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Climbing the ladder at Maine State Prison

By Jordan Bailey | Sep 20, 2015



Workstations in the prison industries wood shop were vacant June 2 while inmates were having lunch.

Photo by: Jordan Bailey



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This is the second article in our series on inmate labor at correctional facilities in Knox and Waldo counties. [Part 1](#), in the Oct. 1 issue, covered the history of labor at Maine State Prison.

At Maine State Prison in Warren, prisoners work various jobs, from cleaning the facility and kitchen work to the highly-coveted wood shop positions. For nearly two-thirds of prisoners, the work is compulsory and unpaid.



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American prisons historically have operated on the premise that by committing and being convicted of a crime, inmates have given up their right to be paid, or paid a fair wage, and can be compelled to work for the state to save taxpayers money. Because of the exemption for those convicted of a crime in the 13th Amendment, which abolished slavery, federal, state, and municipal governments legally have been justified in using prisoners as a source of free labor. And because inmate laborers generally do not meet the definition of employees in the Fair Labor Standards Act, labor laws such as minimum wage do not apply to them.

Maine Prisoner Advocacy Coalition (MPAC), a group committed to ethical, positive and humane changes in Maine's prison system, has proposed that all prisoners who work in currently unpaid positions be paid \$30 per month, approximately \$1 a day, out of money from sales of prison-made goods. Prison administrators say there are not enough funds to make that possible.

Unpaid work at MSP

According to the Maine State Prison's facility work plan obtained through a Freedom of Access request, there are 897 work positions available to inmates, 627 of which are unpaid. Foster Bates, an inmate and president of the MSP chapter of the NAACP, wrote in a letter to Courier Publications that the most undesirable of the unpaid positions is that of pod cleaner, responsible for cleaning up after other residents. There are 397 of these positions available, according to the facility work plan. Bates said the worst pod cleaning jobs involve cleaning the showers used by the 82 residents living in the pod.

“It is a nefarious job that a large percentage of people refuse to do,” he said, despite the consequence of losing "good" time.

For unpaid positions, compensation comes in the form of good time, or 2.5 days deducted from an inmate's sentence for 17 days worked in a month. Missing one day of work thereafter could lead to forfeiture of good time already earned. “How fair of a policy is that?” Bates asked.

Other non-paying jobs include garden crew, outside work crew, hospital cleaners, activities security workers and mental health unit workers, according to the work plan. There are also 25 “cell placement” positions for prisoners who cannot work because they have physical, medical, or mental health restrictions.

Those who don't get paid have a difficult time in the prison. MPAC President and former MSP inmate Joseph Jackson said at a May 30 meeting of the organization in Belfast that prisoners without access to money are “at odds on a daily basis.” Everything beyond the most basic necessities a prisoner needs on

the inside he has to buy. Inmates have to purchase TV privileges and hygiene products. The food portion sizes have been reduced — to four-ounce servings of the main course — and those who can supplement their diets with food they buy from the commissary. Only if they have a fever can inmates receive medical attention. Any other medical needs — painkillers or foot powder, for example — they have to buy from the commissary at a markup.

Adjusting to and transitioning from prison life is difficult for prisoners without access to paying positions. Prisoners who get paid have 10 percent of their earnings saved for their release, but those who do not get only \$50 when they are discharged, Jackson said.

Paid positions

The MSP work plan lists 295 available paid positions. Kitchen workers' pay scales are listed as \$15 to \$200 per month. Bates said as of a few months ago, all 50 kitchen workers, who work 12-hour shifts, are paid between \$50 and \$200 per month.

Industries or wood shop wages are listed as \$1 to \$3.75 hourly. Approximately 115 inmates work in the industries program, about 15 of whom are serving life sentences. Bates has worked there since 2008 as a tool crib worker, responsible for more than 10,000 tools which he signs out to inmates working in the wood shop. If one is not returned, he and the other three tool crib workers are responsible for finding it. In the 12 years he has worked in the industries program, he said, no one has tried to steal a tool.

Most other paid positions are paid from the Inmate Benefit Fund, which comes mostly from phone fees and markups on commissary items. Those jobs have a pay scale of \$50 to \$325 paid monthly in a lump sum. IBF jobs include education, laundry, electrical, flooring, plumbing, maintenance, HVAC, and substance abuse workers, as well as paralegals, prison transport aides, plumbing crew, recreational assistants, barbers, and counsel substitutes.

Tracy Meggison, an MSP inmate serving a life sentence, explained in a letter to Courier Publications that paid positions are awarded to residents who have been disciplinary free for six months to one year, and that they must remain disciplinary free and case-plan compliant to keep the job. He said most paid jobs are posted and require an interview.

Meggison said he has held many jobs during his time at the prison. He worked as clerk of the education department in the old prison, then in industries in the upholstery shop, then in commissary for eight years. He went back to industries where he worked on a furniture crew, then moved up to woodcutter and then to planer operator. Now he is a counsel substitute, representing other inmates in disciplinary hearings to ensure they get a fair hearing, making \$200 per month.

“I do change jobs often and have had some really good jobs, but I typically take jobs that allow me some free time,” Meggison said.

He uses that free time to volunteer with 22 other inmates to provide hospice care for dying inmates, and participate in the K-9 corrections program training dogs provided by Pope-Memorial Humane Society of Knox County.

All inmates who earn wages have 10 percent deducted to be saved for their release. MPAC President Jackson is also working to find a way for those with life sentences in the industries program to be able to access that savings account while they are in prison. A portion of a prisoner's pay may also be deducted for child support, victim restitution and fines.

While inmates performing service work and working in traditional industries at the prison are not considered employees under the Fair Labor Standards Act, inmates working in the federal Prison Industries Enhancement Certification Program are. That program allows inmates to work for a private employer and earn the prevailing wage. The work is voluntary; inmates can choose not to participate and terminate their employment with one week's notice. They receive at least minimum wage from the private employer and are covered by workers' compensation.

Unlike other prison-made goods, PIECP products can be sold across state lines. PIECP programs must meet several criteria including rules on benefits, consultation with labor, consultation with local private business, and rules against displacement of non-inmate workers.

There are a small number of inmates at MSP — the facility's PIECP certificate obtained through Freedom of Access request allows for 10 — who participate in the program making upholstered cushions for a local private furniture company. The company's name was not disclosed.

According to a 2013 audit of the program, sewing machine operators were being paid \$8.13 per hour that year by the private company. PIECP participants are the only inmate workers who have taxes and room and board deducted from their earnings. Federal regulations stipulate that deductions must not exceed 80 percent of gross pay and the audit found that the actual deduction range was between 29 percent and 41 percent, the remainder going to the inmate.

Who gets paid positions?

MSP NAACP president Bates wrote that he believes minorities are discriminated against when it comes to paid positions. He said minorities make up 15 percent of the population at Maine State Prison, and that roughly 35 to 40 of the paying positions are assigned to minorities, which amounts to nearly 15 percent of the paid positions available. Requests for verification of those figures from the warden were not replied to by press time. “But Maine State Prison as a whole does have idiosyncrasies and discriminatory practices underneath its surface,” Bates wrote.

He said there used to be more minorities working in the kitchen, which was considered the “melting pot within the facility,” but that changed when a guard acting as kitchen supervisor directed a racial slur at three black inmates. Since

then there have been fewer minority inmates hired. In industries, minorities are underrepresented, but he attributed this to lack of interest among minorities than in discriminatory hiring practices.

He said the undesirable pod cleaning positions are disproportionately assigned to minorities, but in another letter, he wrote prison administrators had created a paid position of shower cleaner responsible for cleaning all the showers in the close custody unit (there is also a medium custody unit and special management unit, each with its own housing pods) with a wage of \$50 per month and gave the job to a minority resident. “This is a positive GOOD,” he wrote, but overall, “whether conscientiously or unconscientiously [sic], by design or default, minorities are not considered enough for paid positions at Maine State Prison.”

Christopher Carr, a coordinator for National Alliance on Mental Illness of Maine and member of Maine Prison Advocacy Coalition, said during a May MPAC meeting that, more than racial discrimination, nepotism affects who is assigned to paying jobs at MSP. Those who are connected to a family in the prison when they arrive fare better overall. “Stratification is huge, based on how well you're known, and based on family units in the prison,” he said, adding that those who have done heinous crimes can end up doing time much easier and better than some of the inmates without family connections.

Should all inmate workers be paid, and how much?

Meggison's letter reflects the position of the administration when he writes “paid work is a privilege not a right.” He goes on to say, “The prison has done a good job with the amount of paid positions available here and are still coming up with more creative ways to make more jobs available.”

But Bates disagrees. “I am of the opinion that every resident should receive compensation for any and every laborious work he does while incarcerated at Maine State Prison,” he wrote.

At the May 30 MPAC meeting, Jackson argued that paying all prisoners would change work in the prison so that, as in society, it is based on reward, not punishment. “It would incentivize moving to higher pay,” he said. “Now if you don't go to work or follow your case plan you get punishment. This way the system is completely flipped to provide incentives. If you don't follow the case plan you don't get paid. If I reward you, you are going to do it.”

Zach Heiden, legal director at ACLU Maine, said in a phone call, “It is important for prisoners to be paid and paid a fair wage for their work.”

“There are two reasons for this. The first one is practical; things in prison cost money. Prisons are required to provide basic human needs, but for prisoners who might want an extra tube of toothpaste or something different to eat, they need money for that. The second reason is more philosophical. One of the goals of prisons is rehabilitation and teaching people about earning a living is an important tool that will serve individuals when they get out of prison.”

Paying prisoners more could help their families, taxpayers

Families of prisoners often have to rely on state services. One study by the Ella Baker Center for Human Rights whose report is titled, “Who pays the true cost of incarceration on families?” found: “2 in 3 families with an incarcerated member were unable to meet their family’s basic needs, 49 percent struggled with meeting basic food needs and 48 percent had trouble meeting basic housing needs because of the financial costs of having an incarcerated loved one.”

Paying prisoners minimum wage could help all taxpayers. In a 2000 study on the exclusion of inmates from the U.S. labor force, funded by the Open Society Institute, five top economists — Ray Marshall, former Secretary of Labor and currently a professor at the University of Texas; Richard Freeman of Harvard University; Alan Krueger and Jeff Kling of Princeton University; and Steven Levitt of the University of Chicago — researched the subject and predicted that paying inmates minimum wage would increase the U.S. Gross Domestic Product by 1 percent. The economists concluded that “virtually every stakeholder in the U.S. economy would be better off if people who were incarcerated were fully integrated into the U.S. labor force, and were responsible in meeting their obligations to their communities, families, and victims,” as summarized by project director Tom Petersik, economics professor at George Washington University.

The study recommended the same standards be applied to inmate as to civilian labor, including identical wage standards, application of the Fair Labor Standards Act, workers' compensation and health and safety standards, allowing inmates to join unions to negotiate the terms of their employment, and investing in raising inmate productivity through training, education, counseling and treatment.

Another study by the National Institute of Justice on the Prison Industries Enhancement Certification Program found that the higher wages earned by PIECP participants in prison benefit taxpayers as well as the inmates themselves. For example, a portion of the wages earned by prisoners in the program goes to the state to cover the cost of prisoner room and board. PIECP wages that are higher than the average prisoner's means that more money goes toward child support and alimony to PIECP participants' family members and toward restitution to their crime victims. Not only that, but PIECP participants pay taxes.

According to Department of Corrections documents obtained through a Freedom of Access request, over the course of six weeks in 2014, one Maine State Prison inmate paid \$69.69 in federal taxes, \$5 in state taxes, \$275 in room and board, \$78.69 in family support, and \$78.69 in victim restitution.

The report argues for an expansion of the program so that more private companies can employ prisoners and pay them the prevailing “free world” wage for the particular type of work they are doing.

Where would the money come from?

Warden Rodney Bouffard said in a phone call, “We would like to have everyone work paid jobs, but there is just not enough money. We're always looking at ways to get more inmates involved with work, but if we were to [pay all working inmates] now we wouldn't have enough money to support it in the IBF account which we use to pay inmates.”

MPAC's proposal calls for non-paid positions to be paid with profits from the industries program, but Bouffard said, “Basically, the money from industries goes back to industries.”

Jackson spoke of a time when inmates making craft novelties owned their designs and were able to run their own businesses, purchasing supplies and employing other inmates. They kept the profits from sales of their products. Many were able to make up to \$10,000 per year, which went a long way on their release. But the program was discontinued because it got out of hand. A 1992 article in Bangor Daily News reported that in 1980, "Craft making was virtually controlled by leaders of a prison underground, nicknamed 'novelty kings,'" who "subcontracted out novelty production to underlings reaping big profits and establishing a caste-like gang system.”

Now the business is run by the prison, which owns the designs, purchases the supplies and pays the inmates. Prison Industries director Ken Lindsey said of the \$1.2 million in product sales, \$400,000 goes to the inmate payroll, \$400,000 goes to supplies, and machinery repairs take up the rest.

Bouffard said paying all prisoners is "certainly something we want to work toward.” “We'll have to make some adjustments so that everyone can be paid an equitable amount.”

Without an expansion of the Department of Labor regulated PIECP program or inmates running their own novelty businesses, or finding ways to save in the MSP budget, the money for paying prisoners would have to be appropriated by the state.

Heiden at ACLU said because there aren't funds available in the prison's budget to pay all prisoners, it would be up to the state to make it a priority and budget funds for MPAC's proposal.

“Between the Legislature and Department of Corrections,” he said, “there should be a way to find money for this because it's important.”

Part 3 of this series will focus on reentry centers and work-release programs in Knox and Waldo counties.

Related Information:

-  Part 1: History of labor at Maine State Prison
-  Part 3: Work release risks/benefits