THE EFFICACY OF PRISON LABOR PRODUCTION: THE TEXAS WARDENS RESPOND

Neil Terry, West Texas A&M University
Barry Duman, West Texas A&M University

ABSTRACT

This analysis is prompted by the fact that the prison population and prison construction is growing exponentially. The authors are interested in identifying the efficacy of encouraging widespread prisoner-generated commodity production for the public and private sectors. There are numerous potential benefits ranging from subsidization of cost of maintaining prisoners to the instilling of marketable training and skills. Moral and ethical issues associated with the use of prison labor are also explored. Survey results indicate the Texas wardens feel that prisoners should work in order to reduce the costs of running the prison system but responses are mixed over the important issue of allowing prisoners to work for direct pay.

INTRODUCTION

Hundreds of thousands of American prisoners now work in what is becoming a growth business: prison industries. The term prison industry encompasses several distinct but related arrangements: Federal and state prisons employ inmates to produce goods for the public and private markets. Private companies as well contract with prisons to hire inmate labor. And private prisons similarly employ inmate labor for private profit, either for outside companies or for the prison operators. A public opinion poll by the Luntz Research Companies [3] reveals that two out of three Americans support employing prisoners for market production. Expanding prison production in state and federal prisons has the potential to save billions of taxpayer dollars in prison operation costs, allow for skilled job training of inmates and provide for restitution to victims, among other benefits. The benefits are countered by potential problems including the loss of private sector employment and a violation of human rights.

The purpose of this paper is to explore the efficacy of prison industry production. Our analysis will encompass discussion with state prison officials including the Texas wardens and key persons in the private sector industries who are likely to be impacted. In the next section, a brief historical perspective of prison production is discussed. The third and fourth sections of the paper provide an overview of reasons for and problems with prison industry production. The fifth section of the paper discusses the methodology and results from a prison labor survey administered to the Texas wardens. Conclusions and implications are in the final section.

HISTORICAL PERSPECTIVE

Modern prisons developed in Europe during the eighteenth and nineteenth centuries from the older institutions of the workhouse, the house of correction and the local jail. From the time of John Howard in the 1770s there was extensive and

recurrent debate as to how the twin objectives of reformation and deterrence could be achieved. Howard and his fellow reformers, shocked by the squalor and idleness of the local jails, advocated a regime in which the chief elements would be solitary confinement (in clean condition), religion, and hard work [6]. These three themes predominated in the prison system well into the nineteenth century, though the relative importance of work, its rational and the forms it took, varied with time and place. Howard believed that the prison cell should induce reflection and repentance, a process he felt was aided by the discipline of hard labor. Sounding a different note, Jeremy Bentham argued for an ideal prison system that would not only provide surveillance but also enable the place to run as a profitable factory, turning its inmates into self-disciplined workers who would welcome work. Though Bentham's ideas bore fruit in many of the new prisons which were built in the following decades, most governments eventually rejected his model on account of its potential for exploiting captive labor for private gain.

In the United States, working in the prisons was expected during the colonial days. In 1885, seventy-five percent of all prisoners were involved in productive labor [4]. Working prisoners actually kept prisons self-sufficient, and sometimes prisons even experienced a surplus of funds. Wardens were under pressure to be sure that their prisoners worked enough to cover the costs of incarceration. Beginning around 1890, many businessman and artisans worried that prisoners supplied unfair, low-wage competition and citizens objected to the corruption of prison officials who took bribes to provide inmate labor to selected companies. So from 1890 to 1930, many laws were enacted that restricted prison labor and made the shipment of prison-made goods illegal. During World War II, many of these laws were relaxed and prisoners were allowed to manufacture highly demanded war materials. Numerous wardens reported that prison morale rose and some prisons became self-supporting during this time period. However, the federal government reinstated the laws against prison labor immediately following the war. In the 1950s, prison authorities, unions, and private companies reached a compromise on the issue of prison labor. The federal government and states agreed that prisoners should work as a means of rehabilitation. Inmate-produced goods could be used inside prisons or sold only to government agencies and would not compete with private businesses or labor.

The 1979 Federal Prison Industries Enhancement Certification Program gave private industry the green light to put state and federal prison inmates to work. Currently, seventeen percent of the 127,000 federal prisoners work for pay under a federal government program and many states are following suit with similar programs. Since 1990, 30 states have made it legal to contract out prison labor. Texas is one of the states making a great effort to increase the amount of productive work in prisons. On September 1, 1997, Texas enacted a bill that allowed prisoners to earn wages from private industries. Theses earnings would be used to cover a portion of their incarceration cost, to provide restitution to the victim or the victim's family, and the remainder would go to the prisoner's savings or his/her family. The Texas law also stated that the wage paid to each inmate must equal or exceed the prevailing wage paid outside of prison for work of a similar nature.

REASONS FOR PRISON INDUSTRY PRODUCTION

Today, the nation's prison population has reached almost 1.5 million and the annual cost of keeping these convicts behind bars averages between $20,000-25,000 nationally. This expense totals over $30 billion a year. Not only are prisoners expensive to house but most prisoners are unemployed and unproductive members of our society. Less than fifteen percent of inmates worked in jobs other than those related to housekeeping and maintenance in 1996. One of the most promising proposals to reduce the taxpayer cost of criminal justice and incarceration is to increase the amount of productive work performed by prisoners [5]. At present eighty percent of the income earned by prisoners who work is customarily used to reduce the financial burden on taxpayers and for victim compensation or court-ordered fines. The National Center for Policy Analysis (NCPA) states that a reasonable projection is that one out of every four prisoners could go to work. So if the average prison worker collected a wage of only $5 an hour and worked 40 hours per week the earnings per prisoner would equal close to $10,000 a year. If only sixty percent of these earnings were used to reduce the financial burden on taxpayers, the prison industry would save taxpayers $2.3 billion annually. This is a conservative estimate because it is almost certain that much more than twenty-five percent of the inmate population can be employed.

Allowing prisoners to work for compensation can encourage sentenced inmates to meet their financial obligations. The Victim and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Comprehensive Crime Control Act of 1987, and the Federal Debt Collection Procedures Act of 1990 require a diligent effort on the part of all law enforcement agencies to collect court-ordered financial obligations. In 1985, the Federal Bureau of Prisons initiated the Inmate Financial Responsibility Program (IFRP); in 1987, it was implemented nationwide. The Bureau strongly supports the program not only because of the beneficial impact for victims of crime, but because it allows inmates to demonstrate responsibility for their financial obligations. In addition to paying fines and restitution, part of the money earned by prisoners can also be sent to the dependents of the prisoner, which are frequently struggling to survive without the help of the imprisoned member's salary.

What incentive does a prisoner have to work if room/board, court-ordered financial obligations, and family support payments garnish wages? Low productivity, production sabotage, and on-the-job stealing are obvious problems that increase when working inmates produce marketable goods and services without receiving direct financial benefit. In our discussion with prison administrators we found that there is general support for a nominal wage going directly to the prisoners for their effort. As pointed out by one factory manager, even twenty-five cents an hour would be enough for a prisoner to purchase a soda and candy bar at the end of the day. One warden offered the observation that working for pay is a privilege that can be offered to inmates as a reward for good behavior. The positive reinforcement of pay for work usually directs behavior better than the traditional negative reinforcement of work as punishment. Working in prisons can also boosts morale, give inmates a sense of accomplishment, instill a sense of financial responsibility, and keep prisoners busy during their event-less days. And since some of their money could go into a savings account, these prisoners will have a jump-start on their life when they are released compared to most parolees. During our interviews with prison administrators the only negative put forth with direct prisoner pay is the potential of security and

extortion problems. In the prison system an inmate with a few hundred dollars in a savings account could be targeted as a wealthy individual.

Prison labor proponents like to extol the rehabilitative benefits of such programs. One of the most important benefits of prisoner work is that it reduces the recidivism rate and teaches inmates marketable work skills. A federal Post-Release Employment Project (PREP) study confirms that employed prisoners do better than those who do not work. After release to halfway houses, participants in the PREP study were twenty-four percent more likely to get a full-time job than those who had not worked in prison. Those who had worked in prison also earned more than those who had not and were more likely to move on to a better-paying job. Those against prison industry production argue that the lack of relevant work behind bars negate the rehabilitative benefits, adding that prison labor just keeps inmates occupied while incarcerated. Typically in Texas prisons, unless an inmate is in segregation or in school, he/she is put to work planting crops, sweeping, tending the livestock, cooking, and doing the laundry. While the jobs are important to keep the prison running, there are not a lot of good-paying jobs on the outside that require those simple skills. Real on-the-job opportunities are scarce inside the prison walls. Only 8,300 or 4.5 percent of Texas prisoners get a chance to work in the prison factories that make everything from license plates to plastic dishes to mattresses, according to the Texas comptroller's office.

Besides the indirect benefits of reducing the cost to taxpayers of housing prisoners and reducing the recidivism rate, prison production has two direct economic benefits. First, prison industries must purchase materials from firms outside the prison complex, creating a demand for the services of other workers. For example, prisoners involved in information services such as telemarketing or data entry need computers for their job, while those involved in manufacturing require sheet metal, cloth and other raw materials. Second, prisoners have the potential to produce valuable goods and services consumers want to buy. Prison industries produced more than $1 billion worth of goods and services in 1994, mostly for other government agencies. Everyone recognizes that getting able-bodied adults off welfare and into productive jobs is a social boon, and we have been willing to subsidize that transition from welfare to work. The same thing should be true for prison labor.

PROBLEMS WITH PRISON INDUSTRY PRODUCTION

When studying an issue like market production by prison labor it is easy to forget that the prison labor market is unique. In particular, the primary objective in a prison complex is security not production. During our discussions with prison officials, one after another consistently stressed the importance of security and safety. One warden stated that his job performance evaluation is highly correlated with the safety and security record of his prison and compromising security is not an option. For instance, a mislaid hammer, drill bit or other potential weapon means that work comes to a stop while everyone searches for the tool. Prison production can come to a halt for a month or longer if the warden feels that a lock-down is necessary, possibly after an increase in the number of internal violent crimes. Guards want discipline and control at all times and entrepreneurs want flexibility. Visiting customers and suppliers may object to the lengthy security checks associated with doing business in the prison complex. From the perspective of the firm, low-cost prison labor might be too good to be true. The ready availability of a captive and inexpensive workforce is

balanced by entrepreneur's lack of control over what might happen in the factory. Even though employers might be attracted to a situation in which they do not have to pay fringe benefits and where it is cheap to lease space, they also have pragmatic reservations about investing in a work facility and labor force that is not primarily focused on production. On the other hand, production and security do not have to be mutually exclusive because it is relatively easy to monitor inmates in a work environment.

Another major obstacle with prison employment is the extremely high turnover rate. Because of the high turnover in the inmate population, many companies do not want to take the time and expense to train inmates only to watch them transfer or walk free just as they master their jobs. The authors visited a prison shoe factory and were told by the plant manager that his labor force turnover rate is over thirty percent per month. Some plant managers admit to preferring inmates serving lifetime sentences because the probability of transfer or release is relatively small. The high turnover problem is balanced in part by the attraction of the readily available source of entry-level labor that is a cost-effective alternative to work forces found in Mexico, the Caribbean Basin, Southeast Asia, and the Pacific Rim countries. Domestic content is an important benefit of using prison labor compared with using an offshore labor market since the Made-in-the-U.S.A. label can be put on the product.

Many labor unions and businesses are against employing prison labor for market production. Labor unions argue that allowing prisoners to produce market goods and services will take away work from noncriminal citizens because convicts can be paid lower wages. This argument is generally countered by the observation that prison wages are typically lower than market wages because prison labor is substantially less productive. The problem comes if those private-sector workers have so few skills and opportunities that, put out of work, they themselves turn to crime. Prison labor supporters put forth the suggestion that the majority of inmate employment will come from businesses that have gone abroad to find cheap labor or industries that have experienced a labor shortage. Supporters argue that subcontractors for toy or shoe firms that pay $2 a day for Third World labor should consider employing U.S. prison labor as a viable alternative. Business people also fear that prison employment for private sector production will create an unfair advantage because of the lower compensation package (wages, employment taxes, and fringe benefits) associated with prison production. Texas's new bill prevents companies from replacing regular workers with convicts to obtain lower prices because it requires prisoners to be paid the prevailing wage for their work. Still, private businesses have put a lot of heat on the Texas Department of Criminal Justice for running factories with free or cheap labor that competes with their for-profit factories. Prison industry production in the state of Washington serves as a textbook case of private businesses struggling to compete against low cost and subsidized prison production [7]. In addition, private firms complain that government procurement regulations often favor prison production.

Some of the harshest criticism of prison industry production is based on moral objections. The American government criticizes China for forcing prisoners to make goods for export. If Chinese prisoner labor production is a violation of human rights then it is hard to argue that prison labor production in the United States is not. Prisoners in the U.S. can be threatened with solitary confinement, loss of good time, and loss of commissary and other privileges if they refuse to work. If prison

production is expanded how easy will it be to insure that inmates work voluntarily and are not exploited as a means of minimizing costs? Another objection to prison production focuses on prison work being used as punishment at the expense of education and rehabilitation. Ideally, inmates are sent to prison as punishment not for punishment. For several years journalists and politicians all over the country have spoken and written angrily about prisons as resorts or country clubs. They have railed against a philosophy of rehabilitation that coddles inmates with too many amenities. Punishment is in vogue along with hard labor and no frills prisons, stripped of weight rooms, TVs, computers, and air conditioning [8]. The Texas Department of Criminal Justice likes to pride itself on how harsh life is inside its walls.

SURVEY AND RESULTS

The mission of the Texas Department of Criminal Justice-Texas Correctional Industries is to benefit the State of Texas by generating cost savings in manufacturing and providing quality products and services, while affording rehabilitative opportunities for incarcerated offenders. In order to evaluate specific issues related to prison industry production, the authors sent surveys to the eighty-five prison wardens (or assistant wardens) in the state of Texas that hold inmates that are physically and mentally capable of working. Names and mailing addresses were obtained online from the Texas Department of Criminal Justice (www.tdcj.state.tx.us/directory/unit-profile/dir-units-list.htm). Twenty-six of the eighty-five wardens responded to the survey for a response rate of thirty-one percent. The relatively small sample size limits the power of the statistical results but is useful in providing an initial sample for discussion. The results of the survey are presented in Table 1. The response on each question is rated on a 1 (strongly disagree) to 5 (strongly agree) scale. The central point on the scale is labeled neutral. The empirical results in Table 1 test the hypothesis that respondents are neutral with respect to the survey question ($T = \frac{(x-u)\sqrt{n}}{\sigma}$; where $H_o : u = 3$) and follow the methodology described by Iman and Conover [1]. Five of the eight survey question means are statistically different than three (neutral).

Table 1
Prison Labor Survey of the Texas Wardens
(1=Strongly Disagree, 3=Neutral, 5=Strongly Agree)

		MEAN	Std. E.	T
1.	Able-bodied prisoners should work in order to reduce the costs associated with running the prison system.	4.23	0.169	7.27*
2.	Able-bodied prisoners should work in order to pay court-ordered fines and restitution.	3.50	0.139	3.61*
3.	Able-bodied prisoners should work in order to provide support to their families.	3.38	0.193	1.97
4.	Able-bodied prisoners should be allowed to directly earn income for working.	3.27	0.302	0.90
5.	Prison work reduces recidivism.	3.46	0.177	2.59*
6.	Prisoners learn marketable skills when they work while in prison.	2.77	0.169	-1.36
7.	Prison work should be employed as a form of punishment.	1.69	0.164	-7.97*
	The prison system can provide a reliable and productive workforce.	3.54	0.202	2.68*

*p<.05

The first four survey questions put forth to the Texas wardens relate to prisoner work and compensation. The survey results clearly indicate that the wardens feel that prisoners should work in order to reduce the costs associated with running the prison system. Twenty-one of the twenty-six wardens responding to the survey agreed or strongly agreed with the statement, while only one disagreed or strongly disagreed with the statement. The result is not surprising since the prison system has always required prisoners to assist in planting crops, sweeping, cooking, laundry, and a variety of other basic maintenance tasks. Encouraging prisoners to work in order to pay court-ordered fines and restitution is an idea positively received by the Texas wardens (t=3.61). Only one warden disagreed and none strongly disagreed with the restitution statement. During our research several wardens indicated that many inmates are willing to work in order to pay their financial obligations.

Although the wardens in the survey support the notion of prisoners working in order to maintain the prison complex and/or paying fines, the concepts of prisoners working to support their families or receiving direct pay met with mixed results. The t-statistics corresponding to survey questions three and four are both positive but not statistically significant. A slight majority of the wardens in the survey are in favor of allowing prisoners to work for some form of direct pay. One warden stated, "Allowing prisoners to work for a nominal amount of compensation is a good idea but is probably not pragmatic because public policy has become all stick and no carrot." In general, the wardens feel that allowing prisoners to earn personal or family support compensations for working helps establish positive reinforcement for good behavior. Prison administrators opposed to direct compensation feel that directly paying prisoners for work creates a variety of potential equity problems within the prison complex including the difficult task of determining the amount of compensation, if any, for one paying job versus another. For example, if people in the shoe factory receive direct personal or family pay for working then what do you do about compensating people that work in positions that are not directly related to factory production, like the commissary or laundry room? As one warden put it, "You really cannot pay prisoners for pushing a broom but a prison complex is not a place where you can pay some people for working and not pay others." A possible solution to the payment problem is to allow some prison facilities to specialize in production for pay and allow everyone in the facility earn income on the basis of specific job responsibilities. A production for pay facility would be less expensive to operate than a maximum-security facility and productive inmates would have an opportunity for the real world experiences of working, saving money, and competing for promotions.

The Texas Correctional Industries is obligated to providing quality training and work opportunities for incarcerated inmates that is consistent with current and future job market trends, recognizing that quality training and improved job skills are an essential part of the rehabilitation process. Simply stated, it is cheaper to educate and train inmates than have them return to prison for lack of a job. The fifth and sixth questions in the survey concentrate on the recidivism and training issues. The survey results are somewhat contradictory. On the one hand, a statistically significant number of wardens believe that prison work reduces the recidivism rate. On the other hand, the coefficient associated with prisoners learning marketable skills is negative. Only seven wardens agreed or strongly agreed with the statement about learning marketable skills. One possible interpretation of the results is that working may not give prisoners job skills that are directly applicable in the outside world but the act of working can help an inmate enter the regular workforce by giving a sense of

accomplishment, discipline, and work ethic. Many prisoners have limited experience working a traditional job. One prison official told the authors that, if nothing else, prison industry production teaches inmates what it is like to work an eight-hour day on a set schedule. Last year in Texas over fourteen thousand ex-offenders found work and stayed employed for the entire year. The inmate job placement program of the Texas Departmental of Criminal Justice (TDCJ) and the work ethic established in prison industry production facilities are generally recognized as the primary reasons for the success. Recently, the TDCJ has strictly enforced the Equal Employment Opportunity Commission (EEOC) regulations that companies may discriminate in hiring convicted felons only when there is a justifying business necessity. Under EEOC regulations, employers may only consider three factors: the gravity of the crime, when it was committed, and whether the crime was related to the nature of the job in question.

One of the most interesting survey results in the paper is that the Texas wardens do not feel that prison work should be used as a form of punishment. Seventeen out of twenty-six survey participants disagreed or strongly disagreed with the seventh statement and no one agreed or strongly agreed with the statement. Most of the wardens echoed the opinion that the prison system should try to normalize the environment by providing inmates with a modest amount of programs, services, and opportunities for self-respect. The denial of such must be related to maintaining order and security rather than punishment. While there is no reason to question the validity or sincerity of the survey responses, it should be noted that it is unlikely that many wardens would openly support forcing prison work as punishment.

The final survey question inquires about the ability of the prison system to provide a reliable and productive workforce. The results indicate that the wardens believe that prison industry production does lend itself to providing a reliable and productive workforce. Prison officials indicated that worker productivity and reliability are generally high in a prison complex but acknowledge occasional security problems that are destine to arise. One factory manager informed the authors that the biggest productivity problem is labor turnover. Another factory manager stated that simple rewards like seconds on desserts or an extra hour of recreation time are all that he has to offer in order to keep productivity high in his factory. How the reliability and productivity of inmate labor compares to that of private industry is a topic warranting further research.

CONCLUSIONS AND IMPLICATIONS

With unemployment low and a record number of Americans behind bars, prison labor is coming to mean much more than painting license plates. As inmates undertake everything from telemarketing to the manufacturing of computer circuit boards and furniture, the change has caused a growing debate, playing out in government legislation, over the role the nation's 1.5 million prisoners should play in the economy. By the turn of the century corrections are likely to be the largest item in many state budgets. Already California is spending more on its prisons than on its universities. Potential advantages associated with prison industry production include lowering the costs of running the prison system, providing a means for prisoners to pay court-ordered fines and restitution, giving prisoners an opportunity to learn marketable skills, and lowering the recidivism rate. Problems with prison industry

production include security, competition with civilian workers, high turnover rates, and moral objections.

The empirical results of this study indicate that the Texas wardens generally support the concept of prison industry production. A significant number of wardens in the survey indicate a belief that prisoners should work in order to reduce the costs of running the prison system and pay court-ordered fines and restitution. There is not strong warden support for directly paying prisoners or their families, as the t-statistics corresponding to the survey questions are positive but are not statistically significant. A substantial number of wardens feel that prison work significantly reduces the recidivism rate although most of the wardens did not feel that inmates learn marketable skills through prison work. None of the wardens in the survey felt prison work should be employed as a form of punishment but a significant number indicated that the prison system could provide a reliable and productive workforce. One limitation of prison industry production is the realization that the primary objective in a prison complex is security not production. But the overall results of this study imply there is reason to be cautiously optimistic about the efficacy of prison industry production. It should be noted that the results of this study are of a preliminary nature and more research is needed before any definitive conclusions can be ascertained.

REFERENCES

Iman, Ronald and William Conover (1989). *Modern Business Statistics*, Second Edition. New York: John Wiley & Sons.

Lichtenstein, Alex (1996). *Twice the Work of Free Labor*. London, Verso Publishing.

Luntz Research Companies (1998). "American Public Opinion on Prison Inmates Working." *National Center for Policy Analysis*. [www.ncpa.org/press/mor505ad.html]

McCutchen, Lauren (1998). "Should Georgia Consider Putting Its Criminals to Work?" *Georgia Policy Review*. www.gppf.org/pubs/GPRarticles/prisonwork.htm]

McDermott, Darren (May 20, 1999). Economists Join Debate on Prison Work. *Wall Street Journal*.

Simon, Frances (1999). *Prisoners' Work and Vocational Training*. London, Routledge Publishing.

Song, Kyung (July 18, 1999). Rivals Protest Firm's Advantage in Prison Labor. *Seattle Times*.

Worth, Robert (November, 1995). "A Model Prison." *The Atlantic Monthly*.

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