The Application of Legal and Business Policies to State Prison Industries

Daniel Pramuk
Indiana University School of Law

Gregory Robinson
Indiana University School of Law

William Rotzien
Indiana University School of Law

Follow this and additional works at: https://www.repository.law.indiana.edu/iustitia

Part of the Labor and Employment Law Commons, Labor Economics Commons, and the Law Enforcement and Corrections Commons

Recommended Citation
Available at: https://www.repository.law.indiana.edu/iustitia/vol1/iss1/4
The Application of Legal and Business Policies to State Prison Industries

by

Daniel Pramuk
Gregory Robinson
William Rotzien

[This article represents the research of a team of JD-MBA students on the application of legal and business policies to the problems of Indiana prison industries.]

If J.D.-M.B.A. programs are to have any other validity than that they are fashionable, then attempts must be made at cross-disciplinary studies. When plans indicating joint seminars for the joint program fail to materialize, then the people presently participating in such programs must create opportunities to integrate the two programs. It is with these goals in mind that the three members of this team, all candidates in the combined program, decided to seize the opportunity to analyze the strategy of an institution where the interplay of the two disciplines could have a synergistic effect in posing possible alternative strategies. The Prison Industries (P.I.) division of the Indiana State Department of Correction presented the challenge of a business function that must be carried out to achieve policy goals established by the legislature. The legal constraints imposed upon P.I. present barriers unique to the regular business community, and yet, analysis of conventional business planning provides a starting point for an analysis of P.I.'s plan and its implementation, and provides a guide for posing alternative plans. The Pendleton Reformatory was chosen for observation of P.I. in operation and its relation to the prison as an institution.

I. History of the Use of Inmate Labor, 1900-1953

Prior to 1953, prison administrators had always found "employment" for inmates. It is the form that this employment assumed and the purposes of such employment that will be discussed here.

In 1900 the state penal system was operated by independent boards of trustees, each board having control over its specific institution, be it the state prison, reformatory or farm, the women's prison, or the boys' or girls' school. There were statutes providing state sanction and funds to operate manufacturing facilities for the state's own account within the prisons. However, there were also statutes providing for the contracting out of inmate labor, said contracts to be awarded to the highest and best bidder. A binder twine plant at the state prison was established in 1907.

Ten years later the legislature proclaimed that it was the policy of the state of Indiana to abolish contract labor in its penal institutions. It also empowered and authorized the various boards of trustees of the several penal institutions to manufacture such articles as are used by the state and its institutions and divisions, and to sell the surplus, if any,
upon the market. However, as late as 1926, the Indiana statutes did not carry out the Act of 1917 or its purpose. It was still possible to contract for convict labor at the state prison. In fact, its board of trustees was still authorized to contract for the labor of six hundred of the inmates. However, such contract labor was to be employed in those industries which least interfered and competed with outside labor and industries in the State of Indiana. All work by the prisoners of the state prison was to be done by hand. The most depressing aspect of this scheme was that the inmates received no material or psychological benefits for their efforts. Not only were they contracted to do work against their will, but the monies received from their earnings were given to the Board of Control to pay the salaries of all the officers and employees (not inmates) of the prison, and any excess cash was converted to the state treasury. Such a procedure clearly gave rise to the probability that personal interests of the Board of Control took precedence over the needs of the inmates. Contract labor of prison inmates and its attendant vices were not entirely abolished until 1939.

The Indiana Reformatory could employ inmate labor in manufacturing carried on by the state for its own account but could not contract out inmate labor, which had been abolished for this institution in 1906. Why the difference concerning contract of inmate labor existed between the state prison and state reformatory is not clear. Nevertheless, the Reformatory Board of Control also had authority to use the earnings of the prisoners and the monies received from the sale of products made by the inmates to pay the salaries of all officers and employees of the institution, and any excess was converted to the state treasury.

The state farm had the only legislative mandate that called for the “proper and healthful employment of (its) prisoners.” It is apparent that there were no means to coordinate the operations or choice of industries among the various penal institutions. Also, it is very clear that there were discriminatory practices used among the inmates which depended solely on the type of institution in which they were incarcerated. There is no indication that the industries were to be rehabilitative in nature; they were merely established to provide goods for the state, its institutions and political divisions.

In 1933 the legislature specifically provided for the manufacture of motor vehicle license plates at the state prison. The state exercised stricter financial control in this operation by requiring all monies due the institution from the sale of the plates to be paid over to the treasurer of the state. This control prevented vested personal interests in salaries from influencing profit allocation in the new industry. Although the officers and employees of the prison did not derive any material gain from the license manufacturing, neither did the inmates. The state was the only winner in theory. But this supposition ignores the long-run costs that result from failure to decrease recidivism by maximizing P.L.’s rehabilitative impact upon society.

The first attempt to synchronize the operations and functions of all penal industries and state farms was in 1945. The Division of Procurement and Supply was created by legislative act, and the director thereof was empowered to advise in the coordination and cooperation of all penal industries and state farms. He had specific control over the kinds of products raised on state farms and the sales of all articles produced or manufactured, and was responsible for the billing and collection of the sale prices. This Act did not speak to the role or purpose of the prison industries, but the fact that they were placed under the auspices of the Division of Procurement and Supply gives rise to
the conclusion that the legislature had still failed to place any importance on these industries other than as a means of providing goods at lower than market prices to the state and its subdivisions.

The most comprehensive and sophisticated plan to integrate all prison industries into a functional whole prior to the 1953 Act which created the Department of Correction was the Financial Reorganization Act of 1947. This Act was designed to coordinate all financial matters and buying and selling, of all state agencies, including all state penal institutions and their industries and farms. The Division of Public Works and Supply was a hybrid successor of The Division of Procurement and Supply and assumed all of its duties and responsibilities and more. The new Division was the clearinghouse for all industry sales and for all sales of surplus products. All receipts went directly to the state treasury, but the revenues from sales of surplus goods was credited to the Institutional Rotary Funds. Prison industries were given special financial resources by this act. An Institution Industries and Farm revolving fund in the sum of $450,000 was established. As a revolving fund it had unlimited life; therefore, the separate prison industries did not have to wait for annual appropriations from the legislature. This revolving fund was budgeted at the beginning of the fiscal year to each of the state penal and benevolent institutional industries and farm accounts under the recommendation of the warden of each institution. These allocations were subject to approval by the Director of Public Works and Supply and the state budget committee. At the end of each fiscal year the balance in each of the respective institutional industries and farm accounts was transferred to the revolving fund, and any amount in excess of $450,000 was transferred to the state general budget. There were provisions for record keeping and year-end net consolidated income statements for all industries and farms of each institution.

The scope of this legislation was purely financial. There was no mention of how industries were to operate, other than establishing that prison inmates were the source of labor. There were no guidelines for accounting and reporting. Noticeably absent were means of coordination across institutions and flows of information concerning production techniques, new technologies, and operating procedures. Finally, the legislature failed to place any significance on the inmate’s need for rehabilitation. This scheme still skirted the issue and refused to place primary emphasis on the role prison industries could play in rehabilitating the inmate while simultaneously supplying goods at below-market prices to the state. This set the stage for the 1953 legislation which would unify the prison system and start prison industries toward an objective more significant than merely generating profits.

II. Creation, Development, and Scope of the Division of Industries and Farms

The value of providing some form of meaningful employment for maximum numbers of prison inmates is now universally recognized by penal system administrators. The State of Indiana, however, does not qualify as a forerunner in this area of concern, as is evidenced by the history of the use of inmate labor prior to 1953. (See appendix.) This is further demonstrated by the fact that the Department of Correction is less than twenty years old. Whenever a state legislature demonstrates such reluctance in bringing all its penal institutions under central control, the implications are clear that divisions or organizations operating within such a newly created department are not going to achieve their objectives in short periods of time because of the inherent problems of coordination, decision-making, financial support, further complicated by the absence of qualified administrators.
Such was the case with the Division of Industries and Farms (DIF) of the Department of Correction. The Department of Correction was established by the legislature in 1953. It consisted of three (3) divisions: Division of Administration, Division of Classification and Treatment, and Division of Industries and Farms. The Department was governed by the State Board of Correction, which consisted of three members appointed by the Governor. The Act also provided for a Director of DIF to be appointed for terms of four years by the Governor. Such person was to be qualified by training and experience in farm management and the operation of small industries—hardly a succinct, measurable standard of qualifications. His duty was to coordinate the activities of the various correctional institutions through the Department of Public Works and Supply and the Department of Correction regarding the establishment, operation, and management of all such industries and farms. Furthermore, a $450,000 revolving fund was created to finance DIF. The 1953 Act abolished all the separate boards of trustees of the several state penal institutions and vested all their powers in the State Board of Correction; it specifically placed DIF within the Department of Corrections.

This organizational change made more sense because DIF could more readily be identified and coordinated with correction than when it had been solely a department of the Division of Public Works and Supply. The effect of the Act was to discard a fragmented penal system and unite it under one main authority. It sought to make DIF more efficient and effective by providing a director who could act as liaison between the Board of Corrections, which supplied labor and facilities, and the Department of Public Works and Supply, to which operating reports were made and through which all financial transactions were monitored. At this time DIF’s primary role continued as a supply agent for the State institutions, agencies, and divisions. Consequently, its performance was measured in terms of sales, or profits, not in terms of rehabilitation through meaningful job opportunities for inmates. The Division was primarily responsible to the Department of Public Works and Supply. DIF’s existence rested on its ability to produce goods and to be financially self-supporting. It was believed that the Division could actually be profitable and turn over all funds in excess of those needed for operations to the State General Fund. But to the best of our knowledge, no excess funds were ever generated under the 1953 arrangement.

First of all, there appeared to be no legislative requirement for uniform, centralized methods of reporting and accounting. The Financial Reorganization Act of 1947, section 37, still applied, and it only called for each penal institution to submit operating statements and consolidated net income statements for all industries or farms at the institution. The potential for errors, outright omissions, and totally meaningless figures and reports was obvious. Each superintendent could report what he wanted, pad inventory or sales figures at will, and generally be as misleading as he desired. After all, he probably wasn’t an accountant, and there were no funds or mandates to hire one. Secondly, the Director of DIF was not given power to coordinate his operations with those of the other Departments. He had no authority to determine policies or objectives for his Division. He could merely make requests or suggestions to the Board of Correction and the Division of Public Works and Supply. He had no means by which to combine the resources of the three Departments to achieve economies or synergistic results. Thirdly, the Act did not give any mandates or purposes to DIF, other than to perform its predecessor’s role of supply agent to the various State agencies and divisions. There
were no real incentives, from either the inmate’s or the administrator’s viewpoint, to make the Division anything more than a marginal operation—marginal in terms of productivity and financial success, as well as in terms of rehabilitation.

Some relief in this state of affairs came in 1959 when the legislature amended the 1953 Act and cut the ties between the Department of Public Works and Supply and DIF. The amendment also increased the Industries and Farms revolving fund to $650,000. The effect of these changes was to allow for greater coordination and communication between two parties, DIF and the Department of Correction. The Division now had a larger annual operating budget and was no longer responsible to the Department of Public Works for any purposes. This fact gave the Director greater operating leverage and eliminated what had been a troublesome coordinating task. The Division could now deal solely with the Department of Correction concerning operating procedures, Division objectives, and methods of implementing the Department’s goals of meaningful employment and rehabilitation of the inmates.

However, certain financial difficulties remained. The Director could not allocate funds to the various penal institutions for the operation of their respective industries or farms without the approval of the State budget committee. This procedure is still in effect today and, despite its limitations, is a necessary safeguard of taxpayers’ dollars. Complete record keeping and reporting for all industries and farms were again mandatory, but no guidelines or standard procedures were established. One improvement, however, was that the Division had to prepare a consolidated operating statement for all of the penal farms and industries. This was an attempt to get a total picture of the Division’s performance as best as can be derived from numbers. But, since the accuracy of the individual institution report was extremely doubtful because its preparation was subject to many deviations and errors, the consolidated statement could hardly be considered an objective audit.

The current administration of the Department of Correction, and, specifically, the Division of Industries and Farms stepped into this situation in 1969. The new Commission of the Department of Correction is Mr. Heyne. The new Director of Industries and Farms is Mr. Nardine. He has two assistants, Mr. Charles, who is Director of Industries, and Mr. Jackson, who is Director of Farms. The size and scope of DIF had reached such proportions that one man could not adequately monitor, guide, and coordinate the whole system. Therefore, the separate directorships of each were created with attendant responsibilities, duties, and authority.

The 1968-69 fiscal year for DIF was the least productive in terms of revenues of any of the previous six years. Acknowledging that the accounting and reporting system did not give an entirely accurate and unbiased picture, this was still a clear indication that major overhauls were needed to rejuvenate the operations and give it new emphasis.

While this discussion has made reference to DIF, our paper focuses solely on Prison Industries (P.I.). We acknowledge that the farm operations are quite substantial and do serve both productive and rehabilitative functions for the Department, but our lack of expertise and space limitations preclude discussion of farms.

III. Prison Industries: Environment

In order to determine what opportunities Prison Industries has to exploit, an assessment was made of the environmental forces existing in Indiana.
Social Forces

Social forces constrain the direction of P.I., since citizens take a negative view of criminals. The general populace is usually more willing to punish and extract the "pound of flesh" than to support such programs. Movements for prison reform in the area of prison industries are met with the complaint that prisoners are being coddled—a complaint which does not appear to have any factual basis.

We were initially enamoured with the idea of the possibility of a self-sustaining prison system because we perceived Indiana to be a state where the electorate frowned upon increased taxation in any form, even for the improvement of public education. If people were not willing to pay more taxes to improve the minds of their children, it was thought that it would take the superhuman politician to make the electorate realize that more funds were needed to improve prison systems so that the long-run costs to society could be decreased. Our observations led to the conclusion that self-supporting status was not a viable goal even in the long run, say 20 years, without a drastic reorganization of the whole concept of prison industries. We then pursued the possibility of injecting private business into the prison system as a means of supporting rehabilitation programs with minimum initial investment from tax funds.

Political and Legal Forces

Legislators are hardly willing to run on a platform of prison reform when they perceive such programs are disfavored by the public, and when they are pressured by outside lobbying groups who accuse the government of competing with them via prison industries.

But there may be some feasibility in the Department of Correction lobbying for increased freedom to use P.I.-generated profits to support rehabilitation programs, as evidenced by the fact that the '71 legislature has provided that P.I. can petition the state budget agency to use a portion of their profits over the $650,000 revolving account. In the past, all excess profits were turned over to the state. Unfortunately, the state budget pinch has decreased the possibility that these funds can ever make such prudent investments as new capital equipment purchases to replace obsolete items, let alone for new product lines. In addition to the legislature, the governor exerts significant influence on the Department of Correction. The Commissioner of Correction is appointed by the governor for a four-year term and serves at his pleasure. Realistically, this means that if the Commissioner wants to retain his position he must compromise his strategy to the extent necessary to placate the governor.

The inevitable requirement that legislative safeguards be built into the administrative process means that changes in correction strategy will be implemented much more slowly than they would be in a private business. Commissioner Heyne has been in the office since July of 1969 and has run up against problems in obtaining approval for community center correction plans. The Commissioner requested $300,000 from the state legislature to match a federal grant to begin implementation of this community program, but was granted only $150,000. Heyne intimated that obtaining even this amount resulted from the legislators' fear of reprisal in the event that an Attica situation developed in Indiana. Furthermore, progress in other areas has been impeded due to the fact that Burns 22-50323 makes receipt of donation possible only with the governor's approval. The Board of Fundamental Education made a proposal to provide
training and vacation programs. In order to obtain federal funds for these programs, Heyne had to come up with a cash match. After successfully obtaining a donation, Whitcomb was still reluctant to approve it because he didn’t want to be hounded for funds if and when federal aid was withdrawn. This has been a familiar theme with the Whitcomb administration. While the policy behind the statute has the beneficial effect of preventing bribes, etc., it has the detrimental effect of slowing down worthwhile change.

**Economic Position**

P.I. is also severely constrained in new capital expenditures. Any major new investment must be approved by the state budgeting agency.

The Industries and Farms Revolving Fund legislation limits working capital to $650,000 per year for financing operations, regardless of their past profits—a limitation which severely hampers the volume of sales which P.I. can support. P.I. obviously cannot independently resort to such business practices as stock issues, bond issues, and loans.

Given the present economic posture of the state, there is little foreseeable possibility that P.I. facilities will be improved. What this means is a decreasing chance for inmates to come in contact with the latest techniques and equipment, which in turn puts P.I. at a competitive disadvantage with industries having better technology. At present, P.I. has still been able to compete, despite lower labor productivity due to inferior machines and inmate sabotage. Inmate salaries are a maximum of $1.00 a day, and even though we would not advocate paying a competitive wage directly to prisoners, the failure to calculate this as a direct cost has meant that no internal pressure has been generated to improve technology.

**Competitive Posture**

The slack that is introduced into the strategy process by the slowness of the legislature and the influence of executive skepticism upon the state budget agency will mean the P.I. will almost inevitably move more slowly than other private businesses in competitive situations. This slack will have a definite, negative impact on an appropriate market strategy.

Determination of the competitive stance that P.I. should take must consider that historically the legislature delineated a public policy that denounced direct competition with private enterprise.

Moreover, an unfortunate experience with contracting prison labor led to the statute abolishment of the use of prison labor in private enterprise. Had adequate safeguards been taken to protect prisoners against exploitation, it is felt that private enterprise would have provided a fruitful rehabilitation area with good possibilities for additional profit, which could further absorb the cost of the $43 million Prison Institution budget. P.I. has stated that one of its goals is to provide other state agencies and institutions with goods at significantly lower than market prices. It was thought that this posture would not place P.I. in direct competition with private industry in the same businesses, since their volume provided an insignificant impact on commerce and was concentrated within state institutions.

However, since the legislature has provided that P.I. could sell to consumers, the likelihood increases that P.I. will be perceived by the private sector to be in direct competition with them. Furthermore, since P.I. has been able to sell all that they can produce, it is
necessary to consider the implications of expansion and the structure of competition involved.

Generally, product lines have been selected that will have great use in state agencies, thus justifying their manufacture. But what this has usually meant is that they are not producing the most profitable items, even within the limits and constraints of their technical skills. The traditional answer given in response to why more profitable businesses are not undertaken in P.I. is that government does not want to impinge on private enterprise. As a result, prisons have focused their efforts in areas like punching license plates (the biggest sales item in Indiana P.I.) with outmoded equipment. Work on such equipment has little carryover effect when the prisoner tries to get a job outside.

**Prison Programs**

One important factor that must be considered is the academic level of the prison population. At Pendleton the vast majority of inmates have not even finished high school. This state of affairs is worsened by the fact that educational efforts at Pendleton border on mere tokenism. Although there is classroom instruction through the high school level, the priorities used in student selection are morally defeating to the extended-term inmate, who is constantly being pushed to the back of the line by short-termers whose chances of rehabilitation are felt to be greater. This may make some sense when one has only a limited amount of teachers, since the short-termers will indeed be the first ones to come in contact again with society. However, it is not a scarcity of high school teachers, but rather of funds with which to pay them.

In addition to educational levels attained in formal schooling, another factor that needs to be considered is training programs. These are also carried on by the prison institutions, and P.I. presently plays no part in them. Indeed, P.I. views training programs as a threat to its effective operation, since higher I.Q. prisoners are given priority for placement in training programs over lower I.Q. prisoners serving the same amount of time; this means that lower mentality inmates are relegated to P.I. However, if the institution could be persuaded to coordinate with P.I., there would be a much better chance for rehabilitation and reintegration because technological skills could be increased in training and then directly applied in prison industries. Work release is also a separately run program that P.I. frowns upon, since it spirits away their best workers. It is clear that training, P.I., and work release should be integrated and considered as a comprehensive process.

Even considered in isolation, the job training that occurs at Pendleton hardly seems designed to equip people with a marketable skill by the time they leave prison. The prison staff considers the barber college their most outstanding program, but the Indiana licensing authority has seen fit to deny a barber's license to anyone who has committed a felony. This disqualifies Pendleton's entire inmate population. However, assurances were made that great strides were being taken in eliminating this technicality.

In contrast, the most valuable training appeared to be in automobile body-repair work. However, the present program can only accommodate 25 inmates a year—hardly a dent in a group of 1,200 inmates. And, although groups of inmates are periodically taken to Indianapolis to repair state vehicles, it should be noted that the inmates only work on vehicles owned by the supervisor of the shop or his friends. Obviously, these practices do not lead to economic viability.
The advantages of training-educational programs are clear. Therefore, prison industries should be given the opportunity to funnel a portion of their profits into increased formal education and improved training to expand educational and vocational opportunities. The rehabilitative goal would thereby be served while giving prison industries a better skilled worker pool to increase the likelihood of greater labor productivity and efficiency. Furthermore, if salaries were raised, the profit motive could be internalized by prisoners, thereby increasing motivation.

IV. Long-Range Strategy

The history of Prison Industries has been characterized by short-term planning reinforced by the use of 4-year terms for correction administrators—an arrangement providing little motivation for long-term policy. This shortcoming has been removed by the efforts of Commissioner Heyne, who successfully pressed for legislation in 1971 which provides that all the top management of P.I. would be removed only for cause. Although the Commissioner’s position is still a four-year appointment, the remaining P.I. administrators now have the structure in which to implement long-range plans. Furthermore, this change has sheltered P.I. from the pressures of political nepotism. The amendment also requires an A.B. degree and eight years operations experience.

1. Rehabilitation. Until the appointment of Commissioner Heyne in July, 1969, the primary long-range goal of the Department and for P.I. lay somewhere between rehabilitation of inmates on one hand and mere restraint on the other.

Rehabilitation, as a correctional policy model, is a manifestation of the “treatment doctrine.” Early psychological studies of inmates by Freud showed that criminals were, indeed, mentally and emotionally “sick” people. Freud showed that individual treatment of these deficiencies would provide the needed cure. Hence, the rehabilitation model grew out of the treatment doctrine. It stresses the correction of psychological deficiencies rather than sociological deficiencies by placing a greater correctional emphasis on the psychological and emotional treatment of the individual offender.

Only token recognition has been given to psychological disorders of the inmate. As of May 1971 the Pendleton Reformatory did not have even one full-time psychiatrist or clinical psychologist—a fact which would indicate that psychological problems have been all but ignored by the Indiana Department of Correction.

2. Reintegration. Commissioner Heyne has made significant changes in the long-range goals of the Department and Prison Industries. He appears to have recognized, as have many of those in corrections, that rehabilitation alone is not sufficient. Individual treatment of inmates requires vast numbers of specialists—doctors, psychologists, sociologists, and the like—a luxury that the limited budgets of state correctional departments can ill afford.

Consequently, Heyne has focused the long-range goals of the Department upon reintegration of the prisoner into society in addition to rehabilitation of the prisoner. For instance, Heyne pushed through enabling legislation in 1971 for community correction centers. In providing for individual treatment needs, these centers are additionally supposed to present the inmate with the opportunity to identify with community norms. Heyne also foresees savings by utilizing existing facilities like community mental health centers and regional university campuses. However, present mental health facilities in Indiana are already overburdened. Heyne intends to present a comprehensive plan for
the future of corrections to the 1973 legislature to include more long-range planning, with emphasis upon showing how—despite the initial capital investment—community correction centers will be cheaper in the long run when coupled with work release.

Reintegration, as a correctional policy model, rests on the premise that criminal behavior results at least as much from sick societies that spawn and then spurn individuals unable to meet self-needs in a conventional fashion, as from individual psychological and emotional deficiencies. Hence, while it places emphasis on the psychological treatment of the inmate, it also places great priority on the education of the community to the prisoner's plight and on the progressive internalization of the community values by the prisoner.

Although one of the stated long-range goals of P.I. is to provide for rehabilitation, there is little emphasis on the reintegration process. Furthermore, maximization of profits and expansion of P.I. are also seen by P.I. administrators to be long-range P.I. goals. But lack of effective measures of goal achievement other than conventional profit yardsticks have resulted in P.I. taking a myopic view of the future. P.I. administrators have not been aware of Commissioner Heyne's long-range strategy for attaining maximum rehabilitation and reintegration, through reducing the number of reformatory inmates to 500, using community correction centers, and eliminating or significantly modifying P.I. to 10 to 15 years. As a result the long-range goals of P.I. are in conflict with those of the Commissioner of Corrections.

V. Personal Values

Commissioner Heyne believes that maximum security prisons that isolate the prisoner from society decrease the prisoner's chance of rehabilitation and reintegration into society. Therefore, he is pushing to establish community correction centers to maximize the inmates contact with society, so as to soften the harsh transition from prison isolation to resocialization. In an attempt to get the inmate to take on increasing responsibility, work-release programs will be expanded so that the center will ultimately become a minimum security base point to which inmates return in the evening. Since he recognizes the fact that not all prisoners will qualify for the center program, he would like to reduce a maximum security institution like Pendleton to about 500 inmates, thereby decreasing the impersonality of the institution and providing closer contact between correction professionals and inmates.

He has also suggested doing away ultimately with P.I. or perhaps drastically reorganizing them. Doing away with P.I. on the center level appears feasible due to work release. But, since 50 percent of prisoners are estimated by Heyne to require maximum security, eliminating P.I. may have deleterious effects on rehabilitation and reintegration. Although training and education could be expanded, it is unlikely that the necessary funds can be appropriated for such projects. Even if money were available, such programs would not meet the needs of extended-term inmates who had received all the training and education they could reasonably be expected to absorb. By lobbying for legislative amendment on the federal and state levels for enabling legislation to allow private industry to operate in prisons, this gap could be closed. Such a course is explored in the suggested alternative section.

Heyne perceives his role to be that of a long-range planner, and apparently does not feel the need to communicate with P.I. staff about such proposals, since he feels they should concentrate on the short range. However, this lack of communication seems to
be developing into a conflict: Nardine, Director of Prison Industries and Farms, has expressed a desire to continue to expand prison industries in order to absorb as much operating expense of the prison as possible. He is also opposed to work release because he thinks that prisoners should not displace free citizens from jobs, especially when the unemployment rate hovers around 6 percent. The difference in approach is that Heyne believes in pursuing what is in the inmate’s best interest since it will also be, in the long run, in the best interest of society, while Nardine’s approach implies that once an individual is convicted he is tainted and should be subordinated to the law-abiding citizen.

Mr. Charles, Director of Prison Industries, perceives work release as a threat because those inmates determined to be ready to work outside the prison will be removed from the P.I. labor pool, which will decrease the average quality of workers. Even Charles’ concept of rehabilitation differs from Heyne’s. Charles believes that the only goal one can hope to achieve is to develop a prisoner’s self-discipline by keeping his nose to the grindstone for an 8-hour day on a production line. But if the prisoner is to develop any concept of his own self-worth, the opportunities in P.I. must extend beyond the possibility of a meaningless assembly work in a furniture factory. Charles is not willing to consider placing inmates in any administrative position in P.I. at the prison level, therefore he has foreclosed a convenient avenue for promising inmates to cope with increased responsibility. In contrast to Charles’ narrow view of rehabilitation, Heyne has decided that the best way to increase self-worth is by getting the prisoner functioning in a community environment via work release. But even Heyne has not thoroughly considered how to maximize rehabilitation and reintegration in maximum security situations. When Heyne was asked about the possibility of conflicting interests in the present, separately run, work-release program and P.I., he failed to see any possible problems. However, since work release is being continually expanded, it will further drain P.I. labor resources and eventually bring the problem to a head. Possible solutions to these problems are presented in the suggested alternative strategy section.

VI. Short-Range Strategy

The short-range goals of P.I. are to (1) rehabilitate, (2) provide needed products to other Indiana state agencies at lower-than-market prices, and (3) maximize P.I. profits. This last factor appeared to weigh especially heavily in their strategy, perhaps because profit is perceived to be a more easily understandable goal. At the Department of Correction level, Heyne wants to formulate a long-range plan for implementation of community correction centers and for educating the people in Indiana to the need for such centers. Prison Industries appears to be unaware of Heyne’s long-range goals, and this signals an impending conflict between the Department’s and P.I.’s goals in (2) and (3), above.

The unusual weight attributed to the goal of profit maximization initially struck us as being unwise. It seemed to us that profit maximization, by virtue of its appealing simplicity, could easily be allowed to subvert and entirely swallow up the more intangible goals of prisoner rehabilitation and reintegration. Messrs. Nardine, Charles, and Ferris gave no indication that profit maximization could be inconsistent with the other goals, and felt that all goals considered and pursued together were leading to an entirely consistent strategy.

The strategy formulated involved the following major business functions: Organization products and markets, financial reporting, capital resources, and labor.
1. Organization. See Exhibit 2 for the structure of the Department of Correction. Directly responsible to Mr. Charles, Director of Industries, is Mr. Benoit, Superintendent of Industries at Pendleton.

Mr. Charles has instituted quality control, inspection procedures, and other information flow systems. Civilian inspectors are employed to prevent favoritism or friendship from entering into the decision as to whether a particular item passes all quality standards. Monthly reports are sent to the Superintendent of Industries of the particular institution, Mr. Benoit at Pendleton, and to Mr. Charles. Although one reject is too many to Mr. Charles, he generally feels that a 10 percent reject rate isn’t extraordinary. If a larger percentage is reported, Mr. Benoit at Pendleton is questioned and expected to deal with the problem. If the condition persists, Mr. Charles becomes directly involved and may visit the institution in an attempt to resolve the problem. If the rejects are a result of sabotage, the most effective means of resolution is to replace the workers thought to be responsible. Sabotage is unique in that it is not a pure quality control problem. In most cases it can’t be prevented, and is generally irreparable. In many instances it is done by those inmates about to leave the institution. This again reflects on the reliability and motivation factors of P.I. employees.

However, the flow of information and ideas from inmate employees up through the channels is welcomed by Mr. Charles. If an employee has a suggestion concerning a method of operation, he relays this idea to his foreman. If the idea does not require too much money or radical changes, it can be immediately implemented by the foreman. If it is more detailed, Mr. Benoit is consulted and has authority to try a pilot project if he feels it should be tested before full implementation. If Mr. Charles or anyone else suggests major changes, engineers make drawings, and cost analyses are performed to determine the feasibility of the proposal. Final approval may require Mr. Nardine’s participation.

2. Products and Markets. The development of products and markets was in a totally uncoordinated and inefficient state when Nardine took over. The institutions were primarily concerned with keeping the inmates busy; hence, little consideration was given to the kinds of goods produced and marketed, let alone profitability. Product quality was poor and subject to acts of sabotage. Marketing was virtually non-existent.

In response to the problems, Charles formulated a strategy to “thoroughly update” Prison Industries’ products and markets. First, he completely centralized all the development of products and markets at the Director of Prison Industries level. Centralization, however, carried to its logical end has undesirable consequences that suggest that it be employed with caution. Too often it evolves into an autocratic approach to problem-solving, leaving little room for participation by other, usually lower-echelon, members of the organization. In a prison setting where rehabilitation and reintegration of the inmate are the essential long-range goals, the preclusion of the inmate from all decision-making authority must be carefully avoided. Establishment of the Inmate’s Council at Pendleton appears to have increased the probability that inmates will participate in decisions about prison industries, and socially acceptable modes of resolving conflicts will become internalized, at least by participating inmates.

The Inmate’s Council pressed for elimination of the foundry at Pendleton, and their efforts appear to have had an effect in stimulating its demise.
The foundry made manhole covers, using outmoded sandcasting techniques and obsolete machinery that had been discarded by Purdue University. This transfer of equipment is free to P.I.—which has the effect of encouraging P.I. to utilize any cast-off wares from other state organizations rather than pay for modern equipment. The fact that the foundry was used as a type of Siberia within the prison, where the most recalcitrant inmates were sent as further penance, further complicates the objectives of efficiency. This policy defeated any rehabilitative effect that the learning-situation of a foundry might have. If additional retribution is deemed necessary, even after society has completely deprived the prisoner of his freedom, it is certainly not even in the prisoner’s economic interest to punish the prisoner on the job. Output is decreased in this manner, and the possibility of prison self-support becomes even more remote.

The decision system which generated the elimination of the foundry is important because the deciding factor was not that a study of recidivism of foundry workers was found to be significantly greater than the rest of the prison population, but that the newly instituted cost accounting system showed that it was operating at a very low profit margin. Indeed, such a study of recidivism would be almost impossible to make, since the confounding effects of several job positions could not be separated, let alone other individual differences. While the rate of recidivism may be considered to be a benchmark of rehabilitative effectiveness, the decrease of that rate may not necessarily be the result of improving P.I. That Indiana has not achieved satisfactory inroads in this area is evidenced by a range of 60 to 80 percent return offenders, and these figures do not account for any prisoners that are released and then imprisoned in other states or federal prisons. Of course, the national rate of 50 to 70 percent is hardly much better.28 The cost-effectiveness tools have the advantage of being more concrete and manageable and have their use in trying to maximize rehabilitation, but are not of themselves sufficient. Also, rates of sabotage in different prison industries could be compared, to get an indication of those industries that seem to satisfy prisoner expectations.

Second, Charles is expanding and modernizing present product lines. The office furniture and equipment lines, for example, now consist of well over 100 items, including desks, tables, chairs, and filing cabinets in a variety of types, sizes, and colors, and constitute almost 25 percent of P.I. gross sales. Their construction is totally modern, having such features as formica laminated desk tops and tubular steel legs. When the foundry was eliminated, an existing metals operation was expanded to fabricate some of the component parts for the desks. In this manner, the expansion or changeover expenses in making another product were minimized, and the system became somewhat integrated because the metals operation provided metal parts (formerly purchased outside) for desks.

Third, Charles is entering new profitable product areas. Attractive wrought-iron patio furniture has been added to present furniture lines. Future plans suggest entry into such new markets as prefabricated A-frame housing that could be utilized in state parks for rental services. Present financial constraints prevent such ventures in the immediate future.

Preoccupation with modernizing and entering profitable product areas may tend to diminish the attention given the long-range goals of rehabilitation and reintegration. The new desk, for instance, is completely constructed of prefabricated components, whereas the old wooden desks were each hand crafted. Hence, there is now little opportunity for the inmates to learn the marketable vocation of cabinet making. Instead they learn mere assembly. Care must be exercised to assure that profitable as well as vocationally
opportunistically selected for production, lest Prison Industries turn out nothing more than assembly-line workers. Demand for different types of jobs on the outside should be considered in the decision process.

Fourth, Charles is eliminating unprofitable products from the product line. Manhole covers have been eliminated with the phase-out of the foundry.

Fifth, Charles is making greater efforts to market products properly. Perhaps in response to an increased desire to sell directly to the public, Prison Industries is now publishing a comprehensive catalog describing the products and their prices.

Furthermore, Charles feels that Prison Industries must continue to perform a socially responsible role vis-a-vis the other state agencies by providing them with needed products at less than market prices. The pricing system now being employed by Prison Industries takes direct cost, then adds 25 to 50 percent for profit, and finally 5 percent for transportation. Even P.I. personnel cannot justify why such an arbitrary method is used. Little consideration is given to the prevailing market price so long as the Prison Industry price is reasonably less than the market price.

Such a pricing scheme, wherein products are sold at prices substantially less than the market clearing price, raises serious problems. On the one hand, it fails to maximize Prison Industry profits because the demand that could be sold at that price exceeds the supply that is being sold at that price. As a result, the gross profit margin of Prison Industries, now at about 25 percent ($1.1 million profits on approximately $4.6 million in sales) is lower than what it could be if Prison Industry products were to be priced nearly competitively. Moreover, showing larger profit margins could be an added weapon when fighting for more legislative capital support. Selling products well below market conflicts with P.I.'s profit-maximization goal.

3. Financial Reporting. Up to 1969, meaningful financial data on P.I. was almost non-existent. (A completely separate accounting system was used for each institution.) Consolidation of the operating results became impracticable. Accurate comparisons of institutional performances could not be made. There was a standard to guarantee a certain minimum of financial reporting, but it did not prove sufficient.

Mr. Nardine took immediate steps to correct the accounting and reporting system. He recruited Mr. Ferris, who began the task of creating a uniform system of accounting and reporting to be followed by all industries and institutions. This centralized accounting function now makes it possible to determine every dollar of revenue generated by every product-line and the exact expenses associated with that revenue. This procedure enables Mr. Nardine to budget funds more efficiently and to make necessary adjustments as needed. Unfortunately, we were only able to obtain gross sales figures through the state auditor, and Ferris refused to release any financial information by product line. Ferris evidently wanted to take no chance that we might uncover any flaws in the system, and we were forced to accept, with reservation, that accurate accounting information was now available.

4. Capital Resources. The physical plant and equipment and the working capital resources of Prison Industries continue to be in a generally pathetic state. Plant and equipment in almost all cases (save perhaps highway sign operations) is outmoded and in need of replacement and/or repair. Funds, however, are not sufficient to purchase new plant and equipment. Also, at Pendleton, space limitations within the prison walls place a severe constraint on expansion.
To alleviate these problems Messrs. Charles and Nardine have been continually seeking more state funds for Prison Industries. Recently they proposed that the Revolving Fund be increased to at least $1 million, but this was defeated in the legislature. And in view of the state's capital condition, the prognosis for this measure is doubtful.

To compensate for capital restrictions, Charles is making a conscious effort to enter only those new markets where the capital outlay is relatively insignificant. Products which supplement existing product lines and production capabilities are important in this regard. For instance, the addition of a new kind of desk to the desk line or a picnic table to the roadside furniture line does not require appreciable start-up costs.

However, it should be noted that products which require only incidental start-up costs tend to be assembled products. And, as stated earlier, it would seem that assembly, as a vocation, has limited utility in the rehabilitation and reintegration of inmates.

5. Labor. Inmate labor presents a substantial problem to Prison Industries because the quality of the output and the productivity of the inmates tend to be low. To be sure, low product quality and inmate productivity stem from multiple causes. First, P.I. has fourth priority in drawing from the inmate population, higher I.Q. and/or skilled inmates being skimmed off for school, Prison Institution, and Work Release. Second, the inmates are generally not very highly motivated to perform, since they are not accustomed to working in co-operation with others and since the incentive to do so in a prison setting is almost nonexistent. (Top wages are $1.00 per day.) Third, the prison work schedules are such that the P.I. inmate worker only puts in 5 hours of work a day due to lengthy interruptions for things like lunch (2 hours, because they all go at once, and they are housed in different cellblocks by type of offense committed).

In an attempt to resolve the problems of product quality and inmate productivity, Charles has recognized the need for better logistic planning of the inmates prison schedule, but he was vague on how improvements might be operationalized. This is a troublesome problem, since attempts to group inmates by industry instead of offense would meet complaints from Classification and Treatment Division. Moreover, no strategy appeared to exist for the resolution of the "skimming" problem where P.I. was only able to obtain fourth-priority inmates. Also, no efforts have been made to improve prisoner motivation to increase labor productivity.

VII. Suggested Alternative Strategies

In assessing the environment and the opportunities P.I. should exploit, it was felt that Heyne's suggested abolishment of P.I. does not appear feasible at this time, even as a long-run strategy. While community correction centers may be able effectively to achieve rehabilitation and reintegration, even Heyne estimates that this will only take care of one half of the criminals expected to be under the jurisdiction of the Department of Correction. Heyne's alternate suggestion that significant modifications of P.I. might provide fertile areas in which to increase rehabilitation and reintegration seems more feasible in light of social and legal-political constraints.

This team suggests that a systems approach be instituted to achieve maximum rehabilitation and reintegration. At present, goals of P.I. are not so inter-related with Heyne's community correction center goals and other independent programs such as education, training, and work release as to be able to achieve synergistic effects in rehabilitation and reintegration. Coordination needs to be achieved among these programs so that stop-gap measures are not instituted randomly as each division works at odds
with the other. The President’s Commission on Law Enforcement and Administration of Justice has stated that:

...the most conspicuous problems in corrections today are the lack of knowledge and unsystematic approach to the development of programs and techniques. Changes in correctional treatment have been guided primarily by what Wright calls “intuitive opportunism,” a kind of goal-oriented guessing.30

Heyne may be striving to implement community correction centers because he has seen the groundwork laid on the federal level by statute (H.R. 7106) which provides for the creation and construction of community treatment centers, and he wants to capitalize on the opportunity to obtain federal aid for programs to educate the communities to the need for such programs and the necessity for planning before implementation. This program does have great appeal, despite the seemingly insurmountable problems of convincing the populace and the legislature to support this mode of correction, since it maximizes reintegration efforts. But to strive for the implementation of this program without adequate consideration of its effect on the status and relationship of present programs will result in “intuitive opportunism” rather than a systematic exploitation of approaches available. This will likely result in conflicting strategies that may decrease maximization of rehabilitation and reintegration.

P.I. has proven itself as a source of needed job experience. If educational and training programs were planned in coordination with P.I., technological and verbal skills could be improved to provide P.I. with higher labor productivity. In turn, if P.I. in conjunction with the Division of Classification and Treatment could make investments of excess profits into such things as training, education, and psychological services, the inmates’ chances for rehabilitation and reintegration would improve. This would require an amendment to current legislation which prohibits such use of profits. Such a program could provide for those prisoners who are deemed to need maximum security until such time as they are released into community correction centers. Other inmates may be placed directly in such community correction centers as determined by the Division of Classification and Treatment. Work-release programs would continue the logical progression of putting prisoners on the path to perceiving their own self-worth and assuming more responsibility in society. The current conflict of values within P.I. indicates that P.I. administrators have not internalized any goal to help the prisoner progress toward work release. If Heyne were to clearly establish eventual work release as a goal that P.I. should help achieve, then useful job training could be obtained to help the prisoner obtain placement in work-release positions. While Nardine’s views on work release may prevent complete internalization of such a goal, the recognition that such a goal exists would go a long way toward establishing a policy within P.I. more consistent with Heyne’s long-range plans.

By viewing education, training, P.I. job experience, and work release in community correction centers as a progression in the rehabilitation and reintegration process, it is more likely that synergistic effects will be achieved as each division prepares the prisoner to function more efficiently in the next stage.

The above strategic improvements would appear to be most likely to succeed given the present direction of the Department of Correction and P.I. However, further improvements appear to be possible in job training and experience if private industry were to be
re-introduced into P.I. While such a step would require amendment of the present federal and state legislation that prevents private industry from selling products manufactured by inmate labor, it is felt that the conditions that existed which brought about such statutes no longer exist. In the 1930's prisoners were exploited in Indiana by Arrow shirt manufacturers, and such experiences have soured P.I. administrators on the use of private industry. But, if the same safeguards that exist to prevent civilian worker exploitation were built into the operation of a private industry-P.I. system, there would be little reason to discourage such projects. By presenting such a proposal to the legislature in economic terms, it could be shown that more modern technology could be introduced into P.I. with minimum capital investment by the state. At the same time, a legislatively defined profit-sharing arrangement might be established between the industry and the department of correction. Further, private industry should be required to pay to P.I. the competitive wage for prison labor, so that the amount expended for maintaining each prisoner could be recouped. Legislative amendment could also be considered to raise the prisoner's salary maximum of $1.00 a day and thus provide some margin for incentive pay to be built in for things like overtime, thereby improving prisoner motivation.

By inviting private industry into the prison system we would be integrating more of the benefits of the concept of work release in cases where it could not be accomplished in community correction centers because of the need for maximum security. This would enable private industry to provide excellent job experience and thus better prepare prisoners to obtain positions on the outside. Furthermore, if prisoners were given the opportunity to assume responsibilities as they proved themselves, instead of being kept in the role of laborer, self-worth could be increased, and the goal of achievement through acceptable channels could be internalized.

Such a system would still require a division of P.I. which would coordinate with private industries and screen industries with respect to their ability to offer rehabilitative opportunities.
FOOTNOTES

1. *Indiana Acts*, 1903, Ch. 16, Sec. 1.
2. *Indiana Acts*, 1907, Ch. 86, Sec. 1.
3. *Indiana Acts*, 1917, Ch. 83, Sec. 1.
4. *Burns Indiana Stat.*, 1926, Ch. 92, Art. 2, Sec. 12361.
5. *Id.*, Sec. 12363.
6. *Id.*, Sec. 12366.
7. *Id.*, Sec. 12367.
8. *Indiana Acts*, 1939, Ch. 127, Sec. 1.
9. *Burns Indiana Stat.*, 1926, Ch. 92, Art. 3, Sec. 12425.
10. *Burns Indiana Stat.*, 1926, Ch. 92, Art. 4, Sec. 12440.
11. *Burns Indiana Stat.*, 1926, Ch. 92, Art. 5, Sec. 12445.
13. *Indiana Acts*, 1945, Ch. 110, Sec. 1.
14. *Indiana Acts*, 1945, Ch. 110, Sec. 10.
15. *Indiana Acts*, 1947, Ch. 279, Sec. 1.
17. *Indiana Acts*, 1953, Ch. 266, Sec. 1.
18. *Indiana Acts*, 1954, Ch. 266, Sec. 21.
19. This Revolving Fund was carried over from the provisions of the “Financial Reorganization Act of 1947.” *Indiana Acts*, 1947, Ch. 279, Sec. 37.
20. *Indiana Acts*, 1947, Ch. 279, Sec. 37.
21. *Id.*
26. *Id.* at 9.
Division of Industries and Farms

Total Receipts and Expenditures, 1962-1971
(All Figures to Nearest Dollar)

<table>
<thead>
<tr>
<th>Fiscal Year—</th>
<th>RECEIPTS A</th>
<th>EXPENDITURES B</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By Quietus</td>
<td>By Transfer</td>
</tr>
<tr>
<td>1963-64</td>
<td>349,539</td>
<td>3,281,908</td>
</tr>
<tr>
<td>1966-67</td>
<td>232,554</td>
<td>2,953,176</td>
</tr>
<tr>
<td>1967-68</td>
<td>254,577</td>
<td>2,820,575</td>
</tr>
<tr>
<td>1968-69</td>
<td>134,008</td>
<td>2,528,273</td>
</tr>
<tr>
<td>1969-70</td>
<td>330,472</td>
<td>3,689,925</td>
</tr>
<tr>
<td>1970-71</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

LEGEND

By Quietus means cash, check sales on the open market and local government.

By Transfer means those sales to state agencies.

   Source for 67-70, auditor of statements of revenues, source for 1971, Mr. Ferris.

B: Total is Expenditures plus unliquidated obligations as taken from the DIF Account (515)
   statement of appropriations, allotments, annual report and expenditures, state auditor.

EXHIBIT 1