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Wage-Incentives and Work-Training Programs: Essential Tools for Rehabilitating Prison Inmates

Wage-incentives should be made to prison inmates; such incentives should be coordinated with work-training programs whose goal would be to successfully reintegrate former inmates into the general population. The National Advisory Commission on Criminal Justice, Standards and Goals has recognized the need for such planning and has published guidelines for establishing such programs.¹

Not all prisoners will desire or be able to participate in such programs. Within prisons many inmates will fail to cooperate with institutional policy,² especially in maximum security prisons, and subsequently it will become necessary to segregate them from the main body of inmates.³ But programs must strive to achieve at least minimum change in all prisoners by offering "immediate rewards for short-term goal attainment."⁴ Socially desirable behavior should be positively rewarded; however, the practice has been for prison officials to concentrate on deterring threats to prison order.

In the main body of prisoners desirable behavior should be reinforced through incentives based upon a "systematically expanding range of privileges."⁵ And as the inmate's level of learning and skill regarding his educational and job assignments increases, good behavior will stem not just from external privileges and rewards but from his developing self-reliance acquired from successful participation in socially desirable activities.⁶

Wage-incentives combined with developing socially desirable values will help bridge the transition between prison and release. The former inmate will be better prepared to enter society with savings accrued during his incarceration. And the work experience acquired in prison will instill in him the discipline required to successfully compete in the job market. If the inmate's prison work experience consists of work without reward, such negative conditioning will logically lead to the pursuit of rewards without work, to wit, more criminal conduct and further alienation resulting, in part, from the exploitation of his labor.

The State stands to gain many advantages from wage-incentive programs. Taxes could be paid from inmate income in the same way other wage earners pay taxes. An inmate could be required to at least partially reimburse the state for the expense of maintaining him. And with his earnings,

¹ NAT'L. ADVIS. COMM. ON CRIM. JUSTICE, STANDARDS AND GOALS: CORRECTIONS, at 387 (1971).

² W. J. Rhoades, *A Rehabilitation Program for Maximum Security Units*, 22 J. CORR. ED. 22d (1970).

³ *Id.*

⁴ *Id.*

⁵ THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: CORRECTIONS, at 54 (1971).

⁶ *Id.*

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the prisoner could contribute to the support of his family enabling them to remain off public assistance.

It must be noted that most prison inmates have deficiencies in education and the skills and experience necessary for desirable employment.⁷ Since they have a history of failure in school, caused or compounded by the inability of many schools, especially those in urban ghettos, to interest students and their tendency to ignore or expel them when they fail or cause disruption,⁸ successful reintegration after release from prison requires the institutions to alleviate these deficiencies. The term rehabilitation acquires a specific meaning, to wit, training and education, for inmates with deprived backgrounds.

Despite the need in American prisons for these and other changes, the status of rehabilitation programs is rather dismal. This fact is born out by the perennially high rate of recidivism in our country today.⁹ Since the chief prison occupation is idleness,¹⁰ the successful inmate must adjust himself to years with nothing productive to do. This condition practically precludes a successful post-release adjustment.¹¹ What most states euphemistically refer to as training programs,¹² are in reality unrewarding

⁷ *Id.* at 53.

⁸ *Id.*

⁹ COMM'N. FOR ECONOMIC DEVELOPMENT, REDUCING CRIME AND ASSURING JUSTICE at 44 (1972).

¹⁰ *Id.* at 45.

¹¹ *Id.* at 44, "Prison systems range in quality from marginal acceptability in those of a few states and the Federal Government, down to medieval level of some state and local systems. . . . The failure rate is very high; 63 per cent of federal parolees released in 1963 were rearrested within six years, as were 76 per cent of those given mandatory releases. Such information as is available indicates the experience with state prison releases is comparable."

¹² THE ABA & COUNCIL OF STATE GOVERNMENTS COMPENDIUM OF MODEL LEGISLATION STANDARDS, at 95 (1972): The Compendium contains the following chart of work-training programs within state prisons:

STATE	TRAINING		Prison Industry & Farms	For Other State Agencies	WORK		
	Academic	Vocational			Roads	Mines	Other
Ala.			Tit. 45, § 10	Tit. 45, § 5	Tit. 45, § 5	Prohibited	
Alas.							"public works" 11.05.110
Ariz.	31-501	31-501	§ 41-1621	Yes			
Ark.	46-116	46-116	46-117				
Cal.	2054	2054	5091	2716	2760		
Colo.					105-3-14	105-4-5	
Conn.			§ 18-88				
Del.	§ 6531	§ 6531	§ 6532	Yes			
Fla.	944.19		944.49				
Geo.	77-319	77-319					
Hawi.			§ 354-1	§ 353-19	§ 353-19		
Ida.	§ 33-123	§ 33-123	§ 20-401		§ 40-2202		"public works" § 20-245

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attempts by too many men, working on outmoded equipment, to produce goods of limited use and quality.¹³

STATE	Academic	Vocational	Prison Industry & Farms	For Other State Agencies	Roads	Mines	Other
Ill.	127:55.7	127:55.7	108:74				
Ind.	13-2527	13-2527	13-2536				
Iowa			218.73	246.18			
Kans.	-----No statutory provisions-----						
Ky.		196.240	197.110	197.070			
La.	Tit. 15, § 828	Tit. 15, § 832	Tit. 15, § 832		Tit. 15, § 855.1		
Maine	Tit. 34, § 4				Tit. 34, § 5		Tit. 34, § 5 ¹
Md.			Art. 27, § 681	Art. 27, § 681	Art. 27, § 713		
Mass.	124.1, 92 & 93	124.1	127.48a 127.51				127.86d "daywork"
Mich.	800-55		No other statutory programs				
Minn.		241.27	241.27	241.20			
Miss.		§ 7990		§ 7981	§ 7966		
Mo.	217.565	216.565	216.475				
Mont.	75-2006		80-1501				
Nev.			209.350	209.350	209.350		
N.H.							
N.J.			30-4.94				
N.M.							
N.Y.	Corr. Law § 136	Corr. Law § 170-197	Corr. Law § 170				
N. Car.	148-22.1	148-22.1	148-26	148-26	148-26		
N. Dak.			12-48-03.1	12-48-03	12-48-05		
Ohio	5145.06		5119.57				
Okla.	Tit. 57, § 510F	Tit. 57, § 510F	Tit. 57, § 510D	Tit. 57, § 211			
Ore.			421.055 421.075				
Pa.			6144				
R.I.	13-2-26	13-2-26	Tit. 13, Ch. 7				
S. Car.	55-50.11	55-50.11	55-341				
S. Dak.	24-7-1		24-7-1	24-4-7			
Tenn.	41-1804 ²	41-1804 ²	41-401 41-326	41-403	41-501	41-403	
Texas	§ 6203B		§ 6166				
Utah	64-9-51		64-9-31	64-9-33	64-9-59		
Ver.			Tit. 28, § 203	Tit. 28, § 203			
Va.	53-33						
W. Va.			28-5B-1		17-5-1		28-5-11 ³
Wash.		72.13.100	72.64.040	X			
Wisc.	46.03	56.05	56.01 Chap. 56	X	56.19		
Wyo.			7-367			Prohibited	9-386 (farm)

Notes

¹ Improve property owned by charitable organizations.

² Limited to first-term offenders.

³ Authorizes letting of inmate labor to private contractors.

¹³ TASK FORCE REPORT: CORRECTIONS, *supra* note 5, at 55.

Opposition to improving prison work-training programs stems from several diverse sources. Before the depression of the 1930's, prison officials contracted prison labor to private industry and the prisoner received little or no remuneration for his labor. In part the "unconscionable" abuses in this system led to the passage of legislation by the Federal Government and the States to curtail these practices. But the supply and demand for labor and goods in the economy during the depression was the real impetus for this legislation.¹⁴ When unemployment was widespread and private industry couldn't sell its goods, "political pressure mounted to prevent prisons from engaging in enterprises which might otherwise be conducted by private business and free labor."¹⁵

Thus various abuses and economic pressures have inhibited development of prison industries and related training programs, both of which could provide the best source for funding wage-incentive programs. Therefore, the success of prison industries rests largely with the cooperation of private industry and labor. Legislation offering tax incentives and exemption from payment of numerous employee fringe benefits that are inapplicable to prison conditions might make establishing factory branches¹⁶ inside prisons very attractive to private industry. The companies, undertaking prison manufacturing programs, would be able to provide valuable management skill, modern equipment, and technical knowledge to the inmates. Private industry could also pay wages comparable to that earned by free labor in the same industry. This would reduce organized labor's objections to such programs and allay fears of renewed exploitation. The price at which prison manufactured goods could be sold might require regulation to prevent unfair competition within the particular industry.

In 1971 the North Carolina Legislature authorized a wage-incentive program for inmate labor.¹⁷ A dollar was set as the maximum daily wage,¹⁸ and The Prison Enterprises Fund was designated as the source for these wages; however, no program has yet been implemented pertaining to wage-incentives for prisoners. The reasons for this delay lie in the attitudes of those in charge of the program, and indeed, to the nature of the legislation itself, which is widely viewed as a token gesture to assuage complaints by prisoners that they should be paid for their work.

¹⁴ The Hawes-Cooper Act, which became effective in 1934, divested prison-made goods of their interstate character on their arrival at the destination point, thus facilitating State restrictions on their sale. The 1935 Ashurst-Summers Act prohibited the transportation of prison-made goods to states where such products were prohibited, and required the labeling of all prison-made products in interstate commerce. Finally, the Act of October 14, 1940, prohibited the interstate transportation of convict-made goods for all but the use of the States, Federal and District of Columbia Governments. The three acts were consolidated in the revision of the Criminal Code. 18 U.S.C. §§ 1761-62 (1948).

¹⁵ TASK FORCE REPORT: CORRECTIONS, *supra* note 5, at 54.

¹⁶ CORRECTIONS, *supra* note 1, at 388.

¹⁷ N.C. GEN. STAT. § 148-18 (1971).

¹⁸ COMPENDIUM OF MODEL LEGISLATION AND STANDARDS, *supra* note 12, at X103. The Compendium contains the following chart of wage-incentive programs within state prisons:

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STATE	WAGES PRISON LABOR AUTHORIZED	DEDUCTIONS AUTHORIZED			DISTRIBUTION AUTHORIZED			
		Escape	Prop. Destr.	Other	Dependents	Creditors	Personal Expense	Other
Ala.								
Alas.					Yes	with con- sent		
Ariz.	Rules of Director	31-254			31-331 ¹	Yes	Yes	
Ark.	Rules of Director				46-117 ²			
Cal.	Rules of Director							
	2782, 2700	2700						
Colo.	Dept. of Inst'n's.							
	105-4-17, 105-5-9			105-5-10	105-4-17		105-5-9	
Conn.	Rules of Director				§ 18-100, § 18-85			
Del.	Rules of Director							
	65.33					65.34		
Fla.	By regulations							
	945.01091							
Geo.					77-309		77-309	
Hawi.	§ 353-25 \$2-\$5/day							§ 353-28 ³
Ida.	§ 20-409				§ 20-242	§ 20-242	§ 20-242	
Ill.	Dept. of Corr.				108:90		108:90	
	108:89							
Ind.	13-2564, 13-2567							
Iowa	218.42—not more than free labor				247A.7 218.44		247A.7 218.44	247A.7 ¹
Kans.	75-20D.07			state expenses	75-20D.09	75-20D. 09	75-20D. 09	
Ky.	By regulations							
	197.150, 197.110				197.110			
La.	Tit. 15, § 873 grade system ⁵				Tit. 15, § 1111 Tit. 15, § 832	Tit. 15, § 1111	Tit. 15, § 1111 Tit. 15, § 874	
Maine								
Md.					Art. 27, § 700A			
Mass.	127.48a			state expenses			127.48a	
Mich.								
Minn.	243.23 \$1-\$20/day				243.23	241.26		
Miss.								
Mo.	216.340				216.345			

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STATE	WAGES PRISON LABOR AUTHORIZED	DEDUCTIONS AUTHORIZED			DISTRIBUTION AUTHORIZED			
		Escape	Prop. Destr.	Other	Dependents	Creditors	Personal Expense	Other
Mont.					95-2222	95-2222		
Nev.	209.350							
N.H.								
N.J.	30:4-91.4 30:4-92			cost of mainte- nance	X	X	X	pay court fines
N.M.	42-1-78			cost of mainte- nance				
N.Y.	Corr. Laws § 187 (graded)			state expenses	corr. law § 854		X	pay court fines
N. Car.	148-18 Not more than \$1/day				148-33.1		148-33.1	148-33.1 ⁶
N. Dak.	12-48-14 \$.50-\$.10/day	12-48-20		12-48-22 ⁷	Yes		Yes	12-48.1-03 ⁶
Ohio	5147.22				5147.22			
Okla.	Tit. 57, § 510D Rules of Dept.				Yes		Yes	
Ore.	421.170			Cost of mainte- nance	X	X	X	credit for re- lease
Pa.	61-197 61-1051 71-305			Cost of mainte- nance	71-305 61-1054 61-197 X	X	X	credit for dis- charge
R.I.	13-2-37 \$.75-\$1/day				Rules of Department			
S. Car.				24-4-10	55-321.2			
S. Dak.	24-7-6 Set by Board			24-4-10 ⁸	24-4-10	24-8-9		24-8-9 ⁹
Tenn.					41-1812	41-1812		41-1812 ⁴
Texas					6166X-3			
Utah	64-9-34				64-9-34			
Ver.	Tit. 28, § 16				28, § 207			
Va.	53-30 53-222			cost of program	X 53-222			prisoner's account
W. Va.	62-13-4 Rules of Dept.				62-13-4			
Wash.	72.64.040			state expenses	72.64.040 X	X	X	prisoner's account
Wisc.	46.064 53.12				X 46.065	X	X	X
Wyo.	7-376 Rules			7-376 ¹¹	7-378			

Notes

- ¹ Distribution provisions apply only to work-furlough earnings.
- ² To repay state, if state is supporting dependents on welfare.
- ³ Any purpose the Department deems proper.
- ⁴ Court costs.

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The Prison Enterprises Fund derives its income from the sale of goods¹⁹ based upon the purchasing needs of the State; it does not provide practical job-training for the general labor market. The North Carolina Department of Corrections has tentative plans to allocate about \$400,000²⁰ from this fund to pay approximately one-third of the over 11,000 inmates in North Carolina's prisons.

While the tentative North Carolina wage-incentive program rests upon the principle that at least minimum change will result from wage-incentives, one might more realistically expect that minuscule change would be the intended result from a program having no legislative appropriations and no coordinated work-training program. Such programs clearly reveal the low priority given to meaningful efforts at lowering the recidivism rate and dealing fairly with prison inmates.

Federal and State legislation restricting the manufacture, transportation and sale of prison made goods must be repealed and replaced with legislation that will both permit and encourage private industry to participate in furthering prison industries. New legislation is needed to give greater priority to programs that will help reduce recidivism by preparing inmates for successful reentry into society.

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⁵ Earnings of offenders depends on their grade and classification and range from 5 cents per hour to 2 cents per hour.

⁶ Court costs and restitution.

⁷ The section authorizes a uniform system of fines and penalties for misconduct.

⁸ Section authorizes part of wages going to prisoner's personal expenses to be withheld for misconduct and paid to his dependents, if any.

⁹ Restitution.

¹⁰ Court costs.

¹¹ Forfeits for misconduct up to 50 cents for each day of good time forfeited.

¹⁹ MUNICIPAL PURCHASING SERVICE OF THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES, PRODUCTS MANUFACTURED BY THE NORTH CAROLINA PRISON ENTERPRISES (1965): such products include automobile license plates and traffic signs.

²⁰ The North Carolina Department of Corrections has set no date for the implementation of this program, and allocation of these funds has not received final approval.