

SB

286

8-LS1686J
Luckhaupt
3/7/94

CS FOR SENATE BILL NO. 286(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to special conditions of mandatory parole; relating to conditions
2 of mandatory and discretionary parole; extending the termination date of the
3 Board of Parole; and providing for an effective date."

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

5 * Section 1. PURPOSE. The purpose of sec. 2, the portions of sec. 3 relating to a member
6 of the Board of Parole acting on behalf of the board, and secs. 4, 6, and 7 of this Act is to
7 validate and affirm the longstanding practice of the Board of Parole to delegate the setting of
8 special conditions for mandatory parole under AS 33.16.150 to a single board member, subject
9 to a right of review by a quorum of the Board of Parole. It is the intent of the legislature to
10 expressly ratify this practice and to clarify existing statutes to reflect it.

11 * Sec. 2. AS 33.16.050(c) is amended to read:

12 (c) Except when a member of the board imposes special conditions of
13 mandatory parole for the board under AS 33.16.150, decisions [DECISIONS] and
14 orders of the board require the affirmative votes of a majority of the members present.

1 * Sec. 3. AS 33.16.150 is amended to read:

2 Sec. 33.16.150. CONDITIONS OF PAROLE. (a) As a condition of parole,
3 a prisoner released on discretionary or mandatory parole

4 (1) shall obey all [REFRAIN FROM CONDUCT PUNISHABLE BY
5 IMPRISONMENT UNDER] state, [OR] federal, or local laws or ordinances, and any
6 court orders applicable to the parolee;

7 (2) shall make diligent efforts to maintain steady employment and
8 meet family obligations;

9 (3) shall, if involved in education, counseling, training, or treatment,
10 continue in the program unless granted permission from the parole officer
11 assigned to the parolee to discontinue the program;

12 (4) shall report

13 (A) upon release to the parole officer assigned to the
14 parolee;

15 (B) at other times, and in the manner, prescribed by the
16 board or the parole officer assigned to the parolee;

17 (5) shall reside at a stated place and not change that residence
18 without notifying, and receiving permission from, the parole officer assigned to
19 the parolee;

20 (6) shall remain within stated geographic limits unless written
21 permission to depart from the stated limits is granted the parolee;

22 (7) may not use, possess, handle, purchase, give, distribute, or
23 administer a controlled substance as defined in AS 11.71.900 or under federal law
24 or a drug for which a prescription is required under state or federal law without
25 a prescription from a licensed medical professional to the parolee;

26 (8) may not possess or control a prohibited weapon, a defensive
27 weapon, a ~~deadly~~ weapon other than an ordinary pocket knife with a blade three
28 inches or less in length, or ammunition for a firearm, or reside in a residence
29 where there is a firearm capable of being concealed on one's person or a
30 prohibited weapon; in this paragraph, "deadly weapon," "defensive weapon," and
31 "firearm" have the meanings given in AS 11.81.900 and "prohibited weapon" has

1 the meaning given in AS 11.61.200;

2 (9) may not enter into an agreement or other arrangement with a
3 law enforcement agency or officer that will place the parolee in the position of
4 violating a law or parole condition without the prior approval of the board;

5 (10) may not contact or correspond with anyone confined in a
6 correctional facility of any type serving any term of imprisonment or a felon
7 without the permission of the parole officer assigned to a parolee;

8 (11) shall agree to waive extradition from any state or territory of
9 the United States and to not contest efforts to return the parolee to the state
10 [LAW OR MUNICIPAL ORDINANCE].

11 (b) The board may require as a condition of discretionary or mandatory parole,
12 or a member of the board acting for the board under (e) of this section may
13 require as a condition of mandatory parole, that a prisoner released on parole

14 (1) [MEET FAMILY OBLIGATIONS;

15 (2) PURSUE EMPLOYMENT, EDUCATION, COUNSELING, OR
16 TRAINING;

17 (3) REMAIN WITHIN STATED GEOGRAPHIC LIMITS UNLESS
18 WRITTEN PERMISSION TO DEPART FROM THE STATED LIMITS IS
19 GRANTED THE PAROLEE;

20 (4) REPORT UPON RELEASE TO THE PAROLE OFFICER
21 ASSIGNED TO THE PAROLEE;

22 (5) REPORT AS REQUIRED TO THE PAROLE OFFICER
23 ASSIGNED TO THE PAROLEE;

24 (6) RESIDE AT A STATED PLACE AND NOTIFY THE BOARD OF
25 ANY CHANGE IN PLACE OF RESIDENCE;

26 (7) NOT POSSESS OR CONTROL FIREARMS OR OTHER
27 DANGEROUS WEAPONS;

28 (8) refrain from possessing or consuming alcoholic beverages;

29 (2) [(9)] submit to reasonable searches and seizures by a parole officer,
30 or a peace officer acting under the direction of a parole officer;

31 (3) [(10)] submit to appropriate medical, mental health, or controlled

1 substance or alcohol examination, treatment, or counseling;

2 (4) [(11)] submit to periodic examinations designed to detect the use
3 of alcohol or controlled substances;

4 (5) [(12)] make restitution ordered by the court according to a schedule
5 established by the board;

6 (6) [(13)] refrain from opening, maintaining, or using a checking
7 account or charge account;

8 (7) [(14)] refrain from entering into a contract other than a prenuptial
9 contract or a marriage contract;

10 (8) [(15)] refrain from operating a motor vehicle;

11 (9) [(16)] refrain from entering an establishment where alcoholic
12 beverages are served, sold, or otherwise dispensed;

13 (10) [(17)] refrain from participating in any other activity or conduct
14 reasonably related to the parolee's offense, prior record, behavior or prior
15 behavior, current circumstances, or perceived risk to the community, or from
16 associating with any other person that the board determines is reasonably likely to
17 diminish the rehabilitative goals of parole, or that may endanger the public.

18 (c) Except for a condition imposed under (b)(2) - (5) [(b)(4), (7), (9), (11) OR
19 (12)] of this section, the board, or a member of the board acting for the board
20 under (e) of this section, may generally delegate imposition of special conditions
21 under (b) of this section to the discretion of the parole officer.

22 (d) The board, or a member of the board acting for the board under (e) of
23 this section, may require a prisoner released on parole to comply with special
24 conditions imposed under (b) of this section for any period up to the maximum term
25 under which the prisoner is subject to the custody and jurisdiction of the board.

26 * Sec. 4. AS 33.16.150 is amended by adding a new subsection to read:

27 (e) The board may designate a member of the board to act on behalf of the
28 board in imposing conditions of mandatory parole under (a) and (b) of this section, in
29 delegating imposition of conditions of mandatory parole under (c) of this section, and
30 in setting the period of compliance with the conditions of mandatory parole under (d)
31 of this section. The decision of a member of the board under this section is the

1 decision of the board. A prisoner or parolee aggrieved by a decision of a member of
2 the board acting for the board under this subsection may apply to the board under
3 AS 33.16.160 for a change in the conditions of mandatory parole.

4 * Sec. 5. AS 44.66.010(a)(3) is amended to read:

5 (3) Board of Parole (AS 33.16.020) -- June 30, 1997 [1993];

6 * Sec. 6. Notwithstanding AS 33.16.050 and 33.16.150 as they read on the day before the
7 effective date of this Act, from January 1, 1986, through the day before the effective date of
8 this Act, one member of the Board of Parole acting for the board may impose special
9 conditions of mandatory parole under AS 33.16.150(b), delegate imposition of special
10 conditions of mandatory parole under AS 33.16.150(c), and set the period of compliance with
11 the special conditions of mandatory parole under AS 33.16.150(d). The decision of a member
12 of the Board of Parole under this section is the decision of the board under AS 33.16.050 and
13 33.16.150. A prisoner or parolee aggrieved by a decision of a member of the Board of Parole
14 acting for the board under this section may apply to the board under AS 33.16.160 for a
15 change in the special conditions of mandatory parole.

16 * Sec. 7. Section 6 of this Act is retroactive to January 1, 1986.

17 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

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Luckhaupt
2/28/94

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IN THE LEGISLATURE OF THE STATE OF ALASKA
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Offered:
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Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to special conditions of mandatory parole; extending the
2 termination date of the Board of Parole; and providing for an effective date."

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

4 * Section 1. PURPOSE. The purpose of secs. 1 - 6 and 9 of this Act is to validate and
5 affirm the longstanding practice of the Board of Parole to delegate the setting of special
6 conditions for mandatory parole under AS 33.16.150 to a single board member, subject to a
7 right of review by a quorum of the Board of Parole. It is the intent of the legislature to
8 expressly ratify this practice and to clarify existing statutes to reflect it.

9 * Sec. 2. AS 33.16.050(c) is amended to read:

10 (c) Except when a member of the board imposes special conditions of
11 mandatory parole for the board under AS 33.16.150, decisions [DECISIONS] and
12 orders of the board require the affirmative votes of a majority of the members present.

13 * Sec. 3. AS 33.16.150(b) is amended to read:

14 (b) The board may require as a condition of discretionary or mandatory parole,

1 or a member of the board acting for the board under (e) of this section may
2 require as a condition of mandatory parole. that a prisoner released on parole

- 3 (1) meet family obligations;
- 4 (2) pursue employment, education, counseling, or training;
- 5 (3) remain within stated geographic limits unless written permission to
6 depart from the stated limits is granted the parolee;
- 7 (4) report upon release to the parole officer assigned to the parolee;
- 8 (5) report as required to the parole officer assigned to the parolee;
- 9 (6) reside at a stated place and notify the board of any change in place
10 of residence;
- 11 (7) not possess or control firearms or other dangerous weapons;
- 12 (8) refrain from possessing or consuming alcoholic beverages;
- 13 (9) submit to reasonable searches and seizures by a parole officer, or
14 a peace officer acting under the direction of a parole officer;;
- 15 (10) submit to appropriate medical, mental health, or controlled
16 substance or alcohol examination, treatment, or counseling;
- 17 (11) submit to periodic examinations designed to detect the use of
18 alcohol or controlled substances;
- 19 (12) make restitution ordered by the court according to a schedule
20 established by the board;
- 21 (13) refrain from opening, maintaining, or using a checking account or
22 charge account;
- 23 (14) refrain from entering into a contract other than a prenuptial
24 contract or a marriage contract;
- 25 (15) refrain from operating a motor vehicle;
- 26 (16) refrain from entering an establishment where alcoholic beverages
27 are served, sold, or otherwise dispensed;
- 28 (17) refrain from participating in any other activity or associating with
29 any other person that the board determines is reasonably likely to diminish the
30 rehabilitative goals of parole, or that may endanger the public.

31 * Sec. 4. AS 33.16.150(c) is amended to read:

1 (c) Except for a condition imposed under (b)(4), (7), (9), (11), or (12) of this
 2 section, the board, or a member of the board acting for the board under (e) of this
 3 section, may generally delegate imposition of special conditions under (b) of this
 4 section to the discretion of the parole officer.

5 * Sec. 5. AS 33.16.150(d) is amended to read:

6 (d) The board, or a member of the board acting for the board under (e) of
 7 this section, may require a prisoner released on parole to comply with special
 8 conditions imposed under (b) of this section for any period up to the maximum term
 9 under which the prisoner is subject to the custody and jurisdiction of the board.

10 * Sec. 6. AS 33.16.150 is amended by adding a new subsection to read:

11 (e) The board may designate any member of the board to act on behalf of the
 12 board in imposing special conditions of mandatory parole under (b) of this section, in
 13 delegating imposition of special conditions of mandatory parole under (c) of this
 14 section, and in setting the period of compliance with the special conditions of
 15 mandatory parole under (d) of this section. The decision of a member of the board
 16 under this section is the decision of the board. A prisoner or parolee aggrieved by a
 17 decision of a member of the board acting for the board under this subsection may
 18 apply to the board under AS 33.16.160 for a change in the conditions of mandatory
 19 parole.

20 * Sec. 7. AS 44.66.010(a)(3) is amended to read:

21 (3) Board of Parole (AS 33.16.020) -- June 30, 2003 [1993];

22 * Sec. 8. Section 7 of this Act is effective notwithstanding AS 44.66.010(c).

23 * Sec. 9. Sections 1 - 6 of this Act are retroactive to January 1, 1986.

24 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Bert Sharp
Senator Judy Salo
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-3822
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SENATE LABOR AND COMMERCE COMMITTEE

716 W. 4TH, SUITE 400
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8180
FAX: (907) 258-4524

SPONSOR STATEMENT: SB 286 - EXTEND THE BOARD OF PAROLE

SB 286 and its House companion HB 418, introduced by Representative Bettye Davis, would extend the Board of Parole for the customary four-year period under AS 44.66.010(c). Under current law, and without passage of this legislation, the Board will shut down on June 30, 1994. The Board sunsetted on June 30th, 1993, and is in its "close-down" year.

The State Board of Parole was created in 1960 and has been an essential component of Alaska's criminal justice system. There are currently 700 felons on parole supervision. Each year, about 400 prisoners are eligible to be released to discretionary parole supervision for a portion of their sentence. In addition, 500 prisoners are released to mandatory parole supervision for a period equal to one-third of the sentence.

Expiration of the Parole Board will not alter the state's responsibility under Title 33, Chapter 16, which provides for prisoners to be eligible for and supervised on discretionary and mandatory parole. The state will almost certainly be a party to costly litigation to determine the legal status of prisoners, parolees and victims.

The Board of Parole has been an effective vehicle in administering the parole process.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 286

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act extending the Parole Board BRU: Admin/Support
 Component: Parole Board
 Sponsor: Sen. Kelly
 Requestor: Sen. L&C COMPONENT SERIAL NO. 505

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Parole Board is contained in the department's proposed FY95 budget.

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 2/14/94
 Approved by Commissioner: J. Frank Bennett Date: 2/14/94
 Agency: Department 1

PREPARED

GOVERNOR'S LEGISLATIVE OFFICE

FISCAL NOTE

STATE OF ALASKA

BOARD OF PAROLE



1993 ANNUAL REPORT TO THE GOVERNOR

AND THE ALASKA LEGISLATURE

JANUARY 1994

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

BOARD OF PAROLE

WALTER J. HICKEL, GOVERNOR

ALASKA BOARD OF PAROLE
P.O. BOX 7
JUNEAU, ALASKA 99811-2000
PHONE: (907) 465-3384
FAX: (907) 465-2006

Alonzo B. Patterson, Jr., Chairman
Dolores G. Weiler, Vice Chairperson
David F. Cooper, Member
Elsabeth Demeksa, Member
James E. McLain, Member

December 30, 1993

To the Honorable Walter J. Hickel, Governor
and the Honorable Members of the Alaska
State Legislature and the Citizens of the
State of Alaska:

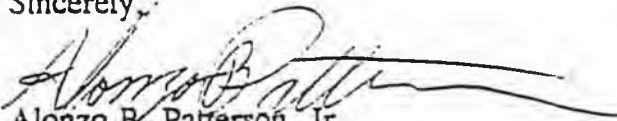
Ladies and Gentlemen:

It is my pleasure to offer the Annual Report of the Alaska Board of Parole for the calendar year 1993. I believe you will find the information contained in this report to be both interesting and informative.

The Board and the Department of Corrections are faced with many challenges. At the forefront is the growing prisoner population and the limits of our resources. The Board takes a great deal of pride in the dedication and commitment to excellence exemplified by our administrative staff and by the Department's employees during the last year. Often employees go beyond the call of duty to bring about positive change in many who have known only failure.

We as a Board are first and foremost accountable to the citizens of Alaska and we will endeavor to uphold their trust through informed decision-making and successful reintegration of the offender back to the community.

Sincerely,



Alonzo B. Patterson, Jr.
Chairman

ALASKA BOARD OF PAROLE

1993 ANNUAL REPORT

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MISSION STATEMENT

Alaska Board of Parole

OUR MISSION IS

To protect the public by focusing on risk and by making careful, just and equitable parole decisions.

To have a clear, articulate policy and numerical guidelines so the public, offenders and criminal justice components can easily understand discretionary parole release decisions.

To have professionally trained Board Members, with close ties to the community, who are representative of the ethnic, racial, sexual, and cultural populations of the state.

To use Department and community resources as a bridge to help parolees become contributing members of society.

To set realistic parole conditions and to return to prison those who show they will not be law-abiding.

OUR STATUTORY OBLIGATIONS

AS 33.16.100(a) The Board may authorize the release of a prisoner on discretionary parole if it determines that a reasonable probability exists that:

- (1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the Board;
- (2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole;
- (3) the prisoner will not pose a threat of harm to the public if released on parole; and
- (4) release of the prisoner on parole would not diminish the seriousness of the crime.

AS 33.16.010(d) A prisoner released on discretionary or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150.

AS 33.16.220 The Board may revoke parole for conduct in violation of AS 33.16.150(a) or (b).

OUR RESPONSIBILITIES

To Alaska Citizens

To keep refining our ability to select persons for parole who will succeed as law-abiding citizens; to help parolees become productive citizens for the benefit of society, themselves and their families; and to use our revocation authority wisely and to promptly return to prison those parolees who present a danger to the community.

To Victims

To welcome and consider views and information from crime victims and their families and to respond positively to their requests for information and notification.

To Corrections Employees

To provide leadership, training and resources so they can perform their job effectively and efficiently.

To Offenders

To consider each offender as an individual by one set of standards and to provide a fair and unbiased hearing; to provide realistic parole conditions and helpful positive supervision.

To Justice

To uphold appropriate punishment, to advance equal treatment of offenders serving for similar offenses with similar histories and needs, and to work with other justice components to reduce criminality.

THE BOARD MEMBERS

Chairman A. J. B. Patterson, Jr. was appointed to the Board in February 1984 by Governor Sheffield. He was reappointed by Governor Sheffield in 1986 and by Governor Hickel in 1991. Reverend Patterson is the pastor of Shiloh Missionary Baptist Church in Anchorage. He has a Bachelor of Arts Degree in Psychology from the University of Alaska/Anchorage, and a Doctor of Divinity Degree from the American Bible Institute. Reverend Patterson is a resident of Anchorage.

Member David Cooper was appointed by Governor Sheffield in February 1984. He was reappointed by Governor Sheffield in 1986 and again by Governor Cowper in 1990. He has an Associate Arts Degree in Behavioral Science from the University of Alaska/Anchorage. Mr. Cooper is retired from the position of Assistant Superintendent at the Palmer Correctional Center after 19 years of exemplary service. He was born and raised near Ninilchik. He and his family operate a commercial fishing business in Cook Inlet. Mr. Cooper is a resident of Palmer.

Member Elisabeth Demeksa was appointed by Governor Hickel in 1992. She has a Bachelor of Arts Degree in English Literature from New York State University. Ms. Demeksa is the owner, manager of a women's apparel store. From 1980 to 1991 she was an Aide to the Alaska Legislature, the last two years as Chief of Staff to the House Minority Leader. She is active in numerous women's and family organizations, and in 1984 was honored as one of the Outstanding Young Women of America. Ms. Demeksa is a resident of Juneau.

Member James McLain was appointed by Governor Hickel in 1993. He has a Bachelor of Arts Degree in Criminal Justice from the University of Alaska/Fairbanks and was the Justice Student of the Year in 1988. He is currently employed as a paralegal. Mr. McLain is a resident of Fairbanks.

Member Mary Vollendorf was appointed by Governor Hickel in 1994. She has a Bachelor of Arts Degree in Political Science/Pre Law from the University of Northern Arizona University. Since graduation from college she has worked for several legislators. Ms. Vollendorf is a resident of Anchorage.

THE EMPLOYEES OF THE PAROLE BOARD

During 1993 the administrative office of the Board was located at the corner of 4th & Harris, Juneau, Alaska. As of January 21, 1994 the office will be located at 802 Third St., Douglas, Alaska. Our mailing address is:

Alaska Board of Parole
P.O. Box 112000
Juneau, Alaska 99811-2000
Phone: (907) 465-3334
Fax: (907) 465-2006

EXECUTIVE DIRECTOR

Richard E. Collum

The Executive Director is appointed by the Board and is responsible for day to day operations of the agency. The Executive Director attends parole release hearings and parole revocation hearings and provides technical assistance to the Board.

Secretary I

Georgina Weitzel

Clerk Typist III

Mary Engdahl

PAROLE ADMINISTRATOR

Donna E. White

The Parole Administrator assists the Executive Director in agency administration and supervision of the staff. The Parole Administrator is a resource for parole officers to use in the daily management of cases, scheduling hearings and compiling statistics.

PAROLE BOARD OFFICER

Daniel L. Stroeing

The Parole Board Officer assists the Parole Administrator and handles conditions of supervision and Executive Clemency applications and investigation.

THE PAROLE BOARD

Society through legislation has determined that some people who commit crimes must be incarcerated in correctional institutions as a deterrent to others and for punishment for their crime, as well as for protection of the public and for reformation. The optimum period of time that will meet this criteria, for any given crime, is unknown and consequently sentence length varies considerably across the United States. We know from experience that a number of offenders can be released to community supervision prior to the expiration of their sentences without jeopardizing the public and at a tremendous cost savings to the public.

The Alaska Board of Parole was created by the legislature at the time of statehood to fulfill the State's constitutional requirement for a parole system. The Board was originally comprised of three volunteer members appointed by the Governor, the staff was provided by the Division of Corrections. In the mid 1960's the Board was increased to five members. In 1972, a separate parole office was created within the Department of Health and Social Services to make the Board independent of the Division of Corrections and provide the Board Members with their own administrative staff. When the Division of Corrections became the Department of Corrections in 1984 the Board's Budget Request Unit was moved from Health and Social Services to this newly formed Department.

Prior to 1986, Board Members were appointed to four year terms. Beginning January 1, 1986 the five members are appointed to staggered five year terms. One term expires every year on December 31. The Staff presently consists of an Executive Director, Parole Administrator, Parole Board Officer, a Secretary and a Clerk Typist.

In addition to holding discretionary parole release hearings, the Board holds parole revocation hearings on both mandatory parolees and discretionary parolees. The Board sets conditions of parole, conducts preliminary revocation hearings and preliminary rescission hearings, and issues arrest warrants and subpoenas. During the years from 1984 to 1986, the Board reviewed cases in accordance with the Prisoner Overcrowding Emergency Conditional Commutation Plan. The staff conducts all of the Executive Clemency investigations for the Executive Clemency Advisory Committee and the Governor.

The Board meets quarterly in Fairbanks, Anchorage and Juneau. The Board meets quarterly as necessary in other areas which have a State Correctional Facility, such as Seward, Nome, Bethel, Kenai,

and Ketchikan. Occasionally it is necessary for the Board to travel outside Alaska to the Federal Bureau of Prisons Facilities and other contract institutions to hold parole hearings. The Board members are not state employees but are paid per diem and travel expenses plus \$150 compensation for each full day they are in session.

In 1981, following three years of research and analysis the Board adopted a parole guidelines model which rates a prisoner's social and criminal history to determine risk. This risk score is compared to the severity of the crime to determine a range of time the prisoner should serve prior to discretionary parole. These guidelines were revised in 1983 based on criminal code revisions and again in 1989 following additional research into the validity of the risk factors.

THE HISTORY OF PAROLE ELIGIBILITY

Eligibility for discretionary parole and for mandatory parole has changed considerably over the last three decades since Statehood and has become extremely complicated. The following information is presented as a historical review of what has occurred and may provide some perspective on the limited numbers of prisoners who are currently eligible for release.

The Alaska legislature determined, with passage of the criminal code in 1960, that a prisoner sentenced to a term of at least 131 days would be eligible for discretionary parole. Former AS 33.15.180. Although there was no statutory minimum term a prisoner had to serve before release on parole, the court had the discretion to set a minimum term, not to exceed one-third of the total sentence. Former AS 33.15.230(a)(1). No other restrictions or guidelines applied.

Effective May 16, 1974, the Alaska Legislature amended former AS 33.15.080 to require a prisoner to serve one-third of the period of confinement prior to being eligible for release on discretionary parole. In the case of a prisoner serving a life sentence, the mandatory minimum was set at fifteen years. In addition, former AS 33.15.230(a)(1) was amended so the court could further restrict eligibility up to the maximum term.

In 1980, as part of the revised criminal code and with the inception of presumptive sentencing, parole eligibility was altered significantly. Crimes were grouped according to severity of the offense. Murder I, Murder II and Kidnapping were unclassified felonies. Murder I and II and Kidnapping were changed from a maximum term of life to a maximum term of 99 years. The mandatory

minimum for discretionary parole eligibility for Murder I was increased to 20 years [AS 12.55.125(a)] or one-third of the period of confinement (former AS 33.15.080), whichever was greater. The mandatory minimum term for Murder II and Kidnapping was set at five years [AS 12.55.125(b)] or one-third of the period of confinement, whichever was greater.

All other felony offenses were classified as A, B, or C felonies. First time felony offenders and all misdemeanor offenders with a sentence of 181 days or longer were eligible for parole after serving one-third of the period of confinement. The remaining felony offenders (those with one or more prior felony convictions) were to be given a non-parole eligible presumptive term. AS 12.55.125. As in the past, the court could further restrict parole eligibility beyond the statutory minimums. AS 12.55.115.

The 1980 revised criminal code also provided for a Three-Judge Sentencing Panel (AS 12.55.175) to review cases with extraordinary circumstances. AS 12.55.165. The Three-Judge Panel may sentence a defendant to any sentence authorized under AS 12.55.015, including making an otherwise ineligible defendant eligible for parole.

Effective October 1, 1982, Sexual Assault I and Sexual Abuse of a Minor I, previously class A felonies, were moved to a new category of unclassified presumptive's [AS 12.55.125(i)] and first time offenders were no longer eligible for parole. In addition, Class A first time offenders were now subject to presumptive terms and were not eligible for parole. AS 12.55.125(c).

Effective January 1, 1983, drug offenses were included in the revised criminal code and Misconduct Involving a Controlled Substance in the First Degree became an unclassified felony with a five year mandatory minimum. AS 12.55.125(b).

Effective January 1, 1986, class A, B and C felony offenders eligible for parole, had their parole eligibility reduced from one-third of the period of confinement to one-quarter. [AS 33.16.100 (c)] In addition, enhanced or aggravated presumptive's were declared eligible for discretionary parole after completing the initial presumptive term plus the minimum (one-third or one-quarter) applicable to the enhanced portion of the term. [AS 33.16.090(c)].

In order to correct what they believed to be a previous oversight the legislature made Class A offenders eligible for parole after serving one-third of the period of confinement, effective September 12, 1987. Eligibility on these offenders had been mistakenly reduced the previous year to one-quarter along with class B and C offenders. [AS 33.16.100(d)].

In 1988, it was determined an offender sentenced prior to 1986 to an enhanced (aggravated) presumptive sentence [AS 12.55.155(c)] was eligible for parole after serving the presumptive term, less good time, and at least one-third of the composite term. Merry v. State, 752 P.2d 475 (Alaska App. 1988). In 1990, it was determined an offender sentenced to a consecutive presumptive sentence prior to 1986 was eligible for parole after completion of the initial presumptive sentence, less good time, and after serving the applicable minimum (one-third or one-quarter) of the consecutive presumptive term.

It has been long established that good time does not reduce the minimum term for parole eligibility. Attorney General Opinion, 01/30/74, Mills v. State, 592 P.2d 1247 (Alaska 1979). However good time does reduce the term of a presumptively sentenced prisoner and thus affects parole eligibility on enhanced presumptive sentences and consecutive presumptive sentences. AS 33.16.090(c).

Effective September 14, 1992, Three Judge Panel sentencing based on a finding of an exceptional potential for rehabilitation became more restrictive. After that date the panel is required to sentence the defendant to the presumptive term, shall order the defendant to participate in appropriate programs of rehabilitation, and may provide that the defendant is eligible for discretionary parole during the second half of the sentence imposed if the defendant successfully completes all rehabilitation programs ordered. AS 12.55.175(e), AS 33.16.090(e).

WHO IS ELIGIBLE FOR DISCRETIONARY PAROLE NOW?

As indicated in the previous history of parole, the parole eligibility laws have become extremely complicated. A quick overview follows:

In order for a prisoner to be eligible for discretionary parole, the prisoner must be sentenced to a term of 181 days or more. In the case of classified felonies, first time class B and C offenders are eligible after serving one-quarter of their term. All other classified felonies and unclassified sex offenses fall under presumptive sentencing and are eligible for parole after serving the initial presumptive terms. Prisoners convicted of Unclassified felonies must serve mandatory minimums (20 yrs. for Murder in the first Degree, five years for all others) or one-third of the total term, whichever is greater.

WHO IS ON MANDATORY PAROLE?

A prisoner who is not eligible for discretionary parole or has not been granted discretionary parole will be supervised on mandatory parole if the composite term the prisoner is serving is two (2) years or more. The term of mandatory parole is equal to the period of time the prisoner's sentence was reduced for good behavior, in most cases this is one-third of the total sentence.

Mandatory parole can be revoked prior to a prisoner's release to supervision if the prisoner does not comply with court ordered treatment while incarcerated. Once released from the institution, mandatory parole can be revoked by the Board if the prisoner violates a condition of the mandatory parole. A prisoner cannot refuse to be released to mandatory parole supervision.

The Board's Workload

The workload for the Alaska Board of Parole increased significantly during the 1980's at a time when the prison population mushroomed. As an example, the 1980 criminal code revision did not begin to show an impact until about 1983 (Figure #1). In 1982, the Board's total workload including parole hearings, parole revocation hearings, warrants and preliminary hearings was under 400 cases. From 1982 to the current peak, the Board's workload increased fourfold. The increase was substantially related to the 1980 presumptive sentence law and mandatory parole law. Discretionary parole hearings and discretionary parole releases did not increase during that period in spite of the growing prison population. Each year, as a higher percentage of prisoners entering the system were sentenced after 1979 under the presumptive sentence law, the number of prisoners eligible for discretionary parole and the number of prisoners released on discretionary parole decreased.

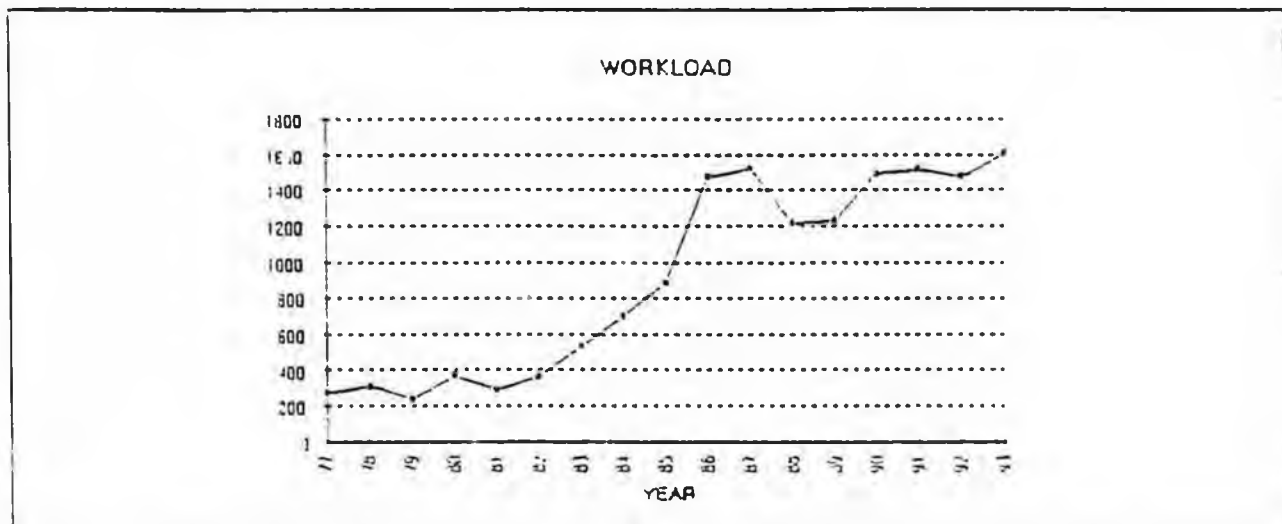


Figure #1

The Board's sharp increase in workload in 1986 and 1987 as indicated in Figure #1 is attributed to the added responsibility during those two years of reviewing prisoners eligible for release under the Governor's Emergency Conditional Commutation Release Plan.

During calendar year 1993, the Board held a total of 1608 hearings, 697 of which were in-person hearings. The remaining 911 case decisions included issuing warrants, setting or changing conditions, and reviewing appeals.

Discretionary Parole

During the calendar years 1991, 1992 and 1993 the Board held a total of 461 discretionary parole release hearings. Of that total, 178 prisoners were granted discretionary parole for a parole rate of 39%. (Figure 2). In addition, during that three year period, the Board released another 225 prisoners following revocation of their mandatory parole.

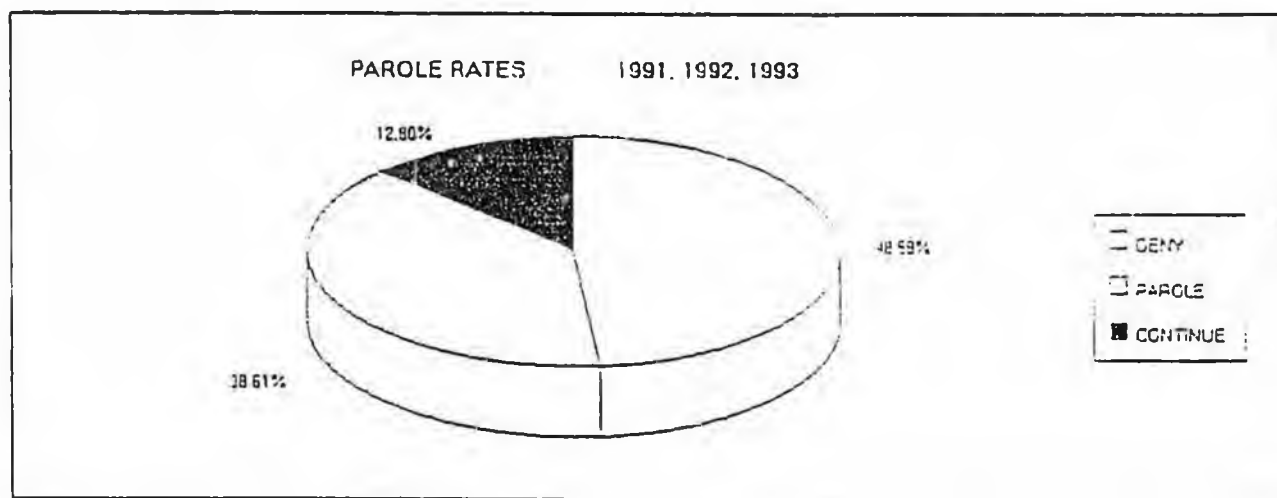


Figure #2

The Board has completed a recidivism study every year since at least the mid 1970's. This was traditionally a one year follow up of prisoners released to discretionary parole. In 1988, the study was expanded to follow the parolee for more than one year. Success is measured by the parolee's ability to complete the followup period on supervision without having been revoked by the Board.

Failure is also divided into four categories based on the nature of the violation. If the violation was for a condition of parole that was not a violation of a law or local ordinance, such as consuming alcohol or failing to report a change of residence, the violation is considered to be a technical or conditions violation. If parole is revoked as a result of a conviction for a misdemeanor or felony while on supervision, the violation is noted accordingly. A parolee who does not report to the parole office as instructed and is unable to be located by the parole officer is coded as an absconder. If multiple violations occur, the most serious one is the one coded.

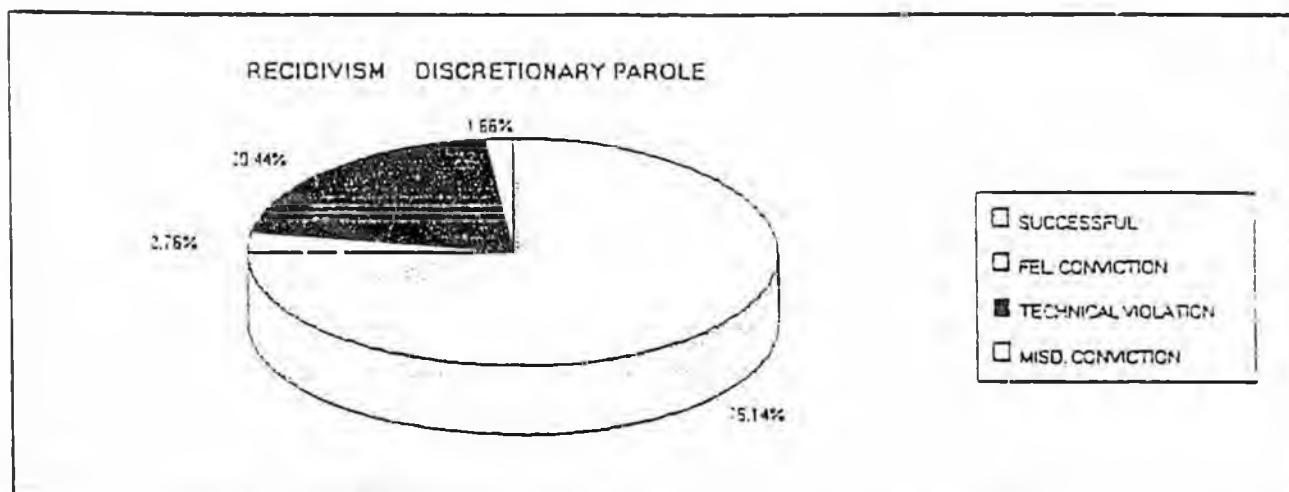


Figure #3

The Board is very proud of its consistently low felony revocation rate. A felony revocation rate of 10% is acceptable and expected in many jurisdictions across the United States. The Alaska Board of Parole has consistently had a felony violation rate of 5% or less. A follow-up of the prisoners released to discretionary parole during the years 1989, 1990, 1991 and 1992 indicates a felony violation rate of 5 out of 182, or 3%. (Figure #3).

The combined violation rate for discretionary parolees during that period of time is 25%. However, many of those prisoners were ordered back to prison for only a short period of time and then released to supervision again at a later date. This low felony and misdemeanor revocation rate is an indication the field parole officer is doing a good job of monitoring cases to assure the parolee is removed from the community at the first sign of serious supervision violations and before a new crime is committed.

Mandatory Parole

The Department of Corrections currently releases over 500 prisoners each year who are to be supervised on mandatory parole for the period of time their sentence was reduced for good behavior in the institution. This number has increased considerably as the prison population has increased. In 1986, less than 300 prisoners were released to mandatory parole supervision. At the present time, the Department is supervising about 700 mandatory parolees.

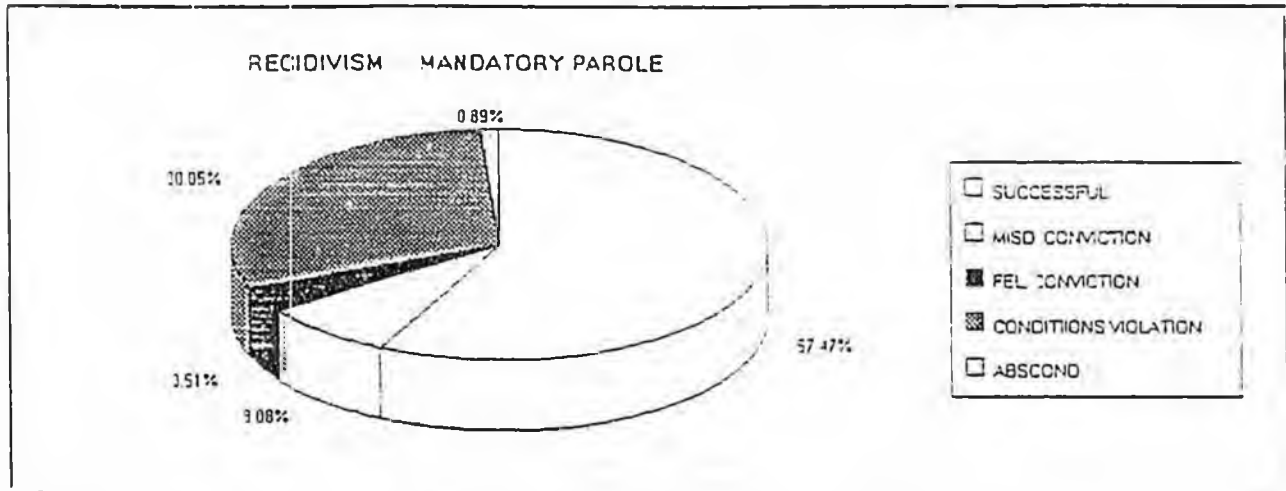


Figure #4

During the years 1989, 1990, 1991 and 1992, it is estimated 1907 prisoners were released to mandatory parole supervision. This estimate is based on the number of cases submitted to the Board so they could set conditions prior to release. As Figure #4 indicates, 311 of them were returned to prison. This is a violation rate of 43%. This violation rate is nearly eighteen (18%) percentage points higher than prisoners released to discretionary parole. In addition, on the average these prisoners were not as closely supervised as discretionary parolees who are often required to participate in residential programs, halfway houses or the Intensive Supervision Program. This revocation rate for mandatory parolees could increase considerably if they were supervised as closely as discretionary parolees.

Risk Factors

The parole guidelines model developed in 1981 and the subsequent revisions to that model have always included a risk score sheet. The current risk factors were adopted in 1989 and provide for a scoring range of 0 to 49. The lower the score, the lower the risk to reoffend. Risk scores are divided into four categories as follows:

A = 0-6 B = 7-14 C = 15-29 D = 30-49

During the years 1990, 1991, 1992, and 1993, the parole rate for prisoners in category A was 52%; the parole rate for category B was

48%; the parole rate for category C was 33%; and the parole rate for category D was 23%. (Figure #5). This is a good indication the Board is paying a great deal of attention to an applicant's risk to the community at the time parole is granted.

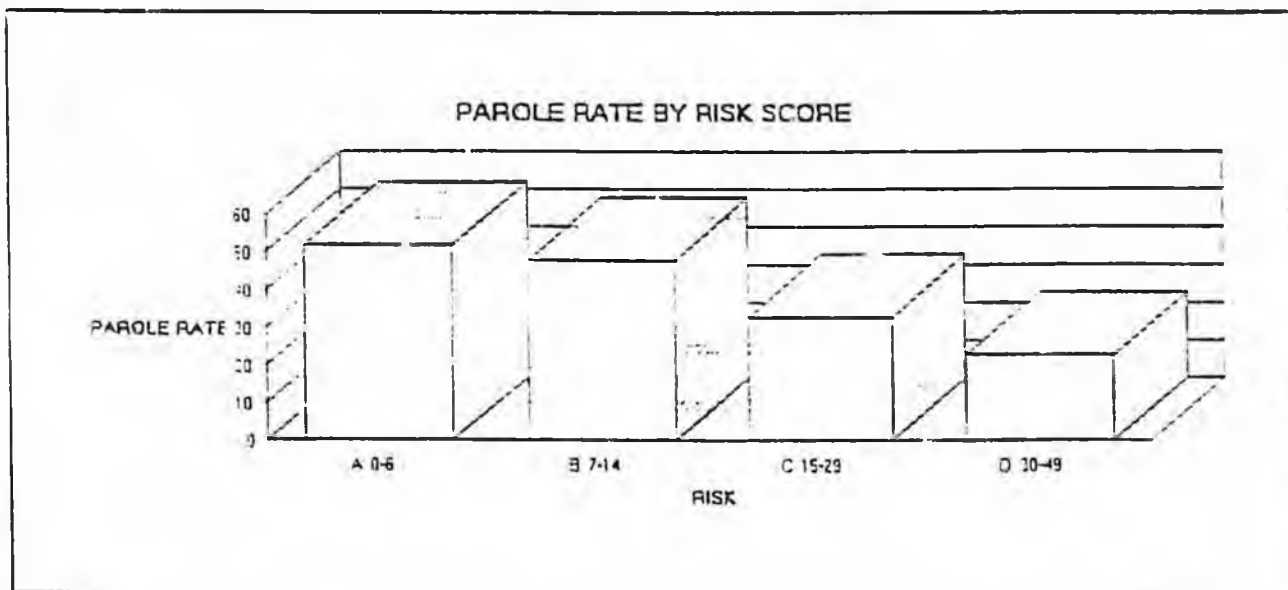


Figure #5

Information obtained from risk scores for prisoners appearing in revocation hearings during the years from 1988 to 1993 further support the validity of the scores and the Board's reliance on these scores. Of the 1350 prisoners revoked during that six year period, only 7% were in the two best risk categories (A & B). (Figure #6). Nearly all of the parolees violated during those years (93%) had a risk score of 15 or higher.

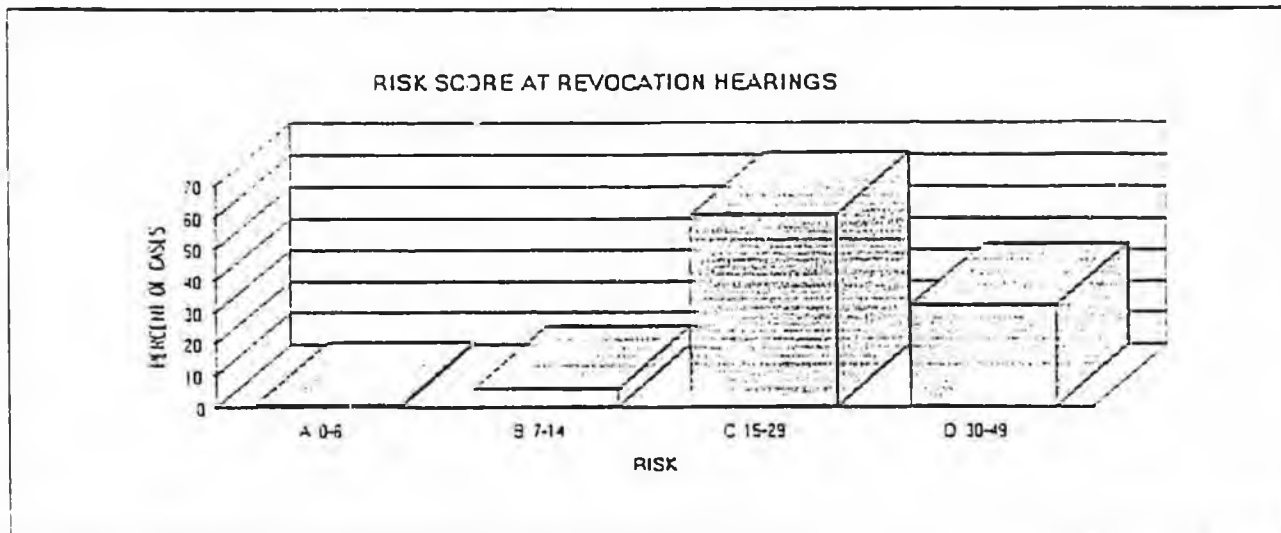


Figure #6

Parole Guidelines

The Board has utilized numerical guidelines for releasing prisoners since 1981. See 22 AAC 20.142. The guidelines are designed for non-presumptively sentenced offenders eligible for discretionary parole. Many other states have guidelines models, including the U.S. Parole Commission. One of the goals in utilizing a guidelines system is to limit the number of cases where a decision is made outside of the suggested guidelines range. In some cases the Board will release a prisoner below the minimum range by making a formal finding of mitigating factors; or the Board will deny parole and thus require a prisoner to serve a term above the guidelines by making a formal finding of aggravating factors. As Figure #7 indicates, the Alaska Board of Parole is finding mitigation in about 7% of the cases appearing before them and is making a finding of aggravation in about 10% of the cases appearing before them.

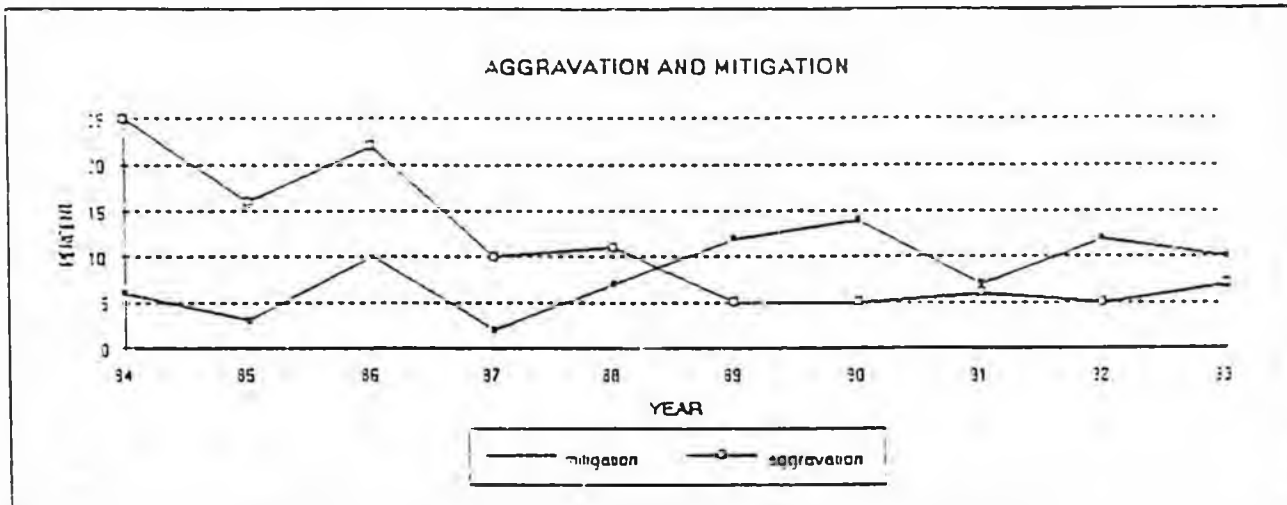


Figure #7

The remaining 83% of decisions are made within the guidelines range and this high percentage of conformity to the guidelines is an indication the Board is making a conscious effort to apply the discretion they have in a fair and equitable manner.