HB 2225 1/2

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE
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March 4, 1981

Honorable Fred Brown, Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Chairman Brown:

Although I have been out of the State due to a family emergency and therefore unable to attend recent hearings regarding the Parole Board, I wish these comments to be made available to each of the Committee members to perhaps clarify some of the testimony regarding the Parole Board presented at the hearing on February 26, 1981. I also would like the opportunity to come to Juneau and personally speak to the Committee about Parole Board legislation. If you will give me some notice when the Committee will be holding additional hearings, I will arrange to travel to Juneau. You can contact me through the Board staff office in Juneau at 465-3385.

Much of the testimony of the Department of Law stated conclusions about the Board and other segments of the criminal justice system that need very careful scrutiny. Accepting them as fact without supportive information could result in you drastically altering the system based upon "one liners", inuendo, or misinformation. Comments made by the Law representative stated or implied the following:

(1) Presumptive sentencing greatly restricts all discretion.

(2) Presumptive sentencing eliminates most unjustified disparity at sentencing.

(3) Presumptive sentencing mandates certain sentences in specific cases no matter what the judge, district attorney or defense attorney does.

(4) The system knows what impact presumptive sentencing has had on the system and that effect has been positive.

(5) Disparity in sentencing would be minimized by the elimination of the Parole Board.

(6) The Department of Law's bill would eliminate unjustified disparity in the system.

(7) "Split sentences" (a period of jail time with probation to follow) don't make sense and therefore the potential for parole release should be eliminated to "solve the problem".

(8) Elimination of the Parole Board would necessarily give more "finality" at the time of sentencing than if the Board remained (with its policy of seeing inmates within six months after the date of sentencing).

(9) "Gameplaying" by offenders is unique to Parole Board hearings and all gameplaying would be eliminated in all other segments of the criminal justice decision making points (bail, pre-trial diversion, trials, sentencings, sentence modification hearings, all Corrections disciplinary hearings, all contacts with defense and prosecuting attorneys, etc.).

(10) Sentencing is based primarily upon what the offender did and that most Parole Board decisions are based on predicting what the offender will do when he is released (and that risk <u>should not</u> be considered by the Board).

(11) Offenders sentenced presumptively know their actual date of release once they are sentenced.

(12) Under Department of Law's bill, offender's would know shortly after sentencing when they would be released on furloughs by the Division of Corrections.

(13) A system of replacing parole release with good time and furloughs would result in more just and equitable treatment of offenders.

(14) Three or four other states have abolished parole boards and all related parole board functions without causing problems in the criminal justice system and without just changing the name of the board or without giving other responsibilities to the Board.

(15) The court handles probation revocations very differently than does the Board and the court conditions of probation are significantly different and less restrictive than the Board's.

(16) The Division of Corrections standards for the handling of good time and furloughs are more specific, fair and just than the Boards' for the parole of offenders.

(17) The current law makes most offenders ineligible for furloughs now and that is why only a few people are on furloughs and why a new furlough law is necessary.

(18) Parole Board hearings are not open to the public because it doesn't want the public to see what it is doing.

(19) The Board does not allow attorneys at either parole release or parole revocation hearings.

(20) The State had been moving toward abolishing the Parole Board for many years and the Department of Law's bill is the next logical step in this goal supported by everyone in the system after fully understanding all current information about the Board.

(21) The Parole Board is the only segment of the system that allows offender programing or offender non-involvement in program to be a consideration, and this factor would disappear as a consideration at pre-trial diversion hearings, classification hearings (at which furloughs are considered), disiplinary (good time) hearings, and probation violation hearings.

I would suggest that most of these statements--not facts--are incorrect, very incomplete, or at best, misleading. I would strongly urge you to get the facts and require data to support the "conclusions" or supposed "facts" before arriving at your own conclusions. Permit me to give you an example how you could be easily misled by incomplete information. You heard testimony at the Feb. 26 hearing that the State had essentially been moving toward abolishing parole for a decade. Mr. Stern cited the fact that the Legislature had given the judges authority to limit or even deny parole eligibility to specific offenders when they were sentenced. The presumptive sentencing scheme was given as yet another example of the Criminal Code Commission's and the Legislature's intent to phase out the Parole Board in Alaska. I disagree with Mr. Stern's perception and let me explain by giving some additional background on the Criminal Code Commission's handling of the parole issue.

The Criminal Code Commission did originally recommend the abolition of parole in Alaska in January 1976. The record does not clearly reflect what led the members of the Commission to this conclusion, but one or more reference books discussing parole appear to have been the primary basis for the decision. It is known no data on the operation of the Alaska Parole Board was requested by the Commission members and no one from Corrections nor the Parole Board was contacted for input. (The primary staff person for the Commission was on record as saying he felt parole decisions should be made by judges.) That preliminary report was not to stand and the parole issues continued to be discussed by Commission members along with sentencing and related issues.

One of the Commission members requested the Parole Board present input on parole and sentencing issues, the Board and the visiting Chairman of the Oregon Parole Board did testify before the Commission in November 1977. Although the staff of the Commission (including Mr. Stern and the other staff person I mentioned in the above paragraph) had drafted a proposal abolishing parole, the Commission rejected this approach. Instead they approved a concept that would tightly structure the judicial sentencing discretion, but would allow for parole release withing certain specified guidelines. This approach was supported by a great majority of the Commission members after developing a thorough understanding over the years as Commission members of the importance of how DISCRETION works in the criminal justice system. Without thorough understanding of how discretion works, rational decisions about effective changes in the system will not follow. Let me explain the concept of discretion in the criminal justice system that is supported by experienced and well-respected criminal justice professionals around the country, such as Professors Andrew Von Hirsch and Vincent O'Leary.

There is a given amount of discretion in any criminal justice system. All components of the system have some, but there is only so much no matter who has it. You can move around the discretion, you can increase or decrease the amount any segment has, but discretion is not eliminated, only transferred from one component to another. Here are some examples of some discretion various segments of the system have now.

	WHO	WHAT
POLICE:	(a)	Charge as crime or handle informally.
	(b)	Arrest or not arrest - issue summons.
	(c)	Initially charge as most serious to least serious crime.
	(d)	Initially charge all possible crimes, a few, or only one.
	(e)	Initially recommend high bail, low bail, O.R. release.

DISTRICT ATTORNEY:	(a)	Dismiss one or all charges.
	(b)	Allow to handle as deferred prosecution.
	(c)	Charge most serious to least serious charge (this will determine the possible range of sentences the judge will have available at sentencing).
	(d)	Charge all possible crimes, a few, or only one (this also will determine whether or not the judge may sentence to consecutive terms, concurrent, and also the sentencing range).
	(e)	Change all counts of an offense, a few, or one (same effect as above).
	(f)	Recommend bail to court.
	(g)	Charge no aggravating factors, charge one, charge many factors (judge cannot sentence above presumptive term, if applicable, unless D.A. charges an aggravating factor and judge rules the factor exists).
	(h)	Charge or not charge a prior felony (presumptive sentencing is triggered only if the D.A. charges and substantiates a prior felony in the required seven year period. If not charged, defendant not sentenced presumptively).
	(i)	Charge or not charge the use of a gun during the commission of the crime (same effect as above - if D.A. doesn't charge the use of the gun, not subject to presumptive sentencing).
	(j)	Charge or not charge the fact defendent caused serious physical injury during the commission of the crime (same effect as previous example).
	(k)	The D.A. can make any recommendation he wishes to the sentencing court about disposition, including sending the case to the three-judge panel but none of these recommendations have the effect of changing the judge's discretion.

JUDGE:

(a) Sentence a "first A felony" offender to a jail term of 0-20 years, a fine of $50,000, restitution, community work, probation etc.

(b) Sentence a "first A felony" offender to a term of 3-20 years if D.A. charges and judge finds gun used or serious physical injury.

(c) Sentence a "first B felony" offender to a jail term of 0-10 years, or other sentences listed in (a).

(d) Sentence a "first C felony to a jail term of 0-5 years.

(e) Sentence a "second A felony" to a jail term of 5-20 years if the D.A. charges and the Judge any aggravating or mittigating factors, and other sentences listed in (a).

(f) Sentence a "second B felony" to a jail term of 0-10 years and other sentences listed in (a).

(g) Sentence a "second C felony" to a jail term of 0-5 years and other sentences listed in (a).

(h) Sentence a "third A felony" to a jail term of 7-1/2 years to 20 years and other sentences listed in (a).

(i) Sentence a "third B felony" to a jail term of 3-10 years and other sentences listed in (a).

(j) Sentence a "third C felony" to a jail term of 0-5 years and other sentences listed in (a).

(k) Sentence an offender convicted of 1st degree murder to a jail term of 20-99 years and other sentences listed under (a) and a fine up to $75,000.

(l) Sentence an offender convicted of second degree murder or kidnapping to a jail term of 5-99 years, and other sentences listed in (a) and a fine up to $75,000.

(m) Send the case of any "presumptive offender" to a three-judge panel for sentencing if the first judge thinks the term of imprisonment would result in "manifest injustice".

	(n)	Place most offenders on probation under any reasonable condition for up to five years.
	(o)	Revoke all or part of an offender's probation for violation of any condition of probation or a violation of a law, at any time during the sentence.
	(p)	Terminate or extend probation at any time in the sentence.
	(q)	Make any offender serve more time than one-third up to the maximum sentence before becoming eligible for parole.
CORRECTIONS:	(a)	Make recommendation for sentencing in the presentence report.
	(b)	File petitions to have the judge consider probation revocations or request the D.A. file such petitions, depending upon the judicial district.
	(c)	Grant good time credits amounting to 25% of an offender's sentence for good institutional adjustment. Take away part or all good time for one or more infractions of jail rules, requiring prisoner to serve up to 25% more time.
	(d)	Make recommendations on Parole Board release decisions.
	(e)	File Petitions to revoke parole with Parole Board and make recommendations to Board.
	(f)	Grant various kinds of furloughs to almost any sentenced offender serving a jail sentence.
PAROLE BOARD:	(a)	Consider offenders for parole once they have served one-third of their sentences, and make a decision to parole or not parole the offender before he is released from jail after serving 66%-75% of his sentence with good time (the Board has control over 33%-42% of the offender's sentence) This assumes the judge has not made the offender ineligible for parole or more than 1/3 of his sentence or for all of his sentence.

(b)	Set conditions of release on all those paroled and on those subject to "mandatory release" or "legislative parole", based upon guidelines set in regulation and in current case law.
(c)	Revoke the release of offenders that parole officers bring to the Board's attention if the Board determines the offender cannot follow the laws.
(d)	Change a parolee's conditions of parole when good cause justifies it.
(e)	Carry out executive clemency investigations and make recommendations to the Governor's Executive Clemency Advisory Committee.

DISCUSSION OF DISCRETION

As you can see from the tables above, there is a lot of discretion in the system. Let's examine this discretion in light of the comments made at the recent House Judiciary Committee, understanding that only a few areas I mentioned earlier in my letter will be discussed here but that the committee members should be aware generally of the magnitude of discretion available to various segments.

Statements made at the hearing implied that presumptive sentencing has taken most or all discretion out of sentencing and that it will get rid of disparity in sentencing. The new criminal code did classify most crimes into categories and set maximum lengths of jail terms but did not do away with discretion. It in fact sharply increased the influence of the prosecutor while limiting somewhat the power of the judiciary. Except in a small percentage of cases, the new sentencing law <u>does not</u> mandate specific or mandatory sentences. But the prosecutor is the person that frequently holds the key to whether most of these presumptive or mandatory sentences will apply to a given case. (Examples are difficult to follow without having the chart of the presumptive sentences handy to refer to, and I or my staff would be more than happy to give you some additional examples before the entire Committee with the aid of the chart.)

Example: Mr. Smith has been arrested on an assault charge. He had a prior felony conviction five years ago which you would assume would automatically make Smith subject to presumptive sentencing. Not so. If the prosecutor does not charge the prior felony and prove it in court, Smith is considered a "first felony offender".

The facts of his case indicate he could be charged as either a first degree assault or a second degree assault. Assuming the prosecutor charged the prior felony, he knows Smith would have a presumptive term of 10 years if charged as first degree assault and if any mitigating and aggravating factors were charged, the judge could sentence Smith to 5-20 years. Smith would have to be sentenced to the presumptive sentence of 10 years only if the prosecuting and defense attorneys did not charge any mitigating or aggravating factors to the court (both tell us it will be unusual not to charge at least some mitigating and aggravating factors). The prosecutor knows if Smith is charged with assault in the second degree, the presumptive term would be 4 years, but could be mittigated down to 0 years or aggravated up to 10 years. Thus he can effectively decide what range the judge will have available a sentencing (5 to 20 years or 0 to 10 years) by what Smith is charged with. Of course if the prosecutor doesn't charge the prior felony, the judge discretion is 0-20 years for the assault one and 0-10 years for the assault two charge. Obviously the prosecutor isn't lacking discretion under the new code.

We are told judicial discretion is removed or severely limited by presumptive sentencing. It is limited somewhat but certainly not removed entirely. For example two different judges with Mr. Smith's case could sentence him to widely varying sentences on the same circumstances of the crime and background, (asuming an assault II conviction) as long as at least one factor in mittigation and one factor in aggravation was proven, by giving different weights to those factors. For example, Judge A could give strong weight to the mittigating factors and sentence Smith to no jail time or certainly less than four years. Then Judge B could sentence Smith to ten years by giving primary weight to the aggravating factor. The point is either judge could sentence Smith to 0-10 years, with Judge A usually handing out a sentence of one year to most offenders while Judge B usually sentences offenders to six years for similar crimes and backgrounds, and still be within the constraints of the presumptive sentencing scheme.

These or other examples are not meant to impugn the integrity of either prosecutors or judges around the State of Alaska, but only show that even with presumptive sentencing, disparity in the handling of cases by the criminal justice system is far from being eliminated. Obviously there is a need to develop some specific guidelines about who should go to jail and who should not, before we can seriously tackle the problem how long should offenders stay in jail if we decide they should go to jail. (At least the Parole Board does have specific, concrete, written guidelines for determining how long offenders serve if they are sent to jail but those guidelines don't help with the more basic decision of who should or should not go to jail at all.)

Before placing stock on what anyone says the new presumptive sentencing has had on the criminal justice system, I would urge you to get a hold of specific data about the impact of the code. My guess is you will find not much information is yet available unless things have changed a lot since the Parole Board tried to get some information on the impact of the system late last summer. The best information we have now is that approximately 18 offenders have actually been sentenced to presumptive terms since January 1, 1980 out of over 600 sentenced felons in jail now. Even if we has sufficient data on all these presumptive cases it would probably be difficult to identify any trends, or positive or negative influences on the system. Possibly the Judiciary Committee can insure that careful attention is given to keeping a close watch on the system and providing some indepth information to the public and the Legislature so we can assess the impact of presumptive sentencing down the line.

Let me concentrate on some of the misconceptions that may have been alluded to about the Parole Board. First it was implied that there is no "certainty" when an offender would, if ever be granted parole. That is not true. The Board has adopted regulations (available to judges, D.A.'s offenders, the public, etc.) that outlines the specific time ranges an offender can expect to serve if the criminal justice decides to send him to jail. These ranges are fairly narrowly drawn (16 to 21 months for a class B felony with little or no prior record, etc.; 21 to 28 months for a more extensive prior record, abuse of alcohol/drugs, etc.). The work was completed on these parole guidelines last summer, they were given a trial run for six months last fall and they were put into use beginning January 1, 1981. Any offender can sit down with his institutional counselor when he is sentenced, have a score sheet filled out based upon his case file information, and he will know with about 85% certainty when he is going to be released--without ever appearing before the Board.

The Board has been working on the development of these guidelines since 1978. During the time the Board was working on the guidelines, the members also felt it would be to everyone's benefit to begin seeing offenders (who did not have real long sentences) within the first six months of their sentences. There would be many good reasons for this change in policy. The Board currently sees offenders when they are within three months of being eligible for parole release. Some of the goals of this policy change would be:

(a) Set presumptive release dates on most offenders with shorter sentences so everyone would know when offenders could expect to be released and the whole system could plan accordingly.

(b) Allow the Board members to discuss problem areas/goals with offenders so the offender could make the best use of time before they are due to be released.

(c) Board would review the offender shortly before his presumptive release date to discuss his release plan and conditions of parole with him and see that he had conducted himself in a reasonable manner in the institution.

(d) Insure that the offender's release plan provided him with sufficient support to optimize his chances of a successful parole adjustment.

Why hasn't the Board implemented this policy change? This change would necessitate the Board receiving specific information in a timely manner from the Department of Health and Social Services about all sentenced offenders who might be eligible for parole. This information was not available to the Board so the Parole Board staff began requesting it informally through Departmental channels in 1978. These requests were made to both the Commissioner's office and the Department's office of information services. After approximately one year had passed with no information, I requested the information from the Commissioner in February, 1979. In the summer of 1980 the information began to trickle in and with considerable effort by the Board staff and the staff of the Division of Corrections, we have recently developed a fairly accurate list of offenders. The problem is that the institutional population has increased so rapidly since our initial request the Board would probably need some additional time to see every offender, say with sentences of 5 years or less, immediately. (The Board will not be able to even see those that are currently eligible for parole between now and July 1981 unless supplemental funding is made available to the Board for the upcoming Board hearing.) However, the Board did adopt this policy of hearing offenders early in their sentences and the members reiterated their desire to begin the process as soon as possible for everyone's benefit. So as you can see, the Board members themselves have been working on eliminating the "uncertainties" of parole release dates long before the Department of Law testified before your committee last week. Given sufficient resources, we expect we can probably achieve our goal with the offenders with shorter sentences before the end of the year.

The Board was chastised by the Department of Law for considering an offender's "risk" when making parole decisions. The Board does consider the risk factor when making parole decisions because it is required to by Alaska Statute (AS 33.15.080). We believe this law clearly mandates the Board's consideration of risk at the present time. However, I should point out that most of the "risk factors"

utilized by the Board in its guidelines are what Mr. Stern referred to as "what the offender did" items, such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record, etc. They are used more precisely and consistently in parole hearings. So even if the Legislature were to change the statute listed above, it probably would have little effect on the guidelines because most of the risk factors are related to "what the offender did". Of course, the most important factor in any case considered by the Board are the facts of the present offense(s), or "what the offender did" (see our 1979 study for documentation).

Mr. Stern told you Parole Board hearings are not open to the public. He is correct. They are closed pursuant to Alaska Statute 44.62.310. This means that the door to hearings are not open for anyone to walk in. However, he failed to inform you the Board has always, to the best of my knowledge, since I have been a member of the Board, allowed any responsible person to sit in on Board hearings once they received a short briefing on how hearings were conducted, the purpose of the information and procedures, and that information presented at hearings was confidential by law (AS 33.15.140) and must not be communicated to anyone outside the hearing. The Parole Board has had State legislators, prosecutors, defense attorneys, staff of all various State governmental agencies, newpaper reporters, T.V. staff, university students, and ordinary citizens from the community sit in on hearings. All hearings are taped and you are welcome to listen to the tapes of any hearing if the offender signs the appropriate waiver. Furthermore, in spite of what Mr. Stern said, attorneys are allowed at any Parole Board hearing and we strongly encourage their attendance at all parole revocation hearings where there might be a dispute of facts. Come over and listen to our tapes or sit in on some hearings if you have any questions.

The Department of Law has suggested the Parole Board be eliminated and be replaced with more furloughs and more good time. I know that almost all sentenced prisoners are not prohibited by law from being placed on furloughs now - it is the regulations and practices of the Division of Corrections that have severely limited the use of furloughs. It might be beneficial to consolidate and update these laws but the low utilization of furloughs cannot be blamed on the Legislature. I know these furlough policies are changing but I am not sure furloughs would be appropriate for the extended periods of time we have offenders on parole. All the experts have told us that six months maximum is all the time you want an offender on most community based programs, except probation or parole supervision in an offender's own home. I would strongly urge you very carefully and skeptically review this as an alternative to parole release and certainly not do so when all the various kinds of potential furloughs are just in the "talking stage". I would strongly urge you discuss this with Mr. Trivette and Mr. Campbell, both whom have a lot of experience with halfway houses and community based programs. You should also carefully consider whether or not this might introduce more disparity in the handling of offenders. Instead of the Parole

Board releasing offenders subject to the specific guidelines adopted, you would have nine classification committees and superintendents in Alaska and another 25-30 classification committees and wardens in contract facilities making furlough decisions based upon few standards. Disparity in the handling of offenders is almost certain to be increased with the large number of persons involved in the process and institution concerns will prevail as an overiding factor in many cases. Again, this is no reflection on the staff of Corrections - just a byproduct of spreading decision making out to 156 persons with all their individual personalities.

Good time in Alaska has been a "can of worms" for a decade. I would respectfully defer to Mr. Trivette on this subject who is very knowledgeable on this topic. From my limited knowledge on the subject, I would strongly urge you not consider changing the good time laws without Mr. Trivette explaining some of the numerous problems with good time previously and currently providing you with some background on the purposes of good time.

Let me take a moment of your time to tell you something of Mr. Trivette's background, experience and standing in the criminal justice community in Alaska and around the country. He is considered knowledgeable and an expert in many of the specialized areas of corrections work, such as classification committees, good time, parole laws, report-writing, systems operations, parole guidelines and other "risk assessment scales", community-based corrections, etc. He is frequently called upon by various corrections personnel, attorneys, judges and other criminal justice employees to serve in a problem solving capacity. He has been a leader in some national corrections groups and is currently in the Commission on Accreditation for Corrections "pool" to serve on committees to review parole boards for possible accreditation based upon strict national standards. He has been a very active participant and sometimes chairman of various groups working on improving the criminal justice system in Alaska. He has conducted training sessons, seminars and presented papers at various state and national correctional meetings. Because of the deep respect he has gained from the wide spectrum of criminal justice employees, I would hope you would carefully question him about any proposed changes you expect to make in the system and specifically about the statements made by the Department of Law. You will get nothing but "straight talk" from him.

Although I have been supportive in the past of the concept of the abolition of parole and replacing it with "presumptive", "flat-time", or "determinate" sentencing, I have become more skeptical each year about the ability of a system to really deal more consistently, more equitably and more fairly deal with offenders without a parole board. I am beginning to believe that a small collegial body, operating under specific guidelines, hearing all cases around the state, using the same interpretation of the guidelines, will be almost impossible to improve upon if given the tools to do the job.

Let me suggest you carefully consider Professor Von Hirsch's study, "Abolish Parole". The Alaska Parole Board has never been given those tools nor the support it needs to properly carry out its responsibilities - why don't you give us a chance for a couple of years with this support and see what materializes. I don't think you will be disappointed. After all, we are relatively cheap!!

Thank you for taking the time to consider the contents of this letter.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

WBL

P.S. Why should the Board be given the opportunity to "prove" itself over the next few years? Recent Parole Board research indicates the Board is doing an outstanding job of fairly and equitably dealing with those offenders that apply for parole, even though those applicants come from various racial backgrounds. The fact that 3/5ths of the Board members come from minority or "protected classes" probably is a factor - the Board is one of the few segments of the criminal justice system that has much minority representation and certainly few if any have this high percentage of minority representation.

Again, I would defer to Mr. Trivette's expertise in explaining why I feel the Board has done such an exceptional job in fairly and equitably dealing with those offenders sentenced to jail, even before we had our parole guidelines to reply upon. Once you have seen the supportive documentation, I think you will be pleasantly surprised what a segment of the system can do with very little money.

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder or kidnapping	- $75,000
A, B, or C Felony	- $50,000
A misdemeanor	- $ 5,000
B misdemeanor	- $ 1,000
Violation	- $ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - $100,000 or
3 X pecuniary gain
- whichever is greater

KEY

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

* Six year presumptive term applies if first A felony conviction, other than manslaughter, and defendant used or possessed a firearm during the offense or caused serious physical injury.

MAXIMUM TERMS OF IMPRISONMENT FOR MISDEMEANORS

A misdemeanor - 1 year

B misdemeanor - 90 days

PAROLE BOARD OUTLINE

1. The Parole Board is extremely inexpensive to operate in relationship to other sectors of the Alaska Criminal Justice system. The overall costs of the operation of the Board just exceeds $225,000 for the upcoming fiscal year. Most of the money spent goes for salaries of staff, some compensation for Board members, and travel funds to allow the members to hold hearings throughout the state and in contract facilities housing Alaskan inmates. Although we do not have the actual cost of operating the court system or other segments of the criminal justice system in Alaska, they certainly exceed the cost of operation of the Board by far.

2. The Parole Board has very specific written guidelines for making its decisions, which make it available for very close public scrutiny. Any time a prisoner is not granted parole, he is sent an individual letter advising him of the reasons for the decision. Whenever a parolee has his parole revoked, he receives an individualized letter explaining the specific reasons why he has been returned to custody. Any time the Board deviates from their written guidelines in any given case, they must document the specific reasons in the file why such a decision was made. These letters are available for public scrunity. (Refer to articles on guidelines for more specific examples).

3. The new parole guidelines research has allowed the Board to develop very concrete guidelines with numerical weights given to statistically vaild factors that allows the Board to closely compare similar cases and will result in equal treatment of similarly-situated inmates.

4. The Board members are representative of the major ethnic and minority groups of the state. The Board has had Alaskan natives and black membership since 1971, and a women on the Board since early 1976. Each of these members have a wide variety of experience in dealing with and relating to minority persons. They are familiar with the diverge cultures of the citizens of the State of Alaska. No other segment of the system has or is likely to have in the near future, this broad representation.

5. In spite of the problems with the disparity in sentencing in Alaska, the inmates handled by the Board are treated very similarly, no matter what their ethnic background is. Current Parole Board research indicates that within the parameters with the law which requires all inmates to serve one-third of their sentence to which they are sentenced before being eligible for parole, the Parole Board does treat individuals similarly as much as is reasonable.

6. The Board members are not employees of the State, but are citizens from various communities around the state that retain their ties there and are familiar with the wishes of the communities from which they come. They are concerned with the community foremost rather than the needs of any department of the state government, and their decisions reflect their community and individual person orientation. The Legislature established a separate Parole Board office in 1972 specifically for the purpose of allowing the Board members to not be controlled or too heavily influenced by the other full time employees of the criminal justice system. This appears to be working very effectively.

7. The Board members make consistent decisions statewide. Although there is known to be wide disparity in sentencing between different areas of the state, this small group of Parole Board members maintains consistency in its decision-making throughout the State of Alaska. No matter how closely regulations and guidelines are written, such consistency is unlikely to occur throughout the state with the number of judges, district attorneys, and defense attorneys involved in the other segments of the criminal justice system.

8. Social science research has shown that group decisions in making parole and related kinds of decisions produce more consistent and equitable than those made by individuals.

9. The State constitution requires a parole system. Although the parole function could be handled by the courts or another agency of the State, or by other state employees, or some other group, the current make-up of the Board is the most cost effective while offering fair, consistent and reviewable decisions. Unless and until the citizens of the state wish to amend the state constitution, or a more cost effective and equitable system can be shown to be available, the current procedure should be maintained.

10.. In the mid to late 70's, many criminal justice professionals, college professors, attorneys, and others, were recommending the abolition of parole throughout the country. A great majority of those making that recommendation have since changed direction and many are now supportive of the parole process. The concept of a "community release board" separate from the courts to determine the length of prison terms was supportive by the American Bar Association in a position paper in the fall of 1977. This was a reversal of the Association's previous recommendation that parole be abolished.

11. A "community release board" concept is now being supported by many criminal justice professionals that had previously supported the concepts of "derterminate", 'flat-time", or "presumptive" sentencing schemes where the prison terms were set in statute with little judicial discretion and no parole discretion.

12. Some persons would argue that all relevant factors are known at the time of sentencing and therefore there is no need for any other determination about a release date later on after the date of sentencing. The proponents of this kind of system and the "nothing works" idea have lost most of their support in recent years.

(a) Research in other jurisdictions shows that institutional behavior does have a significant relationship to the success or failure of parolees and therefore should be considered at a parole release hearing some time after sentencing.

(b) Research in other jurisdications shows that institutional programming and programming after release have a significant relationship to the success or failure of parolees and therefore should be considered at parole release hearings. (One such program that enchances the change of success is T.A.S.C.).

(c) Research in Alaska shows that certain aspects of an inmate's release plan do have a significant relationship to the success or failure of the parolee and therefore should be considered at the parole release hearing some time after sentencing.

Although we certainly do not have all of the research necessary to prove all relationships that exist, it is very clear that relationships do exist that are relevant after a person is sentenced and incarcerated and are appropriate to consider at a hearing by a parole board or similar body.

PAROLE BOARD RESEARCH FINDINGS

1. 70% of the "mandatory releasees" had served two years or less in jail when released on mandatory release supervision. Only 1% of the mandatory releasees had sentences exceeding five years.

   It is apparent that the Parole Board frequently does not parole people with relatively short sentences (two years of less), but does parole most inmates with longer sentences.

   A casual check of files several years showed that only one inmate out of 13 with six month sentences that applied for parole was paroled in a given year. It appears that the Board is following its stated of purpose in dealing with inmates with longer sentences and paroling those with short sentences only when unusual circumstances warrant.

2. Percentage of Inmates Paroled v M.R.'d by Race.

Race	M.R.	Parole
White	35%	65%
Black	21%	79%
Native	44%	56%
Other	35%	65%

   Blacks get paroled at the highest rate with others and whites next. Natives get paroled at the lowest rate. At first glance, it would appear that there is a great disparity in who gets paroled and who mandatory releasees if you do not look at the following tables. As it turns out, some of the other tables give us a much better picture of the habits of the Parole Board, and provide us with the background on the differing parole rates.

3. Mean Months Sentenced by Race of M.R.'s and Parolees.

Race	M.R.	Parole
White	26.6	54.2
Black	34.6	79.2
Native	30.3	59.6
Other	61.5	127.6

   This table gives us the length of sentence of people that the Board paroled and those that were released on mandatory supervision by operation of law without parole. This figure tells us more about the sentencing patterns of the court system rather than the Parole Board's, except that the Board does not parole inmates as frequently with shorter sentences as those with longer sentences. This especially true with the longer sentences as inmates are required to serve at least one-third and sometimes more of their sentence before being eligible to apply for parole.

4. Mean Months Served by Race of M.R.'s and Parolees.

Race	M.R.	Parole
White	20.2	19.4
Black	23.0	25.7
Native	22.9	21.4
Other	43.8	24.1

   This table gives us a good comparison of how much time the Parole Board actually has inmates serve before they are released from custody either by parole or mandatory releases. Please note that the parole time on whites and natives is only two months different. The parole time on blacks and others is somewhat higher, but realizing that amount of time served before an inmate is eligible for parole is a function of the length of sentence, and thus these differences are somewhat dependent on the length of the inmate's sentence.

The time served for whites, blacks, and natives who are mandatory releasees are very close, being less than three months difference. Although the "other" mandatory releasees time is quite high, there are only a few people in that category which artificially inflates the time served number.

Very interesting are the close similarities between the amount of time the Board requires a person to serve by each race category whether or not they are paroled or released on mandatory supervision. There is less than one month's difference between the white parolees and white madatory releasees, less than three months time served between the black parolees and black mandatory releasees and one month difference between the native parolees and native mandatory releasees.

Remembering that "others" had the longest sentences, followed by blacks, and then whites, this table shows that there is a very close relationship to the amount of time served by parolees and mandatory releasees within each race category.

5. Mean Months Served as Proportion of Mean Sentence by Race.

Race	M.R.	Parole
White	76%	36%
Black	66%	32%
Native	76%	36%
Other	71%	19%

Interestingly, the Board required white and native parolees to serve an identical amount of their sentences before being released on parole. Blacks were required to serve four percent less of their sentences before being paroled, recalling that their sentences were somewhat longer than whites or natives. "Others" were required only to serve 19% of their sentences, but their sentences were extremely long in comparison to the other groups, and again there was a very small sample in this category which unduly influences the figures. It appears the Board is treating all races as similarly as is possible within the current statutory scheme.

Let's take a look at those released on mandatory supervision. Again, whites and native served an identical portion of their sentences before being released on mandatory release. Blacks served a little less time than whites or natives, proportionally which is probably a function of their longer sentences and the Board's attempt to treat all prisoners similarly. "Others" released on mandatory release served a little more time proportionally than did blacks, but less than whites or natives.

6. For a summary of release characteristics by race, please refer to the table on page 9 of the Supplemental Report Time Served Component of the Alaska Parole Guidelines Study (September, 1980). This sheet provides a quick overview of the release patterns of the Parole Board, the relative length of sentences imposed by the courts on those persons seen by the Parole Board, etc.

7. Only six percent of parolees released by the Board from 1970 1979 were convicted of a new felony at any time while on parole. This figure is less than half the national figure with a two year follow up. This figure alone does not necessarily mean anything by itself, but probably indicates the Board is fairly careful about its release decisions, and also would suggest that parolees are being adequately supervised by parole officers. We know for certain that only about two or three parolees a year on the average are convicted of new felonies, so they are not a strong factor in the increased crime rate in Alaska.

SHT/vh

1) add in furlough + half way houses under parole Board.

HB 225

~~2) Presumptive sentences - 25~~

Sec. 1

Sec. 33.16.010. Established 5 member parole board, presiding officer has a minimum of 2 year related work esperience.

Sec. 33.16.020. Provided for nomination by the Governor.

Sec. 33.16.030. Sets out criteria for qualification of board members.

Sec. 33.16.040. Provides procedures for removal by Governor of board members and appeal process.

Sec. 33.16.050. Allows $100/day compensation for Board members plus travel and per diem expenses.

Sec. 33.16.060. Sets out minimum of 4 meetings per year of the board.

Sec. 33.16.070. Authorizes board to issue subpeona.

Sec. 33.16.080. Describes scope of responsibilities of board including records, standards, recommendations to legislature and commissioner and presentation of annual operating budget. The board shall adopt regulations under AS 44.62 which establish standards for parole eligibility to standards of supervision.

Sec. 33.16.090. Provides for Executive Director and staff.

Sec. 33.16.100. Establish eligibility guidelines for discretionary parole release of non-presumptively sentenced prisoners and provided that prisoners released with good time deductions be considered on parole until the end of the period of original sentence.

Sec. 33.16.110. Provides for fixing eligibility for discretionary parole at the time of sentencing when period of imprisonment is over one year and at least 1/3 of term is served.

Sec. 33.16.120. Sets out broad criteria for paroling prisoners.

Sec. 33.16.130. Lists various sources of information for determining suitability, including: 1, presentence report, 2, sentencing recommendations, 3. history at facility, 4. correctional personnel recommendations, 5. criminal history, 6. physical and mental examination.

Sec. 33.16.140. Established prisoner's right to interview with a member of board, materials in pre-parole report he is intitled to see, may waive right to interview and receive a written decision.

Sec. 33.16.150. Provides for order of parole.

Sec. 33.16.160. Sets out parameters for conditions imposed by parole board and right of parolee to request reconsideration.

Sec. 33.16.170. Provides for waiver of hearing.

Sec. 33.16.180. Establishes confidentiality of pre-parole reports.

Sec. 33.16.190. Establishes right to appeal decisions of board to superior court.

Sec. 33.16.200. Assigns commissioner responsibilities including investigations and records.

Sec. 33.16.210. Commissioner may assign probation duties to parole officers.

Sec. 33.16.220. Sets out authority of DOC over paroless. Provides for discharge of parole after 5 years unless the board feels this is contra-indicated.

Sec. 33.16.230. Allows for discretionary release after 2 years of parole.

Sec. 33.16.240. Warrants.

Sec. 33.16.250. Revocation procedures.

Sec. 33.16.260. Basis for arrest on parole violation--warrant exigent circumstances.

Sec. 33.16.270. Allows parole officer to execute arrest.

Sec. 33.16.280. Applicability.

Sec. 33.16.290. Definitions.

Sec.2 Amended language AS 44.66.010(a)(3)

Sec.3. AS 33.20.040(a) Changed to say that persons released with certificates of deduction for good conduct will be on parole for that amount of time specified in the certificate.

Sec. 4. AS 33.15. repealed

Sec. 5. AS.33.16 enacted.

Sec. 6. Allows for replacement of board members

Sec. 7. 7/1/81 effective date.

Sectional Analysis of HB 225

Sec.1: The composition of the parole board is set at five members who serve for five-year, staggered terms. Eliminates members who have conflicts through state employment or political office. Changes the minimum meetings per year from two to four. Establishes a removal procedure for definite conduct and with time limits.

The parole board is assigned the responsibility for making recommedations to the legislature and Commissioner. They are also responsible for maintaining records, making operating rules and standards, reports, etc. Invokes the Administrative Procedure Act (44.62).

The scope of the parole board is extended to include that period of time designated in the certificate of deduction for good conduct. Criteria for assessing suitability for parole are delineated. Designates written reports and testimony to be used in determination of eligibility. Makes confidentiality of pre-parole report more stringent and excludes parolee from seeing evaluations made by mental health or corrections personnel.

States that the parole order specify that violations of state or federal laws constitute grounds for revocation. Provides that the parolee accept conditions imposed by the board and establishes parolee's right to a hearing on reconsideration of a condition.

The duties of Commissioner of DHSS remain the same except for the provision that information pertinent to eligibility determination must be provided in a timely manner.

In Sec. 16.220, limited access to civil process is restored to parolees in conjunction with Bush v. Reid, Sup. Ct. No. 973, and the due process clauses in Alaska and United States constitutions.

A significant change from existing statute is the provision for interviews with a single member of the parole board for the purpose of determining either eligibility for parole or probable cause for revocation. A preliminary hearing before a single member of the board to determine probable cause must be held within 14 days of arrest. The revocation must be taken up at the next meeting of the parole board. Unless otherwise specified, time spent on parole may not be credited against a prisoner's sentence.

Sec.2 Changes termination date from 6/30/80 to 6/30/84.

Sec.3 Changes AS 33.30.030 to reflect that time specified in the certificate of deduction is considered a release on parole and subject to imposition of conditions by the parole board. Suggested language change on page 12, line 11, would change "period" to "certificate".

Sec. 4-7 Repeals old law replaced by chapter 16, allows for its application on effective date of this Act., which is 7/1/81.

Sec.6 Provides that the Governor shall appoint a new board to an initial staggered term schedule of 5,4,3,2,1 years.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 225
Title "An Act relating to parole of offenders & continuing existence of the * Board of Parole."
Requested by House HESS Committee Date February 4, 1982

II. FISCAL DETAIL
Agency Affected Department of Health & Social Services
Program Category Affected Offender Confinement, Reformation, and Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement; Probation & Com. Prog.
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill essentially enables the Board of Parole to continue their existence and carry out their responsibilities in the same general manner as in the past. Therefore, there would be no fiscal impact on the Division of Adult Corrections.

IV. DATE February 4, 1982 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections
PHONE 465-3376

gcc

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 225
Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board
Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	5.5	5.9	6.4	6.9	7.5
300	CONTRACTUAL	-0-	2.4	-0-	2.8	-0-	3.2
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION	-0-	23.8	23.8	23.8	23.8	23.8
	TOTAL	-0-	31.7	29.7	33.0	30.7	34.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	31.7	29.7	33.0	30.7	34.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions Section III)

IV. DATE March 5, 1981 PREPARED BY Samuel H. Trivette
AGENCY Parole Board
PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [illegible] Date 3/5/81

33-001 (Rev. 12/80)

A. Section .020 & .030, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan, and Sitka to meet with organizations to recruit for Board members and to administer member assessment. One additional day trip to one location to do final interviews and train on member responsibilities.

Travel	3.8

B. Section .050, Compsensation

a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"
Guess 23 X 5 members X $100 = 11.5

b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.
120 calls X $120 = 12.0

Compensation Total	23.5

C. Section .080, Responsibilities

a) Costs to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in the Alaska Administrative Code.

Contractual	2.4

b) Travel costs for Executive Director and Chairman to conduct 1 day hearings in Anchorage, Fairbanks, and Juneau.

Travel	1.7

c) Compensation for Chairman 3 days at $100.

	.3
Section .080 Total	4.4

Assumptions

1. Travel will increase at a rate of 8% per year.
2. Contractual will increase at a rate of 8% per year, but hearings to modify regulations will be held only once every two years.

(2) "commissioner" means the commissioner of the Department of Health and Social Services or his designee. (§ 1 ch 105 SLA 1960; am § 6 ch 104 SLA 1971; am § 4 ch 32 SLA 1979)

Cross reference. — For provisions allowing imprisonment as a special condition of probation, see AS 12.55.086 added by ch. 32, SLA 1979.

Effect of amendment.

The 1979 amendment, in paragraph (1), inserted "except as authorized under AS 12.55.086" and substituted "provided in this chapter" for "hereinafter provided."

Authority to impose period of incarceration as condition of probation prior to enactment of AS 12.55.086. See Boyne v. State, Sup. Ct. Op. No. 1766 (File No. 3678), 586 P.2d 1251 (1978).

Applied in Jackson v. State, Sup. Ct. Op. No. 1194 (File No. 2422), 541 P.2d 23 (1975).

Chapter 10. Interstate Compact on Probation and Parole.

Sec. 33.10.010. Authorizing governor to execute interstate compact.

Cited in Gonzales v. State, Sup. Ct. Op. No. 1757 (File No. 3397), 586 P.2d 178 (1978).

Sec. 33.10.020. Definition.

Cited in Gonzales v. State, Sup. Ct. Op. No. 1757 (File No. 3397), 586 P.2d 178 (1978).

Chapter 15. Parole Administration Act.

Section

60 Granting of parole

180. Persons eligible for parole

Sec. 33.15.010. State board of parole.

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of government. Davenport v. State, Sup. Ct. Op. No. 1210 (File No. 2202), 543 P.2d 1204 (1975); Smeraton v. State, Sup. Ct. Op. No. 1825 (File No. 3390), 572 P.2d 63 (1977).

Sec. 33.15.060. Considerations in determining eligibility for parole.

Cited in Krause v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979).

Sec. 33.15.070. Order for parole.

Cited in Kraus v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979).

Sec. 33.15.080. Granting of parole. If it appears to the board from a review that a prisoner eligible for parole will, in reasonable probability, live and remain at liberty without violating the laws, or without violating the conditions imposed by the board, and if the board determines that his release on parole is not incompatible with the welfare of society, the board may authorize the release of the prisoner on parole. However, no prisoner may be released on parole who has not served at least one-third of the period of confinement to which he has been sentenced. (§ 3 ch 81 SLA 1960; am § 1 ch 110 SLA 1974; am § 14 ch 166 SLA 1978)

Effect of amendment.

The 1978 amendment deleted "or in the case of a life sentence, has not served at least 15 years" from the end of the section.

When prisoners may be paroled. — In the absence of a court order to the contrary, this section allows the parole board to parole a prisoner after one-third of his sentence has been served. Shagloak v. State, Sup. Ct. Op. No. 1696 (File No. 3300), 582 P.2d 1034 (1978).

The trial court is not required to advise of parole minimums, or of its authority to fix parole eligibility, under the terms of Criminal Rule 11. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

But it is preferable for court to so inform defendant. — While it is not necessary for the court to inform the defendant of the possibilities with reference to parole, it is preferable for a court to so inform the defendant, particularly if the court is imposing more than the minimum of one-third of the term required to be served for eligibility for parole. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

Applied in Thomas v. State, Sup. Ct. Op. No. 1448 (File No. 2723), 566 P.2d 630 (1977); Post v. State, Sup. Ct. Op. No. 1642 (File No. 2851), 580 P.2d 304 (1978); Hanson v. State, Sup. Ct. Op. No. 1699 (File No. 3412), 582 P.2d 1041 (1978); Mills v. State, Sup. Ct. Op. No. 1838 (File No. 3984), 592 P.2d 1247 (1979); Williams v. State, Sup. Ct. Op. No. 1942 (File No. 4150), 600 P.2d 1082 (1979).

Quoted in State v. Lancaster, Sup. Ct. Op. No. 1247 (File No. 2571), 560 P.2d 1227 (1976); Laborbova v. State, Sup. Ct. Op. No. 1902 (File No. 3445), 594 P.2d 947 (1979).

Stated in Creed v. State, Sup. Ct. Op. No. 1563 (File No. 3036), 573 P.2d 1379 (1978); Kraus v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979).

Sec. 33.15.090. Revocation of parole.

This section may be given effect independently of whether a released prisoner is under the custody of the parole board. Morton v. Hammond, Sup. Ct. Op. No. 1962 (File No. 4082), 604 P.2d 1 (1979).

Sec. 33.15.100. Adoption of rules and holding of meetings.

Parole Board urged to prescribe specific rules to govern situations where searches of parolees are permissible. — See Thomas v. State, Sup. Ct. Op. No. 1431 (File No. 2634), 570 P.2d 1215 (1977).

Sec. 33.15.180. Persons eligible for parole. (a) A state prisoner other than a juvenile delinquent, wherever confined and serving a definite term of over 180 days or a term the minimum of which is at least 181 days, and who is not imprisoned in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2), whose record shows that he has observed the rules of the institution in which he is confined, may, in the discretion of the board, be released on parole, subject to the limitation prescribed in AS 33.15.080 and 33.15.230(a)(1).

(b) A state prisoner who has been imprisoned in accordance with AS 12.55.125(a) or (b) may not be released on parole until he has served at least the prescribed minimum term of imprisonment.

(c) A state prisoner imprisoned in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) who is released under AS 33.20.030 shall be placed on parole for the period specified in the certificate of deduction, subject to written rules and conditions imposed by the board or his parole officer. (§ 7 ch 81 SLA 1960; am § 34 ch 43 SLA 1964; am § 9 ch 68 SLA 1965; am § 2 ch 110 SLA 1974; am §§ 15, 16 ch 166 SLA 1978)

Effect of amendment.

The 1978 amendment, inserted "and who is not imprisoned in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2)" in present subsection (a) and added subsections (b) and (c).

Editor's note. — Section 23, ch 166, SLA 1978, provides, in subsection (d): "AS 33.15.180, as amended in sec. 15 and 16 of this Act, applies only to persons imprisoned for crimes committed on or after the effective date of this Act."

Cited in Stone v. State, Sup. Ct. Op. No 1883 (File No. 4126), 599 P.2d 72 (1979).

Sec. 33.15.190. Release and terms and conditions of release.

This section and AS 33.20.040 in pari materia. — This section and AS 33.20.040 were enacted at the same time and concern the same subject, and are therefore in pari materia. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4892), 604 P.2d 1 (1979).

And may be reunited. — Although this section and AS 33.20.040 are in conflict cross under this section, when the prisoner's term less good time has expired, he no longer remains in the legal custody of the board, yet under AS 33.20.040, he is to be considered as if released on parole until the expiration of his maximum term less 180 days, these provisions may be reunited if, during the period of release, after the term less good time has expired but prior to the time that the maximum term for which he was sentenced less 180 days has terminated, the released prisoner is not in the legal custody of the parole board, but is nevertheless considered as if on parole so as to be subject to reincarceration upon violation of a statutory condition of parole. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4892), 604 P.2d 1 (1979).

Sec. 33.15.200. Retaking of parole violator.

A parolee's liberty should be afforded all protections consistent with his status as one convicted of a crime and under supervision and restrictions although released from incarceration. Davenport v. State, Sup. Ct. Op. No. 1619 (File No. 2004), 569 P.2d 939 (1977).

Warrant ordinarily required. — This section requires that absent exigent circumstances a parole officer must secure a warrant from the Parole Board or board member. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Warrant issued only upon probable cause. — In order for the warrant requirement of this section to be meaningful, the warrant should be issued only upon probable cause of a violation of the conditions of parole being presented to the parole board or a member thereof. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Written statement of probable cause required. — To avoid unnecessary appeals from warrants issued on oral statements, the contents of which may be subject to argument, in the future a written statement indicating probable cause shall be required to be filed with the parole board or member as justification for issuance of a warrant. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Parolee subject to arrest for a wide variety of causes which do not apply to others. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Usual arrest requirements not imposed as regards arrest of parolee. — To impose the same requirements on the arrest of a parolee as are otherwise mandated for an arrest, including an affidavit or sworn complaint, would constitute meaningless additional time and effort on the part of parole officers. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

For a discussion of cases decided in state and federal courts addressing the subject of parole arrest warrants, see Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Use of illegally obtained evidence in revocation proceeding. — Ordinarily, neither the Alaska Constitution nor its criminal rules bar the use of illegally obtained evidence in parole revocation proceedings. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Credit for time served since arrest for subsequent offenses. — Where defendant's sentences were to be served consecutively to a sentence then being served for a parole revocation on an earlier offense, the trial court order that the defendant receive no credit for time served since his arrest was proper in view of the court's action in making the sentences consecutive to the time to be served on the parole revocation, for the time served from defendant's arrest should properly have been credited toward the parole revocation sentence. Reynolds v. State, Sup. Ct. Op. No. 1849 (File No. 4024), 595 P.2d 21 (1979).

Sec. 33.15.230. Fixing eligibility for parole at time of sentencing.

Alternatives available to courts concerning parole eligibility. — Sentencing courts may either recommend or order a limitation on parole eligibility at the time of sentencing, or they may say nothing about the matter. A sentence embodying a recommendation that the division of corrections not grant parole until a specific portion of the sentence is served is not binding on the parole board, although it may be considered relevant by the board. An order, however, must be followed by the parole board in its determination of a prisoner's eligibility for parole. Shaglook v. State, Sup. Ct. Op. No. 1688 (File No. 2300), 582 P.2d 1034 (1978).

Recommendation may not be later amended to order. — Since either a recommendation or an order as to parole eligibility was logically possible and no obvious mistakes were committed by the court's use of the term "recommendation" in the judgment, the court's recommendation may not be later amended to an order. Shaglook v. State, Sup. Ct. Op. No. 1688 (File No. 2300), 582 P.2d 1034 (1978).

Defendant's parole eligibility was governed by subsection (a)(1) of this section as it existed at the time he committed the offense for which he was ultimately sentenced. Elstad v. State, Sup. Ct. Op. No. 1912 (File No. 4272), 599 P.2d 137 (1979).

Use of 1974 version to determine eligibility unconstitutional. — Where subsection (a)(1) in 1973 provided that the term a prisoner had to serve before becoming eligible for parole could "not be more than one-third of the maximum

sentence imposed by the court" and in 1974 the statute was amended to provide that any term thus designated "shall be at least one-third of the maximum sentence imposed by the court," use of the amended version to determine parole eligibility for a crime committed in 1973 was sufficiently akin to the enforcement of an ex post facto law to amount to a denial of defendant's right to due process of law under Alaska Const., art. I, § 7. Elstad v. State, Sup. Ct. Op. No. 1913 (File No. 4272), 599 P.2d 137 (1979).

"Maximum sentence" means aggregates of sentences. — "Maximum sentence" does not mean the maximum given on an individual count, rather than the aggregate of any consecutive sentences imposed by the court on any number of counts. Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977).

The phrase "maximum sentence imposed," as employed in this section, is intended to authorize the sentencing court to fix eligibility for parole based on the entire length of imprisonment the particular sentence requires. Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977).

It is significant that subsection (a) does not read "the maximum sanction provided for the commission of the particular crime." Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977).

When subsection (a)(1) formerly provided that the minimum imposed by the judge not exceed one-third of the maximum sentence he imposed, this meant one-third of the total number of years. Davis v. State, Sup. Ct. Op. No. 1453 (File No. 2698), 566 P.2d 640 (1977).

Where defendant was convicted on five counts of selling heroin and one count of possessing heroin and was sentenced to ten years, the maximum term, on each count, with one of the sentences to run consecutively to the others, and the other five to run concurrently with each other, for a total of 20 years imprisonment, defendant was to be ineligible for parole until he had served five years, and all the sentences were made consecutive to two sentences he had not yet finished serving, the imposition of consecutive sentences did not violate Alas. Const., art. I, §§ 9 and 12 and the minimum of five years before parole did not violate subsection (a) of this section. Davis v. State, Sup. Ct. Op. No. 1453 (File No. 2698), 566 P.2d 640 (1977).

Eligibility for parole does not guarantee parole. — It does not follow from subsection (a)(1) of this section that there is any certainty that a prisoner will actually be paroled after serving one-third of the maximum sentence imposed. Huff v. State, Sup. Ct. Op. No. 1493 (File No. 3201), 568 P.2d 1014 (1977).

Imposing maximum sentence with provision for parole after at least one-half sentence served. — The trial court was not clearly mistaken in imposing the statutory maximum sentence of three years imprisonment, with a provision that defendant not be eligible for parole until at least one-half of his sentence was completed. Horton v. State, Sup. Ct. Op. No. 1515 (File No. 3358), 570 P.2d 462 (1977).

Informing defendant of possibilities with reference to parole. — While it is not necessary for the court to inform the defendant of the possibilities with reference to parole, it is preferable for a court to so inform the defendant, particularly if the court is imposing more than the minimum of one-third of the term required to be served for eligibility for parole. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

In Alaska the trial court is not required to advise of parole minimums, or of its authority to fix parole eligibility, under the terms of Criminal Rule 11. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

Sentence of less than one year. — It is beyond the authority of trial courts to determine parole eligibility where the sentence is for less than one year. State v. Tucker, Sup. Ct. Op. No. 1666 (File No. 2967), 581 P.2d 223 (1978).

Applied in Hansen v. State, Sup. Ct. Op. No. 1660 (File No. 3412), 582 P.2d 1041 (1978).

Quoted in Kramm v. State, Sup. Ct. Op. No. 1999 (File No. 4669), 604 P.2d 12 (1979); Charles v. State, Sup. Ct. Op. No. 2017 (File No. 4482), 606 P.2d 380 (1980).

Stated in Davis v. State, Sup. Ct. Op. No. 1599 (File No. 2640), 577 P.2d 690 (1978); Williams v. State, Sup. Ct. Op. No. 1942 (File No. 4188), 600 P.2d 1082 (1979).

Cited in Dreiss v. State, Sup. Ct. Op. No. 1270 (File No. 2438), 560 P.2d 389 (1976); Merrell v. State, Sup. Ct. Op. No. 1577 (File No. 2790), 575 P.2d 1209 (1978).

Chapter 20. Pardons and Paroles.

Article 1. Remission of Sentences.

Derivation. — Alaska's mandatory release scheme is derived from 18 U.S.C. §§ 4161-66, Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Section

10. Computation of good time
20. [Repealed]

Sec. 33.20.010. Computation generally.

Cited in McGinnis v. Stevens, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975); Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Sec. 33.20.010. Computation of good time. Notwithstanding AS 12.55.125(f)(3) and (g)(3), each prisoner convicted of an offense against the state and sentenced to imprisonment, whose record of conduct shows that he has faithfully observed the rules of the institution in which he is confined, is entitled to a deduction from his term of imprisonment of one day for every three days of good conduct served. (§ 1 ch 107 SLA 1960; am § 17 ch 166 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Editor's note. — Section 23, ch. 166, SLA 1978, in subsection (a), provides "AS 33.20.010, as re-enacted in sec. 17 of this Act, applies to all persons serving terms of imprisonment in state correctional institutions on or after the effective date of this Act, but is not retroactive in application."

Sec. 33.20.020 Good time.

Repealed by § 21 ch 166 SLA 1978.

Cross reference. — As to computation of good time, see AS 33.20.010.

Editor's note. — The repealed section derived from § 2, ch. 107, SLA 1960; § 6, ch. 104, SLA 19[illegible].

Sec. 33.20.030. Discharge.

Applied in Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Sec. 33.20.040. Released prisoner as parolee.

The wording of 18 U.S.C. § 4164 is very close to that of subsection (a). Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

This section and AS 33.15.190 in pari materia. — Alaska Statute 33.15.190 and this section were enacted at the same time and concern the same subject, and are therefore in pari materia. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

And may be reconciled. — Although AS 33.15.190 and this section are in conflict since under AS 33.15.190, when the prisoner's term less good time has expired, he no longer remains in the legal custody of the board, yet under this section, he is to be considered as if released on parole until the expiration of his maximum term less 180 days, these provisions may be reconciled if, during the period of release, after the term less good time has expired but prior to the time that the maximum term for which he was sentenced less 180 days has terminated, the released prisoner is not in the legal custody of the parole board, but is nevertheless considered as if on parole so as to be subject to reincarceration upon violation of a statutory condition of parole. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Article 2. Power of Governor to Grant Pardons, Commutations and Reprieves.

Sec. 33.20.070. Governor may grant pardons, commutations and reprieves.

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of government. Davenport v. State, Sup. Ct. Op. No. 1218 (File No. 2202), 543 P.2d 1204 (1975); Seeratica v. State, Sup. Ct. Op. No. 1525 (File No. 3390), 572 P.2d 63 (1977).

Chapter 30. Prison Facilities.

Article
3. General Provisions (§§ 33.30.200 — 33.30.220)

Article 1. Establishment, Control and Management.

Section
55. (Repealed)

Sec. 33.30.010. Commissioner to control and manage state prison facilities.

Duty to promulgate regulations. — The commissioner is under a legislative mandate and has the concomitant duty to promulgate appropriate regulations concerning prison facilities and the numerous other matters coming within the ambit of AS 33.30.010 — 33.30.200. McGinnis v. Stevens, Sup. Ct. Op. No. 1517 (File No. 2094), 570 P.2d 735 (1977).

Commissioner's control of prison system. — There are strong indications of a legislative intent to leave the establishment, control, and management of the prison system in the hands of the Commissioner of the Department of Health and Welfare whenever practical under the state constitution. Rust v. State, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134, on rehearing modified on other grounds, 584 P.2d 38 (1978).

Administration must be neither arbitrary nor vindictive. — As an extension of the state, the Division of

(11) Persons confined in "Compact Institutions" under the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "Compact Institution" for transfer to a prison or other correctional institution within the sending state, for return to probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state.

(12) All persons who may be confined in a "Compact Institution" under the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of incarceration or reincarceration in a receiving state shall not deprive any person so incarcerated or reincarcerated of any rights which said person would have had if incarcerated or reincarcerated in an appropriate institution of the sending state; nor shall any agreement to submit to incarceration or reincarceration under the terms of this amendment be construed as a waiver of any rights which the prisoner would have had if he had been incarcerated or reincarcerated in any appropriate institution of the sending state, except that the hearing or hearings, if any, to which a parolee or probationer may be entitled (before incarceration or reincarceration) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(13) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves. (§ 2 ch 138 SLA 1957; am § 1 ch 106 SLA 1960)

ALR reference. — Validity of probation on condition of leaving state of locality, 70 ALR 109.

Sec. 33.10.020. Definition. As used in this chapter the term "state" means the several states and the Commonwealth of Puerto Rico, the Virgin Islands and the District of Columbia. (§ 1 ch 138 SLA 1957)

Chapter 15. Parole Administration Act.

Sec. 33.15.010. State board of parole. There is in the department a board of parole consisting of five members to be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. One of the members, who shall be chairman of the board, shall be a person with training or experience in the field of probation and parole, and he may be an official or employee of the department but may not be an official or employee of the division of corrections. The term of each of the other four members of the board is four years and until his successor is appointed and qualifies. Successors are appointed in the same manner as provided for the board members first appointed. A vacancy shall be filled for the unexpired term. (§ 2 ch 81 SLA 1960, am § 1 ch 3 SLA 1964, am § 1 ch 106 SLA 1968, am § 3 ch 107 SLA 1969, am § 48 ch 32 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "division of corrections" for "youth and adult authority" in the second sentence.

Legislative committee reports. — For legislative committee report on ch 106, SLA 1968 (CSHB 665), see 1968 House Journal, p. 515. For report on ch 32 SLA 1971 (HB 111 amd), see 1971 House Journal, p. 139.

Cited in Bear v. State, Sup. Ct. Op. No. 670, File No. 5134, 439 P.2d 422 (1968).

Am. Jur., ALR and C.J.S. references. — 15 Am. Jur. Criminal Law, §§ 443, 459, 498, 499, 529, 20 Am. Jur., Pardon, Reprieve and Amnesty, §§ 91 to 93.

Statute conferring power upon administrative body in respect to parole of prisoners or discharge of parolees as unconstitutional infringement of power of executive, 143 ALR 1488.

24 C.J.S. Criminal Law §§ 1871, 1892, 1918, 67 C.J.S. Pardon § 1 et seq.

Sec. 33.15.015. Executive director. The board shall hire an executive director who has training and experience in the field of probation and parole. The executive director shall serve as the executive officer for the board in the accomplishment of its functions. He shall serve the board at the pleasure of the governor. (§ 1 ch 20 SLA 1972)

Sec. 33.15.020. Compensation and expenses. The members of the board, other than the chairman, shall not receive salaries but are entitled to compensation per day at an amount to be set by the governor for every day they are in session, and a per diem and travel allowance as provided by law. The chairman is not entitled to a salary or compensation for days he attends a session of the board, but is

entitled to a per diem allowance and travel costs as provided by law. (§ 2 ch 81 SLA 1960)

Sec. 33.15.030. Governor to advise of duties and call board meeting. Upon appointment, the governor shall advise those appointed of their duties under this chapter and shall, as soon as practicable, call the first meeting of the members of the board. (§ 2 ch 81 SLA 1960)

Sec. 33.15.040. Payment of board expenses. The necessary expenses of the board shall be paid by appropriation made to the department. (§ 2 ch 81 SLA 1960)

Sec. 33.15.050. Duty of board to consider those eligible for parole. The board shall consider all prisoners serving sentences who may be eligible for parole. (§ 3 ch 81 SLA 1960)

Sec. 33.15.060. Considerations in determining eligibility for parole. In considering a prisoner, the board shall consider the presentence report made to the sentencing court, the recommendations by the sentencing court and the prosecuting attorney, the report from the proper officers of the institution where the prisoner is incarcerated, the record of the prisoner and all pertinent information that will enable the board to make a determination. (§ 3 ch 81 SLA 1960)

Sec. 33.15.070. Order for parole. An order for parole shall contain the conditions imposed, including the fixing of the parolee's residence, which may be changed in the discretion of the board. (§ 3 ch 81 SLA 1960)

Sec. 33.15.080. Granting of parole. If it appears to the board from a review that a prisoner eligible for parole will, in reasonable probability, live and remain at liberty without violating the laws, or without violating the conditions imposed by the board, and if the board determines that his release on parole is not incompatible with the welfare of society, the board may authorize the release of the prisoner on parole. However, no prisoner may be released on parole who has not served at least one-third of the period of confinement to which he has been sentenced, or in the case of a life sentence, has not served at least 15 years. (§ 3 ch 81 SLA 1960, am § 1 ch 110 SLA 1974)

Effect of amendment. — The 1974 amendment added the second sentence.

Sec. 33.15.090. Revocation of parole. The board may revoke the parole granted to a prisoner for violation of a law or ordinance, or condition imposed by the board. (§ 3 ch 81 SLA 1960)

Sec. 33.15.100. Adoption of rules and holding of meetings. The board shall adopt rules which it considers necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees. The

board shall meet as often as it finds necessary, but it shall meet at least twice each year. Three members constitute a quorum for the conduct of business. (§ 3 ch 81 SLA 1960; am § 2 ch 5 SLA 1964)

No rules promulgated by the parole board regarding eligibility of prisoners for parole have been brought to the attention of the supreme court. Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Rules should be adopted as soon as practicable. — Concerning sentencing, sentence appeals, and parole matters in general, the supreme court believes it would be of benefit to all concerned if, as soon as practicable, the parole board, in conformity with this section, adopted rules regarding eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees. Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

The question of when a prisoner is eligible for parole when consecutive sentences are imposed is of considerable significance not only to the prisoner and the state, but also to the supreme court in carrying out its sentence review functions. If, under present practices and policies of the parole board, the accused is ineligible for parole until he has served all of an initial seven-year sentence and some portion of a consecutive sentence, then the supreme court would view the consecutive sentence as excessive and contradictory of the goal of rehabilitation in the administration of our system of criminal justice. Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Sec. 33.15.110. Authority of board to issue process. The board may issue subpoenas and subpoenas duces tecum, and may issue warrants to retake a parole violator. (§ 3 ch 81 SLA 1960)

Sec. 33.15.120. Board may release prisoners to answer process. If a court of this state, another state, or the United States, or other authority issues a warrant charging a prisoner with a crime, the board may release the prisoner on parole to answer the warrant. (§ 3 ch 81 SLA 1960)

Sec. 33.15.130. Orders, records, and annual report. (a) If three members of the board are present at a meeting, all decisions of the board shall receive not less than two affirmative votes. If more than three members are present at the meeting, all decisions shall receive not less than three affirmative votes.

(b) The board shall keep a record of its acts and shall notify the commissioner of its decisions relating to prisoners considered for parole. At the close of each fiscal year the board shall submit to the governor, the commissioner, and the attorney general a report containing statistical and other data of its work, including research studies which it may make of probation, sentencing, parole or related functions, and a computation and analysis of dispositions in criminal matters by the courts in the state. (§ 4 ch 81 SLA 1960; am § 3 ch 5 SLA 1964)

Sec. 33.15.140. Protection of records. The pre-parole reports submitted to the board are privileged and shall not be disclosed to anyone other than the board, the sentencing judge, the prosecuting attorney, or others entitled under this chapter to receive the information. However, the board or court may permit a prisoner, his

attorney, or other person having a proper interest in it to inspect the report or a part of it when the best interest or welfare of the prisoner makes it desirable or necessary. (§ 5 ch 81 SLA 1960)

Sec. 33.15.150. Duties of the commissioner. The commissioner is charged with the administrative duties and responsibilities necessary to

(1) conduct investigations of prisoners eligible for parole as the board requests;

(2) supervise the conduct of parolees and institute programs for reform and rehabilitation of parolees as the board requests;

(3) appoint and assign parole officers and personnel to the judicial districts in the state and to trai and supervise parole officers and personnel;

(4) keep records, files and accounts as the board requests. (§ 6 ch 81 SLA 1960)

Sec. 33.15.160. Delegation of duties to executive director. The commissioner may delegate all or part of the administrative duties and responsibilities specified in § 150 of this chapter to the executive director of the board. (§ 6 ch 81 SLA 1960; am § 2 ch 30 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "executive director" for "chairman."

Sec. 33.15.170. Commissioner may assign duties of probation officers to parole officers. The commissioner may assign the duties of probation officers as provided in the Probation Administration Act to personnel appointed under § 150 (3) of this chapter. (§ 6 ch 81 SLA 1960)

Sec. 33.15.180. Persons eligible for parole. A state prisoner other than a juvenile delinquent, wherever confined and serving a definite term of over 180 days or a term the minimum of which is at least 181 days, whose record shows that he has observed the rules of the institution in which he is confined, may, in the discretion of the board, be released on parole, subject to the limitation prescribed in §§ 80 and 230 (a) (1) of this chapter. (§ 7 ch 81 SLA 1960; am § 34 ch 43 SLA 1964; am § 9 ch 68 SLA 1965; am § 2 ch 110 SLA 1974)

Effect of amendment. — The 1974 amendment added "subject to limitations prescribed in §§ 80 and 230 (a) (1) of this chapter" to the end of the section.

Chapter 43, SLA 1964, inapplicable to offense committed before October 1, 1964. — See 1964 Op. Att'y Gen., No. 8.

Quoted in Faulkner v. State, Sup. Ct. Op. No. 361 (File No. 0853), 481 P.2d 813 (1971); Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Sec. 33.15.190. Release and terms and conditions of release. The board may permit a parolee to return to his home if it is in the state, or to go elsewhere in the state, upon such terms and conditions, including personal reports from the paroled person as the board prescribes. The board may permit the parolee to go into another state upon terms and

conditions as the board prescribes, and subject to the provisions of any compact executed under the authority of ch. 10 of this title and amendments to it. A prisoner released on parole remains in the legal custody of the board until the expiration of the maximum term or terms to which he was sentenced, less good time allowances provided by law. While in the custody of the board, a person is subject to the disabilities imposed by AS 11.05.070. (§ 8 ch 81 SLA 1960)

Section held unconstitutional. — This section, insofar as it suspends, in conjunction with AS 11.05.070, the access of parolees to civil courts, violates the due process clauses of the Alaska and United States constitutions. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

AS 11.05.070 and this section combine to deny a parolee the right to initiate civil suit, but such denial of access to the civil courts is a violation of due process and equal protection provisions of the Alaska and United States constitutions. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

A parolee denied access to the judicial process by reason of his custodial status is thereby condemned to suffer a grievous loss of property rights protected by the due process clause of the 14th amendment of the United States Constitution. The supreme court would reach an identical result in interpreting the due process provisions of the Alaska Constitution alone. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The state, by this section and 11.05.070, denies parolees the right of access to the civil courts possessed by other persons. The state interest in denying parolees this right satisfies neither the "compelling state interest" test applied when a "fundamental right" is at stake, nor the traditional, more lenient "rational basis" test otherwise applicable. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Since there is neither a "compelling state interest" nor a "rational basis" for the state's denial to parolees of the right to initiate civil actions, this section denies parolees the "equal protection of the laws," in violation of the Alaska and United States constitutions. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Although the state has a legitimate interest in restricting some activities of parolees, prohibiting a parolee from initiating civil actions has no logical connection with such an interest. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The administration of a parole system differs so substantially from the administration of a prison that the reasons for denying convicts while imprisoned access to civil courts cannot logically support the "civil death" of parolees. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The only pertinent interest is preventing behavior which is detrimental to the restoration of a parolee into normal society. Since the parolee is no longer incarcerated, there is no justification based on the furthering of smooth penal administration. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The parolee's ability to avail himself of the civil judicial process in order to vindicate his rights and protect his property interests in fact furthers, rather than restricts, the parolee's constructive development and restoration into normal society. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Since this section and AS 11.05.070 deny parolees right to initiate civil suit. — In light of the absence of indications of legislative intent to distinguish the use of "the civil rights" in AS 11.05.070 from "all civil rights," and the strong common law authority holding that convicts are denied civil access to the courts, the supreme court held that AS 11.05.070 and this section combine to deny parolees the right to initiate civil suit. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

AS 11.05.070 and this section when read together clearly indicate that a parolee's civil rights, similar to those of a prisoner, remain suspended during the time he is in the custody of the parole board. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

This section expressly states that a parolee is subject to the disabilities imposed by AS 11.05.070. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

The right to initiate civil suit is a right suspended by AS 11.05.070, and under this section, parolees—similar to convicts—are subject to this disability. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

The bar to access to the civil courts is absolute and no ameliorative device exists. Bush v. Reid, Sup. Ct. Op. No. 972 (File No. 1841), 516 P.2d 1215 (1973).

Property rights impaired by depriving parolee access to courts. — See Bush v. Reid, Sup. Ct. Op. No. 972 (File No. 1841), 516 P.2d 1215 (1973).

Supreme court not impeded by narrower United States supreme court holding. — Finding that "civil death" of parolees violates the spirit and intention of the Alaska Constitution, the supreme court would not be impeded in its constitutional progress by a narrower holding of the United States supreme court. Bush v. Reid, Sup. Ct. Op. No. 972 (File No. 1841), 516 P.2d 1215 (1973).

Holding in Bush v. Reid to be applied prospectively. — The holding in Bush v. Reid, Sup. Ct. Op. No. 972 (File No. 1841), 516 P.2d 1215 (1973), is to be applied prospectively, not retroactively. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

After December 14, 1973 (the date of the opinion in Bush v. Reid, Sup. Ct. Op. No. 972 (File No. 1841), 516 P.2d 1215 (1973)), time spent on parole shall not toll the statute of limitations, provided however, that any person on parole as of that date shall, in any event, have one year from that date within which to bring an action. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

If the supreme court were to give retroactive effect to its holding in Bush v. Reid, Sup. Ct. Op. No. 972 (File No. 1841), 516 P.2d 1215 (1973), the statute of limitations would have begun to run upon a parolee's release on parole in 1969, but under the wording of the statutes then in effect, a parolee had no right to bring suit during the time he was on parole. Thus, a parolee might totally lose his right to bring a civil suit, rather than having that right merely suspended during time of sentence. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

For example, if the time of parole was longer than two years, the statute of limitations would bar any action, and the combination of AS 11.05.070 and this section would have prevented filing at any point before release from parole. Such a result would be inconsistent with the legislative intent to suspend, not abolish, the exercise of civil rights while imprisoned or on parole, and would result in violation of due process. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

Sec. 33.15.200. Retaking of parole violator. A warrant for the retaking of a state prisoner who violates his parole may be issued only by the board or a member of it and the warrant shall issue within the maximum term or terms to which the parolee was sentenced. A parole violator may be retaken with or without a warrant for violation of a term of parole. The unexpired term of imprisonment of the parolee shall be served and begins to run from the date he is returned to the custody of the commissioner under the warrant, and the time the prisoner was at liberty on parole does not diminish the time he was sentenced to serve. (§ 9 ch 81 SLA 1960)

ALR references. — Parole as suspending running of sentence, 29 ALR 947.

Right to notice and hearing before revocation of parole or conditional pardon, 54 ALR 1474, 132 ALR 1234, 29 ALR2d 1074.

Extradition of paroled convict, 79 ALR 422.

Sentence for new offense committed while accused was at large on parole or conditional release, as concurrent or consecutive, 116 ALR 811.

Sec. 33.15.210. Execution of warrant to retake parole violator. A parole officer or an officer of a state prison facility, or a prison facility made available to the state under contract, or a peace officer

authorized to serve criminal process in the state shall execute the warrant by taking the prisoner and confining him in a prison facility designated by the commissioner. A parolee who violates his parole may be retaken by a parole officer without a warrant and returned to the prison facility designated by him. (§ 10 ch 81 SLA 1960)

Sec. 33.15.220. Revocation upon retaking parolee. (a) Upon the retaking of a parolee, a peace officer making the arrest shall notify the parole officer. The parole officer upon making the arrest, or being notified by a peace officer of an arrest, shall immediately notify the board, or a member of the board. If the retaking is without a warrant, the parole officer shall submit to the board, or a member of it, a report in writing indicating in what manner the parolee violated the terms and conditions of his parole. The board shall have the parolee brought before it without unreasonable delay for a hearing on the violation charged, under such rules as the board adopts. If the violation is established, the board may then, or at any time within its discretion, revoke the order of parole and terminate the parole or change the terms and conditions of parole, or impose additional conditions. The parolee may waive the hearing provided for in this section.

(b) If parole is revoked and terminated, the prisoner is subject to serve the remainder of the term to which he was sentenced as provided in § 240 of this chapter. The board may require the prisoner to serve only a part of the term to which he was sentenced. If the board does not terminate all or part of the parole, the parolee shall be released from confinement and continue on parole under the terms and conditions the board prescribes. (§ 11 ch 81 SLA 1960)

Sec. 33.15.230. Fixing eligibility for parole at time of sentencing. (a) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interests of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may

(1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner is eligible for parole, which term shall be at least one-third of the maximum sentence imposed by the court, or

(2) fix the maximum sentence of imprisonment to be served, in which case the court may specify that the prisoner is eligible for parole at the time the board determines.

(b) Upon commitment of a prisoner sentenced to imprisonment under (a) of this section, the commissioner, under such regulations as the board prescribes, shall have a complete study made of the prisoner and shall furnish to the board a summary report together with any recommendations which, in his opinion, would be helpful in determining the suitability of the prisoner for parole. This report may include, but shall not be limited to, data regarding the prisoner's

previous delinquency or criminal experience, circumstances of his social background, his capabilities, his mental and physical health, and such other factors considered pertinent. The board may make such other investigation as it considers necessary.

(c) Parole officers and government bureaus and agencies shall furnish the board information concerning the prisoner, and, whenever not incompatible with the public interest, their views and recommendations with respect to the parole disposition of his case.

(d) The board may adopt rules and regulations for the supervision, discharge from supervision, or recommitment of paroled prisoners. (§ 12 ch 81 SLA 1960; § 35 ch 43 SLA 1964; § 10 ch. 68 SLA 1965; am § 3 ch 110 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "shall be" at least" for "may be less than, but shall not be more than" in paragraph (1) of subsection (a).

Editor's note. — Former AS 33.15.220 was repealed by ch. 43, § 35, SLA 1964. Present AS 33.15.220 was added by ch. 68, § 10, SLA 1965 and contains the identical language of the original section.

Denial of eligibility for parole is illegal under this section. Sommier v. State, Sup. Ct. Op. No. 685 (File No. 1332), 483 P.2d 1003 (1971).

Sentence providing for eligibility for parole only after one-third of 10-year sentence served. — Where the trial judge imposed a sentence of 10 years in prison for rape with the provision that defendant would not be eligible for parole until he had served a full one-third of that sentence, and the transcript revealed that the judge imposed the sentence he did for the purposes of reaffirmation, deterrence, and protection, but not for rehabilitation, the supreme court concluded on the basis of the judge's comments that proper factors were considered and that the judge had a reasoned basis for the sentence imposed. Gordon v. State, Sup. Ct. Op. No. 831 (File No. 1335), 501 P.2d 772 (1972).

Applied in Gullard v. State, Sup. Ct. Op. No. 794 (File No. 1606), 497 P.2d 93 (1972); Newman v. State, Sup. Ct. Op. No. 909 (File No. 1726), 512 P.2d 557 (1973).

Quoted in Faulkner v. State, Sup. Ct. Op. No. 561 (File No. 1053), 465 P.2d 915 (1970); Richmond v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 696 (1971).

Sec. 33.15.240. Applicability to persons on parole or incarcerated. This chapter applies to all persons convicted and sentenced in the superior court and the district courts of this state, and to all persons convicted of a crime punishable under laws enacted by the Alaska Territorial Legislature who were convicted and sentenced before Alaska became a state or before the Alaska state court system was in operation. (§ 13 ch 81 SLA 1960; am § 1 ch 38 SLA 1961; am § 3 ch 24 SLA 1966)

The state parole board has no jurisdiction to hear parole hearings of prisoners convicted under territorial law prior to statehood who are confined in federal penitentiaries. Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963). See also Moody v. State, Sup. Ct. Op. No. 221 (File No. 901), 392 P.2d 466 (1964).

Nor has supreme court jurisdiction to hear petition for writ of habeas corpus. — Until some federal court determines that federal authorities are unlawfully exercising their parole authority over a prisoner convicted under Alaska territorial law prior to statehood, whose case has been finally determined, or until such time as the federal authorities relinquish jurisdiction over him, the supreme court has no jurisdiction to hear or consider such prisoner's petition for a writ of habeas corpus. Moody v. State, Sup. Ct. Op. No. 221 (File No. 901), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

As such prisoners are subject to sole jurisdiction of United States parole board. — A federal prisoner is subject to the sole jurisdiction of the United States

parole board, and therefore not entitled to a parole hearing before the Alaska parole board. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

State courts generally have no power to require a federal jailer to produce a federal prisoner, and federal authorities would or should honor a writ directed to it or any of its officials only if the petitioner is not exclusively a federal prisoner. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

There is no law enacted by Congress, nor has the federal government entered into an agreement with the state, transferring jurisdiction over prisoners convicted, whose cases, under territorial statute, were finally determined prior to statehood, to the state parole board. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

In the absence of some directive from the legislature of the territory of Alaska imposing a duty upon the parole board to assume jurisdiction over applications for parole of prisoners convicted under territorial law prior to statehood whose cases had been finally determined, the supreme court has no jurisdiction, since the Statehood Act, §§ 13, 14, 15, 16, 17, and 19, apply only to the judicial branch of the government and not to the executive, and the parole board is, without question, a branch of the executive department of the government. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

Sec. 33.15.250. Administrative Procedure Act inapplicable. The Administrative Procedure Act (AS 44.62) does not apply to this chapter. (§ 14 ch 81 SLA 1960)

Sec. 33.15.260. Definitions. In this chapter

(1) "board" means the Board of Parole;

(2) "commissioner" means the commissioner of the Department of Health and Social Services or his designee;

(3) "parole" means the release of a prisoner to the community by the parole board before the expiration of his term, subject to conditions imposed by the board and subject to its supervision;

(4) "department" means the Department of Health and Social Services. (§ 1 ch 81 SLA 1960; am § 6 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "Department of Health and Social Services" for "Department of Health and Welfare" in paragraphs (2) and (4).

Sec. 33.15.270. Short title. This chapter may be cited as the Parole Administration Act. (§ 15 ch 81 SLA 1960)

Cited in Bear v. State, Sup. Ct. Op. No. 670 (File No. 813), 425 P.2d 632 (1967).

Chapter 20. Pardons and Paroles.

Article

1. Remission of Sentence (§§ 33.20.010—33.20.060)
2. Power of Governor to Grant Pardons, Commutations and Reprieves (§§ 33.20.070—33.20.080)

Article 1. Remission of Sentences.

Sec. 33.20.010. Computation generally. (a) Each prisoner convicted of an offense against the state and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subject to punishment, is entitled to a deduction from the term of his sentence beginning with the day on which the sentence starts to run, as follows:

(1) five days for each month, if the sentence is not less than six months and not more than one year;

(2) six days for each month, if the sentence is more than one year and less than three years;

(3) seven days for each month, if the sentence is not less than three years and less than five years;

(4) eight days for each month, if the sentence is not less than five years and less than ten years;

(5) ten days for each month, if the sentence is ten years or more.

(b) When two or more consecutive sentences are served, the basis upon which the deduction is computed is the aggregate of the several sentences. (§ 1 ch 107 SLA 1960)

Cited in Brar v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

Am. Jur., A.L.R. and C.J.S. references. — 15 Am. Jur., Criminal Law, §§ 443, 459, 509, 20 Am. Jur., Pardon, Reprieve and Parole, §§ 91 to 95.

Parole as suspending running of sentence, 27 ALR 947.

Withdrawal, modification or denial of good time allowance to prisoner, 127 ALR 1203.

24 C.J.S. Criminal Law § 1582.

Sec. 33.20.020. Good time. (a) A prisoner may, in the discretion of the commissioner of health and social services or his designee, be allowed a deduction from his sentence of not to exceed three days for each month of actual employment in a prison or camp project or activity for the first year or any part of it, and not to exceed five days for each month of any succeeding year or part of it.

(b) In the discretion of the commissioner the same allowance may also be made to a prisoner performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations.

(c) The allowance is in addition to commutation of time for good conduct, and under the same terms and conditions and without regard to length of sentence. (§ 2 ch 107 SLA 1960; am § 6 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "commissioner of health and social services" for "commissioner of health and welfare" in subsection (a).

Use of prisoners on public works projects. — A program authorizing the use of state prisoners on a voluntary basis on governmental public works projects is proper under the statutes. 1960 Op. Att'y Gen. No. 22.

Sec. 33.20.030. Discharge. A prisoner shall be released at the expiration of his term of sentence less the time deducted for good conduct. A certificate of deduction shall be entered on the commitment by the warden, keeper, or the commissioner. (§ 3 ch 107 SLA 1960)

Sec. 33.20.040. Released prisoner as parolee. (a) A prisoner serving the term or terms for which he was sentenced less good time deductions shall be released unconditionally if there remains less than 180 days to serve under his sentence. If there remains more than 180 days to serve under his sentence a prisoner, upon release, shall be considered as if released on parole until the expiration of the maximum term or terms for which he was sentenced less 180 days.

(b) This section does not prevent delivery of a prisoner to the authorities of a state or the United States entitled to his custody. (§ 4 ch 107 SLA 1960)

Sec. 33.20.050. Forfeiture for offense. If during the term of imprisonment a prisoner commits an offense or violates the rules of the institution, all or any part of his earned good time may be forfeited. (§ 5 ch 107 SLA 1960)

ALR and C.J.S. references. — Withdrawal, modification or denial of good time allowance to prisoner, 127 ALR 1203.

72 C.J.S. Prisons § 21.

Sec. 33.20.060. Restoration of lost good time. The commissioner may restore forfeited or lost good time or such portion of it which he considers proper upon recommendation of the keeper or person in charge of the penal or correctional institution in which the prisoner is incarcerated. (§ 6 ch 107 SLA 1960)

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

ALR and C.J.S. references. — Right to credit for time served under erroneous or void sentence or invalid judgment of conviction necessitating new trial, 35 ALR2d 1283.

72 C.J.S. Prisons § 21.

Article 2. Power of Governor to Grant Pardons, Commutations and Reprieves.

Sec. 33.20.070. Governor may grant pardons, commutations and reprieves. The governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or part for offenses against the laws of the State of Alaska or the Territory of Alaska. (§ 1 ch 16 SLA 1961)

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

ALR references. — Power of executive to pardon one committed for contempt, 23 ALR 524; 26 ALR 21; 38 ALR 171; 63 ALR 226.

Statute conferring on court power as to suspension of sentence as infringement of

power of executive to grant reprieve and pardon, 26 ALR 400; 101 ALR 1402.

Recovery of fine or penalty after pardon, 26 ALR 1536.

Judicial investigation of pardon by governor, 30 ALR 235; 65 ALR 1471.

Formal requisites of pardon, 34 ALR 212.

Pardon as restoring license or other special privilege forfeited by conviction, 47 ALR 542.

Consent of convict as essential to a pardon, commutation or reprieve, 52 ALR 835.

Validity of and power to grant conditional pardon, 60 ALR 1411, 1413.

Change in sentence after commitment as infringement of pardoning power of executive, 168 ALR 711.

Offenses and convictions covered by pardon, 35 ALR2d 1261.

Sec. 33.20.080. Board of parole to investigate applications for executive clemency. The governor may refer applications for executive clemency to the board of parole. The board shall investigate each case and submit to the governor a report of the investigation, together with all other information the board has regarding the applicant. (§ 2 ch 16 SLA 1961)

Chapter 25. Western Interstate Corrections Compact.

Sec. 33.25.010. Compact enacted. The Western Interstate Corrections Compact as contained in this section is enacted into law and entered into on behalf of the State of Alaska with any and all other states legally joining in it in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I

PURPOSE AND POLICY

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

MEMORANDUM State of Alaska

TO: Barbara Wilkins
House HESS

DATE: January 25, 1982

FILE NO: Document# 18-82

TELEPHONE NO: 465-3376

SUBJECT: Requested Data

FROM: Allen Korhonen
THRU: Deputy Commissioner
Department of Health and Social Services

FROM: Walt Jones
Acting Director
Division of Adult Corrections

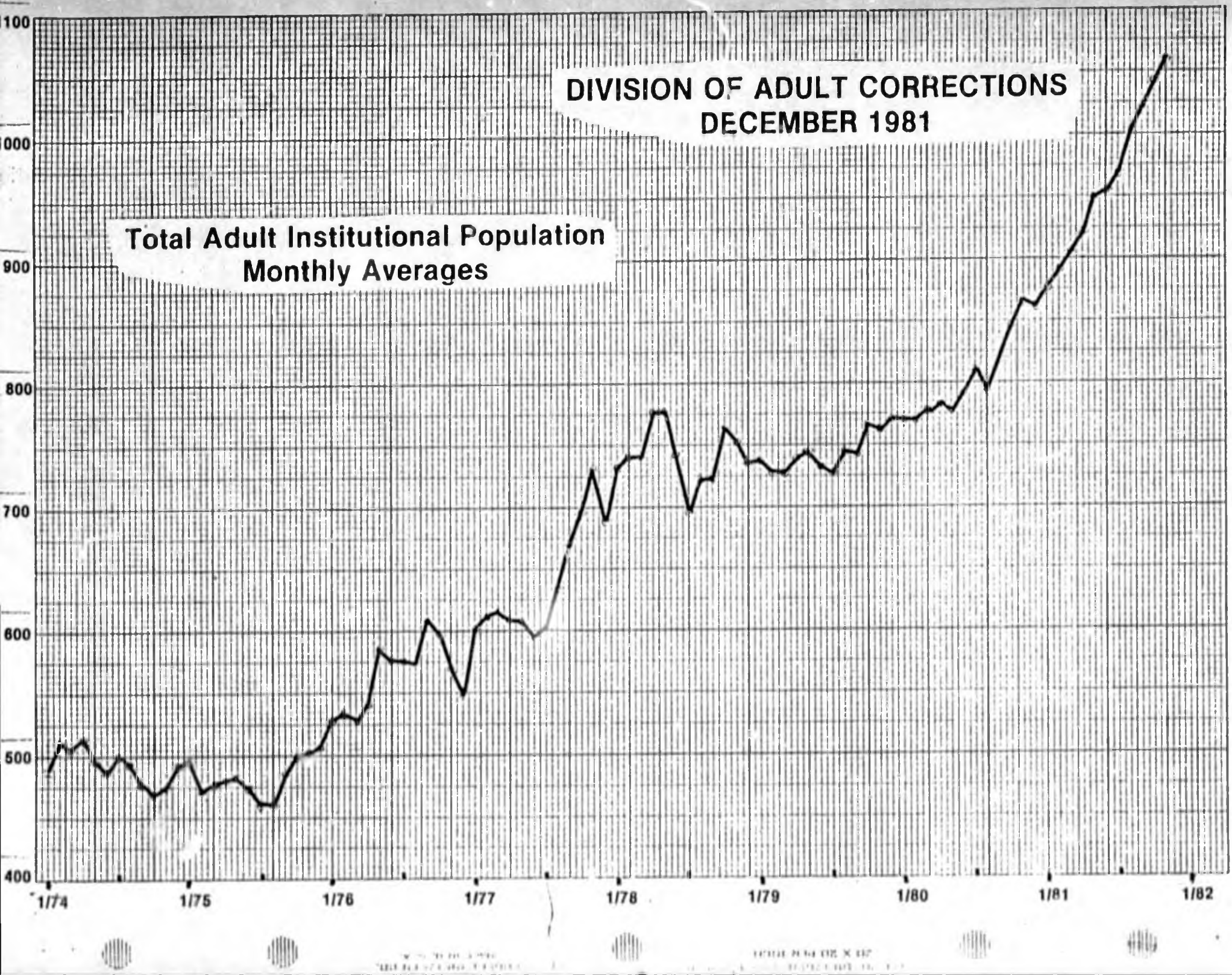
The attached material is in response to your request of January 22nd. We attached current best-fit linear projections of average Adult Correctional populations for January dates through 1987. We also have provided a copy of our charts showing monthly averages and annual admissions from 1974 through 1981. A bar graph which is included shows admission rates by offense for the combined fiscal years 1975 through 1981.

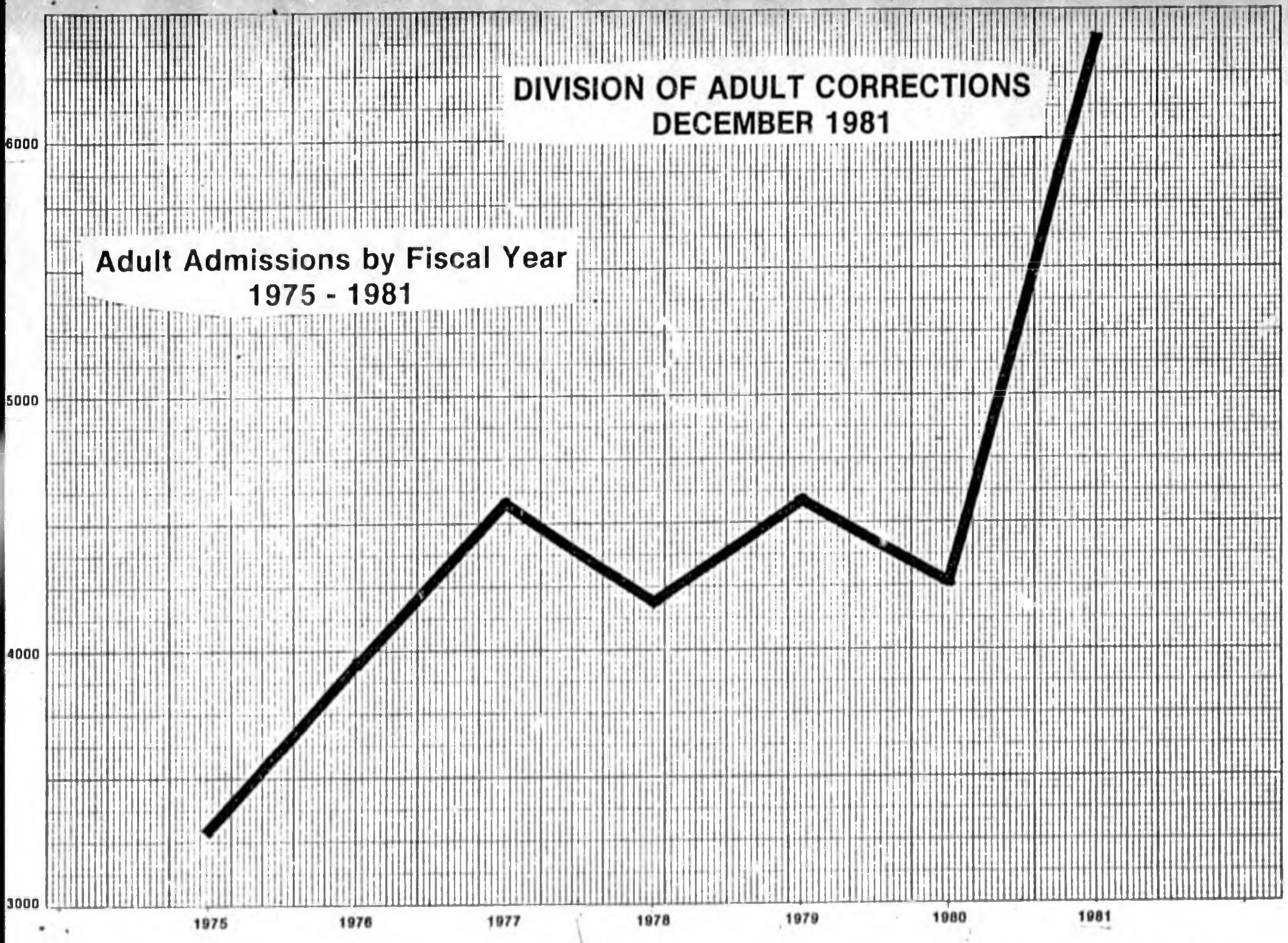
Attachments
AK/WJ/rj

Date	Projected Population*
January 1982	1066
" 83	1236
" 84	1405
" 85	1574
" 86	1743
" 87	1912

* Average monthly headcount

Note: These projections are based on the rate of growth which has been sustained since January 1980 (the date of commencement for the revised criminal code). There is no certainty however that this growth rate must continue and in view of the number of pending legislative changes, etc. it is reasonable to expect that it will change. The equation for this projection line is a linear function ($\hat{y}$ = 14.099 x + 713.891). The "slope" (rate of growth) implys an average monthly increase of about 14 inmates. Our historical growth based on complete data since January 1974 shows a more moderate rate equal to approximately 5.6 per month.

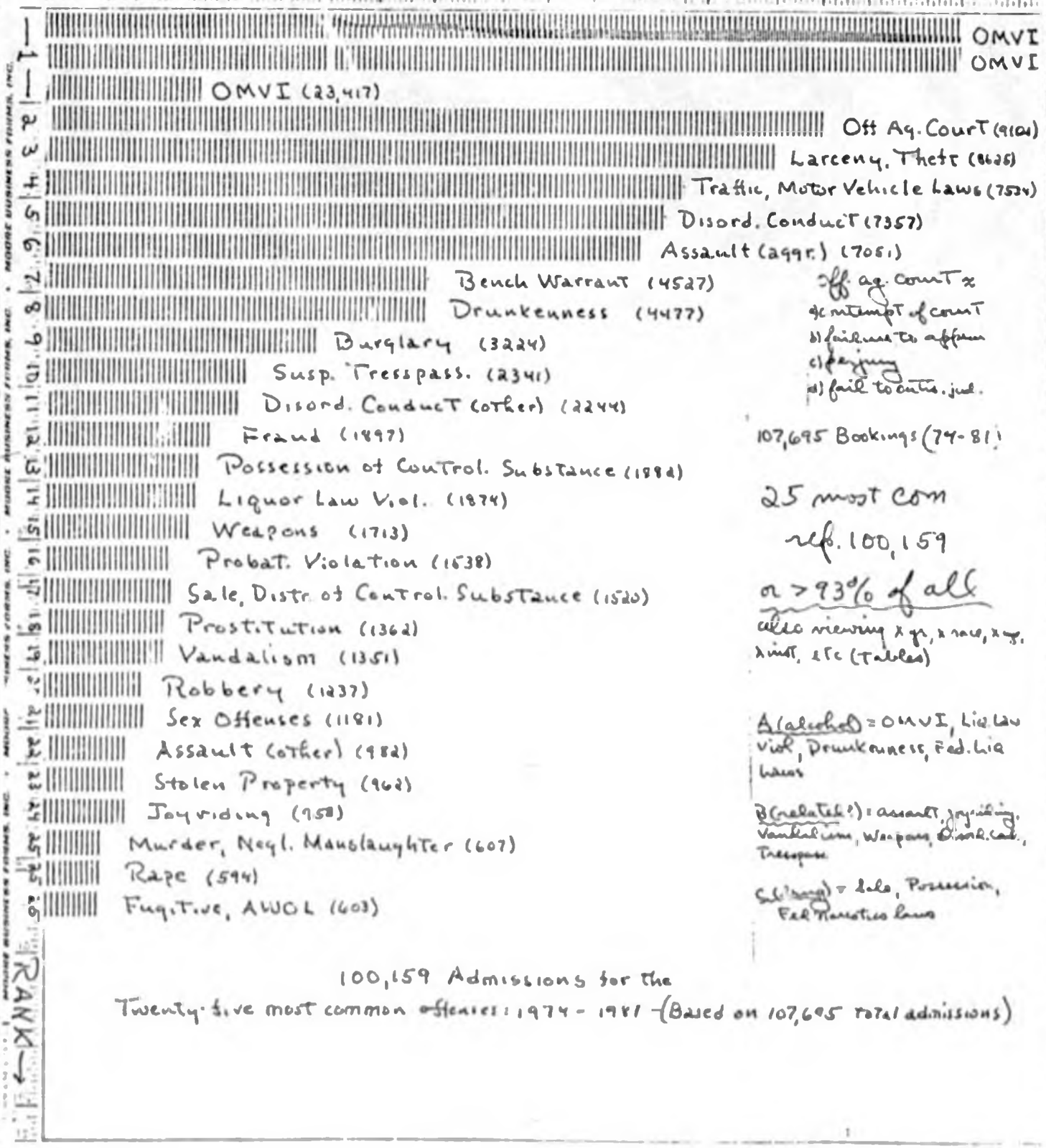

DIVISION OF ADULT CORRECTIONS
DECEMBER 1981
Total Adult Institutional Population
Monthly Averages
1100
1000
900
800
700
600
500
400
1/74
1/75
1/76
1/77
1/78
1/79
1/80
1/81
1/82


DIVISION OF ADULT CORRECTIONS
DECEMBER 1981
Adult Admissions by Fiscal Year
1975 - 1981
6000
5000
4000
3000
1975
1976
1977
1978
1979
1980
1981

COPY FOR FACE OF SHEET ☐ SAME AS SHEET ☐ EXCEPT → ▼ BINDING STUB AT ____ PASTED STUB AT ____ FOR COMBINED ORDERS ONLY COPY NO. ☐ OF ☐

STANDARD FORM SIZES

Percent →



Off. ag. court =
a) contempt of court
b) failure to appear
c) perjury
d) fail to enforce jud.

107,695 Bookings (74-81)

25 most com
ref. 100,159
or > 93% of all

also viewing x yr, x race, x sex, x inst, etc (Tables)

A (alcohol) = OMVI, Liq Law viol, Drunkenness, Fed. liq laws

B (relate?) = assault, joyriding, Vandalism, Weapons, Drunk. Cond., Trespass

C (drugs) = Sale, Possession, Fed Narcotics laws

100,159 Admissions for the Twenty-five most common offenses: 1974 - 1981 (Based on 107,695 total admissions)

ALASKA BOARD OF PAROLE

QUARTER _____, 198__

1981

PAROLED - INTERSTATE	22
PAROLED - ALASKA	65
PAROLED - DETAINER	2
CONTINUED	34
DENIED	86
PAROLE RESCIND & CONTINUED	3
PAROLE RESCIND & REPAROLED	3
PAROLE RESCIND & DENIED	3
PAROLE REVOKED & CONTINUED	4
PAROLE REVOKED & REPAROLED	2
PAROLE REVOKED & DENIED	11
MANDATORY PAROLE REVOKED & CONTINUED	0
MANDATORY PAROLE REVOKED & REPAROLED	1
MANDATORY PAROLE REVOKED & DENIED	11
CONTINUED ON PAROLE	4
REQUEST FOR RECONSIDERATION - GRANTED	0
REQUEST FOR RECONSIDERATION - DENIED	5
REQUEST FOR SPECIAL HEARING - GRANTED	2
REQUEST FOR SPECIAL HEARING - DENIED	2
PRELIMINARY HEARINGS THIS QUARTER	17
OTHER	13
TOTAL CASES HEARD	290

ALASKA BOARD OF PAROLE

QUARTER _____, 198__

1980

PAROLED - INTERSTATE	19
PAROLED - ALASKA	56
PAROLED - DETAINER	1
CONTINUED	57
DENIED	61
PAROLE RESCIND & CONTINUED	1
PAROLE RESCIND & REPAROLED	1
PAROLE RESCIND & DENIED	4
PAROLE REVOKED & CONTINUED	6
PAROLE REVOKED & REPAROLED	4
PAROLE REVOKED & DENIED	9
MANDATORY PAROLE REVOKED & CONTINUED	0
MANDATORY PAROLE REVOKED & REPAROLED	2
MANDATORY PAROLE REVOKED & DENIED	10
CONTINUED ON PAROLE	5
REQUEST FOR RECONSIDERATION - GRANTED	0
REQUEST FOR RECONSIDERATION - DENIED	1
REQUEST FOR SPECIAL HEARING - GRANTED	7
REQUEST FOR SPECIAL HEARING - DENIED	1
PRELIMINARY HEARINGS THIS QUARTER	19
OTHER	12
TOTAL CASES HEARD	276

ALASKA BOARD OF PAROLE

1981 REVOCATIONS

PAROLEES	TOTAL	C.O.P.	R & C	R & RE	R & D
A. New Felony Conviction	1	1	0	0	0
B. In Lieu of Felony Conv.	3	0	2	0	1
C. Abscond	2	0	1	0	1
D. New Misdemeanor Conviction	7	0	0	0	7
E. In Lieu of Misdmnr Conv.	1	0	0	0	1
F. Technical Violation	6	2	1	2	1
Total	20	3	4	2	11

M.R.'s	TOTAL	C.O.P.	R & C	R & RE	R & D
A. New Felony Conviction	2	0	0	0	2
B. In Lieu of Felony Conv.	2	1	0	0	1
C. Abscond	1	0	0	1	0
D. New Misdemeanor Conviction	5	0	0	0	5
E. In Lieu of Misdmnr Conv.	1	0	0	0	1
F. Technical Violation	2	0	0	0	2
Total	13	1	0	1	11

ACTION CODE:
C.O.P. = Continue on Parole
R & C = Revoke & Review Case Again
R & RE = Revoke & Reparole
R & D = Revoke & Deny

ALASKA BOARD OF PAROLE

1980 REVOCATIONS

PAROLEES	TOTAL	C.O.P.	R & C	R & RE	R & D
A. New Felony Conviction	4	0	1	0	3
B. In Lieu of Felony Conv.	4	1	0	1	2
C. Abscond	5	0	2	1	2
D. New Misdemeanor Conviction	5	1	2	1	1
E. In Lieu of Misdmnr Conv.	2	0	0	1	1
F. Technical Violation	3	1	1	1	0
Total	23	3	6	5	9

M.R.'s	TOTAL	C.O.P.	R & C	R & RE	R & D
A. New Felony Conviction	3	0	0	0	3
B. In Lieu of Felony Conv.	2	0	0	1	1
C. Abscond	1	0	0	0	1
D. New Misdemeanor Conviction	3	0	0	0	3
E. In Lieu of Misdmnr Conv.	1	0	0	0	1
F. Technical Violation	3	2	0	0	1
Total	13	2	0	1	10

ACTION CODE:

C.O.P. = Continue on Parole

R & C = Revoke & Review Case Again

R & RE = Revoke & Reparole

R & D = Revoke & Deny

	1975	1976	1977	1978	1979	1980	1981	Average Year
Parole Hearings	252	214	212	226	185	207	226	217
Paroled	93 (37%)	53 (25%)	75 (35%)	64 (28%)	56 (30%)	58 (28%)	61 (27%)	66 (30%)
Continued	133 (53%)	92 (43%)	78 (37%)	72 (32%)	60 (33%)	60 (29%)	38 (17%)	76 (35%)
Denied	22 (9%)	61 (29%)	52 (25%)	78 (35%)	62 (34%)	61 (29%)	94 (41%)	61 (28%)
*Paroled	4 (1%)	8 (3%)	7 (3%)	12 (5%)	7 (4%)	28 (14%)	33 (15%)	14 (7%)
Revocations	33 (35%)	19 (36%)	25 (33%)	20 (31%)	11 (20%)	18 (30%)		
Technical	30 (32%)	16 (30%)	19 (25%)	18 (28%)	7 (13%)	15 (25%)		
1-3 Months	10	5	5	3	2	9		
4-6 Months	7 (26%)	6 (2[illegible]%)	6 (20%)	7 (22%)	2 (13%)	3 (23%)		
7-12 Months	7	4	4	4	1	2		
Over 13 Months	6	1	6	4	0	1		
Felony	3 (3%)	3 (6%)	4 (5%)	2 (3%)	4 (7%)	3 (5%)		
1-3 Months	3	1	0	1	1	2		
4-6 Months	0 (3%)	0 (6%)	2 (3%)	0 (1%)	1 (7%)	0 (5%)		
7-12 Months	0	2	0	0	2	1		
Over 13 Months	0	0	2	1	0	0		
Avg. Sentence Remaining	30.7	29.4	23.04	19.7	20.0	18.5		
**Mean Average Sentence Remaining	20.3	16.6	17.4	15.4	16.5	15.09		

*Paroled But Not Released During That Year
**Does Not Include Supervision Exceeding Four Years

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder or kidnapping	- $75,000
A, B, or C Felony	- $50,000
A misdemeanor	- $ 5,000
B misdemeanor	- $ 1,000
Violation	- $ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - $100,000 or
2 X pecuniary gain
- whichever is greater

KEY

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

* Six year presumptive term applies if first A felony conviction, other than manslaughter, and defendant used or possessed a firearm during the offense or caused serious physical injury.

MAXIMUM TERMS OF IMPRISONMENT FOR MISDEMEANORS

A misdemeanor - 1 year

B misdemeanor - 90 days

2-1

HOUSE RESEARCH AGENCY
Pouch Y - State Capitol
Juneau, Alaska 99811
465-3991

MEMORANDUM

February 28, 1980

TO: Representative Nels Anderson

FROM: Christine Johnson, Research Analyst

THROUGH: Duncan L. Read

RE: Alaska State Parole Board #70

Earlier this month, you requested that the House Research Agency assemble information for you regarding the Alaska State Parole Board. Attached please find several pages of charts which should address your first concern pertaining to parole board caseloads. The Alaska Parole Board holds an average of 225 parole hearings each year. Additionally, the Board annually considers five or six revocation cases, and may also hold several hearings regarding offenders who have been released from prison according to the "mandatory release" and "legislative release" provisions in State law (AS 33.20.040, 33.15.180), but have violated conditions of their discharge. Board members spend between forty and sixty days each year on Parole Board business.

We have tried to provide you state-by-state statistics which indicate, to some degree, how the Alaska Parole Board functions relative to the other boards throughout the country. As the attached information indicates, sixteen other states have parole boards whose members serve on a part-time basis. There are also five states which have mixed boards, with both full and part-time members (see chart).

While nine states (Hawaii, Maine, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, Wyoming) have smaller institutional populations than Alaska's, only one other state's parole board meets as infrequently as the Alaska Board. This may be one of the Alaska Parole Board's most significant inadequacies. Every offender who is eligible for parole and who applies for it is considered by the Board the next time they meet at his/her institution. However, as the Board only meets once a year at each of the detention facilities in Alaska, an individual who becomes eligible for parole several months after the annual board meeting at his/her institution could wait up to half a year for the board to consider the case.

In your memo to the Agency, you expressed concern that the State Parole Board may hear too many cases each year to treat each one adequately. This is difficult to measure. The State's parole recidivism rate may be an indicator of the quality of the Parole Board's decisions. Since 1975, the average annual parole revocation rate in Alaska has been 31%. However, an average of only 3.9% of the revocations occured because the parolee committed a new offense. A board's typical daily caseload may also provide some insight into decision quality, indicating the amount of attention each case receives from the board as a whole. The Alaska Parole Board hears an average of 12 cases in a day; only one state board has a lower daily caseload. Parole boards in the eight states which have penal institution populations smaller than Alaska's see an average of 24 parole applicants daily. In a day, boards in Florida, Arizona and Texas may decide as many as a hundred cases.

It can be misleading to compare state parole boards' case disposition statistics. For example, in many states, e.g., Oregon, the court sets only the maximum term an offender must serve, and inmates are eligible for parole anytime after entering an institution. The Oregon Parole Board must see each sentenced offender and determine what amount of time he or she will actually serve. Data pertaining to Oregon would indicate that the Oregon Board paroles proportionately more offenders than the Alaska Parole Board because every inmate who is discharged from an Oregon institution before serving the maximum sentence for his or her type of offense is released by the Parole Board.

Parole Board Policy on Employment

The State Parole Board considers an offender's employment plans when making a decision regarding his/her parole. According to the Board's recently completed policy manual, the Board will review parole applicants' "employment history, including vocational and academic skills and training learned within the institution. Also previous training, job experiences including military training are also factors where appropriate in determining the applicant's employability." Additionally, the policy manual states that the "release plan" which each applicant is required to prepare and submit prior to his hearing should include "employment verification, job training verification, housing verification, and other letters of reference relevant to an applicant's plans." According to the executive director of the Parole Board, Sam Trivette, the Board acknowledges that it is frequently unrealistic to rigidly impose these employment requirements. According to the director, the Board is sensitive to the circumstances of offenders from rural areas who may never have held a typical job, or who are returning to communities whose employment opportunities are limited. Mr. Trivette repeated to us what he told the House Judiciary Committee in a letter dated November 12, 1979:

> The Board has released offenders to subsistence plans including fishing, trapping, ivory and wood carving, training others to carve, chopping firewood to heat the home, repair fishing gear for the next season, etc. The Board has even paroled people to subsistence gardening in an appropriate case... The Board does release persons other than native persons to rural Alaska subsistence plans and will continue to do so when the Board members feel the offender's plan is realistic considering his entire life history. Some parole applicants have continually failed in some bush settings and the Board will not release any offender to a remote location so that he can escape supervision or just to get him out of sight.

Mr. Trivette asked us to note the Parole Board cannot release offenders to subsistence hunting as federal law does not permit felons to carry guns (18 USC § 1202).

Although the Parole Board may consider subsistence plans as an alternative to more traditional employment, this is not explicitly stated anywhere in the new Board policy manual which will be distributed through the State institutions. As an anonymous letter which appeared in the Tundra Times on August 15, 1979, indicates, the Board's receptivity to alternative employment plans is not widely understood. The author wrote:

> I will state again, it is my firm conviction that the Department of Corrections should lift the stipulation of having a job, a requisite to the Native seeking parole. Simply for the reason there are no jobs in the bush communities.

The Parole Board's policy in this matter could be more clearly expressed so that prospective parolees understand that the Board will consider several kinds of employment options and they can develop their release plans accordingly.

Community Involvement in the Parole Process

You indicated in your letter to us that you would like to expand the role of village councils in the parole process. When contacted, Mr. Gray of your staff said you were specifically interested in the possibility of employing individuals at the village level who would assume parole responsibilities for offenders from the community. In this regard, there is presently a program in existence which, if expanded, could be what you have in mind. The Division of Corrections has employed "probation aides" since 1969. At this time, there is only one aide in Bethel and one in Kotzebue, but in previous years the program has been larger.

According to Walt Jones of the Division of Corrections, the difference between probation aides and professional probation/parole officers is the degree of administrative responsibility. Probation/parole officers in rural areas must also be regional office managers, and perform personnel and budget-related functions not required of probation aides. Aides have most of the same duties and powers with respect to probationers and parolees as professional officers. They have the power to enforce conditions of parole and probation and may make arrests when necessary. Aides and officers receive very similar training. The requirements for a probation aide position include the equivalent of eigth grade reading ability, sixth grade mathematic skills, maturity, and suitable character. The Division of Corrections budgets $34,800 for each aide position. This amount includes the aide's salary and necessary support costs, i.e., transportation, administrative assistance. (Each professional probation/parole officer position requires $68,200, according to the Division. This figure includes the officer's salary, transportation and the cost of renting space for a regional office.)

The State Parole Board encourages comment from parole applicants' home communities, and maintains that a community's comments and receptivity to the applicants' return will impact the parole decisions. However, according to the Parole Board's executive director, the Board does not presently have the necessary personal contacts or resources to directly request information from rural communities. Any information the Board receives from village councils, or other organizations, comes unsolicited, or in response to an applicant's efforts to have a community spokesperson recommend his/her release. Additionally, in the director's opinion, the Parole Board believes there should be someone in the offender's home community to provide assistance and supervision, and to report back to the parole officer and the Board.

With some modifications, the probation aide program, could address both these concerns. Parole Board members would be assured that they were not releasing a parolee into a completely unstructured setting, and through the aide, could determine communities' willingness to have offenders returned. Although the village councils would not be directly supervising parolees responsibility for parolees would be at the village level and the councils could participate to a greater extent in decisions regarding the parolees' presence and behavior in the communities.

We have not done a thorough analysis of what modifications would be necessary in order to expand the existing aide program. However, we have considered the possibility of creating part-time aide positions, having fulltime aides serving several villages, or the State contracting with village councils to train and employ parole aides when there will be parolees returning to the community.

We would be happy to provide further information if it would be useful to you. Please don't hesitate to contact us if we can be of more assistance.

CJ/dp

ALASKA BOARD OF PAROLE

STATISTICS

	1975	1976	1977	1978	1979 (First Half)
Parole Hearings	252	214	212	226	91
Paroled	93	53	75	64	34
Continued	133	92	78	72	30
Denied	22	61	52	78	27
Other	4	8	7	12	

Revocations	Technical Violation	New Felony Committed	Technical Violation	New Felony Committed	Technical Violation	New Felony Committed	Technical Violation	New Felony Committed	Technical Violation, Committe
1-3 Months	10	3	5	1	5		3	1	
4-6 Months	7		6		6	2	8		
7-12 Months	7		4	2	4		1		
13-18 Months	3				4	1			
19-24 Months	1								
25 or More Months	2		1			1			
TOTAL	30	3	16	3	19	4	12	1	

Revocation Rates	3-1/2 yr. - 4-12/yr. Follow up 35%	2-1/2 yr. - 3-1/2 yr. Follow up 36%	1-1/2 yr. - 2-1/2 yr. Follow up 31%	6 Mo. - 18 Mo. Follow up 20%	
Felony Revocation Rate	3.2%	5.6%	5.3%	1.6%	

STATE	INSTITUTIONAL POPULATION	PAROLE POPULATION	FULL-TIME BOARD	NUMBER OF BOARD MEMBERS	FREQUENCY OF BOARD HEARINGS	NUMBER OF CASES HEARD BY BOARD IN A TYPICAL DAY
Alabama	3,293	1,963	Yes	3	Monthly	30
Alaska	766	240	No	5	Quarterly; once a year at each major state facility	12
Arizona	3,122	1,832	Yes	5	Monthly	20-25
Arkansas	2,485	1,852	No	5	Monthly	150 at larger institution 75-80 at smaller facilit
California	21,220	17,880	Yes	9	Monthly	12-16
Colorado	2,375	2,946	Yes	5	Monthly	20
Connecticut	3,271	1,564	No[a]	11	At least monthly	12-15
Delaware	1,00[illegible]	500	No[a]	5	Semimonthly	20
Florida	14,152	44,530	Yes	7	Whenever there are applicants eligible for parole	75-100
Georgia	11,373	3,374	Yes	5	Whenever there are applicants eligible for parole	30
Hawaii	594	n/a	No[a]	3	Monthly	20

[a]The chairman serves fulltime; members serve part-time

[b]The chairman and two members serve fulltime; two members serve part-time

1978 information

STATE	INSTITUTIONAL POPULATION	PAROLE POPULATION	FULL-TIME BOARD	NUMBER OF BOARD MEMBERS	FREQUENCY OF BOARD HEARINGS	NUMBER OF CASES HEARD BY BOARD IN A TYPICAL DAY
Idaho	855	293	No	5	Monthly	30
Illinois	10,847	10,971	Yes	10	Monthly	12-15
Indiana	4,846	2,028	Yes	5	Monthly	50
Iowa	1,999	1,093	No	5	4 times a year at women's facility; bimonthly elsewhere	30
Kansas	2,263	1,931	No	5	Monthly	25
Kentucky	3,372	2,307	Yes	5	Monthly	40
Louisiana	7,270	1,936	Yes	5	Monthly	35
Maine	747	349	No	5	biweekly at major institutions; monthly at smaller facilities	15-25
Maryland	8,028	5,296	Yes	7	monthly at major institutions; as necessary at local jails	15
Massachusetts	2,543	2,788	Yes	7	Monthly	12-16 at state prison; 15-30 at county facilities
Michigan	13,487	5,624	Yes	7	varies among facilities; semiweekly to semimonthly	25-30

[a]The chairman serves fulltime; members serve part-time

[b]The chairman and two members serve fulltime; two members serve part-time

1978 information

STATE	INSTITUTIONAL POPULATION	PAROLE POPULATION	FULL-TIME BOARD	NUMBER OF BOARD MEMBERS	FREQUENCY OF BOARD HEARINGS	NUMBER OF CASES HEARD BY BOARD IN A TYPICAL DAY
Minnesota	1,813	2,250	Yes	5	Several times a month	15
Mississippi	1,949	1,631	No[a]	5	Monthly	30
Missouri	5,229	1,586	Yes	5	Bimonthly at women's institution; monthly elsewhere	15-18
Montana	360	518	No	3	Monthly	25
Nebraska	1,320	427	No[b]	5	Semimonthly	30-35
Nevada	1,351	683	Yes	3	Bimonthly	60-75
New Hampshire	263	1,190	No	3	Monthly	25-35
New Jersey	5,626	7,300	Yes	3	Monthly	10-30
New Mexico	1,582	566	Yes	3	Weekly	3-10
New York	20,174	6,851	Yes	12	Monthly	80
North Carolina	13,924	6,980	Yes	5	Monthly at eight locations in State	20-40
North Dakota	284	298	No	3	Bimonthly	20-25

[a]The chairman serves fulltime; members serve part-time

[b]The chairman and two members serve fulltime; two members serve part-time

STATE	INSTITUTIONAL POPULATION	PAROLE POPULATION	FULL-TIME BOARD	NUMBER OF BOARD MEMBERS	FREQUENCY OF BOARD HEARINGS	NUMBER OF CASES HEARD BY BOARD IN A TYPICAL DAY
Ohio	12,968	6,351	Yes	7	Monthly	20-25
Oklahoma	3,687	1,366	No	5	Monthly rotating between two locations	60-70
Oregon	2,626	1,310	Yes	5	Monthly at women's facility; 4 times a week at state penitentiary; weekly at other institutions	15
Pennsylvania	7,598	8,920	Yes	5	Monthly	20-40
Rhode Island	667	280	No	5	Monthly	35
South Carolina	7,364	2,132	No	7	Semimonthly	50
South Dakota	565	589	No	3	Monthly	40
Tennessee	5,568	4,080	Yes	3	Monthly	25
Texas	24,396	13,915	Yes	3	no hearings held; cases reviewed as necessary	80-100
Utah	956	570	No	3	three to four times a month	40
Vermont	411	407	No	5	Monthly	15

[a]The chairman serves fulltime; members serve part-time

[b]The chairman and two members serve fulltime; two members serve part-time

1978 information

STATE	INSTITUTIONAL POPULATION	PAROLE POPULATION	FULL-TIME BOARD	NUMBER OF BOARD MEMBERS	FREQUENCY OF BOARD HEARINGS	NUMBER OF CASES HEARD BY BOARD IN A TYPICAL DAY
Virginia	8,147	3,008	Yes	5	Quarterly	15-25
Washington	4,000	2,463	Yes	7	Varies among facilities; weekly, semimonthly, monthly	16-20
West Virginia	1,142	650	Yes	3	Monthly	15
Wisconsin	3,286	2,414	Yes	10	Monthly	12-18
Wyoming	410	201	No	3	Quarterly	15-20

[a]The chairman serves fulltime; members serve part-time

[b]The chairman and two members serve fulltime; two members serve part-time.

1978 information

STATEWIDE CONFERENCE ON INCARCERATION AND RE-ENTRY ALTERNATIVES

Reports and Recommendations

Conference Chairpersons:
Patrick Wright, National Alliance of Businessmen
[redacted] Coalition on Corrections

TREATMENT ALTERNATIVES

Marian Kowacki, Program Director, Treatment Alternatives to Street Crime
Michael Walti, Executive Director, Narcotic Drug Treatment Center, Inc.
Jerry Schreiner, Psychological Counselor, Public Defender Agency

25 workshop participants

This group met all together briefly to discuss the basic format, review the alternative programs available, and hear a report on a program that is being developed by several inmates at the Eagle River Correctional Center. We would like to express thanks and appreciation to the Director of the Division of Corrections for allowing two current inmates from Eagle River Correctional Center to participate in this workshop.

Alternative Programs that we are aware of are:

Alaska Children's Services-Emergency Shelter, Group Homes, Jesse Lee Home, Center for Children and Parents
Akeela House
Alaska Psychiatric Institute
Alaska Youth Advocates
Anchorage Community Mental Health Center
Cumhac House
Family Connection
Family House
McLaughlin (Cottage program)
Narcotic Drug Treatment Center
Open Door Clinic
Salvation Army Comprehensive Alcoholism Services
Studio Club
Treatment Alternatives to Street Crime

Small group discussion focused on three areas: alternatives and treatment alternatives to incarceration; treatment alternatives for persons within correctional centers; and treatment alternatives for those who have served their sentences.

Participants in one small group began discussion with defining societal expectations of incarceration for offenders. The group agreed that the three main functions of incarceration, as far as the general public is concerned, are: 1) Protection of society, 2) Rehabilitation of the offender, and 3) Punishment for the crime.

CONCLUSIONS:

1. The ultimate, long-term protection of society can only be assured if rehabilitation of the offender occurs.
2. Punishment and rehabilitation are mutually exclusive goals which cannot occur simultaneously. As punishment increases the possibility for real rehabilitation diminishes.
3. People rehabilitate themselves and are not rehabilitated by others.
4. The well known fact that at least 50% of all incarceration is unnecessary for the protection of society was reaffirmed by the group.
5. There are plenty of treatment alternatives available in Alaska should the Division of Corrections administration decide to use them.
6. An alternatives strategy needs to be developed which provides a combination of skill development, and re-entry counseling and training, using available community agencies and programs.

Moderator, Peter Ring, Criminal Justice Center, University of Alaska
Recorder, Samuel Trivette, Executive Director, Alaska Board of Parole

19 Workshop participants

After a review and discussion of the proposed revisions to the Alaska Criminal Code, the group made the following recommendations:

1. More offenders should be sent to institutions for short-term "shock" sentences.

2. Multiple offenders should be given longer sentences as the result of their continued criminal activity.

3. More people should become involved in diversionary programs; Division of Corrections staff as well as other public and private agencies.

4. Restitution and Community Service as alternatives to incarceration or in conjunction with incarceration, should be utilized more frequently.

5. There should be a more restrictive use of discretion in all sectors of the Criminal Justice System beginning with the police and including the prosecutor, the judge, the classification process, determination of good time, and the parole board.

6. Prior verified police contacts should be considered routinely by the sentencing judge and remain in the presentence report prepared by the Division of Corrections. The disparity in the admissibility of this information should be removed. (i.e. some judges are not allowing into evidence information that the Alaska Supreme Court says should be considered) This was viewed as an administrative matter that the courts should handle internally.

Moderator: Samuel H. Trivette, Executive Director, Alaska Board of Parole

About 25 participants

Mr. Trivette began by presenting information regarding proposed changes in Alaska Statutes by the Criminal Code Revision Commission. After general discussion of some of the concepts embodied in that legislation, he then spoke specifically of the modifications proposed by the Criminal Code Revision Committee as they relate to the areas of probation and parole. These concepts were discussed at length. Other problems were discussed as time permitted. Participants in this discussion strongly urged that an extensive conference on probation/parole matters be set up and implemented in the near future.

RECOMMENDATIONS:

1. The participants were supportive of the changes in the statutes being recommended by the Criminal Code Revision Commission in its draft legislation, as this relates to probation and parole matters. They were supportive of the direction of the bill in articulating the goals of the Criminal Justice System and in specifying the purposes of sentencing.

2. The curtailing of discretion in all facets of the system including the police, district attorney, judge, parole board, and the determination of good time was viewed as positive. The "just desserts" model embodied in the legislation, including a parole guidelines model similar to Oregon's system, was strongly supported by the participants as helpful in elimating unwarranted disparities in sentencing.

3. All participants agreed that there was not sufficient emphasis being placed on the programming and staffing of community corrections programs. A great majority of the funding goes for the operation of institutions rather than community programming including probation and parole. It is well established that there are many more offenders involved in diversionary programs and on probation and parole than serving time in correctional institutions.

The group discussed the direction of recent court decisions in Alaska, specifically Supreme Court decisions, stressing that the rehabilitation programs be made available, especially psychiatric/psychological, drug, and alcohol programming. The need for these programs was recognized by the participants. Also pointed out was the extreme need for a psychiatric consultant available to probation/parole staff for advice, & for staffing and evaluating clients.

5. Also discussed were the recent court decisions requiring more individualization in dealing with persons under supervision and limiting the system's control of the offenders behavior, only if it met the test of one of the following: a.Assisting in the reintegration of the offender, or b. Protection of the public.

6. Participants urged that funds be expended to provide more education of the public regarding the problems and responsibilities of probation and parole staff so that the community gets a better understanding of the overall operation of the Criminal Justice System.

Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 11, 1980

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Mr. Speaker:

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the State Board of Parole.

By letter of July 31, the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

Committee staff conducted the necessary research. Also available to the Committee were the Executive Summary, Alaska Corrections Master Plan, 1979, and A Performance Review of the Alaska State Board of Parole, Division of Legislative Audit, May 9, 1979.

In addition to receiving testimony during interim hearings, the Committee held three hearings in Juneau. Also, two teleconference hearings were held to receive testimony from Anchorage, Fairbanks, Ketchikan, Dillingham, Kenai, Nome and Bethel.

A total of about 35 witnesses testified, including the Director, Division of Corrections; the present Chairman, a former Chairman, and the Executive Director of the Board. One other member of the Board attended a hearing but did not testify.

Art. III, Sec. 21, of the Alaska Constitution requires that "a parole system shall be provided by law". The Committee received an opinion from the Legislative Affairs Agency to the effect that the Constitution does

not mandate a parole board. One option which was considered would have done away with the Parole Board and had the sentencing judge retain jurisdiction over the parolee. Once this option was rejected, the choices narrowed to a parole board in some form.

Testimony indicated that the workload of the present Board is heavy. The Chairman estimated that the average member spends 60 days a year on Board duties. The Committee considered the possibility of a full-time, paid board, but rejected it. (The new criminal code which prohibits parole for those convicted of second and succeeding felonies may result in a reduced workload after a few years.)

Also considered was the possibility of establishing a second board and dividing the work between the two. Prisoner reclassification and transfer could, however, result in both boards being involved with the same parolee or potential parolee. This seems undesirable.

Testimony indicates that Parole Board members may rely too heavily on "gut reactions" in deciding whether or not to grant parole. Although no human being can be perfectly objective, and a completely mechanical system would probably be unacceptable, there is need for a proper balance. The Board has recognized this need and is considering objective criteria which have shown a high correlation with successful parole.

A matter of concern to the Committee was the recidivism rate among parolees. Although only about 4% were reincarcerated because they committed a new felony, about 20% went back to prison for technical violations (violating conditions set by the Board at the time parole was granted). Examples of such conditions are (1) that the prisoner have an assured job as part of his parole plan, which may be impossible in a village situation, and (2) that the parolee not associate with other felons, although these may be in some cases his only friends or close acquaintances. In effect, about a fourth of all parolees are returned to prison, a disturbing statistic in view of the present and expected overcrowding in Alaska's correctional institutions. The Judiciary Committee, therefore, spent a significant amount of time considering the parole conditions now being set.

Findings required by AS 44.66.050(d) follow:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

Finding: There is a need to avoid unnecessary incarceration.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

Finding: The Parole Board is intended to provide for mitigation of sentence while simultaneously protecting the general public.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

Finding: There are no similar or conflicting programs.

(4) an assessment of alternative methods of achieving the purposes of the program;

Finding: The program could be handled by the judicial branch but this would remove the element of judgment by one's peers.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

Finding: The program is constitutional and cannot be eliminated. Funding it at a lower level would make it very ineffective.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

Finding: The program is necessary and no other agency performs similar functions.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

Finding: Other information will be contained in legislation to be introduced or in other portions of this report.

The Judiciary Committee finds that:

(1) The Alaska State Board of Parole is necessary and should be continued.

(2) Statutory changes are needed to improve the functioning of the Board. The Committee will propose a bill incorporating these changes.

(3) The chances that parole will be successful, from the standpoints of both society and the parolee, are to some extent dependent on the prisoner's willingness and ability to change while in prison. Educational, alcohol treatment, psychiatric counseling and work programs are generally unavailable or inadequate. The Judiciary Committee recommends approval of additional funds and personnel spaces for the Division of Corrections for programs which can be shown to reduce recidivism.

Charles H. Parr, Chairman

Nels A. Anderson, Jr.

Ramona L. Barnes

Fred E. Brown

Thelma Buchholdt

Hugh Malone

Terry Martin

Patrick M. O'Connell

Randy Phillips

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

February 2, 1982

Document# 26-82

The Honorable Michael F. Beirne
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Beirne:

Recently you requested statistics regarding:

(1) Summary of our Current Correctional Bed Capacity;

(2) Summary of our Funded and Requested Correctional Construction Projects; and,

(3) Projection of Inmate Population.

If you have questions, please do not hesitate to contact me.

Sincerely,

Helen D. Beirne
Commissioner

Enclosure

W-F38LH

DIVISION OF ADULT CORRECTIONS
CAPACITY OF CORRECTIONAL CENTERS
FEBRUARY 1982

STATE INSTITUTIONS	NORMAL OPERATING CAPACITY	EMERGENCY OPERATING CAPACITY	01/27/82 PRISONER COUNTS
Anchorage - 3rd Ave.	70	80	81
Anchorage - 6th Ave.	100	115	133
Eagle River	80	100	112
Alaska Women's Fac/ER	28	30	21
Palmer	113	113	107
Ridgeview Post #6	50	50	46
Fairbanks	110	118	164
Juneau	90	100	111
Ketchikan	22	30	21
Nome	30	34	32
DAC Inst. Capacity Totals In-State *	693	770	828
Alaska Prisoners in Federal Institutions			190
Prisoners Housed in Contract Community Facilities (Halfway Houses)			63
Total Number of Prisoners In-State & Federal Institutions			1081

*In March 1982 additional beds will be available as follows:

Ridgeview Post #6 - 40 new beds for a 90 bed capacity
Palmer (existing facility) - 24 new beds for a 137 bed capacity
Palmer Addition (new facility) - 100 new beds

In-State confinement capacity by March 1982:

NORMAL OPERATING CAPACITY	EMERGENCY OPERATING CAPACITY
857	934

DIVISION OF ADULT CORRECTIONS

SUMMARY OF CAPITAL PROJECTS AFFECTING BED SPACE
(DOES NOT INCLUDE CORRECTIONAL INDUSTRIES, CODE UPGRADE OR RELATED PROJECTS)

FUNDED PROJECTS:

Bed Space Increase	Project
-0-	Ketchikan Correctional Center - Scheduled Completion 9-1-82. New Institution, 30 single rooms. Current Status - ahead of schedule - Contractor's estimated completion - 4-30-82. Staffing Available to operate 9-1-82. Since this is a replacement facility no system increase will result.
180	Anchorage Pre-Trial - Scheduled Completion - 12-31-82. New Institution, 180 single rooms. Current Status - ahead of schedule - Contractor's estimated completion 12-1-82.
60	Eagle River Correctional Center Expansion - Scheduled Completion 7-31-82. New single rooms = 80 - Post Construction Capacity = 180. Current Status - ahead of schedule - Contractor's estimated completion - 7-1-82. Upon completion of this project, it will be necessary to remove 20 inmates from 3rd Avenue in order to approach compliance. Therefore, the system capacity in August will only increase by 60, rather than by a full 80 beds.
100	Palmer Addition - Scheduled Completion - 3-1-82. New Institution, 100 single rooms. Current Status - nearly completed - Contractor's estimated completion date - 3-1-82.
40	Juneau Expansion - Scheduled Completion - October 1983. New single rooms = 56, Post Construction Capacity = 130 Current Status - on schedule - In design development stage.
67	Fairbanks Expansion - Scheduled Completion - October 1983. New single rooms = 77, Post Construction Capacity = 177.
Between 4 and 22	Nome Replacement - Scheduled Completion - Fall of 1983. New Institution, 32-50 single rooms, Post Construction Capacity = 32-50. Now in design phase. This project replaces 28 beds, so system increase will be minimal.
-0-	Bethel Jail - Scheduled Completion - Fall of 1983. New Institution, 40 single rooms, Post Construction Capacity = 40. Current Status - Now in design phase. While Bethel beds will be new to the DOAC system, we will also be assuming the current local jail function. No system increase will be realized.

FY'83 PROJECT REQUESTS AFFECTING BED SPACE:

Bed Space Increase	Project
300	Long-Term Facility - Secure institution for sentenced male felons to be located in Southcentral Alaska. $41 million has been requested for this 300 bed facility with a core capacity enabling future expansion to not more than 400 beds. Through P.F.P.F. funds, an architectural firm has been selected to begin planning and preliminary design. Completion is projected for early 1985.
80	Fairbanks Addition - Minimum to medium custody facility to be located adjacent to the existing Fairbanks Correctional Center. This facility would be similar to the new Palmer Addition and would permit those requiring less secure conditions of confinement to remain in the Northern Region.

SUMMARY OF BED SPACE INCREASES

451 Beds - Funded projects under design or construction

380 Beds - FY'83 Capital Request

831 Beds - Funded or Requested

INSTATE BED CAPACITY COMPARED WITH PROJECTED PRISONER POPULATION

Facility	1982	1983	1984	1985	1986
Ketchikan	30	30	30	30	50
Juneau Men's	90	130	130	130	130
Juneau Women's	3	3	3	3	3
Fairbanks	110	177	177	177	177
3rd Avenue	50	50	50	50	50
6th Ave. Men's & Women's	100	100	100	100	100
Ridgeview Men's	90	-0-	-0-	-0-	-0-
Eagle River Men's	160	160	160	160	160
Eagle River Women's	28	28	28	43	43
Palmer	237	237	237	237	237
Post Road	-0-	180	180	180	180
Nome	28	32	32	32	32
Bethel	-0-	40	40	40	40
Long Term Fac. Southcentral	-0-	-0-	-0-	300	300
Fairbanks Addition	-0-	-0-	-0-	80	80
INSTATE BED TOTAL	896	1,167	1,167	1,562	1,582
Projected Inmate Populations Range of Expected High/Low Counts	1,112 to 1,022	1,281 to 1,191	1,450 to 1,360	1,620 to 1,530	1,730 to 1,700

Summary: The difference between "Instate Bed Totals" and "Projected Inmate Populations" is that number that must be addressed through placement in the Federal Prison System, placement in contract community facilities, or by additional construction.

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A PRELIMINARY DESCRIPTIVE STATISTICAL REPORT OF 1980 FELONY SENTENCES

Nicholas Maroules
Executive Director

Acknowledgement

Judicial Council staff, whose assistance was invaluable in the data collection, analysis and administrative aspects of the 1980 Felony Sentencing study includes:

Martha Bender	Administrative Assistant
Sheila Vonesh	Administrative Assistant
Kevin Newland	Reserach Associate
Larry Pederson	Computer Specialist
Julia Coster	Research Assistant
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Michael Rikard	Research Assistant
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Janet Graser	Research Assistant

In addition, the staff wishes to express its appreciation of the contribution of the Judicial Council's previous Executive Director, Teresa J. White.

The tables and figures discussed in this report are merely descriptive of the types of offenses, dispositions and sentence outcomes rendered in 1980. A complete multivariate analysis is not expected to be completed until February, 1982. Accordingly, a thorough discussion of the data collection methodology, coding, study design and statistical methodology will not be presented here, but will be included in the Council's final report. Nevertheless, a few comments regarding the parameters of the data base used in this study are discussed below.

A. Data Base

The data base and design of this study are comparable to the Judicial Council's earlier sentencing studies. The data includes all cases originally charged as a felony that were committed between January 1, 1980 and December 31, 1981, that resulted in a conviction.

Due to the typical two month time period between acceptance of a guilty plea or conviction and sentencing, we continued to code cases until August, 1981 in an effort to include the universe of 1980 offenses. Nevertheless, a few cases were "lost" due to appeals or extended delays in trials and/or sentencing.

I. INTRODUCTION

In 1978 the Alaska Judicial Council announced that its felony statistical study of the effects of the elimination of plea bargaining revealed apparent racial disparities among sentences for many classes of offenses. As a result, the Supreme Court and legislature asked the Council to conduct a follow-up study and to thereafter periodically monitor felony sentencing patterns. The follow-up study, covering felony sentences imposed between July, 1976 and July, 1979 indicated that racially disproportionate sentences had been largely eliminated. However, this research revealed other findings suggesting problematical outcomes in sentencing, including significant differences in sentence outcomes according to whether a defendant plead guilty or was convicted at trial, by the type of attorney representing a defendant as well as the impact of pre-sentence report factors.

The purpose of this report is to outline felony sentencing patterns discerned from the Judicial Council's most recent study, covering Anchorage, Fairbanks and Juneau felony offenses committed in 1980 that resulted in conviction. This study is particularly significant since, in addition to providing a basis to check the disparate and other outcomes discerned in the earlier studies, it provides the first statistically comprehensive view of sentencing patterns under the state's new criminal code.

II. Preliminary Urban Sentencing Patterns: Comparison of 1980 Data with Past Studies

A. Introduction

This section of the report compares felony offenses and sentencing patterns rendered from 1980 offenses with those studied by the Judicial Council in its two major previous studies, the plea bargaining study covering 1974-76 offenses and the follow-up 1976-79 study.

Utilizing the same broad analytical classification scheme developed in the earlier studies, offenses were grouped into six broad classes. These classes reflect the felony offenses that were originally charged. The subsequent analysis of sentence outcomes focuses on the offense at conviction.

B. Offense Classes

Table I represents a comparison of the distribution of 1980 offense classes with those discerned from the Judicial Council's two earlier studies.

TABLE I

Distribution of Convicted Offenses
By Six Classes of Offense
For Three Study Periods

Class of Offense:	1974-76 Period		1976-79 Period		1980 Study	
	%	n	%	n	%	n
Murder/Kidnapping Class 1	1.7%	(25)	3.6%	(49)	2.9%	(14)
Violent Felonies Class 2	29.4%	(420)	27.1%	(365)	31.4%	(151)
Property Offenses Class 3	34.8%	(499)	35.7%	(481)	41.4%	(199)
Fraud Offenses Class 4	13.6%	(195)	15.2%	(204)	5.4%	(26)
Drug Offenses Class 5	17.8%	(255)	14.3%	(192)	17.0%	(82)
"Morals" Offenses Class 6	2.7%	(39)	4.1%	(55)	1.9%	(9)
Totals	100.0%	(1433)	100.0%	(1366)	100.0%	(488)

The most notable changes in the distribution of offenses over the three study periods concerns property offenses (Class 3) and fraud offenses (Class 4). Property offenses increased proportionately from approximately 35% in the first two studies to 41% in 1980. Conversely, fraud offenses decreased from approximately 14% for the first two periods to only 5.4% in 1980. One likely explanation for the significant proportionate decrease in fraud offenses concerns the impact of the Pre-Trial Intervention Project instituted by the Department of Law. This program allows the District Attorney to screen "appropriate" cases into a diversionary system that functions as an

alternative to traditional disposition. Fraud offenses-- particularly bad check and forgery offenses--are typical examples of diverted offenses. This hypothesis will be tested in our final report by analyzing or profiling data we collected on diverted offenses.

C. Classification of Felonies In New Criminal Code

The new criminal code that became effective January 1, 1980 classified most felony offenses, including unclassified, "A", "B" and "C" felonies. In addition, as will be discussed, infra, a presumptive sentencing scheme was implemented for repeat felony offenders.

Table II, below, represents the distributions of both offenses charged and offenses at conviction according to this new classification scheme.

TABLE II

Distribution of New Criminal
Code Classified Offenses
Comparing Offenses Charged and
Offenses at Conviction

Classification Offense:	Offenses Charged %	Offenses Charged (n)	Offenses Convicted %	Offenses Convicted (n)
Unclassified Felonies	2.7%	(13)	1.9%	(9)
"A" Felonies	12.3%	(59)	6.9%	(35)
"B" Felonies	24.5%	(118)	17.0%	(82)
"C" Felonies	43.0%	(207)	35.1%	(169)
Drug Felonies	17.0%	(82)	16.6%	(80)
Felonies Not Classified	0.4%	(2)	---	---
Misdemeanors	---	---	22.4%	(108)
	100%=n=481		100%=n-481	

D. Trials

The Council's study of 1976-79 cases indicated that the proportion of (convicted) cases that went to trial rose substantially over the 1974-76 study period. The overall proportion of cases that went to trial in 1974-76 was 11.8% compared to 21.9% for the later period. As Table III, below, indicates, the overall proportion of trials has decreased significantly among 1980 new criminal code offenses to 15.8%. In fact, the proportion of 1980 offenses that went to trial nearly approximates the trial rate for the 1974-76 study. However, any explanation for this overall change in trial rates cannot be determined until we have completed our multivariate analysis.

TABLE III

Proportion of Convicted Cases That Went to Trial By Class Of Offense* For Three Study Periods

Class of Offense:	1974-76 Period %	1976-79 Period %	1980 Study %
Violent Felonies Class 2	20.7%	33.7%	22.5%
Property Offenses Class 3	6.8%	13.5%	7.5%
Fraud Offenses Class 4	5.7%	16.2%	7.7%
Drug Offenses Class 5	11.8%	26.6%	15.8%
All Cases	11.8%	21.9%	15.8%

*Classes 1 and 6 excluded due to small number of cases.

E. Sentencing

(1) Comparison With Past Studies

Our 1976-79 sentencing study revealed that sentences increased in length substantially for most classes of offense while a defendant's chance of receiving a probationary sentence decreased in comparison with the plea bargaining study. In fact, typical violent felony and property offenses sentences nearly doubleo in length (82% and 92% increases,

respectively). Tables IV and V represent a comparison of mean active sentences and the proportion of cases receiving probation with past studies.

TABLE IV

MEAN ACTIVE SENTENCES FOR SIX OFFENSE CLASSES FOR THREE STUDY PERIODS (IN MONTHS)

Class of Offense:	1974-76 Period	1976-79 Period	1980 Study
Murder/Kidnapping	231.4 (22)	356.1 (49)	434.7 (14)
Violent Felonies	36.5 (274)	66.3 (293)	29.2 (119)
Property Offenses	10.4 (257)	20.0 (283)	14.8 (144)
Fraud Offenses	16.4 (99)	19.9 (136)	17.6 (18)
Drug Offenses	33.1 (120)	27.3 (110)	16.3 (65)
"Morals" Offenses	38.4 (22)	44.0 (37)	16.7 (3)

TABLE V

Proportion of Cases Receiving
Probation for Six Offense Classes
For Three Study Periods
(In Percent)*

Class of Offense:	1974-76 Period %	1976-79 Period %	1980 Study %
Murder/Kidnapping	12%	0%	0%
Violent Felonies	35%	20%	21%
Property Offenses	48%	41%	28%
Fraud Offenses	49%	33%	31%
Drug Offenses	53%	43%	21%
"Morals" Offenses	44%	33%	67%

*Percentages rounded to nearest whole number

Table IV reveals that mean average sentence lengths have decreased substantially since the 1976-79 study. The decrease is greatest for violent felonies (-56%) and drug offenses (-40%) in comparison with the 1976-79 period. In fact, the average sentences for many 1980 offense classes are actually lower than those for the 1974-76 period. A multivariate "modeling" of sentence outcomes for each class of offense should provide an index to the factors associated with this overall decrease. Conversely, the proportionate of cases

receiving a straight probationary sentence has decreased for most 1980 offense classes. A clear pattern emerges in comparing the figures for the three study periods: proportionately fewer defendants have received straight probation over the past six years. Thus, more defendants are being sentenced to periods of incarceration while the average period of incarceration has decreased substantially.

F. Presumptively Sentenced Cases

The new criminal code established presumptive sentencing for repeat felony offenders whose prior conviction is less than seven years old, excluding periods of incarceration. Sentencing for first offenders, including defendants with prior misdemeanors or felonies older than seven years, follows the previous criminal code's sentencing scheme within statutorily established ranges. Figure 1, below, outlines the terms of imprisonment under the new criminal code.

TERMS OF IMPRISONMENT IN NEW CRIMINAL CODE

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

Key

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

* Six year presumtpive term applies if first A felony conviction, other than manslaughter, and defendant used or possessed a firearm during the offense or caused serious physical injury.

Note: In addition to Class "A", "B" and "C" felonies, there are three unclassified felonies with corresponding statutory sentence ranges: Murder in First Degree - 20-99 years Murder in Second Degree and Kidnapping - 5-99 years.

Our analysis indicates that there were fewer 1980 convictions that resulted in presumptive sentencing than was originally anticipated. (Data on prior criminal histories of offenders would suggest that thirty to forty percent would be subject to presumptive sentencing.) Table VI reflects the proportion of presumptive and traditional sentences rendered in 1980 for each of the six classes of offense.

TABLE VI

Type of Sentence for
Six Classes of Offense
(In Percent)

Class of Offense:	Presumptively Sentenced %	(n)	Traditionally Sentenced %	(n)
(1) Murder/Kidnapping	7.0%	(1)	93.0%	(13)
(2) Violent Felonies	19.9%	(30)	79.1%	(121)
(3) Property Offenses	12.6%	(25)	87.3%	(174)
(4) Fraud Offenses	34.6%	(9)	65.4%	(17)
(5) Drug Offenses	0%	(0)	100.0%	(82)
(6) "Morals" Offenses	0%	(0)	100.0%	(9)

According to this distribution, fraud offense convictions are most likely to have resulted in presumptive sentencing, presumably due to the nature of the defendant's prior record. Drug offenses were not reclassified under the new criminal code and are thus not subject to presumptive sentencing.

In an effort to identify differences in patterns between defendants sentenced presumptively and those traditionally sentenced, Table VII compares the proportion of cases receiving straight probation and the mean active sentence for three of the six classes of offense. (Classes 1, 5 and 6 were excluded; class 1 had only one case sentenced presumptively, while classes 5 and 6 had none.)

TABLE VII

Comparison of Sentence
Outcomes For Presumptive
And Traditional Sentences
For Three Classes of Offense

Class of Offense	Presumptive		Traditional	
	% prob	$\bar{X}$ Active	% prob	$\bar{X}$ Active
Violent Felonies Class 2	3.3%	67.7	25.6%	16.8
Property Offenses Class 3	0%	41.3	31.6%	8.9
Fraud Offenses	0%	33.3	47.1%	1.9

As the above table indicates, the sentence outcomes between presumptive and traditional sentences is striking. Presumptive sentencing results in an extremely low probability of receiving probation as well as considerably longer average sentences than traditionally sentenced cases. The forthcoming multivariate analysis will facilitate a better comparison of these differences by controlling for such factors as the specific offense (as opposed to class of offense) at conviction.

G. Offense and Sentence Distributions for Six Classes of Offense

Tables A-I through A-VI appendix, provide summaries of specific offenses at conviction and corresponding sentence distributions for each of the six major classes of offense. These distributions reflect the conviction outcomes for cases

that began as a class 1 through 6 offense. Our final analysis will cross-classify new criminal code offenses with those of the old code to facilitate a more direct comparison of sentencing patterns for the specific offenses represented in these tables.

III. Conclusion

As has been stated repeatedly throughout this preliminary report, these results provide a descriptive statistical analysis of 1980 new criminal code offenses and sentences. A more definitive analysis considering the impact of race, type of attorney and other factors associated with increases or decreases in typical sentence length will be completed in late winter, 1982. Nevertheless, the analysis and findings presented in this report provide a sound statistical summary of 1980 offense and sentencing patterns, especially as they compare with the results of prior studies.

The findings of this report suggest many implications for the criminal justice system. Foremost among these concerns the impact of increased numbers of incarcerations on the Division of Corrections. Although sentence lengths have decreased since the last study (1976-79), proportionately more defendants are going to jail. In addition, the number of 1980 Anchorage, Fairbanks and Juneau cases (n=481) reveals that the number of convictions is increasing. (Our 1976-79 study revealed that

the number of convictions had steadily decreased from the 1974-75 period to the 1976-79 period.) Accordingly, we plan to include a prison population impact analysis in our final report that projects the anticipated effects of these sentencing patterns on our jail populations.

In addition, we hope to identify, in the context of multivariate analysis, the factors associated with the overall decrease in sentence lengths and straight probationary sentences identified in this report.

APPENDIX A

TABLE A1

Offenses and Sentence Distribution
--Class 1, Murder Kidnapping--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Murder 1	5	35.7	1046.4	(5)	1099.5	----	----	----	----	----	----	----	----	----	----	100.0	(5)
Murder 2	3	21.4	92.0	(3)	96.0	----	----	----	----	----	----	----	----	33.3	(1)	66.7	(2)
Kidnapping	1	7.1	360.0	(1)	360.0	----	----	----	----	----	----	----	----	----	----	100.0	(1)
Manslaughter	3	21.4	64.0	(3)	57.0	----	----	----	----	----	----	----	----	66.7	(2)	33.3	(1)
Coercion	1	7.1	1.6	(1)	1.6	----	----	100.0	(1)	----	----	----	----	----	----	----	----
Assault 3	1	7.1	24.0	(1)	24.0	----	----	----	----	----	----	100.0	(1)	----	----	----	----
TOTALS	14	100.0		(14)				7.1	(1)			7.1	(1)	21.4	(3)	64.3	(9)

p = .002

p = .004

TABLE A2

Offenses And Sentence Distribution
--Class 2, Violent Felonies--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Assault 1	6	6.0	36.1	(5)	14.9	16.7	(1)	16.7	(1)	33.3	(2)	----	----	----	----	33.3	(2)
Sexual Assault 1	10	10.0	106.0	(9)	60.0	10.0	(1)	----	----	----	----	20.0	(2)	30.0	(3)	40.0	(4)
Attempt Sex. Assault 1	2	2.0	21.0	(2)	21.0	----	----	----	----	----	----	100.0	(2)	----	----	----	----
Robbery 1	13	13.0	70.0	(12)	63.0	7.7	(1)	7.7	(1)	----	----	7.7	(1)	30.8	(4)	46.2	(6)
Attempt Robbery 1	1	1.0	30.0	(1)	30.0	----	----	----	----	----	----	----	----	100.0	(1)	----	----
Assault 2	23	23.0	25.5	(19)	12.0	17.4	(4)	30.4	(7)	13.0	(3)	8.7	(2)	26.1	(6)	4.3	(1)
Sexual Assault 2	1	1.0	12.0	(1)	12.0	----	----	----	----	100.0	(1)	----	----	----	----	----	----
Robbery 2	8	8.0	36.0	(7)	33.0	12.5	(1)	----	----	12.5	(1)	25.0	(2)	37.5	(3)	12.5	(1)
Crim.Negligent Homicide	1	1.0	----	----	----	100.0	(1)	----	----	----	----	----	----	----	----	----	----
Arson 1	1	1.0	4.0	(1)	4.0	----	----	100.0	(1)	----	----	----	----	----	----	----	----
Attempt Arson 2	1	1.0	----	----	----	100.0	(1)	----	----	----	----	----	----	----	----	----	----
Escape 2	5	5.0	33.6	(5)	42.0	----	----	20.0	(1)	----	----	20.0	(1)	60.0	(3)	----	----

TABLE A2

Offenses And Sentence Distribution (Cont'd)
--Class 2, Violent Felonies--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Fail to Aid Injured Person	1	1.0	----	----	----	100.0	(1)	----	----	----	----	----	----	----	----	----	----
Misconduct Weapon 1	5	5.0	27.0	(4)	26.0	20.0	(1)	----	----	----	----	60.0	(3)	20.0	(1)	----	----
Assault 3	22	22.0	17.3	(17)	7.7	22.7	(5)	45.5	(10)	4.5	(1)	----	(3)	----	(3)	----	----
TOTALS	100	100.0	----	(83)	----	17.0	(17)	21.0	(21)	8.0	(8)	16.0	(16)	24.0	(24)	14.0	(14)

p = .000

p = .004

TABLE A3

Offenses and Sentence Distribution
--Class 3, Property Offenses--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Theft 1	1	0.7	6.0	(1)	6.0	----	----	100.0	(1)	----	----	----	----	----	----	----	----
Burglary 1	38	26.0	30.4	(27)	24.0	28.9	(11)	21.1	(8)	5.3	(2)	15.8	(6)	18.4	(7)	10.5	(4)
Attempt Burglary 1	1	0.7	6.0	(1)	6.0	----	----	100.0	(1)	----	----	----	----	----	----	----	----
Theft 2	49	33.6	14.2	(34)	12.0	30.6	(15)	32.7	(16)	8.2	(4)	24.5	(12)	4.1	(2)	----	----
Theft Receiving 2	2	1.4	21.0	(2)	21.0	----	----	50.0	(1)	----	----	----	----	50.0	(1)	----	----
Conceal Merchandise 1	1	0.7	0.2	(1)	0.2	----	----	100.0	(1)	----	----	----	----	----	----	----	----
Burglary 2	39	26.7	16.7	(27)	12.8	30.8	(12)	20.5	(8)	15.4	(6)	28.2	(11)	2.6	(1)	2.6	(1)
Criminal Mischief 2	14	9.6	17.8	(11)	23.2	21.4	(3)	21.4	(3)	7.1	(1)	42.9	(6)	7.1	(1)	----	----
Criminal Trespass 2	1	0.7	1.0	(1)	1.0	----	----	100.0	(1)	----	----	----	----	----	----	----	----
TOTALS	146	100.0		(105)		28.1	(41)	27.4	(40)	8.9	(13)	24.0	(35)	8.2	(12)	3.4	(5)

p = .045

p = .471

TABLE A4

Offenses and Sentence Distribution
--Class 4, Fraud Offenses--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Bad Check 2	4	17.4	36.0	(1)	36.0	75.0	(3)	----	----	----	----	----	----	25.0	(1)	----	----
Forgery 2	18	78.3	20.0	(14)	24.0	22.2	(4)	33.3	(6)	----	----	11.1	(2)	33.3	(6)	----	----
Bribery	1	4.3	----	----	----	100.0	(1)	----	----	----	----	----	----	----	----	----	----
TOTALS	23	100.0		(15)		34.8	(8)	26.1	(6)			8.7	(2)	30.4	(7)		

p = .357

p = .368

TABLE A5

Offenses and Sentence Distribution
--Class 5, Drug Offenses--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Possession Narcotic	20	25.0	7.1	(12)	2.3	40.0	(8)	35.3	(7)	15.0	(3)	10.0	(2)	----	----	----	----
Sale Narcotic	42	52.5	14.0	(36)	6.2	14.3	(6)	52.4	(22)	9.5	(4)	9.5	(4)	9.5	(4)	4.8	(2)
Fraud/Deceit Obtain Narcotic	4	5.0	30.5	(4)	30.5	----	----	50.0	(2)	----	----	----	----	50.0	(2)	----	----
Possession for Sale-HDS	3	3.8	30.0	(2)	30.0	33.3	(1)	----	----	33.3	(1)	----	----	33.3	(1)	----	----
Sale of HDS	10	12.5	17.8	(9)	12.0	10.0	(1)	40.0	(4)	10.0	(1)	20.0	(2)	20.0	(2)	----	----
Disposal to a Minor	1	1.3	120.0	(1)	120.0	----	----	----	----	----	----	----	----	----	----	100.0	(1)
TOTALS	80	100.0		(64)		20.0	(16)	43.8	(35)	11.3	(9)	10.0	(8)	11.3	(9)	3.8	(3)

p = .000

p = .003

TABLE A6

Offenses and Sentence Distribution
--Class 6, Moral Offenses--
--1980 Offenses--
(Urban Courts)

OFFENSE	n	% of N	$\bar{X}$ Act Sent	(n) Active	Med Active	Active Time: Prob. %	Prob. (n)	1-6 Mo. %	1-6 Mo. (n)	7-12 %	7-12 (n)	13-24 %	13-24 (n)	25-60 %	25-60 (n)	Over 60 %	Over 60 (n)
Sex Abuse Minor	5	62.5	2.0	(1)	2.0	80.0	(4)	20.0	(1)	----	----	----	----	----	----	----	----
Incest	1	12.5	----	----	----	100.0	(1)	----	----	----	----	----	----	----	----	----	----
Promote Prostitution 1	1	12.5	36.0	(1)	36.0	----	----	----	----	----	----	----	----	100.0	(1)	----	----
Promote Prostitution 2	1	12.5	12.0	(1)	12.0	----	----	----	----	100.0	(1)	----	----	----	----	----	----
TOTALS	8	100.0		(3)		62.5	(5)	(12.5)	(1)	(12.5)	(1)			12.5	(1)		

P = .061

PAROLE GUIDELINES FOR ALASKA

SUPPLEMENTAL REPORT
TIME SERVED COMPONENT

ALASKA BOARD OF PAROLE

SEPTEMBER 1980

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
PHONE: (907) 465-3384

September 11, 1980

Dear Colleagues:

The basic PAROLE GUIDELINES FOR ALASKA report was completed, printed, and distributed in December 1979. It explained the progress made at that time on developing parole guidelines in Alaska. The report also outlined the additional research necessary before the "time served" portion of the parole guidelines could be established.

We are very pleased to announce the National Institute of Corrections did award the Parole Board a supplemental grant allowing us to complete the necessary research for the "time served" component. The results are contained in the consultant's attached report. We believe you will find much of this data very interesting and informative. Many of the basic questions about the release patterns of the Board are answered in this report.

The Board members met with the consultants on June 27, 1980 and adopted the parole guidelines matrix as outlined in table M8 on page 20 of the attached report. The members also voted to delete the race data item from the risk score after receiving an opinion from the Attorney General's office and after further discussion regarding that item. The revised risk score sheet is included with this report.

The Board's staff is drafting the coding manual to accompany the risk score sheet and the Board expects to initiate the "dry runs" soon as recommended on page 21 of the report. If no major problems arise, we expect to be using the guidelines for our decisions by Spring 1981.

We are happy to share the results of our research with you. Your comments are always welcome.

Sincerely Yours,

William B. Lyons
Chairman

Sincerely Yours,

Samuel H. Trivette
Executive Director

Attachments: PAROLE GUIDELINES FOR ALASKA REPORT--SUPPLEMENTAL REPORT

SHT/clr

This report was prepared by Bay Area Research Design Associates under contract with the Alaska Board of Parole. The research was supported by supplemental funding from the National Institute of Corrections under grant number A18. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the National Institute of Corrections or the Alaska Board of Parole.

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ALASKA PRISON RELEASE

MATRIX DECISION MAKING

M. G. Neithercutt

June 1980

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ABSTRACT

This document is a technical supplement to the materials provided the Alaska Board of Parole in November 1979 and published by them in December 1979. The major task left undone in that report was recommendation of a release decision matrix to be tested and then implemented as an information resource.

The suggested matrix appears as Table M8 herein. Also included are analyses of mandatory releasee data and demonstration responses to queries typical of those received/generated by the Board in its usual operations.

This report closes with observations about some possible next steps.

ALASKA PRISON RELEASE

MATRIX DECISION MAKING

Mandatory Releasees

New cases augmented the set from which decisions can be make in the time elapsing since the last report.[1] These took three forms: 1) existing parolee cases were edited to some extent, 2) new parole cases were added, both in instances of earlier omissions of cases and paroles since mid-1979, and 3) data on mandatory releasees exiting prison from 1970 - 1979 were added. These last cases are not as extensive as the parolee files, however; we have only identifiers, race, year of release, offense, sentence, time served, and release status for each of those 362 files.

Race

For this report[2] the mandatory releasees have been classified into four ethnic categories: white, black, native, and other.

Table R1

Racial Composition of Mandatory Releasees

Race	#	%
White	202	56%
Black	30	8%
Native	120	33%
Other	8	2%
Unknown	2	1%
Total	362	100%

Most mandatory releasees are white (56%) and a third are native.

Release Year

Persons in this file were released over a ten year period--from 1970 - 1979. (The first year, 1970, and the last, 1979, are incomplete.)

Table R2

Mandatory Release Years

Year	#	%
1970	1	-
1971	12	3%
1972	30	8%
1973	19	5%
1974	34	9%
1975	38	10%
1976	66	18%
1977	48	13%
1978	65	18%
1979	46	13%
Unknown	3	1%
Total	362	100%

As Table R2 demonstrates, peak mandatory release years were 1976 - 1979 with 1976 and 1978 having the heaviest concentrations of cases (18% each).

Sentences

Sentence lengths also are of interest. Table R3 presents the picture. Almost 2/3 of the mandatory releasees had sentences of 2 years or less. Only 3 persons (1%) had sentences exceeding 5 years. None of these are life sentences as lifers do not mandatorily release under Alaska law. Mean mandatory release sentence length was 29.2 months.

Similarly, Table R4 shows mandatory releasee time served. Seventy percent of these persons served 2 years or less; only 1 stayed in prison over 5 years. Mean time served was 21.8 months, 75% of the sentence mean (see Table R3). Thus, although Alaska good time credit laws as applied to these persons

Table R3

Mandatory Release Sentences

(in Months)

Months Sentenced	#	%
Under 7	27	7%
7 - 12	103	28%
13 - 24	103	28%
25 - 36	68	19%
37 - 60	40	11%
61 - 120	18	5%
Over 120	3	1%
Mean	29.2	100%

Table R4

Mandatory Releasee Time Served

(in Months)

Months Served	#	%
Under 7	29	8%
7 - 12	107	30%
13 - 24	117	32%
25 - 36	60	17%
37 - 60	34	9%
61 - 120	14	4%
Over 120	1	-
Mean	21.8	100%

are tedious to understand and explain, they worked out to about a 25% credit on sentences up to 5 years on which parole was not granted.

Offense

These mandatory releasees were imprisoned for a great variety of offenses. In no case were more than 30 persons mandatorily released for the same offense. Table R5 shows the 10 most frequent crimes represented and the percent of the 362 total population included in each crime grouping. The table accounts for 54% of the cases.

Table R5

Mandatory Releasees' Most Frequent Imprisonment Offenses

Offense	#	%
BNIAD	30	8%
ADW	26	7%
BIAD	24	7%
GL	22	6%
Forgery	20	6%
Robbery	17	5%
L&L	17	5%
R&C	15	4%
Manslaughter	13	4%
Sale of Drugs	12	3%
Total	196	54%

Race & Release

Though there are a multitude of excursions possible through these data, their full exploration awaits questions for which answers are needed from them. To give an idea of the potential here we can use a couple of questions about race.

During the formulation of these data sets a question arose as to whether one racial group or another receives parole

Table R6

Release Type by Race

Race	Mode of Release: Mandatory Release #	Mandatory Release %	Parole #	Parole %	Combined #	Combined %	% Paroled
White	202	56%	381	57%	583	57%	65%
Black	30	8%	110	17%	140	14%	79%
Native	120	33%	152	23%	272	26%	56%
Other	8	2%	15	2%	23	2%	65%
Unknown	2	1%	7	1%	9	1%	-
Total	362	100%	665	100%	1,027	100%	-

$x^2 = 21.15$ df= 3 P= L .001

more frequently. The last column in Table R6 indicates blacks are most likely to be paroled (79%), whites and "others" are next most likely (65% each), and natives are least likel (56%). The main differences are among the whites, blacks, and natives. Whites are about equally represented in both the mandatory release and the parole groups, with blacks overrepresented among parolees and natives overrepresented among mandatory releasees.

Whether or not these differences can be accounted for in terms of the applicable sentence lengths is a reasonable question. Table R7 shows mean sentences for mandatory releasees and for parolees by race. The parolees have sentences roughly twice as long as do the MR's. This is true of each racial group, except that paroled blacks' mean sentences are well over twice as long as ar their MR counterparts'.

Table R8 gives comparable findings for mean terms serve! by race. Each racial group serves much closer to the same mean months whether MR'd or paroled.

Table R7

Mean Months Sentenced by Race
Mandatory Releasees and Parolees

	Release Type	
Race	Mandatory Release	Parole*
White	26.6	54.2
Black	34.6	79.2
Native	30.3	59.6
Other	61.5	127.6
Overall Mean	29.3	61.3
Total Cases (Missing Cases)	360 (2)	576 (89)

Table R8

Mean Months Served by Race
Mandatory Releasees and Parolees

	Release Type	
Race	Mandatory Release	Parole
White	20.2	19.4
Black	23.0	25.7
Native	22.9	21.4
Other	43.8	24.1
Overall Mean	21.9	21.1
Total Cases (Missing Cases)	360 (2)	576 (89)

* Note that these tables are based on a slightly different population than data cited in previous reports. This base is used to make MR and parolee codings comparable.

Table R9 tells that only "other" races serve a substantially different portion of their sentences than the balance of the ethnic groups. Thus, it appears that sentence length does impact proportions paroled. Natives tend to have shorter sentences and, thus, to be paroled somewhat less than other minority racial groups. They serve the same portions of their sentences as whites, though, whether MR'd or paroled. Blacks serve shorter terms, proportionally, reflecting the longer sentences with which they enter prison. This is even more true for those in the "other" racial group. Blacks are paroled at the greatest rate of any racial group though they serve slightly more time than whites and natives.

Table R9

Mean Months Served as a Proportion of Mean Sentence, by Race Mandatory Releasees and Parolees

	Release Type	
Race	Mandatory Release	Parole
White	76%	36%
Black	66%	32%
Native	76%	36%
Other	71%	19%

Another way to formulate these data, to assure mean sentence data are not distorting, is to look at sentence lengths by time categories. Table R10 lends this perspective.

Another important consideration here touches parole performance by various racial groups. How one evaluates the appropriateness of times served by racial groups is impacted by effectiveness considerations. One index to effectiveness is the proportions of each group who sustain new felonies while on parole. Table R11 shows blacks have the highest portion of new

Table R10

Categorized Months Sentenced by Race
Mandatory Releasees and Parolees Combined

	Sentence Categories																							
	Under 7		7 - 12		Cum	13 - 24		Cum	25 - 36		Cum	37 - 60		Cum	61 - 120		Cum	Over 120		Total		Unknown	
Race	#	%	#	%	%	#	%	%	#	%	%	#	%	%	#	%	%	#	%	#	%	#	%
White	27	5%	109	20%	26%	124	23%	49%	113	21%	70%	94	18%	88%	49	9%	97%	17	3%	533	100%	90	14%
Black	3	2%	8	6%	9%	23	18%	27%	24	19%	45%	48	38%	83%	13	10%	93%	9	7%	128	100%	0	
Native	14	6%	45	18%	23%	63	25%	48%	59	23%	72%	38	15%	87%	23	9%	96%	10	4%	252	100%	0	
Other	0		4	17%	17%	5	22%	39%	4	17%	57%	4	17%	74%	3	13%	87%	3	13%	23	100%	0	
Total	44	5%	166	18%	22%	215	23%	45%	200	21%	67%	184	20%	86%	88	9%	96%	39	4%	936	100%	90	9%

felonies; natives and whites have essentially equal proportions of new felonies and there were no new felonies outside these groups.

Table R11

Parolee
New Felonies by Race

	Race				
	White	Black	Native	Other	Total
Number of Cases	383	111	152	15	661
Number of New Felonies	19	14	9	0	42
Percent New Felonies	5%	13%	6%	-	6%

From these observations we can look at release characteristics of racial groups in summary form.

Release Characteristics by Race

Whites	Blacks	Natives	Others
medium proportion paroled	largest proportion paroled	smallest proportion paroled	medium proportion paroled
shortest mean sentences	second longest mean sentences	third longest mean sentences	longest mean sentences
(with natives) shortest mean terms served	second longest mean terms served	(with whites) shortest mean terms served	longest mean terms served
(with natives) served largest proportion of sentence	served medium proportion of sentence	(with whites) served largest proportion of sentence	served smallest proportion of sentence
low proportion new felonies	higher proportion new felonies	low proportion new felonies	no new felonies

Sentence Length and Release Type

Another example of the use of these data comes from the question: "What proportion of persons in each sentence length category receives parole?" Tables R12 and R13 respond. Note that as sentence length increases proportion paroled grows. This is true both for the years 1970-80 and 1975-80.

Table R12

Release Type by Sentence Length
Mandatory Releasees and Parolees
1970 - 1980

	Mandatory Releasees	Parolees	
Months Sentenced	#	#	%
Under 7	27	17	39%
7 - 12	103	74	42%
13 - 24	103	122	54%
25 - 36	68	144	68%
37 - 60	40	159	80%
61 - 120	18	78	81%
Over 120	3	38	93%
Total	362	632	

Table R13

Release Type by Sentence Length
Mandatory Releasees and Parolees
1975 - 1980

	Mandatory Releasees	Parolees	
Months Sentenced	#	#	%
Under 7	13	2	13%
7 - 12	61	16	21%
13 - 24	80	53	40%
25 - 36	57	75	57%
37 - 60	35	95	73%
61 - 120	16	49	75%
Over 120	2	15	88%
Total	264	305	

Matrix Decision Making

The last report on this undertaking* left off with spelling out the principles of matrix decision making and sample formats of decision tables. The next step in the progression from experimentation with the ideas underlying matrix decisions to operationalization involves analyzing data on terms served. In the months elapsing since last report those data have been secured and tentatively analyzed (data editing remains incomplete).

The derivation of risk scores is an empirical endeavor, risk scores being the product of the relation between parole performance and background factors. In the previous analysis the 665 Alaska parole cases under study were segmented into four risk categories--very low risk, low risk, medium risk, and high risk. The very low risk cases are seen essentially as cases on which risk is not an element. The risk dimension thus makes a contribution to the release decision in about 40% of the cases (269 of 665).

The other axis of the matrix has to do with seriousness. The decision was made to follow the new Alaska Criminal Code (effective January 1, 1980) on this dimension.[3] Thus, the categories that dimension encompasses are: Unclassified, Felony A, Felony B, Felony C, Misdemeanor A, Misdemeanor B, and Violation. Because our interest is in imprisoned offenders, the last three categories have marginal applicability

A decision matrix adhering to these constraints takes this general form:

---

* Neitheructt, M. G. *Alaska and Parole Guidelines.* San Francisco: Bay Area Research Design Associates, November 1979

Table M1

General Form
Decision Matrix

Crime Categories	Risk Scores: 0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified				
Felony A				
Felony B				
Felony C				
Misdemeanor A				
Misdemeanor B				
Violation				

Several issues are pertinent to applying this decision form to parole release choices. One can be relatively secure in the supposition that risk scores will relate to release (at least parole release) outcomes because the scores were derived using parole performance as the criterion. However, it may be that the crime categories are related to empirical considerations.

Further, assurance is absent that there is any correlation between risk and prison time served or between "seriousness" and time served. This dilemma is made more complex by the possibility that whatever relations do exist will take forms not readily clarified by accepted analytical approaches. Thus, it is necessary to look at some varied presentations of relationships before placing the cases in a two-dimensional table.

When the study cases are classified on the seriousness dimension and placed in risk categories, the following table emerges. Table M2 tells us that mean months of prison time served before parole increase steadily as risk becomes greater (reading across the table) and that terms served decrease consistently as crime categories grow less serious (reviewing

Table M2

MEAN MONTHS
TIME SERVED

Alaska Parolees

1971 - 1979

Crime Categories	Risk Scores: 12 - 0 #	12 - 0 Mos.	-1 - -4 #	-1 - -4 Mos.	-5 - -8 #	-5 - -8 Mos.	-9 - -15 #	-9 - -15 Mos.	
Unclassified	17	50.2	5	69.2	2	92.5	0		
Felony A	122	18.3	46	28.8	10	61.1	1		
Felony B	143	16.1	68	23.4	27	33.0	0		
Felony C	52	12.0	33	16.4	7	24.3	0		
Misdemeanor A	11	8.2	4	13.8	1	37.0	0		
Misdemeanor B	9	7.6	2	17.5	0		0		
Violation	Too few to categorize								
Unknown	42		33		28		2		
Total	396		191		75		3		665

Table M3

Parolee
Median Months Served
by Crime Category
by Risk Group

Crime Category	Risk Group: Lowest Risk Mdn Mos	Mid80% Mos Svd	Mid60% Mos Svd	#	Low Risk Mdn Mos	Mid80% Mos Svd	Mid60% Mos Svd	#	Moderate Risk Mdn Mos	Mid80% Mos Svd	Mid60% Mos Svd	#	High Risk #
Unclassified	37	9 - 94	16 - 91	17	45	-	-	5	-	-	-	2	
Felony A	14	5 - 34	8 - 26	122	26	11 - 48	16 - 43	46	49	29 -108	36 - 79	10	
Felony B	15	5 - 28	6 - 23	143	20.5	10 - 41	12 - 31	68	33	18 - 49	19 - 45	27	
Felony C	10	5 - 22	8 - 17	52	13.5	7 - 30	10 - 23	33	24	17 - 32	17 - 32	7	
Misdemeanor A	6	3 - 16	3 - 15	11	13	-	-	4	-	-	-	1	
Misdemeanor B	6	2 - 8	2 - 8	9	-	-	-	2	-	-	-	0	
Unknown				42				33				28	
Total				396				191				75	3

table columns). Cautions about the size of the study groups in the misdemeanor and violations seriousness cells and in the highest risk group remain appropriate. Also, the number of unknown cases in each risk score column could have an impact.

Looking at mean time served is not adequate, however, because the mean may be an inappropriate measure of central tendency when scores vary widely. Thus Table M3 presents median months served (the median being the middle point of each score array) and then the middle 80% time served range and the middle 60% time served range. Again, the medians follow the pattern of the means. Note, however, that Felony A and B "lowest risk" cases (column 1, row 2) have similar medians, probably indicating that the A and B Felonies are treated as comparable unless the inmate is a parole risk. Notice also that the differences in felony class ranges appear primarily on the upper bounds.

With added confidence that the data have some consonance with "reasonable expectations" (that more serious offenders will serve more time and that greater risks will do likewise), we can move to fill in the decision matrix. Were a decision maker hearing analogous cases to those analyzed here to employ a time-set matrix designed to encompass 80% of the relevant cases, his/her reference table would look something like Table M4.

Table M5 affords the same perspective but includes only the middle 60% of the terms served.

In each of these tables (M4 and M5) the decision maker would be viewing products of release decisions which have ranged over substantial numbers of months. Since one of the purposes of these matrices is to increase equity in decision making (that is, enhance the degree to which like inmates are treated alike), one can take the opposite tack and refer to a matrix in which minimum variability is described, with

Table M4

Months Served Matrix
80% Inclusive

Crime Category	Risk Scores			
	0 & Over	-1 - 14	-5 - -8	-9 & Under
Unclassified	9 - 94	-	-	-
Felony A	5 - 34	11 - 48	29 - 108	-
Felony B	5 - 28	10 - 41	18 - 49	-
Felony C	5 - 22	7 - 30	17 - 32	-
Misdemeanor A	3 - 16	-	-	-
Misdemeanor B	2 - 8	-	-	-
Violation	-	-	-	-

Table M5

Months Served Matrix
60% Inclusive

Crime Category	Risk Scores			
	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified	16 - 91	-	-	-
Felony A	8 - 26	16 - 43	36 - 79	-
Felony B	6 - 23	12 - 31	19 - 45	-
Felony C	8 - 17	10 - 23	17 - 32	-
Misdemeanor A	3 - 15	-	-	-
Misdemeanor B	2 - 8	-	-	-
Violation	-	-	-	-

documentation of exceptions.

A method of doing this is to start with the category median and allow only 10% variation above and below that value. This results in a matrix like Table M6. Though this

Table M6

Months to be Served Matrix
10% Bounded Median

	Risk Scores			
Crime Category	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified	36 - 47	45	-	-
Felony A	11 - 17	21 - 35	41 - 57	-
Felony B	12 - 17	17 - 22	27 - 39	-
Felony C	8 - 12	12 - 15	18 - 30	-
Misdemeanor A or B or Violation	4 - 8	11 - 19	-	-

table has the form and configuration the data dictate (that is, it is a strict interpretation of the data, starting in each cell with the population median score and moving up and down the array to include the 20% of cases nearest the median), it has some discontinuities that may be troublesome. The "Unclassified, -1 - -4" value is not a range but a fixed term, the product of a limited number of relevant cases. Also, the table gives no assistance with cases falling in 7 cells (including all the highest risk cases); again, we see the impact of strictly interpreting rules applied to a limited population.

Thus, we face the same quandary many others working with similar data have met. Several have used an approach sometimes referred to as "smoothing". In other words, the data are conformed to assure easier application while preserving the empirical sense of the findings.

There are several aspects of judgment that impact the table's final form. One way to bring the decision matrix to

a more useful state could be to modify it as follows.

Table M7

Example
Months Served Matrix

Crime Category	Risk Scores 0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified	36 - 47	41 - 50		
Felony A	11 - 17	21 - 35	41 - 57	
Felony B	12 - 17	17 - 22	27 - 39	
Felony C	8 - 12	12 - 15	18 - 30	
Misdemeanor/ Violation	4 - 8	11 - 19		

The "Unclassified, -1 - -4" range can be settled upon by taking the average range of the other -1 - -4 categories and distributing this average around the category median. Similar procedures can be used to as great an extent as is deemed necessary; however, it is important to recognize that these steps exceed the grasp which these analyses can give and so are based on such considerations as "policy", "public protection," etc. It is highly unlikely that many cases of great risk but with misdemeanor/violation crimes will be encountered, so the last two vacant cells in the matrix probably are inconsequential.

A different situation exists regarding the last column of the table. It is observable that there are few of these cases getting parole. It may be, though, that several such persons appear before the Board. We get some idea of this by looking at mandatory release time served data. These seem to say that very few of these types of cases are being released from Alaska prison custody, since only 15 subjects in that set had served over 5 years.

Release Matrix

The matrices presented thus far have used all available

data because a large number of cases is necessary to allow stability of findings. Alaska presents a peculiar necessity for using only part (rather than all) of the available data, in that in 1974 substantial law changes introduced minimum terms as a significant release-decision consideration.

Thus, all things considered, we felt it necessary to develop the final form of the suggested matrix resting only on 1975 and succeeding cases. Thus, Table M8 takes only those cases paroled on and after January 1, 1975 into consideration. Notice that that gives somewhat more smoothness in form and also reflects higher minimum terms for several categories.

The work is incomplete, of course, for matrix decision making requires continuing update. At this juncture, though, the preferred decision set seems to be reflected in Table M8.

Table M8

Suggested
Months Served Matrix
(1975 & later cases base)

Crime Category	Risk Scores			
	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified				
Felony A	17 - 23	29 - 36	41 - 57	
Felony B	16 - 21	21 - 28	33 - 41	
Felony C	13 - 19	14 - 19	18 - 24	
Misdemeanor/ Violation	7 - 10	11 - 19		

Race - An Afterword

Throughout these endeavors the Board has (commendably) been open to consideration of use of any factor whose relation to parole performance (risk) could be demonstrated empirically. Some original decision factors were deleted because of their instability, their susceptibility to devious alteration, etc.

Race, though a "hot" issue, has steadfastly been retained in the risk analyses, the Board's view being that if it added information it should be retained as a consideration. Feedback on the published work to date has been laden with (sometimes ominous) comments about using race as a release decision factor. Thus, the Board has asked the Alaska Attorney General for a formal legal opinion on the matter and requested an analysis of how many cases would actually change risk categories as a result of deletion of race from the scoring program.

The Attorney General's report is not yet in hand. Data analysis reveals that only 14 cases would change risk score categories with the deletion of race. In most instances the person's risk score would improve though, ironically, in a few the risk score is made more detrimental by deletion of the item.

Conclusion

As this report tells, the primary task during this contract period was to develop a time served matrix which the Alaska Board of Parole could implement. That task has been accomplished, as have several others. It is recommended that it be used in a "dry run" a couple of hearing schedules and then be implemented. Meantime, the Board needs to find the resources to have analytical services available to it, to update the tables at least semi-annually, to keep its computerized case records current, to assure its ability to respond to data inquiries fully, and to forward its desire to understand more fully its own practices and their implications.

FOOTNOTES

1. See: Neithercutt, M. G. *Parole Guidelines for Alaska.* Juneau: Alaska Board of Parole, December 1979

2. The data base herein fluctuates somewhat as cases have been added in phases. The mandatory release group is stable throughout, though parolee counts vary.

3. Pending legislation was used to classify drug offenses.

AMERICAN CORRECTIONAL ASSOCIATION

STANDARDS
for
Adult Parole Authorities

Second Edition

In cooperation with the
COMMISSION ON ACCREDITATION
FOR CORRECTIONS

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STANDARDS
for
Adult Parole Authorities

Second Edition
June 1980

AMERICAN CORRECTIONAL ASSOCIATION

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ORGANIZATION AND ADMINISTRATION

Organization and Legal Basis

2-1001 The jurisdiction has a single authority provided by statute which has parole decision-making power with respect to all offenders convicted of a felony who are sentenced to a term of imprisonment and are eligible for discretionary parole. (Important)

DISCUSSION: Jurisdiction refers to a governmental level parole authority* which handles convicted felony offenders. In order to ensure uniformity of procedures and to lessen the probability of disparate decisions, it is important that there exist a centralized source of parole decision-making in a given jurisdiction. Decision-making is defined here to mean release, revocation, and the establishment of the conditions of release. This does not exclude certain juveniles or misdemeanants under the authority's jurisdiction.

2-1002 When the parole authority is administratively part of a federal, state or local overall correctional agency, it is independent from the control of any of the units in the agency in its decision-making functions. (Essential)

DISCUSSION: A central principle of parole decision-making is that a parole authority should base its decisions on an objective assessment of the needs of the offender and the community. Thus, while a parole authority needs to be sensitive to the views of many persons, particularly those who have responsibility for operating correctional programs, the authority must retain its autonomy if it is to serve its purposes. A wide variety of factors may be properly weighed in reaching its conclusions. However, the authority must resist outside efforts to unduly attempt to influence its decisions, such as those of the affected institution. (See related standard 2-1007)

2-1003 While parole investigation and supervisory staff may be administratively independent from the parole authority, they are responsive to the authority in all areas determined by state policy* or procedures.* (Important)

DISCUSSION: There must be a cooperative effort between the parole authority, and the parole investigation and supervisory staff in order to provide the offender with the best possible supervision. Feedback on the status of parolees is important to the parole authority's decision-making process. Likewise, changes in parole authority policy and procedure or conditions of parole can affect the work of parole supervisory staff.

2-1004 The parole authority has the power to require that general and specific conditions of parole be enforced during the supervision of parolees. (Essential)

DISCUSSION: Since a parole authority frequently bases its decisions on the assumption that certain specific procedures will be followed by parole supervisory staff, the authority should have the power to specify general and specific conditions regarding the supervision of parolees. This power should be indicated no matter where the administrative responsibility for field staff is located.

2-1005 All staff, including any hearing examiners* employed by the parole authority, are directly responsible to the authority with respect to carrying out the policies of the authority. (Essential)

DISCUSSION: Hearing examiners should be considered staff of the parole authority and directly responsible to the authority both administratively and operationally. The decision to grant, deny or revoke parole may be assigned to the hearing examiners. (See related standard 2-1047 and 2-1115)

2-1006 The parole authority has the legal power to secure prompt and full information which it deems necessary from courts, probation, institutions, parole, halfway houses, and other agencies or staff which would be applicable. (Essential)

DISCUSSION: A parole authority cannot operate without the kinds of information necessary for its task. It is crucial that timely and accurate information be made available from the required sources in a form useful to parole decision-makers. Though the parole authority has legal authority to require the submission of such information, it should collaborate with the agencies involved in developing the means through which it is to be delivered and the format in which it is to be presented.

2-1007 The parole authority has power to grant or deny parole and does not serve merely as an advisory body to another official or agency (Essential)

DISCUSSION: In order to achieve competent and impartial parole decision-making, with sound policies and their consistent application, the parole authority should have the power to act with finality. Serving simply as an advisory board to an elected or appointed state official does not meet this test. Such arrangements negate the required autonomous character of parole decision-making. (See related standard 2-1002)

2-1008 The parole authority has the statutory power to cause the arrest of parolees and the power to revoke parole. (Essential)

DISCUSSION: Basic to the functioning of the parole authority is the capacity to revoke as well as to grant parole. As with the power to grant parole, the authority's power to arrest and to revoke should be indicated by statute. Parole field staff may arrest parolees on the issuance of detention warrants.

2-1009 While the existence of a statutory limit may prevent discharge prior to two years of parole, the parole authority has the statutory power to discharge from parole in all cases subsequent to this limitation. (Essential)

DISCUSSION: It is sometimes costly to the resources of the jurisdiction, frequently an unnecessary impediment to a parolee, and always unfair to require a person to remain under parole supervision when it has been demonstrated that neither the jurisdiction nor he or she will benefit from continued parole supervision. The power to discharge from parole in some jurisdictions may apply only after statutory minimums of not more than two years have been met. Even if this is the case, the authority should have the ultimate power to discharge from parole. (See related standard 2-1124 and 2-1125)

2-1010 When requested in matters of clemency, the authority conducts an investigation, provides necessary factual information and, when requested, makes a recommendation to the clemency authority. (Essential)

DISCUSSION: Forms of clemency include pardon, commutation of sentence, reprieve and remission of fine. Statutes govern eligibility, specific requirements and the method for obtaining clemency. Most often the parole authority is advisory to the governor in matters of clemency. When a request is made the authority should complete a thorough investigation covering all requirements of the law or the requesting body. When requested, the authority should make a recommendation regarding the granting of clemency.

2-1011 Written policy and procedure govern the handling of clemency requests when the authority is empowered to handle them. (Important)

DISCUSSION: Policy and procedure should be developed to encompass all aspects of clemency, although some types of pardons, such as those of "innocence," are handled through the courts. Pardons of "forgiveness" generally stipulate a time period between the completion of sentence and the time of petition for pardon. They require the individual to have shown respect for the law and obedience to it during that period. Parole authority policy and procedure should be developed with the governor's office or other appropriate body regarding the steps in the process. When a recommendation on clemency is requested it should be made based on the unanimous vote of the full authority.

Administration and Staffing

2-1012 The parole authority has a current organizational chart that accurately reflects the structure of authority, responsibility and accountability within the agency. The chart is reviewed annually, and updated if needed. (Essential)

DISCUSSION: A current organizational chart is necessary for providing employees a clear administrative picture. The chart should reflect the grouping of similar functions, an effective span of control, lines of authority, and an orderly channel of communication. Names of units and duties should reflect precisely what is entailed.

2-1013 The chairperson of the parole authority initiates an annual review by all authority members of the authority's policies; revisions and updating of the policies are undertaken, when necessary. (Essential)

DISCUSSION: Although the parole authority chairperson has specific executive responsibilities, it is crucial that all the parole authority members be involved in the development and review of authority policy. The authority chairperson should operate within the policies fixed by the entire authority, moving beyond them only where expedient and with subsequent review. (See related standard 2-1017 and 2-1063)

2-1014 **The parole authority has a policy and procedure manual which is readily available to inmates, parolees, staff a..d the public and which is reviewed at least annually, and updated if needed. (Essential)**

DISCUSSION: An administrative manual is important i. order to assist staff in understanding the operating procedures of the agency. Important to an effective manual system is the capacity for periodic updating.

2-1015 **The parole authority has sufficient staff to perform its responsibilities efficiently and without accumulating work backlog. (Essential)**

DISCUSSION: In order to carry out the variety of administrative tasks which are required, the parole authority must be adequately staffed. There must be staff available to systematically prepare needed materials, answer correspondence properly, process legal and administrative documents, schedule and conduct interviews in the office, and prepare documents required by the legislature, executive, and the public. (See related standard 2-1029)

2-1016 **Administrative personnel are availabl. to maintain supervision of the parole authority's staff, not to exceed a ratio of six to one, unless such a deviation can be shown to not impair effective staff supervision. (Important)**

DISCUSSION: Although ideal ratios of supervisors to staff are difficult to specify, it is clear that sufficient supervisory personnel are needed to make certain that an organization functions well. Therefore, unless a deviation in the span of control can be justified, no more than six staff members should be supervised directly by an administrator.

2-1017 **Written policy and procedure provide for a communications system within the authority that requires, at a minimum, that the authority chairperson meet at least monthly with all authority division heads and/or supervisors, and that all authority division heads and/or supervisors meet monthly with all employees. (Essential)**

DISCUSSION: Regular staff meetings help ensure open communications among employees. The use of agendas and the preparation of minutes should be required at all staff meetings. (See related standard 2-1013)

2-1018 **Legal assistance is readily available to the parole authority to meet the authority's requirements in policy formulation, to advise in individual cases, and to represent the authority when required before courts and other appropriate bodies. (Essential)**

DISCUSSION: With present day demands on parole auth rities, immediate availability of effective legal staff is required on a continuou. basis.

2-1019 **Parole authority headquarters are located in physical facilities which provide privacy for authority members and staff, and which have space and equipment necessary for the effective and efficient processing of business. (Important)**

DISCUSSION: Adequate facilities can increase the efficiency and quality of the work of the parole authority by providing sufficient space and privacy for hearings. Parole authority members must be able to provide each case the attention and thorough review necessary for a fair and impartial hearing. (See related standard 2-1029)

2-1020 Offenders are furnished assistance in understanding the parole process, if needed, including written and/or oral translations; this includes the hearing process and the conditions of parole. (Essential)

DISCUSSION: When physical or mental handicaps or language barriers prevent offenders under the control of the jurisdiction from fully understanding the parole process, parole conditions, parole procedures, or hearings and appeals, assistance is provided to the offender by personnel qualified in working within the offender's problem area. (See related standards 2-1084 and 2-1102)

Planning and Coordination

2-1021 The parole authority has a written set of long-range goals and objectives which are reviewed annually, and updated if needed. (Essential)

DISCUSSION: Long-range goals and objectives, either developed alone or jointly with the agency of which the authority is part, attests that the parole authority is progressively preparing for the future.

2-1022 Members of the parole authority annually participate in evaluating and identifying progress made in reaching practical and specific objectives of the long-range plan. (Essential)

DISCUSSION: Long-range objectives are meaningless if they are not reviewed to determine what action has been taken, and what decisions should be made to comply with plans. All parole authority members should be actively involved in this process in order to be aware of the direction in which the agency is moving.

2-1023 The parole authority participates directly, or in discussion through the agency of which it may be a part, in federal, state and regional criminal justice planning efforts. (Essential)

DISCUSSION: In recent years there has been a growing effort to focus attention on criminal justice systems as totalities consisting of many interdependent parts. Planning efforts which involve a total systems approach are underway in states and regions. Parole authorities should participate fully in such efforts to represent the needs of independent parole decision-making bodies, and to seek means of articulating their own long-term plans with those of the total system. (See related standard 2-1064).

2-1024 At least one member of the parole authority meets at least semiannually with the directors of institutions from which paroles are granted and/or with the head of the jurisdiction's correctional agency to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans. In states in which the authority paroles from local jurisdictions, an authority staff member meets at least annually with heads of local correctional agencies. (Essential)

DISCUSSION: Systematic and joint planning between institutional personnel and parole authority members is central to an effective correctional effort. It is not only important that communication occur on an individual case by case basis, but that there be agreement on programmatic directions, respective roles in those programs, and specific means of facilitating their operations.

2-1025 Each member of the parole authority visits one or more institutions and a representative sample of the community facilities in the jurisdiction at least annually, specifically for the purpose of meeting with staff and inmates to exchange information about programs, institutional operations, and parole policies and procedures. (Essential)

DISCUSSION: Parole authority members should visit institutions and community facilities in their jurisdiction at least annually to become directly and personally aware of the nature of programs, and to have the opportunity to obtain direct feedback from persons involved.

2-1026 A member of the parole authority meets at least semiannually with the administrative staff of the parole investigation and supervision agency to develop means of coordinating efforts, to undertake joint planning, and to agree on means of implementing and evaluating such plans. (Essential)

DISCUSSION: It is clear that the parole authority must depend in major part for its effectiveness on the staff of the parole investigation and supervision agency. Equally, the parole authority has significant impact on the activities of parole officers. Realistic and detailed planning between field staff and the parole authority is crucial.

2-1027 At least one member of the parole authority meets at least annually with representatives of relevant criminal justice agencies—police, prosecution, courts—to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans. (Essential)

DISCUSSION: A parole authority, because of its strategic position in the criminal justice system, has an important role to perform in working effectively with related agencies, and particularly in carrying out joint planning and evaluation efforts with them.

2-1028 **Members of the parole authority, or their representatives, initiate continuing interaction with the field parole staff through conferences, seminars, and visits to field offices. (Essential)**

DISCUSSION: First-hand communication is a necessity if a parole authority is to maintain an awareness of the conditions in the community, and particularly, of the consequences of various policies it has enunciated. It is also important that parole authority members gain first-hand information about various local residential programs and community services. Visits, conferences, and seminars at field offices are necessary to gain such information.

FISCAL MANAGEMENT

2-1029 The parole authority has a clearly defined budget which provides for personnel, operational and travel costs sufficient for the operation of the authority, and subject to its administrative control. (Essential)

DISCUSSION: The authority's budget should be defined and subject only to the general rules and regulations which apply to all agencies in the jurisdiction. (See related standards 2-1015 and 2-1019)

2-1030 The parole authority employs a budgetary system which links, on a continuing basis, program functions and activities to the cost necessary for their support. (Important)

DISCUSSION: The authority must have access to a budgetary system which allows it to weigh the costs of its various functions and thereby plan effectively for wise allocation of resources. Appropriate and well developed financial procedures should exist which allow the parole authority to review expended funds periodically, and to plan necessary reallocations of unencumbered funds. It is important that budget planning is continued throughout the year so the funds are fully and effectively utilized.

2-1031 The parole authority chairperson is responsible for a detailed budget request and justification which is prepared and presented on behalf of the agency at times designated by law. (Essential)

DISCUSSION: Fixed clear responsiblity is essential to the budgetary process. Although many of the tasks of budget preparation should be delegated to staff members, the chairperson should be held responsible for making certain that an adequate budget is prepared according to the requirements of the governmental system in which the parole authority is situated. The parole authority chairperson should have the opportunity to present a budget request directly to the decision-makers in the budget allocation process.

2-1032 The parole authority chairperson participates in the legislative budget allocation process, subject only to the general rules and regulations which apply to all agencies in the jurisdiction. (Important)

DISCUSSION: The opportunity to present its case directly to those who allocate funds is extremely important to the parole authority. To simply submit a budget to larger departmental units is not sufficient. Presentations which are filtered through many layers tend to lose their force. The parole authority chairperson should have the opportunity to explain the authority's budget request to significant decision-makers in the budget allocation process.

2-1033 The parole authority chairperson solicits input from parole authority members and staff in the preparation of the budget. (Important)

DISCUSSION: Although the final accountability for budget preparation should be centered in the parole authority chairperson, the responsibility for budget development should be spread as broadly as possible. Other authority members and staff should be required to participate in the budget-making process.

PERSONNEL

Authority Members

2-1034 **Members of the parole authority* are chosen through a system defined by statutes or administrative policy, and with explicitly defined criteria. (Essential)**

DISCUSSION: Partisan political considerations have too frequently entered into the selection of parole authority members. Though, from time to time, qualified persons are appointed under a system dominated by political considerations, often the result has been the appointment of unqualified persons as parole authority members. It is imperative that explicitly established criteria be employed in the appointment of parole authority members.

2-1035 **At least two thirds of the members of the parole authority have at least a baccalaureate degree. (Essential)**

DISCUSSION: A variety of educational backgrounds may qualify a person to sit on a parole authority, and individuals who do not have baccalaureate degrees may be uniquely qualified by other training or experience to serve on a parole authority. However, a parole authority must have a capacity for policy formation and articulation, an awareness of contemporary research findings and correctional techniques, and skills in system planning and management. These tasks require that an authority include in its membership some members with the minimum of a baccalaureate degree.

2-1036 **At least two thirds of the members of the parole authority have at least three years experience in a criminal justice or juvenile justice position, or equivalent experience in a relevant profession. (Essential)**

DISCUSSION: While a variety of experience can be appropriate, it is expected that the parole authority membership will include persons who have had a substantial experience in professions, such as law and clinical practice, which are directly relevant to parole decision-making and policy* development.

2-1037 **Parole authority members represent a diversity of the significant population under the jurisdiction of the agency. (Essential)**

DISCUSSION: It is vital for effective decision-making and public support that a parole authority be representative of the entire community, and that offenders are dealt with by persons who represent both sexes and the racial and ethnic groups in the jurisdiction.

2-1038 **Members of the parole authority do not seek or hold public office which would represent a conflict of interest while a member of the authority. (Essential)**

DISCUSSION: Members of the parole authority should not disenfranchise themselves during their term on the authority. During their term, however, political considerations should never enter the decision-making process. The avoidance of conflict of interest is essential to the objective role of the authority. (See related standard 2-1080)

2-1039 **Positions of members of the parole authority are full-time. In jurisdictions where the parole authority has a minimum of cases to be heard, the chairperson must be full-time but other members may be part-time. A full justification for such action is necessary. (Important)**

DISCUSSION: The task and scope of the work of the parole authority is such that full-time members should be appointed. In small jurisdictions, or those where there are few cases to be heard by the authority, justification of an alternative to a full-time authority will be considered.

2-1040 **Tenure on the parole authority is no less than five years. Legal provision allows for the removal of parole authority members for good and demonstrated cause only after a full and open hearing when one has been requested by the member. (Important)**

DISCUSSION: While even longer terms are desirable, it is important that parole authority members have at least five-year terms on an authority to provide stability of membership and freedom from undue concern about reappointment. It should be understood that a term of five years does not mean that the expectation exists that a parole authority member will not be reappointed. Conversely, reappointment should not be considered automatic.

2-1041 **If a fixed term of office is used in the appointment of parole authority members, the terms of the members are staggered. (Essential)**

DISCUSSION: Continuity of policy is an important goal for a correctional system which seeks equity and efficiency. Static policy is not the general goal. Change will be an ongoing need; however, if it is to occur, it should be orderly with due regard for previous organizational history. Abrupt alterations of program which fail to consider prior efforts almost inevitably produce unwarranted disparities in decisions, and make stable program development very difficult. In a key correctional unit, such as the parole authority, continuity of policy is a necessity and staggered terms of appointment are one important means of achieving it.

2-1042 **Salaries of parole authority members are within twenty percent of the salary paid to judges of courts having trial jurisdiction over felony cases. (Essential)**

DISCUSSION: The decision-making responsibility of parole authority members is comparable to that of judges of courts having trial jurisdiction. This level of compensation can help attract persons with the required skills and experience to serve on parole boards.

2-1043 **The parole authority consists of no less than three members. (Essential)**

DISCUSSION: The breadth of skills and backgrounds required and the value of joint decision-making in facilitating greater objectivity argue for a minimum of three parole authority members.

2-1044 **One of the members of the parole authority is designated as chairperson. (Essential)**

DISCUSSION: A single person on the authority must be designated as responsible for the authority's administrative management. The chairperson should have full authority for administrative detail, although on policies and case dispositions decision-making authority should be shared equally among all members.

2-1045 **The authority chairperson has the responsibility to coordinate the work schedules of authority members, assign cases as provided by authority policy, and to chair meetings of the authority. (Essential)**

DISCUSSION: The policies which govern their assignment should be developed by all authority members. However, it is essential that there exist within the authority efficient means of carrying out its work, including the coordination of activities and the assignment of cases. The chairperson is the appropriate person to carry out these executive tasks.

2-1046 **The chairperson is the official spokesperson for the parole authority. When acting as the official spokesperson, the chairperson expresses views at all times which are consistent with approved policies of the authority. (Essential)**

DISCUSSION: The orderly exercise of business requires that there exist a single person in the authority through which the flow of official business with outside agencies is controlled. Included here are such matters as press releases, budget presentations, and official communications. Of course, all authority members and staff will play important roles in dealing with persons external to the authority, but it is essential that such channels are governed by authority policy, and that the chairperson remains as the official source of communications for the authority. (See related standards 2-1126 and 2-1128)

Staff Of Authority

2-1047 **The chairperson has legal responsibility for organizing, staffing, controlling and directing the work of the authority's staff. (Essential)**

DISCUSSION: While the authority members should set policy in administrative matters, it is necessary that there exist a clear line of executive responsibility. That executive responsibility should rest with the chairperson, and authority members should refrain from being involved in the details of administrative practice. Policy and case decisions are suited to group situations. Executive management is very difficult when responsibility is diffused among many individuals. (See related standards 2-1005, 2-1045 and 2-1054)

2-1048 The staff of the parole authority is covered by a merit system,* which complies with equal employment and affirmative action provisions, and is paid at a level equal to other employees of the jurisdiction who are doing comparable work. (Essential)

DISCUSSION: The quality of the parole authority's staff is vital to its effective operation. Thus, it is essential that sound public employee policies are in effect with respect to the authority's staff. A merit system and an adequate scale of compensation are the key elements of such a sound policy. (Essential)

2-1049 There is an affirmative action program that has been approved by the appropriate government agency. (Essential)

DISCUSSION: An affirmative action program should contain necessary guidelines to accomplish the public policy goal of equal employment opportunity. For example, all persons should be able to compete equally for entry into and promotion within the organization. The program should also be designed to seek out qualified minority groups and women, in order to encourage their participation in the staff development program of the organization. The program should include corrective actions, where needed, in policies regarding rate of pay, demotion, transfer, layoff, termination, and upgrading.

2-1050 When deficiencies in regard to the utilization of minority groups and women exist, the authority can document the implementation of its affirmative action program, showing annual reviews and necessary changes required to keep the program current. (Essential)

DISCUSSION: The authority must be able to demonstrate implementation of its affirmative action plan through personnel records that reflect increases in the hiring and promotion of minority groups and women. At review, at least annually, of the affirmative action program should ensure continuing compliance.

2-1051 Written policy specifies that equal employment opportunities exist for all positions. (Essential)

DISCUSSION: Men and women should have equal opportunities to compete for any position within the organization. Section 703 of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, however, details instances of exception which do not constitute unlawful employment practices. Nevertheless, authorities should continuously evaluate their work environment to provide employment opportunities for both men and women.

2-1052 Hearing examiners* have at least a baccalaureate degree; written policy permits the substitution of experience when documented. (Essential)

DISCUSSION: A variety of educational backgrounds may qualify a person to be a hearing examiner, and selected individuals may be qualified by training and experience to serve as examiners.

2-1053 At least two thirds of the hearing examiners have at least three years experience in a criminal justice or juvenile justice position, or equivalent experience in a relevant profession. (Essential)

DISCUSSION: Hearing examiners should have experience in occupations and professions which are directly relevant to parole decision-making.

Training

2-1054 Written policy* and procedure* designate that the chairperson is responsible for orientation and in-service staff training* programs. (Essential)

DISCUSSION: Although responsibility for carrying out training may be delegated, ultimate accountability should be with the chairperson of the authority. It is recognized that the chairperson may be dependent upon resources from the parent agency to carry out this responsibility. (See related standard 2-1047)

2-1055 Written policy and procedure provide that the authority's training programs for all employees are coordinated and supervised by a qualified staff member at a supervisory level. (Essential)

DISCUSSION: A qualified staff member, possibly in the parent agency, should have responsibility for planning and implementing the training program and coordinating it with other employee programs. While training may be conducted through institutes or other outside resources, the staff person coordinating the program should receive specialized training in the fundamentals of training and staff development.

2-1056 There is a written training and staff development plan for all authority employees. (Essential)

DISCUSSION: Provision should be made for training all employees, using a written plan with specific goals and timelines for each training unit. The plan should be reviewed annually, and updated if needed.

2-1057 The parole authority provides 40 hours of initial orientation for all full-time employees including new parole authority members, prior to their assuming assigned duties. (Essential)

DISCUSSION: Supervisory personnel of the agency should provide immediate orientation for all newly employed personnel to familiarize them with all agency policies and procedures. The orientation should include, at a minimum, an historical perspective of the agency goals and objectives, programs, procedures, policies and regulations, job responsibilities, personnel policies, and the role of the parole authority in the criminal justice system of the jurisdiction.

2-1058 All part-time staff and volunteers working less than 40 hours per week receive training appropriate to their assignments; volunteers working the same schedule as full-time, paid staff receive the same training as full-time staff. (Essential)

DISCUSSION: Since they are under the supervision of full-time staff, part-time staff and volunteers who do not have full-time staff assignments, should receive training specific to their particular function. In cases where volunteers function as full-time staff, however, they must receive the same training as provided full-time paid staff.

2-1059 **Parole authority members and all full-time employees receive a minimum of 40 hours of relevant training and education annually, in addition to administrative staff meetings. (Essential)**

DISCUSSION: The authority's staff must have regular opportunities for training and continuing education related to their various functions, as well as to broader issues involved in the authority's activities. Training may include: decision-making skills; new changes in law; court decisions; correctional policies and programs; communications skills; problem-solving; reports on research; and specialized training for support staff. Such training may be in the form of relevant courses at colleges, universities or professional institutes.

MANAGEMENT INFORMATION AND RESEARCH

Management Information Systems

Note: An information system* may be very sophisticated, using modern computer technology, or it may be relatively simple, using manual counting systems. The goal of such a system is to provide statistical information for use in making management decisions.

2-1060 The parole authority* has access to and uses an organized system of information retrieval and review that is part of an overall research and decision-making capacity. (Essential)

DISCUSSION. A parole authority can neither chart new policies,* control the applications of old ones, nor even be aware of their consequences without an organized system of retrieval and review. Not only is such a system important in terms of controlling applications of policy, but also in providing a base for evaluating different kinds of policy options.

2-1061 The parole authority or the agency of which it is a part maintains parole outcome measures, such as those developed by the Uniform Parole Reports* or an equivalent system. (Essential)

DISCUSSION: Extreme variation in the manner in which outcomes are measured among parole systems makes informed comparisons across jurisdictions extremely difficult, leads to confusion, and to a lack of sound development in the field. It is essential that there be a clear method of separating the types of outcomes (discharge, conviction of a felony, technical violations, etc.), as well as standardized follow-up periods. The definitions used by the Uniform Parole Reports have been developed cooperatively across the United States, and form the basis of a sound standardized system. They, or comparable systems, should be utilized by parole authorities in computing outcome measures.

2-1062 The parole authority has established a procedure* for receiving reports, at least quarterly, from those persons in charge of the information and research systems; the reports should include population characteristics and the status of parolees and offenders in the system. The authority is able to also retrieve, upon demand, information which has been entered into the system. (Important)

DISCUSSION: In order for a parole authority to monitor policies effectively, be alert to potential difficulties and plan for future actions, it must receive certain data periodically. The information obtained should include the number and type of offenders and parolees in the system, including those in community programs, the status of offenders in relation to their release, the length of sentences, the number and type of arrests of parolees, revocations by types of violations, and program information, such as the number unemployed and the types of programs parolees are attending.

2-1063 Parole decision-making, statistical, and research data are among the factors used by parole authority members in decision-making and policy development. The parole authority receives feed-back information on a continuing basis about the outcomes of its parole decisions and there is evidence that this information is acted upon in the reviews and revisions of parole decision-making criteria and policy. (Important)

DISCUSSION: Since the very nature of parole decision-making involves judgments based on factual data and policy considerations, the members of the authority should constantly be informed of the results of their judgments. The careful collection, assessment, and use of this feedback information can be instrumental in the improvement and refinement of parole decision-making and policy development. (See related standard 2-1013)

2-1064 Consistent with confidentiality requirements, the parole authority or the agency of which it is a part collaborates with criminal justice and human service agencies in programs of information gathering, exchange and standarization, including national data collection efforts. (Important)

DISCUSSION: Planning and assessment on a system-wide basis are needed in the juvenile and criminal justice fields. The key to effective collaboration is standardized and shared information. An example of the value of this activity is the Uniform Parole Reports Program, which was developed by the joint efforts of parole authorities in the United States. Such national systems require full cooperation by all parole authorities. While it is important that parole authorities take an active role in shaping joint programs of information sharing, it is also vital that they be particularly sensitive to issues of confidentiality and privacy of parole records. (See related standards 2-1023, 2-1068 and 2-1079)

Research

2-1065 The authority chairperson reviews all research designs prior to the start of research. (Important)

DISCUSSION: Research should not be permitted to proceed until the research design and the requirements of authority staff are understood fully. (See related standard 2-1067)

2-1066 The parole authority permits, encourages, and utilizes internal research as well as research conducted by outside professionals. (Important)

DISCUSSION: It is impractical for a parole agency to carry out internally all research needed. Responsible researchers are interested in carrying out research in the juvenile and criminal justice fields, and with encouragement by parole authorities, their efforts can be directed toward this specific area. Parole authorities should actively encourage the participation of responsible researchers in parole studies.

2-1067 **Parole authority members and designated staff participate with researchers in deciding which questions should be addressed, which data should be gathered, and how that data should be presented. (Important)**

DISCUSSION: (See related standard 2-1065)

2-1068 **When approving projects by researchers, the parole authority, or the agency of which it is a part, ensure the privacy and interests of offenders and other parties for the cases under study. (Essential)**

DISCUSSION: Although it is obviously important that parole authorities facilitate research, it is essential that they safeguard the privacy and interests of offenders, their families, and other persons. Thus, before any research is undertaken, the research protocols should be reviewed to make certain that appropriate safeguards exist to protect the privacy and interests of those individuals who are the subject of that research. Once these concerns are satisfied, the parole authority should agree to the publication of the results of any research; it may require that before such research is published the authority has the right of comment to the researcher concerned. (See related standard 2-1064)

2-1069 **Written policy and procedure specify the method for dissemination of research findings. (Important)**

DISCUSSION: Written policies and guidelines will prevent misunderstandings about the publication and dissemination of research results. As a general rule, research findings should be published and distributed regardless of the nature of the findings. Their publication can avoid duplication of effort elsewhere and provide for the sharing of knowledge and experience throughout the corrections field.

SCHEDULING AND INFORMATION

2-1070 There is a documented procedure* for determining the time necessary to thoroughly consider each case, based on the types of cases being heard; in a normal working day scheduling does not exceed twenty cases, with a maximum of fifteen cases concerning term setting, release consideration or revocation, and additional cases not requiring extensive hearing* or deliberation, not to exceed a total of 20 of both types of cases. (Essential)

DISCUSSION: The authority* should give full consideration to every case based on the type of case being considered and the criteria used in decision-making. Procedures should allow for each case to be heard when eligible, and time should be set aside for review of the case record prior to seeing the offender. Interview time with the offender should allow for questions from the authority member or examiner and for questions from the offender. Thirty minutes per case, including prior review, interview and decision-making time should be considered the minimum time necessary for most cases. (See related standards 2-1074 and 2-1094)

2-1071 Offenders are notified in writing of their first legal eligibility date for a parole hearing within 90 calendar days after being received in a correctional institution. (Essential)

DISCUSSION: This information can be conveyed to each offender individually or through a pamplet or guidebook which gives the legal requirements pursuant to a parole hearing. The parole authority should see that institutional parole officers provide such information and that counselors and other advisors are conversant concerning parole eligibility statutes.

2-1072 Offenders are scheduled automatically for hearing and review by the parole authority within one year after being received in a correctional institution if there is no minimum eligibility date. (Essential)

DISCUSSION: It is essential that an offender be seen by a parole authority representative relatively soon after he or she is received in an institution, or as soon as first eligible for parole consideration. At this time, the authority should explain its criteria for parole to the offender. Offenders and institutional personnel, early in the offender's institutional stay, should have a clear idea of the authority's view of the inmate's case, and the factors which the authority sees as important in determining the parole date. (See related standard 1086)

2-1073 Offenders may be released earlier than initially anticipated, according to law and in conformity with the authority's previously established and written criteria. (Essential)

DISCUSSION: Criteria should be established by the parole authority which may be used to advance the parole date of an offender. For example, the behavior of the inmate in a work-release program, particularly meritorious efforts while in the institution, or a mutually agreed upon program contract may be among the conditions which a parole authority might establish as legitimate criteria for advancing a release date.

2-1074 Prior to a hearing, parole authority members and hearing examiners* review information available in writing about an offender's prior history, current situation, events in the case since any previous hearing, information about the offender's future plans, and relevant conditions in the community. (Essential)

DISCUSSION: The degree to which a parole hearing is effective will be determined in large measure by the quality and accuracy of the information which is available to the person hearing the case. It is essential that information is available about an offender's prior history, his current situation, and the events in his case since any previous hearing. Information about the offender's future plans and about relevant conditions in the community are also needed. (See related standard 2-1071 and 2-1094)

2-1075 Materials in case files are appropriately classified, organized and identified in a way which meets the needs of the authority. (Essential)

DISCUSSION: Parole decision-makers should not be required to use files which are so poorly organized that it is difficult to locate needed materials. In cooperation with institutional authorities and other related agencies, a form for the organization of materials in files should be agreed upon. Well-organized files containing appropriate material placed so that decision-makers have ready access to it should be the rule.

2-1076 Materials in the case files are clearly identified as to source, and confidentiality is noted as necessary. (Essential)

DISCUSSION: The source of the material being considered by the authority is essential in order for them to realistically view the factors involved. The classification of confidentiality is necessary for some of the material the board reviews, and such material should be clearly marked "confidential."

2-1077 There is a procedure whereby materials used by the authority in decision-making are verified; materials which cannot be verified are so noted. (Essential)

DISCUSSION: Parole authority members must rely on the accuracy of the material in the case files; therefore, there must be a procedure which will enable the materials to be verified by the time the members are involved in a decision-making policy.*

2-1078 For those cases which, in the opinion of parole authority members, an examination and opinion is required of psychiatrists or psychologists, qualified members of the appropriate professions are available to provide the needed examinations and opinions. (Essential)

DISCUSSION: The opinion of psychiatrists or psychologists are at times extremely important in parole decision-making. Psychiatrists and psychologists should have a state license or certification.

2-1079 The parole authority and the agency of which it may be a part have a written policy regarding the confidential nature of individual case information, and have put into effect specific rules as to the persons who may have access to such information, and the staff who are responsible for the release of that information. (Essential)

DISCUSSION: Protection of the confidentiality of material available to the authority on individual cases is essential. The authority should have procedures which are clearly understood, and which include the persons designated as responsible for the release of case information, and to whom that information may be released. (See related standard 2-1064)

HEARING PROCESS

Note: These standards apply to release hearings, revocation hearings,* rescission decisions and appeals.

2-1080 Policy* and procedure* provide for the withdrawal of an authority member or hearing examiner* in cases which represent a conflict of interest. (Essential)

DISCUSSION: In any case where a parole authority* member or hearing examiner has personal knowledge of a case or could in any way benefit from the outcome of a case, that person should withdraw completely from the decision-making process for that case. (See related standard 2-1038)

2-1081 The person conducting the hearing* is responsible for the recording and preservation of a summary of the major issues and findings in the hearing. (Essential)

DISCUSSION: The keeping of a record of the events of the hearing for the purpose of subsequent review is essential. It is particularly important for future hearings to be able to review the record of a hearing, and have an awareness of the issues which had been raised previously. The use of dictating equipment is quite appropriate for this purpose. (See related standard 2-1067)

2-1082 The criteria which are employed by the parole authority in its decision-making are available in written form and are specific enough to permit consistent application to individual cases. Case decisions indicate that granting, denying, reviewing, and revocation decisions are in conformity with the written criteria. (Essential)

DISCUSSION: Various criteria should be developed which will assist the authority in making parole decisions. These criteria should go beyond statutory minimums to include the types of information which have a consistent relationship to parole success or failure.

2-1083 There is a process, available in written form, whereby the decisions of panels or hearing examiners can be reviewed by the full authority under rules fixed by it, and offenders are informed of the steps necessary to avail themselves of that process. (Essential)

DISCUSSION: The development of a decision review process is an important development in parole. In general, most parole decisions should be made by the hearing examiners or panels of parole authority members who interview the offender. However, a system of appeal, preferably to authority members not involved in the first hearing, should be established, and rules of the use of this process should be fixed. If there are only a few authority members, and all of them participate in initial decisions, some process of review or rehearing in a case should nonetheless be in effect. (See related standard 2-1009)

2-1084 Offenders receive timely assistance, to include translation for offenders with language difficulties, from qualified personnel on all parole procedures to help them in appearances before the parole authority, in appeals, and in dealing effectively with parole procedures. (Essential)

DISCUSSION: For a number of offenders, parole procedures are complicated, and if they are without assistance, they are at a great disadvantage with respect to the parole system. The provision of representation can ease this problem, but it is crucial that qualified personnel assist offenders in all matters with respect to parole, including the development of resources that enhance the opportunities for an inmate to cope successfully with the requirements of release. Assistance includes interpretation to long term offenders of parole procedures within one year of being received at an institution. (See related standards 2-1020, 2-1088, 2-1090 and 2-1114)

2-1085 The offender is notified personally and orally by the parole authority members or hearing examiners who have heard the case as to the recommendation or decision immediately after the hearing. (Essential)

DISCUSSION: The parole authority needs to clarify personally the meaning of its decision, and to discuss the subsequent steps which might be taken by the offender. For all these reasons, it is essential that the parole authority meet personally with each offender after the interview to make the outcome of the case known and understandable to the offender.

PAROLE RELEASE HEARINGS

2-1086 **At the first hearing* of offenders eligible for parole, the parole authority* sets a tentative release date. If circumstances prevent the setting of a tentative release date at the first hearing, a subsequent hearing is held within one year for the purpose of setting a tentative release date. In any event, the parole authority gives reasons in writing for any deferral of decision. (Essential)**

DISCUSSION: Uncertainty surrounding the time an offender must serve in an institution should be eliminated as soon as possible after commitment. Inmates need to establish goals based on tentative release dates, and make plans for release. At the first parole hearing, a date of release may be considered but not fixed. Any date fixed at the first hearing or later hearings could be altered based on new information, institutional behavior, or the possibility of success based on the offender's ability to handle lesser levels of security. The reasons for deferral should be articulated and a definite review date established for a future hearing. (See related standards 2-1072 and 2-1123)

2-1087 **Offenders are held beyond tentative release dates only after a hearing by the authority, at which time the reasons for deferral of parole are articulated in writing. (Essential)**

DISCUSSION: In general, there is an expectation that a tentative parole date once fixed will be observed unless sound reasons to the contrary are evidenced. From time to time, sufficient information will come to an authority's attention to require it to defer a date. In such a case, the authority makes a record of the specific reasons for the deferral of parole, and fixes a definite time for the next review of the case. The aim is to keep a clear release date, known to inmates and correctional officials, and to articulate the reasons for various actions taken by the parole authority.

2-1088 **No offender is denied parole or given a deferment unless a personal hearing is held before the parole authority. (Essential)**

DISCUSSION: Cases may be reviewed periodically through files and correspondence; however, each time that the denial of parole is possible, a personal hearing before a parole authority member or hearing examiner takes place. An important purpose of this hearing is to give the offender a chance to present his case directly to responsible decision-making authorities, a basic and important element in a fair system. Further, no matter how carefully developed a record system may be, frequently during the course of a face-to-face interview, inaccuracies are discovered or relevant information which is not included in the official record is obtained. (See related standard 2-1084)

2-1089 **Policy* and procedure* exist for hearings in absentia. Hearings in absentia are limited to cases where the absence of the offender is unavoidable and there is documentation of the reasons for this situation. (Essential)**

DISCUSSION: In cases when the offender is in a mental institution or a facility in another jurisdiction, a hearing in absentia may be conducted. In no case should such a procedure be used where an offender simply refuses to attend a hearing. Hearings in absentia should observe the same safeguards as hearings where the offender is present, and require that the offender knowingly and voluntarily absent him/herself from the hearing.

2-1090 **Offenders are notified in writing at least 14 calendar days in advance of their hearings and are specifically advised as to the purpose of the hearing. (Essential)**

DISCUSSION: It is essential that offenders be well-advised as to the purpose of the parole hearing, and have information about the kinds of issues which will be discussed. Too often, offenders are unclear as to precisely what is happening, and are unable to take full advantage of the hearing which is given to them. In this respect, it is important that institution personnel work closely with offenders to help them prepare for the hearing, and to assist in the development of material for presentation to the authority. (See related standard 2-1084)

2-1091 **Hearings are conducted in privacy. (Essential)**

DISCUSSION: Parole hearings should be conducted in surroundings which are comfortable and appropriately furnished, which provide sufficient privacy for the offender and allow the authority to convey an atmosphere conducive to a dignified hearing. Where necessary, security should be provided.

2-1092 **Parole hearings are conducted with careful attention to the inmate, and with ample opportunity for the expression of his or her views. (Essential)**

DISCUSSION: Fair parole hearings are an important part of the parole process. They should be conducted without extraneous interruptions, and with very careful focus on the offender. A significant effort should be made to give the inmate a full opportunity to express his or her views, and to provide the inmate with an understanding of the requirements for release consideration.

2-1093 **The parole authority has a written policy which determines who may be present at the parole hearing. (Essential)**

DISCUSSION: The parole authority has a responsibility to see that parole hearings are carried out in an orderly and fair manner. This will limit the number of persons who may be in attendance. At the same time the authority has a responsibility to the public and to the inmate to allow attendance at a hearing of those people who will be of assistance to the offender or to the authority.

2-1094 **Materials on cases are reviewed before offenders are brought into a hearing room, and during the hearing, references are made to files by authority members, hearing examiners, and other staff only to refresh their memories of the case and to determine questions of fact. (Important)**

DISCUSSION: It is very distracting for files to be read while an offender is in the hearing room. This does not convey to the inmate a high level of awareness or concern for his or her case. Persons responsible for conducting parole hearings should review case material in advance of the hearing. (See related standards 2-1070 and 2-1074)

2-1095 **Offenders are provided with the information on which parole decisions are made, except that information which, in accordance with the authority's written policy, is specifically classified by an authority member or hearing examiner as confidential for good and sufficient reasons, and is so designated. Offenders are informed of the fact that information designated as confidential was used in making a decision. (Essential)**

DISCUSSION: Parole, in a number of important respects, involves the delegation of sentencing power. Thus, the issues are very much the same as those involved in the defendant's right to disclosure of the pre-sentence investigation, and similar rules should govern. In the absence of compelling reasons for non-disclosure, the inmate should be familiar with the information regarding his or her case. When information is not made available to an inmate because of its sensitive nature, it should be so identified in the file. Agency policy should spell out what information will be made available to the inmate, particularly when his or her mental and/or social adjustment might be affected, when a co-defendant is involved, when a confidential juvenile record is included, or when informants are named in the record. Staff and authority members should have clear instructions on the release of official information. Records and documents must be handled in accordance with established procedures or upon other proper authorization. It is important for subsequent review that it be clear which material was not open to review by the offender.

2-1096 **The reasons for a parole decision are written, signed by a person authorized by the authority, and made available to appropriate staff and to the offender within 21 calendar days of the offender's hearing. (Essential)**

DISCUSSION: The writing out of the reasons for the decision is a crucial part of the parole decision-making process. Having this written document is essential for a number of reasons: it provides a basis of appeal; it is important for institutional officials and offenders in shaping their future programs; it is helpful for research purposes; and it provides for the continued development of criteria.

2-1097 **The parole authority does not accept the presence of a detainer* as an automatic bar to parole; it pursues the basis of any such detainer; and it releases the offender to detainers where appropriate. (Important)**

DISCUSSION: Detainers represent an outstanding charge which may or may not be adjudicated, and should not automatically constitute a bar to parole. Parole staff should, as a matter of practice, trace out detainers to determine their basis, and when appropriate, parole authorities should parole inmates to detainers.

2-1098 The status of the offender as a foreign national does not preclude access to parole consideration. (Essential)

DISCUSSION: Parole authorities should release foreign nationals for return to their home countries under whatever circumstances may be worked out with the home countries, and in the best interest of all concerned. At the present time, there are no formal agreements between the United States and other countries for completion of sentences. However, informal arrangements are sometimes possible and supervision when needed can be arranged on a courtesy basis with a governmental or non-governmental organization in the offender's home country. Under the circumstances, and as a matter of principle, such arrangements should be undertaken only with the consent of the offender.

CONDITIONS OF PAROLE

2-1099 General conditions for release which apply to all parolees and mandatory releases under supervision are limited to requirements that a parolee observe the law, maintain appropriate contact with the parole system, and notify the parole agency of changes in residence. (Essential)

DISCUSSION: The critics of parole have argued that the rules tend to be moralistic, or that they tend to be overly vague and unfairly invade the privacy of parolees. In most cases, general conditions which apply to all parolees should require simply that a parolee observe the law, maintain appropriate contact with the parole system, and notify the parole field agency of changes in residence.

2-1100 In addition to the general conditions of release which apply to all cases, the parole authority* adds special and specific conditions for individual cases that are related to the previous offense pattern and the probability of further serious law violations by the individual parolee. (Important)

DISCUSSION: Special conditions of release should be added only when they are clearly relevant to the parolee's compliance with the requirements of the criminal law. Conditions should not concern themselves with the lifestyle of the offender as such, but should be tested directly against the probability of serious criminal behavior by the individual parolee.

2-1101 The offender is given an opportunity to present his or her views to the parole authority about specific parole conditions which may be imposed on him or her. (Essential)

DISCUSSION: As much as possible, the offender should be encouraged to make known to the parole authority his or her views about the conditions which will be imposed. The parolee should have an opportunity to appeal any request of a parole officer to fix a new condition of parole. The parolee should clearly understand how such an appeal can be pursued and steps should be taken to see that the parolee can avail himself or herself of such procedures.

2-1102 Written copies of the conditions of parole are furnished to the parolee, and are explained to him or her. (Essential)

DISCUSSION: Conditions of parole should be reviewed with the parolee so that he or she fully understands them. A regular program in the institution should exist to assist parolees in understanding the conditions of their release, and in dealing with any problems involved in their release plans. (See related standard 2-1020)

2-1103 The parolee acknowledges in writing that he or she has received and understands the conditions of his or her parole. (Essential)

DISCUSSION: (See related standard 2-1102)

2-1104 The parolee and/or the parole field staff may request that parole conditions be amended. If the parole authority approves, it makes needed amendments in writing. (Essential)

DISCUSSION: Parole is a dynamic process, and as the parolee's adjustment changes, so should the conditions of parole supervision. A procedure* by which the parolee and/or the parole field staff can request and the parole authority review and grant changes as needed in the conditions of release best serves the interest of public protection and the welfare of the individual parolee.

2-1105 Parole authorities require that the parolee complies with all applicable provisions of the Interstate Compact for the Supervision of Probationers and Parolees,* or the Interstate Compact for Juveniles, and that he or she is fully aware of the requirements of transfer under these Compacts. (Essential)

DISCUSSION: Essential resources for the effective supervision of probationers and parolees are the Interstate Compact for the Supervision of Probationers and Parolees, and the Interstate Compact for Juveniles. It is important to the effective operation of these Compacts that all rules governing the conditions of these Compacts are carefully observed, and that parolees transferring between jurisdictions are fully advised as to their provisions and accept them.

ARREST AND REVOCATION

Determination

2-1106 Warrants for the arrest and detention of parolees, pending a determination by the parole authority as to whether parole should be revoked, or provisionally revoked, are issued only upon the affirmative approval of a parole authority* member or the statewide or regional director of parole supervision services. (Essential)

DISCUSSION: The arrest and detention of a parolee on violation charges is a serious act with profound implications for the parolee. In view of the loss of liberty which results from the issuance of a detention warrant,* the need for such a warrant should be reviewed by a parole authority member or the statewide or regional director of parole services. The power to issue detention warrants should be exercised by such administrative personnel, not by the parole officer involved directly in the supervision process.

2-1107 Warrants for the arrest and detention of parolees are issued only upon adequate evidence which indicates a probable serious or repeated pattern of violation of parole conditions and a compelling need for detention pending the parole authority's initial revocation decision. (Essential)

DISCUSSION: The standard for the issuance of detention warrants may not rise to the standard of probable cause required for arrest on criminal charges. However, to justify issuance of a detention warrant, sufficient evidence should be produced to indicate that parole conditions have been seriously breached and that detention is required. Detention may be required in order to prevent injury to an individual or the public, to interrupt a serious continuing violation of parole, or to assure the presence of a parolee at a preliminary hearing when it is determined that the parolee would not attend voluntarily.

2-1108 When parole violation charges are based on the alleged commission of a new crime, a detention warrant is not issued unless the parolee's presence in the community would present an unreasonable risk to public or individual safety. (Essential)

DISCUSSION: The issuance of a detention warrant often precludes a parolee who is charged with committing a new crime from the possibility of bail or other forms of pre-trial release. As a general rule, parolees should be able to seek the forms of pre-trial release which are available to other criminal defendants. However, the presence of other serious parole violation charges or a danger to public or individual safety may justify the issuance of a detention warrant when a parolee is charged with committing a new crime.

Preliminary Hearing

2-1109 When a parolee is arrested on a detention warrant, or when a detention warrant is lodged as a back-up to bail in conjunction with pending criminal charges, a preliminary hearing* is held within fourteen calendar days after the arrest and detention of the parolee or the lodging of the detention warrant; however, when there has been a conviction or a finding of probable cause on new criminal charges, the preliminary hearing is not required. (Essential)

DISCUSSION: The United States Supreme Court case of *Morrissey* v. *Brewer* 408 U.S. 471 (1972) requires, as a matter of due process, that a preliminary hearing be conducted as soon as possible after a parolee is taken into custody, while evidence and sources are readily available. The purpose of the hearing is to determine whether probable cause exists to believe that parole conditions have been violated. Later cases in various jurisdictions have held that a conviction or a finding of probable cause on new criminal charges takes the place, for due process purposes, of the preliminary parole hearing.

2-1110 The preliminary hearing is held in or near the community where the violation is alleged to have occurred or where the parolee has been taken into custody. (Essential)

DISCUSSION: (See related standard 2-1109)

2-1111 The preliminary hearing may be delayed or postponed for good cause, and the parolee may waive the hearing if first informed of rights pertaining to the hearing and of the consequences of waiving the hearing. (Essential)

DISCUSSION: Due process requires that any waiver of rights by the parolee be done knowingly and voluntarily. Therefore, the parole authority should assure that no form of coercion is used to induce a waiver of the preliminary hearing, and that the parolee understands the nature and consequences of the hearing before waiving it.

2-1112 The authority may delegate to a member of the parole administrative staff or to field officers the authority to conduct a preliminary hearing and make findings as to grounds for revocation. (Essential)

DISCUSSION: The *Morrissey* case provides that the hearing officer need not be a judicial official, but may be a parole staff member, so long as that staff member is impartial.

2-1113 The preliminary hearing is conducted by an administrative staff member or officer who has not previously been involved in the case. (Essential)

DISCUSSION: In view of the requirement that the hearing officer be impartial, it is inappropriate for the officer who supervised the parolee, or an individual who authorized the parolee's detention to conduct the preliminary hearing.

2-1114 · **At least three days prior to the preliminary hearing, the parolee is notified in writing of the time and place of the hearing, and of the specific parole violation(s) charged. The parolee is also advised in writing of the right to:**

Present evidence and favorable witnesses

Disclosure of evidence

Confront adverse witness(es), unless the witness(es) would be subjected thereby to a risk of harm

Have counsel of choice present, or, in case of indigent parolees who request assistance to adequately present their case, have counsel appointed

Request postponement of the hearing for good cause

(Essential)

DISCUSSION: Due process requires that the parolee receive notice of the hearing, of the specific acts alleged to constitute parole violations, and of all rights with respect to the hearing. Consistent with the United States Supreme Court case of *Gagnon* v. *Scarpelli* 411 U.S. 778 (1973), a parole authority should decide, on a case-by-case basis, whether to appoint counsel for an indigent parolee who requests such assistance. Among the factors to be considered in making this decision are; whether the parolee denies committing the alleged violation(s); whether there are mitigating factors which are complex or otherwise difficult to develop or present; and whether the parolee appears to be capable of speaking effectively for himself. (See related standards 2-1084 and 2-1118)

2-1115 **The person who conducts the preliminary hearing determines whether there is probable cause to revoke parole and hold the parolee for a revocation hearing before the parole authority. The parole authority may empower the hearing officer to make the provisional revocation decision, or merely to report his/her findings and recommendation to the parole authority for a decision as to revocation. The hearing officer issues a verbal decision or a recommendation immediately after the hearing and provides a written decision to the parolee within 21 calendar days of the hearing. (Essential)**

DISCUSSION: The hearing officer should make a summary of the documents presented and responses made at the preliminary hearing in order to make a determination as to probable cause for revocation. Although the findings need not be formal, the officer should state the reasons for the determination and indicate the evidence relied upon.

2-1116 **The parolee is returned to prison only when probable cause is found at the preliminary hearing and when it is determined, after considering the appropriateness of less severe sanctions, that the clear interest of the public requires reincarceration. (Essential)**

DISCUSSION: The preliminary hearing has a usefulness that goes beyond the narrow fact-finding process. The hearing may provide an occasion to identify and reverse potentially harmful patterns of conduct, or to identify gaps in the program of supervision and recommend alternatives. The parole authority should consider not only whether a violation of parole has been committed, but also whether a less severe sanction is appropriate. (See related standard 2-1120)

Revocation Hearing

2-1117 The revocation hearing is conducted within 60 calendar days after the parolee's return to prison as a parole violator; a delay or postponement for good cause may be approved by the authority chairperson or designate. (Essential)

DISCUSSION: The *Morrissey* case requires that the revocation hearing, as well as the preliminary hearing, be timely. Subsequent cases have held that a revocation of parole will be invalidated if, without justifiable cause, a revocation hearing is not provided within a reasonable time after the return of the parolee to prison. Delays or postponements should be granted only sparingly.

2-1118 The same procedural and substantive rights which are afforded to a parolee at a preliminary hearing are afforded at a revocation hearing. In addition, a parolee is provided an opportunity at the revocation hearing to demonstrate that, even if parole has been violated, mitigating circumstances exist which suggest that the violation does not warrant revocation. (Essential)

DISCUSSION: The *Morrissey* case mandates essentially the same procedural guarantees for both hearings in the two-state revocation process, and also provides for an opportunity to present mitigating factors at the revocation hearing. This hearing also should go beyond the narrow fact-finding process and the parole authority should weigh the best interests of the parolee and the public in making its final decision. (See related standard 2-1114)

2-1119 Within 21 calendar days of the revocation hearing, the parolee is provided a written statement of the reasons for the determination made and the evidence relied upon. (Essential)

DISCUSSION: The parolee should be informed as soon as possible about the decision to revoke parole. A written statement of reasons and evidence relied upon is required under the *Morrissey* case and also promotes thoughtful decision-making.

2-1120 Alternatives other than further imprisonment are used in decision-making on parole violations. (Essential)

DISCUSSION: Although further imprisonment may be required, parole authorities should use warnings, short-term local confinement, special conditions, varieties of intensive supervision, referral to other community resources, and other alternatives to confinement. (See related standard 2-1116)

2-1121 In jurisdictions where the parole authority has discretion to award or forfeit good conduct deductions for time served on parole in the community, there are written guidelines for the award or forfeiture of such deductions. (Essential)

DISCUSSION: Careful review of individual cases is required in making a determination on provision of credit to the parolee for time served in the community. Written policy should state specific criteria for allowing or disallowing credit for time served in the community when a parolee is imprisoned for a parole violation.

2-1122 **If it is decided that the offender is to be reincarcerated, there is no statutory or administrative prohibition against re-parole on the original charge for which paroled. (Important)**

DISCUSSION: Neither in law nor in practice should any predisposition operate to deny further parole consideration to a parole violator. The fact of parole violation should be considered in the context of an offender's total history in deciding the next appropriate action(s) after revocation of parole.

2-1123 **After a revocation hearing, the parole authority immediately informs the offender of the next tentative release date. When circumstances, such as pending criminal charges or outstanding sentences to be served, prevent the setting of a tentative release date, or when the tentative release date is greater than one year after the revocation hearing, the parole authority sets a date for a review hearing within one year, and advises the offender of this date. (Essential)**

DISCUSSION: In revocation decisions, no less than in release decisions, it is of paramount importance for the parole authority to minimize uncertainty in the mind of the offender. Tentative release dates should be set unless circumstances make it impossible to predict the offender's future eligibility status. The certainty of even a distant tentative release date is preferable to no date at all. When an obstacle to the setting of a date, such as pending criminal charges, is removed, the parole authority should advance the date of the review hearing to the earliest convenient time. (See related standard 2-1086)

DISCHARGE

2-1124 **Parolees are not continued under active parole supervision after one year unless, consistent with the parole authority's* written policy,* good reasons exist to show that such continued supervision is required. (Essential)**

DISCUSSION: Termination of active supervision does not require discharge from parole supervision. Active supervision can be re-instituted if needed. However, active supervision for periods longer than necessary may be unwarranted in many cases, interfere with the life of the parolee, and represent an unwise use of parole resources. Alternatives to active supervision should be considered unless good reasons exist to continue close supervision. (See related standard 2-1009)

2-1125 **If not discharged after one year of release on parole or the statutory minimum period, the parolee may request a discharge review by the authority. (Essential)**

DISCUSSION: (See related standards 2-1009 and 2-1124)

PUBLIC AND LEGISLATIVE RELATIONS

2-1126 **The parole authority* provides evidence of a public information program, which includes the development and distribution of information about the authority, its philosophy and operations. (Important)**

DISCUSSION: It is important that parole authorities carry out an effective public education program, both as a means of support for the parole authority and for developing the opportunities necessary for parolees. An intelligent and effective program of information dissemination is an important component in this program. (See related standards 2-1046 and 2-1128)

2-1127 **The parole authority furnishes information at least biennially to the agency of which it is a part, which is used to report on the authority's objectives, trends in parole release, discharges and revocations, problems, and plans; additional information is provided as required by statewide bodies and the agency of which it is a part. (Essential)**

DISCUSSION: A report, produced at least every two years, is a systematic way of summarizing periodically the activities of the parole authority. Such reports are important for informing decision-makers about the authority's activities, and a well-designed report can also be an important source of public understanding of the authority's activities.

2-1128 **The parole authority has a written policy* which assures that accurate and timely information on individual cases is disseminated to the public. (Essential)**

DISCUSSION: Parole authorities are often called upon to provide information about parole cases, and it is important that policies exist within the parole system indicating who is to provide such information and how it is to be provided. The parole system benefits by providing prompt, candid information to the public, which has a right to such information. Information properly classified as privileged should, of course, be so classified pursuant to written policy and procedure.* (See related standards 2-1046 and 2-1126)

2-1129 **The parole authority maintains regular liaison with appropriate legislative committees, during at least each regular session of the legislature, for the purposes of offering advice and opinions on appropriate legislative matters. (Essential)**

DISCUSSION: It is vital that parole authorities do not simply react to legislative enactments after the facts, but that they also stand ready to advise legislatures on current legislation under consideration.

THE PAROLE SYSTEM

The Commission has considered the purpose and administration of parole systems and recommends that, in its present form, parole be abolished in Alaska. It is recommended that some of the functions purported to be served by parole be abandoned and that the board be eliminated in its entirety.

To provide protection to the public in the sensitive post-release period and guidance to the newly released offender, the Commission recommends that every prisoner serve a period of conditional release akin to probation.

Under the proposal, a convicted offender may serve up to half of his sentence on this conditional release, which may be called "mandatory probation", depending upon his behavior in prison and out. For a model prisoner, half the sentence will be "good time", served on mandatory probation. Any revocation of such release will be handled according to the standards and procedures for probation, generally. Cancellation of "good time" for an offender in custody will be handled according to procedures now mandated by law.

Before exploring further the mechanics and merits of the proposed new system, a review of the principal objections to the present system of parole is in order.

David Fogel, Executive Director of the Illinois Law Enforcement Commission, in a monograph entitled "We are the Living Proof..." written while in residence at the Harvard Law School Center

for Criminal Justice commented on the fact that confusion and aimlessness in sentencing and parole are reflected in the quality of prison life:

> "Like both, it too is effectively ruleless. How could it be otherwise with 95% of its prisoners unable to calculate when they will be released or even what, with a degree of certainty, is demanded of them for release candidacy by parole authorities?"*

The uncertainty created by the present system of parole makes parole a serious enemy of the rehabilitative process and contributes significantly to problems otherwise inherent in depriving individuals of their liberty.

Those who favor the parole system generally offer two grounds in support of their position.

> "First, virtually everyone convicted and sent to a correctional institution is destined to return to live in the community. He can be discharged either with no continuing responsibility on his part of that of the state, or he can be released under supervision at an optimal time and given help in finding a way to live within the law. From this perspective, parole is simply a form of graduated return to the community, a sensible release procedure.
>
> "A second major argument is that a parole board can better judge the precise time at which an inmate should be released. The sentencing judge cannot foretell what new information may be available to a parole board or what

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*Fogel, We are the Living Proof, p. 18, Chapter 4. Unpublished Monograph, 1975.

circumstances might arise which would render one time more favorable than another for an inmate's release. A paroling agency also has the advantage of being able to observe the behavior of the offender when he is in confinement. A corollary to this argument is the idea that a parole board can more objectively appraise the offender when the passions aroused by his offense have cooled."*

While these are undoubtedly valid arguments for the existence of some form of reconsideration of sentence, there are those who offer another reason for parole.

"Though it is seldom stated openly, parole boards often are concerned with supporting a system of appropriate and equitable sanctions. This concern is reflected in several ways, depending upon a jurisdiction's sentencing system. One of the most common is through parole decisions seeking to equalize penalties for offenders who have similar backgrounds and have committed the same offense but who have received different sentences." (Emphasis added)**

Briefly stated, parole finds its raison d'etre in the concepts of proof of rehabilitation, leniency or sovereign grace, or equity. Implicit in these concepts are the assumptions that judges are human and will from time to time err in their sentencing decisions and that offenders as humans can change in character and behavior.

The question remains, however, whether or not a parole system is the only means to these ends. The Commission has concluded that the parole board is a poor instrument for measuring rehabilitation, dispersing charity or equalizing sentences.

* O'Leary, "Issues and Trends in Parole Administration in the United States." 11 Am. Crim. Law J. 100-101. (1972)

** "Corrections" National Advisory Commission on Criminal Justice Standards and Goals (G.P.O. 1973) pp.393-394.

These arguments for parole assume that a parole board is in a position to judge the arrival of an "optimal time". One can legitimately question the efficacy of this assumption. Measuring the success of parole judgements by the frequency of return to prison by those released, the validity of this assumption is highly questionable.

In 1974 the "Citizens Inquiry on Parole and Criminal Justice in New York City" reported the results of their investigation of that state's parole system. Over four years they looked at those who were returned to prison within a year of release. The study groups included those who were released on parole and those who were denied parole and served their full sentences. Overall, there was no significant difference in the return rates for the two groups: about 10-11 percent in each went back within a year's time.*

Findings of a similar nature have occurred in other jurisdictions.** The results call into serious question the ability of a parole board to judge who is and who is not rehabilitated and the fairness of a discretionary system which cannot meet this criteria.

This result can be only partly blamed on the quality of parole board membership, if at all. In nearly every state one

* Citizen's Inquiry on Parole and Criminal Justice. "Report on New York Parole." (New York City, 1974)

** See also, Kastenmeier and Eglit, "Parole Release Decision Making" 22 Am. U. L. Rev. (Spring 1973) 477-525.

board sits to review the records of all prisoners incarcerated within the state. Interviews with the prisoner are usually held, but what do they really reveal? Most involve substantial game playing by the prisoner. But even when this is not the case, the incentive to tell the board what it wants to hear is very strong. Parole board members, generally speaking, are not full-time employees of the criminal justice system.

When not proceeding on dubious intuitive judgments derived from the interview process, the parole board relies upon corrections officials for their information on the progress, or lack thereof, of the prisoner. Since most prisoners must serve a minimum period of time (anywhere from one-third or more of the sentence) before they become eligible for parole, thousands of events transpire upon which corrections officials can form a judgement. Obviously, reporting of this behavior is, inherently, highly selective and thus of questionable reliability.

Even if the board is presented with good information it must still decide how the prisoner is going to act when released to the community. Therein lies the crux of the matter. Predicting human behavior is no small feat under any circumstances. The hard fact is that attitude and behavior behind bars is not an indication of attitude and behavior on the street.

Parole as a moderating influence on sentence assumes that the parole board can more objectively appraise the offender when the passions aroused by his offense have cooled. While this

Alternative methods for providing sentence equalization include strengthing of appellate sentence review,* extension of the time or the creation of new time intervals (with appropriate safeguards) within which application may be made to the court for sentence revision under the rules of court; and, executive clemency. In general a detailed examination of these recourses if beyond the scope of our report this year. It is sufficient to note that they are all legitimate avenues for modification of sentence and, in our present view, all better adopted to this purpose than parole determination.

Societal charity or "giving the offender a break" is frequently considered as one of the basic concepts underlying parole systems. This role may explain why clergymen are frequently appointed to parole boards, presumably as official dispensers of the sovereign's grace. However, there is no statistical data supporting the rationality with which charity is dispersed. Offenders released on parole appear just as likely to be recidivists as those released unconditionally according to one survey. A 1967 study by the Federal Bureau of Prisons of all prisoners released in the United States in 1964 revealed that the median time served by paroles was 21.1 months, while those discharged unconditionally served only 20.1 months. Moreover, these figures do not indicate how much additional time was served by the parolees for violation of parole conditions.

* As extensive review of experience under the 1969 Alaska sentence review legislation is set out in "Five Years of Sentencing Review in Alaska", Erwin, Robert C., 5 UCLA-Alaska Law Rev. 1 at page 1.

The arbitrariness of parole procedures as well as the substance of parole decisions has come increasingly under attack. A recent survey conducted by O'Learly and Nuffield* found that:

> "Parole boards were found to be moving away from their roles as autonomous decision makers and instead are developing an expanded function as part of larger departments of corrections. Parole board members are now, to a greater degree than a few years ago, full time personnel serving longer terms of office - perhaps an indication of a trend towards increased professionalism. Procedures at parole release hearings have not changed much in recent years, except for the manner of informing the inmate of the board's decision. On the other hand, procedures at revocation hearings have shown an increased tendency to accord the offender the right to a number of due process safeguards, a trend that was clear even before the requirements set forth in the recent Supreme Court decision in Morrissey v. Brewer."**

As Alaska's prison population has grown, and the weakness of charitably oriented parole has been more manifest, the national trend towards full time boards and staff for the parole system has increasingly discussed as an option for this state. The Commission's proposal for abolishing parole would obviate the necessity of funding for an elaboration of parole professionals.

In lieu of a parole system, the Commission is recommending a system of "good time" served as mandatory probation. For every day a prisoner spends in an institution following its rules his sentence is reduced by a day Nothing else a prisoner does will result in faster release.

* O'Leary and Nuffield, "A National Survey of Parole Decision Making." Crime & Delinquency July 1973 pp. 378-393.
** Ibid, at 378.

This system will require the Division of Corrections to establish where they have not done so, specific rules of conduct and guides to behavior providing adequate notice to inmates concerning their nature and the penalties which can be imposed for violations. This is not an unreasonable burden on the institution and should result in a more orderly life within institutions, both for inmates and correctional personnel.

Revocation of "good time credit" should result only after an administrative hearing at which the inmate can defend himself according to procedures now generally applicable to good time loss hearings. While we do not propose the adoption of all standards applicable to a probation revocation to an administrative hearing on loss of good time, almost any process would be a clear advance over parole denials at which inmates have almost no procedural rights. Both sides will know in advance what their rights and responsibilities are, and what consequences will flow from disregard of those factors. This system will introduce a new degree of certainty to prison life.

Moreover, because "good time" under this proposal would be the only avenue to early release, the Division of Corrections may find that its rehabilitation programs will become more relevant or even undergo changes in their basic nature. Unquestionably, inmates gravitate towards rehabilitation programs within institutions which they perceive as having current favor with parole boards

rather than those which might be most appropriate to their need or real personal interest. Too frequently, an individual who has no desire to honestly participate in a rehabilitation program will do so because it will look good on his record at parole hearings. These kind of participants inject a motivational distortion disruptive to those who are participating for more sincere reasons.

Elimination of parole con games would create an atmosphere in which it would be desirable to give a more substantial voice in the type of programs offered within institutions to inmates. The result might be an improvement ir over-all rehabilitation programming. At the very least one might assume that day-to-day conditions within institutions should improve since the inmates would be engaged in activities serving <u>their</u> goals as opposed to activities serving the ends of the correctional system.

In sum, under a "good time" procedure a prisoner knows the day he enters prison how much time he will have to serve and under what conditions. If his behavior conforms to institution rules and regulations he knows when he will be released. This system removes most release-related incentive for an inmate to participate in rehabilitation oriented programs and allows the programs to operate and be evaluated according to their real justification.

As earlier indicated, though a prisoner may be a model, the special jurisdiction of the criminal justice system over him does not end until his until full sentence is served. Earned good time converts to mandatory probationary time in which the state

can both assist in and evaluate the offenders readjustment to society for up to two years.

It is contemplated that the offender will serve his mandatory probation according to general conditions of probation similar to those now used in Alaska but subject to piecemeal release of condition at the discretion of the division of corrections, based upon the necessity of close supervision and other criteria. The condition that no offense be committed during the period of probation would be unreleasable. Just as with probation as now administered, this would give the prosecutor the option of proceeding on a lesser standard of process and proof for minor offenses which could be served within the remaining mandatory probationary time. There is no extension of mandatory probation however without a fresh conviction.

This system of mandatory probation should in many cases relieve the judge of the necessity of imposing a sentence of probation on condition that the offender first serve a certain amount of time in jail, an existing practice which causes some confusion among the public. It is not intended to restrict existing judicial prerogatives to impose additional terms of probation, probation in lieu of imprisonment etc. (except where barred by mandatory sentence requirements.).

Granted, the proposal does not meet the complaint of those who point out that straight time allows an individual who simply

follows the rules to be released from prison in precisely the same condition character-wise as he entered. However, all the data currently available on the success of prison-run rehabilitation programs strongly suggests that straight time would produce no major change in current results.* It should be clear, however, that the Commission is not questioning the validity of rehabilitation programs currently being offered in Alaska or suggesting that they be abandoned. We are only pointing out that elimination of a system which offers the wrong incentives to participate in such programs is not likely to result in increases in recidivism among inmates after their release from prison.

* While evaluation of rehabilitation programs is not of immediate concern to the Commission, we can not ignore the impressive array of studies which indicate the general failure of rehabilitation programs within prisons, whatever their nature, to have any appreciable impact on recidivism rates. See generally: Martinson, "What Works? - Questions and Answers About Prison Reform" The Public Interest (Spring 1974) pp. 22-54; Hood, "Research on the Effectiveness of Punishments and Treatments," in Crime and Justice, ed. Leon Radzinowicz and Marvin Wolfgang (New York: Basic Books, 1971), vol. 3 pp. 159-182; Bailey, "Correctional Outcome: An Evaluation of 100 Reports," in Crime and Justice, supra, vol. 3, p. 190: and, Wilkins, Evaluation of Penal Measures (New York, Random House, 1969), p. 78.

GOOD TIME AND ITS RELATION TO PAROLE

The Commission has recommended that the system of credit towards early release from sentence, usually called "good time", replace the present parole system. (A detailed explanation of the Commission's reasons supporting this decision can be found in the preceding comments on parole.)

Though Section 21 of Article III of the Alaska Constitution mandates that a system of parole be provided by the legislature by law, we take the view that enactment of the good time system as modified in this proposal includes sufficient characteristics of parole to meet the constitutional standard even though we concluded that the use of the term "parole" in the contemporary context might be misleading.

The Commission recommends that A.S. 33.20.010 - 50, be modified or repealed should legislative action be taken on this proposal to conform with those recommendations.

The Commission recommends that the Legislature provide for a good time system by statute, leaving the matter of development of administrative guidelines to the Division of Corrections.

To facilitate administration of the good time system the Commission recommends that the statute establishing it provide for a day of credit towards release for each day of the sentence served in conformity with division rules and regulations. This standard should apply to all sentenced prisoners, regardless of the crime for which they were convicted.

The Commission also recommends that the Division of Corrections review its rules and regulations governing inmate conduct and the penalties attached thereto in the event a new system of good time is enacted by the Legislature to insure that those rules, regulations and penalties conform to the spirit and intent of the new system.

While the Commission recommends that the Legislature simply provide for the earning of good time and for its forfeiture by statutory enactment, leaving to the Division of Corrections responsibility for the development of guidelines and procedures governing these matters, the Commission does recommend that the decision of the Alaska Supreme Court in McGinnis, et. al v. Stevens, et. al. (No. 1207, December 1, 1975), as it applies to good time, serve as a model in developing guidelines and procedures for administration of the recommended system.

The Division's current practice of maintaining a "time accounting sheet" on each inmate should be continued and the practice of making it available to the inmate upon request maintained under the new recommended system. Similarly, the Division should continue under the new system its practice of providing all new arrivals at institutions with written copies of the rules, regulations and procedures for that institution.

In so far as release from sentence resulting from good time served is concerned, the Commission recommends that such release not be unconditional since it is a new form of parole. The balance of the time remaining on the original sentence should be served by

the inmate under conditions established by the Division of Corrections. Those conditions should be set on a case by case basis. They should be designed to reduce the likelihood that the inmate will recidivate upon release. The range of options open to the Division should correspond with those normally associated with conditions of probation.

Violations of the conditions set at the time of good time release should be dealt with in the same manner as violations of the conditions of probation. That is, procedures for the revocation of probation which are in use at the time of violation of conditions of good time release should govern revocation of the latter.

During the period of release on good time, an individual should not be subject to search and seizure except upon issuance of a warrant or a showing of probable cause.

The Commission recommends that regardless of the length of time remaining on the sentence as a result of good time release, a maximum of two years be the limit of supervision under good time release.

Lastly, the Commission is aware that an occasion may arise in which an inmate, in view of corrections personnel, should be released from prison prior to the time at which he would be eligible for release under a good time system. In those circumstances, the Commission feels it would be appropriate for the Division to petition for executive clemency under A. S. 33.20.070.

HB 225

Sec. 1

Sec. 33.16.010. Established 5 member parole board, presiding officer has a minimum of 2 year related work esperience.

Sec. 33.16.020. Provided for nomination by the Governor.

Sec. 33.16.030. Sets out criteria for qualification of board members.

Sec. 33.16.040. Provides procedures for removal by Governor of board members and appeal process.

Sec. 33.16.050. Allows $100/day compensation for Board members plus travel and per diem expenses.

Sec. 33.16.060. Sets out minimum of 4 meetings per year of the board.

Sec. 33.16.070. Authorizes board to issue subpeona.

Sec. 33.16.080. Describes scope of responsibilities of board including records, standards, recommendations to legislature and commissioner and presentation of annual operating budget. The board shall adopt regulations under AS 44.62 which establish standards for parole eligibility to standards of supervision.

Sec. 33.16.090. Provides for Executive Director and staff.

Sec. 33.16.100. Establish eligibility guidelines for discretionary parole release of non presumptively sentenced prisoners and provided that prisoners released with good time deductions be considered on parole until the end of the period of original sentence.

Sec. 33.16.110. Provides for fixing eligibility for discretionary parole at the time of sentencing when period of imprisonment is over one year and at least 1/3 of term is served.

Sec. 33.16.120. Sets out broad criteria for paroling prisoners.

Sec. 33.16.130. Lists various sources of information for determining suitability, including: 1, presentence report, 2, sentencing recommendations, 3. history at facility, 4. correctional personnel recommendations, 5. criminal history, 6. physical and mental examination.

Sec. 33.16.140. Established prisoner's right to interview with a member of board, materials in pre-parole report he is intitled to see, may waive right to interview and receive a written decision.

Sec. 33.16.150. Provides for order of parole.

Sec. 33.16.160. Sets out parameters for conditions imposed by parole board and right of parolee to request reconsideration.

Sec. 33.16.170. Provides for waiver of hearing.

Sec. 33.16.180. Establishes confidentiality of pre-parole reports.

Sec. 33.16.190. Establishes right to appeal decisions of board to superior court.

Sec. 33.16.200. Assigns commissioner responsibilities including investigations and records.

Sec. 33.16.210. Commissioner may assign probation duties to parole officers.

Sec. 33.16.220. Sets out authority of DOC over paroless. Provides for discharge of parole after 5 years unless the board feels this is contra-indicated.

Sec. 33.16.230. Allows for discretionary release after 2 years of parole.

Sec. 33.16.240. Warrants.

Sec. 33.16.250. Revocation procedures.

Sec. 33.16.260. Basis for arrest on parole violation--warrant exigent circumstances.

Sec. 33.16.270. Allows parole officer to execute arrest.

Sec. 33.16.280. Applicability.

Sec. 33.16.290. Definitions.

Sec.2 Amended language AS 44.66.010(a)(3)

Sec 3. AS 33.20.040(a) Changed to say that persons released with certificates of deduction for good conduct will be on parole for that amount of time specified in the certificate.

Sec. 4. AS 33.15. repealed

Sec. 5. AS.33.16 enacted.

Sec. 6. Allows for replacement of board members

Sec. 7. 7/1/81 effective date.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

House Bill 225 presents many positive changes to the current Parole Board statute including:

a) Five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.

b) Statutorily sets the compensation of Board members at $100 per day for each day they are involved in carrying out Parole Board business.

c) Requires the Board to maintain standards for the release of offenders.

d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessable to the public.

e) Defines statutorily the bases for the appeal of Board decisions.

f) Sets standards for the imposition of any condition of release and allows the offender to appeal of any condition imposed.

g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officers' workloads and limiting the intrusion of the State into the lives of offenders. It requires the offender be discharged after 5 years unless good cause is shown.

h) Provides clarification of definitions and of the mandatory release statutes.

i) Establishes statutorily the bases for the removal of Parole Board members.

The changes listed in sections a) through g) above are supported by the Commission on Accreditation for Corrections, the Alaska Corrections Masterplan consultants and other professional corrections organizations. These are the same provisions that were included in HB 983 passed by the Alaska House of Representatives in 1980. This bill does an excellent job of balancing the interests of the offenders and of the public. The costs of implementing this bill are negligible. It allows the Parole Board to continue out its functions in a manner that current research shows has been very equitable and just.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

The Department of Law is currently drafting a bill that would abolish the Parole Board. We are taking no position on this bill.

Recommended by _____ Date 3/10/81
Samuel H. Trivetto
Executive Director

Recommended by _____ Date 3/10/81
Charles F. Campbell
Director
Division of Corrections

Approved by _____ Date 3/10/81
Helen D. Bellard
Commissioner
Department of Health
and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 225
Title An Act relating to parole of offenders & continuing existance of the Board of Parole
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Health and Social Services
Program Category Affected Offender Confinement, Reformation and Supervision
BRU, Program, or Subprogram(s) Affected Adult Confinement; Probation & Community Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill essentially enables the Board of Parole to continue their existance and carry out their responsibilities in the same general manner as in the past. Therefore, there would be no fiscal impact on the Division of Adult Corrections.

IV. DATE March 5, 1981 PREPARED BY Roger C. Iampa
AGENCY Division of Corrections/ Dept. of H & SS.
PHONE 465-3570

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval _____ Date _____

JJ-001 (Rev 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 225
Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board
Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	5.5	5.9	6.4	6.9	7.5
300	CONTRACTUAL	-0-	2.4	-0-	2.8	-0-	3.2
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION	-0-	23.8	23.8	23.8	23.8	23.8
	TOTAL	-0-	31.7	29.7	33.0	30.7	34.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	31.7	29.7	33.0	30.7	34.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE March 5, 1981 PREPARED BY Samuel H. Trivette
AGENCY Parole Board
PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/6/81

33-001 (Rev. 12/80)

A. Section .020 & .030, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan, and Sitka to meet with organizations to recruit for Board members and to administer member assessment. One additional day trip to one location to do final interviews and train on member responsibilities.

Travel	3.8

B. Section .050, Compensation

a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"
Guess 23 X 5 members X $100 = 11.5

b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.
120 calls X $120 = 12.0

Compensation Total	23.5

C. Section .080, Responsibilities

a) Costs to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in the Alaska Administrative Code.

Contractual	2.4

b) Travel costs for Executive Director and Chairman to conduct 1 day hearings in Anchorage, Fairbanks, and Juneau.

Travel	1.7

c) Compensation for Chairman 3 days at $100.

	.3
Section .080 Total	4.4

Assumptions

1. Travel will increase at a rate of 8% per year.
2. Contractual will increase at a rate of 8% per year, but hearings to modify regulations will be held only once every two years.

STATE OF ALASKA

BOARD OF PAROLE

PAROLE REGULATIONS

SEPTEMBER 1980

TABLE OF CONTENTS

ARTICLE 1. ELIGIBILITY FOR PAROLE

Section

005. ELIGIBILITY GENERALLY. A sentenced state prisoner other than one sentenced under AS 12.55.086 (b) serving a minimum term of at least 181 days, or six months, and who meets the requirements of this chapter, is eligible to be considered for release on discretionary parole by the Board.

Authority: 33.15.080
33.15.180
33.15.230
33.15.240
12.55.086
12.55.125

010. EXCEPTION TO GENERAL ELIGIBILITY. A prisoner sentenced in accordance with AS 12.55.086(b), to a period of incarceration as a condition of a suspended imposition of sentence is not eligible for discretionary parole unless he has been sentenced to a term in excess of one year of imprisonment.

Authority: 12.55.086

015. GROUP A ELIGIBILITY. If the sentenced prisoner's offense was committed prior to May 16, 1974, he is eligible for discretionary parole at anytime unless the sentencing judge required the sentenced prisoner to serve a period of imprisonment before he is eligible for parole, in which case the prisoner is not eligible until that period has been served.

Authority: 33.15.180
33.15.230
33.15.240

020. GROUP B ELIGIBILITY. If the sentenced prisoner's offense was committed after May 15, 1974, but before January 1, 1980, he is eligible for discretionary parole as set forth in this section.

(a) The sentenced prisoner will generally be eligible for discretionary parole after serving one-third of the period of imprisonment.

(b) However, the sentencing judge may require the sentenced prisoner to serve more than the mandatory one-third period of imprisonment before he is eligible for discretionary parole, in which case the prisoner is not eligible until that additional period has been served.

(c) A prisoner sentenced to a term of life under this section is not eligible for discretionary parole until he has served at least 15 years of imprisonment. The sentencing judge may require the sentenced prisoner to serve more than 15 years before he is eligible for discretionary parole, in which case the prisoner is not eligible until the additional period has been served.

Authority: 33.15.080
33.15.180
33.15.230
33.15.240
12.55.086

025. GROUP C ELIGIBILITY. A sentenced prisoner whose offense is committed after December 31, 1979, is eligible for discretionary parole as follows.

(a) A prisoner sentenced for 1st degree murder is not eligible for discretionary parole until he has served a minimum of 20 years of imprisonment, or one-third of his period of imprisonment, whichever is greater.

(b) A prisoner sentenced for 2nd degree murder or kidnapping is not eligible for discretionary parole until he has served a minimum of five years of imprisonment, or one-third of his period of imprisonment, whichever is greater.

(c) A prisoner sentenced in accordance with AS 12.55.125(c), AS 12.55.125(d), or AS 12.55.125(e), or of the crime of manslaughter, is eligible for discretionary parole after serving one-third of the period of imprisonment, unless the sentencing court specified a longer period of eligibility in the judgment and commitment, in which case the prisoner is not eligible until that additional period has been served.

(d) A prisoner sentenced under AS 12.55.135 is eligible for discretionary parole as outlined in Sections 05, 10, 15, and 20.

(e) A prisoner convicted and sentenced in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), (e)(2), is not eligible to be considered for discretionary parole by the Board.

(f) A prisoner sentenced in accordance with the provisions of AS 12.55.175 is eligible for discretionary parole as set forth in Sections 05, 10, 020(a) and (b).

Authority: 33.15.080
33.15.180
33.15.230
33.15.240
12.55.086
12.55.125
12.55.175

030. EFFECT OF PRIOR SERVICE ON ELIGIBILITY. Time spent in custody prior to sentencing in connection with the offense for which the prisoner is applying for parole, is counted as part of the period of imprisonment in calculating the discretionary parole eligibility date.

Authority: 11.05.040
33.15.080

035. EFFECT OF GOOD TIME ON ELIGIBILITY. The remissions of sentences set forth in AS 33.20.010 and AS 33.20.020 do not reduce the minimum period of imprisonment to be served before the prisoner is eligible for discretionary parole.

Authority: 33.15.080
33.15.100

040. CONCURRENT SENTENCES. Generally when determining discretionary parole eligibility on concurrent sentences, eligibility will be computed on each sentence to insure proper credit is given for prior service on each conviction. The prisoner is eligible for discretionary parole release when he has reached eligibility on all sentences. The most distant eligibility date will be designated as the official discretionary parole eligibility date.

Authority: 11.05.040
33.15.100

045. CONSECUTIVE SENTENCES. Generally, when determining discretionary parole eligibility on consecutive sentences, eligibility will be computed on each sentence and the aggregate of the individual eligibilities becomes the official parole eligibility date. Because of the many differing parole eligibility laws, unusual cases which require computation under more than one section of this article will be reviewed by the Board staff at the request of the parole applicant or the division of corrections.

Authority: 11.05.050
33.15.100

050. CALCULATION OF ELIGIBILITY DATE. Within 60 days after the date of sentence, the division of corrections shall calculate the parole eligibility date of each prisoner eligible for discretionary parole in accordance with Sections 05-45.

Authority: 33.15.100
33.15.150
33.15.230

055. WRITTEN NOTIFICATION OF ELIGIBILITY DATE. Written notification of the eligibility date shall be transmitted to the sentenced prisoner and to the Board office once it is calculated.

Authority: 33.15.100
33.15.150
33.15.230

060. APPEAL OF ELIGIBILITY DATE. If the sentenced prisoner disagrees with the parole eligibility date calculated in accordance with Section 50, he shall immediately notify the Board office in writing of his disagreement and his reasons for believing the calculation in error.

Authority: 33.15.100

ARTICLE 2. ATTENDANCE AT PAROLE BOARD ADJUDICATORY HEARINGS

Section

070. CLOSED GENERALLY. Except as specifically provided in this chapter, Parole Board hearings are closed to the public. Any person, group or agency may submit written information to the Board for consideration.

Authority: 33.15.100
44.62.310

075. PERSONS ALLOWED AT HEARINGS. (a) The members and staff of the Board, the prisoner/parolee, attorneys for the prisoner/parolee or for the State, and the division of corrections employee(s) responsible for the case, may attend Board hearings.

(b) Witnesses called on behalf of the State or on behalf of the parolee may be present to present testimony and answer questions at revocation and rescission hearings.

Authority: 33.15.100
33.15.140
42.62.310

080. ATTENDANCE BY OTHER GOVERNMENT EMPLOYEES. Upon request the Board may allow other government employees or other persons having a legitimate interest in a Board hearing, to attend a hearing. A request to attend a hearing must be made in advance of the hearing to the Board representative in charge of the hearing. The decision to permit attendance is discretionary with the Board. The wishes of the prisoner/parolee will be considered in the decision to allow any observers at a meeting.

Authority: 33.15.100
33.15.140
44.62.310

085. WITNESSES AT HEARING. (a) Any interested individual or official may provide information regarding any person involved in the parole process. Such information must be provided in writing to the Board.

(b) Parole Release Hearings: The Board discourages the physical appearance of witnesses at parole release hearings, and instead prefers to have any relevant testimony reduced to writing. In unusual circumstances, if a prior request is made, the Board may permit the appearance of a witness at a parole release hearing. Unless exigencies make it impossible, the Board requires the witness to have his comments available in written form also.

(c) Revocation & Rescission Hearings: The Parole Board permits the attendance of witnesses at revocation and rescission hearings, and witnesses may be made available by any of the parties to revocation and rescission hearings.

(d) One Witness Present: Only one witness at a time will be permitted to be present and give testimony at a hearing.

Authority: 33.15.100
33.15.140

ARTICLE 3. PAROLE PROGRESS REPORTS

Section

090. DEFINITION. In this chapter "parole progress report" means the reports prepared the Board when a prisoner applies for discretionary parole, and includes the information included in the reports referred to as "pre-parole reports" in AS 33.15.140.

Authority: 33.15.140

095. REQUIREMENT FOR REPORT. A parole progress report must be completed and reviewed in all cases when a prisoner is being considered for discretionary parole by the Board.

Authority: 33.15.140
33.15.150

100. PRESCRIBED FORMS AND FORMAT. A parole progress report will be completed on each discretionary parole applicant on the forms provided by the Board following the format established by the Board.

Authority: 33.15.150
33.15.230

105. ATTACHMENTS TO REPORT. The following information shall be attached to the parole progress report.

(a) All judgments and commitments.

(b) Presentence report.

(c) Psychiatric, psychological, or other mental health reports.

(d) Parole application.

(e) Parole guidelines matrix information

(f) Any letters received by the division of Corrections pertinent to the applicant's request for parole.

Authority: 11.15.134
33.15.060
33.15.150
33.15.230

110. DISCLOSURE OF REPORT. The parole progress report is confidential and may not be disclosed to anyone without the writtern permission of the Board.

Authority: 33.15.100
33.15.140

115. RESPONSIBILITY FOR COMPLETING REPORTS. Parole progress reports will be completed by staff of the division of corrections.

Authority: 33.15.100
33.15.150
33.15.230

ARTICLE 4. DISCRETIONARY PAROLE RELEASE HEARINGS

Section

120. FREQUENCY AND LOCATIONS. (a) The Parole Board will conduct discretionary parole release hearings at least four times annually in the geographic areas of Juneau, Fairbanks and Anchorage.

(b) Prisoners located in Alaska correctional facilities outside the geographic areas of Juneau, Fairbanks and Anchorage will be transported to suitable facilities in these regions for parole release hearings.

(c) A Board representative will travel to contract facilities located outside the State of Alaska twice annually and conduct parole interviews with sentenced prisoners eligible for parole.

Authority: 33.15.100

125. NOTIFICATION OF HEARINGS DATES. (a) The Board will establish the tentative dates of the next Board hearings as soon as possible after the completion of the previous hearings.

(b) Upon the establishment of the tentative Parole Board dates, the Board will notify the state correctional facilities in which the hearings are scheduled and will notify affected contract facilities.

(c) A copy of this notification of schedule will be made available to each person applying for parole under section 135, and the schedule will serve as notification that the Board will be considering his case.

(d) The division of corrections must provide the Board with a list of all prisoners who are scheduled to have their case considered by the Board and a list of all prisoners who are eligible but have waived their appearance, no later than three weeks before the scheduled Board hearings.

(e) The Board may modify any of the hearing dates established under subsection (a), and the Board will notify the division of corrections and any affected contract facility of any changes as soon as possible.

Authority: 33.15.100

130. DISPOSITIONS AVAILABLE TO THE BOARD. At a discretionary parole release hearing, any one of the following decisions may be made by the Board.

(a) The Board may, in its discretion, parole an applicant to an approved plan under Sections 225 and 230, which may include parole within the State of Alaska, parole to any jurisdiction under the interstate compact on parolees, or parole to a detainer from any recognized jurisdiction.

(b) The Board may continue the case for review at any subsequent Board hearing.

(c) The Board may deny the application for discretionary parole and require the prisoner serve the remainder of his sentence without further review of his application.

Authority: 33.15.100
33.15.120
33.15.190

135. APPLICANT RESPONSIBILITIES. (a) The applicant shall provide the appropriate division of corrections staff with all information requested for inclusion in the parole progress report.

(b) The applicant shall fully, completely, and truthfully fill out a parole application. The completed application must be received a minimum of four weeks before the next tentatively scheduled Board hearings in order for the case to be considered at that meeting. If the Board has previously reviewed the prisoner's application, he needs to fill out only the part of the application dealing with release plan and potential problems if released, unless he wishes to change any other information in his initial application.

(c) The applicant shall obtain and provide the division of corrections staff with written documentation of his parole release plan. This should include, but is not limited to, employment verification, job training verification, educational plan verification, housing verfication, and other letters of reference relevant to an applicant's plan. An applicant expecting to return to a small community where no parole officer is located should obtain documentation from the community's governing body of its willingness to receive the applicant in the community.

(d) The applicant shall be prepared to discuss any topic that could reasonably relate to his present offense, prior record, release plan, or possible problem areas if released on parole. These topics include, but are not limited to, present offense, prior criminal behavior, family situation, possible emotional problems, employment or training plans, institutional record, alcohol and drug use, relationships with other people, financial solvency, and release plans.

(e) The applicant shall also be prepared to discuss possible conditions of parole if he should be released and how these might relate to his adjustment in the community.

Authority: 33.15.100

140. APPLICANTS' PROCEDURAL OPPORTUNITIES. (a) Discretionary parole release hearings are nonadversary hearings and applicants are not entitled to legal representation, confrontation or cross examination of witnesses or material. The applicant has no right to present witnesses at discretionary parole release hearings, and the appearance of witnesses is discretionary by the Board.

(b) The applicant shall present any written material relevant to his case, situation, or proposed release plans. This written material should be supplied to the appropriate division of corrections staff in Alaska correctional facilities for presentation to the Board. This material should be sent to the Board office or given to a Board representative interviewing the prisoner by those applicants in contract facilities.

(c) The applicant must be interviewed by at least one member of the Board and may make any verbal statement he wishes regarding his case, situation, or release plan.

(d) The applicant may waive his right to an interview by a Board member.

(e) The applicant may waive the Board's consideration of his case entirely by signing the appropriate form adopted by the Board, and with the concurrance of the Board.

(f) The applicant's access to any material considered by the Board originating from any source other than material prepared at the direction of the Board specifically, must be obtained from the originating source. This includes, but is not limited to, presentence investigation reports, psychological reports, other mental health reports, police reports, sentencing transcript, judgments and commitments, disciplinary reports, classification reports, other investigative reports, and material from the prisoner's institutional file. The applicant has no general right of access to material considered by the Board.

(g) The applicant may move for reconsideration of a decision to continue his case or deny him further parole consideration in accordance with Sections 160-165 of these regulations.

(h) The applicant after having his case continued or having parole denied, may request a special hearing under the guidelines established by the Board in Sections 300-305 of these regulations.

(i) The applicant may be represented by an attorney at a discretionary parole release hearing. The responsibility for obtaining such representation lies entirely with the applicant, and neither the Board nor the division of corrections nor the staff of any contract facility have any responsibility for arranging or assuring the presence of legal representation.

(j) Witnesses for the applicant may appear before the Board pursuant to Section 085. A witness appearing on behalf of an applicant should be aware that his presence at the hearing makes him available for questioning regarding his relationship with the applicant and regarding any other area of concern as it might relate to the applicant and his possible release on parole.

(k) The applicant shall submit documentary verification of all facets of his release plan to the Board.

Authority: 33.15.100
33.15.140

145. DIVISION OF CORRECTIONS' RESPONSIBILITIES. (a) The division of corrections must supply prisoners with parole applications furnished by the Board.

(b) The division of corrections staff shall advise prisoners of the availability of the Board's regulations and of the criteria under Section 150 utilized by the Board in making discretionary parole case decisions.

(c) The division must solicit comments from the district attorney and sentencing judge and provide these comments to the Board on each case presented.

(d) The division must provide the Board in a timely manner with a comprehensive parole progress report as outlined in the instructions from the Board.

(e) The division may not disclose the parole progress report to anyone without the specific written permission of the Alaska Board of Parole.

(f) The division must make the applicant's entire file available for review at the release hearing.

(g) The division must distribute paperwork to the applicant from the Board as directed.

(h) The division must provide the Board with a current psychiatric examination on any applicant convicted of Lewd or Lascivious Acts Toward Children pursuant to AS 11.15.134.

Authority: 11.15.134
12.55.075
33.15.060
33.15.100
33.15.140
33.15.150
33.15.230

150. PAROLE BOARD RESPONSIBILITIES AND PROCEDURAL OPPORTUNITIES. (a) The Board may use any of the following information that it considers to be trustworthy in arriving at a case decision. The Board shall determine the creditability and the weight of the information:

(1) Presentence report;

(2) All attachments to the presentence report;

(3) The transcript prepared at the sentencing hearing and any information testified to by any party at sentencing;

(4) Other documents or testimony presented at the sentencing hearing;

(5) Psychiatric, psychological, and other mental health reports;

(6) Relevant information made available to the Board from the trial or during any other part of the legal proceedings leading to the conviction in the present offense(s);

(7) Information relating to the applicant's previous or subsequent delinquency or criminal experience, including juvenile record;

(8) Information relating to the applicant's previous violations of laws, ordinances, or orders; verified information regarding other crimes, and information regarding other antisocial or violent behavior;

(9) Information relating to the social background, capabilities, lifestyle, and mental and physical health of the applicant;

(10) Information regarding the applicant's behavior in the community if released on bail, bond or own recognizance pending trial, sentencing or appeal;

(11) Recommendations of the sentencing court and the district attorney's office;

(12) Information regarding the behavior of the applicant since incarcerated;

(13) The release plan of the applicant;

(14) Information from those persons the applicant plans on living with, their feelings towards the applicant, the applicant's financial solvency, residence, and the community and environment to which he is requesting parole;

(15) All references and recommendations submitted to the Board regarding the applicant either recommending or protesting the applicant's release to parole supervision;

(16) Police reports considered relevant by the Board;

(17) Information which the Board thinks might reasonably relate to the success or failure on parole if the applicant was released from custody. This includes the attitude of the community toward the applicant and his assessed ability as viewed by the Board to adjust to any given release plan presented; and

(18) Any other information the Board feels would be helpful in making the most informed decision possible in a given case.

(b) The Board must preserve all written material made available to it and utilized by it in arriving at a decision in the case.

(c) When considering an application for parole, the Board may consider any of the following factors, determining the interrelationships and priorities and weights to be given each factor, in determining whether or not to release the prisoner on parole:

(1) The applicant's readiness and willingness to face his obligations in the community and to undertake normal responsibilities;

(2) The current circumstances of the applicant's family, how the family views the applicant, and its interest and readiness to accept him back as part of the family, and its supportiveness to his release:

(3) The circumstances regarding the proposed residence, including the home, neighborhood and the community in which the applicant will reside;

(4) The employment history, including vocational and acedemic skills and training learned while incarcerated. Also previous training, job experiences including military work where appropriate in determining the applicant's employability;

(5) The availability of community and family resources to assist the applicant if he is released on parole;

(6) Other important factors regarding the applicant's release plan;

(7) The institutional conduct of the applicant such as the adjustment to group living, involvement in institutional programs, performance within the assigned institutional area, relationship to the institutional staff, overall behavior during the period of incarceration and how this might relate to the applicant's adjustment in the community.

(8) Whether or not there is any information indicating the applicant has ever used or abused any drugs or alcoholic beverages, the extent of the use or abuse of these, and relationship to the applicant's behavior, criminal behavior, and current offense(s). Previous involvement in any treatment programs and applicant's subsequent behavior after release from such treatment;

(9) Relevant information from the sentencing judge and the district attorney's office;

(10) Previous probation or parole experiences, behavior when out of custody on bail, bond or own recognizance release, and the recency of these experiences;

(11) The applicant's willingness to discuss all information the Board considers relevant in making a responsible decision, the applicant's willingness to accept responsibility for his criminal activity, remorse expressed, and the applicant's truthfulness with the Board when presenting information in any form;

(12) Noticeable changes in the applicant, his behavior, self concept, and his general attitude toward the offense, and his understanding of causual factors and a need for change. Information regarding the applicant's lifestyle, productivity, any previous assaultive behavior and any other antisocial acts in the community;

(13) The physical and emotional condition of the applicant including written or verbal reports from psychiatrists, psychologists, and related mental health persons;

(14) The applicant's attitudes including behavior and concern for his fellow man, his readiness to return to society, and how he views himself and the society he will return to if paroled;

(15) Any letters, petitions or other information from concerned citizens or groups recommending the applicant be or not be paroled, and the reasons for these recommendations;

(16) The applicant's willingness to abide by any standard or special conditions of parole;

(17) The relationship between the applicant's crime, length of sentence, background and the Board's handling of similarly-situated sentenced prisoners in the past;

(18) The relationship between the applicant's crime, his sentence, his background, and other similarly-situated sentenced prisoners;

(19) Whether the applicant's release at this time is compatible with the welfare of society and whether it would depreciate the seriousness of the offense, considering the amount of time served by the applicant, the length of his sentence, and other relevant factors;

(20) The Board will consider all relevant factors involved in the present offense based upon the information from all available sources. The Board is not limited to considering the title of the crime of conviction, but may consider any information it considers reliable regarding the facts of the crime;

(21) The Board's perception of the applicant's risk to the community if released on parole;

(22) Any other factors which the Board determines to be relevant in considering the prisoner's application.

(d) The Board must provide the following information to the parole applicant who is granted parole:

(1) A notice of board action advising the applicant of the earliest possible release date will be provided to the applicant within ten calendar days after the Board's decision;

(2) An informational copy of the order of parole listing the conditions of parole imposed, within the same time limits;

(3) A copy of the order of parole containing the conditions of parole and a parole expiration date upon his release from imprisonment.

(e) (1) If the applicant is not paroled, the Board must provide the applicant with a notice of board action containing the decision made by the Board. This notice will be provided to the applicant within ten calendar days after the date of the Board's decision.

(2) Within 21 calendar days after the date of the decision in the applicant's case, the Board will inform the applicant in summary, the specific reasons why parole was not granted. The staff of the Board must take notes at the parole release hearing and utilize the comments of the Board members to draft the correspondence to the applicant.

(f) The deliberations of the Board members in arriving at the decision outlined in Section 155 are confidential and only the members and Board staff are permitted to be in attendance. The vote of the individual Board member shall not be disclosed to any person and the "hearing decision vote sheet" is also confidential and shall not be disclosed to any person.

Authority: 12.55.075
33.15.080
33.15 100
33.15.230
44.62.310

155. DECISION BY THE BOARD. (a) If a quorum of the Board is present after the parole interview pursuant to Section 140, the Board will make a decision. If a quorum is not present at that time, a decision will be made when the substance of the interview together with other material pursuant to Section 150 is reviewed by a quorum of the Board.

(b) Where an applicant asserts and/or if the Board feels any information under consideration by it is significantly incorrect or significantly incomplete, the Board may defer action on the application to allow the Board or the division of corrections to obtain additional information, or to permit the applicant to gather information to support his claim.

(c) The Board may defer action when a criminal charge(s) is pending against the applicant until the final disposition of the charge is made.

(d) The Board is not required to make any findings of fact or conclusions of law regarding items in an applicant's file nor relate them to the Board's release criteria.

(e) A parole applicant may not relitigate issues determined against him in other forums, including disciplinary committees, adjustment committees, and in other administrative hearings. He may not relitigate a conviction of a crime in a court of law.

(f) If the Board members present at the hearing do not arrive at a concensus of action in the case, and the number of affirmative votes for any decision does not meet the requirement of AS 33.15.130(a), the application is denied, and the case will be automatically continued to the next regularly-scheduled quarterly Board hearing.

Authority: 33.15.100
33.15.130

ARTICLE 5. RECONSIDERATION OF BOARD DECISIONS AT DISCRETIONARY PAROLE RELEASE HEARINGS

Section

160. GROUNDS FOR RECONSIDERATION AT DISCRETIONARY PAROLE RELEASE HEARINGS. The Board will reconsider decisions from discretionary parole release hearings only for the following reasons:

(a) The decision by the Board was not supported by the reasons or facts stated by the Board, and reconsideration of the case with the clarification or correction would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board;

(b) The decision was based upon incorrect or faulty information that would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board;

(c) The Board did not follow its prescribed procedures in making its decision and following the prescribed procedures would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board;

(d) There was significant information not available to the applicant through no fault of his own at the time of the hearing that would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board.

Authority: 33.15.100

165. APPLICANT'S RESPONSIBILITIES. Any applicant who wishes to have the Board reconsider its decision to not release him on parole must advise the Board of his intent and reasons for his request as follows:

(1) The notice of request for reconsideration must be mailed on the forms provided to the Board office within 15 calendar days of the date of the letter required under Section 150(e)(2). The reasons for the request shall be included on the form along with the supporting information, and additional material may be attached to the form if considered relevant by the applicant;

(2) Requests will not be processed if the proper forms provided by the Board are not utilized unless such forms are not available to the applicant. In such cases, the applicant must still notify the Board office within the 15 calendar day time limit specified in subsection (1).

Authority: 33.15.100

170. HANDLING OF REQUESTS BY BOARD. (a) Requests for reconsideration will be handled by a Board member not a party to the original decision being reconsidered if possible. If all voting Board members were a party to the original decision or a non voting member is not available to review the use, then the appeal will normally be considered by the chairman or vice-chairman.

(b) The Board member reviewing the case may grant a rehearing of the case or to deny the request for reconsideration. Requests granted will result in a new hearing by the Board at the next regularly-scheduled hearing. The granting of a request for reconsideration in no way assures that parole will be granted.

(c) The Board must arrive at a decision on the request within 21 calendar days after the receipt of the request.

(d) The burden of providing information for the request rest solely with the applicant.

Authority: 33.15.100

ARTICLE 6. CONDITIONS OF PAROLE

Section

175. PURPOSE OF CONDITIONS. (a) The conditions of parole serve a number of purposes:

(1) They serve to notify the parolee of what conduct he must follow and what he is prohibited from doing if he is to remain in the community on parole.

(2) The conditions also advise him in writing of laws that have in the past been frequently violated by parolees, so that he does not inadvertently violate laws.

(3) Parole conditions are also imposed requiring the parolee to advise his parole officer of major changes in his life so that any problems may be dealt with before a possible crisis develops. The rules regarding keeping the parole officer advised of the situation also aid in the protection of the public by helping the parole officer monitor the parolee's activities in the community.

(b) All parolees must follow the general conditions of parole established. Other special conditions are imposed to aid in the rehabilitation of the parolee or to protect the public. Special conditions are imposed that reasonably relate to the parolee's offense, prior record, and prior behavior.

Authority: 33.15.100
33.15.230

180. STANDARD CONDITIONS OF PAROLE. The following are the standard conditions of parole established by the Board, which may be modified at any time during the period of parole by the Board:

1. Immediately upon release, report in person to the parole officer at_____, and receive further instructions regarding reporting.

2. I will make deligent effort to maintain steady employment and support legal dependents. I will not voluntarily change employment without receiving permission from my parole officer to do so; if discharged or if employment at present job is terminated (temporarily or permanently) for any cause whatsoever, I will notify my parole officer or his designee within 48 hours. If I am involved in an education or training program, I will continue active involvement in the program unless I receive permission of my parole officer to quit.

3. I will report to my parole officer at least monthly in the manner prescribed by him. I will follow any other reporting instructions established by my parole officer.

4. I will obey all state, federal and local laws, ordinances, and orders.

5. I will obtain permission from my parole officer before changing residence. Remaining away from my residence for 24 hours or more or sleeping elsewhere constitutes a change in residence for the purpose of this condition. I will notify my parole officer at once of an intended change of address and the reasons I expect to move.

6. I will obtain the prior written permission of my parole officer in the form of an interstate travel agreement before leaving the State of Alaska. Failure to abide by the conditions of that aggreement is a violation of my order of parole.

7. I will not own, possess, have in my custody, handle, purchase or transport any kind of firearm without the prior written permission of the Alaska Board of Parole. I understand the federal law prohibits me from having any kind of contact specified above with firearms. I may not carry any deadly weapon concealed on my person except a pocket knife with a 3" or smaller blade. Carrying any other weapon concealed such as a hunting knife, axe, club, explosives, etc. is a violation of my order of parole. I will contact the Parole Board if I have any questions about the use of firearms or weapons.

8. I will not use, possess, handle, purchase, give or administer any narcotic, hallucenogenic, stimulant, depressant, amphetamine, barbituate, or prescription drug not specifically prescribed by a licensed physician.

9. I will report to my parole officer, no later than the next working day, any contact with law enforcement officers that involves arrest or interrogation for any crime or suspected crime.

10. I will not enter into any agreement or other arrangement with any law enforcement agency which will place me in the position of violating any law or any condition of my parole.

11. I will obey any special instructions, rules or orders given to me by the board or my parole officer.

Authority: 33.15.100
33.15.190
33.15.230

185. SPECIAL CONDITIONS OF PAROLE. The Board may impose any of the following special conditions of parole established by the Board. This list is not inclusive of all conditions the Board might impose, and the Board reserves the right to impose any reasonable condition at any time during the period of parole:

1. I will report to the supervising parole officer's office the next working day after the arrival in the state in which I am being supervised.

2. I understand that I am obligated to abide by the conditions of parole established by the Alaska Board of Parole, as conditions of the state where I will be supervised on parole. I understand the interstate supervising parole officer may set up any additional conditions he finds necessary; if this is done, informational copies will be sent to the Alaska Division of Corrections and the Alaska Board of Parole. My interstate supervising officer has the authority to change any of the conditions set by his state, but only the Alaska Board of Parole has the authority to have any conditions changed on the Alaska Board of Parole order.

3. I will not leave the state where I am being supervised without prior written permission of my supervising parole officer, including an interstate travel permit.

4. I will receive permission of my parole officer before I enter into any contracts, open or utilize a bank checking account, borrow any money or go into debt, apply for or use any credit cards, purchase an automobile, truck, snow machine, motorcyle, motorhome, trailer, house or property. I will advise my parole officer of any debts I currently owe. I will pay all bills when due, maintain all credit accounts current, and keep my parole officer advised of my financial condition and of any financial problems.

5. I will not open, maintain or utilize a checking account. I will not at any time have in my possession any checks, except payroll or business checks payable to me as the first party. I will not fill out any portion of any check except to endorse my name to a payroll or business check made payable to me.

6. I will consult with my parole officer before entering into an agreement to marry or marrying.

7. I will participate in mental health, psychiatric, psychological, or other counseling programming approved by my parole officer as directed by the Parole Board or my parole officer. I will continue active participation and attendance in any such programming determined appropriate by my parole officer, to his satisfaction. I will obtain the prior written permission of the parole officer before voluntarily discontinuing any programming established. If I am discharged or if this programming is terminated (temporarily or permanently) for any reason I will notify my parole officer or his designee within 48 hours. I agree to permit my parole officer access to any information obtained by these program personnel, including my attendance.

8. I will participate in approved alcohol/drug programming as directed by the Parole Board or my parole officer. I will continue active participation and attendance in any such programming determined appropriate by my parole officer to his satisfaction. I will obtain the prior written permission of the parole officer before voluntarily discontinuing any programming established. If discharged or if this programming is terminated (temporarily or permanently) for any reason I will notify my parole officer or his designee within 48 hours. I agree to permit my parole officer access to any information obtained by these program personnel, including my attendance, and I will sign an approved criminal justice referral consent to release information to my parole officer.

9. I will notify my parole officer within 48 hours of the use of any drugs prescribed by a licensed physician.

10. I will not at any time have on my person, or in my residence or in my car any paraphernalia normally associated with the illicit use or abuse of drugs. This includes but is not limited to: syringes, injecting needles, cooking spoons, hash pipes, cocaine spoons or weighing scales and substances used for cutting down, packaging or diluting drugs.

11. I will not consume or have in my possession at any time any alcoholic beverages. I will not enter any establishment whose primary business is the dispensing of alcoholic beverages; this includes liquor stores, bars, pubs, taverns, night clubs. I will notify my parole officer within 48 hours of the use of any prescription or counter drugs containing alcohol.

12. I will not at any time allow alcoholic beverages to be brought into my residence or to be carried in any motor vehicle that I am driving.

13. Upon request by or at the direction of a parole officer at any reasonable time, I will submit to a search of my person, personal property, my residence or any vehicle under which I have control, for the presence of dangerous weapons, knives or firearms. This search of my person may consist only of a pat down or frisk search to determine the presence of weapons, unless the searching officer reasonably believes that I have a weapon concealed on my person which is not detectable by a pat down or frisk search.

14. Upon request by or at the direction of a parole officer at any time, I will submit to a search of my person, my personal property, my residence or any vehicle under which I have control, for the presence of narcotic, hallucenogenic, stimulant, depressant, amphetamine, barbiturate or other drugs or drug paraphernalia.

15. Upon request by or at the direction of a parole officer at any reasonable time, I will submit to a search of my person, my personal property, my residence or any vehicle under which I have control for the presence of alcoholic beverages. This search of my person is limited to a pat down or frisk search.

16. Upon request by or at the direction of a parole officer at any reasonable time, I will submit to a search of my person, my personal property, my residence or any vehicle under which I have control, for the presence of property that may be stolen. A search of my person will normally be limited to a pat down or frisk search unless the searching officer reasonably believes that there is stolen property on my person which is not detectable by a pat down or frisk search.

17. I will submit to testing at any reaonable time upon request by or at the direction of a parole officer or peace officer to determine whether or not I have used any narcotic stimulant, depressant, amphetamine, barbiturate or prescription drug. This testing includes, but is not limited to, blood test, breathalizer, urinalysis. I understand that if any of these tests show that I have ingested drugs not specifically prescribed by a licensed physician, my parole may be revoked. I will submit to testing as set forth in this condition if requested to do so by a law enforcement officer who has contacted me in conjunction with a possible OMVI, DWI, reckless driving, negligent driving arrest or other vehicular offense. Refusing to cooperate when requested to submit to testing will constitute a violation of my order of parole.

18. I will submit to testing at any reasonable time upon request by or at the direction of a parole officer or peace officer to determine whether or not I have used alcoholic beverages. This testing includes, but is not limited to, blood test, breathalizer, urinalysis. I understand that if any of these tests show that I have ingested alcoholic beverages, my parole may be revoked. I will submit to testing as set forth in this condition if requested to do so by a law enforcement officer who has contacted me in conjunction with a possible OMVI, DWI, reckless driving, negligent driving arrest or other vehicular offense. Refusing to cooperate when requested to submit to testing will constitute a violation of my conditions of parole.

19. I will not under any circumstances, operate a motor vehicle. I will not apply for a motor vehicle operator's license without the prior written permission of the Alaska Board of Parole. If I am presently licensed to operate any kind of motor vehicle, I will immediately surrender this/these license(s) to my parole officer, who will forward them to the issuing authority and advise the issuing authority why it is being returned.

20. I will not operate a motor vehicle without first obtaining liability insurance, and providing proof of this insurance to my parole officer.

21. I will provide information to my parole officer about any motor vehicle that I own, am buying, or operate. I will advise him of the make, model, year, color, and license number of these vehicles.

22. I will receive permission from my parole officer before leaving the area of the state to which my case is assigned. My parole officer will advise me of the limits of the area to which I have been assigned.

23. I will not associate nor have any non-employment related contact with a convicted felon, without the permission of the Alaska Parole Board. This includes corresponding or visiting with any person confined in a prison, penitentiary, correctional institution, jail, halfway house, correctional work camp, work release center, etc. I will notify my parole officer if I have any job-related or any other contact with a felon.

24. I will enroll in the TASC program immediately and remain in the program unless and until written permission is granted by the Alaska Parole Board. I will cooperate with TASC program personnel and will sign the consent to release confidential information as a criminal justice referral.

Authority: 33.15.100
33.15.190
33.15.230

190. SEARCH AND SEIZURE CONDITIONS. The Board may impose conditions regarding the search of a parolee or the seizure of his property or property in his possession. The Board may impose such conditions when the information considered by the Board indicates the condition is necessary to adequately supervise the parolee. Whenever this condition is imposed by the Board, a parole officer may carry out searches if he has a reasonable belief that a parole violation has occurred. In accordance with such conditions imposed, a parole officer may order, direct, or himself conduct a lawful search at reasonable times and in a reasonable manner consistent with the circumstances. Search clauses imposed by a parole officer or the Board prior to September 1977, are permissible if carried out in a manner consistent with this Section. Unscheduled searches by the parole officer are permissible if authorized by the Board as long as they do not constitute harassment.

Authority: 33.15.100
33.15.190
33.15.230

195. PAROLE OFFICER-IMPOSED CONDITIONS. Parole officers may impose a condition of parole that meets the requirements of Section 175, except a condition regarding searches. Any permanent condition parole imposed by a parole officer must be reduced to writing by the parole officer, and he must give a copy to the parolee as soon as practical, and forward a copy to the Board office. Special one time instructions need not be reduced to writing. A parole officer may impose a condition at any time during the period of parole.

Authority: 33.15.190
33.15.230

200. MODIFICATION OF BOARD-IMPOSED CONDITIONS OF PAROLE. (a) Only the Board has the authority to rescind, remove or modify any condition of parole imposed by the Board. A condition imposed by the Board may be rescinded, removed, or modified at the discretion of the Board.

(b) A request for to rescind, remove or modify a condition of parole will be handled as follows:

(1) If the parolee has not yet been released from custody to parole status he must submit a written request to the institutional parole officer or other appropriate staff. The institutional parole officer will forward the request to the Board office along with his recommendations regarding the request. The Board will make a decision on the request as soon as possible and will notify the parolee of the decision in writing and the reason for the decision.

(2) If the parolee has already been released from custody and is being supervised in the community, the written request will be submitted to the supervising parole officer, who will forward the request to the Board office with his comments. The Board will make a decision on the request as soon as possible, and will notify the parolee of its decision in writing and the reason for the decision.

(c) All conditions of parole imposed by the Board remain in effect unless they are changed by the Board. The parolee must comply with all contested conditions unless he receives written notification by the Board of the modification of the conditions.

Authority: 33.15.100

205. MODIFICATION OF PAROLE OFFICER-IMPOSED CONDITIONS OF PAROLE. (a) A parolee may verbally, or in writing, request the modification of any parole officer-imposed conditions of parole by the parole officer and the parole officer has the authority to modify any parole officer-imposed condition of parole. Any changes in conditions shall be reduced to writing as soon as practical for the notification and benefit of all parties.

(b) If a parolee requests the modification of a condition of parole imposed by a parole officer, and the parole officer does not grant the modification, the parolee may appeal the request by writing to the Board as outlined in Section 200(b)(2). The Board will not grant the modification on appeal unless overwhelming evidence justifies the change, in the opinion of the Board.

(c) All conditions of parole imposed by the parole officer remain in effect unless he receives written notification by the parole officer or the Board of the modification of a condition.

Authority: 33.15.100

210. REASONS FOR MODIFICATION. The Board may modify the conditions of parole for the following reasons:

(a) A condition is no longer necessary for either the protection of the public or rehabilitation of the parolee;

(b) An additional condition(s) is necessary because of changed circumstances, for either the protection of the public or rehabilitation of the parolee;

(c) The Board determines a condition is unduly harsh or unnecessary because of changed circumstances;

(d) Any other reason deemed sufficient by the Board.

215. CONDITIONS ON INTERSTATE PAROLEES. (a) Adult parolees under supervision of the interstate compact in Alaska from other jurisdictions are subject to the same rules relating to the imposition of conditions of parole as are parolees released by the Alaska Board of Parole.

(b) The Alaska supervising parole officer or the Board may impose the general parole conditions from Alaska, in addition to those of the sending state.

(c) The Alaska supervising parole officer or the Board may impose any other special conditions of parole necessary and relevant to aid in the rehabilitation of the parolee or to assist in the protection of the community, with the exception of conditions relating to search and seizure.

(d) The Board may impose conditions regarding the search of parolees and seizure of property of parolees.

Authority: 33.05.010
33.15.100
33.15.230
33.25.010

ARTICLE 7. PAROLE RELEASE PROCEDURES

Section

225. RELEASE TO AN APPROVED PLAN. All parole releases granted by the Alaska Board of Parole are subject to any preconditions established by the Board. Release is also subject to the approval of a viable release plan by the appropriate division of corrections office. In those cases where the applicant is being paroled to a detainer, he may be released only to the appropriate officials from the jurisdiction serving the legal process on him.

Authority: 33.15.100
33.15.120
33.15.190
33.15.230

230. ACCEPTABLE PLANS: Except in unusual circumstances parole will be granted only to full time employment, to full time vocational or on-the-job training, to a full time residential treatment program, to full time education, to a verified detainer, or to a combination of these plans.

Authority: 33.15.100
33.15.120
33.15.190
33.15.230

235. PRECONDITIONS: The Board may establish conditions that must be accomplished before the parolee is released from the institution to parole supervision. All preconditions established by the Board must be met before the parolee's release can be approved by the appropriate corrections authority.

Authority: 33.15.010
33.15.100

240. RELEASE DATE. When parole is granted, the Board will set the earliest possible release date, and the parolee may not be released before that date. The division of corrections parole officer has up to three weeks from the date his office receives the case to make a final decision on the plan presented on all non-interstate cases. Parolees must be released as soon as possible after that date once a viable release plan has been approved. A parolee's release date may be retarded up to 120 days from the earliest release date without an additional hearing while he is developing an acceptable release plan.

Authority: 33.15.100

245. RELEASE PLAN TO PAROLE OFFICER. As soon as possible after the Board grants parole to an applicant, the appropriate institutional staff shall forward a copy of the parole packet to the division of corrections office for assignment where the parolee is to be supervised. Attached to this packet of information should be a memo from the institution advising the parole officer of the details of the proposed parole release plan.

Authority: 33.15.100
33.15.150

250. PAROLE OFFICER TO ASSIST. If for some reason a parolee is still in custody after the three week period specified in Section 240 has elapsed, and he has not been able to develop a viable parole plan, the supervising parole officer and institutional parole officer shall work with him to devise an acceptable parole plan consistent with his parole conditions and the intent of the Board.

Authority: 33.15.100
33.15.150
33.15.230

255. PAROLE ADVISORS. In those locations in Alaska not directly served regularly by a parole officer of the division of corrections, the Board or parole officer may require the establishment of a parole advisor before a parolee is released on superivision, or at any time thereafter. A parole advisor has no legal jurisdiction or authority over the parolee, but is someone selected as a liaison between the parolee and the parole officer, and is to report specific events to the parole officer as requested. The parole advisor must be a person of reputable character capable of cooperating with the applicant's parole officer. The parole advisor must be willing to counsel, assist, and work with the parolee.

Authority: 33.15.100
33.15.150
33.15.230

260. PAROLEE NOT RELEASED. If the parole release date has passed, and the parolee has been unable to develop an acceptable release plan, the appropriate institutional authorities shall notify the Board and the offender shall again appear before the Board at the next regularly-scheduled hearings to discuss his release plan with the Board pursuant to the provision of Section 240.

Authority: 33.15.100

265. INTERSTATE PLAN REJECTED. If the parolee has been granted parole to an interstate plan outside the State of Alaska, and the receiving state has rejected his supervision, he shall appear at the next regularly-scheduled Board hearing after the notification of rejection has been received.

Authority: 33.15.100
33.15.190
33.15.230

270. DETAINER PLAN NOT INSTITUTED. If the parolee has been paroled to a detainer or other legal process, and the receiving agency has notified the Board that it no longer wishes to exercise its legal process, the parolee's case will be considered at the next regularly-scheduled Board hearing.

Authority: 33.15.100
33.15.120
33.15.230

275. WHEN PAROLE EFFECTIVE. Parole does not become effective until such time as the release plan has been approved by the appropriate office of the division of corrections, and the order of parole has been signed by the parolee and witnessed.

Authority: 33.15.100
33.15.230

280. PAROLE EXPIRATION DATES. (a) Prisoners released on parole remain on parole until midnight of the parole expiration date. Parole expiration dates will be computed by appropriate division of corrections staff at the time the parolee is released on supervision, and parole expiration dates must be entered onto all copies of the order of parole at that time.

(b) Discretionary Parole expiration dates shall be computed by subtracting the prior service and good time earned from the maximum sentence expiration date.

(c) Mandatory parole expiration dates shall be computed according to current law.

(d) If the parolee has a period of probation to follow his parole, the period of probation shall commence immediately upon the expiration of parole, unless the court granting probation orders otherwise.

Authority: 33.15.100
33.15.190
33.15.230

285. REFUSAL TO SIGN ORDER OF PAROLE. If a person granted discretionary parole by the Board refuses to sign the conditions of parole established by the Board, he will not be released on parole supervision, and the Board office shall be immediately notified. If the parolee is still in custody at the next regularly-scheduled parole release hearings as a result of his failure to sign the conditions of parole, the Board will again review his case. Failure of the parolee to sign the conditions of parole may result in the Board rescinding his parole.

Authority: 33.15.080
33.15.100
33.15.230

290. CERTIFICATE OF GOOD TIME AWARD. A certificate of good time award and mandatory release shall be completed upon the release of each parolee pursuant to AS 33.20.030, and a copy of the certificate shall be attached to the completed order of parole that is forwarded to the Board.

Authority: 33.15.100
33.20.030

295. COPY OF ORDER PROVIDED PAROLEE. A copy of the order of parole containing the conditions of release and the parole expiration date shall be provided to the parolee prior to his release.

Authority: 33.15.070
33.15.100

ARTICLE 8. SPECIAL REVIEWS

Section

300. GENERALLY. The Board will consider the granting of a special review under the circumstances set forth in Section 305 when it has continued a case to a future date or has denied the applicant any further consideration for parole. In order for the special review to be granted, some vital information or mitigating circumstances must arise that, had the knowledge been available to the Board members at the time the parole application was considered, a different decision probably would have been rendered in the opinion of the Board. The burden of proof for presenting documentation under this section rests with the parole applicant.

Authority: 33.15.100

305. GUIDELINES FOR SPECIAL REVIEWS. The guidelines used in considering applications for special hearings are as follows:

(a) A significant change or amendment to the judgment or sentence of the applicant;

(b) Some special type of education, training, or employment that was unavailable when the prisoner's application was considered but now is available, which must be accepted at this time or can never again be obtained. Enrollment in college which could be done the following semester or the next year or entry into similar educational or vocational programs in the future are not acceptable reasons for granting a special review;

(c) Outstanding institutional performance over a lengthy period of time since the previous hearing. This period must exceed two years since the last Board appearance except in the most unusual circumstances;

(d) A meritorious act, such as saving the life of correctional personnel or of a fellow prisoner;

(e) A family tragedy, which results in the applicant being the sole surviving person who can handle family matters, and where the Board feels the applicant could reasonably be expected to fill that role, based upon the best information available;

(f) A situation where an applicant has received a set off in excess of two years, and can demonstrate to the satisfaction of the Board that this continuance is extremely disparate with other similarly-situated applicants recently considered by the Board;

(g) Any other circumstance which the Board finds is of such magnitude to warrant the granting of a special review of the case.

Authority: 33.15.100

310. DEADLINE FOR APPLICATIONS. Unless an extreme emergency situation is identified, all requests for special hearings must be received in the Board office no later than five weeks before the next regularly-scheduled Board hearing. The Board will determine the existence of extreme emergency situations.

Authority: 33.15.100

315. APPLICANTS' RESPONSIBILITIES. The prisoner must make application to the Board and specifically state why he feels he qualifies for a special hearing. The request must be sent through the appropriate division of corrections staff, usually the institutional parole officer in Alaska correctional facilities. The request may be mailed directly to the Board office when the prisoner is confined in a contract facility.

Authority: 33.15.100

320. BOARD RESPONSIBILITIES. The Board will refer the request for a special hearing to a single member for a decision, in the same manner as provided for in Section 170. The Board will notify the applicant of its decision in writing as soon as possible and of the reason for its decision. The granting of a special review in no way assures that parole will be granted. Any decision available to the Board in Section 130 may be made. Granting of a special hearing will allow the applicant to have his case reviewed at the next hearing designated by the Board.

Authority: 33.15.100

ARTICLE 9. PAROLE RESCISSION HEARINGS

Section

325. REASONS FOR RESCISSION HEARINGS. Any time after a prisoner is granted discretionary parole by the Board and before parole takes effect, the Board may temporarily suspend the order of parole, and if sufficient cause is shown, rescind the order of parole. Parole may be suspended or rescinded for any of the following reasons:

(a) Disciplinary action in a correctional facility;

(b) Filing of new criminal charges which could result in a conviction in a court;

(c) Violation of community program regulations which might have resulted in disciplinary action if the parolee was incarcerated in a state correctional facility;

(d) Evidence becomes available to the attention of the Board indicating that the applicant willfully concealed or misrepresented information deemed significant to the Board in making its decision. All paroles are ordered on the assumption that information from the applicant has not been fraudulently given or that relevant information has not been witheld from the Board, and rescission may result if evidence to the contrary is made available to the Board;

(e) Failure of the parolee to sign the order of parole, which may be indicative of his unsuitability for parole.

Authority: 33.15.060
33.15.080
33.15.100
33.15.230

330. PAROLEE NOT RELEASED PENDING RESOLUTION. Whenever a parolee engages in conduct set forth in Section 325 the Board shall be notified, and the parolee may not be released to parole status pending the resolution of a possible rescission hearing. When parole rescission action is initiated, the following procedure will be followed.

Authority: 33.15.100

335. NOTIFICATION TO PAROLEE. The parolee shall be notified in writing that action is being initiated which could result in the rescission of his parole. A summary of the reason the action is being initiated will be made available to the parolee.

Authority: 33.15.100

340. PRELIMINARY RESCISSION HEARING. Once the information contained in the rescission report is made available to a hearing officer of the Board, and if the hearing officer determines the information, if proven, is of such importance to consider suspending and rescinding parole, a preliminary rescission hearing will be held by the Board, within ten working days after receipt of the report. No hearing is necessary if the Board hearing officer determines that the parolee should be released to supervision because of the minor nature of the violation or the parolee has not reached his parole release date.

Authority: 33.15.100
33.15.230

345. RULES AT HEARING. The hearing conducted in accordance with Section 340 is governed by the same rules as set forth in these regulations for parole revocation hearings. The corrections agency holding the parolee or the court (if a new crime is the basis for the rescission hearing) is responsible for determining the facts that could lead to the parole rescission. The Board is responsible for determining whether or not the violation is of such importance that the parolee should not be released pending review by the Board.ard.

Authority: 33.15.100

350. DETENTION OR RELEASE PENDING FINAL RESCISSION HEARING. If the hearing officer determines at the preliminary rescission hearing the violation is of such magnitude to have the full Board review the parolee's case, the parolee may not be released pending the final rescission hearing, but will remain in a correctional facility and not be released on parole.

Authority 33.15.100

355. **FINAL RESCISSION HEARING.** A parolee held in custody in accordance with Section 350 will have his case reviewed at the next regularly-scheduled Board release hearing for a final determination of whether or not he should be released on parole unless a continuance is granted by the Board. At this hearing, any decision originally available to the Board in accordance with Section 130 may be made. This hearing is also conducted in accordance with articles 22, 23, and 24 of these regulations. The deliberations of the Board members shall not be disclosed to any person and the member hearing decision "vote sheet" is also confidential and shall not be disclosed to any person. Sections 160, 165, and 170 also apply to the final rescission hearing.

Authority: 33.15.060
33.15.080
33.15.100
33.15.230
44.62.310

ARTICLE 10. MANDATORY PAROLE SUPERVISION

Section

360. DEFINITION AND AUTHORITY. Those persons released pursuant to AS 33.20.040 are referred to and designated as "mandatory parolees", being on "mandatory parole".

Authority: 33.20.040

365. LENGTH OF SUPERVISION. Prisoners released under mandatory parole supervision will remain under the jurisdiction of the Board for a period of time equal to the total amount of accumulated good time awarded as of the date of release, minus 180 days.

Authority: 33.20.040

370. STANDARD MANDATORY PAROLE CONDITIONS. Prisoners released on mandatory parole supervision are subject to the same standard conditions of supervision as discretionary parolees.

Authority: 33.15.100
33.15.230
33.20.040

375. SPECIAL CONDITIONS OF MANDATORY PAROLE AND WHEN IMPOSED. The Board or a supervising parole officer may impose any other suitable and reasonable special conditions in accordance with Sections 175-195 as applied to discretionary parolees. Consideration by the Board for imposing special conditions will be made whenever any of the following factors are present in the prisoner's case:

(a) When the prisoner has been convicted of a crime of violence or potential violence such as robbery, rape, assault with a dangerous weapon, mayhem shooting or stabbing with intent to kill, wound, or maim, aggravated assault, etc., or the new code equivelants;

(b) When there has been an actual or attempted physical injury to a victim as a result of a crime although the offender may not have been charged with a crime of violence;

(c) When a homicide was committed or attempted, such as first degree murder, second degree murder, manslaughter, negligent homicide, involuntary manslaughter, or the new criminal code equivelant;

(d) When the offender has been convicted in accordance with a habitual criminal statute or a presumptive sentencing;

(e) When the crime involved the use or possession of a firearm or other weapon such as a knife, brass knuckles, etc.;

(f) When the superintendent, institutional counselor, institutional probation officer, or other staff of the facility where the offender is incarcerated, or central office staff of the division of corrections, refers the case to the Board for its consideration.

Authority: 33.15.100
33.15.230
33.20.040

380. PROCEDURE FOR BOARD-IMPOSED SPECIAL CONDITIONS. (a) At least 60 days prior to the release of a prisoner on mandatory parole, the institution holding the prisoner shall review his file to determine if he falls within the guidelines set forth in Section 375 to be given consideration for the setting of special conditions. In cases where an Alaska prisoner is confined in a contract facility not operated by the Alaska Division of Corrections, the central office staff of the division of corrections shall be responsible for reviewing the prisoner's file.

(b) If the prisoner fits the criteria for consideration for special mandatory release conditions, the institution will forward a packet of pertinent information to the Board office within 45 days of the prisoner's anticipated release on mandatory parole. The Board staff will review the file, with a Board member, and establish any special conditions deemed necessary and appropriate. Copies of these conditions will be returned to the institution for the signature of the prisoner to be witnessed by the institutional staff.

(c) Failure of the division of corrections or the Board to strictly adhere to the time frames set forth in this section does not invalidate any condition imposed or interfere with the Board's ability to impose special conditions outside the time frames. The Board may impose special conditions at any time during the period of mandatory parole supervision.

(d) At least 24 hours before release, the prisoner will be advised of the conditions of his release.

(e) If the prisoner refuses to sign the conditions, he will be advised of his responsibility to follow the conditions and the possible consequences of his not following these conditions.

(f) A copy of the conditions of release and the certificate of good time award shall be provided the prisoner.

Authority: 33.15.070
33.15.090
33.15.100
33.15.230
33.20.040

385. PROCEDURE FOR PAROLE OFFICER-IMPOSED CONDITIONS. The parole officer may impose special conditions of mandatory parole supervision under the same procedures set forth in Section 195.

Authority: 33.15.100
33.20.040

390. RECONSIDERATION OF MANDATORY PAROLE CONDITION. A prisoner released on mandatory parole supervision may request the Board reconsider a condition of his mandatory parole supervision the same as a discretionary parolee as outlined in Sections 200 and 205.

Authority: 33.15.100
33.20.040

395. ARREST AND REVOCATION. A prisoner released on mandatory parole supervision is subject to arrest and revocation, as if he was on discretionary parole.

Authority: 11.05.070
33.15.090
33.15.100
33.15.110
33.15.190
33.15.200
33.15.220
33.15.230
33.20.040

400. REVOCATION PROCEDURES: The revocation procedures for prisoners released on mandatory parole are the same as for discretionary parolees.

Authority: 33.15.100
33.15.230
33.20.040

405. EFFECT OF REVOCATION OF MANDATORY PAROLE. (a) If the Board determines at the mandatory parole revocation hearing that the prisoner has violated condition of the release, it may be revoked.

(b) If the prisoner is to be reincarcerated the Board may require him to serve the period of time equal to the total amount of days good time credited to him when he was released on supervision. The prisoner does not receive credit for the period of time he was under mandatory parole supervision.

(c) Once returned to the institution to resume the service of his sentence, the prisoner again becomes eligible to earn good time at the original rate of sentence.

(d) The sentence begins to run from the date he is returned to a correctional facility for the mandatory parole violation.

Authority: 33.15.100
33.15.200
33.15.230
33.20.040

ARTICLE 11. OTHER MANDATORY PAROLE SUPERVISION

Section

410. DEFINITION AND AUTHORITY. This article refers to those sentenced prisoners released pursuant to AS 33.15.180(c), who are also designated as mandatory parolees.

Authority: 33.15.180

415. LENGTH OF SUPERVISION. The mandatory parolee released pursuant to AS 33.15.180(c) shall remain on supervision for a period of time equal to the total amount of good time awarded as of the date of release as specified in the certification of good time award.

Authority: 33.15.180
33.20.030

420. OTHER SECTIONS APPLICABLE. The provisions of Sections 370, 375, 380, 385, 390, 395, 400, 405, also apply to mandatory parolees released and being supervised in accordance with AS 33.15 180(c).

Authority: 33.15.090
33.15.100
33.15.110
33.15.180
33.15.190
33.15.200
33.15.210
33.15.220
33.15.230

ARTICLE 12. MANDATORY PAROLE RELEASE PROCEDURES

Sections

425. APPLICABILITY. This article applies to those prisoners released in accordance with Sections 360 and 410. A prisoner released pursuant to this section shall work with the appropriate institutional staff to develop a viable release plan as set forth in Section 230, prior to his anticipated release date. Division of corrections employees will assist the prisoner in developing a release plan.

Authority: 33.15.100
33.20.040

ARTICLE 13. PAROLE SUPERVISION REPORTS

Section

430. REQUIRED SEMIANNUALLY. (a) Parole officers shall provide the Board with a progress report semiannually on each prisoner under supervision of the Board.

(b) These reports are due in the Board office no later than the end of May and the end of November of each year.

Authority: 33.15.100
33.15.150
33.15.230

435. REPORTS ON FORMS PROVIDED BY THE BOARD. The supervision reports will be completed on forms provided by the Board.

Authority: 33.15.100
33.15.150
33.15.230

440. REPORTS REVIEWED BY BOARD. The reports will be made available to and reviewed by the Board at the next regularly-scheduled Board hearing after their receipt.

Authority: 33.15.100
33.15.230

445. NECESSARY INFORMATION IN REPORTS. The reports will include information regarding any major changes in the parolee's plan since he was released or since the last report was submitted to the Board. They will also include any known problem areas or major accomplishments during the reporting period. Information regarding any searches or seizures carried out pursuant to a special condition of parole must also be documented in the supervision report. All police contacts must be reported.

Authority: 33.15.150
33.15.230

ARTICLE 14. DISCHARGE FROM SUPERVISION AND CHANGE IN SUPERVISION STATUS

Section

450. AUTHORITY AND TO WHOM APPLIES. The Board will adopt rules for the supervision and for the discharge from supervision of parolees. A change in supervision status set forth in Sections 455 and 465 may be granted any prisoner subject to the authority of the Board.

Authority: 33.15.070
33.15.080
33.15.100
33.15.180
33.15.190
33.15.230
33.20.040

455. REQUEST FOR LESS THAN MONTHLY REPORTING. The supervising parole officer or a parolee may initiate a request that the parolee report to his parole officer less frequently than the once a month required. A request from a parolee shall be submitted to the parole officer and then forwarded to the Board with the parole officer's recommendation.

Authority: 33.15.230

460. EFFECT OF GRANTING SECTION 455 REQUEST. (a) If the Board agrees to allow the parolee to report less frequently than required, it will establish the new minimum reporting period of the parolee.

(b) All other conditions of parole remain in full force and effect, unless otherwise altered by the Board.

Authority: 33.15.100
33.15.190
33.15.230

465. REQUEST FOR DISCHARGE FROM ACTIVE SUPERVISION. A parolee or supervising parole officer may initiate a request that the parolee be relieved of active supervision by a parole officer. A request from a parolee shall be submitted to the parole officer and then forwarded to the Board with the parole officer's recommendation. Requests for discharge from supervision will not be considered until a minimum of two years has elapsed after the date of release from custody.

Authority: 33.15.230

470. EFFECT OF GRANTING SECTION 465 REQUEST. The period of parole is not terminated by the granting of this request and the parolee is subject to all other disabilities and conditions as if he was on active parole supervision, unless the Board alters any other parole conditions.

Authority: 33.15.100
33.15.190
33.15.230

475. EFFECT OF SECTIONS 455 and 465 ON SPECIAL CONDITIONS OF PAROLE. When a request is granted under Sections 455 or 465, the Board will review all other special conditions of parole imposed to insure consistency with the intent of Sections 455 and 465.

Authority: 33.15.180
33.15.190
33.15.230

480. REPORT REVIEWED BEFORE DECISION. A comprehensive report shall be submitted by the parole officer summarizing the parolee's accomplishments and problems since released on parole when the Board receives a request for a change in a parolee's status in accordance with Sections 455 or 465. The report shall contain a detailed chronological description of his employment, job training, vocational training, and schooling since release on parole. This report will be reviewed by the Board before making a decision pursuant to Section 455 or 465.

Authority: 33.15.100
33.15.230

485. DECISION BY PAROLE BOARD. (a) A request pursuant to Section 455 and 465 shall be forwarded to the Board, and the case will be placed on the calendar for review by the Board at the next regularly-scheduled quarterly Board meeting after receipt. If the request is received less than five weeks from the beginning of the next scheduled hearings, the case will be reviewed by the Board at the next regularly-scheduled hearing following receipt of the request.

(b) In determining whether or not the request should be granted, all relevant material as set forth in Sections 095, 105, and 150 will be considered, as well as the parolee's behavior since released on supervision.

Authority: 33.15.070
33.15.100
33.15.190
33.15.230

490. NOTIFICATION BY BOARD. Once a decision has been made regarding a request under Sections 455 or 465, the Board will notify the supervising parole officer of the Board's decision. The supervising parole officer shall provide a copy of the notification of the Board's decision to the parolee.

Authority: 33.15.100
33.15.230

495. RESPONSIBILITY OF PAROLEE. It is the responsbibility of the parolee to adhere to all imposed conditions of parole unless he receives official notification from the Board of the modification of his reporting status. Failure to abide by any of the modified conditions of parole, other conditions of parole and especially reporting conditions, could result in the parolee being returned to full reporting status or in the issuance of a warrant for his arrest and revocation for his failure to abide by conditions.

Authority: 33.15.070
33.15.090
33.15.100
33.15.110
33.15.190
33.15.200
33.15.230

500. EFFECT ON PAROLE STATUS. The granting of more freedom under Sections 455 or 465 in no way negates the parolee's legal responsibility under the law, and the actual period of supervision cannot be reduced by the Board. All conditions relating to parole status not specifically modified will remain in effect throughout the period of parole until the expiration date on the order of parole is reached.

Authority: 33.15.190
33.20.040

ARTICLE 15. PAROLE VIOLATION DECISIONS

Section

505. VIOLATIONS THAT MUST BE REPORTED. (a) Any alleged violation that could constitute felony behavior must be reported to the Board.

(b) Any alleged violation that could constitute serious misdemeanor behavior must be reported to the Board.

(c) In determining the seriousness of the alleged violation, the Board will consider all relevant background material available regarding the parolee.

Authority: 33.15.100
33.15.230

510. OTHER VIOLATIONS. The parole officer shall report any other violations of parole conditions that he feels are important factors in the parolee's potential adjustment on parole. In determining whether or not the alleged violations should be brought to the Board's attention, all background material available to the parole officer should be considered. Minor alleged violations the parole officer does not feel warrant Board action at the present time should be noted in the parole officer's chronological history.

Authority: 33.15.100
33.15.150
33.15.230

515. HOW VIOLATIONS REPORTED. Parole violations will be reported to the Board in the manner outlined in Section 530.

Authority: 33.15.100
33.15.230

520. APPLIES TO OTHERS. This Article also applies to any prisoner subject to the jurisdiction of the Board in accordance with Alaska Statutes 33.10.010, 33.15.080, 33.15.180(c), 33.20.040, and 33.25.010.

Authority: 33.15.100
33.15.230

525. PAROLE OFFICER CANNOT WAIVE VIOLATIONS. All violations noted in Section 505 must be reported to the Board as soon as possible after the behavior comes to the attention of the parole officer. Other behavior which could possibly constitute a violation of parole does not have to be reported to the Board immediately after its occurance but may be handled informally at that time. However, any behavior that occurred after the parolee was released from custody may be used as bases for a revocation if the Board has not previously used the information at a previous revocation hearing. The Board specifically reserves the right to review any alleged violation that might have taken place after release, and no other person or employee may grant immunity from possible revocation on behalf of the Board.

Authority: 33.15.100
33.15.230

ARTICLE 16. PAROLE VIOLATION REPORTS

Section

530. FORMAT OF REPORT. Parole violation reports will be prepared on the forms provided by the Board. The reports will contain the following information:

(a) General identification information regarding the parolee;

(b) A list of specific alleged violations in order of date of occurance;

(1) The allegations should answer the questions who, what, when, and how;

(2) Allegations should make specific reference to the condition allegedly violated;

(c) Supporting evidence - a separate paragraph(s) for each violation should be included to explain in detail how the parole officer became aware of the violations, the evidence available to substantiate the allegations, witnesses to the violations, etc;

(d) Certification of service showing the date and location a copy of the allegations were served on the parolee, with the signature of the serving officer;

(e) Conduct under supervision, including the plan to which originally released and changes in the plan since release, any Board involvement with the violator since release, and behavior of the parolee since release, including accomplishments, problems, attempts to correct problems, etc;

(f) Evaluation and recommendation - In this section, the parole officer should relate the information in subsection (e) with any other information about the parolee since release on supervision. Behavior since released on parole should be discussed in relation to all other relevant facts from the parolee's history, and include the parole officer's analysis of his risk if returned to the community again under supervision. The parole officer should discuss the availability and advisability of other options to the Board other than reincarceration.

Authority: 33.15.100
33.15.150
33.15.230

535. DESIGNATION OF SECTIONS. (a) For purposes of this Article, subsections (a),(b),(c),(d) and (e) of Section 530 are designated as Part A of the violation report.

(b) For purposes of this Article, subsection (f) of Section 530 is designated as Part B of the violation report.

Authority: 33.15.100
33.15.230

540. DISCLOSURE OF VIOLATION REPORT. Part A of the violation report will be disclosed to the violator and attorneys that are parties to the revocation hearing, and Part B of the violation report is confidential and will not be disclosed to the violator, attorneys, or any other party without the specific written permission of the Board.

Authority: 33.15.100
33.15.230

545. APPLIES TO OTHERS. This Article also applies to any sentenced prisoner subject to the jurisdiction of the Board, in accordance with Alaska Statutes 33.10.010, 33.15.080, 33.15.180(c), 33.20.040, 33.25.010.

Authority: 33.10.010
33.15.100
33.15.080
33.15.180(c)
33.15.230
33.20.040
33.25.010

ARTICLE 17. PAROLE VIOLATION WARRANTS

Section

550. DEFINITION AND AUTHORITY. For purposes of this section a parole violation warrant refers to an arrest warrant issued by the Board. Parole violation warrants may be issued on any prisoner subject to the jurisdiction of the Alaska Board of Parole.

Authority: 33.10.010
33.15.080
33.15.110
33.15.180
33.15.200
33.20.040
33.25.010

555. WHO MAY ISSUE WARRANTS. Warrants for the arrest of those convicted persons outlined in Section 550 may be issued by the Board or a member of the Board. Those parolees convicted in Alaska and being supervised in another state are also subject to arrest as provided in the receiving state.

Authority: 33.15.200
33.15.230

560. ISSUED BEFORE EXPIRATION DATE. All parole violation warrants must be issued before midnight of the date supervision is due to expire. A warrant issued before the expiration date may be executed after the date supervision is due to expire.

Authority: 33.15.200
33.15.230

565. EFFECT OF ISSUANCE. (a) The issuance of a parole violation warrant suspends the supervision time of the violator and his time is tolled until he is taken into custody for the violation, the case is reviewed by the Board, and a final disposition is rendered by the Board. Once a violator has been arrested as the result of a parole violation warrant, he may be released from custody only upon the order of the Board.

(b) All violation warrants are issued with the understanding that the violator shall be held without bail pending the preliminary revocation hearing. At the preliminary hearing, a determination will be made whether or not the violator will be released from custody and under what conditions, if release is granted.

(c) Persons arrested as a result of a parole violation warrant issued by the Alaska Board of Parole do not need to be arraigned by any judicial official, have no right to bail, and shall remain in custody until taken before a hearing officer of the Board.

Authority: 33.15.100
33.15.220
33.15.230

570. LENGTH OF TIME WARRANT VALID. (a) A parole violation warrant remains active and valid until executed through the arrest of the violator or until withdrawn by a Board member or by the Board.

(b) All outstanding parole violation warrants will be reviewed every two years to determine whether or not they should remain active.

Authority: 33.15.200
33.15.230

575. PROCESS FOR OBTAINING VIOLATION WARRANTS. (a) A Parole warrant will normally be issued only after the Board or Board member has reviewed the written summary of the alleged violations provided to support the issuance of the warrant. The information presented to the Board or Board member shall be sufficiently specific to allow a reasonable person to believe probable cause exists that a violation of a parole condition has taken place and that the parolee was the person committing the violation.

(b) Before the Board issues a warrant, the parole officer shall provide information to the Board establishing that the person on whom the warrant is requested is under the legal jurisdiction of the Board.

(c) Where exigencies exist indicating that the parolee might flee the jurisdiction or might be a threat to the community or himself if not immediately taken into custody, the Board or member of the Board may issue a parole violation warrant on the oral testimony of a parole officer once the information note in subsections (a) and (b) is provided the member of the Board. Whenever a warrant is issued upon the oral testimony of a parole officer, the parole officer shall as soon as practical reduce the information to writing in his chronological notes as to the reasons why the immediate issuance of the warrant was necessary.

(d) Whenever a warrant is obtained by the oral testimony of the parole officer under subsection (c), the parole officer shall reduce the violations to writing in a parole violation report and provide the report to the Board or member issuing the warrant as soon as possible.

Authority: 33.15.150
33.15.230

580. ARREST OF VIOLATOR WITHOUT A WARRANT. Parole officers may arrest a parolee without a warrant when exigencies exist requiring the immediate or quick removal of the parolee in custody, and none of these sections shall be construed to detract from the parole officer's arrest authority without a warrant.

Authority: 33.15.210
33.15.220

ARTICLE 18. HEARING OFFICERS

Section

585. DEFINITION AND AUTHORITY. Hearing officers are individuals designated by the Board to conduct certain Parole Board hearings. Hearing officers preside over and render decisions at preliminary parole revocation hearings and preliminary parole rescission hearings.

Authority: 33.15.100
33.15.220
33.15.230

590. LIST OF HEARING OFFICERS. The Board shall maintain a list of approved hearing officers in the Board office. The Board authorizes the Executive Director to designate hearing officers. Only those persons designated by the Board may serve as hearing officers in the State of Alaska on behalf of the Board. Other jurisdictions are responsible for the designation of hearing officers in their states. The hearing officer may not be a person directly involved in the supervision of the parolee's case or a person who has made a report of alleged violations.

Authority: 33.15.100
33.15.220
33.15.230

595. RESPONSIBILITIES OF THE HEARING OFFICER. The hearing officer has the following responsibilities: (a) The hearing officer will preside at the hearings specified in Section 585, and will rule on the admissibility of evidence, procedural challenges, or other matters in dispute at a hearing;

(b) The hearing officer shall determine the weight to give any evidence or testimony presented at a hearing;

(c) The hearing officer will be the trier of fact at the hearing;

(d) Where the hearing officer determines a witness may be subject to risk or harm if his identity is disclosed, the hearing officer may examine the witness in camera;

(e) The hearing officer shall complete the required forms within 48 hours of the termination of a hearing over which he is presiding. The forms will provide the decision made by the hearing officer, the evidence utilized at the hearing, and the reasons for the decision;

(f) The hearing officer will insure that the parolee and any other parties to the hearing are provided with a copy of the order of the hearing decision;

(g) The hearing officer may continue the hearing to a future date if he determines that additional information is needed to make a reasonable and responsible decision, or for other good cause;

(h) The hearing officer does not have the authority to make a final determination of whether or not a violation has occurred or to revoke the parolee's parole.

Authority: 33.15.100
33.15.220
33.15.230

600. TRAINING OF HEARING OFFICERS. Only persons who have received training from the Board will be designated as hearing officers.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 19. BIFURCATION OF HEARINGS.

Section

605. APPLICABILITY. This Article applies only to preliminary and final revocation hearings.

Authority: 33.15.100
33.15.220
33.15.230

610. PHASE I OF HEARING. During Phase I, testimony will be taken only relating to allegations that are set forth in the violation report. Before proceeding on to Phase II of the hearing, the hearing officer or Board will make a finding on the violations alleged, or continue the hearing.

Authority: 33.15.100
33.15.220
33.15.230

615. PHASE II OF HEARING. During Phase II any other testimony relevant to the decision to release or incarcerate the violator pending the final hearing, or release or revoke the violator at the final hearing, will be considered.

Authority: 33.15.100
33.15.220
33.15.230

620. BOARD MAY COMBINE PHASES FOR GOOD CAUSE. Since the primary purpose of bifurcation of the hearing is to insure only information relevant to the allegations are considered at the initial phase, and to help prevent confusion during the hearing, the hearing officer or Board may combine Phases I and II of the hearing when such action will assist in the reasonable operation of the hearing in the opinion of the Board representative conducting the hearing. The Board representative will consider the wishes of the parole officer and the violator in making his decision.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 20. RECORDING OF HEARINGS.

Section

625. HEARINGS TO BE RECORDED. All hearings conducted under Articles 4, 9, 22, and 26, shall be electronically recorded. Tapes of these hearings listed in Articles 9, 22, and 26 will be maintained in the Board office one calendar year from the date of the hearing, unless the Board office has been notified in writing that a request for reconsideration or a court appeal of the Board's decision from the hearing has been initiated. Tapes of release hearings under Article 4 will be maintained for six months, unless the Board has been notified of a request for reconsideration or appeal.

Authority: 33.15.100
33.15.220
33.15.230

630. TAPES IN LIEU OF TRANSCRIPTS. The Board will provide copies of tapes of hearings in lieu of transcripts of Board proceedings.

Authority: 33.15.100
33.15.220
33.15.230

635. REUEST FOR TAPE OF HEARING. Upon written request from an attorney representing a client involved in a hearing set forth in Articles 4, 9, 22, or 26, a copy of the tape of the hearing will be provided. If the violator was not represented by an attorney and makes the written request, a copy of the tape will be made available to him for listening.

(a) A request for the tape of a hearing must be made in writing to the following address: Executive Director, Alaska Board of Parole, Pouch H-01E, Juneau, Alaska 99811.

(b) If the request for the tape of a hearing is made by an attorney that did not represent the violator previously at that hearing, documentation must be attached to the tape request indicating the attorney has been appointed for or retained by the violator.

(c) The Board may charge a reasonable fee for the cost of providing the tapes.

Authority: 33.15.100
33.15.220
33.15.230

640. MALFUNCTION OF EQUIPMENT. The failure or manlfunction of the tape recording equipment at any hearing does not in any way invalidate the proceedings or the action taken at the hearing. If a recording is damaged or destroyed while being copied at the request of any party to the hearing, even though diligence was exercised to preserve the integrity of the tape, the action taken at the hearing will not in any way be invalidated.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 21. SUBPOENAS

Section

645. AUTHORITY. Alaska Statute 33.15.110 allows the Board to issue subpoenas for individuals or for records.

Authority: 33.15.100
33.15.110
33.15.220
33.15.230

650. WHO MAY ISSUE SUBPOENAS. The Board authorizes any of the following individuals to issue subpoenas:

(a) Any Alaska Parole Board Member;

(b) The Executive Director or Parole Board Officer of the Alaska Board of Parole.

Authority: 33.15.015
33.15.100
33.15.110
33.15.220
33.15.230

655. WHO MAY REQUEST SUBPOENAS. Either party or legal representative for either party to a preliminary or final revocation hearing may apply to the Board for a subpoena. It is the responsibility of the requesting party to make the request in sufficient time before the scheduled hearing to allow for the issuance and service of the subpoena.

Authority: 33.15.100
33.15.220
33.15.230

660. RESPONSIBILITY FOR SERVICE AND EXPENSES. Responsibility for the service of the subpoena, costs of transportation for a witness or for obtaining records, and any other expenses associated with the issuance or service of the subpoena rests with the requesting party and not with the Board.

Authority: 33.15.100
33.15.220
33.15.230

665. SERVICE OF SUBPOENAS. (a) Subpoenas may be served by a parole officer or other appropriate division of corrections staff.

(b) Subpoenas may be served in accordance with civil rule 45(c), subject to the financial responsibility clause of Section 660.

Authority: 33.15.100
33.15.220
33.15.230

670. FAILURE TO COMPLY WITH SUBPOENAS. The Parole Board may, at its discretion, apply to the Superior Court to enforce compliance by any individual, agency, corporation, etc., that willfully refuses to appear as directed at a hearing or to produce records requested by a Parole Board subpoena.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 22. PRELIMINARY REVOCATION HEARINGS GENERALLY

Section

675. PURPOSE. The purpose of the preliminary revocation hearing is to determine whether or not there is probable cause to believe the parolee has committed a new crime or has violated any of the conditions of his parole; and if probable cause is found, determine whether or not he should remain in custody pending a final revocation hearing. A preliminary revocation hearing is not required if the violator is not arrested pending a final revocation hearing.

Authority: 33.15.220

680. HOW HEARINGS ARE CONDUCTED. Preliminary hearings are conducted by a hearing officer designated by the Board and are run as informal as possible. However, the hearing officer may terminate testimony or questioning of witnesses if it becomes irrelevant, repetititous or argumentative. The hearing is not a criminal proceeding nor a criminal prosecution. The criminal rules of evidence do not apply at preliminary revocation hearings and hearsay evidence is admissable. Proceedural challenges must be presented to the hearing officer in advance of the hearing so the commencement of the hearing is not delayed.

Authority: 33.15.100
33.15.220
33.15.230

685. HEARING OFFICER IN CHARGE. The hearing officer designated by the Board will be in charge of the preliminary hearing. He will be responsible for ruling on any matters considered at the hearing.

Authority: 33.15.100
33.15.220
33.15.230

690. INFORMATION CONSIDERED. (a) The determination by the hearing officer of whether or not probable cause exists will be made based upon all information presented at the hearing, including affidavits, reports, tapes, other written documents, and individual testimony.

(b) If probable cause is established, the decision of whether or not to release the parolee pending the final revocation hearing will be based upon all information presented at the initial phase of the hearing, any information presented at the second phase of the hearing and upon all other information and records previously available to the Board regarding the parolee.

Authority: 33.15.100
33.15.220
33.15.230

695. HEARSAY EVIDENCE RULE INAPPLICABLE. Rules regarding admissibility of evidence in use in the Alaska Court System do not apply at a parole hearing. Hearsay evidence is admissible at a parole hearing, and the hearing officer and the Board members must determine the weight to give the evidence and the reliability of the witnesses appearing.

Authority: 33.15.100
33.15.200
33.15.230

700. EXCLUSIONARY RULE INAPPLICABLE. A statement, testimony, or physical information obtained in a manner that would render it inadmissible in a criminal proceeding may be submitted and considered at a revocation hearing.

Authority: 33.15.100
33.15.220
33.15.230

705. STANDARD OF PROOF FOR PROBABLE CAUSE. Probable cause is established when sufficient evidence is presented and reasonable grounds exist to believe the parolee has committed any act which would constitute a violation of a law or his conditions of parole.

Authority: 33.15.100
33.15.220
33.15.230

710. DECISIONS AVAILABLE TO HEARING OFFICER. The following decisions are available to a hearing officer: (a) The hearing officer may determine that probable cause has not been established to believe the parolee has violated a law or condition of his parole, and the parolee may be returned to parole supervision to an approved plan;

(b) The hearing officer may find that probable cause has been established that the parolee has violated a law or a condition of his parole but may return the parolee to supervision pending the final revocation hearing, subject to any reasonable conditions of supervision.

(c) The hearing officer may find that probable cause has been established to believe the parolee has committed a violation of a law or a condition of his parole, and order him incarcerated or to remain in custody pending the final revocation hearing;

(d) The hearing officer may continue the hearing if he feels additional information needs to be presented before a finding is made. If this option is choosen, reasonable attempts will be made to complete the hearing within ten working days after the continuance of the hearing. A continuance will be granted only when it is supported by evidence showing good and sufficient cause. A continuance will be for such time as is required in the interest of justice.

Authority: 33.15.100
33.15.220
33.15.230

715. HEARING OFFICER'S FINDING AND ORDER. (a) Except in unusual circumstances, the hearing officer will issue a verbal finding and order at the completion of the hearing.

(b) The hearing officer will complete the written order pursuant to Section 595.

(c) In some cases, the hearing officer may continue the hearing to a later date without making a finding, and his reason for this decision will be stated at the time the hearing is continued.

Authority: 33.15.100
33.15.220
33.15.230

720. REQUEST FOR RECONSIDERATION OF A RULING OR DECISION. A request for reconsideration of a ruling or decision at a preliminary revocation hearing may be made only in the manner set forth and for the reasons outlined in Sections 150, 165, and 170, subject to the exception of Section 835.

Authority: 33.15.100
33.15.220
33.15.230

725. VIOLATIONS OUTSIDE ALASKA. When a parole violation allegedly occurred outside the State of Alaska, affidavits, depositions, reports, letters, and other documentary evidence may be used as bases for determining whether or not a violation has taken place. The final revocation hearing may be held at a location at or near the alleged violation rather than in Alaska, at the discretion of the Board.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 23. RIGHTS AND RESPONSIBILITIES OF THE PAROLEE AT THE PRELIMINARY REVOCATION HEARING.

Section

730. THOSE ELIGIBLE FOR A PRELIMINARY HEARING. (a) The following persons have a right to a preliminary revocation hearing if incarcerated pending a final revocation hearing:

(1) Those sentenced prisoners released pursuant to AS 33.15.080;

(2) Those sentenced prisoners released pursuant to AS 33.15.180(c);

(3) Those sentenced prisoners released pursuant to AS 33.20.040;

(4) Those adult parolees being supervised in Alaska under the Interstate Compact pursuant to AS 33.10.010 and 33.25.010;

(5) Any other parolee in the State of Alaska not being supervised under the interstate compact pursuant to AS 33.10.010 or 33.25.010 but when by the state having parole jurisdiction over the prisoner has requested a hearing be held in Alaska;

(b) An Alaska prisoner released pursuant to subsections (1), (2) and (3) and being supervised in any other state other than Alaska has a right to a preliminary revocation hearing if arrested in the state where he is being supervised. If arrested anywhere other than in the receiving state, his preliminary hearing may be conducted in Alaska, at the discretion of the Board.

(c) An Alaska parolee who absconds supervision from the office area where he is being supervised does not have a right to a preliminary revocation hearing in any other area than the office area where he is being supervised, or at any other location designated by the Board.

Authority: 33.15.100
33.15.220
33.15.230

735. WHEN HEARING IS NECESSARY. A preliminary revocation hearing is necessary when a violator is arrested and incarcerated in a correctional facility. However, if a final revocation hearing is scheduled to take place within ten working days after the date of the violator's arrest, a preliminary hearing is not required, and the violator has no right to a preliminary revocation hearing.

Authority: 33.15.100
33.15.220
33.15.230

740. TIME FRAME OF HEARING. Preliminary hearings shall be held within ten working days after the date of the arrest of the violator. Exceptions to this schedule will be granted by the Board only for good and sufficient cause.

Authority: 33.15.100
33.15.220
33.15.230

745. LOCATION OF HEARING. A preliminary hearing will be held reasonably near the place of the alleged violations, subject to the exceptions outlined in Section 730. The Board shall determine the location of the hearing.

Authority: 33.15.100
33.15.220
33.15.230

750. NOTIFICATION OF HEARING. The parole officer shall provide the parolee with notification of the preliminary hearing at least 72 hours in advance of the hearing. The date, location and approximate time of the hearing will be provided to the parolee. Notification may be provided the violator's attorney in lieu of notification of the parolee if the parolee is represented by an attorney.

Authority: 33.15.100
33.15.220
33.15.230

755. NOTIFICATION OF ALLEGED VIOLATIONS. The parole officer shall provide the violator with written notification of alleged parole violations within 72 hours of his scheduled hearing. Notification of alleged violations may be provided the violator's attorney in lieu of notification of the parolee.

Authority: 33.15.100
33.15.220
33.15.230

760. SUPPLEMENTAL ALLEGATIONS. Supplemental charges alleging additional parole violations may be made at any time preceeding a final revocation hearing by the Parole Board, but must be served on the parolee or his attorney as set forth in Section 755.

Authority: 33.15.100
33.15.220
33.15.230

765. AMENDMENT/CORRECTION OF ALLEGATIONS. Charges as set forth in Sections 755 and 760 may be amended at any time by the parole officer before a hearing begins, or during the hearing with the permission of the Board or Board representative conducting the hearing.

Authority: 33.15.100
33.15.220
33.15.230

770. TESTIMONY. The violator has the right to present testimony, documents, and other evidence relating to the violation.

Authority: 33.15.100
33.15.220
33.15.230

775. OPPORTUNITY TO CONTACT WITNESSES. If the parolee is represented by an attorney, it is the responsibility of the attorney to arrange for the appearance of witnesses. If the parolee is not represented by an attorney, institutional officials shall give him reasonable opportunity to make such contacts as may be necessary to assure the appearance of witnesses at the hearing.

Authority: 33.15.100
33.15.220
33.15.230

780. WITNESSES. The violator has the right to present witnesses who may have relevant information concerning the alleged violations. These persons cannot be merely character witnesses. The violator assumes the responsibility for the appearance of any witness at his request. The Board or the State may also call witnesses. All witnesses shall be sworn and will testify under oath. Any witness is subject to questioning by the Board members or staff regarding anything that might be relevant to the parolee's case.

Authority: 33.15.100
33.15.220
33.15.230

785. CONFRONTATION OF ADVERSE WITNESSES. The violator may confront or cross examine adverse witnesses testifying at the hearing unless the hearing officer determines that a witness may be subject to risk or harm if his identity is disclosed. This determination will be made by the hearing officer. A witness determined to be subject to risk or harm will be interviewed by the hearing officer in camera. The Board and the division of corrections staff may cross examine any witness appearing on behalf of the parolee.

Authority: 33.15.100
33.15.220
33.15.230

790. ACCESS TO ADVERSE MATERIAL REGARDING ALLEGATIONS. The violator may be allowed access to material included in the violation report regarding alleged violations, pursuant to Sections 535 and 540 of these regulations. He may also be allowed access to other adverse information presented at the hearing regarding alleged violations, except that the hearing officer may deny him access to material if in the hearing officer's opinion a party might be subject to risk or harm if the disclosure was made. A copy of the material outlined in this section will be made available to the violator if he so requests, subject to the stipulations of this section.

Authority: 33.15.100
33.15.220
33.15.230

795. RIGHT TO REMAIN SILENT. The violator has the right to remain silent only regarding those questions or allegations relating to pending new criminal charges. The violator's refusal to answer questions about any other allegation or about anything other than pending criminal charges may be used against him by the Board. Any testimony by the violator may be used against him at any Board hearing.

Authority: 33.15.100
33.15.220
33.15.230

800. WAIVER OF HEARING. The parolee may waive his right to a preliminary revocation hearing, and waiver of this hearing in no way affects his right to a final revocation hearing before the Board.

Authority: 33.15.100
33.15.220
33.15.230

805. RESPONSIBILITY FOR EXPENSES. The parolee is responsible for any expenses incurred by him or on his behalf in preparation for the hearing. The division of corrections is responsible for any expenses incurred by its employees or on its behalf in preparation for the hearing. The Board is responsible only for the expenses of having a hearing officer present to conduct the hearing.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 24. REPRESENTATION BY ATTORNEY AT BOARD HEARINGS.

Section

810. RIGHT TO ATTORNEY AT CERTAIN BOARD HEARINGS. Sentenced prisoners appearing before the Board for specified hearings have a right to representation by an attorney. No person other than an attorney licensed to practice law in the State of Alaska or law clerk employed by said attorney may represent a sentenced prisoner at Board hearings. A right to representation by an attorney shall be only for the following hearings:

(a) Parole rescission hearings;

(b) Preliminary parole violation hearings;

(c) Final parole violation hearing.

Authority: 33.15.100
33.15.220
33.15.230

815. REPRESENTATION BY ATTORNEY AT OTHER BOARD HEARINGS. A prisoner appearing before the Board as a parole applicant may utilize the services of an attorney. Also, the prisoner may also utilize the services of an attorney to assist him with Board matters in accordance with a request for reconsideration at a release hearing, modification of parole conditions, request for a special review, and discharge from supervision. There is no right to an attorney regarding these parole-related matters, and the responsibility lies specifically and totally with the prisoner to obtain and pay for legal representation.

Authority: 33.15.100
33.15.220
33.15.230

820. IMPLEMENTATION OF SECTION 810. (a) A prisoner appearing before the Board for those hearings listed in Section 810 will be advised of his right to representation by an attorney at the hearing. A prisoner will be given the opportunity to request or waive the assistance of an attorney at these hearings.

(b) A sentenced prisoner requesting the assistance of counsel will be referred to the appropriate Alaska State Court to determine whether or not he is eligible for representation by the Alaska Public Defender Agency. Persons found eligible for representation will be referred to that Agency for legal services.

(c) A prisoner found not eligible for the services of the Public Defender Agency, has the sole responsibility for arranging, providing for and financing his legal representation.

(d) A prisoner requesting the assistance of counsel under Section 810 will be given a reasonable period of time to seek and obtain the assistance of an attorney. The Board or a representative of the Board may on its own motion continue any hearing to allow the prisoner reasonable time to obtain the assistance of an attorney.

(e) An Alaska prisoner on supervision in another state will be provided legal assistance according to the rules of that jurisdiction.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 25. RELEASE OR INCARCERATION PENDING FINAL REVOCATION HEARING.

Section

825. NO BAIL ESTABLISHED--RELEASE DETERMINED AT PRELIMINARY HEARING. The Board does not establish bail for the release of a parolee after arrest on a parole warrant. There is no right to the establishment of bail on a parole violation warrant as a revocation hearing is not a criminal proceeding. Instead, a determination is made by the hearing officer at the preliminary hearing whether or not to release the parolee from custody pending the final hearing.

Authority: 33.15.100
33.15.220
33.15.230

830. FACTORS CONSIDERED. In making this decision whether or not to release a parolee, the following factors shall be taken into consideration:

(a) Whether in the opinion of the hearing officer the parolee will or will not appear at the final revocation hearing as directed if released;

(b) Whether in the opinion of the hearing officer the parolee will or will not remain in the community under parole supervision without again violating any of his conditions of parole if released, and whether or not he is perceived to be a threat or danger to the community;

(c) Whether in the opinion of the hearing officer the parolee has or does not have a complete, verified, reliable, plan if released;

(d) Whether in the opinion of the hearing officer the parolee should or should not be incarcerated pending the final hearing because of the seriousness or the nature of the alleged violations;

(e) In the opinion of the hearing officer, any other factors of particular importance that should be considered based upon the parolee's prior record, present offense, and all other information known about the parolee.

Authority: 33.15.100
33.15.220
33.15.230

835. DECISION OF HEARING OFFICERS NOT APPEALABLE. The decision in accordance with Section 710 will be made by the hearing officer at the completion of the preliminary revocation hearing or as soon thereafter as possible. The decision of the hearing officer to release or incarcerate the violator pending the final hearing is final and not appealable.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 26. FINAL REVOCATION HEARINGS GENERALLY

Section

840. PURPOSE OF HEARING. The purpose of a final revocation hearing is for the members of the Board to determine whether or not a violation of parole conditions has been committed, and if so whether or not the prisoner should be returned to custody to resume the service of his sentence and for how long.

Authority: 33.15.100
33.15.220
33.15.230

845. OTHER SECTIONS APPLICABLE. The following Sections also apply to final revocation hearings:

(a) Sections 680, 685, 690(a), 695, 700, 720, and 725;

(b) Sections 730(a)(1), (a)(2), (a)(3), 750, 755, 760, 765, 770, 775, 780, 785, 790, 795, and 805;

(c) Section 800 also applies, allowing the parolee to waive his appearance at the final revocation hearing.

(d) Sections 160, 165, and 170 also apply to the final revocation hearing.

Authority: 33 15.100
33.15.220
33.15.230

850. LOCATION OF HEARING. Final revocation hearings will be conducted in the most easily accessible Alaska correctional institution where the Board conducts its quarterly hearings. Exceptions may be approved by the Board for good cause.

Authority: 33.15.100
33.15.220
33.15.230

855. TIME FRAME OF HEARING. Final revocation hearings will take place at the next regularly-scheduled quarterly Board hearings after the preliminary revocation hearing. Exceptions may be approved by the Board for good cause. If the only allegation is a pending criminal charge the Board may, at its discretion, allow the continuance of the final revocation hearing until the new charge is disposed of.

Authority: 33.15.100
33.15.220
33.15.230

860. STANDARD OF PROOF. The standard of proof at the final revocation hearing in determining whether or not the parolee has violated a condition of parole shall be the preponderance of the evidence as presented to the Board. The Board's decision shall be based upon information presented at the preliminary and final revocation hearings.

Authority: 33.15.100
33.15.220
33.15.230

865. PAROLE BOARD IS THE TRIER OF FACT. The Board shall be the trier of facts at revocation hearings and the members shall judge the creditability and determine the weight and reliability of the testimony of witnesses, and the weight and reliability of other evidence presented to them.

Authority: 33.15.100
33.15.220
33.15.230

870. PAROLEE MAY NOT RELITIGATE ISSUES. (a) A parolee may not relitigate issues determined against him in other forums, including disciplinary committees, adjustment committees, and in other administrative hearings. He may not relitigate a conviction of a crime in a court of law.

(b) A finding of not guilty in a criminal prosecution does not bar the use of the same or related evidence to revoke parole.

(c) The Board may find a parolee guilty of a violation of parole that could constitute a violation of a law, without a separate new conviction. The Board may consider behavior which could constitute a crime even though the parolee is being charged with that crime separate from the parole revocation. Acquital on a pending criminal charge does not bar the Board revoking the parolee for the behavior for which the criminal charges were brought against him.

Authority: 33.15.100
33.15.220
33.15.230

875. DECISIONS AVAILABLE TO THE BOARD. (a) The Board may make any of the following decisions at a final revocation hearing:

(1) No violation of parole conditions is established, and the parolee may be returned to supervision to an acceptable release plan;

(2) The Board may determine the parolee has violated conditions of his release, but he may be returned to supervision without revoking his parole;

(3) The Board may determine that the parolee has violated conditions of his release, and parole may be revoked and his case continued for review to any future Board meeting;

(4) The Board may determine that the parolee has violated conditions of his release, and the Board may revoke his parole and deny him further parole consideration during the remainder of his sentence;

(5) The Board may determine the parolee has violated conditions of his parole, and the Board may revoke his parole and reparole him with any suitable conditions;

(6) The Board may continue the revocation hearing to a future meeting for additional information, to await the resolution of pending criminal charges, or for other good causes;

(b) The deliberations of the Board members are arriving at the decision outlined in Section 875 are confidential and only the members of the Board and Board staff are permitted to be in attendance. The vote of the individual Board member shall not be disclosed to any person and the hearing decision "vote sheet" is also confidential and shall not be disclosed to any person.

(c) If parole is revoked, the time the parolee was at liberty on parole does not count toward the sentence, but the time spent in custody for the parole violation will be credited to his sentence.

Authority: 33.15.100
33.15.220
33.15.230
44.62.310

880. NOTIFICATION OF DECISION. (a) If parole is revoked at the final revocation hearing, the Board will provide the parolee with a copy of the order revoking parole within ten working days after the date of the decision.

(b) The Board will advise the parolee in writing within 21 calendar days after the date of the hearing of the violation(s) for which he was found guilty, the evidence used as the bases for the determination of the violation, and the reasons for returning him to custody, if that was the decision of the Board.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 27. DISQUALIFICATION OF BOARD MEMBERS

Section

885. Who May Disqualify a Member
890. Reasons for Disqualification
895. Which Hearings Applies to

885. WHO MAY DISQUALIFY A MEMBER. A Board member may be disqualified from voting on a specific case being considered by the Board as follows:

(a) The member may disqualify himself;

(b) The member may be disqualified by a majority vote of the other Board members present at the hearing for any of the reasons set forth in Section 890.

Authority: 33.15.100
33.15.220
33.15.230

890. REASONS FOR DISQUALIFICATION. (a) A Board member may be disqualified whenever it is determined that he has had recent personal involvement with the prisoner that would prejudice his vote. This does not refer to any involvement with the prisoner in the member's capacity as a voting Board member.

(b) A Board member may be disqualified whenever it is determined that he has been the victim of a crime committed by the prisoner in the recent past, or took an active part in the prosecution, defense, or sentencing of the prisoner regarding his present offense.

(c) A Board member may be disqualified whenever it is determined that he has had some previous contact with the prisoner as a result of the Board member's regular profession, that this contact made information available to the Board member that would not have been available to the Board, and that this information would unduly prejudice the member in his vote.

(d) A Board member may be disqualified whenever it is determined that he has had a recent business relationship for pecuniary gain with the prisoner that might prejudice his vote.

(e) A Board member shall be disqualified whenever the prisoner is a member of his immediate family.

(f) A Board member may be disqualified whenever it is determined that any other circumstances exist that would prevent him from objectively considering the case.

Authority: 33.15.100
33.15.220
33.15.230
39.50.090

895. WHICH HEARING APPLIES TO. Section 890 applies to the disqualification of Board members at all parole release, revocation and rescission hearings.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 28. TIME LIMITATIONS IN REGULATIONS

Sections

900. PURPOSE GENERALLY. The various time frames and time limitations in these regulations have been established by the Board to promote the efficient operation of the Board while insuring that all parties to hearings are given adequate consideration. Any time limitation set forth in the regulations may be relaxed when strict adherence to it would bring about an injustice in the opinion of the hearing officer or the Board.

Authority: 33.15.100
33.15.220
33.15.230

905. INTENT OF BOARD TO ADHERE. It is the intent of the Board to adhere to the time limitations established in these regulations and see that the time limitations established for others involved in the parole process are also followed whenever possible.

Authority: 33.15.100
33.15.220
33.15.230

910. CONSEQUENCES OF FAILURE TO ADHERE. Failure of the Board or a division of corrections employee to strictly adhere to any time frame or time limitation will not invalidate any action by the Board unless demonstrable prejudice to a prisoner is shown, to the satisfaction of the Board. Serving additional time in custody does not itself constitute demonstrable prejudice.

Authority: 33.15.100
33.15.220
33.15.230

915. REMEDIES AVAILABLE. If the Board or any other employee acting on behalf of the Board fails to adhere to a time frame or time limitations as set forth in these regulations, and the prisoner can show demonstrable prejudice to himself because of the failure to adhere, he may request a special review of his case in accordance with Section 305. The Board may, in its discretion, grant a special review if it determines the prisoner suffered demonstrable prejudice, when considering the record as a whole.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 29. AVAILIBILTY OF PAROLE BOARD REGULATIONS AND CHANGES OF REGULATIONS

Section

920. DISTRIBUTION. The Board will make a copy of its regulations available to the following:

(a) All state correctional institutions housing sentenced adult prisoners;

(b) All other contract facilities holding sentenced adult Alaska State prisoners, when the location of these facilities and the presence of sentenced inmates eligible for parole is known to the Board;

(c) Each division of corrections probation/parole office;

(d) District attorney's offices in Ketchikan, Juneau, Fairbanks, Anchorage, Bethel, and Nome;

(e) Public defender agency offices located in the same cities noted in subsection (d);

(f) Each Alaska superior court judge, Alaska court of appeals judge, and Alaska supreme court justice of record;

(g) Commissioner and Deputy Commissioners of the Department of Health and Social Services;

(h) Each institutional parole officer of record in state correctional facilities;

(i) State law libraries where present in the locations noted in subsection (d);

(j) State ombudsman offices located in Juneau, Fairbanks, and Anchorage;

(k) Chairman of the judiciary committee of both Houses of the Alaska Legislature, and the Speaker of the House and the President of the Senate;

(l) The Governor, Lieutenant Governor, and Attorney General of the State of Alaska;

(m) Division of corrections central offices in Juneau and Anchorage;

(n) Criminal Justice Planning Agency;

(o) Public libraries throughout the State as designated by the Alaska State Library.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

925. OTHER COPIES. Upon written request from individuals or agenices not listed in Section 920, one copy of the regulations will be made available at a reasonable cost to the individual or agency at an amount to be determined by the Board, if printed copies are available to the Board, subject to funding and availability of staff to complete this process.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

930. LIST OF MANUALS. The Board will maintain a master list of persons or agencies having possession of the regulations, and changes or amendments will be mailed to the holder of each manual, subject to funding and the availability of staff to complete this process.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

935. AMENDMENTS PROVIDED. Changes or amendments to regulations will be provided to all known holders of manuals as soon as possible after a modification is adopted by the Board subject to funding and availability of staff.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

940. DELEGATION OF AUTHORITY. The Board may delegate the authority to develop and establish regulations to the Executive Director of the Board.

(a) Any regulation established by the Executive Director must be reviewed by the Board at the next general meeting of the Board after the regulation is established.

(b) At that time the Board members will approve the regulation as written, approve the regulation with modifications, or rescind the regulation.

Authority: 33.15.100
33.15.160
33.15.220
33.15.230

ARTICLE 30. PAROLE BOARD GENERAL MEETINGS.

Section

945. FREQUENCY. The Board will meet in general session at least once each calendar year subject to the availability of funds.

Authority: 33.15.015
33.15.100
33.15.160

950. MEETINGS OPEN TO PUBLIC. General Board meetings are open to the public, and time will be set aside at designated meetings to take oral and written public comment, subject to the availability of funds.

Authority: 33.15.015
33.15.100
33.15.160
42.62.310

955. EXECUTIVE SESSION. The Board may, in its discretion, move into executive session as provided for in AS 44.62.310(b)(c), during a general meeting.

Authority: 33.15.015
33.15.100
33.15.160
42.62.310

960. PUBLIC NOTICE. Reasonable public notice for general Board meetings designated for public comment will be given, subject to the availability of funds.

Authority: 33.15.015
33.15.100
33.15.160
42.62.310

965. AGENDA. An agenda will be prepared by the Board for each meeting. The agenda may be amended at the meeting by the Board.

Authority: 33.15.015
33.15.100
33.15.160

970. RECORDS OF MEETINGS. Board staff will take notes at the general Board meetings, and these notes will be made available to the members of the public upon written request, subject to the availability of funding and staff to complete this process. Voice votes are authorized at all non-adjudicatory meetings.

Authority: 33.15.015
33.15.100
33.15.160
44.62.310

ARTICLE 31. BOARD'S DISCRETION

975. BOARD'S DISCRETION. The Board reserves all discretion created by common law, by the United States and Alaska Constitutions, and by statutes.

Authority: 33.15.100

ARTICLE 32. DEFINITIONS IN THESE REGULATIONS UNLESS THE CONTEXT OTHERWISE REQUIRES

(1) "board" means the Alaska Parole Board.

(2) "discretionary parolee" means a prisoner released on parole under supervision of the Board pursuant to AS 33.15.080.

(3) "hearing decision vote sheet" means the document signed by each Board member present at a hearing regarding a case being considered, and includes the members' comments reflecting important aspects of the case he wishes to retain for future case hearings.

(4) "immediate family" means father, mother, sister, brother, son, daughter, step-relationship to the previously mentioned relations, of the prisoner.

(5) "interstate parolee" means an adult parolee released by or subject to the authority of the paroling authority in another state and being supervised in Alaska under the interstate compact on parolees.

(6) "mandatory parolee" means a prisoner released under supervision pursuant to AS 33.15.180(c) or AS 33.20.040.

(7) "parole board representative" means any member or staff of the Alaska Board of Parole.

(8) "preponderance of the evidence" means having more evidence supporting a finding than not supporting the finding.

(9) "prisoner" means the same as is defined in 7 AAC 60.660(15).

(10) "quorum" means at least three Board members being present at a meeting or hearing.

(11) "staff of the board" refers to any employee of the Alaska Parole Board.

(12) "violator" means a prisoner subject to the jurisdiction of the Board pursuant to Alaska Statutes 33.10.010, 33.15.080, 33.15.180, 33.20.040, or 33.25.010 who has been charged with a violation of a condition of his release.

Authority: 33.15.100

A PERFORMANCE REVIEW
OF THE
ALASKA STATE BOARD OF PAROLE

May 9, 1979

Commissioner of the Department of Health and Social Services	Dr. Helen D. Beirne
Deputy Commissioner of the Department of Health and Social Services	Allen Korhonen
Deputy Commissioner of the Department of Health and Social Services	Frederick McGinnis
Deputy Commissioner of the Deparment of Health and Social Services	Catherine M. Lloyd

Members of the
Alaska State Board of Parole

Chairman	William Lyons
Vice-Chairman	Beverly Dunham
Member	Dan Kosoff
Member	Conrad Miller
Member	Al Widmark

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH W—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

June 19, 1979

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW
OF THE
ALASKA STATE BOARD OF PAROLE

May 9, 1979

Gerald L Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20.271 (1) and 44.66.050 (sunset legislation), an audit of the Alaska State Board of Parole was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Alaska State Board of Parole will be reestablished. The law currently specifies that this Board will terminate on June 30, 1980, but will continue until June 30, 1981, for the purpose of concluding its affairs.

Scope

The functions reviewed include the Board's general operations and administration. Our review consisted of the following:

1. Evaluation of applicable statutes and regulations.
2. Questionnaires sent to current and past Board members.
3. Questionnaires sent to Parole/Probation Officers.
4. Interviews with employees in the criminal justice system associated with the parole system.
5. Review of other states' parole boards.
6. Analyses and tests of the board's records.
7. Complaints filed with the Ombudsman's Office.

Scope Constraints

This review was hampered by the following constraint:

1. The Board has not developed and reported performance information regarding its effectiveness and accomplishments as required by AS 37.07.090 and AS 33.15.130.

ORGANIZATION AND FUNCTION

Article III, Section 21, of the Alaska Constitution states that a parole system shall be established by law. AS 33.15, or the Parole Administration Act, is the law that establishes the Alaska State Board of Parole and its authority. The Board consists of five part-time members who meet quarterly to hear parole-related matters. The members are appointed by the Governor, with confirmation by the legislature, and serve without salary although travel costs and per diem is provided. The Board has an administrative staff which currently consists of an Execu[illegible] Board Officer and two clerical personnel.

The Board basically conducts two types of hearings: release hearings and revocation hearings. By statute, an inmate may not be considered for parole release until a statutory minimum time in prison has been satisfied (AS 33.15.080 requires that at least one-third of the sentence be served in confinement before parole elgibility). Upon application, an elgible inmate will be considered for parole and will appear before the Board. The Board will consider the case in view of certain criteria (e.g., institutional behavior, release plans, past record, recommendations, etc.). A parole decision will either release an inmate on parole, continue the case for future consideration or deny parole. Since FY'74, the Board has averaged 225 release hearings per year of which an avaerage of 80 per year were released on parole.

When it has been determined that a parolee has violated a law or condition of parole, the Board will hold a revocation hearing to decide upon the course of action to take in the case. The Board may choose to revoke the violators parole and return the parolee to prison, whereby, no credit is allowed against the sentence for time served on parole; parole may be revoked and the parolee reparoled without time credited against the sentence for prior time on parole; or no action may be taken. The Board has the authority to establish terms and conditions of parole, and their enforcement, which is accomplished through revocation proceedings. Since FY'74 the Board has averaged 27 revocation hearings per year.

AS 33.15.080 gives the Board the authority to relase prisioners from confinement. Accompanying the Board's authority is the responsibility for public welfare. In each parole release case, the Board weighs the benefits of granting parole release against the inherent risks involved. The benefits of parole embrace opportunties for successful community life and reduced monetary and social costs which follow successful parole release cases. The risks involve additional social and monetary costs that will result from parole violations.

The Board receives General Fund appropriations to support its operations. The Board's primary expenditures are for personal services relating to the administrative staff and travel associated with the various Board meetings and hearings.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decisions.

Report Conclusion

Article III, Section 21, of the Alaska Constitution requires the establishment of a parole system. The current system comprises a parole release program administered by the Alaska State Board of Parole. We found no viable alternative to the present system at this time; therefore, in our opinion, the Board should continue to administer the parole release program.

The parole decision process requires a great deal of dedication of time and effort on the part of each Board member. We commend the members for their service in what is oftentimes a complex and difficult job. However, there are some areas where the Board can improve in efficiently and effectively serving the public interest.

In Recommendation No. 1 we recommend that the Board be more specific in formulating objectives so that performance can be gauged. Without specfic objectives, strengths and weaknesses of Board activities cannot be readily identified. We also have recommended that the Board maintain necessary information which would contribute to evaluating performance as well as planning and controlling current activities. (see Recommendation No. 2).

Other areas that need to be addressed comprise making parole matters clear to interested parties and the public. The Board should codify its regulations and make it available to all interested persons (see Recommendation No. 5). In addition, periodical reports as required by law should be prepared and distributed to the governor and legislature (see Recommendation No. 3). The adopation of these recommendations will serve to clarify Board activities for individuals either directly or indirectly involved with parole matters.

Some Board members have expressed that the public is often confused about parole. Holding public meetings will serve to enlighten those with questions on Board activities and could be a means through which public input is recorded (see

Recommendation No. 4). Support for parole policy changes is one use of formal public input. Both clarifying parole issues and recording public input will contribute to public interest.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's FY 1979 budget documents state that its objective is to maintain a less than 8% rate of felonies committed by parolees within one year after parole release. Measurement of this objective alone, however, is not sufficient to determine the degree of effectiveness experienced by the Board in serving the public. The Board has not established any other specific program objectives through which its performance can be evaluated.

Specific objectives should describe what the Board intends to accomplish during the current period and should be consistent with long range goals. To be capable of measurement, objectives should be well-defined including a decription of methods of measurement. When specific objectives are not identified, both the Governor's office and the Legislature cannot adequately evaluate the Board's performance.

Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board keeps case files on parolees and some statistics on types of cases heard. However, the information has not been adequately summarized for purposes of analyzing the parole program.

The Board needs information for purposes of measuring performance and analyzing decisions. It is essential for any decision-making body to review the significance and effects of past decisions to adequately plan for future decisions.

Maintaining complete information will benefit the Board in several ways. Some uses of such information may entail:

1) Scheduling workloads;

2) analyzing trends - similar decisions when viewed overtime may reveal positive or negative results and support policy changes;

3) assisting planning efforts and research of other agencies; and

4) controlling risk in parole decisions - valid statistics may support parole release or revocation decisions and show the degree of risk based upon historical evidence.

With sufficient information, any alternatives to the parole release system or parole procedures can be better analyzed. Procedures should be developed which address what and how information is to be maintained as well as reported.

Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board has not followed statutory reporting requirements, per AS 37.07.090 and AS 33.15.130. AS 37.07.090 requires each State agency to submit a performance report to the Division of Budget and Management no later than September 1, for the preceding fiscal year. AS 33.15.130 requires that annual reports containing various statistical data and a computation and analysis of dispositions in criminal matters by State courts be submitted to the Governor, the Commissioner of the Department of Health and Social Services and the Attorney General.

To contribute to governmental effectiveness, the Board should disseminate the results of its operations to appropriate parties. The report required by AS 33.15.130 is essential for planning and analyzing matters relating to parole. In the 1977 legislative session, the Legislature, in conjunction with sunset legislation, amended the performance reporting statute (AS 37.07.090) to require agencies to specifically address eight criteria. This report would provide a useful tool for evaluating the Board in relation to performance reviews and other matters.

Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

It is the Board's policy in the conduct of its meetings to allow the presence of only those individuals who are considered necessary under the circumstances. For parole hearings, this is required to secure the confidential nature of the hearings as well as protect the objectivity of hearing decsions. Administrative meetings, however, do not share the same characteristics as case hearings. Administrative meetings are held at irregular times during the year for the purposes of transacting general business of the Board.

We were informed by Board members that the public is sometimes confused about parole and may misconstrue the Board decisions. This has happened despite the Board's efforts to be in contact with various community groups and governmental organizations.

As another avenue in seeking public input the Board should hold public administrative meetings. Public meetings will provide broad public representation in the development of parole regulations and be a means to formally record public input, which would assist the Board in determining how much "risk" the public is willing to bear regarding parole release.

Further, procedures should be developed to cover the agendas of public meetings and notification of the public as to time, place and nature of each meeting. A formal record should be kept of each meeting which delineates matters acted upon and any changes in Board policy or procedures.

Recommendation No. 5

The Board should codify its regulations in a clear form readily available to the public, inmates and all others requiring information about the Board's operations.

AS 33.15.100 states: "The board shall adopt rules which it considers necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees".

Rules governing the Board's operations should be a clear statement of its procedures and requirements in parole matters. However, the Board's rules are currently contained in two manuals, and an assortment of updating memos and various forms. This creates a situation in which the rules cannot be immediately or clearly identified and may be subject to arbitrary change.

Although the Board members and staff may personally know the rules, it is also important for the rules to be available for anyone requiring them; the present form does not adequately allow for this. A codification of the rules would not only make them readily available to others but also would facilitate making refinements and improvements in the Board's rules and procedures.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis of Board activities relates to the public need factors defined in the "Sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission or program has operated in the public interest.

1. The Board is working toward a "parole guidelines" approach to parole decisions which should, when implemented, provide additional support for parole decisions. Also, the guidelines should allow for more efficient Board operations.

2. The Board is currently addressing its informational needs through drawing upon resources available from other agencies. For example, the Criminal Justice Planning Agency is in the process of developing an information system through federal funding wherein the needs of the parole system will be considered.

3. We determined from our analysis of parole revocations for FY'74 - FY'77 that less than 8% of the paroles were revoked within one year after parole release as a result of new felonies. This compares favorably with available national statistics as well as other States on an individual basis.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

1. The Board has not codified its rules and procedures (see Recommendation No. 5).

2. The Board has not fully identified specific program objectives nor maintained proper information for performance evaluation (see Recommendation No. 1 and 2).

3. The Board has revised its filing system which will result in added efficiency in extracting case information.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. The Board has recommended the clarification of some areas of the Parole Administration Act. In addition, the Board attempts to monitor and provide input for legislation affecting the parole process.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. No formal record has been kept from which a determination can be made on how feedback from interested persons is used by the Board in evaluating its effectiveness. However, we were able to determine that the Board has been active in soliciting input from various public and private organizations.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. Public participation has not been allowed at administrative meetings, thus no formal public input has been recorded in developing procedures and regulations (see Recommendation No. 4).

2. Since regulations cannot be readily made available, interested parties cannot be confident of having all information for purposes of making observations or suggestions for improvements (see Recommendation No. 5).

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. Seven complaints have been processed by the Ombudsman. Of the seven, five were determined to be unsupported and two were discontinued or rectified. As of February, 1979, one case was in process which related to improper parole consideration.

2. We found no record of complaints filed with the Department of Health and Social Services concerning the Parole Board.

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

1. The Alaska State Board of Parole does not regulate entry into an occupation or profession.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

1. We found no evidence of hiring practices or Board appointments that are contrary to State personnel practices.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

ALASKA STATE BOARD OF PAROLE
SCHEDULE OF AUTHORIZATIONS, EXPENDITURES AND ENCUMBRANCES
For the Year Ended June 30, 1978
(UNAUDITED)

	Authorizations	Expenditures	Encumbrances	Lapsed
Personal Services[1]	$ 83,400	$ 81,021	$ 4,937	$ (2,558)
Travel and Per Diem[2]	40,100	32,710	3,383	4,007
Contractual Services	24,189	7,268	421	16,500
Commodities	2,090	1,213	114	763
Equipment	3,020	4,236	15	(1,231)
Totals	$ 152,799	$ 126,448	$ 8,870	$ 17,481

1. Personal services expenditures primarily relate to the Board's three permanent administrative staff.

2. The Board members reside in different areas of the State and parole hearings are held on location at the correctional institutions.

APPENDIX B
SUMMARY OF PAROLE REVOCATIONS
For the Period July 1, 1973 - June 30, 1977

Parole Revocations, July 1, 1973 - June 30, 1977[1]

	New Felonies		Technical Violations	
	#	%	#	%
Revoked within one year after parole release	23	7%	28	9%
Revoked after more than one year after parole release[2]	12	11%	18	6%
Totals	35	11%	46	15%

1. This summary is based on data obtained from Board records and percentages are based upon a total of 319 parole releases over the four year period. The Board's objective is to maintain less than a 8% new felony rate by parolees within a year of parole release.

2. This information is not complete since post-FY'77 data has not been considered for this summary. For example, there may be FY'78 or '79 parole revocations which relate to a pre-FY'78 parole relcase.

APPENDIX C
SUMMARY OF PAROLE RELEASE HEARING DISPOSITIONS
For the Period July 1, 1973 - June 30, 1978

Fiscal Year	Total Cases Heard	Disposition of Parole Release Hearings		
		Paroled	Continued	Denied
1974	220	81	115	24
1975	247	98	130	19
1976	223	69	110	44
1977	207	71	77	59
1978	228	79	80	69
Total of all Fiscal years	1125	398	512	215
Five year average	225	80	102	43

APPENDIX D

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. (A) What do you believe to be the goals and objectives of the Board of Parole?

Description	*Number of Responses (See Note 1)*
To return people to society when ready.	*2*
To save taxpayers' money.	*1*
To help the parolee in making social adjustment.	*3*
To have less than 8% new felonies by parolees.	*1*
Return parolees to custody to prevent future crime.	*1*

(B) What goals and objectives do you feel the Board has succeeded in meeting? Has not suceeded in meeting?

No response.

2. (A) How does the Board measure its progress in meeting its goals and objectives?

Description	*Number of Responses*
By research.	*1*
Parolees' success or failure is a standard of measure.	*2*

(B) Is there anything additional that you would consider valuable in evaluating the performance of the Board?

Description	*Number of Responses*
Need more research.	*1*
Need better case history and time to study cases.	*2*

3. (A) Is the staff from the Department of Health and Social Services and/or other departments adquate to perform and enforce all laws and regulations relating to the Board of Parole?

Description	Number of Responses
Attorney General's staff is adequate.	*1*
Administrative staff is inadequate.	*3*

(B) What staff support services are provided adequately? Inadequately?

Description	Number of Responses
Attorney General's staff is adequate.	*1*
Policy, planning and support staff is inadequate.	*3*

4. What evidence exists demonstrating that the Board has operated in the public's best interest?

Description	Number of Responses
Some people never will be paroled.	*1*
We listen to the public.	*1*
Quality of the performance of the Board is high.	*2*

5. What evidence exists demonstrating that the absence of Parole regulations and/or the Board would be detrimental to the public's best interest?

Description	Number of Responses
The requirement of each regulation is intended to assist the parolee as well as protect the public.	*1*

6. Has the Board recommended any statutory changes which are generally in the public's best interest?

Description	Number of Responses
Yes.	*1*

6. (cont'd)

Description	Number of Responses
No.	1
Not sure.	1

7. Are there any statutes or regulations that you believe to be obsolete, vague, unduly restrictive and/or inadequate to provide the Board with the responsibility and power to properly govern the purpose and activities of the Board? Please list and explain.

Description	Number of Responses
Yes.	2

8. What changes could be made to the Board which would improve its service to the public?

Description	Number of Responses
Need more personnel support.	1
Need more office space.	1
The Board is effective as it is.	1
There should be an alternate member in the Board.	2
There needs to be some younger Board members.	1
Compensation should be adjusted to meet expenses.	1
Board needs to have written guidelines.	1

9. Is the current five-person, part-time Board structure adequate to efficiently and effectively process parole cases?

Description	Number of Responses
The current structure is adequate.	3
Because of workload, a full-time board may be necessary.	1

10. Do you feel a "parole guidelines model" will be beneficial to the Board in deciding on Parole cases? Why?

Description	*Number of Responses*
Yes.	*3*

11. Additional comments.

Description	*Number of Responses*
If the Board is dissolved parolees would have to finish parole time under some system.	*1*
Many people do not understand or know the functions of the Board.	*2*
People don't know the difference between probation or parole.	*1*

Note 1

We sent the above questionnaire to five current Board members as of December 12, 1978 and seven previous members. Of the twelve questionnaires sent, we received three responses, representing current members. There may be more than three responses to each question since a member may have answered with more than one response.

APPENDIX E

QUESTIONNAIRE SENT TO PROBATION-PAROLE OFFICERS

		Responses (Note 1)		
		Yes	No	No Opinion
1.	What can be done to contribute to the parole system's effectiveness? Are there any services now provided by the Parole Board that need improvement? Should any additional services be rendered?	N/A		
	Typical response (Note 2).			
	a. *Organize Parole Board to include professional members.*			
	b. *The Board is doing a good job.*			
2.	Do you feel that your recommendations concerning parole cases are given adequate consideration (to pre-release plan responses; revocation petitions)?	11	2	1
3.	Do you believe the Board has operated in the public's best interest, why or why not?	10	3	1
	Typical response if Yes.			
	a. *The Board is mostly successful and mindful of its responsibilities.*			
	Typical response if No.			
	a. *Sometimes decisions are not well thought out.*			
4.	Do you ever have any problems in contacting a Board member for parole related business? Please specify.	5	9	-0-
	Typical response if Yes.			
	a. *It has sometimes been difficult to contact a Board member to obtain an arrest warrant for a parole violator.*			
	Typical response if No.			
	a. *Parole Board staff are readily available.*			

5.	Do you feel that parolees have had more or less success than probaioners in readjusting to society?	*4*	*5*	*5*
6.	Do you feel the Board is overly lenient or restrictive in reviewing applications for parole, why or why not?	*1*	*9*	*4*
	Typical response if No.			
	a. The Board is fair in granting parole and neither too lenient or restrictive.			
7.	Do you feel that those parolees you have been in contact with in the past have represented "good risks"?	*8*	*2*	*4*
8.	Should the Board be allowed to terminate parole at a date earlier than presently required by law?	*8*	*5*	*-0-*

Note 1

Total responses	14
Number of questionnaires mailed to State employed field probation-parole officers.	40
Questionnaire response rate	35%

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER POUCH H 01 – JUNEAU 99811

August 6, 1979

Gerald L. Wilkerson, CPA
Division of Legislative Audit
Legislative Affairs Agency
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Membersof my staff have reviewed your audit report entitled "A Performance Review of the Alaska State Board of Parole". Generally, we find your recommendations helpfull. There appears to be two areas where clarification is necessary.

The first is $14,200 of the funds identified in Appendix A as lapsing where part of a LEAA Grant that was carried forward into Fiscal Year 1979.

The second item and more difficult is that of the information contained in Appendix B and C. There has been two methods of tabulating the information. Members of the Parole Board and your staff presented two differing opinions.

It would be greatly appreciated if your staff could provide the criteria used in compiling the grouping. This would allow myself and others in the Department to compare the two methods. Another response will be provided after the methods have been reviewed.

Thank you for the opportunity to respond to the audit report.

Sincerely,

Catherine M. Hoyt

Helen D. Beirne
Commissioner

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
PHONE: (907) 465-3384

August 2, 1979

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Response to Audit
Report - Parole Board

Dear Mr. Wilkerson:

The statement on page three under the section entitled "Scope Constraints" is erroneous. All reports required pursuant to AS 33.15.130 have been completed and filed with the Commissioner's office. Copies of these annual reports have been copied for your Division on at least two occasions. Reports required pursuant to AS 33.15.130 have been submitted since at least 1975. Because of limited staff, these reports are cursory in nature and are of little value to non-criminal justice administrators or the Legislature. Additional funding should be provided if more comprehensive reports are desired. The Governor's Budget and Audit staff should provide the necessary forms to all State agencies so that they can comply with AS 37.07.090. Neither of the reports outlined in AS 33.15.130 or AS 37.07.090 will be of much value in evaluating the performance of the Board without much more comprehensive data such as that being collected under the current "parole guidelines" grant on a limited nubmer of cases and the information expected to be collected under the "OBSCIS" grant.

The statement in paragraph one, page five, is incorrect, regarding the Board having two clerical personnel. The Board has never had two clerical positions authorized in my eight years with the Board. We did have a temporary CETA for several months this past year.

Paragraph number three of page five does not correctly outline the options available to the Board at revocation hearings. The first two options in the second sentence are correct, the third is not. Besides the first two options, the Board may also:

1. Find the parolee in violation but allow him to remain on parole with any other conditions it deems appropriate.

2. Revoke parole and require the parolee to serve the remainder of his sentence minus good time earned.

3. Continue the case to the next hearing for additional information.

The last sentence in paragraph three of page five is also incorrect. The Board has averaged 22 revocations per year, not 27. This includes a substantial number of mandatory release revocations of those offenders placed on supervision by operation of law without any control by the Parole Board (AS 33.20.040). Five of the revocations in 1978 were in this category. Actual number of revocations of offenders released by a discretionary decision of the Board would probably be closer to 18 per year.

We agree the Board should be more specific in formulating one other objective, the only one suggested by the staff of Legislative Audit, relating to an acceptable level of technical revocations by the Board. This objective has been specified in the preliminary FY-81 budget. Other specific measureable objectives have been established previously, are a part of the Board's records, and copies have previously been sent to Legislative Audit. After discussing this topic again with Legislative Audit staff on July 18 and 20, no other recommendation was made other than the technical violation rate objective.

The Board strongly disagrees with the "Report Conclusion" in paragraph four of page seven that the Board should "maintain necessary information which would contribute to evaluating performance as well as planning and controlling current activities". Elaboration is provided later in this response.

The Board agrees with the recommendation that it codify its regualtions (elaboration provided later in this repsonse). Current regulations have already been made available to all known interested parties and we will continue this practice. A comprehensive set of regulations was presented to the Board members on July 5, 1979, and they were approved with several minor changes by the Board members present on July 20, 1979. The Board awaits the comments of the Attorney General's Office before formally sending them out to interested parties for comment and then adoption.

Codifying Board regulations as suggested in paragraph five on page seven will benefit a small number of employees that frequently work with or within the criminal justice system. However, only a comprehensive education and information effort will have any impact on helping the general public understand and be able to offer realistic suggestions about the Parole Board. Public meetings attended by staff or Board members in the past have been of limited value in enlightening the public but we agree the public should have the opportunity for the input. Again, only a concerted public information effort will be of much value in educating the public. These comments are based upon many years of experience with the public in handling Corrections-related matters.

FINDINGS AND RECOMMENDATIONS

The findings under recommendation number one on page nine are erroneous as written. The Board does have other specific and articulated objectives than the one referred to in your report. Legislative Audit staff have refused to acknowledge the presence of others not contained in the FY-79 budget even through contained in other related documents and in Board rules and regulations. All of these have been copied for Legislative Audit. (See memo of January 16, 1979 for a brief summary). The Board certainly wishes to establish long range goals but finds this impossible without adequate staff to compile data for the members to provide them with bases for future planning.

The first sentence (underlined) under recommendation number two on page nine is not true and has no basis in fact. The Board staff is quite familiar with "necessary information" from many other jurisdictions and we know the information we maintain will very favorably compare with these other systems.

Our case files are comprehensive and would take a person well acquainted with them at least 1 to 1 1/2 hours to digest the material contained in each case file for the initial hearing. What is true is that most of this information is not coded, compiled, or analyzed and made available to the members in a usable fashion. A quick comparison of current case files with older files will show that the quality of the files has been significantly upgraded in recent years. The Boards' attempts to get someone else to analyze the data or to allow the Board to hire staff that could assist with this task have been well documented. Again your staff have already been provided with copies of information to support this. We heartily agree that there is an urgent need to compile and analyze case information and mangement information that is already available in the Board office. The need to collect and analyze other information will become apparent once this first step is taken. Establishing procedures for maintaining and reporting data will be established once the staff is available to complete the work.

The Board has complied with the reporting requirements of AS 33.15.130 as noted earlier in this response. Comments have already been made about the lack of compliance with AS 37.07.090. We would gladly comply with this statute if provided the forms and instructions for completing them. AS 33.15.130 requires the Board to submit data regarding its decisions to the administration. This has been done. The statute does not require that the Board include "a computation and analysis of dispositions in criminal matters by State courts . . .", as stated in your report. The statutory language is clearly discretionary and the Board certainly does not anticipate taking on this mamoth task without specific legislative direction and the necessary staff.

Again, the Board wishes to comply with AS 37.07.090 if given the forms and instructions to accomplish the task. We would welcome the resources to enable us to complete a comprehensive rather than a perfunctory annual report pursuant to AS 33.15.130.

The Board agrees with recommendation number four as set forth on page ten. We feel we have complied with this to the greatest extent possible with the funds appropriated. Your staff was supplied with a documented list of numerous meetings attended by Board representatives with citizen groups, individuals, and of course other governmental agencies. The only suggestion your staff made to augment current

practice, is to make adminstrative meetings open to the public. In fact, these meetings are not nor have they ever been "closed" to the public. But they have been held in conjuction with Board hearings as time permits in recent years simply because no funds were available for them. You cannot advertise an administrative meeting you do not know if you are going to be able to hold. Case decisions are the primary responsibility and we have not had the funds to hold specific meetings to obtain public comment. We will gladly do this if funds are supplied. We agree with notification of public meetings, agenda, etc. as recommended and they would obviously be complied with if the money is forthcoming. Funding for such meetings have been requested in the Board's preliminary budgets in the past and we have again requested funds for this activity in the preliminary FY-81 budget submission. A record of all administrative Board meetings is already being kept.

The Board concurs in recommendation number five on page 11. Your report does not reflect that this has been a priority of the Board. The annotated regulations have been prepared by staff and reviewed by the members. The Board is awaiting the comments of its attorney before sending the proposed regulations out to the affected agencies and the public for comment. The final step is making final changes, adopting the regulations, and training affected Corrections staff regarding the changes. If we are supplied with funds and staff, this task will be completed before the full Legislature holds hearings regarding this report.

ANALYSIS OF PUBLIC NEED

The Board concurs in the comments in Section I, page 12. Subsection three should point out that the documented figures show the parolees released by the Board were convicted of far fewer felonies than any other Board in the country, even with 1 1/2 to 4 1/2 year follow-up from release. This is very significant. This data was reviewed with your staff on July 18, 1979.

Regarding Section II, page 12, subsection 2 is incorrect for the reasons stated previously about recommendation number two, page nine. It is significant that your report made absolutely no reference to "budgetary, resource, and personnel matters" in your analysis as called for in the sunset statute.

Nor was any explanation given for failure to address this most important issue. A recent group of corrections professionals hired to help analyze the corrections system in Alaska and plan for the future of the system did discuss some of these issues.

First of all, they indicated the Alaska Parole Board exceeded the national standards developed for adult paroling agencies in most respects. In the areas where the Board fell short, most of the suggestions made to bring us in compliance with national standards were either changes in the statutes or increased funding by the Legislature. Of great significance is the fact that the Corrections Masterplan Legislative Subcommittee adopted most, if not all, of the recommendations of thse corrections consultants regarding the operation of the Parole Board, at a meeting on July 16, 1979. Although there are some inaccurances in the consultant's report, it is essentially accurate as provided to your staff earlier this year.

Although you have ignored our suggestions that changes are needed in the statutes, we strongly encourage the Legislators to review the recommendations of the corrections specialists contained in their report. I would also suggest a copy of the national standards be provided any legislator who is interested in what statutory changes would be necessary to allow the Alaska Board to become accredited. (Money was budgeted to allow the Board to apply for accreditation in 1978, but we did not pursue this, in great part because of the need for these statutory changes). Finally, the Masterplan report strongly recommended increased staff for the Board to allow us to comply in the few areas we do not at the present time. We believe that this is one case in which a small amount of additional funding will allow the Board to operate more efficiently and comprehensively and provide everyone with information that they all want about the Board's operation.

The Board agrees with Section III, page 13. Interestingly, much of the legislation we have recommended in recent years is also included in the national standards and in the recommendations in the Corrections Masterplan consultant report already referred to.

We agree with Section IV, page 13. Inasmuch as much of the feedback the Board gets is in the form of telephone calls, comments made at meetings attended by Board representatives, etc., this information will never be available for analysis. All of our old correspondence files were available for the legislative audit staff to review for comments if they had wished. The partial list of Board contacts with citizen and government groups is extensive. A survey of these contacts would take minimal time and would show the attitude of these people about the operation of the Board.

The comments listed under Section V, page 13 are not true. We have never barred anyone from attending an administrative Board meeting. These meetings are not advertised and public input has not been solicited in the past for the reasons enumerated in the comments regarding recommendation number four. Regulations of the Board have been made available to anyone that has requested them in the past and copies have been widely circulated in the Alaska criminal justice system. Where a change was made in the policy, the change was provided the party requesting the information. The Board has complied with this section to the greatest possible extent with the funds and staff available, even though we have been working to codify the regulations. See previous comments about the status of implementation of recommendation number five.

We have no problems with Section VI, pages 13 and 14. However, our correspondence files do contain many letters addressed to the Board that we answer, answer for the Commissioner, and for the Governor's office, that are available for analysis regarding the operation of the Board.

We concur with Section VII, page 4.

We concur with Section VIII, page 14. Of significance is that the Governor and the Board have made a concerted effort to insure a broad cross section of the Alaska community is represented on the Board. The current makeup of the Board includes 1 Alaska Native male, 1 white female, 1 black male, and 2 caucasian males.

Legislative Audit has chosen to not deal with Section IX, page 14. I strongly suggest that the recommendations of the

Corrections Masterplan consultants and the legislative subcommittee on Corrections recommendations be made available to the members of the Legislature that receive this report so that they will have some idea of what is recommended to allow the Board to operate more effectively and efficiently.

A footnote to Appendix A needs to be added to clarify that most of the $17,481 "lapsed" money was money from a federal grant that was moved over to be used during calendar year 1979. It did not lapse.

Legislative Audit figures in Appendix B are grossly inaccurate. Legislative Audit was notified of this on July 18, and on July 20, 1979. We have carefully rechecked our figures and they are accurate. Since our figures as given to Mr. LaVine from Legislative Audit have not been disputed, I assume they have no quarrel with them. Although LaVine does not think the difference is significant, the total number of new felony convictions is only 12, rather than the 35 reported in the report. I think the citizens of the State would be concerned if the figure was as high as 35. The report figures for new felonies is almost three times the actual figures; and the technical violation figures reported are much lower than the parolee files reflect. With the corrected figures, the Board's return to jail for a new felony conviction is much lower than the average, and the technical violation rate is a little higher than the national average. The corrected summary data are enclosed as Attachement A to this response.

The figures for Appendix C are somewhat inaccurate, but no gross errors exist. For the record, the corrected figures in the same format are attached to the letter as Attachment B.

The response to the questionnaire sent to probation/parole officers was low because many of the employees receiving the questionnaire were assigned to handle juvenile cases only. Also, questionnaires were not sent to the 11 institutional probation/parole officers who work extensively with the Board. Interest among these employees is high regarding Parole Board matters. Legislative Audit was notified of this oversight on their part in December, 1978, but questionnaires were never sent to these employees. I suggest they be included in any future questionnaires.

Overall, the Board agrees with most of the comments made under each of the five "recommendations", even though the

recommendations themselves are mostly very inaccurate. These recommendations should be corrected so the public and the Legislators are not mislead or misinformed. The inaccurancies we have pointed out are mostly substantive rather than technical. The Board is very concerned by the reticence on the part of your staff to correct obvious inaccuracies in the report such as the data compiled in Appendix B regarding new felonies. We stand ready at any time to support our statements contained in this response and the figures we have supplied to correct the data included in the Appendixes.

Sincerely,

William B. Lyons

William B. Lyons
Chairman

WBL/vh
cc: Helen D. Beirne
Commissioner

P.S. Although your staff agreed to provide us with a copy of the audit report and receive our comments before making it available to the Legislative Budget and Audit Committee, I understand it has already been made available and discussed with the Committee members. I trust you will advise them of the errors in the data in your draft report. Of course, t e errors we have pointed out in the audit report also apply to the summary report of June 19, 1979, and because of the abbreviated nature of it, the inaccuarcies in that summary unfortunately are maximized. This summary certainly should be corrected. Since the other members of the Board have requested I reply in their behalf to the audit report, please accept this letter as representative of the comments of the entire Board.

CORRECTED

APPENDIX B
SUMMARY OF PAROLE REVOCATIONS
For the Period July 1, 1973 - June 30, 1977

Parole Revocatios, July 1, 1973 - June 30, 1977 [1]

	New Felonies		Technical Violations	
Revoke within one year after parole release	8	2.6%	56	18.5%
Revoked after more than one year after parole release [2]	4	1.3%	19	6.3%
Totals	12	4 %	75	24.8%

1. This summary is based on data obtained from Board records and percentages are based upon a total of 319 parole releases over the four year period. The Board's objective is to maintain less than a 8% new felony rate by parolees within a year of parole releases.

2. This information is not complete since post-FY'77 data has not been considered for this summary. For example, there may be FY'78 or '79 parole revocations which relate to a pre FY'78 parole release.

* Research verified and rechecked in June, 1979 By Alaska Board of Parole.

CORRECTED

APPENDIX C
SUMMARY OF PAROLE RELEASE HEARING DISPOSITIONS
For the Period of July 1, 1973 - June 30, 1978

Fiscal Year	Total Cases Heard	Dispositions of Parole Release Hearings			
		Paroled	Continued	Denied	Other
1975	252	93	133	22	4
1976	214	53	92	61	8
1977	212	75	78	52	7
1978	226	64	72	78	12
Total of all Fiscal Years	1132	362	496	241	33
Five year average	236	72	99	48	7

* Research verified and rechecked in June, 1979, By Alaska Board of Parole.

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

August 7, 1979

Members of the
Legislative Budget and Audit Committee:

We have reviewed the responses of the Parole Board and the Department of Health and Social Services and the auditor's comments are listed below.

Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's response to Recommendation No. 1 states in part:

> "...We agree the Board should be more specific in formulating one other objective, the only one suggested by the staff of Legislative Audit, relating to an acceptable level of technical revocations by the Board. This objective has been specified in the preliminary FY-81 budget. Other specific measureable objectives have been established previously, are a part of the Board's records, and copies have previously been sent to Legislative Audit. After discussing this topic again with Legislative Audit staff on July 18 and 20, no other recommendation was made other than the technical violation rate objective."

Auditor's Comment:

> It is the position of Legislative Audit that it is the responsibility of the Board and its Executive Director to prepare and establish specific objectives to manage and evaluate the parole program of the State of Alaska. It is not appropriate for Legislative Audit to establish specific objectives necessary to manage and evaluate the activities of the Board. The other specific objectives mentioned in the Board's response are not program objectives but are administrative in nature.

Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board response in part states:

> "...The first sentence (underlined) under recommendation number two on page nine is not true and has no basis in fact. The Board staff is quite familiar with "necessary information" from many other jurisdictions and we know the information we maintain will very favorably compare with these other systems.
>
> Our case files are comprehensive and would take a person well acquainted with them at least 1 to 1 1/2 hours to digest the material contained in each case file for the initial hearing. What is true is that most of this information is not coded, compiled, or analyzed and made available to the members in a usable fashion. A quick comparison of current case files with older files will show that the quality of the files has been significantly upgraded in recent years. The Board's attempts to get someone else to analyze the data or to allow the Board to hire staff that could assist with this task have been well documented. Again your staff have already been provided with copies of information to support this. We heartily agree that there is an urgent need to compile and analyze case information and management information that is already available in the Board office. The need to collect and analyze other information will become apparent once this first step is taken. Establishing procedures for maintaining and reporting data will be established, once the staff is available to complete the work."

Auditor's Comment:

> The Board in their response above states that most of their information has not been coded, compiled, or analyzed and made available in a usable fashion. It is the position of Legislative Audit that information must be usable in order to ensure the Board has the necessary information to manage its activities. For example, the Board as of the date of the audit (May 19, 1979) did not have statistical information on parole revocations (Appendix I). Information of this type is essential to evaluate the effectiveness of the parole program.

Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board agrees that they have not complied with AS 37.07.090. However, the Board states that they have complied with AS 33.15. 130. The Board's response states in part:

> "... all reports required pursuant to AS 33.15.130 have been completed and filed with the commissioner's office. Copies of these annual reports have been copied for your division on at least two occasions. Reports required pursuant to AS 33.15.130 have been submitted since at least 1975. Because of limited staff, these reports are cursory in nature and are of little value to non-criminal justice administrators or the Legislature."

Auditor's Comment:

> We have not received a copy of the annual report as stated in the Board's response. We requested a copy of the annual report again on July 18, 1979 from the Executive Director and of this date have not received a copy.

Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

The Board's response to Recommendation No. 4:

> "...The Board agrees with recommendation number four as set forth on page ten. We feel we have complied with this to the greatest extent possible with the funds appropriated. Your staff was supplied with a documented list of numerous meetings attended by Board representatives with citizen groups, individuals, and of course other governmental agencies. The only suggestion your staff made to augment current practice, is to make administrative meetings open to the public. In fact, these meetings are not nor have they ever been "closed" to the public. But they have been held in conjuction with Board hearings as time permits in recent years simply because no funds were available for them. You cannot advertise an administrative meeting you do not know if you are going to be able to hold. Case decisions are the primary responsibility and we have not had the funds to hold specific meetings to obtain public comment. We will gladly do this if funds are supplied. We agree with notification of public meetings, agenda, etc. as recommended and they would obviously be complied with if the money is forthcoming. Funding for such meetings have been requested in the Board's preliminary budgets in the past and we have again requested funds for this activity in the preliminary FY-81 budget submission. A record of all administrative Board meetings is already being kept.

Auditor's Comment:

The thrust of this recommendation is to encourage more public participation in the parole process.

We affirm our recommendation as written.

Appendix A

Board's Comment:

The Board states that $17,481 of funds identified in Appendix A as lapsing did not lapse.

Auditor's Comment:

The figures contained in Appendix A are per the State Annual Report. If the figures contained in the Annual Report are incorrect, we suggest that personnel of the Board contact the Division of Finance.

Appendix B

Board Comment:

"...Legislative Audit figures in Appendix B are grossly inaccurate. Legislative Audit was notified of this on July 18, and on July 20, 1979. We have carefully rechecked our figures and they are accurate. Since our figures as given to Mr. LaVine from Legislative Audit have not been disputed, I assume they have no quarrel with them. Although LaVine does not think the difference is significant, the total number of new felony convictions is only 12, rather than the 35 reported in the report. I think the citizens of the State would be concerned if the figure was as high as 35. The report figures for new felonies is almost three times the actual figures; and the technical violation figures reported are much lower than the parolee files reflect. With the corrected figures, the Board's return to jail for a new felony conviction is much lower than the average, and the technical violation rate is a little higher than the national average. The corrected summary data are enclosed as Attachement A to this response."

Auditor's Comment:

We do not agree with the Board's statement that our figures are inaccurate or that the difference is insignificant.

Our figures in Appendix B for new felonies and technical violations are based on Board records as of the date the Parole Board revoked parole and does not include subsequent

	1ST	2ND	3rd
A GUN	6 → 8	10	15
A NO GUN	NONE → 5		
B	NONE → 2	4	6
C	NONE → 1	2	3

1 FOR 2 67%

95% 1 FOR 3

Parole Board etc.

Monday - Feb. 8, 1982

William Lyons - OK 225 or 261

Roger Endel - AAA - Dept. of Justice

Passed Prison & Industry Bill -

→

Economic effects = parole -
can be put loose

Artie Pettijohn - # 293 May be unconstitutional
as our AK Const. said there will be
a system of parole -

Barry Stern
Dept. of Law - very opposed since 1976

Total control of system -
Parole Board is last element of public participation
in system.
Disparity ? Superintendents many pressures
per institution - local pressures per
geographical area - Closer to relatives
and friends who live in
same community...

Judges have worst recividism record than
parole board.
prison industry.

293 - increases 60 beds

give 2 yrs=life at least - but need much more evaluation
delay tactics - 261 + 225 are going along with Nat Parole Bill have been out

Master	Dept.	Judiciary	Fisher.
HB 225		AB 261	SB 217

1 Grant Fewer rts of prisoners Y/s more
2. Broader Disc. for Board Y/s

Rights
1) Library book
add this to 225 2) good time to add while on parole.
225 is discretionary - 261 is mandatory

5 member
2 yr for presiding officer
broad discretionary

7 member

15 possible conditions is 261 listed for parole.

Arrest for parole violator - Parole board can ask for arrest.

(261) preliminary hearing before revoking parole
→ (261) only a person of Judiciary can order arrest.

Comm Burns - need time to evaluate 293
Presumptive sentences
HB 225 or 261 - good time

Ha an elements

Where is it that "peers" will have involvement?
Parole Board has women, black + native →
→ Obviously 293 is looser but protection of public is consideration
1) Only 6% of persons on parole from 1971-79 were convicted of a new felony while on parole.
2) compare to Judges release 25% - pre trial

Dana Fabe - Public Defender

Presumptive sentencing Y/s parole board.
of first offenders
The former will vertically abolish the need of the latter.
very strong 1st term sentences - Youth are now mandatory