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106

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



TO: Senate State Affairs
Committee Members

FROM: David Dye, 
Committee Aide

DATE: March 24, 1983

RE: Draft CS for Senate Bill 106--Prison overcrowding

This draft CS addresses concerns identified by the committee at the first hearing on this bill. The draft is the product of the cooperative effort of committee staff, department of law staff and corrections staff.

According to the Division of Corrections estimates, SB 106 would release approximately 40 felons in an emergency overcrowding situation. This draft CS would release approximately 55 felons and an additional 30 misdemeanants. To be eligible for release, misdemeanants must be serving a sentence of 20 days or longer and have served at least one-half of that sentence. Under these criteria drunk drivers incarcerated for a mandatory minimum sentence on first or second offense would not be eligible for release.

The draft differs from the original bill in the following ways (page and line references are to the draft CS):

Page 2, line 2. A state of emergency overcrowding is certified after a 25 day waiting period instead of 30 days.

Page 2, line 3. The director shall immediately certify the state of overcrowding following the 25 day waiting period rather than have 48 hours to so certify.

Page 2, line 5. The director has 5 days to submit a list of prisoners eligible for release after the 25 day waiting period rather than 15 days.

Page 3, lines 6, 17 and 21. Parole or probation may be revoked for a violation of a municipal ordinance which is punishable by imprisonment. In the original bill violation of any municipal ordinance could revoke probation or parole.

Page 3, line 25. Limits the applicability of subsection (a) to felons (a new subsection (b) applies to misdemeanants, see below).

Page 3, line 28. The requirement that a prisoner be continuously incarcerated during the 25 day period of the waiting period has been deleted.

Page 4, lines 3-4 and 6-7. This bill is made applicable to crimes committed under the old criminal code.

Page 4, line 12. Adds language to subsection (E) limiting its applicability to felons (a new subsection (b) applies to misdemeanants, see below).

Page 4, line 14. Changes this criterion to 120 days rather than 90 days.

Page 4, line 16. Adds a requirement that a felon serve at least one-half of his or her sentence.

Page 4, line 17. Subsection (D) is added to release with misdemeanants under different eligibility criteria than felons.

Page 5, lines 13-16. Adds definitions of "felony" and "misdemeanor".

Use -

I Think SB 106 is a good bill.

When our facility started getting Reeled over-crowded, some State Stalked about a law-suit against the state to ensure Highland maintain maintains as a rehabilitative facility and doesn't turn into a Max-facility as it looks to be ~~turning~~ turning into. It now has a double fence, one w/ razor wire and one with a fence sensor which is an alarm system. Plus it has a separate fence around a housing units. There was also talk about a 24 hour ^{some} guard to patrol the perimeter ~~bad~~. ~~This was at the~~

This facility was built as the last institutional step from Max facilities to Society so the sentences were to be 2-3 years.

We now have people from unsentenced having not even gone to trial to serving 6-10 years.

The facility is also getting more men ~~from~~ from the Federal system. This has been OK in the past because we got one at a time. We're getting many in our facility at once ~~at~~ and that can be very dangerous.

We are a very nice system as compared to the Federal system. We don't have Killings, Gangs, Rape, Strong arming. If too many FBI inmates

Come up here at once. There is a very big possibility they could/can over run our prison system. Not only are our inmates naive to these kinds of activities, the staff are too.

Now to go on about your bill —

I understand the need for dealing w/ overcrowding. You're right in saying the overcrowding affects the rehabilitative process.

The Caucus has included a position paper on Corrections which I have attached. If we had Professional Counselors dealing w/ these men I would have no problem with your bill.

As it stands now — I will share with you some possible drawbacks.

1. Some of the reasons these people are in jail ~~are~~ ^{are} because they are unemployed, no skills, poor self concepts unsuccessful in their lives, no awareness of responsibility. We do maintenance & they "do their time" so by the time they're released they probably haven't learned that much new as to not come back.

When a person is released w/no money - that's a pretty good set-up to come back. People go to the half way house to get jobs to have some \$ before they get out. The Half way house is a profit making place so not only do they get so much for each inmate from the state, they take, I believe, 1/4 of their income while there. These people can't be making too much money to begin with. They're pretty much limited to the last 90 days of their sentence before they can even go to the halfway house to begin w/ so again that's going to cut down on their time to save \$.

Now - if we have a crunch on space and so many bodies have to be released and they start w/ the halfway house people - it puts them on the street before they're financially prepared. (Chances are they will be back in a short time)

The space is now open for the institution to put people in the halfway house - many don't want to go there because there are more hassels than in jail. If people are forced to go - that won't

work cuz they have to be ready for that process.

Another problem if you don't use the halfway house to release the crunk. If as group of people are released from the institution the same problem exists — they have no money saved ~~or~~ at least not enough to get started.

There is the problem of who to release. The non-violent crimes are the most likely # those w/ the least amount of things. That will be!

They all get less time than prostitutes

1. DUI
2. Tricks or Johns (if that bill passes)
3. Pimps

I think it will be a revolving door.

Maybe not as quickly as to create a problem. However if

The DUI's are the most likely to be released because they get the least time — you're going to hear it from MADD especially if a DUI gets out of them kids somebody while drinking.

As you know there is no one solution. It's nice to see there are individuals trying to find some solutions however.

If I can be of any help in the future — please do not hesitate to call on me. The system needs a drastic change while we still have the chance. If not — IT will be as bad as we read and hear about in the lower 48°. However, there are many state employees in this system who are also "DOING TIME". Picking up pay checks and waiting for retirement.

Thanks so much for your concern. I've been talking on this issue for 5 years and people are just now hearing. I do believe it can get better.

Thanks again -

Patti Zachery
1629 Logan
Anchorage, Alaska
99504

Hm. 2742036
WRK 6949511

P.S.

Thanks so much for your hospitality

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: S.B. 106 Date on Bill: February 8, 1983
 Title: "An Act relating to overcrowding of the state prison system"
 Spncsor: Office of the Governor
 Requestor: Senate State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital						
Operating						
Total	-0-	-0-	-0-	-0-		

b. Revenues:

Revenue						
---------	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

No funds required

3. Assumptions:

A basic assumption is made that an insignificant number of misdemeanor offenders would qualify for early release under this legislation. This is based on the eligibility criteria in Section 33.20.140. Therefore, the inmate population effected are those persons completing longer sentence for felony offenses.

The October 1982 figures indicate 118 persons convicted of felony offenses were within 90 days of completing their sentence. It is, therefore, assumed that between 105 and 130 inmates would be eligible for early release at any time when the provisions of this legislation would be invoked.

The simultaneous release of this number of persons at one time into probation or parole services would create a significant strain on the staff during the period of release. It is not possible to predict whether or not additional resources would be required over the short term to accommodate the influx in the caseload. By the ninety-first day, the caseload should be at the same point as though no early release were made. It is assumed that other on-going work would have to be set aside by both institutional probation staff, who would prepare the release papers, and field probation staff during the impacted period.

Although not a direct effect of this proposed legislation, it should be recognized during the regular budgetary process that additional probation/parole staff resources are required to provide the supervision to the ever increasing number of released felons.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact. RHA

Prepared By: Roger C. Lange
Division: Adult Corrections

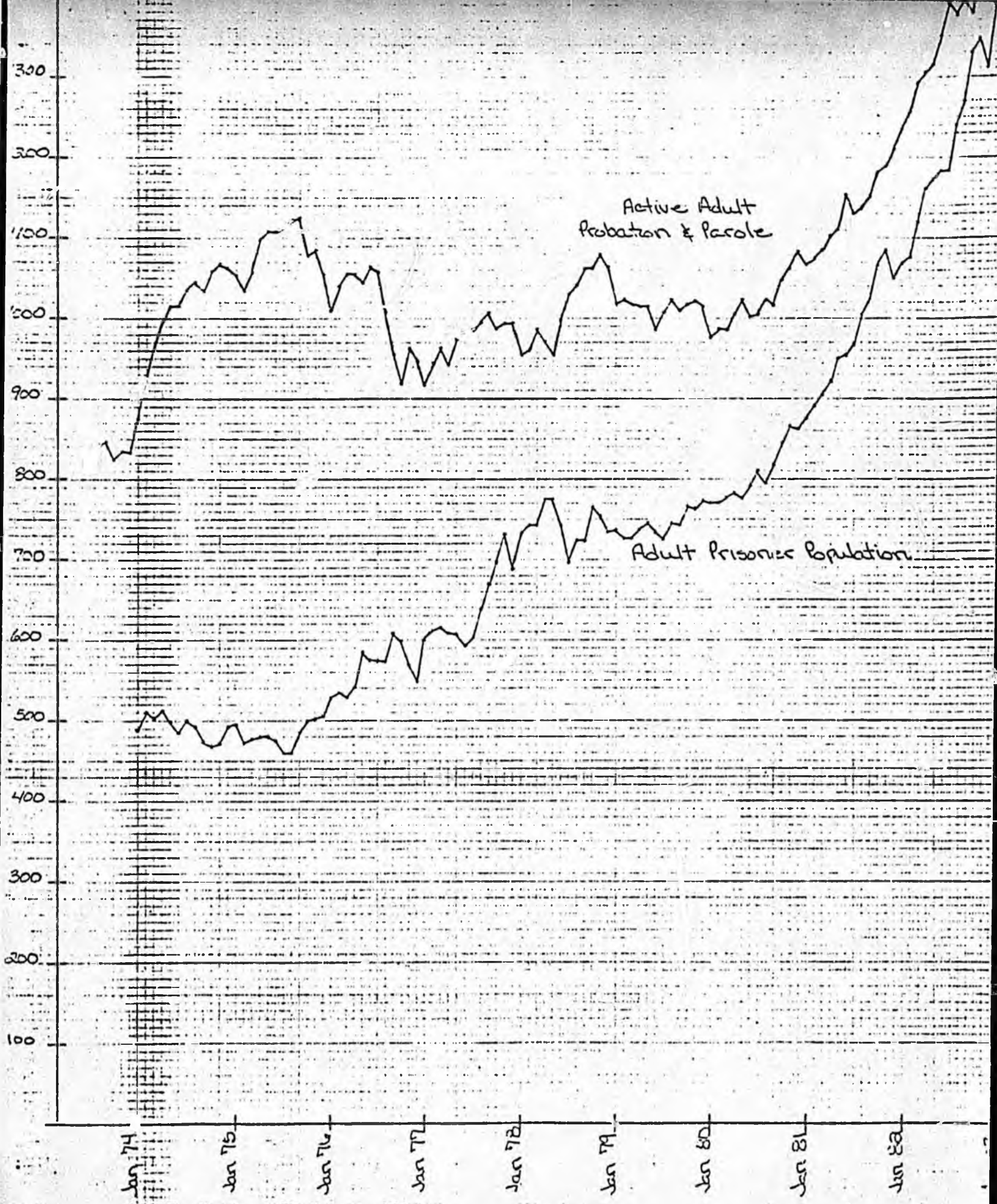
Roger C. Lange

Phone: 465-3376
Date: July 28, 1983

Approved by Commissioner: Robert London
Department: Health and Social Services

Robert London

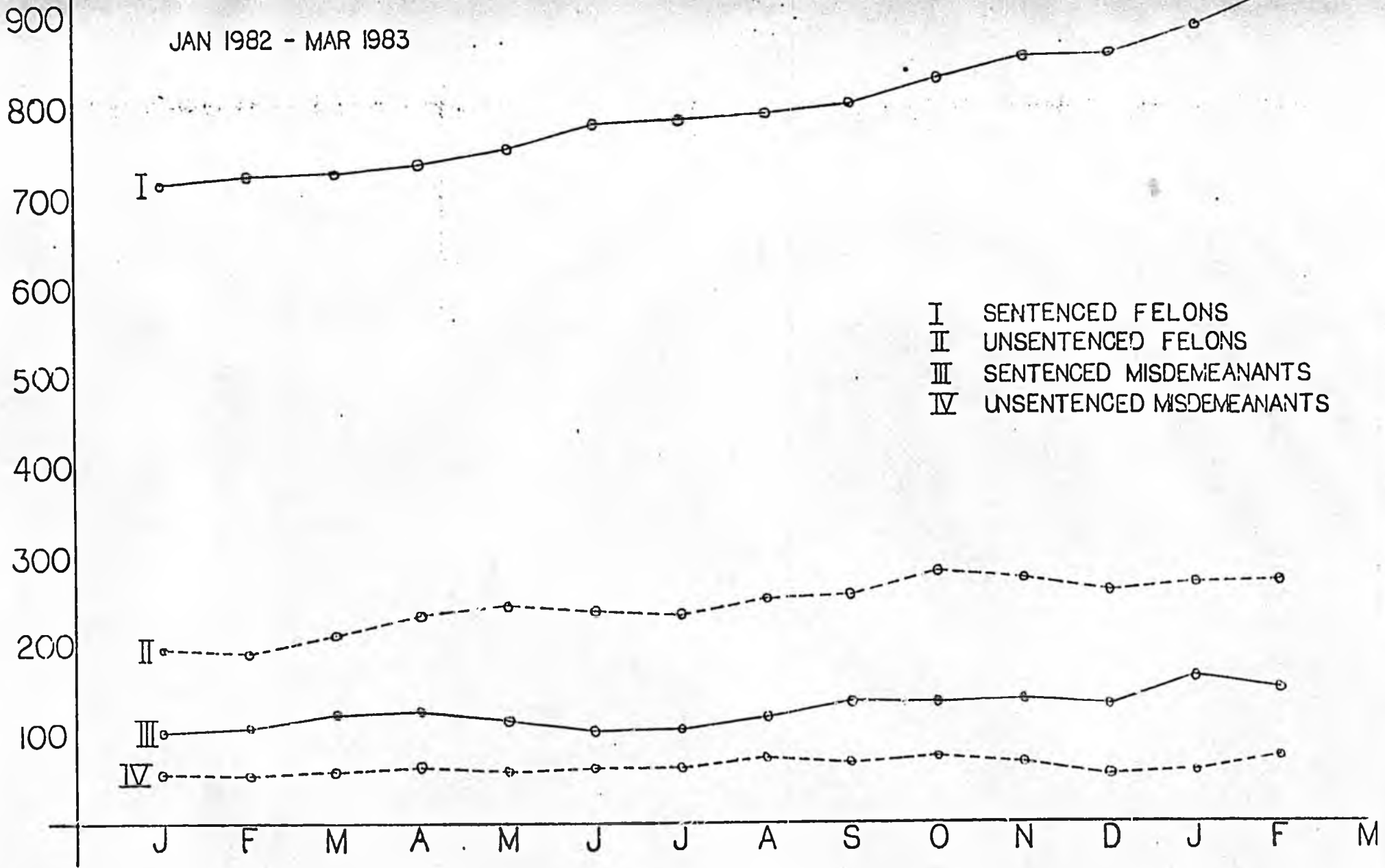
Date: 2/25/83



Active Adult Probation & Parole

Adult Prisoner Population

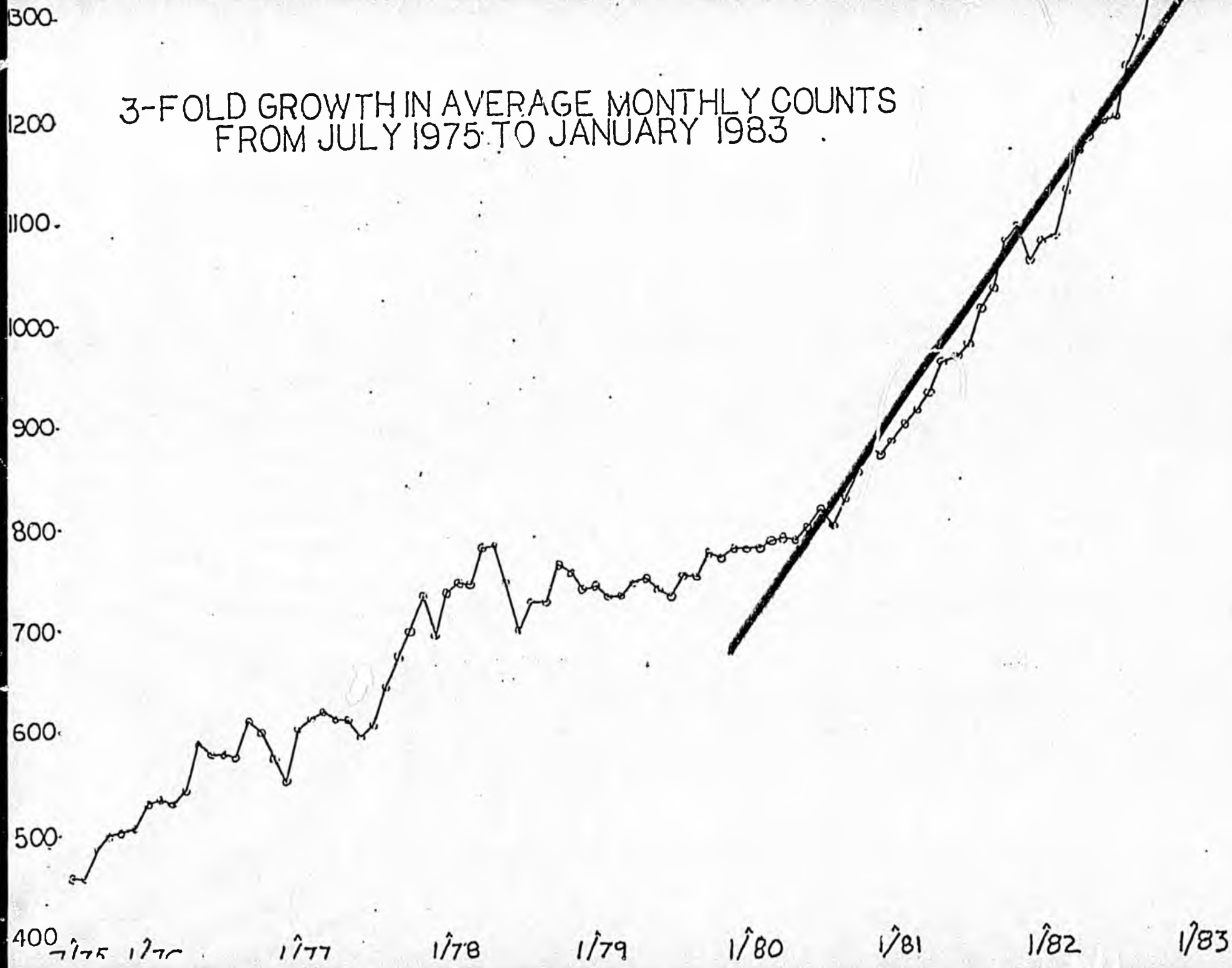
JAN 1982 - MAR 1983



I SENTENCED FELONS
II UNSENTENCED FELONS
III SENTENCED MISDEMEANANTS
IV UNSENTENCED MISDEMEANANTS

ALASKA PRISON POPULATION GROWTH

3-FOLD GROWTH IN AVERAGE MONTHLY COUNTS
FROM JULY 1975 TO JANUARY 1983



OVERVIEW OF THE PROBLEM

Table 3
Alaska State Correctional Centers
Capacity and Populations

State Correctional Centers	Normal Capacity ^a	Emergency Capacity ^a	Prisoner Count 1/82 ^b	Prisoner Count 1/83 ^a
SCC - Anchorage • Sixth Avenue • Third Avenue	100 65	100 ^b 65 ^b	100 83	94 64
SCC - Eagle River • Highland Mountain -Special Treatment • Meadow Creek	160 10 28	240 14 28	153 26	212 28
SCC - Palmer • Minimum Custody • Medium Custody	106 100	120 150	130 95	138 98
SCC - Fairbanks • Temporary Unit • Expanded Unit	56 110	56 125	164	181
SCC - Nome	30	31	33	40
SCC - Juneau • Lemon Creek • Johnson Human Svcs.	90 4	105 4	132 1	127 2
SCC - Ketchikan	30	30	28	28
SCC - Ridgeview Careage House	90	115	134	94 13
Total	979	1,183	1,079 ^c	1,119 ^d

^a Department of Health and Social Services, Division of Adult Corrections.

^b Attorney General's Office, Memo to File No. J66-516-82 from Wilson L. Condon regarding Analysis of Corrections Population Projections, November 23, 1982.

^c This figure does not include the 61 prisoners that were confined in State halfway houses during this period or the 188 prisoners held in federal prisons outside of Alaska.

^d This figure does not include the 78 prisoners that were confined in State halfway houses during this period or the 191 prisoners held in federal prisons outside of Alaska.

Research Agency Report 82-E Jan 83

ANCHORAGE AREA SUMMARY
Division of Adult Corrections

On Saturday, March 5, 1983:

867 in custody in Anchorage Bowl
744 operating capacity (w/74 at CIPT)
113 more inmates than beds.

	<u>Actual Count</u>	<u>3-5 Maximum Operating Cap.</u>	<u>Immediate Revisions</u>
Hiland Mtn.	240	160	
Palmer	230	230	
Ridgeview	120	95	66
3rd Avenue	65	65	
Meadow Creek	33	30	
C.I.P.T.	74	74	200
6th Avenue	<u>95</u>	<u>90</u>	<u> </u>
	857	744	841

Action: Moving minimum of 110 additional inmates this week to C.I.P.T. In order to staff C.I.P.T., must close half of Ridgeview and move staff and 60 inmates to C.I.P.T. Another 20 inmates will transfer from Hiland Mountain Correctional Center. During the week 40 inmates will transfer from Sixth Avenue to C.I.P.T.

Staffing:

1. Move some from Ridgeview to C.I.P.T.
2. Voluntary overtime pool of correctional officers.
3. Potential raid of Academy trainees.

Summary: Even by adding 97 beds to operating capacity, we still are short 16 beds from last week's actual Anchorage area count. In the last 5 days there has been a net increase of 36 inmates in Anchorage, and an average of 40 bookings per day. There has been a statewide increase in the past two months of 120, to a total of 1,432 inmates.

POSITION PAPER

Senate Bill No. 106

"An Act relating to overcrowding of the state prison system; and providing for an effective date."

The Prison Overcrowding Emergency Act provides legal authority for the Commissioner to grant early release of prisoners during periods of extreme overcrowding in Alaska's correctional facilities. The act sets out a procedure wherein the Director of Adult Corrections is required to certify to the Commissioner that prison overcrowding is at a state of emergency. This will be required if the daily average prison population has exceeded emergency capacity for a period of 30 days. Within 15 days of certification the Director will submit a list of prisoners eligible for early release to the Commissioner and Attorney General. If the Commissioner determines a state of emergency exists and the prison population has exceeded emergency capacity for the 15 days following certification, eligible prisoners will be released to field supervision.

This act alone will not alleviate problems of our upsurging prison population, but it does provide a long needed tool to manage prison populations during emergency overcrowding situations. Many other states have adopted similar legislation.

It is believed that release of a large number of prisoners to probation and parole services simultaneously would create a significant strain on the field operations during the periods of declared emergency overcrowding. We cannot predict the degree to which field operations would be affected, but it is assumed that during the initial release period that ongoing work would have to be set aside by field probation/parole staff. It should also be noted that institutional probation staff would be affected in the same manner due to increased preparation of release papers. It is assumed that by the 91st day, the number of offenders to be supervised would be at the same level as though no early releases had occurred.

The Department does recommend introduction of the Prison Overcrowding Emergency Act as it provides a means to manage prison overcrowding during states of emergencies so that overcrowding does not prohibit the Department's ability to meet its constitutional requirements to provide reformation of offenders and to protect the public.

Senate Bill No. 106 (continued)

"An act relating to overcrowding of the State prison system; and providing for an effective date."

Recommended by:

Roger C. Lunge

Roger Endell
Director, Division
of Adult Corrections

Date:

January 10, 1983

Approved by:

Robert L. Smith

Robert L. Smith
Commissioner

Date:

2/2/83

POSITION PAPER

Committee Substitute for Senate Bill No. 106 (State Affairs)

"An Act relating to overcrowding of the state prison system; and providing for an effective date."

The Prison Overcrowding Emergency Act provides legal authority for the Commissioner to grant early release of prisoners during periods of extreme overcrowding in Alaska's correctional facilities. The act sets out a procedure wherein the Director of Adult Corrections is required to certify to the Commissioner that prison overcrowding is at a state of emergency. This will be required if the daily average prison population has exceeded emergency capacity for a period of 25 days. Within 5 days of certification, the Director will submit a list of prisoners eligible for early release to the Commissioner and Attorney General. If the Commissioner confirms a state of emergency exists and the prison population has exceeded emergency capacity for the 5 days following certification, eligible prisoners, within 72 hours, will be released to field supervision.


This legislation alone will not totally alleviate problems of our upsurging prison population, but it does provide a long needed tool to manage prison populations during critical overcrowding situations. Many other states are considering similar legislation or have already adopted measures to provide emergency relief for overcrowding.

It is believed that release of large numbers of prisoners to probation and parole services simultaneously will create a significant strain on the field operations subsequent to the periods of declared emergency overcrowding. The impact predicted on probation/parole operations is detailed in the fiscal note. Ongoing work cannot be set aside by field probation/parole staff because it is statutorily required, thus four additional staff are justified. It should also be noted that institutional probation staff would be affected in the same manner due to increased preparation of release papers.

POSITION PAPER
Committee Substitute for Senate Bill No. 106 (State Affairs)
Page 2

The Department does recommend passage of the Prison Overcrowding Emergency Act, as it does provide a means to manage prison overcrowding during states of emergencies so that overcrowding does not prohibit the Department's ability to meet its constitutional requirements to provide reformation of offenders and protection of the public.

Recommended by:

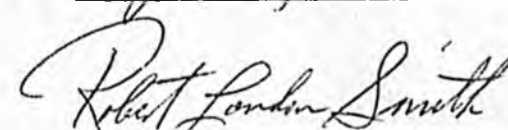


Roger V. Endell, Director
Division of Adult Corrections

Date:

April 24, 1983

Approved by:



Robert London Smith, Ph.D.
Commissioner

Date:

4/29/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST
Bill/Resolution No.: CS for SB 106 (SA)
Title: An Act relating to prison oc...
Sponsor: State Affairs Committee
Requestor: Finance Committee

II. FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Probation & Community Based Programs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		155.1	164.4	174.3	184.7	195.8
200 TRAVEL		4.0	4.2	4.5	4.8	5.1
300 CONTRACTUAL		7.2	7.6	8.1	8.6	9.1
400 COMMODITIES		1.6	1.7	1.8	1.9	2.0
500 EQUIPMENT		12.0	--	--	--	--
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	179.9	177.9	188.7	200.0	212.0
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	179.9	177.9	188.7	200.0	212.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funding to offset the fiscal impact of this bill has not been identified by the bill sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Walter B. Jones, Jr. Phone: 465-3376
 Division: Adult Corrections Date: April 25, 1983
 Approved by Commissioner: Robert Gordon Smith, M.D. Date: 4/29/83
 Department: Health & Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

IV ANALYSIS

A. Assumptions

1. Because of the revised criminal code, law enforcement increases and modifications to revised code to increase sentences and widen catchment arena, it is anticipated that monthly incarceration net rates will continue to rise rather than remain the same or decrease. The current rate of increase is near 25 additional inmates per month.
2. The community will need more protection and inmates being released under the auspices of this legislation will need more frequent contact, supervision and support than the level normally given probationers and parolees by the probation/parole staff.
3. Probation officers' present workloads exceed the maximum workload formula of 65 units per officer per month in the 3rd and 4th judicial districts. These districts will receive almost all of the releases for supervision. Existing staff will not be able to work with these releases and cover their other statutory requirements.
4. The Division's Research Analyst has estimated that 55 felons and 35 misdemeanants would qualify for release at any given time and this number would remain fairly constant.

Considering the above remarks, two Probation Officer II positions and one Clerk Typist III position for Anchorage and one Probation Officer II for Fairbanks are justified if medium to maximum supervision levels are exercised on all those persons released to the streets.

5. Inflation is estimated to be 6% annually.

B. Program Summary

1. Positions

The following positions will be needed to implement this legislation.

<u>Position Title</u>	<u>Location</u>	<u>FY 1984 Annual Salary/Benefits</u>
Probation Officer II	Anchorage	\$ 40,926
Probation Officer II	Anchorage	40,926
Clerk Typist III	Anchorage	26,508
Probation Officer II	Fairbanks	46,722
Total		<u>\$155,082</u>

2. Other Expenditures

Expenditures related to the four above positions will be incurred for travel, contractual services (telephone, postage, copying, insurance, etc.), commodities (office supplies) and equipment. The estimated needs for FY 1984 are:

Travel	\$ 4,000
Contractual	7,200
Commodities	1,600
Equipment	12,000
Total Other	<u>\$24,800</u>

C. Economic Impact

There will be no significant impact on the States' economy if this proposed legislation is enacted.

D. Impact on Local Governments

There will be no fiscal impact on local governments as a result of this legislation.

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 8	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION	X	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	To provide clerical support for 2 Probation Officers.					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary	\$1,598		19,176						
6.	Benefits			3,277						
7.	Supplemental Benefits			1,175						
8.	Fixed Benefits			2,880						
9.	TOTAL PERSONAL SERVICES		01	26,508						
10.	Travel		02							
11.	Contractual		03	1,800						
12.	Commodities		04	400						
13.	Equipment		05	8,900						
14.	Other									
15.	TOTAL COST			37,608						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		37,608						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR BSM USE ONLY										
4A KEY NUMBER										

REQUEST FOR 13 NEW POSITION

AGENCY Health and Social Services
PROGRAM Offender Confinement, Reformation and Supervision
BRU Probation and Community Programs
COMPONENT Adult Prob. - 3rd Judicial Dist.

FY 84

Page	of
Revised Date	

1.	POSITION TITLE Probation Officer II (2)				RANGE/STEP 16	BARG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.							
2.	TYPE OF POSITION PFT	STAFF MONTHS 24	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.									
3.	CONTINUATION LEVEL	ADDITION	X	JUSTIFICATION													
4.	TYPE OF EXPENDITURE			AMOUNT													
	1	2	3	To provide probation supervision services to persons released early under the provisions of Committee Substitute for Senate Bill No. 106.													
PERSONAL SERVICES																	
5.	Salary	2,573	61,752														
6.	Benefits		10,554														
7.	Supplemental Benefits		3,786														
8.	Fixed Benefits		5,760														
9.	TOTAL PERSONAL SERVICES	01	81,852														
10.	Travel	02	2,000														
11.	Contractual	03	3,600														
12.	Commodities	04	800														
13.	Equipment	05	2,000														
14.	Other																
15.	TOTAL COST		90,252														
	RECEIPT CODE	FUNDING SOURCE															
16.		Federal Receipts 1002															
17.		G.F. Match 1003															
18.		General Funds 1004		90,252													
19.		I-A Receipts 1005															
20.		Program Receipts 1028															
21.		Other															
FOR B&M USE ONLY																	
4A KEY NUMBER																	

REQUEST FOR
13 NEW POSITION

AGENCY Health and Social Services
PROGRAM Offender Confinement, Reformation & Supervision
BRU Probation & Community Programs
COMPONENT Adult Prob. - 3rd Judicial Dist.

FY 84

Page _____ of _____
Revised Date _____

1.	POSITION TITLE Probation Officer II				RANGE/STEP 16	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				ADDITION	X	JUSTIFICATION			
4.	TYPE OF EXPENDITURE			AMOUNT		To provide probation supervision services to persons released early under the provision of Committee Substitute for Senate Bill No. 106.				
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	\$2,965	35,580							
6.	Benefits		6,081							
7.	Supplemental Benefits		2,181							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01	46,722						
10.	Travel		02	2,000						
11.	Contractual		03	1,800						
12.	Commodities		04	400						
13.	Equipment		05	1,100						
14.	Other									
15.	TOTAL COST			52,022						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		52,022						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER - - - - -										

REQUEST FOR
13 NEW POSITION

AGENCY Health & Social Services
PROGRAM Offender Confinement, Reformation & Supervision

BRU Probation & Community Programs

COMPONENT Adult Prob. - 4th Judicial Dist.

FY 84

Page of
Revised Date

LAW OFFICES OF
TIMOTHY H. STEARNS
415 L STREET
ANCHORAGE, ALASKA 99501
(907) 276-2828

MAY 16 1983

vic/ES
DZ

*word processor
doesn't work
names well!*

May 12, 1983

Senator Vic Fischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Re: Senate Bill No. 106

Dear Joe:

Senate Bill No. 106, as presently written, has a number of flaws. The following problem areas listed shall be discussed below:

1. The bill is unconstitutional insofar as the legislature would give an appointed administrative officer the power to modify a sentence imposed by the judiciary.

2. The introductory phrase in Section 1 which provides "the need of protecting the public is of paramount importance" represents an impermissible shift from the dual purpose set forth in Article I, Section 12 of the Alaska Constitution.

3. Emergency capacity should not be used as a trigger for de-activation of the bill's provisions.

4. The release provisions should not discontinue before the overcrowding problem is resolved.

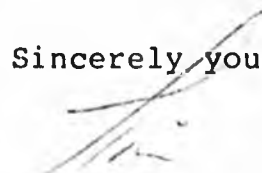
5. The legislature should determine "emergency capacity" in the bill in more specific and generally-accepted terms.

FISCHER
May 12, 1983
Page 2

UNCONSTITUTIONALITY

The bill fails to recognize constitutional separation of powers. Only the governor or the courts can modify a sentence imposed by the judiciary. This fact is recognized in the prison overcrowding statutes already passed by Michigan, Georgia, Ohio and Connecticut. An unconstitutional bill should not be enacted even if it is deemed to have positive effects. The bill can easily be modified to be constitutional by having the governor declare a prison overcrowding state of emergency. That method is used in the Michigan Act, which many people consider to be an excellent model. A copy of the Michigan Act is attached.

Sincerely yours,



TIMOTHY H. STEARNS

enc: Michigan Prison Overcrowding Emergency Act

much

800.62

PRISONS

800.62 to 800.66 Repealed by P.A.1972, No. 179, § 1, Imd. Eff. June 16

Historical Note

Section 800.62, relating to the clothing and transportation of a released prisoner, was derived from:

- P.A.1893, No. 118, § 62.
- C.L.1897, § 2141.
- P.A.1913, No. 399, Eff. Aug. 14.
- C.L.1915, § 1760.
- P.A.1927, No. 323, Imd. Eff. June 1.
- P.A.1929, No. 300, Imd. Eff. May 23.
- C.L.1929, § 17604.
- C.L.1948, § 800.62.

See, now, § 791.237.

Section 800.63, relating to the validity of existing contracts and rights prior to the passage of this act, was derived from:

- P.A.1893, No. 118, § 63.
- C.L.1897, § 2142.
- C.L.1915, § 1761.
- C.L.1929, § 17605.
- C.L.1948, § 800.63.

Sections 64 and 65 of P.A.1893, No. 118 were repealed by P.A.1927, No. 175, Eff. Sept. 5. They dealt with penalties for crimes committed in prison and the jurisdiction of courts in such cases, and were derived from:

- C.L.1897, §§ 2143, 2144.
- C.L.1915, §§ 1762, 1763.
- C.L.1929, § 17605.

See, now, §§ 768.6, 768.7.

Section 800.66, relating to the repeal and saving clause, was derived from:

- P.A.1893, No. 118, § 66.
- C.L.1897, § 2144n.
- C.L.1915, § 1764.
- C.L.1929, § 17606.
- C.L.1948, § 800.66.

PRISON OVERCROWDING EMERGENCY POWERS ACT

Caption editorially supplied

P.A.1980, No. 519, Imd. Eff. Jan. 26, 1981

AN ACT to authorize the governor to declare a prison overcrowding state of emergency under certain circumstances; to prescribe the powers and duties of the governor and the commission of corrections; and to provide remedies for a prison overcrowding state of emergency.

The People of the State of Michigan enact:

800.71 Short title

Sec. 1. This act shall be known and may be cited as the "prison overcrowding emergency powers act".

P.A.1980, No. 519, § 1, Imd. Eff. Jan. 26, 1981.

Library References

Prisons C-17.

C.J.S. Prisons § 18.

1. Validity

Enactment of Prison Overcrowding Emergency Powers Act, which called for Corrections Commission to request Governor to declare state of emergency whenever prison population exceeds available bed space for 30 consecutive days, for governor to declare emergency unless he found that Commission erred, and, on such declaration, for a reduction of minimum terms of prisoners with established minimum terms by

90 days until population was reduced to 95% of capacity, was authorized by Const. Art. 4, § 45, which authorized legislature to provide for release of persons imprisoned or detained under indeterminate sentences, and such Act did not unconstitutionally infringe on Governor's commutation power; Williams J., (concurring in part and dissenting in part.) Oakland County Prosecuting Attorney v. Michigan Dept. of Corrections (1981) 305 N.W.2d 515, 411 Mich. 183.

800.72 Definitions

Sec. 2. As used in this act:

- (a) "Commission" means the commission of corrections.
- (b) "Prison" means a correctional facility operated by the department of corrections, other than a community corrections center or residential home.
- (c) "Prison system" means the prisons of this state.
- (d) "Rated design capacity" means the actual available bedspaces as certified by the commission in the prison system subject to applicable federal and state laws and the rules and regulations promulgated under those laws.

P.A.1980, No. 519, § 2, Imd. Eff. Jan. 26, 1981.

800.73 Declaration of state of emergency

Sec. 5. The commission shall request the governor to declare a state of emergency in the state's prisons whenever the population of the prison system exceeds the rated design capacity for 30 consecutive days. In making the request, the commission shall certify the rated design capacity and current population of the prison system and that all administrative actions consistent with applicable state laws and the rules promulgated under those laws have been exhausted in an attempt to reduce the prison population to the rated design capacity.

P.A.1980, No. 519, § 3, Imd. Eff. Jan. 26, 1981.

800.74 Declaration of state of emergency; time for declaration; reduction of minimum sentences

Sec. 4. Unless the governor finds within 15 calendar days of the commission's request under section 3¹ that the commission acted in

error, the governor shall declare a prison overcrowding state of emergency within that 15 days and the minimum sentences of all prisoners who have established minimum prison terms shall be reduced by 90 days by the director of the department of corrections.

P.A.1980, No. 519, § 4, Imd. Eff. Jan. 26, 1981.

¹ Section 800.73.

800.75 Further reduction in minimum sentences

Sec. 5. If the actions under section 4¹ do not reduce the population of the prison system to 95% of the rated design capacity within 90 days of the date of the declaration of the prison overcrowding state of emergency, the minimum sentences of all prisoners incarcerated in state prisons on that date who have established minimum prison terms shall be reduced by 90 days by the director of the department of corrections.

P.A.1980, No. 519, § 5, Imd. Eff. Jan. 26, 1981.

¹ Section 800.74.

800.76 Rescinding state of emergency

Sec. 6. If at any time during the state of emergency, the population of the prison system is reduced to 95% of the rated design capacity, the commission shall certify that fact to the governor and request that the governor rescind the state of emergency.

P.A.1980, No. 519, § 6, Imd. Eff. Jan. 26, 1981.

800.77 Time for rescinding state of emergency

Sec. 7. Unless the governor finds within 15 calendar days of the commission's request that the commission has acted in error in requesting the rescission of the state of emergency, the governor shall declare the prison overcrowding state of emergency ended within that 15 days.

P.A.1980, No. 519, § 7, Imd. Eff. Jan. 26, 1981.

800.78 Single occupancy rooms or cells; units excluded in determining rated design capacity

Sec. 8. (1) After the effective date of this act, all new housing or facilities purchased, leased, constructed, or converted by the department of corrections for use as a prison shall have only single occupancy rooms or cells and comply with all applicable federal and state laws and the rules and regulations promulgated under those laws.

(2) After January 1, 1984, rated design capacity shall not include trailers or modular units or bedspace not designed for prisoner housing.

P.A.1980, No. 519, § 8, Imd. Eff. Jan. 26, 1981.

800.79 Natural disaster or deliberate destruction of property

Sec. 9. The provisions of this act shall not take effect if prison population exceeds rated design capacity as the direct result of loss of bedspace due to a natural disaster or deliberate destruction of property.

P.A.1980, No. 519, § 9, Imd. Eff. Jan. 26, 1981.

MICHIGAN REFORMATORY

800.91 Repealed by P.A.1964, No. 256, § 1, Eff. Aug. 28

Historical Note

The repealed section, relating to the changing of the name of the state house of correction and reformatory at Ionia to Michigan reformatory, was derived from:

P.A.1901, No. 75, § 1.
C.L.1915, § 1834.
C.L.1929, § 17607.
C.I.1948, § 800.91.

EMPLOYMENT OF CONVICTS FOR PUBLIC PROJECTS

P.A.1911, No. 181, Eff. Aug. 1

AN ACT to provide for employing the convicts in the custody of the department of corrections upon public projects other than construction within any county. Amended by P.A.1970, No. 54, § 1, Imd. Eff. July 10.

The People of the State of Michigan enact:

800.101 Convicts; employment on local roads; control; compensation

Sec. 1. Upon the written request of a majority of the board of commissioners, the department of corrections may detail such able bodied convicts as in its discretion shall seem proper, not exceeding the number specified in the written request, to work upon public projects of a county. The county shall pay to the general fund a certain fixed amount of money per day for each man so detailed, which amount shall be decided upon by the corrections commission. The amount to be paid shall be a fair and just compensation for such labor.

SYSTEM TOTAL (Adult) (inc. I'BP)

<u>MONTH</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
January	488	495	529	600	732	738	770	876	1069	1388
February	511	472	534	611	742	728	771	891	1076	1432
March	503	477	529	616	742	728	778	905	1120	
April	513	480	541	609	776	739	782	921	1161	
May	497	482	586	608	777	745	778	950	1172	
June	486	474	576	593	742	733	791	955	1183	
July	500	460	576	603	697	727	810	968	1186	
August	493	460	574	639	723	745	794	1004	1239	
September	476	486	608	670	724	743	819	1023	1269	
October	469	499	598	697	764	767	846	1068	1330	
November	473	502	569	731	752	763	867	1085	1347	
December	461	506	549	689	736	771	861	1050	1311	
ST/12	492	483	564	639	743	744	805	875	1205	

INTRODUCED: 2/2/83
REFERRED: STATE AFFAIRS AND
FINANCE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 106

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 FOR AN ACT ENTITLED: "AN ACT RELATING TO OVERCROWDING OF THE STATE PRISON
7 SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE."

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

9 * SECTION 1. LEGISLATIVE FINDINGS AND PURPOSE. THE LEGISLATURE FINDS
10 THAT THE NEED FOR PROTECTING THE PUBLIC IS OF PARAMOUNT IMPORTANCE IN RE-
11 SPONDING TO THE PROBLEM OF CRIME IN ALASKA. HOWEVER, AT THE SAME TIME THE
12 LEGISLATURE RECOGNIZES THAT ART. I, SEC. 12, OF THE ALASKA CONSTITUTION RE-
13 QUIRES THAT PENAL ADMINISTRATION ALSO BE BASED ON REFORMATION OF THE OF-
14 FENDER. WHEN THE STATE PRISON SYSTEM IS SO OVERCROWDED AS TO BE UNABLE TO
15 FUNCTION ADEQUATELY, THEN BOTH THE PRINCIPLE OF REFORMATION AND OF PROTECO-
16 TION OF THE PUBLIC ARE ADVERSELY AFFECTED. PRISON OVERCROWDING ADDS TO THE
17 STRESS AND FRUSTRATION OF PERSONS CONVICTED OF VIOLATING CRIMINAL LAWS, AND
18 INTERFERES WITH PARTICIPATION IN REHABILITATIVE PROGRAMS OFFERED IN CORRECO-
19 TIONAL INSTITUTIONS. THEREFORE THE PURPOSE OF THIS ACT IS TO ALLEVIATE
20 OVERCROWDING IN STATE PRISONS BY PROVIDING FOR THE EARLY RELEASE AND PROBATIONARY
21 SUPERVISION OF CERTAIN PRISONERS WHO WOULD BE DUE TO BE RELEASED IN
22 THE NEAR FUTURE.

23 * SEC. 2. AS 33.20 IS AMENDED BY ADDING NEW SECTIONS TO READ:

24 ARTICLE 3. PRISON OVERCROWDING EMERGENCY ACT.

25 SEC. 33.20.100. CAPACITY OF PRISON SYSTEM. THE COMMISSIONER
26 SHALL SPECIFY, BY REGULATION ADOPTED UNDER THE ALASKA ADMINISTRATIVE
27 PROCEDURE ACT (AS 44.62), THE EMERGENCY CAPACITY OF THE STATE PRISON
28 SYSTEM.

1 IF THE AVERAGE DAILY PRISONER POPULATION IN THE STATE PRISON SYSTEM
 2 EXCEEDS ^{By one - 90% - what?} THE EMERGENCY CAPACITY FOR A 30-DAY PERIOD, THE DIRECTOR SHALL
 3 WITHIN 48 HOURS, CERTIFY TO THE COMMISSIONER THAT A PRISON
 4 OVERCROWDING STATE OF EMERGENCY EXISTS.

5 (B) WITHIN 15 DAYS AFTER CERTIFYING THAT A PRISON OVERCROWDING
 6 STATE OF EMERGENCY EXISTS, THE DIRECTOR SHALL SUBMIT TO THE COMMISSIO
 7 SIONER AND THE ATTORNEY GENERAL A LIST OF ALL PRISONERS WHO ARE ELIGIB
 8 BLE UNDER A 3.20.140 FOR EARLY RELEASE UNDER (C) OF THIS SECTION.
 9 THE LIST MUST INCLUDE THE OFFENSES FOR WHICH THE PRISONERS WERE CONG
 10 VICTED, THE DATES THE SENTENCES WERE IMPOSED, THE LENGTHS OF SENG
 11 TENCES, AND THE TIME REMAINING TO BE SERVED ON EACH SENTENCE.

12 (C) IF THE COMMISSIONER CONFIRMS THE DIRECTOR'S CERTIFICATION
 13 THAT A PRISON OVERCROWDING STATE OF EMERGENCY EXISTS, AND DETERMINES
 14 THAT THE AVERAGE DAILY PRISONER POPULATION EXCEEDS THE EMERGENCY CAP
 15 PACITY FOR THE 15-DAY PERIOD FOLLOWING THE DIRECTOR'S CERTIFICATION,
 16 HE SHALL RELEASE EACH PRISONER ELIGIBLE UNDER AS 33.20.140 WITHIN 72
 17 HOURS.

18 (D) IF THE AVERAGE DAILY PRISONER POPULATION FALLS BELOW THE
 19 EMERGENCY CAPACITY FOR THE 15-DAY PERIOD FOLLOWING THE DIRECTOR'S CER
 20 TIFICATION, THE PRISON OVERCROWDING STATE OF EMERGENCY TERMINATES, AND
 21 NO PRISONER MAY BE RELEASED UNDER THIS SECTION. (REPEATED)

22 SEC. 33.20.120. PROBATION SUPERVISION FOR PRISONERS RELEASED
 23 EARLY. A PRISONER RELEASED UNDER AS 33.20.110 SHALL BE PLACED ON SU
 24 Pervised PROBATION OR PAROLE DURING THE PERIOD HE WOULD HAVE BEEN IN

5 CARCERATED, AS FOLLOWS:

6 (1) IF THE PRISONER'S SENTENCE PROVIDES FOR PROBATION TO
7 FOLLOW HIS INCARCERATION, THEN THE PROBATION IS TO FOLLOW THE PERIOD
8 OF SUPERVISION RESULTING FROM HIS EARLY RELEASE UNDER AS 33.20.110,
9 AND THE CONDITIONS OF PROBATION ORDERED BY THE COURT APPLY DURING THE

SB 106

-2-

1 ENTIRE PERIOD;

2 (2) IF THE PRISONER'S SENTENCE DOES NOT PROVIDE FOR PROBATION
3 TO FOLLOW HIS INCARCERATION THEN, DURING THE PERIOD OF SUPERVIO
4 SION RESULTING FROM HIS EARLY RELEASE UNDER AS 33.20.110, PROBATION IS
5 IMPOSED AND THE CONDITIONS ARE THAT THE PRISONER VIOLATE NO STATE OR
6 FEDERAL LAW OR MUNICIPAL ORDINANCE, AND THAT THE PRISONER ABIDE BY THE
7 REASONABLE CONDITIONS IMPOSED BY HIS PROBATION OFFICER; OR

8 (3) IF THE PRISONER IS SCHEDULED TO BE RELEASED ON PAROLE,
9 HE OR SHE IS CONSIDERED TO BE ON PAROLE DURING THE PERIOD OF SUPERVIO
10 SION RESULTING FROM THE EARLY RELEASE UNDER AS 33.20.110, AND IS SUBO
11 JECT TO THE CONDITIONS OF PAROLE ESTABLISHED BY THE BOARD OF PAROLE.

12 SEC. 33.20.130. VIOLATION OF CONDITIONS OF PROBATION OR PAROLE.

13 (A) THE COURT MAY REVOKE THE PROBATION RESULTING FROM EARLY RELEASE
14 UNDER AS 33.20.110 FOR VIOLATION OF A STATE OR FEDERAL LAW, MUNICIPAL
15 ORDINANCE, OR CONDITION OF PROBATION.

16 (B) THE BOARD OF PAROLE MAY REVOKE THE PAROLE RESULTING FROM
17 EARLY RELEASE UNDER AS 33.20.110 FOR VIOLATION OF A STATE OR FEDERAL
18 LAW, MUNICIPAL ORDINANCE, OR CONDITION IMPOSED BY THE BOARD.

19 SEC. 33.20.140. PRISONERS ELIGIBLE FOR EARLY RELEASE. A STATE
20 PRISONER WHO HAS BEEN SENTENCED TO A PERIOD OF INCARCERATION IS ELIGIO
21 BLE FOR EARLY RELEASE UNDER AS 33.20.110 IF, AT THE END OF THE 15-DAY
22 PERIOD FOLLOWING THE DIRECTOR'S CERTIFICATION, THE PRISONER:

23 (1) HAS BEEN CONTINUOUSLY INCARCERATED DURING THE 30-DAY
24 PERIOD UPON WHICH A PRISON OVERCROWDING STATE OF EMERGENCY, CERTIFIED

25 BY THE DIRECTOR, IS BASED;

26 (2) IS SERVING A SENTENCE FOR A CRIME OTHER THAN:

27 (A) A CRIME AGAINST A PERSON UNDER AS 11.41.1001--
28 11.41.530, WITH THE EXCEPTION OF CUSTODIAL INTERFERENCE IN THE
29 FIRST OR SECOND DEGREE UNDER ASI11.41.320 AND 11.41.330;

-3-

SB 106

1 (B) ARSON IN THE FIRST OR SECOND DEGREE UNDER ASI11.0
2 46.400 OR 11.46.410, RESPECTIVELY;

3 (C) CRIMINAL MISCHIEF IN THE FIRST DEGREE UNDER
4 ASI11.46.480; OR

5 (D) ATTEMPT OR SOLICITATION UNDER AS 11.31.100 OR
6 11.31.110, RESPECTIVELY, TO COMMIT ANY OF THESE OFFENSES LISTED
7 IN THIS SUBSECTION; AND

8 (3) HAS 90 DAYS OR LESS REMAINING TO SERVE ON HIS SENTENCE.
9 SEC. 33.20.150. FREQUENCY OF EARLY RELEASE. ONCE PRISONERS ARE
10 RELEASED UNDER ASI33.20.110(C), THE 30-DAY PERIOD UPON WHICH A SUBSE
11 QUEN PRISON OVERCROWDING STATE OF EMERGENCY WOULD BE BASED DOES NOT
12 BEGIN TO RUN UNTIL AFTER THE COMMISSIONER RELEASES PRISONERS UNDER
13 ASI33.20.110(C) OR UNTIL A PRISON OVERCROWDING STATE OF EMERGENCY TER
14 MINATES UNDER ASI33.20.110(D).

15 SEC. 33.20.160. DEFINITIONS. IN AS 33.20.1001-- 33.20.150, UN
16 LESS THE CONTEXT OTHERWISE REQUIRES,

17 (1) "AVERAGE DAILY PRISONER POPULATION" MEANS THE TOTAL OF
18 THE DAILY MORNING PRISONER COUNTS AT EACH STATE PRISON FACILITY DIVID
19 ED BY THE NUMBER OF DAYS FOR WHICH THE COUNTS WERE TAKEN;

20 (2) "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT
21 OF HEALTH AND SOCIAL SERVICES;

22 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF COR
23 RECTIONS;

24 (4) "EMERGENCY CAPACITY" MEANS THE MAXIMUM NUMBER OF PRISO
25 NERS, AS DETERMINED BY THE COMMISSIONER, WHICH CAN BE HELD IN THE
26 STATE PRISON SYSTEM, ABOVE WHICH THE SYSTEM CANNOT ADEQUATELY FUNCTION

*How
FOLKS
this
category
now*

27 WITH AVAILABLE RESOURCES; AND

28 (5) "STATE PRISON SYSTEM" MEANS ALL STATE PRISON FACILITIES
29 WHICH ARE OWNED OR OPERATED BY THE STATE AND WHICH HOLD PERSONS

SB 106

-4-

1 CHARGED WITH OR CONVICTED OF VIOLATIONS OF LAW.

2 * SEC. 3. THIS ACT TAKES EFFECT IMMEDIATELY IN ACCORDANCE WITH AS101.0

3 10.070(C).

QUESTIONS TO STATE CORRECTIONS OFFICIALS
HEARING, SB106, 3/10/83

TIMING

Why is the department introducing this bill now? Concern that this bill--which is merely a mechanical adjustment to the overcrowding problem--may be confused with the necessary real, and quite expensive "solutions" that will be put before the legislature this session.

Why isn't this presented as a part of a whole package of corrections needs. Where is the plan for meeting the short and long-term needs of the division/department.

SB 106

1. If the 45-day period expired today, and prisoners were going to be released under the terms of this bill, how many prisoners would be eligible for release? what crimes are they convicted of? to what geographic areas of the state would they return?

2. What criteria will the Division use to define "emergency capacity" for the purpose of adopting regs. [p.1 L 25]
--Will the dept. agree to use the standards set out in the Hutto Report. If not, why.

3. This bill requires a 45-day waiting period from the time overcrowding occurs until prisoners are released. Is this waiting period too long to adequately cope with prisoner population bulges.

4. This bill allows prisoner release when the capacity of the entire prison system is exceeded. What if, for example, only the Anchorage facilities are overcrowded. Will they ship inmates to Nome or Juneau or some other place that might have bedspace at that moment?

5. Prisoners released under this bill are to be released onto probation or parole. Corrections says that they will handle this extra load with existing personnel. Is this realistic? Should Corrections have extra funds. [The bill has a \$0 fiscal note]

6. "State Prisoners" are eligible for release. This term is ambiguous. It may mean any prisoner in the state system or only those convicted of state offenses (excluding those convicted of violation of municipal ordinances).

SUGGESTED AMENDMENT: Page 3, lines 19 and 20.

delete: "a state prisoner who has been sentenced to a period of incarceration" and ADD "a person sentenced to

incarceration in the state prisoner system."

7. This bill is only a temporary adjustment. What are the division's best estimates on the projected number of prisoners over the next few years. What else is being done to manage prison populations, including: prisoner classification; halfway houses; work release; good-time; community work in lieu of incarceration; parole & probation.

8. What has been the cumulative effect of presumptive sentencing on prison populations?

9. Has the legislature adequately funded the impact of recent increases in criminal penalties and presumptive sentencing schemes?

10. Is the Division fully consulted by both the executive branch and the legislature prior to changes in the criminal law which may impact prison population.

11. How come the information on who is in jail, where they are, their crimes, their sentences, their criminal history, classification, special needs, etc., etc., is not available on computer. The lack of this simple tool typifies poor management practices.

12. How does corrections plan to implement the settlement of CLEARY v. BEIRNE. In that case the state recognized that:

1. detrimental effects flow from prisoner populations in excess of 80% of capacity;
2. some state facilities do not meet the recommended 70-80 sq. feet of cell space per prisoner (some places as low as 30 sq. ft./ prisoner)
3. state prisoners in federal custody should be returned to the state prison system

If these changes are made, what will be the effect on prison population? What is being done to plan for this?

SENATE AMENDMENT

By STATE AFFAIRS COMMITTEE

To: _____ SENATE BILL No. 106

To: _____ HOUSE BILL No. _____

PAGE: 3 LINE: 19-20

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add " a person sentenced to a period of incarceration in the state prison system"

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DANA FABE --- SB 106 LOOKS WONDERFUL, LONG OVERDUE, ETC

PLS CALL THIS AFTERNOON 279-7541, RES 688-2070



VF 5.30 PM 3-9

define emergency
applies only "state prisoners" >

change to "all persons
incarcerated in the state
prison system"

SJR 18

GAO Study 1979

3000 case
 $\frac{1}{3}$ motions to dismissed
1.3% had evidence
suppressed
.06% had to be
dismissed

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: S.B. 106 Date on Bill: February 8, 1983
 Title: "An Act relating to overcrowding of the state prison system"
 Sponsor: Office of the Governor
 Requestor: Senate State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

No funds required

3. Assumptions:

A basic assumption is made that an insignificant number of misdemeanor offenders would qualify for early release under this legislation. This is based on the eligibility criteria in Section 33.20.140. Therefore, the inmate population effected are those persons completing longer sentence for felony offenses.

The October 1982 figures indicate 118 persons convicted of felony offenses were within 90 days of completing their sentence. It is, therefore, assumed that between 105 and 130 inmates would be eligible for early release at any time when the provisions of this legislation would be invoked.

The simultaneous release of this number of persons at one time into probation or parole services would create a significant strain on the staff during the period of release. It is not possible to predict whether or not additional resources would be required over the short term to accommodate the influx in the caseload. By the ninety-first day, the caseload should be at the same point as though no early release were made. It is assumed that other on-going work would have to be set aside by both institutional probation staff, who would prepare the release papers, and field probation staff during the impacted period.

Although not a direct effect of this proposed legislation, it should be recognized during the regular budgetary process that additional probation/parole staff resources are required to provide the supervision to the ever increasing number of released felons.

Disclaimer: This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact. RJA

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
Division: Adult Corrections Date: Feb 23, 1983

Approved by Commissioner: Robert London Smith Date: 2/25/83
Department: Health and Social Services

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MICHAEL CLEARY, et al,)
)
 Plaintiffs,)
)
 vs.)
)
 HELEN BEIRNE, et al,)
)
 Defendants.)

Case No. 3AN-81-5274 Civil

PARTIAL SETTLEMENT AGREEMENT AND
ORDER AS TO SUBCLASSES "A" AND "B"

in state
as modified
ordered
implemented
on 1/21/83

Introduction

This Agreement and Order is entered into for the sole purpose of fully resolving a substantial number of the issues raised in the Complaint in this case. In reaching this settlement, none of the parties admit liability nor concede issues raised by the other parties.

The parties further agree that many of the provisions in this Agreement are already required by state law, regulation or policy and procedure of the Division of Adult Corrections, and further that some of these provisions are already being complied with in some of the correctional institutions affected by this case.

The issues raised in the Complaint are due in large part to the problems caused by overcrowding in Alaska's correctional institutions. In this regard, the parties acknowledge the efforts made by the State of Alaska to respond to these problems as demonstrated by the increase in the operating budget for the Division of Adult Corrections from approximately \$25.5 million in fiscal year 1981 to nearly \$41 million in the fiscal year 1983 and an increase in staff positions from approximately 400 to approximately 648 during the same time period.

Many of the problems still persist, however, and this Partial Settlement Agreement is considered in the best interests of all the parties; and applies only to those prisoners who are now or will be housed in state correctional facilities.

In reaching this Settlement Agreement, the parties have

LAW OFFICES
TIMOTHY H. STEARNS
415 L STREET
ANCHORAGE, ALASKA 99501
14071 378-2828

primarily used the American Correctional Association Standards for the Administration of Jails and Prisons (1981 Edition). The parties recognize that some of the provisions set forth in these Standards are constitutionally required while others are not.

Some of the paragraphs of this Agreement and Order are not alphabetically or numerically in sequence. The original paragraph letters and numbers have been retained in order to coincide with the paragraph letters and numbers of the proposed Final Agreement and Order.

B. Lighting, Heat, Ventilation and Noise.

1. Heat.

Defendants shall maintain temperatures between 65° and 80° at all times. If temperatures exceed 80°, defendants shall immediately take steps to reduce the temperature by doing such acts as repair and replacement, provide portable fans, open windows and doors, and taking other necessary actions to increase ventilation and air circulation in the institution. If temperatures drop below 65°, defendants shall immediately repair and/or replace, and do such acts as provide portable heaters and/or additional clothing and bedding.

Time implementation: December 9, 1982.

2. Lighting and Ventilation.

Lighting and ventilation shall be in accordance with state standards throughout each institution which is subject to this order.

Time implementation: By December 9, 1982 in all institutions except the Third Avenue Correctional Institution, which shall be in compliance by December 31, 1982.

C. Clothing/Bedding/Hygiene & Sanitation.

1. Clothing.

(a) At least one full set of clean and well-fitting clothing shall be supplied to each prisoner at the time of booking or after arraignment if the prisoner so desires.

Time implementation: By December 9, 1982.

(b) Each inmate shall be allowed at least two sets of institutional clothing per week or each prisoner shall be entitled

all

to complete institutional clothing exchange at least two times per week.

Time Implementation: By January 8, 1983.

(d) Defendants shall make provision for adequate personal storage facilities such as lockers, drawers, foot lockers or other suitable storage facilities for inmates to keep their personal clothing and personal items in their cell or dormitory area.

Time implementation: By January 8, 1983.

(e) Pretrial detainees, except those in punitive segregation or in administrative segregation pending investigation of a disciplinary infraction shall have the right to wear their personal clothing in their living quarters and only in such other areas of the institution where security does not require a clothing restriction.

Time implementation: By January 8, 1983.

(f) The parties recommend that this provision should also apply to convicted offenders whose custody status is medium security or less, however, this determination shall rest with the individual superintendents or their superiors.

(g) Defendants shall launder the prisoners' personal clothing at defendants' expense provided the prisoner signs a waiver of liability for loss or damage, the clothing is properly marked or identified, and provided further the personal clothing does not require special laundering.

Time implementation: By January 8, 1983.

(h) Prisoners who are authorized to wear personal clothing shall be allowed to have at least two changes of personal clothing in their possession.

Time implementation: By January 8, 1983.

2. Bedding.

(a) Each inmate shall be entitled to a mattress which is clean and intact. Each inmate shall have a bed off of the floor unless documented individual health or safety concerns dictate otherwise.

Time implementation: By April 8, 1983.

(b) Each inmate is entitled to two sheets, a pillow, a pillowcase, sufficient blankets to provide comfort under existing temperature conditions, together with a clean towel at least two times per week and more frequently as existing resources allow.

Time implementation: By February 7, 1983.

4. Hygiene.

(a) Each inmate shall be permitted to shower at least three times per week. Defendants shall issue basic items of personal hygiene to each admittee, at the time of admittance. These items shall include toothbrush, toothpaste, soap, shaving items and female hygiene items.

Time implementation: By December 9, 1983.

5. Plumbing.

Time implementation: By December 9, 1983.

(a) Each cell in use shall have a sink with hot and cold running water, unless the cell is specifically designed for short-term housing of persons who are considered a danger to themselves, in which case water shall be readily available to the inmate.

(b) There shall be a working toilet facility in each cell. However, specially designated cells may require specially designed toilet facilities to minimize the possibility of physical injury to the prisoner.

(c) Prisoners held in holding cells shall be entitled to reasonable access to running water and toilet facilities upon request.

(d) Defendants shall make all necessary repairs and/or renovations in a timely fashion so that all toilets, sinks and showers in use function properly. Defendants shall maintain all toilets, sinks and showers in proper working order.

(e) In each dormitory, there shall be an adequate number of properly working toilets as provided by the applicable building and plumbing codes.

D. Exercise/Recreation.

1. Except as provided below, it is defendants' intention and goal to provide at least one hour per day of recreation

which shall be outdoors, weather permitting, for all inmates except for individualized escape, smuggling, or security risks, -- these exceptional cases shall be restricted to recreation in a gymnasium or exercise room.

2. Each inmate shall be entitled to at least seven (7) hours of recreation per week.

Time Implementation: By December 9, 1982 at all institutions, except Nome Correctional Institution where there is an insufficient amount of recreation area to comply with this provision.

3. Inmates under medical care shall have the same right to recreation as those not under medical care except to the extent that medical personnel determine that exercise of this right presents a danger to an inmate's health.

Time Implementation: By December 9, 1982.

4. Inmates who are in administrative segregation for a period of longer than three (3) days and who are pending investigation of a disciplinary infraction shall have the same right to recreation as inmates in general population.

Time Implementation: By December 9, 1982 at all institutions, except at the Third Avenue Correctional Institution, where this provision shall not apply until December 30, 1982 for persons who have documented escape attempts. Inmates at the Fairbanks Correctional Institution who are in administrative segregation and who present individualized security threats of violence or escape shall receive at the least those rights of exercise set forth in ¶D5 infra until renovations on the gymnasium are completed; upon completion of the work in the gym, they shall be entitled to full exercise rights under this section and ¶D1 supra.

5. As a minimum, inmates in punitive segregation for a period of longer than three (3) days shall have the right to exercise for at least one hour per day and shall have access to large muscle group exercise equipment in an area sufficiently large enough to reasonably accommodate it.

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Time Implementation: By January 8, 1983.

6. Those inmates who are in their first three (3) days of punitive segregation or in their first three (3) days of administrative segregation pending investigation of a disciplinary infraction shall be entitled to at least one (1) hour per day outside of their cell for the purpose of limited exercise, such as walking or calisthenics.

Time Implementaion: By December 9, 1982.

7. Defendants shall make radios available to all inmates except those in punitive segregation who have lost the privilege of having access to radio.

Time implementation: By December 9, 1982.

F. Visitation

2. Except as otherwise limited herein, there shall be no limits on who may visit an inmate for secure or contact visits unless there exist reasonable grounds to believe that the visitor might jeopardize the safety, security or order of the institution. If the visitor is under the age of eighteen (18) and is a family member of an inmate, he or she must be accompanied by an adult family member (any member of the inmate's extended family, e.g., parent, cousin, aunt, grandparent, etc.). If the visitor is under the age of 18 and is not a family member of an inmate, he or she must be accompanied by a parent or guardian. Visitors who are not family members and who have been released from a correctional institution within the preceding sixty (60) days shall not be entitled to visitation without approval from the superintendant of the institution where visitation is to occur. Persons who are prohibited by the Parole Board from having contact with prisoners shall not be entitled to visitation with inmates.

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3. (a) All sentenced and unsentenced inmates except those in punitive segregation or those identified as escape, smuggling or security risks shall be eligible upon request for contact visitation at least one hour per week. The duration of the visit may be less than one (1) hour in exceptional circumstances.

Time Implementaion: By December 9, 1982, provided there

is available space and staff.

(b) Contact visits with persons who have satisfactorily established their identities and who abide by the rules of the institutions established for visitors may occur after an inmate has been incarcerated for 30 days. This time period is for the purpose of orienting the inmate to the particular institution to which he is assigned as well as for conducting a security clearance of the inmate and potential visitors. If both orientation and security clearance are satisfactorily completed prior to the completion of the 30-day period, an inmate shall be eligible for contact visitation at that time. Defendants shall make every effort to timely perform these functions.

Time Implementation: By December 9, 1982.

(c) Absent unusual circumstances, a pretrial detainee who has been incarcerated prior to sentencing or a sentenced or unsentenced inmate who has been transferred from one institution to another, shall not lose his eligibility for contact visitation granted under this section because of his change in status.

Time Implementation: By December 9, 1982.

(d) Defendants view contact visitation for sentenced inmates as a privilege which may be limited or suspended by a disciplinary committee upon conviction of a disciplinary infraction; and secure visitation may be limited to immediate family members only (i.e., spouse, parents, children or siblings).

G. Telephone and Mail/Communications.

all
1. Defendants shall not monitor pretrial detainees' telephone calls or any inmate's calls to or from attorneys except by court order.

Time implementation: By December 9, 1982.

2. Defendants shall not place limits upon the volume of an inmate's incoming or outgoing mail, with the exception that limits may be placed on the volume of mail used by an inmate to conduct his business activities. However, defendants shall not be required to be financially responsible for more than five letters

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per week per inmate.

Time Implementation: By December 9, 1982.

3. Defendants shall not hold mail for more than twenty-four (24) hours, excluding weekends and holidays.

Time Implementation: By December 9, 1982.

4. Defendants shall not interfere with communication between inmates by mail unless the individuals' safety or security of the correctional facility requires limitation. Absent individualized security concerns, inmates who have family members who are also inmates in Alaska institutions may have telephone contact with each other and shall have the right to personal contact if otherwise eligible under §F(3)(a) supra with immediate family members who are housed in the same institution.

Time Implementation: By December 9, 1982.

5. Inmates must be permitted to receive paperback books and magazines from family and friends, subject to inspection for contraband and a determination that the material would aid in escape or incite violence. These items shall normally be delivered to the inmate within twenty-four (24) hours, excluding weekends, and holidays unless held as evidence or the material is determined to aid in escape or incite violence.

Time Implementation: By December 9, 1982.

6. Defendants shall [not] open incoming [privileged] mail [except] in the prisoner's presence [and only to search for contraband.] In cases where there is substantial doubt as to whether or not the mail is privileged (e.g., mail received from Center for Constitutional Rights), defendants shall open the mail only in the prisoner's presence and only to search for contraband, unless at that time it is determined not to be privileged mail. In addition to those persons listed in 7 AAC 60.520(b), mail from any attorney licensed to practice in the United States and from organizations such as the American Civil Liberties Union, the National Prison Law Project and Legal Services shall be considered privileged.

Time Implementation: By December 9, 1982.

7. Defendants shall not read any mail unless the mail

falls into the categories set forth in 7 AAC 60.520(c)(1) and a written record is made, with a copy to the inmate, reflecting the fact that the inmate's mail was read and stating the specific reasons the mail was read.

Time Implementation: By December 9, 1982.

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8. Telephones shall be accessible to the general inmate population (i.e., inmates not in segregation) several hours per day for the calls. Telephones shall be accessible to inmates in segregation, except those in punitive segregation who have been denied telephone calls, upon written request. Defendants shall make every reasonable effort to ensure that calls to attorneys may be made during normal office hours or at such times as the calls are likely to be completed.

Time Implementation: By December 9, 1982 at Palmer and Ridgeview Correctional Institutions; by March 9, 1983 at Ketchikan, Third Avenue and Nome Correctional Institutions. Pending funding from the legislature, the Fairbanks and Juneau Correctional Institutions shall expend best efforts to comply with this provision within existing resources. If funding is not obtained, plaintiffs reserve the right to litigate this provision as to the Fairbanks and Juneau institutions.

H. Attorney-Client Relationships.

1. At Ketchikan, Nome, Ridgeview and Palmer Correctional Institutions, attorneys, law clerks or paralegals may see clients between 8:00 a.m. and 10:00 p.m., excluding those times when meals are actually being served; ~~attorneys, law clerks or paralegals wishing to see clients after 10:00 p.m. must be at the institutions by 10:00 p.m.~~

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Attorneys, law clerks or paralegals wishing to see clients housed in the maximum security unit at the Fairbanks Correctional Center after 6:00 p.m. shall call the institution at least one (1) hour in advance of the visit so that the institution can make the necessary arrangements .

Time Implementation: By December 9, 1982.

2. Defendants shall take all reasonable steps to ensure that an attorney, law clerk or paralegal will see his/her client within a reasonable time of the request.

Time Implementation: By December 9, 1982.

3. Absent unusual circumstances, inmates' telephone calls to attorneys shall be made on the same day as requested when there is presently pending litigation, including administrative hearings. In other circumstances, telephone calls shall be made on the same day as requested, whenever possible.

Time Implementation: By December 9, 1982.

4. Defendants shall place no restrictions on attorneys to whom telephone calls may be made by any inmate.

Time Implementation: By December 9, 1982.

5. Defendants shall create and provide at least two private, well ventilated attorney-client interview rooms at or near the Third Avenue Correctional Institution. Defendants shall provide at least one private, well-ventilated attorney-client interview room at the Nome Correctional Institution. Each such room shall be of sufficient size to contain a writing table or desk and seating for four persons.

Time Implementation: By February 7, 1983 for the Nome Correctional Institution. The Third Avenue Correctional Institution shall comply by April 8, 1983.

I. Law Library/Access/Books

1. Within thirty (30) days, defendants shall provide a law librarian or assistant law librarian who shall be available to assist inmates in the use of the law library and who has himself received training or is otherwise experienced in performing legal research. If the librarian and/or assistant librariian lack the

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necessary training, a reasonable time will be allowed to train them.

Time implementation: By January 8, 1983.

2. Persons housed in segregation and in maximum security shall be provided access to the law library, except when an individualized determination is made that the inmate presents a substantial threat to the security or order of the institution, or is in punitive segregation, in which case the inmate shall be entitled to at least four (4) law books in his/her cell at any one time and is further entitled to receive the assistance of the law librarian or assistant law librarian.

Time implementation: By January 8, 1983.

3. Absent unusual circumstances, an inmate requesting library access shall have access within twenty-four (24) hours of the request.

Time implementation: By December 9, 1982.

④ Defendants shall provide inmates, at no charge, timely access to criminal law materials, and civil law materials where the inmate is involved in or initiating civil litigation, which are not available through the institutional library.

Time implementation: By December 9, 1982.

5. For the purpose of aiding in access to the courts, inmates shall have access to typing paper (8-1/2 x 14 and 8-1/2 x 11), at least one properly functioning typewriter or typing service, and carbon paper -- provided free of charge to indigent inmates.

Time implementation: By December 9, 1982.

6. Law library shall be housed in a room large enough to hold more than one inmate at a time.

Time implementation: By December 9, 1982.

7. Law library shall be located in a room which is not regularly used for classes, meetings and other competing activities or the law library hours shall be as follows:

a) If there are less than 50 inmates in the institution, the law library shall be open four (4) hours per day;

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b) If there are more than 50 inmates but less than 100 inmates in the institution, the law library shall be open five (5) hours per day;

c) If there are more than 100 inmates in the institution, the law library shall be open six hours per day.

If defendants determine that the law library hours should be reduced because of lack of use, defendants may request the court to reduce the law library hours.

Time implementation: By December 9, 1982, except that Third Avenue Correctional Institution shall provide at least three (3) hours per day and more when space is available.

8. The law library in each institution subject to this lawsuit shall contain, as a minimum, the following legal materials:

- a) Alaska Statutes (complete);
- b) Alaska regulations (complete);
- c) Local ordinances;
- d) Alaska Digest;
- e) Alaska Reporter;
- f) Alaska Rules of Court (complete);
- g) Advance opinions of the Alaska Supreme Court and the Alaska Court of Appeals;
- h) List of Alaska attorneys, with addresses and telephone numbers, *Phone Book - (current)*
- i) Black's Law Dictionary;
- j) Shepard's Alaska Citations;
- k) A book explaining how to perform legal research;
- l) A criminal law handbook;
- m) A handbook on criminal procedure;
- n) A handbook on criminal appeals;
- o) An evidence handbook;
- p) A handbook on Habeas Corpus;
- q) A layman's legal dictionary; and
- r) A prisoners' rights handbook.

All legal materials shall be kept up-to-date and complete.

Time Implementation: By January 8, 1983.

all
J. Safety

2. Defendants shall take all reasonable steps to increase staff as necessary, including but not necessarily limited to obtaining authorization and funding from the legislature.

Time implementation: Immediate and continuing efforts until accomplished.

3. Classification system:

a. Defendants shall isolate from the dorm population the following persons:

- 1) Those under the influence of alcohol or drugs;
- 2) Violent persons;
- 3) Those who request it and valid reasons exist;
- 4) Those who are a substantial immediate threat to themselves or others.

b.. Defendants' goal is to segregate persons convicted of misdemeanors from persons convicted of felonies, and shall attempt to do so as present and future resources permit.

c. Except as provided in 7 AAC 60.020(5), prisoners who are unconscious or in immediate need of medical attention at the time of admission to an institution shall be refused admission until the remanding law enforcement agency has secured medical attention for the prisoner, and medical personnel have approved the prisoner's admission into the correctional institution.

Time implementation: By December 9, 1982.

K. Counseling, Drug and Alcohol Treatment

all
1. Community social service resources may be used to augment the institutional social services program and personnel.

Time implementation: By January 8, 1983.

3. When the social services programs are provided by correctional staff, the social services program supervisor in each institution shall have at least a degree in the social or behavioral sciences, such as psychology, social work or counseling,

unless no one applies for the position who has such a degree.

Time implementation: By March 9, 1983.

5. When the social services programs are provided by correctional staff, defendants shall make every effort to provide social service counselors on a full-time basis for any institution with 100 or more inmates.

Time implementation: By March 9, 1983.

6. The social services counselor(s) shall work solely in the social services, social work and counseling specialties and shall not be correctional or probation officers.

Time implementation: By March 9, 1983.

7. Drug and alcohol counseling shall be available to all persons for whom the court has recommended or ordered such counseling and to all persons who are determined to be in need of such counseling. Defendants may use outside agencies if available.

Time implementation: By December 9, 1982.

L. Food Service

No!!
all 1. Defendants shall make provision for special religious, medical, vegetarian and Alaska native diets wherever and whenever possible, (e.g., holidays, special occasions and other times).

Time Implementation: By December 9, 1982.

B.D. 2. Defendants shall provide a nutritional analysis of each institution's menu, including religious, vegetarian and medical diets and provide a nutritional analysis report to the institutional stewards within one month of the date of the menu.

Time implementation: By December 9, 1982.

3. The institutional stewards shall take all steps necessary to remedy any deficiencies noted in the nutritional analysis of each institution's menu.

Time Implementation: By December 9, 1982.

4. Defendants shall make provisions for food to be served at appropriate temperatures, utilizing heated food service trays or hot carts for this purpose where necessary.

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Time Implementation: By January 8, 1983.

5. Defendants shall make provision for regular inspections of kitchen equipment and storage facilities.

Time Implementation: By December 9, 1982.

6. Defendants' goal is to replace and repair functionally obsolete kitchen equipment as soon as possible.

7. In dormitories, defendants shall make provision for the dining area to be removed from toilet facilities by providing privacy screens, unless alternative dining areas are made available to the inmates.

Time Implementation: By January 8, 1983.

8. Defendants shall make provision for a community dining area, except when individual security or safety considerations justify otherwise in all existing facilities except the old Ketchikan Correctional Institution and the Third Avenue Correctional Institution. Defendants intend to provide community dining areas, except when individual security or safety considerations justify otherwise, in all future institutions.

Time Implementation: By December 9, 1982.

9. Defendants shall provide inmates three meals every 24 hours of which two are hot meals. On Saturdays, Sundays and holidays, defendants may provide two hot meals which shall be less than fourteen (14) hours apart.

Time Implementation: Immediate.

10. Defendants shall provide for preassignment medical examinations and inoculations by medical personnel, if required, of all persons involved in food preparation or food service and provide periodic examinations thereafter. Defendants shall observe all other regulations and rules regarding food preparation and food.

Time Implementation: By December 9, 1982.

11. Defendants shall provide sanitary storage facilities for storage of all foods at appropriate temperatures. The storage facilities are to be maintained free from vermin and pests.

Time Implementation: By December 9, 1982.

M. Staff Training

all 2. Defendants shall permanently post the ACA Code of Ethics in each institutional Control Room.

Time Implementation: By December 9, 1982.

NO 4. Defendants shall train and maintain staff advocates at each institution.

Time Implementation: By January 8, 1983.

Why? 5. Defendants shall train institutional counselors to actively advise and assist inmates in preparing successful parole plans.

Time Implementation: By December 9, 1982.

N. Codes

1. Each institutional facility included in this action shall comply with all Alaska and local building, plumbing, electrical, health, fire and safety codes, except where allowances are made by the agencies responsible for enforcing the codes. Defendants shall immediately take all reasonable steps to obtain funding and measures necessary to comply.

Time Implementation: Immediate.

2. Each institutional facility included in this action shall be available to be inspected upon reasonable demand by appropriate local and state officials to assure continued compliance with the above-referenced codes.

Time Implementation: By December 9, 1982.

O. Inmate Information

all 1. Each inmate shall have free access to an Inmate Handbook, which sets forth institutional procedures and policies.

Time Implementation: By January 23, 1983.

Why? 2. Rights of inmates shall be listed in the handbook or on the wall of the inmates' room.

Time Implementation: By January 23, 1983.

Why? 3. A list of all disciplinary infractions shall be posted.

Time Implementation: By January 8, 1983.

4. Relevant provisions of this Order shall be included

in each handbook or otherwise posted with access to all inmates.

Time Implementation: By December 9, 1982.

P. Pretrial Detainee Rights

1. Pretrial detainees shall be housed separately from sentenced felons, except when they agree to be intermixed because of work assignments in the Nome and Ridgeview institutions.

Plaintiffs reserve the right to litigate the right of pretrial detainees to be housed separately from sentenced misdemeanants.

Time Implementation: By December 9, 1982.

2. Telephones shall be accessible to the general inmate population (i.e., inmates not in segregation) several hours per day for telephone calls. Telephones shall be accessible to inmates in segregation, except those in punitive segregation who have been denied telephone calls, upon written request. Defendants shall make every reasonable effort to ensure that calls to attorneys may be made during normal office hours or at such times as the calls are likely to be completed. No telephone calls will be monitored, except those which have been specifically authorized by the courts. No attorney calls will be monitored except those specifically authorized by the courts.

Time Implementation: By December 9, 1982 at all institutions except the Ketchikan Correctional Institution, which shall comply by February 7, 1983 and the Nome Correctional Institution shall comply by March 9, 1983. During the ongoing renovation, there may be occasional inability to obtain full compliance with this provision at the Fairbanks Correctional Institution.

3. Pretrial detainees, except those in punitive segregation, shall be eligible for participation in educational programs, religious services, and counseling after they have been incarcerated for ten (10) days.

Time Implementation: By December 9, 1982.

4. (a) All pretrial detainees except those in punitive segregation or those identified as escape, smuggling or security risks shall be eligible upon request for contact visitation at least one (1) hour per week.

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Time Implementation: By December 9, 1982, provided that the Nome, Ketchikan and Ridgeview Correctional Institutions have available space and staff. There may be periods of non-

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compliance in the Fairbanks and Juneau Correctional Institutions when ongoing renovations directly interfere with the ability to provide contact visitation.

(b) Contact visits with family members (including extended family, e.g., cousins and grandparents) who have satisfactorily established their identities and who abide by the rules of the institutions established for visitors may occur after an inmate has been incarcerated for fifteen (15) days. Contact visits with non-family members may occur after an inmate has been incarcerated for thirty (30) days.

Time Implementation: By December 9, 1982.

Q. Rehabilitation/Treatment

4. Provided there is inmate need, the following programs will be routinely available to all inmates, except those in punitive segregation, provided, however, that until such time as the legislature appropriates funds and staff, the availability of such programs will be dependent on social service agencies' willingness to provide services at no cost.

a) Basic life skills - this program will include such basics as cleanliness and health, cooking and nutrition, shopping, money management, budget, stress management, and other basics often taken for granted.

Time Implementation: By March 9, 1983.

b) Family counseling - these programs will include instruction on parenting techniques and training (e.g., P.E.T.), family interaction and family communication, as well as other skills necessary for close successful relationships.

Time Implementation: By March 9, 1983.

c) Stress reduction and management programs - because anger has been identified as relating to many crimes, courses which teach stress reduction and stress management are deemed critical, whether the technique is biofeedback, transcendental meditation, Est, breathing exercises, or any of countless other techniques.

Time Implementation: By March 9, 1983.

d) Social interaction - these programs may include such techniques as peer group counseling, Gestalt therapy, and Transactional Analysis (T.A.).

Time Implementation: By March 9, 1983.

e) Education - both G.E.D. and various simultaneously taught college, vocational or special interest courses should be taught.

Time Implementation: By January 8, 1983.

f) Employment skills - such programs should include basics such as how to find a job, how to fill out an application form, how to dress for an interview, how to act in an interview, and how to succeed on the job. This provision applies to pre-release institutions which house inmates who are approaching the time the inmates will be eligible for work release, community programs or release.

Time Implementation: By March 9, 1983.

5. Each inmate shall be treated in such a manner as to ensure his/her personal dignity. Plaintiffs shall treat correctional officers in such a manner as to ensure their personal dignity.

Time Implementation: By December 9, 1982.

6. There shall be written policies and procedures which provide that inmates have the option to refuse to participate in a secondary or post-secondary education, vocational training, religious services, social services and counseling, psychological and psychiatric treatment, library services, leisure time activities, involvement with community groups, mail and visiting, contact by media, contact by attorneys or legal representatives, volunteer programs and pre-release programs. (However, inmates may be required to participate in programs ordered by the sentencing court.)

Time Implementation: By March 9, 1983.

7. Comprehensive counseling (by a person with a formal counseling degree or formal training) and assistance shall be provided to pregnant inmates in keeping with the inmates'

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expressed desires in planning for their unborn children (e.g., in making decisions such as whether to bear their child, give the child up for adoption, or consent to an abortion), unless there is no one in Corrections or in the community who can or is willing to provide such counseling. Defendants shall make every effort to assure the availability of such counseling. Written policies and procedures shall be set out.

NO

Time Implementation: By February 7, 1983.

10. Defendants shall make every effort to provide adequate staffing, programs, space and funding to meet plaintiffs' needs.

Time Implementation: Immediate.

11. Absent an individualized determination of a substantial security threat, inmates housed in segregation shall not be handcuffed and/or shackled when in programs or otherwise out of their cells simply because of their placement in segregation.

Time Implementation: By December 9, 1982.

12. All inmates shall have the opportunity to enroll in a college level degree program based upon university admission requirements and complimentary requirements established by defendants.

Time Implementation: By December 9, 1982.

13. Defendants shall offer college level degree programs at the Fairbanks, Juneau, and other correctional institutions.

Time Implementation: By December 9, 1982.

R. Release Support

Time Implementation: February 9, 1983.

In the past, a number of inmates have been released without adequate funds for housing, food or employment, and without any substantial pre-release counseling, assistance or planning. Defendants shall undertake the following activities in the future, provided that until defendants receive funds and/or staffing, social service agencies are willing to provide these services at no charge:

1. A pre-release public assistance needs assessment,

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e.g., possible need for Section 8 housing or ASHA housing assistance, welfare, food stamps, child care assistance, employment assistance, and AFDC shall be made reasonably in advance of each prisoner's release in order to aid the prisoner in making a successful transition.

2. Should the Alaska Permanent Fund Dividend program go out of existence, defendants shall seek legislation to provide gate money to inmates in need, and defendants shall then take all steps necessary to establish a policy which provides prisoners leaving institutions with a minimum amount of seed money or success money based on their financial need.

S. Understaffing

Additional staffing is required to adequately carry out the duties of defendants as required by law and by the proposed Final Agreement. Defendants shall assess their personnel needs, including administrative personnel, correctional officer staff needs, and other personnel needs, including professionals required to carry out the provisions of the Proposed Final Agreement. After the needs have been assessed and itemized, the parties shall take all reasonable steps necessary to ensure the creation and funding of the positions found necessary. Plaintiffs and plaintiffs' counsel shall assist defendants in obtaining the necessary funding and positions. How - Rob Banks?

Time Implementation: Immediate.

T. Classification

1. Defendants acknowledge that there is inadequate classification at some of the institutions involved in this action.

2. The parties recognize that, as a general rule, any classification system begins to break down when an institution is at more than 80% capacity.

3. Defendants shall undertake to prepare and propose a classification plan for the Court's approval which shall be designed to provide housing in the least restrictive setting necessary which is consistent with the security and order of the

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institution and the special needs of the prisoner.

Time Implementation: By January 23, 1983.

4. Plaintiffs reserve the right to litigate at a later time the issue of whether or not an inmate should be permitted to have an attorney, law clerk, paralegal or civilian advocate present at the inmate's expense to represent the inmate and speak on the inmate's behalf at a classification or disciplinary hearing.

Disciplinary Procedures

1. An inmate shall receive a disciplinary or incident report not more than five (5) working days after the alleged offense. The Disciplinary Committee must grant the accused prisoner a hearing not more than seven (7) working days after the delivery of the copy of the disciplinary report, except that a postponement may be granted under 7 AAC 60.425(b) or under Sections 95(b), 435(a) or 460(b), and a continuance of up to thirty (30) days may be granted to the corrections staff, upon a showing of good cause, if further investigation is required. In extraordinary circumstances, additional continuances of up to thirty (30) days may be granted to the corrections staff, upon a showing of good cause, if further investigation is required. In extraordinary circumstances, additional continuances of up to thirty (30) days may be granted, but no more than six (6) months shall elapse between the date of the alleged offense and the final hearing.

Time Implementation: By January 8, 1983.

2. Persons who have knowledge of the event or incident which forms the basis for the disciplinary report in excess of the fact that the incident is alleged to have occurred, (i.e., no knowledge of the facts) and persons who have assisted in the investigation of the alleged incident shall not sit on the Disciplinary Committee. When the facts of an incident become common knowledge in an institution, only those staff members who have no direct involvement in the incident and who can decide the matter solely on the facts presented at the hearing shall sit on a disciplinary committee. Staff members shall not informally

This is out of the question

discuss with other staff members the facts of the incident in order to ensure that there is impartiality in the disciplinary process.

Time Implementation: By January 8, 1983.

3. Defendants shall establish guidelines and standards for the imposition of penalties in order to assure a graduated utilization of penalties and some uniformity in the treatment of prisoners found to have committed infractions. Such guidelines or standards, when approved by the court, shall be incorporated into this Order.

Time Implementation: By January 8, 1983.

4. (a) The statement of the evidence relied upon which is required under 7 AAC 60.475(a)(3) shall do more than recite the incident report; it shall set forth the specific facts found to support the Committee's determination.

Time Implementation: By December 19, 1982.

5. The Superintendent shall not approve or disapprove the adjudicative and/or dispositive decisions of the Disciplinary Committee until the inmate has had an opportunity to appeal.

Time Implementation: By December 9, 1982.

6. Absent exigent circumstances, an inmate who is alleged to have committed an infraction shall not be transferred to administrative segregation or have custody status increased either in that institution or another without first being afforded a hearing which meets the due process provisions established for administrative segregation hearings. In case of exigent circumstances, the hearing shall be held at the earliest possible time, but not later than three (3) working days after the housing transfer, unless a continuance is requested by the prisoner. In exceptional circumstances in which defendants demonstrate the hearing cannot be held within three (3) working days and for good cause, defendants may have a twenty-four (24) hour extension of time in which to hold the hearing.

Time Implementation: By December 19, 1982.

7. If the prisoner is found to be guilty of more than

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one disciplinary infraction by the Disciplinary Committee resulting from a single transaction or occurrence, then penalties shall run concurrently unless the disciplinary committee strongly justifies that separate and distinct correctional interests require penalties running consecutively.

Time Implementation: By December 9, 1982.

Prison Court Rules

V. Staff Advocates

Time Implementation: By January 8, 1983.

1. Defendants shall establish at each institution a pool of staff advocates, consisting of at least three or four correctional or probation officers, who shall receive training in inmate advocacy. Defendants shall periodically train and rotate the persons in this pool.

2. An inmate who desires to be represented by a staff advocate shall have the right to select from at least two of the advocates from the pool.

3. Once selected, the advocate shall meet with the inmate at least thirty-six (36) hours before the scheduled hearing to actively assist the inmate and to help coordinate the inmate's presentation at the hearing. When requested, the advocate should interview witnesses, advise the inmate how best to proceed and prepare examination of witnesses scheduled to appear at the hearing.

4. In cases where the staff advocate is to represent the inmate at a disciplinary hearing, the advocate shall clearly explain to the inmate that if the inmate does not request the reporting officer to be present, the inmate may be found guilty on the basis of the disciplinary or incident report alone, even if the inmate denies any wrongdoing.

5. When an advocate is selected, the staff advocate shall submit the inmate's witness list to the appropriate person not later than twenty-four (24) hours before the hearing.

6. When necessary, the staff advocate shall have the assistance of an interpreter.

W. Administrative Segregation

(all)

1. 7 AAC 60.485(a)(2) shall presently be construed to mean as follows:

"[I]s incapacitated or poses a substantial immediate threat to himself or others."

Time Implementation: By December 9, 1982.

2. 7 AAC 60.485(a)(8) shall be construed as follows:

"[R]epresents a substantial immediate threat to the security of the institution or requires protective custody."

Time Implementation: By December 9, 1982.

3. Absent exigent circumstances, a prisoner is entitled to a hearing prior to being placed in administrative segregation, written notice to the prisoner shall include the following:

a) Notice of the facts which form the basis for a belief that administrative segregation is necessary and a recitation of the text of the provision of 7 AAC 60.485-.495 which applies;

b) The right of the prisoner to select a staff advocate from the staff advocate pool in order to assist, advise and represent the prisoner and the procedures the prisoner must follow to select and meet with a staff advocate;

c) Notice of the time and place of the hearing;

d) The right of the prisoner to appear at the hearing in front of an impartial committee, give evidence and present witnesses, unless the committee makes a written factual finding that an individual's testimony is irrelevant, repetitious or presents a substantial risk of reprisal.

e) The right of the prisoner to examine witnesses, unless the committee makes a written factual finding that to do so would subject a person to a substantial risk of physical harm, in which case the prisoner will at least be provided a summary of the factual basis of that testimony;

f) That the hearing shall be tape recorded and kept in transcribable form; and

g) That the committee shall make written factual findings and indicate the evidence relied upon in making its

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determination. The factual findings shall be in sufficient detail as to allow a reviewing authority to determine the basis for the committee's decision.

At any such hearing, Corrections shall have the burden of showing that the prisoner meets the criteria for being placed in administrative segregation.

Time Implementation: By December 19, 1982.

4. In cases of exigent circumstances, the hearing shall take place as soon as possible, but no later than three (3) days after the prisoner is placed in administrative segregation, unless the prisoner requests a continuance of the hearing. In exceptional circumstances in which defendants demonstrate the hearing cannot be held within three (3) working days and for good cause, defendants may have a twenty-four (24) hour extension of time in which to hold the hearing.

Time Implementation: By December 9, 1982.

5. At any Classification Committee Review hearing held pursuant to 7 AAC 60.485(c), Corrections shall have the burden of establishing that the inmate continues to meet the criteria for administrative segregation set forth in 7 AAC 60.485(a), and shall state, in detail, the factual basis for the determination if the Committee determines the prisoner should continue in administrative segregation.

Time Implementation: By December 9, 1982.

6. 7 AAC 60.490 shall be modified to provide that a prisoner may temporarily be assigned to administrative segregation if the inmate is awaiting transfer to any other institution, if it is determined at a classification hearing that the prisoner represents a substantial immediate threat to the security of the institution. The Committee has the burden of establishing that the prisoner meets the criteria for administrative segregation as set out in 7 AAC 60.485(a), and must set forth its factual findings in detail on the record.

Time Implementation: By December 9, 1982.

7. 7 AAC 60.495(a) shall be modified to reflect that a

LEGISLATIVE ACTION

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prisoner shall not be housed in administrative segregation, absent exigent circumstances, unless the prisoner is first given a hearing as described in ¶W3, supra, and it is determined that the prisoner meets one or more of the criteria set forth in 7 AAC 60.485(a). Corrections has the burden of proof at such a hearing and, upon finding that an inmate meets the criteria, the Committee shall set forth in detail the factual findings which form the basis for such a determination.

Time Implementation: By December 9, 1982.

8. 7 AAC 60.495(c) shall be construed to mean that a prisoner in administrative segregation shall receive a classification committee hearing at least once every thirty (30) days while housed in administrative segregation. The hearing shall be conducted in accordance with ¶W3 of this Order. The prisoner shall be afforded all rights set forth in ¶W3 of this Order. Within one (1) working day of the hearing, The Classification Committee shall prepare a written report in accordance with 7 AAC 60.255(a). The superintendent shall, within two working days of the report, approve or disapprove the report or refer the matter back to the committee for further consideration which shall be completed within four working days. The prisoner shall immediately be returned to general population unless the superintendent determines that the facts establish the prisoner continues to meet the criteria for administrative segregation set forth in 7 AAC 60.485(a), as construed by this Order.

Time Implementation: By December 9, 1982.

9. For purposes of appeal, all inmates shall have access to the tape recordings of their administrative segregation hearings, classification committee hearings other than those related to program involvement and disciplinary hearings, except that portion of any tapes which contain the tape-recorded testimony of an informant, in which case the informant's testimony shall be summarized in detail and the summary shall be given to the inmate, unless the summary would place the informant in danger.

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10. Defendants shall, within ten (10) working days of this Order, review the administrative segregation status of each member of Plaintiff class and shall either transfer the inmate from administrative segregation or provide each inmate with a hearing as described under the provisions of this Agreement.

Time Implementation: By December 19, 1982.

X. Parole Preparation

A counselor or other person experienced with parole hearing procedures and actions of the parole board shall meet with inmates in advance of any parole board hearing and assist inmates in making application, advise inmates of needs and assist each inmate in fulfillment of those needs.

Time Implementation: By January 8, 1983.

Y. Prohibition Against Retaliation/Availability of Cop-Outs and Grievances

ell Time Implementation: By December 9, 1982.

1. No inmate shall receive any retaliation as a result of being involved in this class action or for actively communicating or assisting plaintiffs' counsel in the pursuit of plaintiffs' case. No retaliation shall be taken against any prisoner because of his/her filing a cop-out or grievance.

2. Cop-outs and grievance forms shall be readily available to inmates. Inmates shall not be required to fill out a cop-out sheet to request a grievance form. All cop-outs shall be reviewed by the Superintendent or his designee or other individual where an inmate specifically directs the cop-out to that individual.

Z. Fire and Life Safety

ell 1. There shall be established evacuation procedures with routes clearly marked and posted.

Time Implementation: By January 8, 1983.

2. Fire and evacuation drills shall be regularly held.

Time Implementation: By January 8, 1983.

3. Correctional officers and other staff shall be

trained in cardio-pulmonary resuscitation (C.P.R.) and periodically re-certified.

Time Implementation: By February 7, 1983.

4. Portable fire extinguishers and first aid kits be maintained and updated as necessary.

Time Implementation: Immediate.

BB. Health Care

He
1. Medical (including psychiatric and dental) decisions, including determination of health care personnel requirements and medical and dental judgment shall be the sole province of the responsible physician and dentist respectively; however, security regulations applicable to facility personnel shall also apply to health personnel.

3. Written policy and defined procedures shall require notification of the inmate's next of kin or legal guardian in case of serious illness, injury or death. When an inmate is represented by an attorney, the attorney shall also be notified.

Time Implementation: By February 7, 1983.

4. Until and unless the pertinent regulation is amended or rescinded, defendants shall perform a health appraisal for each inmate within seven (7) days after the inmate's initial admission to an institution, unless the inmate has received a health appraisal within the previous ninety (90) days, in which case a new health appraisal is not required except as determined by the physician or his/her designee. Absent unusual circumstances, any laboratory and/or diagnostic tests, dental and psychiatric histories which cannot be completed in 7 days shall be completed within fourteen (14) days after the inmate's arrival at the facility. In all other respects, the health appraisal shall be in accordance with Section 2-4291 of the ACA Standards for Adult Correctional Institutions (1981), a copy of which is attached hereto as Attachment A.

Time Implementation: By January 8, 1983.

5. All examinations, treatments and procedures governed by informed consent in Alaska are likewise observed for inmate

care. Informed consent is the agreement by the patient to a treatment, examination or procedure after the patient receives the material facts regarding the nature, consequences, risks and alternatives concerning any proposed treatment, examination or procedure. Informed consent may be dispensed with, in the discretion of the treating physician, in certain circumstances such as the following:

- a. An emergency which requires immediate medical intervention for the safety of the patient;
- b. Emergency care involving patients who do not have the capacity to understand the information given; and
- c. Public health matters, such as communicable disease treatment.

Time Implementation: By January 8, 1983.

6. Sick call shall be conducted by a physician and/or other qualified health personnel and shall be available to each inmate as follows:

- a. In small institutions of less than 50 inmates, sick call shall be held once per week at a minimum;
- b. In medium-sized facilities of 50 to 200 inmates, sick call is held at least three times per week; and
- c. Facilities of over 200 inmates shall hold sick call a minimum of five days per week.

Time Implementation: By January 8, 1983.

7. The facility administrator and the responsible physician or their designees shall consult with one another prior to the following actions being taken regarding patients who are diagnosed as having significant medical illnesses or conditions:

- a. Housing assignments;
- b. Program assignments;
- c. Disciplinary measures; and
- d. Admission to and transfer from institutions.

Time Implementation: By January 8, 1983.

8. If complaints regarding health care of inmates are made, defendants shall refer these complaints to the local or

state medical association for follow-up on the same basis as complaints are handled regarding health care provided to residents in the community.

Time Implementation: January 8, 1983.

9. Thorazine and Haldol-type drugs shall not be used as long-term management tools to control a prisoner's behavior unless any such drug is administered as part of a therapeutic medical treatment plan, for a limited period of time with review by a psychiatrist or qualified physician. No long-term therapeutics (drugs) shall be administered without at least monthly review.

Time Implementation: By December 9, 1982.

11. In cases in which a prisoner has made an apparent suicide attempt, defendants shall make every effort to provide a psychiatrist, psychologist, psychiatric social worker or other trained mental health professional to counsel and assist the prisoner within not more than forty-eight (48) hours of the apparent suicide attempt, unless the prisoner is medically unfit to talk to such a professional.

Time Implementation: By January 8, 1983.

14. Unsentenced prisoners shall receive at least as good health care as sentenced prisoners, however, defendants need not provide elective dental and medical care. Defendants shall provide medical and dental care to unsentenced prisoners as determined necessary by health care personnel and shall provide eyeglasses to pretrial detainees who have been incarcerated for a period of longer than fifteen (15) days and who are in need of glasses. Defendants may seek to have these services provided or paid for by the Veteran's Administration; Alaska Native Hospital; Union Health Coverage; Medicaid or Medicare; major health care insurance coverage; welfare coverage or direct payment by the unsentenced prisoner when appropriate.

Time Implementation: By December 9, 1982.

CC. Monthly Reports

all Defendants shall make periodic reports on the progress of their compliance to the court and to plaintiffs. *Counsel* The reports

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shall be made at least every two months. The reports shall be in a form as agreed upon by the parties or as the court may direct.

DD. Attorney's Fees and Costs

Reasonable attorney's fees and costs shall be awarded to plaintiffs.

EE. Commissary

Time Implementation: By January 8, 1983.

1. In the past, some correctional institutions have placed a surcharge on commissary items and placed the extra revenues into an inmate benefit fund. In the future, no surcharge shall be placed on commissary items. The inmate benefit fund shall be discontinued.

2. Defendants shall make reasonable efforts to provide commissary space and service near inmates' housing quarters where inmates can purchase personal items. When security or space considerations dictate, defendants may make moveable carts available to cells instead.

FF. Transportation

1. The parties recognize that the existing transportation resources and procedures have not been adequate to transport prisoners to health-related appointments (e.g., medical, dental, psychological, etc.) and may have adversely impacted the health care of some inmates.

2. Defendants shall immediately take all steps necessary to insure that in the future prisoners are timely transported to scheduled health-related appointments. Among the actions defendants intend to take to accomplish this provision are the following:

(a) Defendants shall work closely with the Department of Public Safety in an effort to establish times when all priority movements may be performed on a scheduled basis.

(b) Defendants shall attempt to identify the number of public safety personnel who are budgeted for transportation of prisoners so efforts may be made to transfer that budget component to the Department of Health and Social Services.

(c) Defendants have already assumed responsibility for local transportation of all sentenced prisoners classified minimum custody.

(d) Efforts are being made to create a Department of Corrections. If these efforts are successful, it is defendants' intention to assume responsibility for all prisoner transportation in the State.

Time Implementation: By February 7, 1983.

GG. Overcrowding

1. Overcrowding adversely impacts every correctional goal and every part of the institution, including the physical plant, staff, and the prisoners' health and safety.

2. Studies, including research funded by the National Institute of Law Enforcement and Criminal Justice, the Law Enforcement Assistance Administration, and U.S. Department of Justice related increased death rates, increased suicide rates, increased inmate assaults and inmate killings, increases in self-mutilations, increases in blood pressure, higher illness complaint rates for contagious and non-contagious illnesses and increases in stress-related illnesses and psychiatric commitments in correctional institutions to crowding too many prisoners into too small a space (i.e., overcrowding).

3. In light of this information, national and international organizations have developed professional standards deemed necessary or proper to provide for the health and safety of persons who are remanded to the custody of prison authorities. The standards, which do not necessarily establish constitutional minima, do reflect contemporary standards of decency. The standards are as follows:

a. The American Correctional Association's Manual of Standards for Adult Correctional Institutions (1981) requires a minimum of 60 sq. ft. per prisoner for those kept in the cell ten hours or less a day and 80 sq. ft. per prisoner for those confined ten hours or more per day.

b. The Department of Justice, Federal Correctional

Policy Task Force, Federal Standards for Corrections (1980) adopts the same standards as the American Correctional Association.

c. The American Public Health Association Standards for Health Services in Correctional Institutions (1976) provide for 60 sq. ft. per prisoner in a cell and 75 sq. ft. in dormitories; dormitories are discouraged. The APHA standard is based on the judgment that provision of less space per person is an unacceptable medical risk.

d. The National Clearinghouse for Criminal Justice Planning and Architecture (and, through it, the Law Enforcement Assistance Administration) requires 70 sq. ft. per person.

e. The National Advisory Commission on Criminal Justice Standards and Goals requires 80 sq. ft. per person.

f. The Model Sentencing and Corrections Act, approved by the National Conference of Commissioners on Uniform State Law (1978), requires 70 sq. ft. per prisoner. Section 2-704(3).

g. The American Institute of Architects requires 70 sq. ft. per prisoner.

h. The Building Officials Conference Code of America, Building Code, requires 70 sq. ft.

i. The Federal Home Administration (FHA) requires a minimum of 70 sq. ft. sleeping space per person (for non-incarcerated individuals who are, of course, able to move freely about).

j. The National Sheriff's Association, Handbook on Jail Architecture, requires 70 sq. ft. per prisoner (at p. 63).

4. The parties to this action recognize that the Alaska correctional institutions are seriously overcrowded and that at some institutions many inmates are housed in dormitories or cells with thirty (30) or less square feet per prisoner for extended periods of time. Medical facilities, building facilities, programs and staff are overburdened. Further overcrowding may well lead to disastrous results.

5. Accordingly, the parties agree all reasonable

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short-term and long-term measures which are consistent with the protection of the public and the legitimate goals of the Alaska Constitution must be taken to alleviate the overcrowding problem. In general, defendants shall attempt to reduce overcrowding as follows:

- a. Reduce overcrowding, particularly of the pre-trial population through arraignment and bail procedure modifications;
- b. Reduce the pretrial offender's length of stay;
- c. Expand alternatives to arrest and confinement for appropriate cases through diversion, community service sentences, probation, community release, and furlough programs;
- d. Involve the judiciary in overseeing population levels;
- e. Improve correctional management techniques, (i.e., classification, information systems, procedures);
- f. Continue to build or locate appropriate facilities to house prisoners;
- g. Federal Bureau of Prisons placement for some inmates on a Short-Term Use;
- h. Modify good time legislation;
- i. Seek gubernatorial action through executive clemency and/or through emergency overcrowding legislation.

6. Defendants shall within a reasonable period of time but in no event longer than thirty (30) days, submit a plan to the court, specifying in detail, the actions defendants shall take in order to reduce the populations to acceptable levels. Defendants shall include time frames and specific legislative proposals within the plan.

HH. Religion

1. Defendants shall provide, by written policies and procedures, that inmates have access to religious publications and have opportunities to adhere to the requirements of their respective faiths.

Time Implementation: By December 9, 1982.

2. Each institution included in this action shall provide facilities and equipment for the conduct of religious programs for inmates.

Time Implementation: By January 8, 1983, provided such facilities and equipment do not require significant cost.

II. Infractions and Penalties

1. Until such time as new infraction classifications and penalties are adopted, the following provisions shall be applicable:

a. Major infractions shall be punishable by loss of statutory good time; loss of privileges for up to ninety (90) days; and disciplinary segregation for up to fifteen (15) days.

b. Minor infractions shall be punishable by punitive segregation for up to five (5) days and loss of privileges for up to thirty (30) days.

Time Implementation: By December 19, 1982.

2. Until such time as new regulations or guidelines are adopted, the following infractions set forth in 7 AAC 60.400 shall be modified and/or construed as indicated:

a. 7 AAC 60.400(b)(3) -- Threats to another of immediate bodily harm shall be punishable by loss of statutory good time, up to ten (10) days in punitive segregation and up to sixty (60) days loss of privileges; threats to another's personal property shall be punishable by loss of statutory good time, up to five (5) days punitive segregation and up to thirty (30) days loss of privileges.

b. 7 AAC 60.400(b)(9) -- Stealing, destroying, altering or damaging government property, or the property of another shall be considered a major infraction if the property has a value of ONE HUNDRED DOLLARS (\$100.00) or more; if the property has a value of at least FIFTY DOLLARS (\$50.00) but less than ONE HUNDRED DOLLARS (\$100.00), the offense shall be punishable by loss of statutory good time, up to ten (10) days punitive segregation and up to sixty (60) days loss of privileges; if the property has a value of less than FIFTY DOLLARS (\$50.00), the infraction shall

be punishable as a minor infraction.

c. 7 AAC 60.400(b)(11) -- Possession, use, or introduction of any contraband which threatens the security of the institution, such as weapons, escape implements, narcotics, or other illicit drugs shall be a major infraction. Possession, use, or introduction of other contraband which threatens the security of the institution is punishable by loss of statutory good time, up to ten (10) days punitive segregation and up to sixty (60) days loss of privileges. Use or possession of other contraband is governed by 7 AAC 60.400(c)(2).

d. 7 AAC 60.400(b)(15) -- Participating in an organized work stoppage is a major infraction; refusing to work shall be punishable by loss of statutory good time, up to ten (10) days punitive segregation and up to sixty (60) days loss of privileges.

e. 7 AAC 60.400(b)(18) -- Unauthorized use of mail or telephone shall be punishable by loss of statutory good time, up to ten (10) days in punitive segregation, and up to sixty (60) days loss of privileges.

f. 7 AAC 60.400(b)(20) shall be deleted and have no effect.

g. 7 AAC 60.400(b)(21) -- Engaging in a group or individual demonstration or activity involving conduct which clearly presents a substantial threat to the security or orderly administration of the institution shall be punishable by loss of statutory good time, up to fifteen (15) days in punitive segregation and loss of privileges for up to ninety (90) days. Refusing to obey a lawful and proper order of any staff member, other than failure to perform work as instructed by any staff member (7 AAC 60.400(c)(6)) shall be punishable by loss of statutory good time, up to ten (10) days in punitive segregation and loss of privileges for up to sixty (60) days.

h. 7 AAC 60.400(c)(1) shall be construed to mean that the exchange, barter or transfer of anything of value with or to any other person in the institution without approval of the

superintendent is a minor infraction if it threatens the security or orderly administration of the institution.

i. Any prisoner housed in-state who has been found guilty of a disciplinary infraction set forth in 7 AAC 60.400 at any time shall have restored to him/her, upon application, all forfeited statutory good time to which he/she may be entitled under guidelines which defendants shall prepare.

Time Implementation: By December 19, 1982.

JJ. *General Provisions*

Nothing in this agreement shall be construed to prevent defendants from responding to those rare instances where substantial threats to the security of individuals or the institution exist.

DATED this 21 day of January, 1983, at Anchorage, Alaska.

151
TIMOTHY H. STEARNS
Attorney for Plaintiffs

DATED this 21 day of January, 1983, at Anchorage, Alaska.

NORMAN GORSUCH
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: DI
MICHAEL J. STARK
Asst. Attorney General

ORDER

IT IS HEREBY ORDERED that the Partial Settlement Agreement is approved, is incorporated herein and hereby made the order of this court. If any provisions of this order conflict with

Title 7, Chapter 60 of the Alaska Administrative Code, the provisions of this Order shall supersede the conflicting code provisions.

DATED this 21 day of Jan., 1983, at Anchorage, Alaska.

DOUGLAS S. SERDAHELY
Superior Court Judge

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2-4291 Written policy and procedure require that health appraisal for each inmate, excluding intrasystem transfers, is completed within 14 days after arrival at the facility. In the case of an inmate who has documented evidence of a health appraisal within the previous 90 days, a new health appraisal is not required except as determined by the designated health authority. Health appraisal includes the following:

Review of the earlier receiving screening

Collection of additional data to complete the medical, dental, mental health and immunization histories

Laboratory and/or diagnostic tests to detect communicable disease, including venereal disease and tuberculosis

Recording of height, weight, pulse, blood pressure and temperature

Other tests and examinations as appropriate

Medical examination, including review of mental and dental status

Review of the results of the medical examination, tests, and identification of problems by a physician or other qualified health care personnel, if such is authorized in the medical practice act

Initiation of therapy when appropriate

Development and implementation of treatment plan including recommendations concerning housing, job assignment, and program participation.

(Essential)

DISCUSSION: A health appraisal should be completed for each inmate as soon after arrival to the institution as possible in order to detect any health problems which may need immediate attention and to determine if the individual needs any further health care services. Test results, particularly for communicable diseases, should be received and evaluated before an inmate is assigned to housing in the general population. Information regarding the inmate's physical and mental status also may dictate housing and activity assignments. When appropriate, additional investigation should be conducted into alcohol and drug abuse, and other related problems. A routine appraisal by mental health staff should be done within 30 days of admission on all new inmates.

ATTACHMENT A

MEMORANDUM

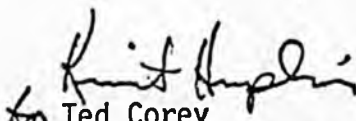
State of Alaska

TO: Roger V. Endell
Director
Division of Adult Corrections

DATE: March 7, 1983

FILE NO:

TELEPHONE NO:

FROM: *for* 
Ted Corey
Assistant Director
Division of Adult Corrections

SUBJECT: South Central Population

The following information describes South Central institutional populations, operating capacities, action being taken, and future recommended action.

Institution Maximum Operating Capacities:

Sixth Avenue: 90 - The count of 90 must be maintained to allow a 10 bed buffer for booking.

Third Avenue: 65 Sentenced - Classification Center.

Hiland Mountain: 160 - Ten (10) beds are reserved for segregation.

Meadow Creek: 30 - Three (3) beds reserved for segregation.

Ridgeview: 66 Sentenced misdemeanants.

Palmer: 230 - The population is broken down as follows:
130 Minimum, 100 Medium. There are four (4) Maximum Security beds maintained at Palmer Medium for segregation. When future inmate housing comes on line, the capacity of the minimum custody institution should be reduced to 106 and the Medium facility to 95 for a total of 201.

Cook Inlet: 186 bed operating capacity with 12 bed maximum security unit reserved for segregation.

The total operating capacity of Anchorage area institutions is 827. On 03/05/83, the count was 857. Institutions counts on 03/05/83 were as follows:

Sixth Avenue: 95 - Five (5) prisoners over the operating capacity.

Third Avenue: 65 - At operating capacity.

Ridgeview: 120 - 54 prisoners over the operating capacity of 66 sentenced offenders.

Meadow Creek: 33 - Three (3) prisoners over the operating capacity.

Hiland Mountain: 240 - 80 prisoners over the operating capacity.

Roger V. Endell
March 7, 1983
Page 2

Palmer Medium: 100 - At operating capacity.

Palmer Minimum: 130 - At operating capacity.

Cook Inlet: 74 - 112 prisoners under operating capacity. The new facility is scheduled for full capacity operation by 03/14/83. This will result in a projected operation count including intake projections of 887 prisoners in the Anchorage area institutions by 03/14/83. The above indicates a shortage of 60 beds with all institutions operating at capacity on 03/14/83.

In order to provide emergency housing for the 60 bed projected shortage, institutions in the Anchorage area will maintain the following capacities until additional funds and prisoner housing are identified.

Sixth Avenue: 80 - Reserving 20 beds for felony women and misdemeanor booking.

Third Avenue: 65 - Sentenced felons.

Ridgeview: 66 - Sentenced Misdemeanants.

Cook Inlet: 186 bed operating capacity. The holding cells in the booking area will have to provide felony intake housing with the 12 bed maximum unit reserved for segregation.

Hiland Mountain: 195 bed operating capacity.

Palmer Medium: 100 bed operating capacity.

Palmer Minimum: 130 bed operating capacity.

Meadow Creek: 33 sentenced women operating capacity.

Glennwood Center (Contract): 50 beds for work release offenders.

Effective 03/14/83, institutions in the Anchorage area will operate at the the new emergency capacities as noted above which results in a total Anchorage area prisoner bed capacity of 905.

It is evident that the above action will not relieve the rapid increase in prisoner intake. Felony daily booking have increased from 8 to a daily average of 16. Misdemeanant bookings are averaging 22 daily. The prisoner count in the Anchorage area is rising rapidly. In the first five days of March, the prisoner count increased by a net gain of 36 over prisoners released.

Roger V. Endell
March 7, 1983
Page 3

It is my intent to continue double bunking the new Cook Inlet Institution resulting in an operating capacity of 240 with the 12 bed unit reserved for segregation bringing the institutions total bed count to 152, which is 36 beds over the maximum design capacity of 216. This action will require additional fire exits.

The Anchorage area prisoner population increased from 742 on 02/01/83 to 790 on 02/28/83. This is a net gain of 48 prisoners in one month. My projections indicate at that there will be a shortage of 200 prisoner beds by June of 1983 in the Anchorage area. With Anchorage area institutions operating at and over their maximum capacity, it will be necessary to bring additional staff and prisoner housing on line as soon as possible.

TC:dw

Table 3
Alaska State Correctional Centers
Capacity and Populations

State Correctional Centers	Normal Capacity ^a	Emergency Capacity ^a	Prisoner Count 1/82 ^b	Prisoner Count 1/83 ^a
SCC - Anchorage • Sixth Avenue • Third Avenue	100 65	100 ^b 65 ^b	100 83	94 64
SCC - Eagle River • Hiland Mountain -Special Treatment • Meadow Creek	160 10 28	240 14 28	153 26	212 28
SCC - Palmer • Minimum Custody • Medium Custody	106 100	120 150	130 95	138 98
SCC - Fairbanks • Temporary Unit • Expanded Unit	56 110	56 125	164	181
SCC - Nome	30	31	33	40
SCC - Juneau • Lemon Creek • Johnson Human Svcs.	90 4	105 4	132 1	127 2
SCC - Ketchikan	30	30	28	28
SCC - Ridgeview Careage House	90	115	134	94 13
Total	979	1,183	1,079 ^c	1,119 ^d

^a Department of Health and Social Services, Division of Adult Corrections.

^b Attorney General's Office, Memo to File No. J66-516-82 from Wilson L. Condon regarding Analysis of Corrections Population Projections, November 23, 1982.

^c This figure does not include the 61 prisoners that were confined in State halfway houses during this period or the 188 prisoners held in federal prisons outside of Alaska.

^d This figure does not include the 78 prisoners that were confined in State halfway houses during this period or the 191 prisoners held in federal prisons outside of Alaska.

ANCHORAGE AREA SUMMARY
Division of Adult Corrections

On Saturday, March 5, 1983:

867 in custody in Anchorage Bowl
744 operating capacity (w/74 at CIPT)
113 more inmates than beds.

	<u>Actual Count</u>	<u>3-5 Maximum Operating Cap.</u>	<u>Immediate Revisions</u>
Hiland Mtn.	240	160	
Palmer	230	230	
Ridgeview	120	95	66
3rd Avenue	65	65	
Meadow Creek	33	30	
C.I.P.T.	74	74	200
6th Avenue	<u>95</u>	<u>90</u>	<u> </u>
	857	744	841

Action: Moving minimum of 110 additional inmates this week to C.I.P.T. In order to staff C.I.P.T., must close half of Ridgeview and move staff and 60 inmates to C.I.P.T. Another 20 inmates will transfer from Hiland Mountain Correctional Center. During the week 40 inmates will transfer from Sixth Avenue to C.I.P.T.

Staffing:

1. Move some from Ridgeview to C.I.P.T.
2. Voluntary overtime pool of correctional officers.
3. Potential raid of Academy trainees.

Summary: Even by adding 97 beds to operating capacity, we still are short 16 beds from last week's actual Anchorage area count. In the last 5 days there has been a net increase of 36 inmates in Anchorage, and an average of 40 bookings per day. There has been a statewide increase in the past two months of 120, to a total of 1,432 inmates.

COMMITTEE REPORT

SENATE

2/2/83

FURTHER: Finance

Date: 3/24/83

Mr. President:

The Committee on State Affairs has had SB 106

An Act relating to overcrowding of the state prison system; and eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 106 same title new title
- and recommends do
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Baker
Eric Kay

V. Truett

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
Title "An Act relating to overcrowding of the State prison system"
Requested by Office of the Governor Date Dec. 29, 1982

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Offender Confinement, Reform. and Supervision
BRU, Program or Subprogram(s) Affected Adult Confinement, Prob. & Comm. Prg.
(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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	-0-	-0-	-0-	-0-	-0-	
PART TIME						
TEMPORARY						

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

RECEIVED

FEB 4 1983

LEGISLATIVE FINANCE

IV. DATE Jan. 10, 1983

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)

Roger C. Lange
M. Hussey 1/11/83
1/14/83

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



TO: Senate State Affairs
Committee Members

FROM: David Dye, 
Committee Aide

DATE: March 24, 1983

RE: Draft CS for Senate Bill 106--Prison overcrowding

This draft CS addresses concerns identified by the committee at the first hearing on this bill. The draft is the product of the cooperative effort of committee staff, department of law staff and corrections staff.

According to the Division of Corrections estimates, SB 106 would release approximately 40 felons in an emergency overcrowding situation. This draft CS would release approximately 55 felons and an additional 30 misdemeanants. To be eligible for release, misdemeanants must be serving a sentence of 20 days or longer and have served at least one-half of that sentence. Under these criteria drunk drivers incarcerated for a mandatory minimum sentence on first or second offense would not be eligible for release.

The draft differs from the original bill in the following ways (page and line references are to the draft CS):

Page 2, line 2. A state of emergency overcrowding is certified after a 25 day waiting period instead of 30 days.

Page 2, line 3. The director shall immediately certify the state of overcrowding following the 25 day waiting period rather than have 48 hours to so certify.

Page 2, line 5. The director has 5 days to submit a list of prisoners eligible for release after the 25 day waiting period rather than 15 days.

Page 3, lines 6, 17 and 21. Parole or probation may be revoked for a violation of a municipal ordinance which is punishable by imprisonment. In the original bill violation of any municipal ordinance could revoke probation or parole.

Page 3, line 25. Limits the applicability of subsection (a) to felons (a new subsection (b) applies to misdemeanants, see below).

Page 3, line 28. The requirement that a prisoner be continuously incarcerated during the 25 day period of the waiting period has been deleted.

Page 4, lines 3-4 and 6-7. This bill is made applicable to crimes committed under the old criminal code.

Page 4, line 12. Adds language to subsection (E) limiting its applicability to felons (a new subsection (b) applies to misdemeanants, see below).

Page 4, line 14. Changes this criterion to 120 days rather than 90 days.

Page 4, line 16. Adds a requirement that a felon serve at least one-half of his or her sentence.

Page 4, line 17. Subsection (b) is added to release with misdemeanants under different eligibility criteria than felons.

Page 5, lines 13-16. Adds definitions of "felony" and "misdemeanor".

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: S.B. 106 Date on Bill: February 8, 1983
 Title: "An Act relating to overcrowding of the state prison system"
 Sponsor: Office of the Governor
 Requestor: Senate State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:
No funds required

3. Assumptions:

A basic assumption is made that an insignificant number of misdemeanor offenders would qualify for early release under this legislation. This is based on the eligibility criteria in Section 33.20.140. Therefore, the inmate population effected are those persons completing longer sentence for felony offenses.

The October 198? figures indicate 118 persons convicted of felony offenses were within 90 days of completing their sentence. It is, therefore, assumed that between 105 and 130 inmates would be eligible for early release at any time when the provisions of this legislation would be invoked.

The simultaneous release of this number of persons at one time into probation or parole services would create a significant strain on the staff during the period of release. It is not possible to predict whether or not additional resources would be required over the short term to accommodate the influx in the caseload. By the ninety-first day, the caseload should be at the same point as though no early release were made. It is assumed that other on-going work would have to be set aside by both institutional probation staff, who would prepare the release papers, and field probation staff during the impacted period.

Although not a direct effect of this proposed legislation, it should be recognized during the regular budgetary process that additional probation/parole staff resources are required to provide the supervision to the ever increasing number of released felons.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact. RJA

Prepared By: Roger C. Lange
Division: Adult Corrections

Roger C. Lange

Phone: 465-3376
Date: July 28, 1983

Approved by Commissioner: Robert London Smith
Department: Health and Social Services

Date: 2/25/83

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



March 10, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Bill Ray
Senator Arlis Sturgulewski

Senate Bill 106 -- Prison overcrowding

Roger Endell, Director, Division of Corrections spoke in favor of the bill. There are approximately 1500 prisoners in the state prison system but only about 1100 bed spaces. This is due to an increasing influx of felons. If present rates continue, the state will have to build a new 200 bed prison every year. This is very expensive.

Under this bill, prisoners who have 90 days or less to complete on a sentence for a non-violent crime would be automatically released when an overcrowding emergency was certified. Approximately 45 felons would be released.

Michael Stark, Assistant Attorney General for Corrections, joined Mr. Endell to testify. He stated that under this bill only misdemeanants with sentences longer than 45 days would be eligible for release.

Senator Ray was of the opinion that misdemeanants should be the first ones to be released since they had committed the least serious offenses. He also wanted to know how many prisoners were held for DWI. Mr. Endell stated that there were approximately 30-40 on any given day.

Mr. Endell said that several things could be done to help ease overcrowding. Persons convicted of low level crimes should not be placed in our most expensive bed spaces. He suggested initiating "community resource centers" which could provide several less restrictive alternatives to incarceration for certain classes of offenders. He described how Finland deals with drunk drivers. However, the real problem lies with the increasing number of felons. There is no way out of building new bedspace. There will be substantial increases in both operational and capital costs for corrections. The division expects a net gain of 24 prisoners per month for the foreseeable future.

Senator Ray was concerned that the public perception of this bill will be that the state is turning murderers and rapists loose on the public even though that would not be true in fact.

Senator Sturgulewski observed that the prison system would likely be in a continual state of emergency and that this legislation is actually a sentence shortening bill.

Senator Vic Fischer stated that the bill would be held over and asked Mr. Stark to work with committee staff to draft a committee substitute.

Senate Bill 116 -- Placing emergency guards in the Department of Public Safety in the exempt service

Terry Cramer, Executive Director of the Blue Ribbon Commission on State Personnel, proposed a committee substitute which would place emergency guards in the partially exempt service rather than the exempt service.

Frank Ray, Director of the Division of Personnel concurred with the committee substitute.

Senator Ray moved to adopt the committee substitute. There was no objection.

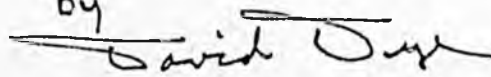
Senator Ray moved and asked unanimous consent to move the committee substitute from the committee with individual recommendations. There was no objection.

Senate Bill 111 -- Use of teleconferencing under the Administrative Procedures Act

Sioux Plummer, Director of the Division of Telecommunications spoke in support of the bill. The bill would probably save the state money in the long run. She suggested several minor changes relating to video and computer teleconferences.

Senator Vic Fischer stated that the bill would be held over pending incorporation of these changes in a committee substitute.

Senator Vic Fischer adjourned the meeting at 4:10pm.

by

Committee Aide

3-10-83

net +24/month -

SB 106

1500 prisoners - only 1,100 beds
→ influx of felons
200 in fed Bureau of Prisons

Feb. 10 - 168 < 90 days
42 not qualify
83 misdemeanors
43 - pool from which releases can be made

46.2 → Arch
19 - Fair
4 - young

+ 24/month.

QUESTIONS TO STATE CORRECTIONS OFFICIALS
HEARING, SB106, 3/10/83

TIMING

Why is the department introducing this bill now? Concern that this bill--which is merely a mechanical adjustment to the overcrowding problem--may be confused with the necessary real, and quite expensive "solutions" that will be put before the legislature this session.

Why isn't this presented as a part of a whole package of corrections needs. Where is the plan for meeting the short and long-term needs of the division/department.

*is this the only legis action requir
overall
plan?*

SB 106

✓ 1. If the 45-day period expired today, and prisoners were going to be released under the terms of this bill, how many prisoners would be eligible for release? what crimes are they convicted of? to what geographic areas of the state would they return?

✓ 2. What criteria will the Division use to define "emergency capacity" for the purpose of adopting regs. [p.1 L 25] --Will the dept. agree to use the standards set out in the Hutto Report. If not, why.

3. This bill requires a 45-day waiting period from the time overcrowding occurs until prisoners are released. Is this waiting period too long to adequately cope with prisoner population bulges.

4. This bill allows prisoner release when the capacity of the entire prison system is exceeded. What if, for example, only the Anchorage facilities are overcrowded. Will they ship inmates to Nome or Juneau or some other place that might have bedspace at that moment?

5. Prisoners released under this bill are to be released onto probation or parole. Corrections says that they will handle this extra load with existing personnel. Is this realistic? Should Corrections have extra funds. [The bill has a \$0 fiscal note]

6. "State Prisoners" are eligible for release. This term is ambiguous. It may mean any prisoner in the state system or only those convicted of state offenses (excluding those convicted of violation of municipal ordinances).

SUGGESTED AMENDMENT: Page 3, lines 19 and 20.

delete: "a state prisoner who has been sentenced to a period of incarceration" and ADD "a person sentenced to

FISCAL
NOTE

incarceration in the state prisoner system."

7. This bill is only a temporary adjustment. What are the division's best estimates on the projected number of prisoners over the next few years. What else is being done to manage prison populations, including: prisoner classification; halfway houses; work release; good-time; community work in lieu of incarceration; parole & probation.

8. What has been the cumulative effect of presumptive sentencing on prison populations?

9. Has the legislature adequately funded the impact of recent increases in criminal penalties and presumptive sentencing schemes?

10. Is the Division fully consulted by both the executive branch and the legislature prior to changes in the criminal law which may impact prison population.

11. ^{is} ~~How come the~~ information on who is in jail, where they are, their crimes, their sentences, their criminal history, classification, special needs, etc., etc., ~~is not~~ available on computer. The lack of this simple tool typifies poor management practices.

12. How does corrections plan to implement the settlement of CLEARY v. BEIRNE. In that case the state recognized that:

1. detrimental effects flow from prisoner populations in excess of 80% of capacity;
2. some state facilities do not meet the recommended 70-80 sq. feet of cell space per prisoner (some places as low as 30 sq. ft./ prisoner)
3. state prisoners in federal custody should be returned to the state prison system

If these changes are made, what will the the effect on prison population? What is being done to plan for this?

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



March 24, 1983
Room
3:00pm

Butrovich
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Bill Ray, Vice-Chair
Senator Pat Rodey
Senator Jalmar Kerttula

SB 147--Safeguarding self-identity and address of motor vehicle operators involved in accidents

Anna Kerttula, Aide to Senator Jalmar Kerttula, spoke in favor of the bill. She said that some persons involved in accidents found it uncomfortable to give out their names and addresses to total strangers. There is a fear that this could lead to harassment. She offered an amendment which would require persons involved in accidents to give their name and vehicle license number but not their address to the other party.

Senator Kerttula (prime sponsor) said that the intent of this bill is to deter after accident confrontations at a person's residence.

Senator Ray moved and asked unanimous consent to adopt the amendment and to move the bill from committee with individual recommendations. There was no objection.

HCR 2--Relating to travel by senior citizens aboard vessels of the state marine highway system

Senator Fischer stated that Senator Eliason had requested a committee substitute which would include handicapped persons under this resolution.

Marty Nusbaum, director of the Alaska Marine Highway System, stated that in the winter there was no problem traveling on a space available basis but in the summer it was possible for someone to get bumped in the middle of their trip.

Senator Ray expressed concern that organized tours of elderly citizens would take advantage of the free passage provisions of this resolution.

Mr. Nusbaum said that this resolution would apply only to feeder lines and that would mitigate the problem since most tours are on the mainline ferrie.

Senator Fischer asked why there was a zero fiscal note when the bill analysis indicated that this resolution could cause a loss of revenues of up to \$175,000.00. Mr. Nusbaum said that his understanding is that fiscal notes only reflect expenditures and not revenue losses.

Representative Grussendorf (prime sponsor) spoke in favor of the bill. He was of the opinion that the only senior citizen who would take advantage of this resolution would be residents of those communities served by the feeder lines or relatives of these residents.

Senator Ray offered an amendment which would strike the term "older Alaskans" and insert the term "senior citizens" wherever the former appears.

A general discussion followed regarding residency restrictions on the marine highway systems. The consensus was that federal rules prohibited residency restrictions where federal funds are used. The marine highway system receives federal highway funds.

Senator Eliason testified in favor of the proposed committee substitute.

Senator Ray moved and asked unanimous consent to adopt the committee substitute as amended and to move the bill from committee with individual recommendations. There was no objection.

Dave Kull, representing herself, testified in favor of the resolution.

SB 106--Prison overcrowding

David Dye, aide to the committee, explained a proposed committee substitute to the committee. A memo summarizing Mr. Dye's remarks is attached to this report.

Mike Stark, Department of Law, testified in favor of the CS and stated that Mr. Endell, director of the Division of Corrections also supported it.

Senator Ray commented that many inmates who are eligible for parole under the present system do not apply and choose to remain incarcerated.

Senator Fischer asked what the public safety considerations were under this bill. Mr. Stark stated that he thought that these concerns would

be minimal since only non-violent felons would be released and that they would all be within 120 days of the end of their original sentence.

Senator Ray expressed concern that the public would blame the legislature if inmates released under this bill committed an offense while on parole.

Senator Fischer asked if some screening process could be built into the bill. Mr. Stark stated that there was already a built in screening process. No violent criminals would be released. Under the regular parole process violent felons can be released but not under this bill.

Senator Rodey moved and asked unanimous consent for adoption of the committee substitute and to move the bill from committee with individual recommendations. There was no objection.

Senator Fischer adjourned the meeting at 4:00pm.

by
David Dye
Committee Aide

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



TO: Senate State Affairs
Committee Members

FROM: David Dye, 
Committee Aide

DATE: March 24, 1983

RE: Draft CS for Senate Bill 106--Prison overcrowding

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POSITION PAPER

Senate Bill No. 106

"An Act relating to overcrowding of the state prison system; and providing for an effective date."

The Prison Overcrowding Emergency Act provides legal authority for the Commissioner to grant early release of prisoners during periods of extreme overcrowding in Alaska's correctional facilities. The act sets out a procedure wherein the Director of Adult Corrections is required to certify to the Commissioner that prison overcrowding is at a state of emergency. This will be required if the daily average prison population has exceeded emergency capacity for a period of 30 days. Within 15 days of certification the Director will submit a list of prisoners eligible for early release to the Commissioner and Attorney General. If the Commissioner determines a state of emergency exists and the prison population has exceeded emergency capacity for the 15 days following certification, eligible prisoners will be released to field supervision.

This act alone will not alleviate problems of our upsurging prison population, but it does provide a long needed tool to manage prison populations during emergency overcrowding situations. Many other states have adopted similar legislation.

It is believed that release of a large number of prisoners to probation and parole services simultaneously would create a significant strain on the field operations during the periods of declared emergency overcrowding. We cannot predict the degree to which field operations would be affected, but it is assumed that during the initial release period that ongoing work would have to be set aside by field probation/parole staff. It should also be noted that institutional probation staff would be affected in the same manner due to increased preparation of release papers. It is assumed that by the 91st day, the number of offenders to be supervised would be at the same level as though no early releases had occurred.

The Department does recommend introduction of the Prison Overcrowding Emergency Act as it provides a means to manage prison overcrowding during states of emergencies so that overcrowding does not prohibit the Department's ability to meet its constitutional requirements to provide reformation of offenders and to protect the public.

Senate Bill No. 106 (continued)

"An act relating to overcrowding of the State prison system; and providing for an effective date."

Recommended by:

Roger C. Lunge

Roger Endell
Director, Division
of Adult Corrections

Date:

January 10, 1983

Approved by:

Robert L. Smith

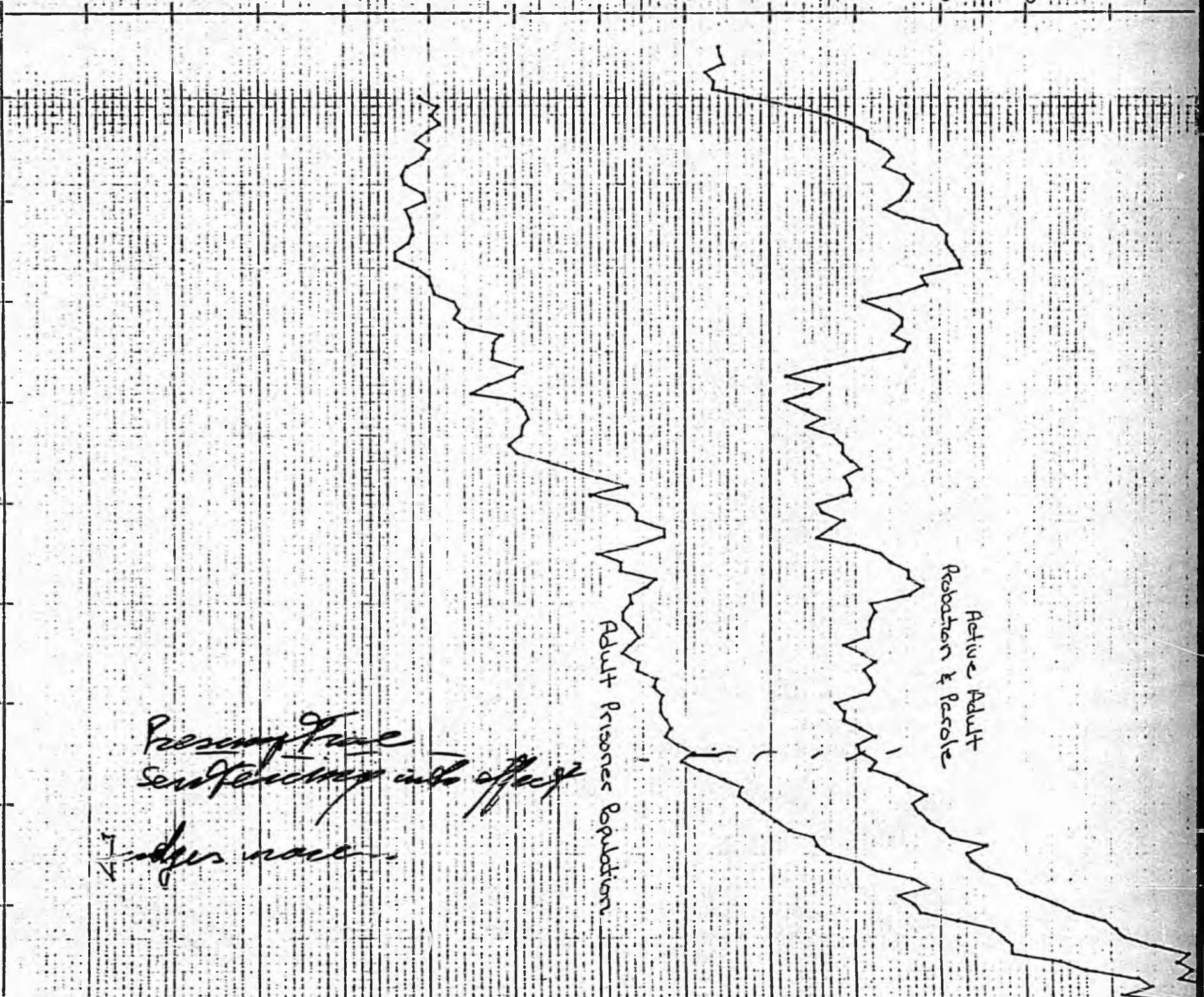
Robert L. Smith
Commissioner

Date:

2/2/83

Jan 74
Jan 75
Jan 76
Jan 77
Jan 78
Jan 79
Jan 80
Jan 81
Jan 82

100
200
300
400
500
600
700
800
900
1000
1100
1200
1300



Presenting Fine Sentencing into effect

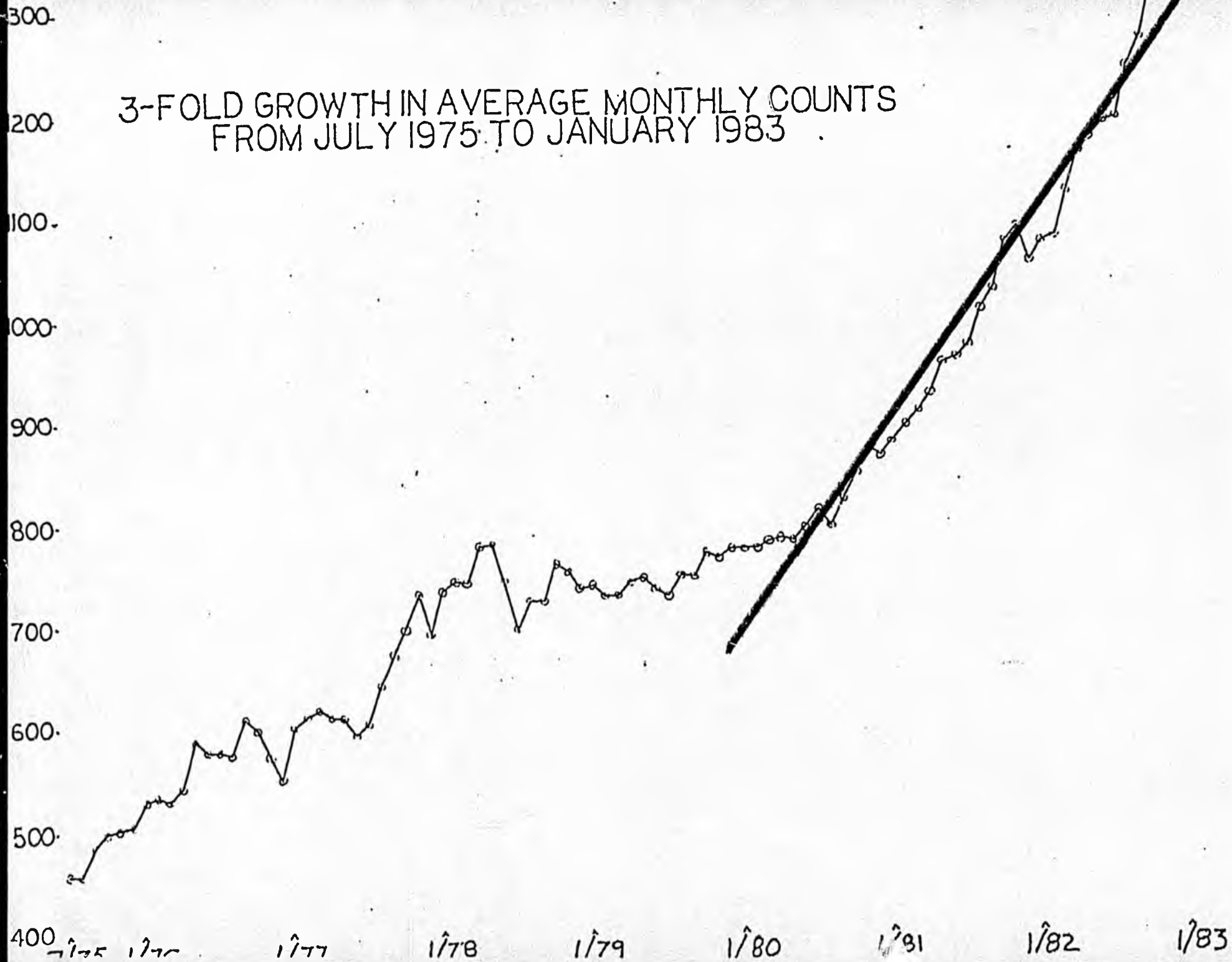
Judges name

Adult Prisoner Population

Active Adult Probation & Parole

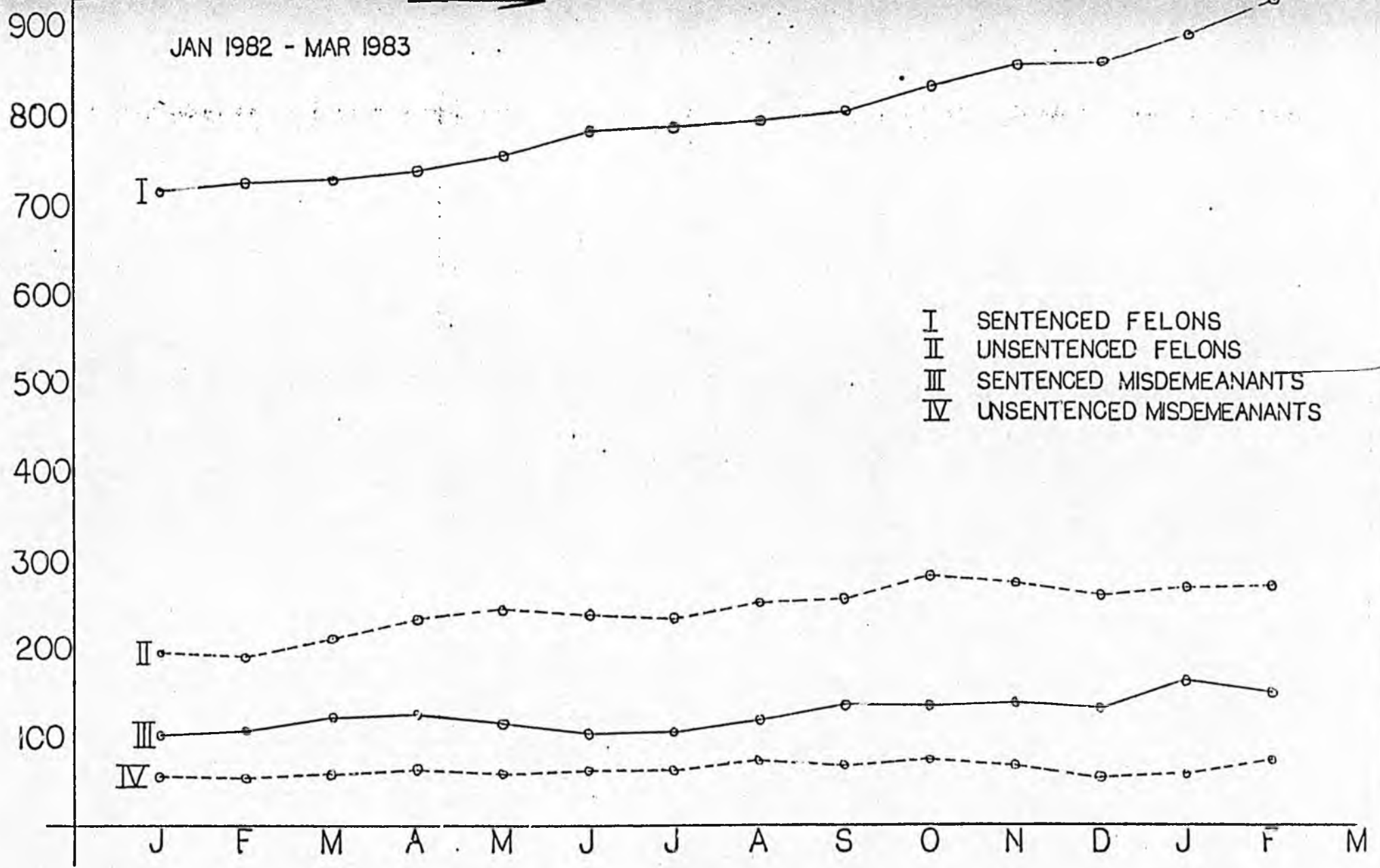
ALASKA FRISON POPULATION GROWTH

3-FOLD GROWTH IN AVERAGE MONTHLY COUNTS
FROM JULY 1975 TO JANUARY 1983



DETAILS

JAN 1982 - MAR 1983



ANCHORAGE AREA SUMMARY
Division of Adult Corrections

On Saturday, March 5, 1983:

867 in custody in Anchorage Bowl
744 operating capacity (w/74 at CIPT)
113 more inmates than beds.

	<u>Actual Count</u>	<u>3-5 Maximum Operating Cap.</u>	<u>Immediate Revisions</u>
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C.I.P.T.	74	74	200
6th Avenue	<u>95</u>	<u>90</u>	—
	857	744	841

Action: Moving minimum of 110 additional inmates this week to C.I.P.T. In order to staff C.I.P.T., must close half of Ridgeview and move staff and 60 inmates to C.I.P.T. Another 20 inmates will transfer from Hiland Mountain Correctional Center. During the week 40 inmates will transfer from Sixth Avenue to C.I.P.T.

Staffing:

1. Move some from Ridgeview to C.I.P.T.
2. Voluntary overtime pool of correctional officers.
3. Potential raid of Academy trainees.

Summary: Even by adding 97 beds to operating capacity, we still are short 16 beds from last week's actual Anchorage area count. In the last 5 days there has been a net increase of 36 inmates in Anchorage, and an average of 40 bookings per day. There has been a statewide increase in the past two months of 120, to a total of 1,432 inmates.

MEMORANDUM

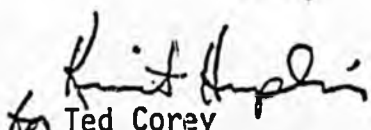
State of Alaska

TO: Roger V. Endell
Director
Division of Adult Corrections

DATE: March 7, 1983

FILE NO:

TELEPHONE NO:

FROM: *for* 
Ted Corey
Assistant Director
Division of Adult Corrections

SUBJECT: South Central Population

The following information describes South Central institutional populations, operating capacities, action being taken, and future recommended action.

Institution Maximum Operating Capacities:

Sixth Avenue: 90 - The count of 90 must be maintained to allow a 10 bed buffer for booking.

Third Avenue: 65 Sentenced - Classification Center.

Hiland Mountain: 160 - Ten (10) beds are reserved for segregation.

Meadow Creek: 30 - Three (3) beds reserved for segregation.

Ridgeview: 66 Sentenced misdemeanants.

Palmer: 230 - The population is broken down as follows:
130 Minimum, 100 Medium. There are four (4) Maximum Security beds maintained at Palmer Medium for segregation. When future inmate housing comes on line, the capacity of the minimum custody institution should be reduced to 106 and the Medium facility to 95 for a total of 201.

Cook Inlet: 186 bed operating capacity with 12 bed maximum security unit reserved for segregation.

The total operating capacity of Anchorage area institutions is 827. On 03/05/83, the count was 857. Institutions counts on 03/05/83 were as follows:

Sixth Avenue: 95 - Five (5) prisoners over the operating capacity.

Third Avenue: 65 - At operating capacity.

Ridgeview: 120 - 54 prisoners over the operating capacity of 66 sentenced offenders.

Meadow Creek: 33 - Three (3) prisoners over the operating capacity.

Hiland Mountain: 240 - 80 prisoners over the operating capacity.

Roger V. Endell
March 7, 1983
Page 2

Palmer Medium: 100 - At operating capacity.

Palmer Minimum: 130 - At operating capacity.

Cook Inlet: 74 - 112 prisoners; under operating capacity. The new facility is scheduled for full capacity operation by 03/14/83. This will result in a projected operation count including intake projections of 887 prisoners in the Anchorage area institutions by 03/14/83. The above indicates a shortage of 60 beds with all institutions operating at capacity on 03/14/83.

In order to provide emergency housing for the 60 bed projected shortage, institutions in the Anchorage area will maintain the following capacities until additional funds and prisoner housing are identified.

Sixth Avenue: 80 - Reserving 20 beds for felony women and misdemeanor booking.

Third Avenue: 65 - Sentenced felons.

Ridgeview: 66 - Sentenced Misdemeanants.

Cook Inlet: 186 bed operating capacity. The holding cells in the booking area will have to provide felony intake housing with the 12 bed maximum unit reserved for segregation.

Hiland Mountain: 195 bed operating capacity.

Palmer Medium: 100 bed operating capacity.

Palmer Minimum: 130 bed operating capacity.

Meadow Creek: 33 sentenced women operating capacity.

Glennwood Center (Contract): 50 beds for work release offenders.

Effective 03/14/83, institutions in the Anchorage area will operate at the the new emergency capacities as noted above which results in a total Anchorage area prisoner bed capacity of 905.

It is evident that the above action will not relieve the rapid increase in prisoner intake. Felony daily booking have increased from 8 to a daily average of 16. Misdemeanant bookings are averaging 22 daily. The prisoner count in the Anchorage area is rising rapidly. In the first five days of March, the prisoner count increased by a net gain of 36 over prisoners released.

Roger V. Endell
March 7, 1983
Page 3

It is my intent to continue double bunking the new Cook Inlet Institution resulting in an operating capacity of 240 with the 12 bed unit reserved for segregation bringing the institutions total bed count to 152, which is 36 beds over the maximum design capacity of 216. This action will require additional fire exits.

The Anchorage area prisoner population increased from 742 on 02/01/83 to 790 on 02/28/83. This is a net gain of 48 prisoners in one month. My projections indicate at that there will be a shortage of 200 prisoner beds by June of 1983 in the Anchorage area. With Anchorage area institutions operating at and over their maximum capacity, it will be necessary to bring additional staff and prisoner housing on line as soon as possible.

TC:dw

OVERVIEW OF THE PROBLEM

Table 3
Alaska State Correctional Centers
Capacity and Populations

State Correctional Centers	Normal Capacity ^a	Emergency Capacity ^a	Prisoner Count 1/82 ^b	Prisoner Count 1/83 ^a
SCC - Anchorage • Sixth Avenue • Third Avenue	100 65	100 ^b 65 ^b	100 83	94 64
SCC - Eagle River • Hiland Mountain -Special Treatment • Meadow Creek	160 10 28	240 14 28	153 26	212 28
SCC - Palmer • Minimum Custody • Medium Custody	106 100	120 150	130 95	138 98
SCC - Fairbanks • Temporary Unit • Expanded Unit	56 110	56 125	164	181
SCC - Nome	30	31	33	40
SCC - Juneau • Lemon Creek • Johnson Human Svcs.	90 4	105 4	132 1	127 2
SCC - Ketchikan	30	30	28	28
SCC - Ridgeview Careage House	90	115	134	94 13
Total	979	1,183	1,079 ^c	1,119 ^d

^a Department of Health and Social Services, Division of Adult Corrections.

^b Attorney General's Office, Memo to File No. J66-516-82 from Wilson L. Condon regarding Analysis of Corrections Population Projections, November 23, 1982.

^c This figure does not include the 61 prisoners that were confined in State halfway houses during this period or the 188 prisoners held in federal prisons outside of Alaska.

^d This figure does not include the 78 prisoners that were confined in State halfway houses during this period or the 191 prisoners held in federal prisons outside of Alaska.

Carrying pride too far

This letter is in reference to: "Things were better back then" dated March 23.

I have had it up to my ears with some of these self-righteous so-called "Alaskans." These people I refer to are the ones who, with noses held high in the air, state in a Godlike manner that they have lived in Alaska for (fill in the number of years.)

These people for some reason seem to feel superior to us more recent arrivals. I can understand pride in one's state, and Alaska residents have much to be proud of. However, there seems to be a thin line between pride and arrogant self-righteousness. In the letter I refer to, the author comments that he feels dismayed that people come to Alaska for the ridiculous reason of wanting a better life and a more substantial income.

It is human nature to strive for unfulfilled dreams. Alaska has and is still offering that chance to many people. To many people, their dream is a self-sustained lifestyle in the wilderness and to others it may be earning a good income and having the opportunity to buy a home and providing a good life for their family.

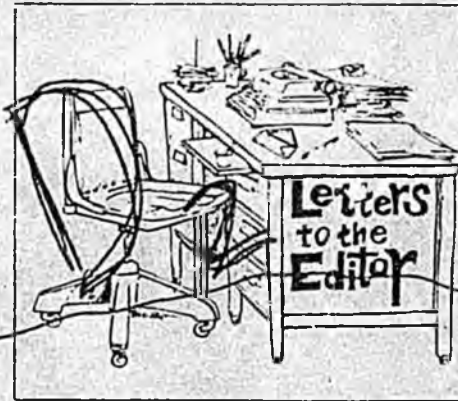
My husband and I will most likely remain in Alaska for five years. At that time we are apt to be transferred with the company he works for to another state. While we are here we intend to enjoy this beautiful state and we plan to also pad our savings account (sinful, I know). As far as I'm concerned, if I ever meet another self-righteous so-called "Alaskan" again, it will be too soon.

— L. James

Reward inmates' good behavior

I have a suggestion to render which advocates a partial curtailment of the overcrowding crisis prevalent in our jails today. By no means is my idea a large-scale solution, nevertheless it is a positive contribution.

I would prevail upon whoever formulates policy to revise the "good time" provisions for inmates serving jail terms. As it stands now, under a system called "statutory good time," one-quarter of a sentence is expunged for good behavior, i.e., not getting into trouble. This system works well in conjunction



Your s

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with a color television in each housing area and the promotion of zombie-like, TV mentalities.

However, in contrast to Mr. Endell's avowal of creating work programs and rehabilitation opportunities (whoever came up with the word "rehabilitation" should be gonged), a method of rewards, or incentives, has not been mentioned and we all understand the importance of rewards as related by Mr. Pavlov, right?

The key here is to reinstate "meritorious good time" whereby an inmate receives additional time off his sentence for working, participating in educational programs, or otherwise acknowledged activities of self-improvement. Standards of measuring achievement are easily established: for example, 15 days for receiving an G.E.D. certificate, 30 days for an A.A. degree, 60 days for a B.A. degree, five days per month for janitorial or kitchen duties or even for good ideas!

There are numerous correspondence courses available from various schools and an example of a well-justified reward would be for the Division of Corrections to reimburse student inmates upon successfully completing a correspondence course. Meanwhile, I think corrections should spend what's left of the more than \$800,000 that was allocated by the legislature last summer for education in state jails during this current fiscal year in upgrading the poor state of existing educational programs.

— Thomas Nelson
Sixth Avenue Jail

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THE ALASKA DIVISION OF ADULT CORRECTION.

POPULATION MANAGEMENT PLAN

Submitted in partial fulfillment
of Cleary v. Beirne

Case No. 3AN-81-5274 Civil to the
Honorable Douglas Serdahely
Judge of the Superior Court
Third Judicial District

March 1, 1983

Roger V. Endell, Director
Alaska Division of Adult Corrections

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**Adult Corrections in Alaska
Current Issues in Administration
and Management**

**House Research Agency
Alaska State Legislature
January 1983**

House Research Agency Report 82-E