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✓ Out Supreme Court Decision
Exempting Board members from
Confirmation.

Original sponsor: Parr

Offered: 3/10/82
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

CS 327

2 CS FOR SENATE BILL NO. 327 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to parole of offenders; continuing
7 the existence of the Board of Parole; and providing
8 for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 33 is amended by adding a new chapter to read:

11 CHAPTER 16. PAROLE ADMINISTRATION.

12 Sec. 33.16.010. BOARD OF PAROLE. (a) There is in the Department
13 of Health and Social Services a Board of Parole consisting of five
14 members appointed by the governor subject to confirmation by a majority
15 of the members of the legislature in joint session.

16 (b) Members of the board serve for staggered terms of five years
17 and until their successors are appointed and qualified. A vacancy on
18 the board shall be ~~filled~~ ^{FILLED AND APPOINTED} for the unexpired term. ~~and made~~ ^{WITHIN 30 DAYS.}

19 (c) The board shall choose its presiding officer from among its
20 membership. [for a two-year term. [The presiding officer shall have at
21 least two years judicial experience or experience in corrections,
22 probation, or parole work.]]

23 Sec. 33.16.020. NOMINATIONS. The governor shall seek nominations
24 for board members from civic, professional, and ethnic organizations in
25 the state and shall make appointments to the board with due regard for
26 representation on the board of the sexual, ethnic, racial, and cultural
27 populations of the state.

28 Sec. 33.16.030. SELECTION CRITERIA FOR BOARD MEMBERS. (a) The
29 governor shall appoint board members on the basis of their qualifica-

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1 tions to make decisions that are compatible with the welfare of the
2 community and of individual offenders. The governor shall appoint
3 board members who are able to consider the character and background of
4 offenders and the circumstances under which offenses were committed.

5 (b) At least one person appointed to the board shall have ex-
6 perience in the field of criminal justice, psychology, or human rela-
7 tions.

8 (c) Officers or employees of the department may not be appointed
9 to the board.

10 Sec. 33.16.040. REMOVAL OF MEMBERS. (a) The governor may remove
11 a board member only for disability, nonfeasance, neglect of duty, mal-
12 feasance in office, or conviction of a ~~felony~~ *CRIME INVOLVING MORAL TURPITUDE*

13 (b) Removal of a board member is initiated by delivering to the
14 board member a written statement of the charges against the board
15 member and by giving the board member an opportunity to be heard in
16 person or through counsel at a public hearing in defense of the charges.
17 The hearing shall be before the governor or his designee. The time
18 fixed for the hearing may not be less than 10 days after the statement
19 is delivered to the board member. At the hearing the board member has
20 the right of confrontation and cross-examination of the witnesses who
21 testify.

22 (c) The removal of a board member is effective 15 days after a
23 statement of the charges made against the board member and the findings
24 on those charges are filed by the governor in the main office of the
25 board. However, the board member may appeal the findings of the gover-
26 nor or his designee to the superior court. The court shall limit its
27 review to a determination of whether the findings of the governor or
28 his designee are substantiated by the evidence presented. The removal
29 of the board member is suspended while an appeal from the findings of

1 the governor or his designee is pending.

2 Sec. 33.16.050. COMPENSATION AND EXPENSES. (a) A board member
3 is entitled to compensation of \$100 per day for each day he is concerned
4 with the business of the board and is also entitled to the per diem and
5 travel allowances provided by law for other boards and commissions.

6 *Dieter* (b) The governor shall adjust the compensation in (a) of this
7 section to compensate the board members for changes in the cost of
8 living as reflected in the consumer price index for Anchorage, Alaska. *N.O.*

9 Sec. 33.16.060. MEETINGS OF THE BOARD. (a) The board may meet
10 as often as it considers necessary to consider its responsibilities.
11 The board shall meet no less than four times a year.

12 (b) Three members of the board constitute a quorum for the conduct
13 of business.

14 (c) Decisions and orders of the board require the votes of a
15 majority of the members present and in no case less than the votes of
16 ~~two~~ members.

17 (d) Except in the consideration of matters involving the release
18 of a prisoner on parole or parole revocation, the board may conduct a
19 meeting over the telephone or by the use of teleconference facilities.

20 Sec. 33.16.070. PROCESS. The board or a member of the board may
21 issue subpoenas and subpoenas duces tecum.

22 Sec. 33.16.080. RESPONSIBILITIES OF THE BOARD. (a) The board
23 shall

24 (1) serve as the parole authority for the state;

25 (2) consider the suitability for parole of all prisoners
26 serving sentences who are eligible for consideration for parole, unless
27 a prisoner waives consideration of parole;

28 (3) discharge a person from parole when supervision is no
29 longer required;

1 (4) maintain records of the meetings and proceedings of the
2 board;

3 (5) adopt standards that shall apply fairly to all prisoners
4 for determining when a prisoner should be considered for and receive
5 parole;

6 (6) recommend to the legislature changes in the laws ad-
7 ministered by the board;

8 (7) recommend to the commissioner changes in the practices of
9 the department and of other departments of the executive branch;

10 (8) execute other responsibilities prescribed by law.

11 (b) The board shall adopt regulations under the Administrative
12 Procedure Act (AS 44.62)

13 (1) establishing the standards, which shall apply fairly to
14 all prisoners, under which the suitability of a prisoner for parole will
15 be decided; and

16 (2) providing for the supervision of parolees and for recom-
17 mitment of parolees;

18 (3) governing procedures of the board.

19 Sec. 33.16.090. EXECUTIVE DIRECTOR. The board shall hire an
20 executive director who has training and experience in the field of
21 probation and parole. The executive director shall serve as the execu-
22 tive officer for the board in the accomplishment of its functions. He
23 shall serve at the pleasure of the board. The executive director shall
24 employ the staff of the board.

25 Sec. 33.16.100. ELIGIBILITY FOR DISCRETIONARY PAROLE. (a) A
26 state prisoner other than a juvenile delinquent, wherever confined, who
27 is serving a definite term of over 180 days or a term the minimum of
28 which is at least 181 days and who is not imprisoned in accordance with
29 AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2),

1 may, in the discretion of the board, be released on discretionary parole
2 subject to AS 12.55.086(b), AS 33.16.110, and 33.16.120(b).

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

6 (c) A state prisoner imprisoned in accordance with AS 12.55.125(c)-
7 (1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2), who is released
8 under AS 33.20.030, shall be placed on mandatory parole for the period
9 specified in the certificate of deduction, less 180 days, subject to
10 written conditions imposed by the board.

11 Sec. 33.16.110. FIXING ELIGIBILITY FOR PAROLE AT TIME OF SEN-
12 TENCING. When in its opinion justice and the best interests of the
13 public require that a defendant be sentenced to imprisonment for a term
14 exceeding one year, the court having jurisdiction to impose sentence,
15 upon entering a judgment of conviction, may designate in the sentence of
16 imprisonment a term at the expiration of which the prisoner is eligible
17 for discretionary parole. The term shall be at least one-third of the
18 period of confinement imposed by the court or the minimum term pre-
19 scribed in AS 12.25.125, whichever is greater.

20 Sec. 33.16.120. GRANTING OF DISCRETIONARY PAROLE. (a) The board
21 may authorize the release of a prisoner on discretionary parole if it
22 determines that

23 (1) the prisoner eligible for discretionary parole will, in
24 reasonable probability, live and remain at liberty without violating the
25 laws or without violating the conditions imposed by the board; and

26 (2) his release on discretionary parole is not incompatible
27 with the welfare of society and would not depreciate the seriousness of
28 the crime.

29 (b) A prisoner may not be released on discretionary parole until

1 the prisoner has served at least one-third of the period of confinement
2 to which he was sentenced or the minimum term prescribed in AS 12.55.-
3 125, whichever is greater.

4 Sec. 33.16.130. SUITABILITY FOR DISCRETIONARY PAROLE. In deter-
5 mining whether a prisoner is suitable for discretionary parole, the
6 board shall consider

7 (1) the presentence report made to the sentencing court;

8 (2) the recommendations made by the sentencing court, by the
9 prosecuting attorney, by the defense attorney, and any statement made
10 by the prisoner at sentencing;

11 (3) the prisoner's history at the correctional facility to
12 which he was assigned by the department;

13 (4) a recommendation made by an officer responsible for the
14 correctional facility to which the prisoner was assigned;

15 (5) official reports of earlier crimes and earlier probation
16 and parole experiences;

17 (6) physical, mental, and psychiatric examinations of the
18 prisoner;

19 (7) information submitted by the prisoner, the attorney of
20 the prisoner, a victim of the crime, or other persons; and

21 (8) other useful information that may be reasonably avail-
22 able.

23 Sec. 33.16.140. LACK OF TREATMENT. The board may not deny parole
24 to a prisoner otherwise suitable for parole solely on the ground that
25 the prisoner did not obtain necessary or desirable treatment while
26 confined if the treatment was not available to the prisoner at the
27 correctional facility to which the prisoner was assigned by the depart-
28 ment,

29 *UNLESS THERE IS AN INDICATION THAT THE PRISONER IS NOT SUITABLE FOR PAROLE.*
30 Sec. 33.16.150. HEARING ON APPLICATION FOR DISCRETIONARY PAROLE.

1 (a) A prisoner has the right to a preliminary hearing before a single
2 member of the board or a person authorized by the board to act as a
3 hearing officer to determine the suitability of a prisoner for parole
4 or for the setting, posting, or rescinding of parole dates. The
5 prisoner shall be provided reasonable notice of the hearing. The
6 preliminary hearing shall be electronically recorded. The recording of
7 the preliminary hearing shall be reviewed by the full board within 60
8 days of the preliminary hearing.

9 (b) The prisoner shall be permitted to have a copy of the pre-
10 parole report and records that will be considered by the board no less
11 than 10 days before the hearing. The prisoner has a right to enter
12 written responses to all reports and records that will be considered by
13 the board.

14 (c) The prisoner has a right to be present at the hearing, to
15 present evidence on his behalf, and to cross-examine witnesses who
16 testify against him.

17 (d) On review of the recording of the preliminary hearing or
18 after a hearing by the full board, the board shall issue its decision
19 in writing and provide reasons for the decision. The prisoner is
20 entitled to a copy of the decision at the time it is issued.

21 Sec. 33.16.160. ORDER FOR PAROLE. The board shall furnish to
22 each person released under its supervision an order for parole. The
23 order for parole shall contain the conditions imposed by the board for
24 parole and the date that the parole supervision expires. The order for
25 parole does not take effect until it is accepted and signed by the
26 parolee.

27 Sec. 33.16.170. CONDITIONS OF PAROLE. (a) The board shall re-
28 quire that a prisoner released on parole refrain from violation of
29 state or federal law as a condition of parole.

1 (b) Depending on the nature and circumstances of the crime for
2 which the prisoner was convicted and the background of the prisoner, the
3 board may require as a condition of parole under AS 33.16.160 that a
4 parolee accept one or more of the conditions:

5 (1) that he meet his family obligations;

6 (2) that he apply himself to employment, education, training,
7 or subsistence;

8 (3) that he remain within stated geographic limits unless
9 granted written permission from his parole officer to depart from the
10 stated limits;

11 (4) that he report on release to his parole officer;

12 (5) that he report at regular intervals to his parole
13 officer;

14 (6) that he reside at a stated place and notify the parole
15 officer of a change in his place of residence;

16 (7) that he have in his possession no dangerous, firearm or
17 dangerous weapon unless granted permission in writing by the board;

18 (8) that he refrain from consuming alcoholic beverages;

19 (9) that he submit to searches and seizures conducted reason-
20 ably by a parole officer or by a peace officer acting under direction
21 of a parole officer;

22 (10) that he submit to necessary ~~medical~~ medical, psychiatric,
23 alcohol, or other ~~examination or treatment~~ examination or treatment if available;

24 ~~Substance Abuse~~ DRUG (11) that he refrain from entering into an agreement or other
25 arrangement with a law enforcement agency that will place him in the
26 position of violating a state or federal law or a condition of his
27 parole;

28 (12) that he refrain from opening, maintaining, or using a
29 checking account;

1 (13) that he refrain from entering into a contract, other
2 than a prenuptial contract or a contract of marriage, without permis-
3 sion in writing from his parole officer.

4 (14) that he refrain from operating a motor vehicle;

5 (15) that he refrain from entering a liquor store, bar, pub,
6 tavern, or night club designated by the board.

7 (c) The board may by regulation adopt additional conditions that
8 are consistent with (b) of this section.

9 Sec. 33.16.180. HEARING ON APPLICATION FOR CHANGE IN PAROLE CON-
10 DITIONS. (a) A parolee is entitled to reasonable notice of and may
11 request a hearing on a proposal to change a parole condition or to add
12 new parole conditions. The board shall provide the parolee with the
13 reasons for the proposal.

14 (b) The parolee shall be permitted to have a copy of the infor-
15 mation and records that will be considered by the board no less than
16 seven days before the hearing. The parolee has a right to enter written
17 responses to the information and records that will be considered by the
18 board.

19 (c) The parolee has the right to be present at the hearing, to
20 present evidence on his behalf, to cross-examine witnesses who testify
21 against him, and to remain silent.

22 (d) The board shall issue its decision in writing and provide
23 reasons for the decision. The parolee is entitled to a copy of the
24 decision on its issuance.

25 Sec. 33.16.190. WAIVER OF HEARING. A prisoner or parolee may
26 waive a hearing provided under AS 33.16.150 or 33.16.180 by submitting
27 a written waiver to the board.

28 Sec. 33.16.200. CONFIDENTIALITY OF RECORDS AND INFORMATION. The
29 pre-parole reports submitted to the board are confidential and may not

1 be disclosed to anyone other than the board, the sentencing judge, the
2 prosecuting and defense attorneys, the prisoner and the prisoner's
3 attorney, or others granted the right under this chapter to receive the
4 information.

5 Sec. 33.16.210 APPEALS. A prisoner or a parolee may appeal a
6 decision or order of the board to the superior court on the ground of
7 arbitrariness or abuse of discretion.

8 Sec. 33.16.220. DUTIES OF THE COMMISSIONER. The commissioner
9 shall

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

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

14 (3) appoint and assign parole officers and personnel to the
15 judicial districts in the state and to train and supervise parole offi-
16 cers and personnel;

17 (4) provide the board within 30 days after sentencing with
18 information on sentenced prisoners;

19 (5) keep records, files and accounts as the board requests.

20 Sec. 33.16.230. ACCESS TO LAW BY PRISONERS. The commissioner
21 shall make available at each correctional facility in the state and at
22 each correctional facility outside the state at which a prisoner of the
23 state is maintained a current edition of Alaska Statutes, of the Alaska
24 Administrative Code, and of the Alaska Rules of Court. *AND PREREQ BOARD*
MANUAL.

25 Sec. 33.16.240. PAROLE OFFICERS. The commissioner may assign the
26 duties of probation officers under AS 33.05 to parole officers appointed
27 under AS 33.16.220(3).

28 Sec. 33.16.250. DISCHARGE OF PAROLEE. (a) The board retains
29 legal custody of a discretionary parolee until the expiration of the

1 maximum term or terms to which the parolee is sentenced less 180 days.
2 The board retains legal custody of a mandatory parolee released in
3 accordance with AS 33.16.100(c) and AS 33.20.040 until the expiration of
4 the maximum term or terms to which the prisoner was sentenced less 180
5 days.

6 (b) The disability imposed by AS 33.30.320 applies to a parolee
7 as long as he is in the legal custody of the board but the disability
8 does not deny a parolee access to the courts to protect rights he may
9 have.

10 * (c) A parolee who has been on parole for five years and who has
11 not absconded or been charged with a felony since entering parole shall
12 be discharged from parole and from the custody of the board. A parolee
13 who is charged with a felony within the five years remains in the
14 custody of the board pending a final decision on the charge. If the
15 parolee is acquitted or the charge is dismissed, the board shall dis-
16 charge the parolee from custody.

17 Sec. 33.16.260. DISCRETIONARY DISCHARGE OF PAROLEE. The board may
18 discharge a parolee from supervision and the custody of the board and
19 from further liability under his sentence after the parolee has com-
20 pleted 20 months of parole.

21 Sec. 33.16.270. RELEASE OF PRISONER TO ANSWER PROSECUTIONS. If a court
22 of this state, another state, or the United States, or other authority
23 issues a warrant charging a prisoner with a crime, the board may release
24 the prisoner on parole to answer the warrant. ?

25 Sec. 33.16.280. REVOCATION OF PAROLE. (a) The board may revoke
26 the parole granted to a parolee for violation of a state or federal law
27 or a condition imposed by the board under AS 33.16.170(b).

28 (b) A parolee has the right to a preliminary hearing before a
29 single member of the board or a person authorized by the board to act

1 as a hearing officer to determine whether probable cause exists to
2 revoke parole. The preliminary hearing shall be held within 14 days of
3 the arrest of the parolee on the charge of violation of a state or
4 federal law or violation of a condition of parole. The single member
5 of the board or the hearing officer who holds the hearing may release
6 the parolee pending the hearing under (c) of this section.

7 (c) The parolee is entitled to a hearing before the board at the
8 first meeting of the board held after the preliminary hearing held
9 under (b) of this section. The parolee has the rights of a parolee
10 under AS 33.16.150 and 33.16.180 at the hearing. The board shall issue
11 its decision in writing and provide reasons for the decision. The
12 parolee is entitled to a copy of the decision on its issuance.

13 (d) At a hearing under this section, the commissioner has the
14 burden to show that parole should be revoked by clear and convincing
15 evidence.

16 (e) If after the hearing the board determines that a violation of
17 a condition of parole has occurred, it may revoke a portion of the
18 parole granted or change the conditions of parole. If the board does
19 not revoke a portion of the parole granted, the parolee shall be re-
20 leased from confinement and continued on parole under terms and condi-
21 tions established by the board.

22 (f) If after the hearing the board determines that a parolee has
23 violated a state or federal law, the board may require the parolee to
24 serve all or a part of the remainder of the term to which he was sen-
25 tenced.

26 (g) If the board revokes parole for a reason other than a viola-
27 tion of a state or federal law, the board may not return the parolee to
28 confinement for a period in excess of six months.

29 (h) A parolee may waive a hearing under (b) or (c) of this section

1 by submitting a written waiver to the board.

2 Sec. 33.16.290. ARREST OF PAROLE VIOLATOR. (a) A parolee charged
3 with violation of a condition of his parole may be arrested only on a
4 warrant for arrest issued by a judicial officer based on probable cause
5 to believe that a violation of the condition of parole has occurred.

6 (b) A parolee may be arrested without a warrant for his arrest
7 for a violation of a condition of parole only under exigent conditions
8 which require immediate arrest.

9 Sec. 33.16.300. EXECUTION OF WARRANT FOR ARREST OF PAROLEE. (a)
10 A parole officer or a peace officer acting at the request of a parole
11 officer shall execute the warrant issued under AS 33.16.290 by arrest-
12 ing the parolee and confining the parolee in a correctional facility
13 designated by the commissioner.

14 (b) The parole officer shall immediately notify the board or a
15 member of the board of an arrest under (a) of this section. If the
16 arrest was without warrant, the parole officer shall immediately provide
17 the board or a member of the board with a report in writing indicating
18 in what manner the parolee violated a condition of his parole.

19 Sec. 33.16.310. APPLICABILITY TO PERSONS ON PAROLE OR INCAR-
20 CERATED. (a) This chapter applies to all persons convicted and sen-
21 tenced in the superior court and the district courts of the state.

22 (b) If the appropriate officers of the United States agree, the
23 legislature intends that this chapter also apply to persons convicted
24 before Alaska statehood of a crime punishable under the laws of a state
25 notwithstanding the fact that the prosecution may have been brought by
26 the United States and the prisoners were convicted and sentenced in
27 courts of the United States before Alaska became a state or before the
28 Alaska state court system was in operation.

29 Sec. 33.16.320. DEFINITIONS. In this chapter

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

2 (2) "commissioner" means the commissioner of health and
3 social services;

4 (3) "department" means the Department of Health and Social
5 Services;

6 (4) "discretionary parole" means the release of a prisoner
7 to the community by the board before the expiration of his term or
8 terms, subject to conditions imposed by the board and subject to its
9 supervision;

10 (5) "mandatory parole" means the release of a prisoner to
11 the community by operation of law before the expiration of his term or
12 terms, subject to conditions imposed by the board and subject to its
13 supervision;

14 (6) "parolee" means a prisoner released to the community by
15 the board or by operation of law.

16 * Sec. 2. AS 33.20.040(a) is amended to read:

17 * (a) A prisoner serving the term or terms for which he was sen-
18 tenced less good time deductions shall be released unconditionally if
19 there remains less than 180 days to serve under his sentence. If there
20 remains more than 180 days to serve under his sentence a prisoner
21 shall be released on parole under AS 33.16.100(c) [, UPON RELEASE,
22 SHALL BE CONSIDERED AS IF RELEASED ON PAROLE UNTIL THE EXPIRATION OF
23 THE MAXIMUM TERM OR TERMS FOR WHICH HE WAS SENTENCED LESS 180 DAYS].

24 * Sec. 3. AS 44.66.010(a)(3) is amended to read:

25 (3) [STATE] Board of Parole (AS 33.16.010) [(AS 33.15.-
26 010)] -- June 30, 1986 [1982];

27 * Sec. 4. AS 33.15 is repealed.

28 * Sec. 5. AS 33.16 enacted in sec. 1 of this Act applies to persons on
29 parole or being considered for parole on the effective date of this Act.

1 * Sec. 6. The terms of the members of the Board of Parole appointed
2 under AS 33.15.010 terminate on the effective date of this Act. The governor
3 shall appoint members to the Board of Parole established under AS 33.16.010
4 enacted in this Act for the following initial terms: one member for a five-
5 year term; one member for a four-year term; one member for a three-year
6 term; one member for a two-year term; and one member for a one-year term.

7 * Sec. 7. This Act takes effect June 29, 1982.

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PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT

New Hope Baptist Church

333 North Price
Anchorage, Alaska 99504

Doctor William B. Lyons, Pastor
272-9315-277-9222

March 12, 1982

Honorable Mike Beirne
Chairman, House Health, Education
and Social Services Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Beirne:

There are a number of primary issues your committee needs to address in choosing between the two basic approaches to parole in Alaska as set forth in HB 225 and HB 293. Some of them are:

1. Are you concerned about increasing the chances of convicted felons not committing new crimes after they are released from jail?
2. Are you concerned about decision-makers taking into consideration certain factors present after sentencing significantly increasing a person's chances of success in the community, thereby supporting the constitutional mandates of reformation of the offender and protection of the public?
3. Are you willing to adopt a system of releasing prisoners back into the community that has shown to statistically produce a higher recidivism rate (HB 293) than discretionary parole does (HB 225)?
4. Is it more important that a prisoner know his release date from jail the date he is sentenced or that he be told this information in the first 6 months of incarceration and he be required to complete certain programs that will lower his risk in the community when he is released?
5. Are you concerned that persons convicted of similar crimes and having similar backgrounds serve a similar amount of time if they are sent to jail, irrespective of who the sentencing judge was, the city in which the

- 2
- prisoner was sentenced, or which institution the prisoner is assigned to?
6. Are you concerned that decisions regarding the release of prisoners after sentencing be consistent?
 7. Are you concerned that most sentenced prisoners be told early in their sentences when they can expect to be released and what their conditions of release will be?
 8. Are you concerned that non-governmental citizen with different backgrounds including minority members having a role in the criminal justice system in determining who and when prisoners will be released from jail back to the community?
 9. Are you concerned about keeping down the costs of operating our corrections system by allowing the somewhat early release of those prisoners who are a demonstrated low risk to commit new crimes in the community?
 10. Are you concerned about establishing a public policy that would presume all felony offenders would be sentenced to a year or more of jail, when preliminary data shows judges more frequently increase sentences rather than decrease them when sentencing under the new criminal code?

National research and Alaska data shows that prisoners released by discretionary parole do significantly better than those released at sentence expiration minus good time (mandatory release), even when you control for differing risk of the two groups. If risk is allowed to be considered (as it is at current parole board hearings) parolees do even better. This data is based upon review of many studies by the criminal justice researchers at the National Council on Crime and Delinquency. Furthermore, the new felony conviction rate of Alaska parolees is about half the national average.

Risk is considered by the Alaska Parole Board now as it is required by AS 33.15.080. However, most of the risk factors utilized by the Board in its guidelines refer to "what the prisoner did" such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record. Specific numerical scores are assigned to each factor so the guidelines are applied precisely and consistently to each parole applicant. It has been said we are notoriously poor predictor's of the future behavior of our fellow human beings. If we define our terms specifically, we find this statement is not necessarily correct. In compiling parole guidelines research our parolees fell into 4 distinct risk categories. Only 16% of the parolees in the best risk category had any problems (even minor violations) while on parole while over 57% of the parolees in the worst category had problems. This 41% difference certainly is significant. Realize a prisoner's risk is not cast in concrete - it is simply a numerical tool in helping to set a reasonable prison term. Similar risk profiles are utilized throughout

the country as a tool in the same manner psychological tests help us understand some things about human behavior. Furthermore, the Division of Adult Corrections will soon begin using a slightly modified version of the Parole Board's guidelines risk scale in making furlough decisions. The Division feels risk is an appropriate factor to consider when placing prisoners in the community. Besides the factors known at sentencing, other factors become known to correctional authorities later on that significantly increase or decrease a prisoner's chances of success or failure on parole such as:

- a) Institutional behavior.
- b) Involvement in some institutional programs or programing after release.
- c) Certain aspects of a prisoner's release plan have been statistically significant.

In order to insure the lowest possible offender recidivism and the protection of the public, these and similar factors would be considered by the Board. Even if the Legislature should decide as a policy matter that it does not wish to have risk used as a factor, the Parole Board is in an excellent position to apply its guidelines fairly and equitably to all prisoners using its numerical tables, considering only those "prior behavior" items. Prisoners would serve very similar time for basically similar crimes and backgrounds. Under current law, offenders committing similar crimes with similar backgrounds sometimes receive widely divergent sentences because a number of factors:

- 1. Individual personalities and philosophies of the prosecutor, defense attorney and judge.
- 2. The bargaining of prior felony convictions(s), bargaining of whether to charge the use of a handgun during the commission of the crime, the bargaining of which charges of multiple count indictments to dismiss, and the bargaining of mitigating and aggravating factors.
- 3. Pressure of the local community on the judge and prosecutor.

Since all parole decisions are made by the same five peoples, utilizing the same policies, procedures and guidelines, consistency is maintained throughout the state. This consistency is documented by parole guidelines research and would be difficult if not almost impossible to duplicate in any other forum not involving a team of persons making all of the decisions statewide. As you know from the guidelines research data, the Board has delt equitable with prisoners of different racial and ethnic backgrounds. Certainly in sentencing is a laudable goal of the criminal justice system. Many prisoners can sit down now and complete their own parole guidelines risk score i know with a 90% certainty when they will be released on parole. The Parole Board members have had a goal for almost three

years the receipt of funding so they could see offenders in the first four to six months of their sentences so most of the parole applicants could be advised of their release dates at that time rather than waiting to see the Board until they were eligible for parole release. The parole guidelines introduced a high degree of certainty into the system that could be improved upon by supplemental funding allowing the Board to see parole applicants earlier in their sentences. The parole guidelines not only establish certainty into the system, but they introduce statewide consistency into the decision-making process. The Board is the only component of the system likely to maintain this consistent certainty. Although gameplaying is certainly present in all segments of the criminal justice system it is less likely to be a primary factor when a prisoner would have to con two staff and a majority of the five Board members. The experience of the current Board members and staff in handling well over 8,000 hearings probably has been a factor in the Board's very low recidivision rate.

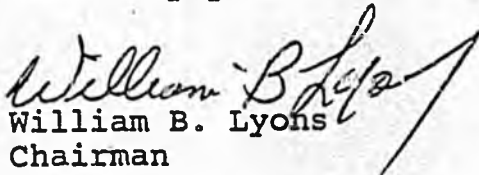
Parole release can help deal with the overcrowding of institutions if given the proper tools and if properly administered (see Michigan law). Competent research shows most prisoners can be released from jail before they earn all of their good time, at little risk to the community and at a substantial savings. This fact alone would support the retention of the Parole Board. The Board granted parole to 165 prisoners in the last two years - you can expect a major impact on Corrections if you decide to abolish discretionary parole.

The Parole Board members are not regular state employees that are required to follow the wishes of a particular administrator or appointee. They come from various communities around the state and their concern is with their constituents. Research shows they can do an excellent job of releasing those prisoners not likely to commit new crimes and still help reduce prison populations.

Parole in Alaska is working well--given small additional funding, its certainty could be increased so most offenders would know their release dates shortly after sentencing. The sunset audit report shows the Board has overcome the problems identified in the 1979 report. Give the Board a chance to work. The Board members and staff have spent a significant amount of time working on legislation over the last four years. We would hope the issue of continuation of a parole board could be resolved this spring without just another one year continuation so we can get on with the business of improving our operation if we are to remain in existence.

5
The Parole Board members support the continuation of a discretionary parole system in Alaska and would specifically support HS 225 or CSSB 327; both with a small number of amendments. Specific amendment information will be forwarded to you in the next few days.

Sincerely yours,


William B. Lyons
Chairman

WBL/ab

cc: Senate H.E.S.S.
Board Members
Commissioner Beirne

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
PHONE: (907) 463-3384

March 8, 1982

Honorable Ramona L. Barnes
Chairperson
Judiciary Committee
Alaska House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: Parole Board Sunset
Review

Dear Representative Barnes:

I understand the Speaker of the House has referred the matter of the Sunset Review of the Alaska Parole Board to the Judiciary Committee. Please consider the following information on behalf of the members of the Alaska Parole Board.

The Board has compiled a significant list of achievements since the last Sunset Review Audit Report in the spring of 1979. A careful review of the old audit report and of the 1980 report of the House Judiciary Committee will reveal all of the major problem areas addressed in those reports have been rectified and the Board has made significant strides in the professionalization of the operation of the Board since that time. With the statutory changes incorporated into House Bill 225, the Board would probably be able to obtain national accreditation through the Commission on Accreditation for Corrections.

The following is a partial list of some of the major accomplishments of the Board since the 1979 audit report:

1. Adoption of Parole Board regulations (9-80) into one consolidated booklet, made available to all criminal justice practitioners, public libraries, prisoners, parolees, and other interested agencies around the State.
2. Completion of parole guidelines research (9-80) and implementation after a trial period of the parole guidelines matrix system for establishing parole release dates for prisoners, allowing for the equal treatment of similarly-situated prisoners.

March 8, 1982

Representative Ramona L. Barnes
Chairperson, Judiciary Committee

3. Implementation of a formal structured appeals system, subjecting all Board decisions to close scrutiny.
4. Comprehensive revision of the information and reports received by the Board so it can accurately assess a prisoner's risk, resulting in very few crimes being committed by parolees released by the Board (see p.3 of letter to Representative Meekins).
5. Completion of the revisions of the general filing system and of all case files resulting in one comprehensive file on each person subject to the supervision of the Board.
6. Establishment of numerous short-ranged objectives to upgrade the operation of the Board, most of which have been met.
7. Establishment of long-range goals and objectives to insure the continued improvement of the operation of the Board.
8. Met or exceeded all Departmental goals established during the budget process (program and administrative) in recent years.
9. Prepared and distributed an informational handbook explaining the parole guidelines to all prisoners applying for parole.
10. Prepared and distributed a new executive clemency application and informational handbook providing basic background about the clemency process in Alaska.
11. Operated the Board in compliance with current laws and court decisions to avoid monetary judgments against the State and provided fair and consistent parole release revocation decisions.
12. Prepared and submitted draft legislation to the Alaska Legislature that provides for the comprehensive revision of the parole laws of Alaska, and allows the Board to meet all important national standards developed by professional corrections personnel.
13. Continued to provide staff support to the public, the Department of Health and Social Services, the Judiciary, the Legislature and others about criminal justice matters.
14. Operated the Board to insure minimal supportable complaints to the Human Rights Commission or the Ombudsman.

March 8, 1982

Representative Ramona L. Barnes
Chairperson, Judiciary Committee

15. Continued to live within the budget passed by the Legislature at the same time propose additional funding for the Board that would significantly enhance the operation of the Board.
16. Met with various groups and clubs to discuss the operation of the Parole Board to help educate the members of the public.
17. Worked with auditors and other State agencies to critique the Parole Board and other criminal justice agencies and develop solutions for improving their operations.
18. Invited criticism of individual decisions of the Board by establishing regulations providing for the appeal of almost any Board decision and requiring the Board to set forth in writing its reasons for every decision.

As you know the Alaska Constitution requires the establishment of a parole system. The Board members believe the Board has demonstrated the public need for the continuation of the Parole Board, but we feel the Board can better serve the public if legislation drafted by the Board is passed this session. Although alternative legislation has been proposed to substitute more good time and furloughs for discretionary parole release, we believe the Board's parole guidelines provide fairness, equity and certainty that can not be bettered by any of the other proposals currently before the Legislature. The certainty of the Board's decisions could be enhanced by it seeing offenders shortly after they were sentenced and informing them what the Board would require before their release--rather than waiting to see them when they are eligible for parole. The additional funding to accomplish this would be minimal and would significantly improve the operation of the Board.

Funding to provide ongoing research about the decisions of the Board would be of great value to Legislators, the public and other criminal justice administrators in helping to understand the operation of the Board. Overall we believe the Board affords the public the maximum amount of protection by releasing only those offenders who are not a serious risk to the public and reduces the cost of the operation of the Alaska Correctional system by releasing low risk offenders from jail. We believe our policies meet the Alaska Constitutional mandates of reformation of the offenders and protection of the public.

Page Four

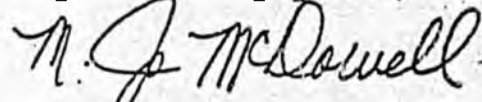
March 8, 1982

Representative Ramona L. Barnes
Chairperson, Judiciary Committee

Because of the budget constraints placed on the Board and the short notice given for the hearing, neither I nor the Vice-Chairman of the Board will be able to attend the Sunset hearing. We have requested that our Executive Director attend and be present to answer any questions you might have about the Board. Please contact me if you should have any questions or need additional information not attached to my letter to you and the other Committee members.

Please be assured of our continued interest and cooperation in the Sunset Review of the Parole Board.

Very sincerely yours,



William B. Lyons, Chairman
Alaska Board of Parole

cc: Board Members

Honorable Charles H. Parr
Chairman, Senate Health,
Education and Social Services
Committee
Alaska State Legislature

Attachments: Board Goals and Objectives, 1982-1983 (Rev. 01/82)
Parole Board Outline (02/82)
Parole Board Research Findings
Parole Guidelines-Supplemental Report (09/80)
Letter to Representative Meekins, pg.3 (08/12/81)
Parole Board Revocation Data 1981
Parole Board Revocation Data 1980
Parole Board Activity Calendar 1981
Parole Board Activity Calendar 1980

WBL/clr

GOALS AND OBJECTIVES OF
THE ALASKA PAROLE BOARD FOR 1982 - 1983

GOALS

Enhance the safety and security of the citizens of Alaska by only releasing to parole supervision those offenders that will, in reasonable probability, live and remain at liberty without violating the laws or without violating the conditions imposed by the Board (AS 33.15.080).

Enhance the criminal justice system by releasing to parole only those offenders whose release is not incompatible with the welfare of society (AS 33.15.080).

Provide the Governor with a comprehensive report of an investigation on each executive clemency applicant, along with all other information the Board has regarding the applicant (AS 33.15.080).

Conduct hearings as necessary pursuant to the Interstate Compact on Probationers and Parolees (AS 33.10.010).

OBJECTIVES

1. Operate the Board to insure that less than 8% of parolees released are returned to custody within one year of release with a new felony conviction.
2. Operate the Board to insure that less than 20% of the parolees are returned to custody within one year of release.
3. Operate all Board hearings in a timely manner in compliance with federal and State laws, applicable court decisions, and Board regulations to:
 - a) Prevent offenders from being released or parolees from remaining in the community because of technical errors made by the Board.
 - b) Prevent any monetary judgment against the State because of improper Board action or activity.
4. Operate the Board to insure the most cost effective expenditure of State funds.

5. Make consistent case decisions based upon researched, written guidelines and provide a written record in each case so that interested parties can be informed of the reasons for any case decision upon inquiry.
6. Handle all administrative appeals of Parole Board or Parole officer decisions in accordance with Board regulations.
7. Support the enactment of legislation to modify and update Parole Board laws to retain a constitutionally-viable parole system that would meet the standards established by the Commission on Accreditation for Corrections.
8. Once legislation has passed, apply for accreditation through the Commission on Accreditation for Corrections and strive to become accredited.
9. Hold hearings on all offenders eligible for discretionary parole within six months after the date of sentence on those sentenced to terms of 5 years or less, or within 2 years of parole eligibility on those sentenced to terms in excess of 5 years.
10. Have Division of Adult Corrections employees complete parole progress reports on all offenders applying for parole.
11. Provide professional training for all Board members and staff involved in conducting parole hearings.
12. Improve, expand, and update the research on parole applicants and parolees to insure accuracy of data and improve the information on which individual case decisions are made pursuant to the parole guidelines.
13. Meet with other criminal justice system employees in the State to coordinate activities and discuss problem areas.
14. Meet with other State officials to seek solutions to the overcrowding in Division of Adult Corrections institutions.
15. Continue long range planning of Parole Board and Board related activities.
16. Continue to support and assist with the implementation of OBSCIS (Offender Based State Correctional Information System).
17. Hold more frequent revocation and rescission hearings to decrease the time violators are held in custody before final action is taken by the Board.
18. Revise and update the Board's regulations and other working documents as necessary.



Official Business

Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Charlie Parr, Chairman
Terry Stimson, Vice-Chairman
Vic Fischer
Tim Kelly
Mike Colletta

Pouch V
State Capitol
Juneau, Alaska 99811

465-4907
465-4908

March 8, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V, State Capitol
Juneau, AK 99811

Dear Mr. President:

Pursuant to AS 44.66.050 the Senate HESS Committee has conducted a review of the State Board of Parole. The review entailed four committee hearings and analysis of documents related to the activities and performance of the Board. The Committee considered testimony and recommendations from the Department of Law, The Department of Health and Social Services - Division of Corrections, and the Executive Director and member of the Alaska State Board of Parole. Documents considered included: Legislative Audits', Reviews of the Alaska State Board of Parole of May 9, 1979 and its follow-up review of Dec. 21, 1981; Materials from previous "Sunset" reviews of the Board; State of Alaska Report of Performance; 1981 statistics on Parole Recidivism in Alaska; Regulations, Procedures, goals and objectives as promulgated by the Board; position papers of the Department of Law and Division of Corrections; and prison data developed by the HESS Staff.

The review of the AK State Board of Parole was conducted in conjunction with the analysis of the two Senate Bills concerned with the existence and continuation of the Parole Board - SB 217 and SB 327 which were pending in the Senate HESS Committee.

As a result of the review the HESS Committee has recommended the continuation as well as changes to the Parole Board under AS44.66.050.(C). The Statutory recommendations are found in CSSB327 reported out of the HESS Committee.

As outlined in the "Follow-up Review of the Alaska State Board of Parole", December 21, 1981 by the Division of Legislative Audit the Board has made considerable progress in resolving inadequacies which were apparent during the initial 1979 audit period. In light of the audit report, testimony, and other documentation the Committee finds that there is "public need" for the continued existence of the board as delineated in AS 44.66.050(C) and further recommends the following as required by AS 44.60.050(d):

(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: The problem or needs that activities of the board are intended to address are related to parole supervision and include:

Enhancing the safety and security of the citizens of Alaska through releasing only those offenders who in reasonable probability will abide by laws and conditions imposed by the board.

Enhance the criminal justice system by releasing to parole only those offenders whose release is not incompatible with the welfare of society.

Provide the Governor with comprehensive reports on applicants for executive clemency.

(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: Objectives of the Board include but are not limited to:

Ensuring that less than 8% of parolees released are returned to custody within one year of release with a new felony conviction.

Ensure that less than 20% of the parolees are returned to custody within one year of release.

Operate all Board hearings in a timely manner on compliance with federal and state laws, applicable court decisions and Board regulations.

Make consistent release decisions based upon researched written guidelines and provide a

written record of each case so that interested parties can be informed of the reasons for any case decision.

Gain accreditation for Alaska Parole System under the Commission on Accreditation for Corrections.

Hold hearings on all offenders eligible for discretionary parole within six months or two years after the date of sentence for sentences of less than five or more than five years respectively.

(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 Department of Law offered an alternative method of achieving the purpose of the program by eliminating the Board and having that responsibility held by the court or corrections systems. The option was not adopted because this would remove the element of judgement 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: This program is mandated in the constitution and cannot be eliminated. Funding at a lower level would render the Board very ineffective and restrict its opportunity to achieve its goals and objectives.

(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.

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 is contained in legislation introduced by this Committee.



Official Business

Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Charlie Parr, Chairman
Terry Stimson, Vice-Chairman
Vic Fischer
Tim Kelly
Mike Colletta

Pouch V
State Capitol
Juneau, Alaska 99817
465-4907
465-4908

February 26, 1982

LETTER OF INTENT
ON

COMMITTEE SUBSTITUTE (HESS) FOR SPONSOR SUBSTITUTE SB 327

It is the intent of the Health, Education and Social Services Committee, in passing out CS for SS for Senate Bill No. 327, that:

- 1 - Good behavior while on parole should be rewarded by earlier release. The Committee considered "good time" allowances but because of costs and administrative burden opted for another alternative. The parole board is allowed to release parolees from parole after a minimum of 20 months of good behavior. This allowance is intended to provide the parole board with a means of rewarding good behavior of parolees.
- 2 - The parole board should meet more frequently than the required minimum of 4 times per year. Although SB 327 does not require that the board meet a minimum of 6 times a year, the members believe that the board should be given the funds to do so. More frequent hearings would allow for an initial parole hearing early in the prisoner's incarceration. This hearing may encourage the prisoner to better prepare himself for rehabilitation while in jail, and may possibly reduce the period of incarceration.

Senator Charles H. Parr
Chairman

Alaska State Legislature



House of Representatives

REPRESENTATIVE
RAMONA L. BARNES

ANCHORAGE

2230 FAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7904

POUCH V

JUNEAU, ALASKA 99811
(907) 465-3797

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE
HOUSE POLICY COMMITTEE
ALASKA REPRESENTATIVE
STATES RIGHTS COORDINATING COUNCIL
WESTERN LANDS TASK FORCE
CITIZENS ADVISORY COMMISSION
ON ALASKA LANDS
FINANCE SUBCOMMITTEES
PUBLIC PROTECTION, JUSTICE
& EDUCATION

March 10, 1982

Reverend William B. Lyons, Chairman
Alaska Board of Parole
Pouch H-01E
Juneau, Alaska 99811

Dear Reverend Lyons:

Please find enclosed a copy of the letter sent to
Speaker Hayes regarding the Judiciary Committee's
recommendation on the Sunset of the Alaska Board of Parole.

If you have any questions or comments, please contact
my office.

Sincerely,

A handwritten signature in cursive script that reads "Ramona L. Barnes".

Ramona L. Barnes
Chairman, House Judiciary Committee

RLB/rv
enclosure

Alaska State Legislature

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCE COMMITTEE
HOUSE POLICY COMMITTEE
ALASKA REPRESENTATIVE
STATES RIGHTS COORDINATING COUNCIL
WESTERN LANDS TASK FORCE
CITIZENS ADVISORY COMMISSION
ON ALASKA LANDS
FINANCE SUBCOMMITTEES
PUBLIC PROTECTION, JUSTICE
& EDUCATION



House of Representatives

REPRESENTATIVE
RAMONA L. BARNES

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2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7904

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JUNEAU, ALASKA 99811
(907) 465-3797

March 10, 1982

Reverend William B. Lyons, Chairman
Alaska Board of Parole
Pouch H-01E
Juneau, Alaska 99811

Dear Reverend Lyons:

Please find enclosed a copy of the letter sent to Speaker Hayes regarding the Judiciary Committee's recommendation on the Sunset of the Alaska Board of Parole.

If you have any questions or comments, please contact my office.

Sincerely,

Ramona L. Barnes
Chairman, House Judiciary Committee

RLB/rv
enclosure



Pouch V
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Juneau, Alaska 99811

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(907) 465-4767
(907) 465-2718
(session only)

Members

- Rep. Barnes, Chairman
- Rep. Anderson, Vice-Chairman
- Rep. Phillips
- Rep. O'Connell
- Rep. Freeman
- Rep. Meekins
- Rep. Buchholdt

POUCH V
JUNEAU, ALASKA 99811

House of Representatives

Committee on Judiciary

P.O. Box 3382
Anchorage, AK 99510
(907) 274-1432
(907) 274-1441
POUCH V
JUNEAU, ALASKA 99811

March 10, 1982

The Honorable Joe Hayes, Speaker
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Sunset Review Hearing for the
Alaska Board of Parole

Dear Speaker Hayes:

Pursuant to your request and to AS 44.66.050, the Judiciary Committee held a hearing on March 8, to determine the Committee's recommendation to you as to the question of the Sunset of the Alaska Board of Parole. At that hearing, the Committee heard testimony from the Board of Parole, Department of Law, and Department of Health and Social Services. The members had previously received the Follow-Up Review of the Alaska Board of Parole, by Legislative Audit. This was considered by the Committee along with the materials supplied by the Board of Parole. Of course this Committee has since last September considered a great deal of testimony from police agencies, prosecutors, private citizens, Division of Corrections, etc., relating to criminal justice in general and criminal recidivism in particular. That testimony, although not expressly given at the March 8th hearing, has been considered by the members and has played a part in the recommendation of this Committee.

The Committee notes that Article 3, Section 21 of the Alaska Constitution in the last sentence states as follows:

"A parole system shall be provided by law."

It is general knowledge that no other "Parole System" exist in the state at this time, and that no other board or commission is given the authority or responsibility for paroling prisoners, or revoking the parole of ex-prisoners.

As to the findings of this Committee on the compliance of the Alaska Board of Parole with the Statute, the Committee wishes to incorporate by reference, the "A Follow-Up Review of the Alaska State Board of Parole," by the Division of Legislative Audit. The Committee specifically finds that the Board of Parole has made considerable progress in meeting the challenges set by the Division of Legislative Audit in that Audit of the Board. The specifics of those accomplishments are set forth in both that audit and in the enclosed copy of the letter from Reverend William B. Lyons, Chairman of the Alaska Board of Parole, dated March 8, 1982, with attachments.

As to the specific findings required by AS 44.66.050(d):

1. The Committee identifies the following problem or need that the Alaska Board of Parole is intended to address: A Constitutionally mandated parole system, which shall, by releasing through parole supervision only those offenders who will in reasonable probability, live and remain at liberty without violating the laws and without violating the conditions imposed by the Alaska Board of Parole, as well as limiting release to those whose release is not incompatible with the welfare of society. Likewise, it is the duty of the Board to conduct parole revocation hearings where laws have been violated or rules of parole have been violated by the parolee. Lastly, the Board is obliged to provide the Governor with a comprehensive report on persons who have applied for executive clemency. Please note that the parole revocation hearings required include those necessitated by Alaska's membership in the Interstate Compact on Probations and Parolees (AS 33.10.010).
2. The stated objectives of the Alaska Board of Parole are as follows:
 1. Operate the Board to insure that less than 8% of parolees released are returned to custody within one year of release with a new felony conviction.
 2. Operate the Board to insure that less than 20% of the parolees are returned to custody within one year of release.

3. Operate all Board hearings in a timely manner in compliance with federal and State laws, applicable court decisions, and Board regulations to:
 - a) Prevent offenders from being released or parolees from remaining in the community because of technical errors made by the Board.
 - b) Prevent any monetary judgment against the State because of improper Board action or activity.
4. Operate the Board to insure the most cost effective expenditure of State funds.
5. Make consistent case decisions based upon researched, written guidelines and provide a written record in each case so that interested parties can be informed of the reasons for any case decision upon inquiry.
6. Handle all administrative appeals of Parole Board or Parole officer decisions in accordance with Board regulations.
7. Support the enactment of legislation to modify and update Parole Board laws to retain a constitutionally-viable parole system that would meet the standards established by the Commission on Accreditation for Corrections.
8. Once legislation has passed, apply for accreditation through the Commission on Accreditation for Corrections and strive to become accredited.
9. Hold hearings on all offenders eligible for discretionary parole within six months after the date of sentence on those sentenced to terms of 5 years or less, or within 2 years of parole eligibility on those sentenced to terms in excess of 5 years.
10. Have Division of Adult Corrections employees complete parole progress reports on all offenders applying for parole.

11. Provide professional training for all Board members and staff involved in conducting parole hearings.
 12. Improve, expand, and update the research on parole applicants and parolees to insure accuracy of data and improve the information on which individual case decisions are made pursuant to the parole guidelines.
 13. Meet with other criminal justice system employees in the State to coordinate activities and discuss problem areas.
 14. Meet with other State officials to seek solutions to the overcrowding in Division of Adult Corrections institutions.
 15. Continue long range planning of Parole Board and Board related activities.
 16. Continue to support and assist with the implementation of OBSCIS (Offender Based State Correctional Information System).
 17. Hold more frequent revocation and rescission hearings to decrease the time violators are held in custody before final action is taken by the Board.
 18. Revise and update the Board's regulations and other working documents as necessary.
3. The Committee does not identify any other program, committee, or board having a similar, conflicting, or duplicate objective to that of the Alaska Board of Parole.
 4. The Committee has not at the present time identified an alternative method of achieving the purposes of the Alaska Board of Parole and the constitutional provision. The Committee is aware that the Alaska Department of Law has authored a bill, presently in the House Education and Social Services Committee, which in its initial version would abolish the Board of Parole and set up a system of furloughs and release dates determined

by the Division of Corrections. However, this bill has not reached the House Judiciary Committee and it was testified by the Department of Law that there have been considerable changes in the bill.

In any event, the Committee does not identify such an "alternative method" as appropriate for the present time, considering the constitutional mandate and the fact that no method has been brought to the attention of the Committee which would allow for non-government employee citizens of this state to participate in the parole decision. It is noted that if the Board of Parole were indeed abolished and such a furlough system were instituted, the only such "citizen involvement" left in the criminal justice system would at the Grand Jury and Petit Jury levels, all other persons being either attorneys or employees of the state or of a municipality.

5. In assessing the consequences of eliminating the Alaska Board of Parole, the Committee finds that the Board probably cannot be eliminated because of the constitutional mandate, and that as its activities could not be consolidated with another program. As to funding of the Alaska Board of Parole at a lower level, the Committee finds that although this would be perhaps questionable in light of the relatively low budget of the Alaska Board of Parole, this decision could best be made by the House Finance Committee.
6. The justification for the continuation of the Alaska Board of Parole is that it is a constitutionally mandated agency. The above findings are incorporated into this justification.

In summary, this recommendation of the Committee is based upon the consideration of the Constitutional mandate and the information detailed above. However, the Committee did not consider the three presently pending House Bills affecting the Alaska Board of Parole, including HB293, originally submitted by the Department of Law. All of these bills are presently in the House Education and Social Services Committee and none have yet been reported out to

Speaker, Joe Hayes

March 10, 1982

Page 6

the House Judiciary Committee. Please be assured that should any such bill be reported to the House Judiciary Committee, they will be considered in due course, with Committee recommendations made on the bills.

Sincerely,



Ramona L. Barnes
Chairman, House Judiciary Committee

RLB/rv

August 28, 1981

Editor
Anchorage Daily Times
Box 40
Anchorage, Alaska 99510

Dear Editor:

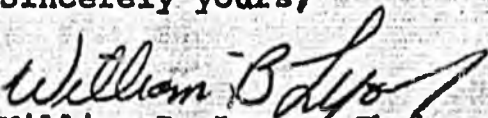
Enclosed is a recent letter I wrote to the Honorable Russ Meekins, Alaska State Representative, in his position of Chairman of the House Task Force on Violent Crime. The purpose of my letter to Representative Meekins was to correct the error in the Task Force report which stated that Mr. Nukapigak, a man recently convicted of committing three homicides, was a parolee released by the Alaska Parole Board. As you can see from the information contained in my letter, the Task Force report was obviously in error, and the defendant was not paroled by the Board.

Since newspapers and the public frequently confuse parolees with probationers and those prisoners released by operation law (and commonly referred to as mandatory releasees or mandatory parolees), I would appreciate you printing this letter in your letter-to-the-Editor section. Even though it is a little longer than what you would normally print without editing, I would urge you to print the letter in its entirety as a public service to the citizens of the State to help give them a better understanding of the criminal justice system in Alaska.

As you can see, a parolee is not a probationer is not a mandatory releasee is not a prisoner on furlough or a defendant released on bail. I would hope your reporters would be cautious in determining a person's status when reporting on clients of the criminal justice system.

Thank you for listening to our concerns and printing the letter to Representative Meekins. Please feel free to call on me or my staff if you need to clarify information on a parolee or mandatory releasee.

Sincerely yours,


William B. Lyons, Chairman
Alaska Board of Parole

Enclosure: Letter to Representative Meekins

WBL/vh

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
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August 12, 1981

Honorable Russ Meekins, Representative
Alaska State House
Chairman, House Task Force on Violent
Crime
1525 "K" Street
Anchorage, Alaska 99501

Dear Representative Meekins:

The members of the Parole Board applaud the work being done by the Legislature to identify and attempt to solve the problems we are having with violence throughout the State of Alaska. We are willing to assist the Task Force in any way we can, including providing you information about steps the Board has taken to help curb violent crime in the community.

I just received a copy of the "House Task Force on Violent Crime-Report to the First Session, Twelfth Alaska Legislature", June 1981. Overall the report is well written and documents the magnitude of violence in Alaska. However, there is a gross error in the prologue of the report that really detracts from the credibility of a valuable document. Unfortunately some staff person did not check out their facts and apparently took information from a newspaper article, traditionally one of the most unreliable sources around if a person is interested in accurate information. The erroneous reporting is so inaccurate and damaging that we would request your Task Force print a retraction and correction so other members of the Legislature and the public are not misled about the case.

Let me list some of the facts of the case of the man written about on page 2 of the prologue. His name is Clifford Nukapigak, Sr. His name and his crimes are a matter of public record and were noted in a number of newspaper articles and at least one Alaska Supreme Court decision. However, Mr. Nukapigak was not paroled by the Alaska Parole Board. Parole is defined by the Alaska Statute 33.15.260(3) as "...the release of a prisoner to the community by the Parole Board before the expiration of his term..." (emphasis mine). He appeared before the Board in October 1977 and was denied parole without further review because of his extensive history of very violent behavior. In spite of his involvement in all of the alcohol programming in the jail and his involvement in psychological counseling to help him deal more appropriately with his anger, he was denied a special hearing in 1978 because the Board felt he still constituted a very serious risk to the community.

Honorable Russ Meekins

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However, Mr. Nukapigak was released "as if on parole" pursuant to AS 33.20.040. This statute is commonly referred to as the "mandatory release" statute, the name used by the federal system from which our State statute was taken. Under this statute, offenders not paroled are released on supervision "as if on parole" for the number of days of good time they have earned, minus 180 days. This is the section under which Mr. Nukapigak was released. He was not paroled by the Parole Board.

Even though he was not paroled, the Board members strongly encouraged Mr. Nukapigak to continue with the counseling he started in the jail. Since he was not paroled, the Board had no authority to require he complete an alcohol program. He was certainly aware of the availability of such programming since the staff of the Fairbanks Comprehensive Alcohol Programs were running a program in the jail where he served his sentence. He was encouraged to take advantage of the alcohol program and apparently he was involved in mental health counseling to help him deal with his anger. If Clifford did not get involved in the C.A.P. program, it was because he did not go when he was released from jail, certainly an option that was available to him.

I cannot comment on the frequency of or the kind of supervision Mr. Nukapigak did or did not receive as this is the responsibility of the Division of Corrections probation officers. However, it appears even weekly contact would have made no difference in this case as Clifford was doing fairly well and abstained from the use of alcohol until the day before the homicides. Nothing short of continuous supervision or lack of access to alcohol would have prevented these crimes.

In summary, Nukapigak was not paroled. The Parole Board kept him in jail as long as legally possible and strongly urged his continued involvement in counseling. He was released by operation of law in February 1981. Clifford knew he was extremely dangerous when he drank and he made and kept his resolve to not drink until the day before he committed the homicides on August 18. There is nothing more the Parole Board could have legally done to protect the public from Mr. Nukapigak.

Those are some of the pertinent facts about the Point Lay case. Please feel free to contact the Parole Board office if you wish additional information or documentation of the information I have provided you.

Honorable Russ Meekins
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Let me briefly discuss some possible implications of the Point Lay case with the article as it is currently written in the Task Force report:

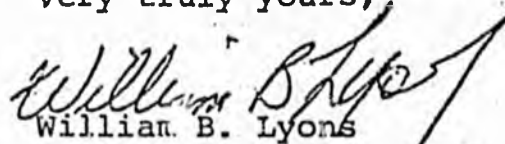
1. Parole Board paroles lots of high risk, violent offenders;
2. Lots of parolees commit new felonies while on parole supervision;
3. Parolees account for many of the assaultive crimes committed in Alaska;
4. Not paroling offenders would significantly reduce assaults in Alaska.

These are some of the assumptions many people will probably make after reading page 2 of the prologue. Fortunately, these assumptions are far from being correct.

Let me give you and the other members of the Task Force some hard data about parolees in Alaska. Since most of the concern now seems to be about violent felonious behavior, let me start with this information. A one year follow-up of all persons released from January 1975 through December 1979 shows that only 4% of the parolees (13 persons) were convicted of a new felony. Only 2% of those new felonies (7 felonies) were committed in Alaska. Of those new felonies committed only 3 persons were actually physically assaulted by parolees in Alaska (less than 1% of those paroled during a 5 year period). Only an average of 1.4 parolees were convicted of new felonies in Alaska, and of these only an average of 0.6 parolees in Alaska were convicted of a new felony involving an assault of a victim. It is clear from these figures Alaska parolees are not responsible for a "crime wave" in Alaska.

Hopefully this information will provide the members with some accurate recent information about the Parole Board. Please contact me or the Board office in Juneau at your convenience if we can ever provide any assistance to you, your staff, or any of the other Task Force members.

Very truly yours,


William B. Lyons
Parole Board Chairman

cc: Honorable Albert P. Adams

Honorable Charles G. Anderson

Honorable Russ Meekins
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cc: Honorable Oral E. Freeman

Charles Campbell, Director
Division of Corrections

Helen D. Beirne, Commissioner
Department of Health and
Social Services

Allen Korhonen, Deputy Commissioner
Department of Health and
Social Services

Parole Board Members

WBL/clr

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

89

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 Misdemeanor 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 Misdemeanor 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 Misdmr 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 Misdmr 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	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 (28%)	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
 **Mean Average Sentence Remaining Exceeding Four Years

PAROLE IN ALASKA

1975 to 1980

From January 1975 to December 1979 (five years) the Parole Board held 1,089 release hearings, an average of 218 per year. During this same period 341 individuals were released on parole (31%), 435 were continued to a later hearing (40%) and 275 were denied parole (25%).

A one year follow-up of the 341 parolees shows that 86 (25%) were revoked, 73 (21%) for technical or misdemeanor violations and 13 (4%) for new felony convictions (only 7 (2%) of these were committed in Alaska).

(Of these, only 3 involved victims of a victim, avg of .06/yr over 5 yrs.

The average sentence remaining at the time of release (also the amount of time supervised on parole) is 17.2 months.

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 scrutiny. (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 valid 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 "determinate", "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 jurisdictions 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 enhances the chance 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 or 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 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.

<u>Race</u>	<u>M.R.</u>	<u>Parole</u>
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.

<u>Race</u>	<u>M.R.</u>	<u>Parole</u>
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.

<u>Race</u>	<u>M.R.</u>	<u>Parole</u>
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 of 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 mandatory 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.

<u>Race</u>	<u>M.R.</u>	<u>Parole</u>
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.

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES
IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS
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PAROLE GUIDELINES FOR ALASKA
SUPPLEMENTAL REPORT
TIME SERVED COMPONENT



ALASKA BOARD OF PAROLE

SEPTEMBER 1980

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

Committee Copy SB327



Alaska Judicial Council

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March 22, 1982

CHAIRMAN, EX OFFICIO
EDMOND W. BURKE
CHIEF JUSTICE
SUPREME COURT

M E M O R A N D U M

TO: Senator Patrick Rodey
FROM: Nick Maroules
RE: Prison Population Impact Analysis

Enclosed please find a copy of the Judicial Council's recently completed Prison Population Impact Analysis. The study very clearly identifies a number of policy considerations related to HB 293 and its impact on prison populations.

If you have any comments or questions regarding the study, please do not hesitate to call me; I would be more than happy to discuss the study with you.

Nick

Enclosure: as stated



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ESTIMATING ALASKA'S FUTURE PRISON POPULATIONS

Nicholas Maroules
Executive Director

I. INTRODUCTION

As has been well documented in the press over the past few months, Alaska's prisons have experienced an unprecedented increase in population over the past four years. There are three main components to our prison populations: (1) sentenced felons; (2) unsentenced felons; and (3) misdemeanants. Data provided by the Division of Corrections (DOC) suggests that the increase is due mainly to the first two groups--sentenced and unsentenced felons. From January 1, 1978 through January 1, 1982, the total felony population--sentenced and unsentenced--rose from 595 to 913, a 53% increase. Sentenced felons rose from 458 on January 1, 1978, to 717 on January 1, 1982, a 57% increase. During the same period unsentenced felons rose from 137 to 196, a 43% increase. During these four years, however, the number of misdemeanants in our system has remained at 140 plus or minus 20.

At the present time, the Division of Corrections maintains ten jail/prison facilities in the state. The following table reflects the normal and emergency operating capacities of the ten facilities and the number of prisoners in each facility as of January 27, 1982.

TABLE I

STATE INSTITUTIONS	NOR MAL OPER ATING CAPACITY	EMERGENCY OPER ATING CAPACITY	01/27/82 PRISONER COUNT	% of NOR MAL CAPACITY
Ketchikan	22	30	21	95%
Juneau	90	100	111	123%
Anchorage - 3rd Ave.	70	80	81	116%
Anchorage - 6th Ave.	100	115	133	133%
Ridgeview Men's	50	50	46	92%
Eagle River Men's	80	100	112	140%
Eagle River Women's	28	30	21	75%
Palmer	113	113	107	95%
Fairbanks	110	118	164	149%
Nome	30	34	32	107%
TOTALS	693	770	828	119%

In addition to the 828 prisoners in state correctional facilities on January 27, there were 190 prisoners housed in federal institutions (Federal Bureau of Prisons) outside the state.

The population impact analysis being conducted is limited to anticipated changes among the sentenced felon population. This decision was made for two reasons. First, the Judicial Council's data concerns felony sentencing patterns and is thus most appropriate for an analysis of population impacts on this group. Second, and more importantly, the great preponderance of the dramatic increase in prison populations over the past four years has concerned the convicted felon portion of the population.

Our analysis uses a sophisticated computer program that considers the interaction of two distinct and fundamentally important data bases simultaneously in projecting population changes. The first is a base file of all inmates currently incarcerated in Alaska's prisons (including those in the FBP) and their probable release dates. The second is a micro data base of all 1980 offenders, including their offense and sentence.

II. PRISON POPULATION DYNAMICS/PROJECTIONS
BASED ON 1980 FELONIES

The first stage of the analysis considers the impact of 1980 felony dispositions, assuming they remain constant, for the next five years on our current prison population. Essentially, the program considers the current total prison population, the numbers of offenders due to be released and those entering the system each month, and calculates the necessary bed space needed for each of the next 60 months.

Many assumptions are of course implicit in such an analysis. The first is that 1980 sentencing patterns persist for the next five years. While this is not very likely to hold true, it is the best empirically available information on which to base the analysis. In addition, the sentences imposed by judges do not correspond to those actually served by offenders. Accordingly, we reduced each offender's sentence for both good time and parole. All offenders sentenced presumptively are eligible for a good time reduction only--25% being the maximum such reduction. In order to calculate the most conservative impact on the system, the sentences of all presumptively sentenced offenders were reduced by 25%. Non-presumptively sentenced offenders are eligible for both the 25% good time as well as parole. On the basis of information received from the Parole Board, it was decided to reduce the

sentences of these offenders by 30%. Finally, due to a limitation in our micro data base, the analysis does not include the impact of (1) probation revocations, and (2) consecutive sentences. We hope to include the impact of these factors in future analysis.

The following two tables reflect the impact of 1980 sentencing patterns for future prison populations. The first table makes no allowance for a growth rate in convictions, while the second adjusts for a 20% rate in the first year and a 5% per annum increase in the years thereafter. The 20% Year I increase attempts to approximate the serious increase in crimes and felony convictions experienced between 1980 and 1982. The model then assumes a modest 5% increase for the period between 1983 and 1986. As noted above, the analysis was conducted only for the sentenced felon population, which includes a base of N=665 current inmates.

TABLE II

PROJECTED SENTENCED FELONY PRISON
POPULATION COUNTS
(1980 Convictions - No Growth)

	YEAR				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
12th Month	672	698	695	699	676
Lowest Month	672	691	695	699	676
Highest Month	717	716	738	734	729
Annual Average	693	702	717	720	703

Base Population (2/1/82) = 665

Year	MONTH											
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
1	677	680	684	684	698	710	717	709	706	698	688	672
2	705	691	697	716	711	703	696	695	708	703	711	698
3	729	738	733	725	721	714	712	700	712	704	718	695
4	720	724	722	723	727	712	723	717	715	734	730	699
5	721	718	714	719	729	722	706	685	679	677	696	676

TABLE III

PROPOSED SENTENCED FELONY PRISON
 POPULATION COUNTS
 (1980 Convictions--First Year Growth 20%, 5% Thereafter)

	YEAR				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
12th Month	719	786	816	859	866
Lowest Month	687	749	815	855	864
Highest Month	757	801	848	902	923
Annual Average	727	778	831	873	890

Base Population (2/1/82) = 665

<u>Year</u>	<u>MONTH</u>											
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
1	687	695	704	709	728	746	751	751	752	744	737	719
2	763	749	761	788	783	780	773	774	793	787	801	786
3	830	845	848	834	833	829	828	815	832	823	843	816
4	855	863	864	869	878	864	881	874	873	902	897	859
5	895	895	893	904	923	919	899	871	864	865	893	866

Table II, reflecting no growth adjustment for 1980 felony sentences, essentially replicates what occurred in 1980 for each of the next five years, given the current prison population. The model indicates an anticipated change of -1 bed between month one (n=677) and month sixty (n=676). The lowest monthly bed count is 672 while the highest is 738 for a range of fluctuation of only 66 beds.

This projection model thus reveals that prison population fluctuations have largely stabilized. In addition, it strongly discounts the theory that the recent increase in prison populations was a result of the state's new criminal code. Replication of felony sentences rendered under the first year of the new criminal code does not result in continued population increases.

What then accounts for the population increases experienced in 1980-1981? We believe these increases were the result of unusually high felony sentences handed down in the 1977-1978 period as documented in the Judicial Council's most recent report of sentencing practices, Alaska Felony Sentences: 1976-1979 (November, 1979). Accordingly, it appears likely that the dramatic population increase experienced in 1980-1981 was a function of fewer monthly releases from prison during this period--due to the sentencing practices of 1976-1977--than they were a function of the number of (1980-1981) monthly admissions.

Table III replicates the above model adjusting for a 1982 growth of 20% over and above the 1980 cases and a further continued growth of 5% per annum thereafter. It is intended to represent the best empirically based projection of current sentencing practices on future jail populations. This model reveals an increase of 179 beds between month one (n=687) and month sixty (n=866), and a fluctuation of 236 beds between the lowest monthly count (n=687) and the highest (n=923). Thus, a maximum of 923 beds would be required over the next sixty months, 258 more than the January 27, 1982 population of 665.

III. Estimated Impact of HB 293 on Prison Populations:

The second portion of our prison population impact analysis concerns an estimation of the impact of House Bill 293 on future populations. The current Committee Substitute for HB 293 would extend presumptive sentencing to all felony offenders, with graduated presumptive terms within all classes of offense according to the number and recency of prior felony convictions, increase the maximum "good time" award from 25% to 33% of the total sentence while effectively eliminating parole decisions, and institute a furlough program that would result in an additional 50% (maximum) reduction in sentence length for periods served on the program.

The presumptive terms of incarceration proscribed by the bill are represented in the following chart.

Presumptive Sentences
(In Months)

Class of Offense	First Felony Offense	Second Felony Offense	Third Felony Offense
"A" Felony	60/72*	100	180
"B" Felony	24	48	72
"C" Felony	12	24	36

*Applies to first offenders convicted of a Class A felony who used a weapon or caused serious injury.

On the basis of both prior criminal history information contained in the Judicial Council's 1980 felony sentencing data and the empirical outcomes of presumptively sentenced (repeat) offenders during 1980, we estimated the number of offenders that would be subject to first offense and second offense presumptive terms for each class of felony had they been sentenced under HB 293. However, we were unable to determine or calculate an estimate of the number of offenders that would be subject to third offense presumptive terms, owing largely to the very few number of cases thus sentenced in 1980. All offenders were assigned exactly the presumptive term applicable to them--i.e., we did not attempt to determine the number of sentences that would be aggravated above or mitigated below the presumptive term. In addition, the analysis assumes that all offenders would receive the maximum 33% reduction in sentence for good time. Finally, no assumptions were made regarding the impact of the furlough program on sentences.

The following two tables represent the impact of our model of HB 293 sentences on future prison populations. Table IV makes no allowance for a growth rate in convictions, while Table V adjusts for a 20% rate in the first year and a 5% per annum increase in the years thereafter. The explanation for this adjustment schedule is the same as that provided in the first aspect of the analysis, above.

Table IV reveals that, with no adjustments made for growth, our model of HB 293 sentencing results in continued decreases in prison populations after an initial increase during the first year. The net change between months one and sixty reveals a decrease of 179 beds with an overall range of fluctuation of 243 beds between the highest and lowest months (n=754 and n=511 beds, respectively).

Table V is the model we feel best conforms to empirical reality as it provides for the same growth adjustment as the model in Table III. This projection model results in a decrease of 57 beds between months one (n=702) and sixty (n=645), with a range of fluctuation of 157 beds between the highest and lowest months (n=802 and n=645, respectively). The initial population increases in year one in both these models are likely due to the present prisoner population.

TABLE IV

PROPOSED SENTENCED FELONY PRISON
 POPULATION COUNTS
 (Model of HB293 - No Growth)

	<u>YEAR</u>				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
12th Month	657	612	571	542	511
Lowest Month	657	612	571	542	511
Highest Month	754	686	654	603	575
Annual Average	720	648	623	577	546

Base Population (2/1/82) = 665

<u>Year</u>	<u>MONTH</u>											
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
1	690	709	722	740	748	754	754	752	722	709	686	657
2	686	665	669	671	658	636	642	639	638	635	636	612
3	645	654	654	652	633	626	621	623	612	592	598	571
4	594	597	595	603	587	558	559	569	578	578	564	542
5	573	575	561	561	556	541	544	543	528	529	532	511

TABLE V

PROPOSED SENTENCED FELONY PRISON
 POPULATION COUNTS
 (Model of HB293 - Growth of 20% Year 1, 5% thereafter)

	YEAR				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
12th Month	701	683	662	657	645
Lowest Month	701	683	662	657	645
Highest Month	802	741	749	721	712
Annual Average	759	714	718	691	685

Base Population (2/1/82) = 665

Year	MONTH											
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
1	702	730	750	776	788	799	801	802	771	757	735	701
2	741	719	729	736	721	701	711	709	710	707	711	683
3	729	745	749	748	728	724	719	723	710	685	694	662
4	698	705	706	721	702	668	671	687	700	703	685	657
5	705	712	696	701	697	682	688	687	666	670	675	645

It is interesting to note that the HB 293 model results in decreased bed space despite the fact that no offenders in the model received what would amount to a straight probationary sentence. (That is, as stated earlier, we did not mitigate any presumptive terms.) Thus, all offenders would be sentenced to at least 12 months in prison. The gradual reduction is due to the very significant amount of good time (33%) likely to be earned and awarded under the bill.

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES
IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS
BEEN FILMED.

Comm. 56527

**The Impact
of Determinate Sentencing
on Corrections**

A Handbook for Decisionmakers

Prepared by the
National Institute of Corrections
and the
Department of Criminal Justice,
California State University,
Long Beach
July 1980

POSITION PAPER
CS FOR SENATE BILL NO. 327 (HESS)

The Department still supports the Governor's bill that would abolish discretionary parole release and replace it with increased good time for prisoners and with furloughs. This bill is currently in the House Judiciary Committee as CS for HB 225 (HESS), originally HB 293.

If the Legislature decides to continue discretionary parole release in Alaska, CS for SB 327 (HESS) would be a reasonable means of accomplishing this. CS for Senate Bill 327 replaces the current Parole Board laws with a more comprehensive statute that includes the following provisions:

- 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/day and provides for a raise with the consumer price index in Anchorage.
- c. Requires the Board to recommend statutory changes to the Legislature.
- d. Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code.
- e. Allows the Board to discharge parolees from supervision after two years as recommended by the Corrections Masterplan consultants and other professional corrections organizations.

The changes listed in sections a), b), d), and e) above are supported by the Commission on Accreditation for Corrections and by the Alaska Corrections Masterplan consultants.

We would like to propose several minor amendments to CS for SB 327. The Department recommends inserting the words "or municipal ordinance" at the end of line 26 on page 11, and inserting the same wording on line 27, page 12 after the phrase "or federal law". This amendment would clarify that the Board may revoke a parolee for serious misdemeanor behavior, such as driving while intoxicated. It appears many of the more serious law violations are being prosecuted by municipalities now, and parolees should be aware they can not disregard the local laws any more than they can State and federal laws. This amendment has been made to the Governor's bill in the House Judiciary Committee.

POSITION PAPER
CS FOR SENATE BILL NO. 327 (HESS)

Section .290 of the bill requires that a parole violation warrant be obtained from a judicial officer. This requirement will unnecessarily tax the already overburdened prosecutors and judges. The additional paperwork required from parole officers to secure a judicial warrant would increase their workload, and the Alaska Supreme Court has already ruled this an unnecessary burden on the parole officers. It is standard procedure in all other states to have a warrant issued by the Board, member of the Board or a corrections staff person. The issuance of parole violation warrants by judicial officers does not offer any more real protections to parolees than having the warrants issued by a Board member pursuant to applicable laws and United States court decisions. The Department recommends that the words "judicial officer" be deleted from line 4 on page 13 and instead the wording "Board member or the Board" be inserted instead.

By: Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health
and Social Services

Date 3-24-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 327 (HESS)
 Title "An Act relating to parole of offenders...."
 Requested by Senator Parr Date March 8, 1982

II. FISCAL DETAIL

Agency Affected Health and Social Services
 Program Category Affected Offender Confinement, Reformation & Supervision
 BRU, Program, Or Subprogram(s) Affected Adult Confinement - Probation
 (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)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

The changes incorporated into Committee Substitute for Senate Bill No. 327 (HESS) have removed the fiscal impact which would have been experienced with enactment of the original bill.

It has been assumed that all parolees will cooperate with the probation officers and waive a formal hearing when a change of parole condition is considered necessary by Department staff. The alternative for a parolee is to be incarcerated for the period until the hearing could be scheduled.

IV. DATE March 9, 1982 PREPARED BY Roger C. Lange
 AGENCY Division of Adult Corrections
 PHONE 465-3376
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

Roger C. Lange
jcc

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for SS for Senate Bill 327
 Title An Act Relating to Parole of Offenders: Continuing the Parole Board
 Requested by Senator Parr Date _____

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Offender Confinement Reformation & Supervision
 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		6.4	0.6	9.5	1.0	10.4
400 COMMODITIES		1.3	-0-	1.5	-0-	1.7
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.						
		33.0	35.5	38.8	41.0	43.9
TOTAL		40.7	36.1	43.3	42.0	54.3

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		40.7	36.1	43.3	42.0	54.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-				
PART TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

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

See Attached Sheets

IV. DATE March 8, 1982 PREPARED BY Samuel H. Trivette
 AGENCY H & S. S. Parole Board
 PHONE 465-3384
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

A. Section .050, Compensation

The bill would provide payment to the Board members for any day they are conducting business, including the reading of files, handling Board business by phone, as well as hearings.

- a) Reading reports—assume 225 cases/year x 3/4 hours per file = 23 "member days". Guess 23 days x 7 members = 16.1
- b) Phone log shows average of 30 calls/quarter to the office x 4 quarters/year = 120 calls for handling appeals, requests for special hearings, mandatory release conditions, etc. = 12.0
- c) Pay full days compensation for those days holding preliminary hearings, 1/2 day parole hearings, etc. Guess 35 member days x \$50 = 1.8

Total 29.9

B. Section .080, Responsibilities

Funds for teleconferencing of hearings to adopt regulation, advertise hearings, have staff travel to hearings to establish regulations in the Alaska Administrative Code. Budget every other year.

Contractual	1.3
Travel & Per Diem	2.0
Compensation	<u>.4</u>

Total 3.7

C. Section .180, Change in Conditions

Anticipate 5 parolees will request a hearing pursuant to this Section resulting in teleconference hearings by three Board members.

Transportation	1.6
Per Diem	1.3
Compensation	<u>1.5</u>

Total 4.4

D. Section .280, Revocation Hearings

The "clear and convincing evidence" test will result in a representative from the District Attorney's office presenting some of the cases for the Division of Corrections, as in done in many probation revocation cases now. Assume District Attorneys will be present in 1/4 of the cases (7) which will result in a doubling in the length of the hearing time in those cases resulting in 4 additional "board days per year".

Per Diem	1.6
Compensation	<u>2.0</u>

Total 3.6

E. Assumption for FY-84 Through FY-87

- a) Travel = 15% in FY-84 and FY-85; 10% thereafter.
- b) Compensation = Consumer Price Index will increase by 9% in FY-84; 8% in FY-85; 7% in FY-86 and FY-87.
- c) Contractual = 8%.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Fouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 5, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- SB 327 - "An Act relating to parole of offenders; continuing the existence of the Board of Parole; and providing for an effective date."
- HB 377 - "An Act relating to factors in aggravation for purposes of imposing presumptive terms of imprisonment for felonies."
- SB 686 - "An Act relating to the return of property recovered or seized by law enforcement agencies or acquired as evidence in a criminal proceeding."
- SB 864 - "An Act continuing the existence of the Alaska Code Revision Commission and amending the statutes relating to its responsibilities."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:40 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Anderson. Senator Bennett was absent.

002 - Call to order.

005 - Chairman Rodey brought SB 327 before the committee.

027 - Senator Anderson moved to delete [S100] and insert S150 on Page 3, Line 1. Senator Ray objected.

076 - Senator Anderson's amendment was adopted with Senator's Rodey, Parr, and Anderson a yes vote. Senator Ray voted no.

124 - Senator Parr moved to pass SB 327 with individual recommendations. There was no objection.

184 - Chairman Rodey brought SB 864 before the committee.

220 - Mr. Bruce goes over language.

417 - Senator Parr moved that beginning on Page 2, Line 24 the following language be added: Each draft of legislation submitted by the commission shall be accompanied by a sectional analysis; the commission shall prepare the sectional analysis using language that is understandable to a layman. There was no objection.

531 - Senator Ray moved to strike Sec. 4 of the committee substitute beginning on Page 2, Line 21: [(2) establish one or more subcommissions to assist it in the performance of its duties; the commission may appoint any person to serve on a subcommission established under this paragraph.] There was no objection.

547 - Senator Ray moves to pass SB 864 with individual recommendations. There was no objection.

558 - Chairman Rodey brought HB 377 before the committee.

560 - Mr. Bruce explains the committee substitute.

640 - Senator Anderson moved to adopt the committee substitute for HB 377. Senator Ray objected on the basis that the committee substitute is not germane to the original bill.

659 - Senator Anderson moved to pass HB 377 pending the chair's decision on germaneness.

675 - Chairman Rodey brought SB 686 before the committee.

677 - Pat Conheady, Department of Law, testified, giving the changes in the bill.

107 - Don Magneson, representing the Alaska Retailers Association, testified in favor of photographing evidence.

180 - SB 686 returned to file.

183 - Adjourned at 3:15 P.M.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 29, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 327 - "An Act relating to parole of offenders; continuing the existence of the Board of Parole; and providing for an effective date."

HB 356 - "An Act relating to unlawful practices in the sale or rental of real property."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:40 P.M. Committee members present were: Senators Rodey, Ray, Anderson, and Parr. Senator Bennett was absent.

001 - Call to order

005 - Chairman Rodey brought SB 327 before the committee.

015 - Wil Condon, Attorney General, testified in favor of this bill, and answered questions from the committee.

545 - Senator Ray left the meeting to attend a meeting in the Governor's office.

638 - After lengthy discussion, Chairman Rodey laid SB 327 on the table until the Wednesday meeting.

659 - Next Chairman Rodey brought HB 356 before the Committee.

685 - Mr. Bruce gave a brief explanation of the amendment the Committee proposed last year.

690 - Chairman Rodey moved to adopt the following amendment: On Page 1, Line 11, After property insert (a), and on Page 2, Line 19, add a new subsection: (b) This section does not apply to the sale or rental of dwelling units in Pioneer Homes or other housing provided to senior citizens by the federal government, state government, a political subdivision of the state or a non-profit organization. There was no objection and the amendment was adopted.

700 - Senator Anderson moved that HB 356 be passed from committee with individual recommendations. There was no objection and the bill was passed with Senators Rodey, Parr, and Anderson all signing do pass.

734 - Mr. Bruce distributed a resolution relating to Victim's Rights Week to Committee members for their approval of introducing it. There was no objection to it's introduction by the Committee.

740 - Adjournment at 2:15 P.M.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

March 24, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 327 - "An Act relating to parole of offenders; continuing the existence of the Board of Parole; and providing for an effective date."

SB 633 - "An Act relating to work programs for prisoners in state institutions."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Anderson, Ray, Parr, and Rodey. Senator Bennett was absent.

002 - Call to order.

005 - Chairman Rodey brought SB 327 before the committee.

010 - Mr. Pettyjohn, Vice-Chairman of the Parole Board, testified in favor of SB 327, stating that the Parole Board works should be continued. The Board would recommend inserting the words "or municipal ordinance" at the end of line 26 on page 11, and inserting the same wording on line 27, page 12 after the phrase "or federal law". This amendment would clarify that the Board may revoke a parolee for violation of a city ordinance when a person is involved in serious misdemeanor behavior, such as driving while intoxicated. The Board also recommends that the words "judicial officer" be deleted from line 4 on page 13 and instead the wording "Board member or the Board" be inserted instead. The issuance of parole violation warrants by judicial officers does not offer any more real protections to parolees than having the warrants issued by a Board member pursuant to applicable laws and United States and Alaska court decisions.

The Committee discussed the following areas of SB 327:

- Page 1, Line 19 - Paragraph (c), Senator Ray questioned language.
- Page 2, Line 10 - Senator Ray questioned having members of the Board serving at the Governor's discretion.
- Page 3, Line 6 - Senator Ray stated that there should be flat

compensation.

Page 3, Line 14 - Senator Ray stated that 3 votes should be required for official action. Senator Anderson concurred. Senator Rodey stated that a designee should be allowed to serve. Senator Ray thought that it should be a 30 day appointment period.

Line 23, Page 6 - Senator Ray stated that the language was unclear.

Line 10, Page 11 - Senator Ray wanted to know why only parolees who had not been charged with a felony (vs. a misdemeanor) during their time on parole were discharged from parole after a five year period.

Line 16, Page 14 - Senator Ray questioned language.

670 - Mr. Barry Stern, Department of Law, distributed a committee substitute to the bill. Mr. Stern stated that the Parole Board is not constitutionally mandated, only a parole system is needed. He further stated that the number of paroles have been constant although inmate population has doubled in the last few years. He informed the committee that the House had introduced HB 293 which addresses the Parole Board. He expressed the administration's wanting to see HB 293 approach:

- A.) presumptive sentencing for first offenders, and
- B.) restricting the Parole Board in supervising offenders currently in the system.

SIDE TWO

133 - SB 327 was laid on the table to allow for some of the language to be worked on.

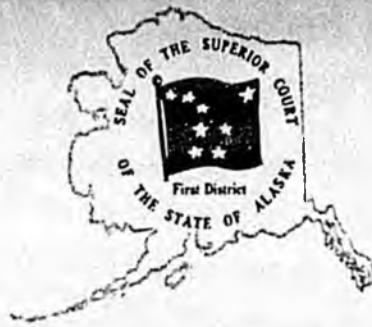
136 - Chairman Rodey brought SB 633 before the committee.

198 - Mr. Walt Jones, Department of Health & Social Services, testified in favor of SB 633, and explained the zero fiscal note attached to the bill.

316 - Mr. Mike Stark testified and suggested SB 633 be incorporated with HB 194, relating to prison industry, as this bill had already passed the House and is on its way to the Senate.

419 - SB 633 was laid on the table to allow for combination of the language.

426 - Chairman Rodey adjourned the meeting at 2:45 P.M.



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT
415 MAIN STREET, ROOM 402
KETCHIKAN, ALASKA 99901

Chambers of
THOMAS E. SCHULZ, Judge

March 31, 1982

Patrick M. Rodey, Chairman
Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: CS Senate Bill No. 327, Parole Board

Dear Senator Rodey:

I have had an opportunity to review CS SB 327, relating to parole of offenders and the Parole Board, and I wanted to write and express my support for that Committee substitute. I think the Committee substitute is a good bill, and I believe it would provide little needed flexibility in the presumptive sentencing program without doing any substantial damage to the presumptive sentencing scheme enacted by the Legislature a couple of years back.

I, frankly, was not particularly impressed with the original bill, but I believe that this one is a good bill and I would urge favorable Committee action on it.

Very truly yours,

Thomas E. Schulz
Presiding Superior Court Judge

TES:mb

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1. March 12, 1982 LETTER TO REP. BEIRNE--Explores some of the problems with the Governor's bill (HB 293 and CS for HB 225), discusses some of the philosophies of discretionary parole, and sets forth some basic information about the operation of the Board.
2. March 8, 1982 LETTER TO REP. BARNES--Gives background information necessary for the Judiciary Committee to complete its Sunset Review responsibilities. Details accomplishments of the Board, and explains why Board members favor retention of discretionary parole.
3. January 1982 GOALS & OBJECTIVES OF BOARD--Self-explanatory.
4. SENATOR PARR'S LETTER OF MARCH 8, 1982--Summation of Senate HESS Committee's Sunset Review of the Parole Board, containing the Committee's findings & recommendations.
5. REP. BARNES LETTER OF MARCH 10, 1982--Summation of House Judiciary Committee's Sunset Review of Parole Board.
6. CHAIRMAN LYONS LETTER OF AUGUST 28, 1981--Letter to clarify the Board did not parole a man who killed 3 people.
7. CHAIRMAN LYONS LETTER OF AUGUST 12, 1981--Letter to Representative Meekins clarifying an error in the Violent Crimes Report, and giving some data (p.3) on the number of parolees that have been involved in assaultive crimes while on parole.
8. ANNUAL REPORT 1981--Gives summation of Board's case decisions for CY-1981.
9. ANNUAL REPORT 1980--Gives summation of Board's case decisions for CY-1980.
10. BOARD REVOCATIONS 1981--Breaks down the 1981 revocation cases by parolees and mandatory releasees, and groups them into various standardized categories for a better understanding of Board decisions.
11. BOARD REVOCATIONS 1980--Breaks down the 1980 revocation cases by parolees and mandatory releasees, and groups them into various standardized categories for a better understanding of Board decisions.
12. GENERAL BOARD ACTIVITY 1975-1980.
13. PAROLE IN ALASKA 1975-1980.
14. PAROLE BOARD OUTLINE--Explains some of the basic information about the operation and strengths of the Parole Board in Alaska.
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16. PAROLE GUIDELINES SUPPLEMENTAL REPORT, SEPTEMBER 1980--Details the final research compiled allowing the Board to adopt a parole guidelines release matrix, allowing the Board to handle all cases equitably.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

CORRECTED
3-31-82

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill 327 (HESS)

Title An Act Relating To Parole of Offenders: Continuing the Parole Board
Requested by Senator Parr Date March 10, 1982

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Offender Confinement Reformation & Supervision
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		6.5	4.1	8.4	5.1	10.0
300 CONTRACTUAL		1.3	-0-	1.5	-0-	1.7
400 COMMODITIES		-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.						
800 COMPENSATION		29.2	31.4	34.2	36.1	38.9
TOTAL		37.0	35.5	44.1	41.2	50.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		37.0	35.5	44.1	41.2	50.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

NO NEW POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		-0-	-0-			
PART TIME		-0-	-0-			
TEMPORARY		-0-	-0-			

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

See Attached Sheets

IV. DATE March 10, 1982

PREPARED BY Samuel H. Trivette

AGENCY H & S.S. Parole Board

PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska

TO: Charlie Parr

DATE: March 25, 1982

FILE NO:

TELEPHONE NO:

FROM: Bill Zybach

SUBJECT: Paroles Granted

I contacted the Parole Board for information about the number of paroles granted in recent years. The Board reviews the cases of any prisoner that applies for parole. The total number of parole applicants is reflected in the "Total Release Hearings" column:

YEAR	TOTAL RELEASE HEARINGS	PAROLES GRANTED	% GRANTED PAROLE
1981	209	89	42.6%
1980	194	76	39.2%
1979	187	63	33.7%
1978	221	71	32.1%
1977	210	80	38.1%
1976	218	65	29.8%

Even though the prisoner population has increased significantly in recent years, the actual number of prisoners applying for parole has not. No data is gathered from those prisoners that waive the parole hearings. Some are ineligible by statute, because of presumptive sentencing or by order of the sentencing judge. Speculation is that some eligible prisoners don't want to bother with the work it takes to prepare a parole plan since the time between when they are eligible for parole (1/3 or more of sentence) and when they are eligible for release with good time (67% to 75% of sentence) is sometimes only a matter of months.

The information above indicates the year in which the lowest percentage of applicants were paroled was in 1976 (29.8%) and the highest year was 1981 (42.6%). The trend is for a larger percent to be paroled in successive years from 1976 through 1981 with the average over the six years being 35.9%. The Parole Board staff thinks the Board's guidelines may be a factor in the increased percentage of paroles granted.

EZ

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

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

March 18, 1982

Honorable Patrick M. Rodey
Chairman
Judiciary Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

RE: Parole Board Legislation

Dear Senator Rodey:

Please accept this letter as testimony from the members of the Alaska Parole Board that they support Committee Substitute for Senate Bill 327 (HESS). The bill adopts many ideas contained in the national paroling authority standards while comprehensively rewriting the Parole Board statutes. The Committee Substitute incorporates a number of changes recommended by the Board, the Division of Adult Corrections, as well as some very useful changes suggested by the HESS Committee members at recent hearings. The bill also provides the Board with the tools to fairly and consistently administer a parole system in Alaska, balancing the needs of offenders while providing protection for the public from those high risk offenders.

The recent Legislative Audit Sunset Review Report (December 1981) forwarded to your Committee members shows the Board has overcome the significant deficiencies pointed out in the original report of May 1979. We believe a review of the reports of the Senate HESS Committee and the House Judiciary Committee regarding the Sunset of the Parole Board reflects the positive accomplishments of the Board in recent years. Even though we have come a long way during that time, more work needs to be done to upgrade our guidelines and to make other improvements in the parole process. We hope to initiate some of these improvements in the near future if CS SB 327 (HESS) passes.

Page Two
Honorable Patrick M. Rodey
Chairman
Judiciary Committee
Alaska State Senate
March 18, 1982

The Board members understand there are many pieces of legislation that need your attention before the end of the session. We would like to propose several minor amendments to CS SB 327 (HESS) as follows if these amendments will not significantly increase the amount of time your Committee needs before it passes out this legislation. The Board would recommend inserting the words "or municipal ordinance" at the end of line 26 on page 11, and inserting the same wording on line 27, page 12 after the phrase "or federal law". This amendment would clarify that the Board may revoke a parolee for violation of a city ordinance when a person is involved in serious misdemeanor behavior, such as driving while intoxicated. It appears many of the more serious law violations are being prosecuted by municipalities now, and parolees should be aware they can not disregard the local laws any more than they can State and federal laws.

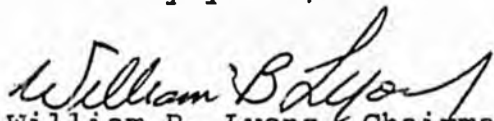
The Board recommends that the words "judicial officer" be deleted from line 4 on page 13 and instead the wording "Board member or the Board" be inserted instead. The issuance of parole violation warrants by judicial officers does not offer any more real protections to parolees than having the warrants issued by a Board member pursuant to applicable laws and United States and Alaska court decisions. A fairly recent Alaska Supreme Court Decision dealt specifically with the issue of whether or not a judicial warrant was necessary or proper before a parolee was arrested. "In fact, counsel has been unable to cite, and our independent research has failed to reveal, any federal case requiring an affidavit or sworn complaint, or for that matter, even the issuance of a warrant for that purpose. We hold that the procedure under which the warrant was issued for Davenport's arrest did not violate the United States Constitution..." "To impose the same requirements 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..." "Nevertheless, to avoid unnecessary appeals from warrants issued on oral statements, the contents of which may be subject to argument, we shall require in the future that a written statement indicating probable cause be filed with the Parole Board or a member as justification for issuance of the warrant." (Davenport v State, September 2, 1977).

Page Three
Honorable Patrick M. Rodey
Chairman
Judiciary Committee
Alaska State Senate
March 18, 1982

The Board believes the requirement of having a judicial officer issue parole violation warrants would unnecessarily increase the workload of already overburdened parole officers, prosecutors and judges. We believe these persons affected by this section of the bill would support our amendment if made aware of its intent.

We would appreciate the support of your committee to insure the passage of this legislation which we believe would significantly improve the operation of the criminal justice system in Alaska. Please advise me when you are ready to conduct hearings on Parole Board legislation, and let me know if I can provide additional information to the Committee you do not already have regarding the operation of the Parole Board.

Sincerely yours,


William B. Lyons, Chairman
Alaska Board of Parole

cc: Senate Judiciary Committee Members
Board Members

WBL/clr

March 22, 1982

Mr. Robert B. Atwood, Editor
Anchorage Times
Box 40
Anchorage, Alaska 99510

Dear Mr. Atwood:

The information contained in your editorial of March 21, 1982 regarding "Official Liability" is almost completely in error. Possibly if you had not ignored my August 28, 1981 letter to you and attachment, you would not be misleading the public with your own biases and misinformation contained in the March 21, editorial.

Here are the facts regarding the case which is the subject of your editorial. The prisoner in question appeared before the Parole Board in October 1977 and was DENIED PAROLE, and he was required to serve the remainder of his sentence in jail. The law requires that he be given good time if he has no incidents while in jail. Alaska Statute 33.20.040 requires prisoners be released "as if on parole" for most of their good time if they are not paroled. The prisoner in this case was released at the expiration of his sentence minus good time BY OPERATION OF LAW, not at the direction of the Parole Board. THE PRISONER WAS NOT PAROLED BY THE ALASKA PAROLE BOARD.

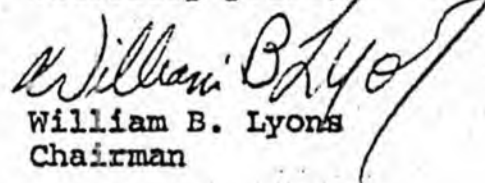
You also made comments in your editorial regarding the authority of the Parole Board. Contrary to the statement in your editorial regarding the power of the Parole Board to over-rule all public agencies protecting society, the Board's authority is very limited. It only has the authority to grant or deny parole to those sentenced prisoners eligible for parole release and to return parolees to jail for violating laws or conditions of parole. The members take their responsibility under the law very seriously by only paroling prisoners who "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 is very careful who it releases and under what conditions prisoners are returned to the community. The results of the meticulous release decisions and good supervision of parolees are that only 4% of the parolees are convicted of new felony offenses and less than 1% of the parolees are actually involved in a physical assault on another person while on parole. These are the facts.

Page Two
Mr. Robert B. Atwood
March 22, 1982

You have a public responsibility to not continually misrepresent information to the public. You were advised of the facts of this case last August. We offered to assist you at any time if you had any questions regarding the parole process or parolees. You would better serve the public if you would take a few minutes to check your facts before misleading the public in your editorials.

The Senate Bill you referred to would apparently absolve the Board members personally of liability if a parolee committed a criminal act in the community. This bill was not introduced at the request or even with the knowledge of any of the members or staff of the Alaska Parole Board. We appreciate the concern of Senator Ray, but the Board members certainly don't need any protection in cases similar to this in which they did not grant a parole to a high risk prisoner. Please print this in your "Letters to the Editor" section and also print a retraction in your "corrections and clarifications" section. Our offer still stands to provide information at any time to you regarding parolees.

Sincerely yours,


William B. Lyons
Chairman

cc: Jay Hammond, Governor
Terry Miller, Lt. Governor
Helen D. Beirne, Commissioner
All State Senators
All State Representatives
Board Members

WBL/clr

bcc: D-11
I-1
Sam (+ 3 Copies)



Official Business

Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Charlie Parr, Chairman
Terry Stimson, Vice-Chairman
Vic Fischer
Tim Kelly
Mike Colletta

Pouch V
State Capitol
Juneau, Alaska 99811

465-4907
465-4908

February 26, 1982

LETTER OF INTENT

ON

COMMITTEE SUBSTITUTE (HESS) FOR SPONSOR SUBSTITUTE SB 327

It is the intent of the Health, Education and Social Services Committee, in passing out CS for SS for Senate Bill No. 327, that:

- 1 - Good behavior while on parole should be rewarded by earlier release. The Committee considered "good time" allowances but because of costs and administrative burden opted for another alternative. The parole board is allowed to release parolees from parole after a minimum of 20 months of good behavior. This allowance is intended to provide the parole board with a means of rewarding good behavior of parolees.
- 2 - The parole board should meet more frequently than the required minimum of 4 times per year. Although SB 327 does not require that the board meet a minimum of 6 times a year, the members believe that the board should be given the funds to do so. More frequent hearings would allow for an initial parole hearing early in the prisoner's incarceration. This hearing may encourage the prisoner to better prepare himself for rehabilitation while in jail, and may possibly reduce the period of incarceration.

Senator Charles H. Parr
Chairman

STATE OF ALASKA

A FOLLOW-UP REVIEW OF THE
ALASKA STATE BOARD OF PAROLE
(Originally Released May 9, 1979)

December 21, 1981

Audit Control Number
06-022-0026-R



DIVISION OF LEGISLATIVE AUDIT
Juneau, Alaska

A FOLLOW-UP REVIEW OF THE
ALASKA STATE BOARD OF PAROLE
(Originally Released May 9, 1979)

December 21, 1981

Audit Control Number
06-022-0026-R

Commissioner, Department of
Health and Social Services

Helen D. Beirne

Deputy Commissioners, Department of
Health and Social Services:

Field Operations and Local,
State and Federal Liaison

Frederick McGinris

Program Management

Dean F. Tirador

Management Services

Allen Korhonen

Members of the
Alaska State Board of Parole

Chairman
Vice-Chairman
Member
Member
Member

William Lyons
F.P. Pettyjohn
Al Widmark
Conrad Miller
M. Jo McDowell

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

December 29, 1981

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 FOLLOW-UP REVIEW OF THE
ALASKA STATE BOARD OF PAROLE
(Originally Released May 9, 1979)

December 21, 1981



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REVIEW

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a follow-up review of the Board of Parole was conducted to determine whether the recommendations presented in our report entitled, A Performance Review of the Alaska State Board of Parole, May 9, 1979, have been implemented, and, if not, whether those recommendations are still pertinent. 0

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 are provided. The Board has an administrative staff which currently consists of an Executive Director, Parole 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 eligibility). Upon application, an eligible 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. During 1980 and 1981 the Board averaged 217 release hearings per year of which an average of 60 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 violator's 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 reparaoled 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. During 1980 the Board conducted 31 revocation hearings.

AS 33.15.080 gives the Board the authority to release prisoners 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 opportunities 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.

The Board is in the process of establishing a formal set of specific objectives and related measurement criteria so that its performance can be evaluated (Prior Audit Recommendation No. 1).

The Board has made progress in the implementation of our prior audit recommendations. Specifically, they now have an organized case file for each parolee, their filing system is very orderly, they have analyzed trends for past decisions and provided procedures and regulations which should aid in parole release or revocation decisions. However, the Board should continue to develop new data and continuously review the significance and effects of past decisions (Prior Audit Recommendation No. 2).

The Board has prepared and submitted reports as required by AS 37.07.090 and 33.15.130 for fiscal years 1981 and 1982 (Prior Audit Recommendation No. 3).

The Board is aware of the importance of public participation in parole related matters. However, the Board believes current time and budget constraints have precluded them from holding such meetings (Prior Audit Recommendation No. 4).

The Board has compiled and codified all of its regulation information into one manual (Prior Audit Recommendation No. 5).

PRIOR AUDIT RECOMMENDATIONS

Prior Audit 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 description 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.

Legislative Audit's Current Position

The Board is in the process of establishing a formal set of specific objectives and related measurement criteria so that its performance can be evaluated. A draft of a formal set of objectives has been prepared for the Board's approval.

Prior Audit 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 over time may reveal positive or negative results and support policy changes.
3. Assisting planning efforts and research of other agencies.
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.

Legislative Audit's Current Position

The Board has improved the procedures used to collect, analyze, and store information which is necessary for measuring performance and analyzing decisions. However, the Board should continue to develop new data and continuously review the significance and effects of past decisions.

Prior Audit 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.

Legislative Audit's Current Position

The Board has prepared and submitted the reports required per AS 37.07.090 and AS 33.15.130 for fiscal years 1981 and 1982.

Prior Audit 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 decisions. Administrative meetings, however, do not share the same characteristics as case hearings. Administrative meetings are held at irregular times during the year for the purpose 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.

Legislative Audit's Current Position

The Board is aware of the importance of public participation in parole related matters and is interested in holding public administrative meetings. However, the Board believes current time and budget constraints have precluded them from holding such meetings.

We recommend that the Board evaluate the current use of their time and budget to determine if such resources could be more efficiently used.

Prior Audit 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.

Legislative Audit's Current Position

The Board has compiled and codified all of its regulation information into one manual. This manual is readily available to any individual requiring information about the Board's operation.

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

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

February 2, 1982

RECEIVED

FEB 02 1982

LEGISLATIVE
AUDIT

Mr. Gerald Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Dear Mr. Wilkerson:

RE: Parole Board
Preliminary Audit
Report

There are a few comments that we would suggest be made in the "Organization and Function" section on pages 2-3 of the audit report to help clarify a few items.

The Board members are not salaried employees but they are paid \$100 compensation for each full day they are actually conducting parole hearings (AS 33.15.020). Due to a recent Alaska Court decision, the names of the new Board members are no longer sent to the Legislature for confirmation. The Board is also responsible for setting parole conditions and insuring the supervision of those prisoners released on parole supervision by the operation of law pursuant to AS 33.20.040 and the presumptive sentencing provisions of AS 33.15.180. These offenders comprise about 20% of the "parolees" being supervised at a given time and make up a significant percentate of the revocation hearings. The Board staff does the executive clemency investigations and prepares the clemency reports for the Governor's office (AS 33.20.080).

In reference to paragraphs two and three and the data contained therein; the Board conducted an average of 217 parole release hearings per year in 1980 and 1981. An average of 83 paroles were granted per year, with an average of 60 parolees being released in the calendar year in which parole was granted. The Board conducted an average of 31 parole revocation hearings and mandatory parole revocation hearings per year during 1980 and 1981.

Page Two
Mr. Gerald Wilkerson, C.P.A.

Regarding Audit Recommendation No. 1, the draft of the Board's objectives mentioned in your report was approved by the Board members in December 1981 and was amended by them on January 21, 1982. A copy of the objectives is enclosed for your information (Attachment #1). The Board has complied with this recommendation.

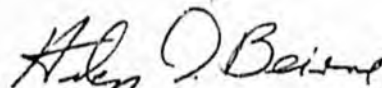
Regarding Audit Recommendation No. 2, we agree with you that the Board has improved its collection of data and analysis of that information. We also agree this should continue and be expanded in the future to help everyone understand the significance and effect of past decisions.

We concur in your assessment regarding Audit Recommendation No. 3 that the Board has submitted the reports required by law.

Regarding Audit Recommendation No. 4, we believe the Board will give serious consideration to using the Legislature's teleconference network for the public hearings. It will be possible to conduct public hearings once a year, and more often, depending upon budget limitations.

We concur in your finding (Recommendation No. 5) the Board has adopted and organized its regulations in one manual that is readily available to any individual desiring information about the parole process. The Board has finalized and implemented the parole guidelines procedure that gives specific weights to relevant factors considered by the Board, which helps the members make consistent decisions in similar cases. I might add the Board staff has also compiled a handbook on executive clemency that gives prospective applicants and the public information they might wish about the clemency process.

Sincerely yours,



Helen D. Beirne
Commissioner

Enclosures: See Attached List

Page Three
Mr. Gerald Wilkerson, C.P.A.

LIST OF ATTACHMENTS

Parole Board Audit Report

Parole Board Goals & Objectives; 1982 - 1983
Analysis of 1981 Revocations
Analysis of 1980 Revocations
Calendar of 1981 Parole Board Decisions
Calendar of 1980 Parole Board Decisions
Annual Report; FY-81
Annual Report; FY-80
Annual Report; FY-79
Informational Booklet - Executive Clemency
Parole Board Regulations, September 1980
Parole Progress Report Instruction Booklet, December 1980
Parole Guidelines Coding Manual, October 1980
Parole Guidelines Handbook for Applicant, November 1980
Parole Guidelines Coding Sheet, Revised February 1981
Executive Clemency Application

Previously Hand Carried:

Parole Guidelines for Alaska; Time Served
Component, September 1980

Parole Guidelines for Alaska, December 1979

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

February 5, 1982

RECEIVED

FF3 09 1982

LEGISLATIVE
AUDIT

Mr. Gerald Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

RE: Parole Board
Preliminary Audit
Report

Dear Mr. Wilkerson:


We concur with the recommendations for factual changes as outlined in Commissioner Beirne's letter regarding the Parole Board Audit, at paragraphs two and three. We believe this information will make the audit report more informative and meaningful to legislators.

We concur with the Department's responses to Recommendations one, two and three, noting that they have sent you a copy of our objectives. Regarding Recommendation four, the Board hopes and expects to hold public hearings as soon as funding becomes available. Because of the nature of Board hearings, the members have found it not possible to hold public hearings in conjunction with our regular hearings since we can not accurately predict when we will finish on a given day. Even with the supplemental funding provided during the last fiscal year, the Board only had \$13.70 left over, certainly not sufficient funds to cover even a part of a day's hearing. Although we were making plans for at least one public hearing this year, our financial situation looks worse than last year.

Page Two
Mr. Gerald Wilkerson, C.P.A.
February 5, 1982

In reviewing some of our data, you might note that only 5% of our parolees were returned to custody for a conviction of a new felony. We are proud of this figure understanding that most other jurisdictions have a new felony conviction rate of at least 12-14%. We believe this shows the Board is paying careful attention to its responsibilities.

Sincerely yours,


William B. Lyons, Chairman
Alaska Board of Parole

cc: Helen D. Beirne, Commissioner
Department of Health & Social
Services

SHT/clr

Senate Bill 327 replaces the current Parole Board laws with a more comprehensive statute that includes the following provisions:

- 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/day and provides for a raise with the consumer price index in Anchorage.
- c. Requires the Board to recommend statutory changes to the Legislature.
- d. Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code.
- e. Allows the Board to discharge parolees from supervision after two years as recommended by the Corrections Masterplan consultants.

The changes listed in sections a), b), d), and e) above are supported by the Commission on Accreditation for Corrections and by the Alaska Corrections Masterplan Consultants.

EXECUTIVE DIRECTOR

For section .090 the Department recommends the executive director be hired by the Department and serve at the pleasure of the Department to provide better coordination within the Department.

"PAROLE RIGHTS"

Section .150 of the bill gives offenders a right to have copies of all information considered by the Board a minimum of 30 days in advance of any kind of parole hearing. Many hearings would be continued 90 days because of later arrival of material. Considerable expense and staff time would be saved by providing a summary of the information in the file rather than providing copies of all information in the file (average about 200 pages/file). This summary would give the offender all pertinent information considered by the Board. Section .150 of SB 327 also allows the offender a copy of all mental health records. Controversy surrounds the release of these records. Many clinicians and therapists are opposed to the release of patient records without benefit of medical interpretation.

GOOD TIME PROVISIONS

Section .170 of SB 327 requires parolees be given good time for good behavior while on parole, but this good time earned is subject to forfeiture by the Board. There is no way to avoid an enormous amount of staff time, red tape, paperwork, more policies and procedures, and hearings to implement this section. Considerable additional travel expense will be incurred on interstate parole cases. The good time system in the correctional facilities has proven to produce a high error rate causing serious problems, and a similar

system for parolees is expected to produce similar results. Although the concept of parole good time is a unique approach, we recommend a more simple and less costly solution for the earlier release of parolees from supervision. Instead, the Committee might consider giving the Board the authority to release parolees from supervision after 1 year of good behavior rather than the 2 years listed in Section .270 of this bill, in lieu of the good time provisions of this bill.

PAROLE CONDITIONS

Section .180 unduly restricts the imposition of necessary parole conditions by the Board. The courts allow any reasonable condition that relates to the prisoner's crime and background. Where the Board determines that there is clear evidence, some parolees need to be restricted from associating with victims or their crime partners. The Board cannot require restitutions during parole nor establish other conditions normally imposed by other parole agencies or the courts, such as having the car license numbers of drug dealers.

MODIFYING CONDITIONS OF PAROLE

Section .190 of SB 327 requires 30 days written notice be given the parolee before a parole conditions can be changed. This is impractical. Currently, conditions of parole are discussed with parolees at the release hearing. New conditions of parole are imposed only when immediate intervention is needed because of risk to the community or to the parolee. This section will not allow the Board to deal with a parolee's problems when they surface, posing a risk to the community and to the parolee.

DISCHARGE OF PAROLEE

Section .250 of the bill requires that parolees be discharged from supervision automatically after five years on parole. The only exception would be if the parolee had been charged with a felony offense while on parole. An additional phrase is recommended to be inserted in line 19, "or has not violated parole by absconding supervision". Without this phrase, a parolee could abscond supervision the date of his release, and as long as he was able to avoid detection for a period of five years, he would suffer no liability. This would not be conducive toward assisting the parolee to live by the rules of society.

REVOCATION OF PAROLE

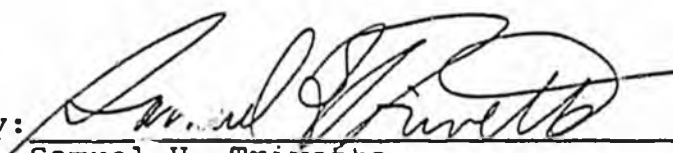
Section .290 also requires that the Commissioner prove by "clear and convincing evidence" that a parolee has violated the terms of his parole. This is a higher standard of proof than the courts have adopted in probation and parole revocation cases in Alaska, and is higher than the standard adopted by any other court or paroling agency in this country. The "preponderance of the evidence" standard is more appropriate, providing adequate safeguards for the parolee and protection for the public.

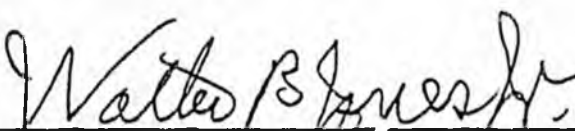
PAROLE ARREST WARRANTS


Section .300 of SB 327 requires that a parole violation warrant be obtained from a judicial officer. This requirement will unnecessarily tax the already overburdened judicial system. The additional paper-work required from parole officers to secure a judicial warrant would increase their workload, and the Alaska Supreme Court has already ruled this an unnecessary burden on the parole officers. It is standard procedure in all other states to have a warrant issued by the Board, member of the Board or a corrections staff person.

ADDITIONAL BURDEN ON THE BOARD

Of major concern to the Department would be the increase in "Board member days" spent on Parole Board business as a result of this bill. With the responsibilities outlined in SB 327 the average number of days spent by each current Board member on Board business will increase from the current 45 to 60 days per year, to a minimum of 138 to 153 days per year. Considering there are 251 work days in a year, being a Parole Board member would be more than a half time job. A full time Board would probably become a necessity in the near future due to the increased workload mandated by SB 327.

Recommended by:  Date January 21, 1982
Samuel H. Trivette
Executive Director

Recommended by:  Date 1/21/82
Walter B. Jones, Acting Director
Division of Adult Corrections

Approved by:  Date 1/27/82
Helen D. Beirne, Commissioner
Department of Health and
Social Services



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

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 gone 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

JAY S. HAMMOND, GOVERNOR

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

Document # 21-82

January

The Honorable Charles Parr
Chairperson
Senate HESS Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

The information you requested from the Department regarding parole revocation statistics is enclosed.

If you have question on these statistics, please do not hesitate to contact me.

Sincerely,



Helen D. Beirne
Commissioner

Enclosure

ALASKA BOARD OF PAROLE

1981 REVOCATIONS

2/7/81

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 Misdmr 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 Misdmr 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

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 Misdmr 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 Misdmr 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

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	275

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

May 28, 1981

Honorable Charlie Parr, Chairman
Senate Health, Education & Social
Services Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

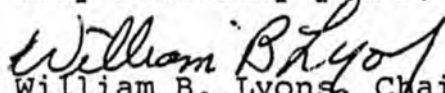
Dear Senator Parr:

Enclosed is a copy of the position paper of the members of the Alaska Parole Board regarding parole board legislation. This position paper with the current amendments was unanimously approved by the Board members at its recent hearings.

As the position paper states, the members of the Board are eager to meet with whatever interim groups or committees the Legislature establishes to review these major policy issues before the start of the next session. We believe that with over 50 years of experience in the criminal justice field by our members and professional staff, we can assist legislators and citizens to better understand some of the intricate workings of the criminal justice system.

Please contact me or the Parole Board office when you are ready to begin work on parole board and related legislature.

Very sincerely yours,


William B. Lyons, Chairman
Alaska Board of Parole

cc: Senate Judiciary
Committee Members

Senate H.E.S.S.
Committee Members

House Judiciary
Committee Members

House H.E.S.S.
Committee Members

Attachments

WBL/clr

POSITION PAPER
PAROLE BOARD LEGISLATION

by

Alaska Parole Board Members

The Parole Board supports House Bill 225 and Senate Bill 217. The Board members believe that these two bills will enable the Board to comply with the national standards established for paroling authorities. The bills more than surpass the legal requirements mandated by various court decisions in Alaska and around the country, and they provide reasonable structure for the equitable and fair handling of all state prisoners who might be eligible for parole. Also, many of the recommendations of the Alaska Corrections Masterplan consultants were incorporated into this legislation.

These bills spell out in detail in the statute all of the various rights of prisoners at hearings. The responsibilities of the Board are more specifically outlined than in the old statute. These bills provide new provisions for:

- a) The recruitment of board members;
- b) The selection criteria for board members;
- c) Five year staggered terms for board members;
- d) A basis for removal of board members;
- e) The procedure for removal of board members;
- f) The adjustment of compensation for board members;
- g) The standards and parameters for parole conditions;
- h) The requirement that regulations be printed in the administrative code;
- i) More detailed and concrete responsibilities for the board;
- j) The requirement that the board advise prisoners in writing the reasons for adverse decisions;
- k) The clarification of a number of old, vague provisions in the statute;
- l) The discharge of parolees from parole;
- m) The requirement that at least one board member interview each parole applicant;
- n) The removal of the statutory inequity in the handling of "legislative parole" and "mandatory release" cases;
- o) A definition of the status "mandatory release";
- p) A minimum correctional experience requirement for the board chairman;
- q) The requirement that the governor designate the board chairman;
- r) A prohibition against a board member seeking or holding a public office during his term;
- s) Clear definitions for the important terms used in the statute;

Although the Board is generally supportive of the direction of SB 327 and HB 261, these two bills (almost identical) also pose some major problem areas. Increasing the number of Board members to seven does not serve any useful function, and will increase the number of Board hearings, resulting in increased costs of the

operation of the Board, and slow down the decision making processes. These bills would result in a greatly increased number of Board hearings in attempting to reward parolees for good behavior by granting or taking away good time while on parole. The two bills supported by the Board do essentially the same by allowing them to be terminated early from parole supervision for good behavior. The Board members do not feel that the additional costs of the good time section is worth the burden it would impose upon the Division of Corrections and the Board. Early termination from supervision in probation cases in Alaska has proven very effective, and the Board feels this is an adequate tool to serve the purpose of rewarding good behavior while on parole.

The two bills supported by the Board require disclosure of all pertinent information on parole applicants and parolees when they are applying for parole or are in jeopardy of having their parole revoked. SB 327 and HB 261 allow the prisoner or parolee a copy of every piece of paper in his file, to refute information presented in his Board hearing, and to present any information he wishes on his own behalf. The methods by which SB 327 and HB 261 accomplish this are very cumbersome and will frequently result in the continuance of cases due to the arrival of material less than 30 days before hearings, which would not be in the best interest of the prisoners or parolees. There is needed clarifying language in SB 327 or HB 261 which are needed to avoid additional litigation in the future.

The Parole Board is opposed to the passage of House Bill 293. House Bill 293 makes all prisoners who commit crimes after July 1, 1981 ineligible for parole release. Instead, prisoners would be eligible to earn good time, some at a slightly higher rate than they can presently, and also they would be eligible for furloughs. Eligibility for furloughs under HB 293 is actually more restrictive than the current practices and policies of the Alaska Division of Corrections.

The administration's commentary on the bill implies that by extending the presumptive sentencing law to encompass all felony offenders, disparity in sentencing will no longer be a problem.

The current presumptive sentencing law nor the extension of presumptive sentencing to all felony offenders under this bill will not wipe out or significantly reduce the disparity in sentencing. The ranges of sentences even with this scheme are so wide that disparity is likely to remain. Much of what happens with presumptive sentencing depends upon the prosecutor's office, which has considerable discretion with that sentencing scheme. An Alaska Judicial Council study on plea bargaining aptly points out that the "local styles of prosecuting and judging were of overriding importance", and neither of these segments of the system, even with presumptive sentencing, should be relied upon to eliminate disparity. The new criminal code sharply increased the influence of the prosecutor while limiting somewhat the power of the judiciary. Except in a small percentage of cases, the presumptive sentencing law in effect does not mandate specific or mandatory sentences. The prosecutor is the person that frequently holds the key to whether

or not most of these presumptive or mandatory sentences will apply to a given case, and with the establishment of a mitigating or aggravating factor, the range of sentences is wide.

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" and therefore not subject to presumptive sentencing.

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 ten years if charged as first degree assault and if any mitigating and aggravating factors were charged, the judge could sentence Smith to any sentence from 5 to 20 years. Smith would have to be sentenced to the presumptive sentence of ten 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 mitigated down to 0 years or aggravated up to 10 years. Thus he can effectively decide what range the judge will have available at 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's range of discretion is 0-20 years for the assault I and 0-10 years for the assault II charge. Obviously the prosecutor isn't lacking discretion under the new code, nor is the range of sentencing narrow.

We are told judicial discretion is removed or severely limited by presumptive sentencing. It is limited somewhat but certainly not removed entirely. 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, (assuming an assault II conviction) as long as at least one factor in mitigation and one factor in aggravation was proven, by giving different weights to those factors. For example, Judge A could give strong weight to the mitigating 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 factors. 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. Developing these standards is the area that needs to be addressed. (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 question of who should or should not go to jail at all.)

The important point is that discretion has not been severely curtailed or removed from the judge or prosecutor by the establishment of presumptive sentencing, and extending presumptive sentencing to all felony offenders is not likely to accomplish the intended goal of the elimination of disparity in the handling of cases in the criminal justice system.

What House Bill 293 does do is increase the lengths of time that prisoners would serve in jail, as the Division of Corrections has made it very clear they would not attempt to and would not replace the current Alaska parole system with furloughs. This direction of increasing prison terms flies in the face of research which shows that prisoners serving substantially longer periods of time in jail are not deterred at any higher rate than those with shorter sentences, and possibly may do worse after release than prisoners with shorter sentences.

Competent research shows us that involvement in meaningful programs can have some effect on decreasing the recidivism rate of prisoners. The possibility of parole is obviously a motivating factor to offenders for involvement in these programs. Although many offenders initially get involved in programming "for show", many of them also have remarked later on in their incarceration or even after their release that they would not have been aware of any particular problem that contributed to their involvement in criminal behavior were it not for the involvement in the programming.

This bill would also result in the continued incarceration of the offenders when it has been demonstrated that only 6% of the parolees released by the Board with as long as a nine year follow up period have been convicted of a new felony while on supervision. The increased costs of incarceration of these offenders will reach over a million dollars in a few short years if the Parole Board is abolished. It should be pointed out that this new felony conviction rate is less than one-half of the national average. Although it is impossible to pinpoint directly the reasons for this low new felony rate, we think some of the policies adopted by the Board have had some effect. The Board does consider each case carefully, it individualizes parole conditions based upon the offender's background, it requires pre-release planning to insure the parolee had the best possible community and family support, and the Board strongly supports close contact by the supervising parole officer during the early months of parole to monitor and assist the parolee in making a successful reintegration.

This bill abolishes a segment of the criminal justice system that has the proven capability to set reasonable, equitable, and even prison terms on a state-wide basis. Recent parole board research shows that the Board does an excellent job of treating persons of various races almost identically, which of course has been a significant problem in sentencing in previous years. Legislation would shift this discretion back to the prosecutor, and also somewhat

to the Division of Corrections.

Perhaps the most objectionable feature of HB 293 is a constitutional one. Section 21 of Article III of the Alaska Constitution states; "A parole system shall be provided by law." The Department of Law states that the provisions for mandatory good time in HB 293, and the furlough system provide for therein, constitute a parole system. We believe a system of parole necessarily includes a parole board, empowered to release prisoners prior to the time they would otherwise be released under their judgment and good time statutes, empowered to impose conditions of release, to enforce those conditions through parole officers, and to revoke the early release if warranted. Furloughs and good time (already provided for in existing statute) do not constitute a parole system, and the abolition of the parole board in HB 293 violates the Constitution of the State of Alaska.

Part of the intent of this bill is an attempt to replace parole with furloughs by increasing the number of persons placed in community based programs. Furlough decisions are made by the individual classification committees and superintendents of the various correctional facilities around the State of Alaska and by similar groups of people when Alaska prisoners are farmed out on contract to the Federal Bureau of Prisons or other correctional facilities in other states. The effect is that instead of decisions being made by the same group of five people using one set of standards statewide, furlough decisions would be made by nine superintendents, 25 wardens, and the various classification committees in correctional facilities around the State of Alaska and in those facilities in the Federal Prison system. It is highly likely that disparity in handling of prisoners in the granting of furloughs would be quite disparate based upon the knowledge of how furloughs are granted and have been granted throughout the State in previous years. There is no intent to impugn the integrity of any of these professional staff people, but just to point out that it is highly unlikely that these 100 or more people could possibly carry out any policy more uniformly than the same five persons (Parole Board) operating together on all cases statewide.

The Board has compiled research on all cases handled by it from 1970 through 1979 and developed specific time served criteria for various crime categories, considering the offender's prior record and other significant factors. This approach represents a consistent, equitable approach to the handling of offenders that the judiciary sentences to serve time in jail. The parole guidelines system does provide a great deal of certainty about when a prisoner sentenced to jail might expect to be paroled. He can compute his risk score if he wishes even before he goes to jail and get an excellent idea of how much time he can expect to serve, if there are no extenuating aggravating or mitigating circumstances. Furthermore, the Parole Board adopted a policy several years ago to begin seeing all prisoners within six months of their date of sentencing, anticipating that presumptive parole dates would be established on many offenders that do not have extremely long sentences. The parole board has been hampered from implementing this policy because of the lack of information on what prisoners

were in jail and lack of funding to hold additional hearings. We hope this problem will be eliminated in the near future.

With the parole guidelines that are already in effect, and with the parole board seeing most prisoners early in their sentences to establish presumptive parole dates, offenders will know early in their sentences when they can expect to be paroled. The major focus of HB 293 is to introduce certainty into the criminal justice system. The current parole board guidelines with its policy of seeing people shortly after they are sentenced will provide the certainty without the greatly increased costs to the citizens of the State that HB 293 would impose. Current research shows that the parole board operates efficiently, cheaply, and equitably. With the recently completed modifications and those anticipated in the near future, certainty in the parole decisions has become a reality.

The State Constitution states that penal administration shall be based upon the reformation of the offender and protection of the public. Both of these must take into consideration individual information regarding the offender. We know from valid research that factors come to the attention of officials of the system after sentencing that can significantly influence both of these principals, reformation of the offender and protection of the public. Using this information at parole hearings does therefore enhance the protection of the public and reformation of the offender, and for these reasons the system should maintain the parole component that allows structured decision making after the judicial determination of who should go to jail and who should not.

Because of the short time left in this legislative session to deal with all of the various parole board bills, the Board members support House Bill 510 as ammended in the House as the reasonable alternative due to time constraints. The Board strongly urges the Legislature to study the very complex issues involved with the operation of criminal justice system and its relationship to the Parole Board between now and January 1982. Communication with the Board and those working closely with the Board is encouraged. The Board members wish to meet with members of the Legislature between now and next January to carefully explore the information and complex issues involved before a major policy decision is made. We pledge our time and our small staff's time and resources in any way we can assist the Legislature in making an informed, well-reasoned decision.



Alaska State Legislature

Senate

JUNEAU, ALASKA

Lawyer calls for end of state parole board

By The Associated Press

The state parole board should be replaced with a system that rewards inmates for good behavior, a criminal justice lawyer told a House panel Thursday.

In testimony before the House Judiciary Committee, Assistant Attorney General Barry Stern said the parole board should be allowed to die June 30, as it would under current state law. The committee is considering what kind of parole system the state should have.

Rep. Terry Martin, R-Anchorage, has introduced a bill (HB225) that would continue the parole board.

Stern urged lawmakers to adopt a plan that will be submitted by Gov. Jay Hammond next week to replace the parole board with a system that would shorten inmates' sentences for good

behavior and make prison sentences and early releases more consistent.

He said it is important for current disparities be eliminated so that those convicted of crimes will know how long they will have to serve. "Now it's a guessing game," Stern said.

Director of the Division of Adult Corrections Charles Campbell said that there is "a great deal of concern about disparity and discrimination" in the criminal justice system, but the prospect of eliminating the parole board is "discomforting."


In written testimony, Sam Trivette, parole board executive director, said "although the parole function could be handled by the courts or another agency of the state, or by other state employees, the board is the most cost effective while offering fair, consistent and reviewable decisions."

Juneau Empire
2-27-81

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

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 occurred 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:

Representative Nels Anderson
February 28, 1980
Page 3

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 eighth 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.

Representative Nels Anderson
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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 / New Felony Violation / Committed		Technical / New Felony Violation / Committed		Technical / New Felony Violation / Committed		Technical / New Felony Violation / Committed		Technical / New Felon Violation / Committed
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 institutions 75-80 at smaller facilities
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	1,007	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

^aThe chairman serves fulltime; members serve part-time

^bThe 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

^aThe chairman serves fulltime; members serve part-time

^bThe 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
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

^aThe chairman serves fulltime; members serve part-time

^bThe 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 ^{1r}
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

^aThe chairman serves fulltime; members serve part-time

^bThe 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
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

^aThe chairman serves fulltime; members serve part-time

^bThe chairman and two members serve fulltime; two members serve part-time.

1978 information

GOALS AND OBJECTIVES OF
THE ALASKA PAROLE BOARD FOR 1982 - 1983

GOALS

Enhance the safety and security of the citizens of Alaska by only releasing to parole supervision those offenders that will, in reasonable probability, live and remain at liberty without violating the laws or without violating the conditions imposed by the Board (AS 33.15.080).

Enhance the criminal justice system by releasing to parole only those offenders whose release is not incompatible with the welfare of society (AS 33.15.080).

Provide the Governor with a comprehensive report of an investigation on each executive clemency applicant, along with all other information the Board has regarding the applicant (AS 33.15.080).

Conduct hearings as necessary pursuant to the Interstate Compact on Probationers and Parolees (AS 33.10.010).

OBJECTIVES

1. Operate the Board to insure that less than 8% of parolees released are returned to custody within one year of release with a new felony conviction.
2. Operate the Board to insure that less than 20% of the parolees are returned to custody within one year of release.
3. Operate all Board hearings in a timely manner in compliance with federal and State laws, applicable court decisions, and Board regulations to:
 - a) Prevent offenders from being released or parolees from remaining in the community because of technical errors made by the Board.
 - b) Prevent any monetary judgment against the State because of improper Board action or activity.
4. Operate the Board to insure the most cost effective expenditure of State funds.

5. Make consistent case decisions based upon researched, written guidelines and provide a written record in each case so that interested parties can be informed of the reasons for any case decision upon inquiry.
6. Handle all administrative appeals of Parole Board or Parole officer decisions in accordance with Board regulations.
7. Support the enactment of legislation to modify and update Parole Board laws to retain a constitutionally-viable parole system that would meet the standards established by the Commission on Accreditation for Corrections.
8. Once legislation has passed, apply for accreditation through the Commission on Accreditation for Corrections and strive to become accredited.
9. Hold hearings on all offenders eligible for discretionary parole within six months after the date of sentence on those sentenced to terms of 5 years or less, or within 2 years of parole eligibility on those sentenced to terms in excess of 5 years.
10. Have Division of Adult Corrections employees complete parole progress reports on all offenders applying for parole.
11. Provide professional training for all Board members and staff involved in conducting parole hearings.
12. Improve, expand, and update the research on parole applicants and parolees to insure accuracy of data and improve the information on which individual case decisions are made pursuant to the parole guidelines.
13. Meet with other criminal justice system employees in the State to coordinate activities and discuss problem areas.
14. Meet with other State officials to seek solutions to the overcrowding in Division of Adult Corrections institutions.
15. Continue long range planning of Parole Board and Board related activities.
16. Continue to support and assist with the implementation of OBSCIS (Offender Based State Correctional Information System).
17. Hold more frequent revocation and rescission hearings to decrease the time violators are held in custody before final action is taken by the Board.
18. Revise and update the Board's regulations and other working documents as necessary.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 327 (HESS)

Title "An Act relating to parole of offenders."

Requested by Senator Parr

Date March 8, 1982

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender Confinement, Reformation & Supervision

SRU, Program, Or Subprogram(s) Affected Adult Confinement - Probation

(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)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

The changes incorporated into Committee Substitute for Senate Bill No. 327 (HESS) have removed the fiscal impact which would have been experienced with enactment of the original bill.

It has been assumed that all parolees will cooperate with the probation officers and waive a formal hearing when a change of parole condition is considered necessary by Department staff. The alternative for a parolee is to be incarcerated for the period until the hearing could be scheduled.

IV. DATE March 9, 1982

PREPARED BY Roger C. Lange

AGENCY Division of Adult Corrections

PHONE 465-3376

Original: Legislative Finance
cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Roger C. Lange
JCC

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for SS for Senate Bill 327

Title An Act Relating to Parole of Offenders: Continuing the Parole Board

Requested by Senator Parr

Date _____

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services

Program Category Affected Offender Confinement Reformation & Supervision

SRU, 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL		10.3	5.1	8.5	6.5	15.9
300 CONTRACTUAL		1.3	-0-	1.5	-0-	1.7
400 COMMODITIES		-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 COMPENSATION		33.0	35.5	38.8	41.0	62.1
TOTAL		44.6	40.6	48.8	47.5	62.1

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		44.6	40.6	48.8	47.5	62.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

NONE

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-				
PART TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

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

See Attached Sheets

IV. DATE March 8, 1982

PREPARED BY

Samuel H. Trivette

AGENCY

H & S.S. Parole Board

Original: Legislative Finance

PHONE

465-3384

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

JCC

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

Budget one trip by one staff to Anchorage, Fairbanks, Nome, Bethel, Kenai, Ketchikan and Sitka to meet with organizations to recruit for Board members and administer member assessment. Two additional one day trips to two locations to do final interviews and train on member responsibilities. Budget every fourth year.

Travel & Per Diem 3.9

Total 3.9

B. Section .050, Compensation

The bill would provide payment to the Board members for any day they are conducting business, including the reading of files, handling Board business by phone, as well as hearings.

a) Reading reports-assume .225 cases/year x 3/4 hours per file = 23 "member days". Guess 23 days x 7 members = 16.1

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

c) Pay full days compensation for those days holding preliminary hearings, 1/2 day parole hearings, etc. Guess 35 member days x \$50 = 1.8

Total 29.9

D. Section .080, Responsibilities

Funds for teleconferencing of hearings to adopt regulation, advertise hearings, have staff travel to hearings to establish regulations in the Alaska Administrative Code. Budget every other year.

Contractual 1.3
Travel & Per Diem 2.0
Compensation .4

Total 3.7

D. Section .180, Change in Conditions

Anticipate 5 parolees will request a hearing pursuant to this Section resulting in teleconference hearings by three Board members.

Transportation 1.6
Per Diem 1.3
Compensation 1.5

Total 4.4

E. Section .280, Revocation Hearings

The "clear and convincing evidence" test will result in a representative from the District Attorney's office presenting some of the cases for the Division of Corrections, as is done in many probation revocation cases now. Assume District Attorneys will be present in 1/4 of the cases (7) which will result in a doubling in the length of the hearing time in those cases resulting in 4 additional "board days per year".

Per Diem	1.6
Compensation	<u>2.0</u>

Total 3.6

F. Assumption for FY-84 Through FY-87

- a) Travel = 15% in FY-84 and FY-85; 10% thereafter.
- b) Compensation = Consumer Price Index will increase by 9% in FY-84; 8% in FY-85; 7% in FY-86 and FY-87.
- c) Contractual = 8%

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SENATE AMENDMENT

By SEN ELLI

To: _____ SENATE BILL No. 331

To: _____ HOUSE BILL No. _____

PAGE: _____ LINE: _____

Page 1, line 28: AMEND TO READ:

(4) HABITUALLY ABUSES CONTROLLED SUBSTANCES.

Page 3, line 17:

DELETE THE WORD "INTEMPERANCE" AND INSERT "ABUSE OF CONTROLLED SUBSTANCES" IN ITS PLACE

Page 3, line 19: ADD A NEW SECTION TO READ:

* Sec. 5. AS 22.30.80 IS AMENDED BY ADDING A NEW PARAGRAPH TO READ:

(3) "CONTROLLED SUBSTANCE" MEANS A DRUG PROHIBITED UNDER AS 17.10, AS 17.12 OR ANY ALCOHOLIC BEVERAGE

(3) "INTEMPERANCE" MEANS HABITUAL OVER CONSUMPTION OF ALCOHOLIC BEVERAGES OR DRUGS PROHIBITED UNDER AS 17.10 OR AS 17.12.

REACHABLE
IRREACHABLE

1 of this section. A hearing under this section is a hearing under
2 AS 44.62.310(c)(2) and is private unless a public hearing is requested
3 by the judge.

4 (c) A judge appearing before the commission at the hearing is
5 entitled to counsel, may present evidence, and may cross-examine wit-
6 nesses.

7 (d) The commission may, after a hearing held under (b) of this
8 section,

9 (1) exonerate the judge of the charges;

10 (2) reprimand the judge privately;

11 (3) refer the matter to the supreme court with a recommen-
12 dation that the judge be suspended, removed, or retired from office or
13 censured by the supreme court.

14 (e) A decision by the commission to reprimand a judge privately
15 may be appealed by the judge to the supreme court.

16 (f) If the commission decides to reprimand a judge privately, the
17 commission shall forward the reprimand to the judge. A copy of the
18 reprimand shall be sent to the chief justice of the supreme court. The
19 reprimand is confidential.

20 (g) If the commission exonerates a judge, a copy of the proceed-
21 ings and report of the commission may be made public on the request of
22 the judge.

23 * Sec. 2. AS 22.30 is amended by adding a new section to read:

24 Sec. 22.30.066. INQUIRY. The commission may subpoena witnesses,
25 administer oaths, take the testimony of any person under oath, and
26 require the production for examination of documents or records relating
27 to its inquiry under AS 22.30.011.

28 * Sec. 3. AS 22.30.070(b) is amended to read:

29 (b) On recommendation of the commission or after an appeal under

1 AS 22.30.011(e) [ON ITS OWN MOTION], the supreme court may suspend a
2 judge from office without salary when in the United States he pleads
3 guilty or no contest or is found guilty of a crime punishable as a
4 felony under state [ALASKA] or federal law or of a [ANY OTHER] crime
5 that involves moral turpitude under state or federal [THAT] law. If his
6 conviction is reversed, suspension terminates, and he shall be paid his
7 salary for the period of suspension. If he is suspended and his conviction
8 becomes final, the supreme court shall remove him from office.

9 * Sec. 4. AS 22.30.070(c) is amended to read:

10 (c) On recommendation of the commission or after an appeal under
11 AS 22.30.011(e), the supreme court may (1) retire a judge for disability
12 that seriously interferes with the performance of his duties and that
13 is or may [IS LIKELY TO] become permanent, and (2) censure or remove a
14 judge for action occurring not more than six years before the commencement
15 of his current term which constitutes wilful misconduct in the
16 office, wilful and persistent failure to perform his duties, habitual
17 ~~ABUSE OF CONTROLLED SUBSTANCES~~ or conduct prejudicial to the administration of
18 justice, or conduct that brings the judicial office into disrepute.

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20 * SEC. 5 AS 22.30.80 IS AMENDED BY ADDING A NEW PARAGRAPH
21 TO READ:

22
23 (3) "CONTROLLED SUBSTANCE" MEANS A DRUG PROHIBITED
24 UNDER AS 17.10 ~~OR~~, AS 17.12 OR ANY
25 ALCOHOLIC BEVERAGE
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INTEMPERANCE. Habitual intemperance is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon an innocent party. *Hope v. The Maccabees*, 91 N.J.L. 148, 102 A. 689, 691, 1 A.L.R. 455; *Andrews v. United States Casualty Co.*, 154 Wis. 82, 142 N.W. 487, 490.

BLACKS LAW DICTIONARY