed that PIE’s failure to spread throughout the nation’s state prisons was the result of its prevailing wage requirement and the related inability of the private sector to compensate for the cost of doing business in a prison setting. (Garvey’s solution was for the state to offer subsidies to offset such costs—which indeed is often the case in existing PIE programs.)

Opposition to PIE and FPI

Both PIE and FPI proponents are convinced that their programs have restrictions or regulations to minimize the likelihood of unfair competition with private sector business. But FPI opponents maintain that UNICOR regularly infringes on federal wage and business protection regulations. And business advocates maintain that FPI’s mandatory sourcing requirements give UNICOR an inequitable business edge, resulting in unfair competition (Marshall, 1999).

Although the AFL-CIO has frequently criticized inmate working conditions, and objected to the threat posed by ILFP to free workers, the South Central AFL-CIO has developed an apprenticeship partnership with the Iowa Department of Correction PIE program (Marshall, 1999). The national AFL-CIO endorsed the program, while maintaining that most correctional training does not do an adequate job of preparing

inmates for skilled labor—largely the result of placing the emphasis on work rather than training. In Iowa, however, the union assumes responsibility for the placement of successful inmate graduates. Indeed, the president of the South Central AFL-CIO was quoted as saying, “It’s our duty and our job to represent [inmate prison apprentices] in the job market” (Rostad, 1996; Marshall 1999).

Iowa is exceptional in its ties with the AFL-CIO, although most PIE programs have managed development of a rapport with state chapters. Without the concurrence of local unions, the PIE programs could not have been implemented.

More representative of the AFL-CIO’s attitude is a 1993 quote attributed to John Zalusky of the AFL-CIO’s economic research department in front of the U.S. Senate Labor and Human Resources Committee (Marshall, 1999). It is wrong, he said, “for state-owned prisons to create or support businesses paying convicts substandard wages to take jobs from free labor who have committed no crime. . .” However, “[t]he AFL-CIO supports the self-use concept of prison labor with effective business and labor input in the decision process to ensure minimal adverse impact on free labor.”

Marshall maintained that unions are more concerned about wages and conditions of inmate labor than about requirements that inmates must work—a concept that union leaders favor. Nevertheless, most unions object to inmate-manufactured products being sold on the open market, as well as inmate labor that compete with civilian labor.

Similarly, according to Marshall, Chambers of Commerce generally oppose sales of prison-made goods on the open market, although a minority of businesses may support inmate labor because they profit from it in some way (e.g., through the sales of supplies or material used by prison workers).

Marshall referred to UNICOR as being especially disliked and criticized for its perceived threat to fair competition which is believed to harm private businesses.

Virulent critics accuse UNICOR of being a monopoly. Among the most damaging accusations leveled at UNICOR are those of the Director of Government Relations for the Apparel Manufacturers Association, Michael Gale (quoted by Marshall):

UNICOR steals jobs from . . . hardworking, law-abiding, tax-paying citizens. . . We estimate that over the years, 7,000 private sector apparel workers have lost their jobs because of UNICOR's continued and unchecked expansion of apparel manufacturing . . . The [Defense Personnel Supply Command (DPSC)] estimates that it pays, on average, 15 percent more than the lowest private sector bid on almost 100 percent of what it buys from UNICOR. . . [I]n fiscal year 1995, UNICOR was delinquent in 46 percent of its contracts with DPSC. In . . . 1996 UNICOR was delinquent in 36 percent of its contracts. For both years the private sector was delinquent in only 9 percent of its contracts.

(Hearing, House Subcommittee on Crime, 1996)

Gale also maintained that a 1991 Deloitte and Touche study revealed that UNICOR was given poor quality ratings from customers, a complaint often leveled at state prison industries (but refuted by others, as we shall see). [f.n. Note: Former Bureau of Prisons Assistant Director and FPI Chief Operating Officer Steve Schwalb wrote a forceful repudiation of these kinds of criticisms in a 1996 letter to the author of a trade magazine article that was critical of FPI.]

Advocates for inmates complain that the “get tough” policies of the 1980s led to increased pressure on prison administrators to offset rising costs of managing the increase in prison populations. These pressures, they claim, resulted in a search for ways to reduce costs. Among the solutions, it is alleged that wages received by inmates could be used to pay for room and board, victim restitution, court costs, and even medical care. Inmate advocates charge that while inmates are forced to work, their remuneration is limited by their net compensation (Marshall, 1999).

Rationale for Inmate Paid Employment

Increasing opportunities for paid employment among inmates would benefit inmates and their families, as well as victims, prisons and the general public (Marshall, 1999; Petersik, 2000). However, the traditional model of prison work harms both inmates and their families—all locked into—as Marshall (1999) said—“self-perpetuating cycles of poverty and crime.” Much has been written on this subject (Bloom and Steinhart, 1993; Butterfield, 1999).

The New York Times reported in 1999 that seven million children had a parent in prison or jail, or in parole or probation supervision. Children whose parents are incarcerated are at substantially greater risk for delinquency (Bloom and Steinhart, 1993; Butterfield, 1999). The *New York Times* report maintained that the link between delinquency and the incarceration of a parent or close relative was so strong that half of all juveniles in custody had a parent or close relative who had been incarcerated (Butterfield, 1999; Marshall, 1999).

Marshall maintained that expanding paid employment among inmates would enable them to make restitution. Increasing private sector work, he said, might improve the culture of corrections by minimizing tensions caused by idleness, instilling a work ethic, and helping to offset the costs of imprisonment. He called attention to Vice President Gore's National Performance Review, which recommended elimination of FPI's mandatory sourcing. (But FPI officials maintain that the elimination of mandatory sourcing would devastate federal prison industries, which could not otherwise attract private sector partners. Mandatory sourcing, they argue, also helps to offset the disadvantages associated with prison security and the inferior quality of prison labor.)

Marshall noted that FPI might be compensated for those disadvantages by deductions from inmate wages, as well as through public subsidies for education and training of inmates. He maintained that it was "in the national interest to remove the financial barriers to education and training for all workers in and out of prison." Such "human capital subsidies" could ultimately prove to be investments in inmate rehabilitation as well as subsidies to prison industry. (No mention was made of FPI's Congressional exclusion from the PIE project.)

Analyses of Prison Labor and Economics of Trade or Immigration

Marshall suggested that "the efficacy of procedures to balance compensation between inmates and free workers might be found in the U.S. experience with adverse effect wage rates (AEWR) for temporary foreign workers and prevailing wages for government contractors." The purpose of the AEWR was to restrict foreign worker employment from driving down domestic working conditions. The purpose of prevailing

wage laws, he said, was to restrict the government from exercising its economic power to drive down labor standards.

Another conference panelist, Richard Freeman, examined the effect of prison labor on the nation's economy from a slightly different perspective: the viewpoint of economics of trade or immigration. Freeman (1999) noted that "In trade/immigration analysis an increase in imports due to freer trade or increased competence of foreign labor or of immigrants from overseas raises national output **and** [his emphasis] lowers the earnings of competing domestic factors. From the perspective of the free labor market, an increase in the work of prisoners is equivalent to an increase in imports/immigration from some foreign country." However, the general consensus of panelists and attendees ultimately seemed to suggest that the GDP would be affected only minimally by inmate production in the foreseeable future. Economists Krueger and Kling pointed to 1998, when the total GDP was \$8.5 trillion, saying that "the potential addition of inmate labor to GDP is only 0.2 percent of total U.S. GDP." (Miller, Shelton and Petersik made a similar observation in a 1998 preliminary report to the American Bar Association's Subcommittee on Correctional Industries.)

While Krueger and Kling expressed the view that "the economic contribution of inmate labor is likely to be a very small addition to GDP . . .," they believed that the most important economic effect of inmate labor would flow from the potential reduction of recidivism. The two economists—like several other panelists—cited the work of Saylor and Gaes (and that of others) as evidence that the economic advantages of reduced recidivism could be considerable:

*For example, if just 5 percent of released prisoners were induced to commit no crimes after being released, compared to a situation in which they would commit an average level of crime (say, costing \$35,000 in the first year after release and gradually declining to zero after 15 years), the net present value that could be saved over the 15 year period would be about \$11,000 **per released inmate**.*

*Moreover, if 5 percent of released prisoners avoided a two-year prison term after participating in inmate labor, the present value of future incarceration costs would be reduced by about \$2,800 **per released inmate**.*

Krueger and Klinger based their estimates on the work of Saylor and Gaes (1997), Anderson (1995), and Levitt (1996). However, they did add the caveat that the relationship (between inmate employment and reduced recidivism) might not necessarily be causal. Perhaps, they suggested, “those who choose to participate in inmate labor would have had a lower propensity to engage in criminal activity even if they had not worked.” They urged further study of the issue.

Levitt, too, was unsure of the implications of research findings that reductions in offender recidivism were associated with inmate employment programs. He questioned whether inmates who worked were, in fact, matched appropriately with inmate non-workers. “In particular,” he said, “one worries that the workers were more motivated than the non-workers and that motivation is itself an important determinant of recidivism likelihood.” Like others before him, he urged randomized assignment of inmates into work programs. He cited the work of Maguire and her colleagues (1988) who examined a population of New York state prison inmates, controlling for factors like prior felony

arrest records, time served, military service and marital status—concluding that prison employment was no longer associated with reduced recidivism.

In his presentation, Levitt noted that the social costs of the crime perpetrated by released offenders was much larger than the typical inmate's contribution to the GDP. He referred to the body of studies in the late 80s and 90s (DiIulio and Piehl, 1991; Spelman, 1994; Piehl and DiIulio, 1995; Levitt, 1996) that attempted to measure the costs of crime committed by offenders when not imprisoned, along with the costs to victims (Cohen, 1988; Miller, Cohen, and Rossman, 1993). He estimated that the “marginal” criminal commits 1-2 violent crimes and approximately 10 property crimes per year. He estimated the cost of their crimes to victims in terms of lost property, injury, psychological costs, lost years of life, and missed work) at “roughly \$35,000 per criminal year. Using the “average” offender instead of the “marginal” offender, he estimated more substantial costs to crime victims—roughly \$80,000 per criminal year. In short, Levitt maintained that “a policy that reduces recidivism can have a social benefit that far outweighs a prisoner's narrow contribution to GDP.”

Levitt said that while it was unrealistic to think that all inmates could ever be employed full time, if they were, yearly prison industry output would be \$35 billion annually—what he called “an extreme upper bound that is unlikely ever to be realized.” (He based his estimate on the 1998 work of Miller, Shelton and Petersik who calculated the current output per prisoner-hour of \$14.56.) Using this premise, Levitt said that even in the “extreme case where we went from a situation where no prisoners worked to one in which all prisoners worked, GDP would increase by about 0.4 percent.” Compared to the 18.3 percent growth of the economy between the years 1991 and 1997, he pointed out

that the potential economic impact of universal inmate employment would be relatively small. This did not mean, he said, that the potential output that might be caused by inmate workers would be inconsequential. If the output were allocated in equal portions to all Americans, it would amount to \$125 per person yearly.

Levitt expressed views often parallel to those of Krueger and Klinger: “By any macroeconomic measure, prison labor is currently and will almost certainly remain a small (though not necessarily trivial) fraction of the economy even if restrictions on prison industries are abolished.” But even if restrictions on inmate labor were lifted and every inmate in the country worked fulltime, he said, prison products and services would account for only 0.4 percent of the GDP.

But Levitt maintained that “output per prisoner hour worked” was approximately a third of that for the average American worker. This, he said, was part of the reason for the fact that prison industries were unprofitable. The PIE programs had not thrived, he said, for this reason, along with the lack of what he (and others) referred to repeatedly as a “level playing field.” Levitt stressed the need for a level playing field in prison industries in general. This, he said, would be required if prison industries were to be economically efficient. He pointed out that inmates were not subject to the Fair Labor Standards Act (FLSA) which requires minimum hourly wages, among other things. Because free market rules do not currently apply to prison labor, “allocation of such labor is likely to be governed primarily by political rather than economic considerations. This observation is consistent with what the writer has observed—not only with regard to prison industries, but across the board. It is no secret that crime and criminals are often used as political footballs in the political arena, where elections are sometimes won or

lost based on the dexterity of the candidates on the campaign trail, e.g., the aforementioned 1988 presidential Bush-Dukakis presidential campaign which some say was determined by the untimely release of a hapless Massachusetts state prison inmate named Willie Horton.

(Regarding Levitt's position, Barbara Auerbach wrote me that historically, BJA's attorneys have adopted the position that, in fact, the PIE program was in compliance with the FLSA

. . . based on the rationale that the PIE statute does require a level playing field. Thus the PIE guideline requires such things as time-and-a-half for overtime, etc. BJA based all of its Guideline requirements on this notion of the need for a level playing field, particularly in the wage and displacement area. Of course, Levitt was not talking about PIE requirements, but I think it's interesting because of course this level playing field mentality is the source of all the struggles between the PIE certificate holders and BJA. As a Federal agency, presumably with a national point of view, BJA sees itself as needing to hold its PIE sites to these standards. The sites, of course, tend to put less stock in this viewpoint. Since inmates have no standing to sue under the PIE legislation, only competitor manufacturers can do so. When they do, it seems it is always because they perceive a lack of level playing field. Washington state, for example.

(Author's note: a 2002 lawsuit was filed that resulted in termination of Washington's PIE initiative).

While acknowledging that PIE programs come closer than other prison industries to leveling the playing field, Levitt criticized the programs, maintaining that since prison labor is less productive than civilian labor, the field is tilted against prison industries. One remedy for this, he suggested, would be to pay prevailing wage *per unit of output*.

Levitt suggested the dismantling of regulations affecting prison industries. This he said, would put all players on a level playing field, where the market would determine the outcome. He proposed four elements essential to his level playing field scenario, maintaining that all elements were essential, and that if even one were omitted, the program would be unlikely to be “completely successful.”

1. (P)rivatize prison industry. *As long as the government is in charge of prison industries, it will be difficult if not impossible to avoid decisions being made with political rather than economic justifications. . . .*
2. (E)very prison system that wants to have inmates employed in prison industries should put the rights to use those workers out to a competitive bid of prospective employers. *The prison would stipulate certain conditions . . . and the highest bidder would obtain the rights to access the prison labor. . . . Voluntary participation on the part of prisoners is especially important given the potential exploitation of prison labor that has sometimes occurred in the past.*
3. (E)xtend current civilian labor laws to cover prisoners. . . . *Fair Labor Standards Act should apply, as should employer requirements concerning workers comp, contributions to Social Security, etc.* Levitt also called for unionization of inmates, although he did not consider it critical to his proposal. It was also

reasonable, he said, for the government to “garnish” inmate wages to pay for maintenance, child support and victim compensation, etc.

4. *(E)liminate all preferences and restrictions with respect to prison-made goods.*

No one should be required to buy prison-made goods and no one should be prohibited from doing so if they want to.

(Levitt’s first two recommendations would appear to the writer to be “slippery slopes” which would warrant cautious implementation and monitoring.)

Levitt predicted that the most likely outcome of his proposal was “that very little prison labor (would) actually be utilized if competitive bids (were) required to be positive.” In short, he did not expect prison industries to be profitable if they were forced to pay minimum wage.

The “clear losers” that Levitt foresaw with his plan would be UNICOR and state-run prison industries. “Clear winners,” he predicted, would be the businesses that formerly competed with prison industries, along with the government, prisoners and their dependents, taxpayers, and consumers. While he predicted short term (5 years or less) effects on civilian workers, he anticipated that over time, labor markets would level off with only “little impact on civilian employment, but potentially some small permanent decline in wages of low-skilled civilians.”

Benefits of Paying Inmates Minimum to Prevailing Wage

Marshall maintained that requiring prison industries to pay minimum and prevailing wages would force the industries to become more efficient rather than depress

labor standards. And although many still insist that prison industries can never successfully compete in the free market by paying minimum or prevailing wages—even if inmate deductions were taken—the success of the PIE program in some states belies their argument (e.g., Iowa and South Carolina).

Marshall also suggested that prison industries not only observe the same labor standards as civilian labor, but that they be accorded the right to unionize. In addition, he encouraged investigation of the possibility of applying anti-discrimination laws and policies to prison inmates. He discussed discrimination concepts and how they might apply to prisoners. He pointed out labor standards and policies related to merit and productivity—not gender, race, age, or comparable factors. He cited the difficulties that offenders have finding post-release employment, and suggested development of a theory of discrimination for ex-offenders.

Principles of Economic Discrimination

Marshall expressed little doubt that offenders are subjected to discrimination, including economic discrimination (ED), which impedes both rehabilitation and reintegration. Basic principles of economic discrimination (ED), he suggested, are applicable:

- ED is caused by a combination of status and economic advantage for the discriminators; status, because people discriminated against have identifiable characteristics which cause victims to be considered inferior by discriminators.
- ED varies in intensity between different groups of victims.

- ED is difficult to identify and measure because it is part of a complex constellation of factors that cause victims to be disadvantaged.
- It is important to distinguish institutionalized forms of discrimination from specific overt acts that can be proved in courts or administrative processes. Different policies are required to counteract institutional and overt ED.
- Discrimination is an action while prejudice is an attitude, which may or may not lead to discrimination depending upon the power relationships between actors. Through cognitive dissonance in economic relationships, attitudes are more likely to flow from actions than actions are from attitudes.

Unions for Inmates?

Marshall elaborated on the benefits that could accrue if inmates were unionized. Unions could become agents for paid inmate workers, and thus facilitate the reduction of often trivial, time-consuming and expensive litigation. By means of apprenticeship training and skills development, inmates would be better prepared for prison employment as well as post-release employment. (He cited Iowa's apprenticeship program for inmates as a "prototype" to be emulated.)

Krueger and Klinger, too, suggested that inmates be accorded the right to form unions, and to be covered by all relevant labor legislation that applies to private sector business, fair labor standards, and workplace safety regulations. Like Marshall, they believed that unions could advocate for inmate workers. Additionally, they speculated that unions might be more effective in persuading inmates to participate in education or

training to increase their wages, “since inmates may (accurately) perceive that this advice is coming from a party that has their self-interest in mind.”

The two economists suggested also that unions might provide “continuity” in managing relations with inmate employers, even with high rates of turnover—a common problem with inmate employees.

Levitt—while he did not think unionization of inmates was “critical”—did believe that it would benefit organized labor.

It should be noted that a Supreme Court case (*Jones v. North Carolina*) prohibiting inmates from organizing has often been cited as a reason unions cannot be established in prisons. Prison administrators, as might be expected, vehemently oppose the concept. The apprenticeship program developed in Iowa, however, appears to have struck a workable balance.

Other Elements of Successful Offender Reintegration

Other factors are essential to post-release reintegration, Marshall said. “While employment is necessary for the successful reintegration of ex-offenders, it is not sufficient; other factors include counseling, education and training, drug treatment, and post-release support and placement services.”

Krueger and Klinger also noted that there are other important factors to consider when working to achieve reductions in offender recidivism and to improve reintegration, and that research into other strategies should be ongoing. Some strategies, they pointed out, may complement inmate labor. Ultimately, they emphasized the importance of integrating offenders into law-abiding society.

Stakeholder Views

Following the economists' presentations, questions and comments were offered by the (previously identified) stakeholders. Steve Schwalb, chief operations officer for Federal Prison Industries (FPI), stated that he wished all present to know that the federal view of the presentations was one "of interest." Contrary to what some might think, he said, many federal authorities were intrigued by many of the possibilities, excluding unionization. He said however that the "overriding" concern was that inmates not be idle, and that work be available for as many as possible. He asked why some felt it essential that inmates be paid prevailing wage, especially if workers outside the country were paid low wages for imports brought into the country? He liked the idea espoused by some that prison industries aim to acquire manufacturing or production of goods and services that had been moved out of the country. This seemed to be the least-threatening concept suggested, and one that might appeal to the states as well. However, a cautionary note was offered by one economist, Krueger, that since reintegration and post-release employment are major considerations, it would be counter-productive to train inmates in the manufacture of goods that could be produced only in prison.

Discussion ensued about whether inmate work should be voluntary or involuntary, and those present were reminded that involuntary labor-produced goods were contrary to international labor laws. Since one goal is to encourage the work ethic among inmates, other discussion followed that focused on the need to provide incentives for work. Levitt pointed out that while welfare mothers were not forced to work, their welfare was withdrawn if they didn't. Other discussion centered on the distinctions

between prison maintenance work (which pays very little) versus prison industries work with the private sector, which pays minimum to prevailing wage. The question was raised as to what might motivate an inmate to work if most of his earnings were withheld for room and board, restitution, child support and taxes. (This writer's interviews with inmates found a sense of pride among inmate workers engaged in prison-based private sector employment. In particular, several inmates expressed satisfaction at being able to provide Christmas, graduation or birthday gifts for their children.)

The point was also made that while the state and taxpayers might benefit from the payment of room and board, taxes, etc., additional benefits to accrue would be in the form of reduced recidivism and post-release employment (Freeman). This point was made in response to a question raised by an advocate for children and families, Wendell Primus of the Center on Budget and Policy Priorities. Primus argued that inmate work—at least from a political viewpoint—should be compulsory.

Marshall agreed with the need to provide rewards to inmates who work. Economists, he said, have found that “you get what you reward.” He noted that both the educational and prison systems are misguided in some ways, e.g., the nation's educational system seems to reward average daily attendance more than learning, while the criminal justice system rewards—not rehabilitation and reintegration—but continuation of the existing system of re-incarceration.

Position of the AFL-CIO on Unionization

Greg Woodhead, representing the Department of Public Policy at the AFL-CIO, was among the last to speak. He began by saying that they try to develop public policy to

benefit American working families. “We are the voice of working families and we are especially the voice of organized labor,” he said. In addition, he stated that they try to balance the interests of federated union members in order to formulate policy that benefits their membership as well as inmates. He called the issue of inmate labor force participation a “difficult” and “complex” problem, and called for more study of the known problems, and more longitudinal studies of the effects of employment and re-employment, “not just on the effects of reducing recidivism.” He referred specifically to an Ohio study that found that rates of recidivism dropped among black offenders but not white offenders. (Note: A study of Ohio Prison Industries (OPI) found that blacks benefited more than whites from participation in prison industries [Funke, 1996].)

Woodhead stated that inmates should perhaps be encouraged to become entrepreneurs, because “that is where job creation is.” He sounded a note of concern that some state prison industries needed to be scrutinized because they “may, in fact, be selling goods across state lines in direct violation of federal law and not be participating in an established PIE program.

Striking a more optimistic tone, he called for the need to look more carefully at the joint apprenticeship programs. He praised the apprenticeship program in Iowa, noting that the debate that transpired prior to establishment of the programs took place in union halls. He pointed out that the Iowa experience proved that “it can be done,” and called for expansion of similar programs. . . . “(T)hose union members came to accept these graduates of apprentice programs, which are very highly valued amongst union members.”

Striking a more negative note, he said:

The AFL-CIO is, however, very concerned about the potential expansion of prison labor. After all, we did lose 400,000 manufacturing jobs in the United States in the last year [1998] alone. In that context, that economic context, being a manufacturing worker and being asked to compete with expanding prison industries is not a good prospect. At the same time, we always have to be concerned with guard safety, because we know that prison work is good and prison work provides for guard safety. . . .

At the macro-level, yes, the size of prison industries is not overwhelming relative to the size of the GDP. But at the micro-level, the dislocation can be devastating, especially if you can make a direct link, like a case in Wisconsin with fabric gloves where a private factory closed and a company ramped up production inside the prison walls. So free labor was directly impacted. [inaccurate per NCIA Executive Director Gwyn Smith-Ingley] I am also concerned about just the notion of bidding out prisoners to private companies. That just has a connotation to it that is just disturbing if you follow through with the implications of that.

Prevailing wages can be paid to prisoners. The PIE program shows that. Maybe we have to have some imputed wage to level the playing field somewhere between prevailing wage and minimum wage. But we can't just say that the minimum wage is enough . . .

Subsequently, Petersik sought to clarify the issue of inmate participation in unions, whether the consensus was that inmates participate via “company unions” or

“unions of inmates”—or was the earlier discussion actually about inmate membership in unions that exist outside the prison? Levitt’s response was that he was thinking about unions outside of prison, but that he was “open-minded.” Marshall agreed that he, too, was thinking of external unions. The “essential ingredient,” he said, if it were to be successful overall, was “that whatever you call the organization that represents the inmates, that it has to have some independent source of power, independent from the system . . . a voluntary system . . . Another part of the system that I would think would be beneficial to everybody involved is an alternative dispute settlement process that would avoid litigation, or at least minimize litigation.”

Final Feedback from Symposium Attendees

Panelists and stakeholders formed smaller groups on the final afternoon of the symposium. Groups were asked to identify positive and negative aspects of the presentations and discussion, as well as issues of concern. Recommendations were also requested.

The “positives” were summarized as follows:

- The fact that the economists saw inmate employment as desirable was viewed as encouraging.
- The assessment of inmate employment as having a minor effect on the larger economy was also viewed favorably, and seemed to minimize any threat to society.
- Attendees were encouraged by reports that inmate employment was associated with reductions in recidivism.

- The potential for inmates to contribute to child and family support was viewed favorably.
- Attendees were encouraged by the emphasis on education and training.

Perceived “negatives” were also summarized:

- Participants were apprehensive that reports of reduced recidivism were perhaps “assumed rather than demonstrated.”
- “Ignorance of prisons and of the specific components of work yielding success” contributed to a general lack of optimism about the benefits of inmate employment.
- Attendees expressed concern about the lack of “specific implementation steps” leading to success.
- Reintegration issues were also viewed as cause for concern, along with education and training.
- Some were concerned that minority issues, including race and gender, needed more attention.
- Some participants expressed concerns about whether it was realistic to think that inmates could be paid market wages.
- Questions were raised about the need to know about experiences in other countries.

Recommendations were made, focusing on the need for more research. In particular, the consensus was that more research was needed on the issues of employment

and its impact on recidivism, as well as explanation of specific components associated with reduced recidivism. A recommendation called for more study of the effects of inmate employment and unemployment on families and children. Another recommendation called for more study of the “social processes of adjustment” including the effects of education. A key recommendation, too, was that “demonstration programs” were “sorely needed” in education, training, employment, transition and integration.

APPENDIX B

List of Primary Interviewees

- SCDC Director of Prison Industries, Tony Ellis
- Former South Carolina SCDC Director Bill Leeke
- Former SCDC Deputy Commissioner of Administration Dr. Hugh Clements;
SCDC Plant Manager of Tyger River Correctional Institution Ray Quinn
- SCDC Administrative Manager of Prison Industries, Rickie Harrison
- SCDC Production Manager of the Tire Retread Plant at Lieber Correctional
Institution Jack Staudt
- South Carolina State Senator Chauncey “Greg” Gregory
- Current Executive Director of the National Correctional Industries Association
(NCIA) Gina Honeycutt
- Past NCIA Executive Director Gwyn Smith-Ingley
- National Prison Industries Enhancement Certification Program Coordinator
Barbara Auerbach
- George Washington University (GWU) Research Professor of Economics and
former Department of Energy Economist Tom Petersik, Ph.D.
- U.S. House of Representatives Legislative Counsel (D-Va) Bobby Vassar
- Former Texas State Representative Ray Allen
- Anderson Flooring CEO Don Finkell
- U.S. Textiles CEO Hans Lengers
- Several SCDC PIE inmate workers
- Iowa’s Director of Prison Industries (and President of NCIA) Roger Baysden
- Cleveland-Marshall College of Law Professor Emerita and labor lawyer Joan
Baker
- Federal Bureau of Prisons Assistant Director and Federal Prison Industries (FPI)
Chief Operating Officer Steve Schwalb
- Tennessee’s Executive Director of TRICOR Pat Weiland

- Federal Bureau of Prisons UNICOR Chief Administrative Officer and 2007 NCIA Board of Directors member Robert C. Grieser
- Florida PIE Program Manager, Brian Connett
- Robert F. Carter, Program Administrator V for the Texas Prison Industries Program
- SCDC Legal Counsel Lake Summer
- University of Baltimore and National Institute of Justice (NIJ) PIE researcher Cindy J. Smith, Ph.D.

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