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Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
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Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
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Toll free: (800) 770-3822

Senator_Bettye_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Date: 4/16/2009

To: Senator Stedman, Co-Chair
House Finance Committee

From: Senator Bettye Davis

Re: SB 68 "An Act relating to the voting rights of felons"

This is a request that you schedule a hearing on SB 68 at the earliest possible date.

Please find attached a copy of the bill, a sponsor statement, fiscal notes, and a sectional analysis. Your attention to this request would be appreciated. Thank you.



April 14, 2009

**AMERICAN CIVIL
LIBERTIES UNION OF
ALASKA**

P. O. Box 201844
Anchorage, AK 99520
(907) 258-0044
(907) 258-0288 (fax)
WWW.AKCLU.ORG

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KATIE HURLEY, Wasilla
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GALEN PAINE, Sitka
JUNE PINNELL-STEVENS, Fairbanks
NADINE WINTERS, Fairbanks

The Honorable Bettye Davis
Senator, Alaska State Senate
State Capitol, Room 30
Juneau, AK 99801-1182

Via fax 907-465-3756 and email: Senator Bettye Davis@legis.state.ak.us

Re: ACLU of Alaska – Support of SB 68

Dear Senator Davis:

On behalf of the American Civil Liberties Union (ACLU) of Alaska and our thousands of members and activists throughout the state, as well as our Board of Directors and Staff, I am writing to express our **strong support of Senate Bill 68** seeking to enfranchise formerly incarcerated Alaskans.

We are grateful for your work in sponsoring this bill, and your historic commitment to the most fundamental of constitutional rights – the right to vote.

Thanks also to your office for responding to our inquiries regarding the details of this legislation. We appreciate the hard work of your staff in seeking to ensure that SB 68 will reduce unnecessary impediments to enfranchisement. As you know, those who participate in voting are less likely to re-offend, and reducing barriers to voting contributes to the public welfare of all Alaskans.

The ACLU of Alaska is pleased to support SB 68 and hopes to work with you towards quick passage of this legislation.

Please feel free to contact us at (907) 258-0044, or jmittman@akclu.org, if you require any additional information.

Sincerely,

Jeffrey A. Mittman
Executive Director

Sen. Bettye Davis

From: ACLU [aclu@aclu.org] on behalf of Garrett Ennis [alaskancomfort@hotmail.com]
Sent: Friday, April 10, 2009 10:27 PM
To: Sen. Bettye Davis
Subject: Ensure all Alaskans have the right to vote

Apr 11, 2009

Senator Bettye Davis
120 4th Street
Juneau, AK 99801-1182

RECEIVED
APR 13 2009

Dear Senator Davis,

As your constituent, I ask you to support SB 68, which helps keep all Alaskans safer, by ensuring that ex-offenders have the right to vote and function as responsible citizens and taxpayers.

Restricting voting rights does not prevent crime or provide compensation to victims. Research shows that people who vote are much less likely to be re-arrested. That is why the American Probation and Parole Association, the National Black Police Association, the American Bar Association and others support full voting rights when former offenders return to their communities.

Senate Bill 68 encourages the behaviors we all wish to see and that society ought to encourage a commitment to community and participation in our democracy.

Thank you for supporting SB 68.

Sincerely,

Mr. Garrett Ennis
5432 E Northern Lights Blvd # 329
Anchorage, AK 99508-4713

AS 15.60.010 (9)

(8) "federal election" means a general, special, or primary election held solely or in part for the purpose of selecting, nominating or electing a candidate for the office of President, Vice-President, presidential elector, United States senator, or United States representative;

(9) "felony involving moral turpitude" includes those crimes that are immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault, sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion, coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a forgery device, offering a false instrument for recording, scheme to defraud, falsifying business records, commercial bribe receiving, commercial bribery, bribery, receiving a bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor, escape, promoting contraband, interference with official proceedings, receiving a bribe by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical evidence, hindering prosecution, terroristic threatening, riot, criminal possession of explosives, unlawful furnishing of explosives, promoting prostitution, criminal mischief, misconduct involving a controlled substance or an imitation controlled substance, permitting an escape, promoting gambling, possession of gambling records, distribution of child pornography, and possession of child pornography;

(10) "general election" means the election held on the Tuesday after the first Monday in November of even-numbered years;

(11) "hand-counted ballot" means a ballot designated to be counted by hand in precincts where precinct tabulators are not available;

(12) "house district" means one of the districts described in art. VI, sec. 1, Constitution of the State of Alaska;

(13) "judicial district" means one of the districts defined in AS 22.10.010;

(14) "lieutenant governor" includes an appointed lieutenant governor, governor, or acting governor if a vacancy has occurred in the office of lieutenant governor or governor;

(15) "limited political party" means a political group which organizes for the purpose of selecting candidates for electors for President and Vice-President;

(16) "local election" means a regular or special election held by a borough, city, school district, or regional educational attendance area;

(17) "master register" means the list of all registered voters in the state which is maintained by the director of elections;

(18) "member of a political party" means a person who supports the political program of a party;

(19) "numerical identifier" means a voter's date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter identification number;

(20) "oath" includes affirmation;

(21) "official registration list" means the list of all voters qualified to vote at a particular election compiled in accordance with AS 15.07.125;

(22) "optically scanned ballot" means a paper ballot designed to be read by an optical scanning machine;

(23) "party district committee" means the political party committee that performs the executive function for a region representing an area larger than a precinct and smaller than the state;

(24) "political group" means a group of organized voters which represents a political program and which does not qualify as a political party;

(25) "political party" means an organized group of voters that represents a political program and

(A) that nominated a candidate for governor who received at least three percent of the total votes cast for governor at the preceding general election or has registered voters in the state equal in number to at least three percent of the total votes cast for governor at the preceding general election;

Lynda Zaugg

From: Lynda Zaugg
Sent: Monday, April 06, 2009 10:13 AM
To: 'wgreene@gci.net'
Subject: SB 68 Felon voting

Rev. Greene, SB 68 will be heard in front of Senate Judiciary on Friday 4/10 at 1:30. The teleconf # is 888-295-4546. Thank you. Lynda

To Rev. Greene
FAX # 907-337-4168

From Lynda Zaugg
465-4906

Rev. Greene, The hearing time is from 1³⁰
to 3⁰⁰ on Friday.
Thank you for your help

Lynda
Sen Davis' office

4/9/09

Jeff, Al, I'm just providing a heads up re voting rights for felons. Jeff, if you would be available to testify that would be great. Al, if Rev. Patterson would also be available to testify -- it would be very helpful. SB 68 has its next hearing before Senate Judiciary on Friday April 10th at 1:30. Teleconf # is 888-295-4546 or Anchorage LIO. Thanks. Lynda

email
Mindy 4/6/09

Lynda Zaugg

From: Jeffrey A. Mittman [jmittman@akclu.org]
Sent: Tuesday, March 31, 2009 11:17 AM
To: Lynda Zaugg
Subject: Contact Info: SB 68

Lynda,

It was good speaking with you.

This office is happy to work with the Senator in whatever way might be helpful to move SB 68 through the Legislature:

At some point, it might make sense to discuss local/state endorsements if we feel it will be necessary to assure a successful Senate Floor vote, House process, and gubernatorial support.

You may always reach me at (907) 258-0044, x103, or jmittman@akclu.org.

Best,

Jeffrey



Jeffrey A. Mittman
Executive Director
ACLU of Alaska
PO Box 201844
Anchorage, AK 99520
(907) 258-0044 ext. 103
(907) 258-0288 (fax)

Not a problem. You really do not need to be present ---- I am just planning on using the numbers you provided re number of people currently with suspended voting rights due to felony convictions. This bill will tie the return of felon voting rights to release from incarceration rather than the end of probation supervision. Your Div. did not object to the bill last year so I am assuming that would still to be the case? If not please let me know. And if you are busy with your Mom - do not worry about this. Take care and thank you. Lynda

From: Fenumiai, Gail M (GOV) [mailto:gail.fenumiai@alaska.gov]
Sent: Monday, March 30, 2009 8:56 AM
To: Lynda Zaugg
Subject: Re: felon voting rights

I'm out of town dealing with my ailing mother. If its okay I can let you know later what time will work. Thanks.

From: Lynda Zaugg
To: Fenumiai, Gail M (GOV)
Sent: Mon Mar 30 08:31:12 2009
Subject: RE: felon voting rights
That would be great. What would be a good number to call you at? And when? Teleconf # for Tues is 888-295-4546. Thank you. Lynda

From: Fenumiai, Gail M (GOV) [mailto:gail.fenumiai@alaska.gov]
Sent: Saturday, March 28, 2009 6:00 PM
To: Lynda Zaugg
Subject: Re: felon voting rights

I am not in town but can give you a call on Monday sometime. If you want I can participate by teleconference.

From: Lynda Zaugg
To: Fenumiai, Gail M (GOV)
Sent: Sat Mar 28 14:12:37 2009
Subject: felon voting rights
Gail, I'll give you a call on Monday but wanted to give you a heads up re SB 68 'Felons' right to vote. A hearing has been set for Tues 3/31 at 9 am before Sen. State Affairs. Lynda

Gail, for your info, SB 68 is scheduled for a hearing before Sen. Judiciary on Friday 4/10 at 1:30. The hearing last week went just fine. No major questions. I used your numbers for the number of felons without voting rights. I'm not expecting anything different this week. Take care.
Lynda

Gail Ferrumia
Dir - Div of Elect

4/6/09

405-4611

Lynda Zaugg

From: Fenumiai, Gail M (GOV) [gail.fenumiai@alaska.gov]
Sent: Monday, March 30, 2009 10:31 AM
To: Lynda Zaugg
Subject: Re: felon voting rights

Dir Div. of Elections

We do not object to the bill and have submitted a zero fiscal note.
 If there are any questions presented by the committee let me know and I can get you the answers.
 Thank you
 Gail

From: Lynda Zaugg
To: Fenumiai, Gail M (GOV)
Sent: Mon Mar 30 10:25:36 2009
Subject: RE: felon voting rights

Not a problem. You really do not need to be present ---- I am just planning on using the numbers you provided re number of people currently with suspended voting rights due to felony convictions. This bill will tie the return of felon voting rights to release from incarceration rather than the end of probation supervision. Your Div. did not object to the bill last year so I am assuming that would still to be the case? If not please let me know. And if you are busy with your Mom - do not worry about this. Take care and thank you. Lynda

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Sent: Sat Mar 28 14:12:37 2009
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3796
 3/30/2009

Lynda Zaugg

From: Fenumiai, Gail M (GOV) [gail.fenumiai@alaska.gov]
Sent: Wednesday, February 18, 2009 10:09 AM
To: Lynda Zaugg
Subject: RE: Information from elections regarding felon voters

It is defined in AS 15.60.010(9)

From: Lynda Zaugg [mailto:Lynda_Zaugg@legis.state.ak.us]
Sent: Wednesday, February 18, 2009 10:01 AM
To: Fenumiai, Gail M (GOV)
Subject: RE: Information from elections regarding felon voters

Excellent, thank you. One more question. What qualifies as a crime of "moral turpitude"? Again, thank you for your time. Lynda

From: Fenumiai, Gail M (GOV) [mailto:gail.fenumiai@alaska.gov]
Sent: Tuesday, February 17, 2009 11:40 AM
To: Lynda Zaugg
Subject: Information from elections regarding felon voters

Good morning Lynda,

Lauri Wilson provided me with the questions you had regarding felon voters. The division's responses to your questions are below. Please let me know if you have any other questions or need additional information.
 Gail Fenumiai

(1) Number of felons we have in our system now that have lost their voting rights: 6,081

(2) What processes we have in place to obtain information from DOC for convictions and discharges:

(3) What kind of information we receive from DOC that allows us to place a voter in I/FC status:

The State Dept. of Corrections has created a weblink to their files of felony charges. Once a week our staff runs the electronic report from this website for a list of felony charges that occurred in the timeframe entered. This report is then compared to VREMS to determine if we should inactivate a voter's record for those that have been charged with a felony regarding moral turpitude. There have been occasions where the charge listed on the report does not provide enough information to determine if it's a felony regarding moral turpitude, so staff will refer to the courts website for further information or contact DOC. A voter's record is then inactivated to FC (Felony conviction) based on the date of the conviction listed on the report.

We also receive an electronic notice once a month from the Federal Courts regarding felonies of moral turpitude. This report is processed in the same manner as the state felony report. If there is a question regarding the charge we request assistance from Sarah Felix.

Once a felon has served all time associated with the charge, his rights are restored. A "Notification of Restoration of Rights" letter from corrections is sent to the Division of Elections.

We then change the voter's record from inactive FC (felony conviction) to inactive FD (felony discharge). The voter can then re-register to vote. If we do not receive a notice from DOC that the voter's rights have been restored and the voter submits a new registration form, we contact the DOC for a release date of the felony and update the voter's record. The voter becomes a new voter and his original registration date is the date of the new registration form.

(4) What we do if we don't receive notification from DOC that a person has been discharged. Do we go out on our own and research lists independently on an annual or bi-annual basis? The division does not conduct an independent review.

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reg - folks that own
reg @ Gen of comm
& now are not -
n doe that ppl
people cannot
still vote
so vote

12/20/08

SB 7 Felon Voting Rts

ACLU-
Jeff Mittman.

258-0044

103

What to talk
about?

Re-intro?

↗

- 12/30 - ACLU to have acty's review SB 7
- " To try match B, A #5
- " To provide Backup info

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Senator Bettye Davis@legis.state.ak.us
http://www.akdemocrats.org

Senator Bettye Davis

Senate Bill SB 7 "An Act relating to the voting rights of felons."

Tentative list of people to testify in person and by teleconference

Persons to testify telephonically from Anchorage LIO:

- 1. Reverend Alonzo Patterson; phone: 907-276-6673
- 2. Rex Butler, Attorney; phone: 907-272-1497
- 3. Bill Parker - former Corrections Official; phone: 258-2702; cell: 907-748-3094
- 4. ~~Vinco Casey~~, NAACP, 272-8717 *Dr. Alexander James* Wanda Greene, Act-50 L.B.
- 5. Reverend Greene? *ER cell 230-3619 home 337-3016*
- 6. ~~Michael MacLeod-Ball~~, Executive Director, Alaska ACLU *Phone: 258-0044; cell: 230-0065; MWM@AKCLU.ORG*
- 7. Denise Morris, Pres./CEO AK Native Justice Center, Anchorage. Phone: 793-3550; fax: 793-3570

Call-in from out-of-state:

- 1. Daniel Levitas, Representative, American Civil Liberties Union, Atlanta: State Legislative Strategist, Felon Disenfranchisement, Voters Right Project. Phone: 404-523-2721, ext. 213; Cell: 404-290-3214
- 2. Julie Fernandez, Attorney, Leadership Conference on Civil Rights 202-263-2856

Persons in Juneau to testify in person

- 1. ~~Marilyn Pugh~~, former Commissioner, Dept. Corrections Dept.; phone: 907-586-1598
- 2. Mike Miller, former Representative, phone: 907-586-3067; cell: 907-957-2777
- 3. Whitney Brewster, Director of Elections; phone: 465-4611, Juneau; 375-6400 Anchorage

*DOC? - 12/20/07
Dir of Elec - 12*

Bridge builders - Reelund

Wgreene@aclu.net

Callin

3/26 achenathon@shiloh2000.net

3/26

3/26

3/26

Spencer 1st Bill -

Reelund

message

message

3/26

Lynda Zaugg

From: Al Cheathon [acheathon@shiloh2000.net]
Sent: Friday, March 27, 2009 10:07 AM
To: Lynda Zaugg
Subject: RE: hearing for felon voting rights

I'll make sure the Pastor get's this information.

Have a great day.



SHILOH
MISSIONARY BAPTIST CHURCH

Al Cheathon

*Al Cheathon, Office Administrator
Shiloh Missionary Baptist Church
855 East 20th Avenue
Anchorage, AK 99501
907-276-6673: Office
907-770-9811: FAX*

From: Lynda Zaugg [mailto:Lynda_Zaugg@legis.state.ak.us]
Sent: Friday, March 27, 2009 9:07 AM
To: Al Cheathon
Subject: hearing for felon voting rights

Al, thank you for relaying this info to Rev. Patterson. The hearing will be Tues 3/31 at 9:00 a.m. in front of Sen. State Affairs chaired by Sen. Menard. Sen. Davis has put forth this bill last year – if passed it would allow individuals convicted of felonies to vote upon release from jail. This year the bill is SB 68. I can fax a copy of the bill and sponsors statement for your review. Or you can also download a copy from Legislative web site from BASIS. Thanks again for your help. Lynda

Lynda Zaugg

From: Deborah Prator
Sent: Thursday, March 26, 2009 3:13 PM
To: Lynda Zaugg
Subject: SB 68

Lynda – Just a quick note to let you know that I have scheduled SB 68 in State Affairs for Tuesday, March 31, 2009 at 9 a.m. Hope this works for you and Sen. Davis. Like this "Spring" we are having? ☺ Debbye Prator

Legislative Aide
Office of Senator Linda Menard
Phone: 907-465-4957
deborah_prator_@legis.state.ak.us

Alaska State Legislature

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Senator_Bettye_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Sponsor Statement

SB 68 "An Act relating to the voting rights of felons"

Across the country states handle the right to vote for returning felons differently. Two (2) states, Maine and Vermont do not take away a felons right to vote. Thirteen states (13) allow felons to vote upon release from incarceration. Twenty one (21) including Alaska allow felons to vote after they complete all parole/probation requirements while fourteen (14) states permanently disenfranchise certain felons. If our belief is that felons once released have paid their debt to society then returning their right to vote upon release from incarceration would be a positive step.

SB 68 allows felons upon release from incarceration to register to vote. This bill starts the process which allows felons to start assuming responsibility for their reintegration in their communities. We are each responsible for how our government works and we do that through voting. In Alaska, 6081* Alaskans have lost their right to vote because of felony convictions. Currently, Alaska law bars the vote to persons convicted of felonies of moral turpitude until the expiration of a post-incarceration period of parole or probation, which is often years after they have reentered society to become productive citizens and tax payers.

Harsh sentencing laws over the past 30 years have allowed the prison population to balloon, while reducing the rehabilitative model to almost non existent. Over 4.7 million Americans or 1 in 43 adults cannot vote due to felony convictions, with 1/3 or more of them were incarcerated due to alcohol and drug offenses. In Alaska we have gone from slightly over 800 prisoners in 1984 to 5344 in 2008, an increase of 149%. Of those incarcerated in Alaska 48% are Caucasian, 36% are Alaska Native, 10% are African American, 3% are Hispanic, and 3% are Asian/Pacific Islanders.* Nationally minority felons are disproportionately disenfranchised under current law and the harm of this continued disenfranchisement after release is exacerbated by stigma and other forms of discrimination as they try to reenter society. In Alaska 52% of our incarcerated offenders are minorities.

In Alaska, we do not have a problem taking a person off the voting roles if convicted of a felony but we do not have a system that will automatically allow them to return to the voting roles upon termination of supervision. Voting is just one of many steps a returning felon must make to become a productive member of the community. This Bill will help provide a clear time for returning voting rights and provide an important right/responsibility to felons returning to their communities.

* Alaska Div. of Elections

* Alaska Dept. of Corrections "2008 Offender Profile"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 2, 2009

SUBJECT: Sectional Summary of SB 68 (Work Order No. 26-LS0324\A)

TO: Senator Bettye Davis
Attn: Thomas Obermeyer

FROM: Alpheus Bullard *TLAB*
Legislative Counsel

You have requested a sectional analysis of the above referenced bill. As a preliminary matter, please note that a sectional analysis should not be considered an authoritative interpretation of the bill, and the bill itself is the best statement of its contents.

Section 1. Establishes that a person convicted of a crime that constitutes a felony involving moral turpitude under state or federal law may not vote while incarcerated for that crime, and that the person upon release will be advised of voter registration requirements and procedures.

Section 2. Establishes that the voter registration of a person convicted of a crime that constitutes a felony involving moral turpitude will be cancelled while that person is incarcerated.

Section 3. Establishes that a person convicted of a crime that constitutes a felony involving moral turpitude under state or federal law is disqualified from voting while incarcerated for that crime.

Section 4. Repeals AS 15.60.010(39), a definition of "unconditional discharge."

TLAB:ljw
09-053.ljw

Alaska State Legislature



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* Alaska Div. of Elections

* Alaska Dept. of Corrections "2008 Offender Profile"

Mike Miller
Dennis Morris Alaska
Jeff Mittman Alaska
Voting
Rights
Act

Alaska State Legislature

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[Senator Bettye Davis@legis.state.ak.us](mailto:Senator_Bettye_Davis@legis.state.ak.us)
<http://www.akdemocrats.org>

Senator Bettye Davis

Date: 4/16/2009

To: Senator Stedman, Co-Chair
House Finance Committee

From: Senator Bettye Davis

Re: SB 68 "An Act relating to the voting rights of felons"

SB 68 carries a zero fiscal note from both the Dept. of Corrections and the Div. of Elections. It has been vetted in both Sen. H&SS and Sen. Judiciary. This is a request that you waive SB 68 to Senate Rules Committee at the earliest possible date.

Please find attached a copy of the bill, a sponsor statement, fiscal notes, and a sectional analysis. Your attention to this request would be appreciated. Thank you.

Alaska State Legislature

Interim: (May - Dec.)
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Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
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Fax: (907) 465-3756
Toll free: (800) 770-3822

Senator_Bettye_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Date: 4/1/2009

To: Senator French, Chair
Senate Judiciary Committee

From: Senator Bettye Davis

Re: SB 68 "An Act relating to the voting rights of felons"

This is a request that you schedule a hearing on SB 68 at the earliest possible date.

Please find attached a copy of the bill, a sponsor statement, a fiscal note, and a sectional analysis. Your attention to this request would be appreciated. Thank you.

Alaska State Legislature

Interim: (May - Dec.)
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Senator_Bettye_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Date: 3/23/2009

To: Sen. Menard, Chair
State Affairs Committee

From: Senator Bettye Davis

A handwritten signature in cursive script, appearing to read "BD".

Re: SB 68 "An act relating to the voting rights of felons."

This is a request that you schedule a hearing on SB 68 at the earliest possible date.

Please find attached a copy of the bill, a sponsor statement and a sectional analysis. Your attention to this request would be appreciated.
Thank you.

SENATE BILL NO. 68

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

Introduced: 1/21/09

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the voting rights of felons."

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

3 * Section 1. AS 15.05.030 is amended to read:

4 **Sec. 15.05.030. Loss and restoration of voting rights.** (a) A person convicted
5 of a crime that constitutes a felony involving moral turpitude under state or federal law
6 may not vote in a state, federal, or municipal election while incarcerated for that
7 crime [FROM THE DATE OF THE CONVICTION THROUGH THE DATE OF
8 THE UNCONDITIONAL DISCHARGE OF THE PERSON]. Upon release from
9 incarceration [THE UNCONDITIONAL DISCHARGE], the person may register
10 under AS 15.07.

11 (b) The commissioner of corrections shall establish procedures by which a
12 person released from incarceration [UNCONDITIONALLY DISCHARGED] is
13 advised of the voter registration requirements and procedures. The procedures
14 established under this subsection must provide that at the time of the person's
15 release from incarceration,

1 (1) the department shall give the person a written notification of
 2 the person's restored right to vote; and

3 (2) the commissioner of corrections shall notify the director that
 4 the person is entitled to be reregistered as a voter.

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 9 for that crime. Promptly after receipt of evidence satisfactory to the director that a
 10 person has been convicted of a felony involving moral turpitude and incarcerated for
 11 that crime, the director shall cancel the registration of the person.

12 (b) Upon presenting proof that a person whose registration was canceled under
 13 (a) of this section has been released from incarceration [UNCONDITIONALLY
 14 DISCHARGED FROM CUSTODY], the person may register. The director shall make
 15 reasonable efforts to verify the released from incarceration [UNCONDITIONAL
 16 DISCHARGE] of persons applying for registration under this subsection.

17 * Sec. 3. AS 33.30.241(a) is amended to read:

18 (a) A person who is convicted of a felony involving moral turpitude as defined
 19 in AS 15.60.010 is disqualified from voting in a state or municipal election while the
 20 person is incarcerated for that crime [UNTIL THE PERSON'S
 21 UNCONDITIONAL DISCHARGE].

22 * Sec. 4. AS 15.60.010(39) is repealed.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB68
 () Publish Date: _____

Identifier (file name): SB068-OOG-DOE-3-27-09
 Title: An Act relating to voting rights of felons
 Sponsor: Senator Davis
 Requester: Senate State Affairs Committee

Dept. Affected: OOG
 RDU: Elections
 Component: Elections
 Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation will have no fiscal impact on the division of elections.

Prepared by: Gail Fenumiai, Director Phone 465-4611
 Division: Division of Elections Date/Time 3/27/09, 8:41pm
 Approved by: Linda Perez, Director Date 3/27/2009
Administrative Services

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: SB68-DOC-OC-3-27-09
Bill Version: _____
() Publish Date: _____

Identifier (file name): SB68-DOC-OC-3-27-09 Dept. Affected: DOC
Title: "An Act Relating to the Voting Rights of Felons" RDU: Administration & Support
Component: Office of the Commissioner
Sponsor: Senator Davis
Requester: Governor Component Number: 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation	Information					
	Required	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()							
-------------------------------	--	--	--	--	--	--	--

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1002 Federal Receipts							
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1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Passage of this legislation should not have a significant impact on the Department of Corrections.

Prepared by: Leslie Houston, Director
Division: Administrative Services Division
Approved by: Dwayne Peeples, Deputy Commissioner
Office of the Commissioner

Phone 465-3339
Date/Time 3/27/09 0740
Date 3/27/2009

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Juneau, AK 99801-1182
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MEMORANDUM

January 14, 2009

TO: Senator Bettye Davis
Attention: Tom Obermeyer

FROM: Patty Rose, Legal Editor 
Division of Legal Services

SUBJECT: Work Order Number 26-LS0324\A
Voting rights of felons

As you requested, the enclosed work order will be prepared in final and delivered to your office the workday before session begins so that you may file it on the first day of session.

Enclosure

*1st Day Intr.
TSO 1/19/09*

26-LS0324A
Bullard
1/14/09

SENATE BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

Introduced:
Referred:

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the voting rights of felons."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. AS 15.05.030 is amended to read:**

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5 of a crime that constitutes a felony involving moral turpitude under state or federal law
6 may not vote in a state, federal, or municipal election while incarcerated for that
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13 advised of the voter registration requirements and procedures. The procedures
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15 release from incarceration,

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20 person is incarcerated for that crime [UNTIL THE PERSON'S
21 UNCONDITIONAL DISCHARGE].

22 * Sec. 4. AS 15.60.010(39) is repealed.

26-LS0324A
Bullard
1/2/09

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

Introduced:
Referred:

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26-LS0324VA
Bullard
12/31/08

SENATE BILL NO.

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TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

Introduced:

Referred:

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**Alaska State
Legislature
716 West 4th Ave.
Anchorage, A 99501
907-269-0144 office
907 269 0148 fax**

From the Office of Senator Bettye Davis

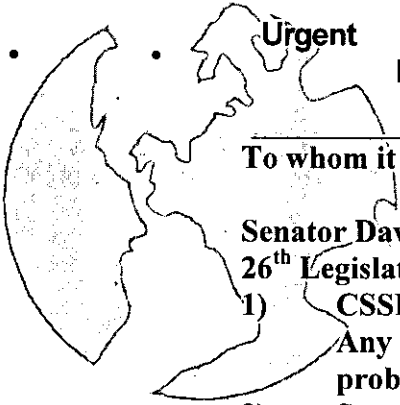
To: Legislative Legal Services **Fax:** 465-2029

From: Tom Obermeyer, Legis. Asst. to Senator Bettye Davis **Date:** December 30, 2008

Re: Request for 3 work orders **Pages:** 11 pages including cover

CC:

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**



To whom it may concern:

Senator Davis would like to start work orders for three additional bills in the 26th Legislature:

- 1) CSSB 7(STA), 25-LS0100\K, or a later draft - Felon Voting rights. Any changes to be considered will be forwarded as soon as possible, probably in the next week.
- 2) Senate Resolution to enact a "New Deal for Higher Education" to rebuild access for students to our nation's public colleges and universities. Refer to attached California HR 4 which calls for:
 - a) a federal program for higher education in the amount of \$70 billion, or 10% of federal stimulus packages;
 - b) establish college-going grants, including increased Pell grants to lower income students and grants similar to the WWI era G.I. Bill of Rights; and
 - c) student loan debt forgiveness for all students who take jobs in public service. Note: I will draft some additional language and statistics which are pertinent to Alaska, some of which are attached in ADN article: *Our View: Higher Education*
- 3) A bill to re-establish the Alaska Commission on the Status of Women which I understand was consolidated with the Alaska Commission on Children and Youth in 1993 by Governor Hickel's Executive Order #84 (and may never have been implemented). See attached letter from Jan Angvik dated November 30, 2008.

.....

statenews

Vol. 51, No. 7

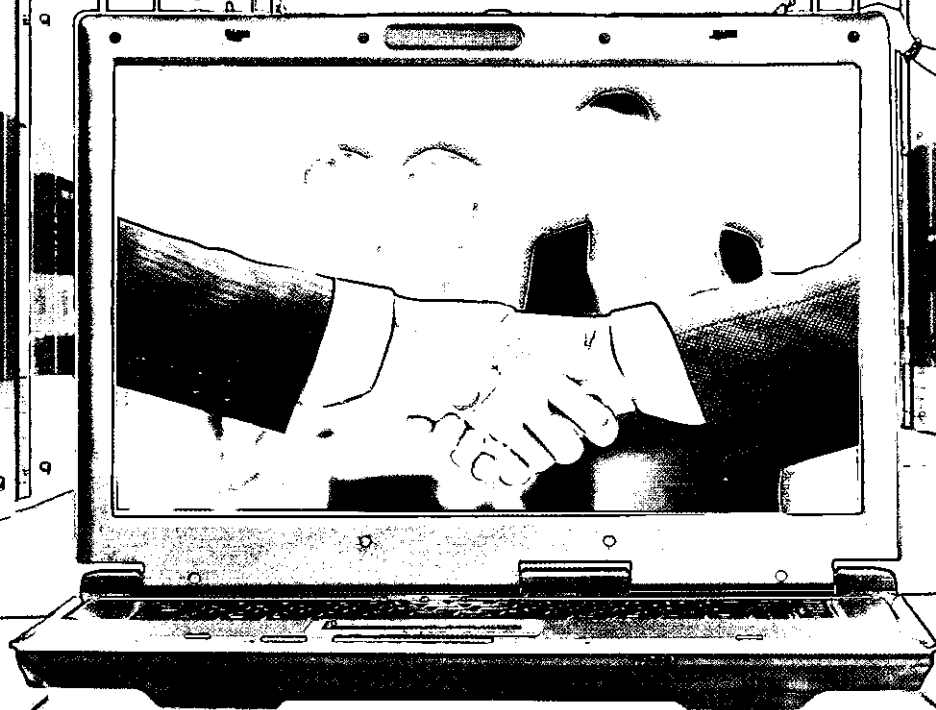
The Council of State Governments

August 2008



growth
behind bars

Adapting to Climate Change | Auto Industry in the South Faring Well | Affordable Higher Education



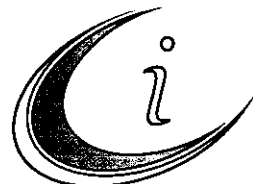
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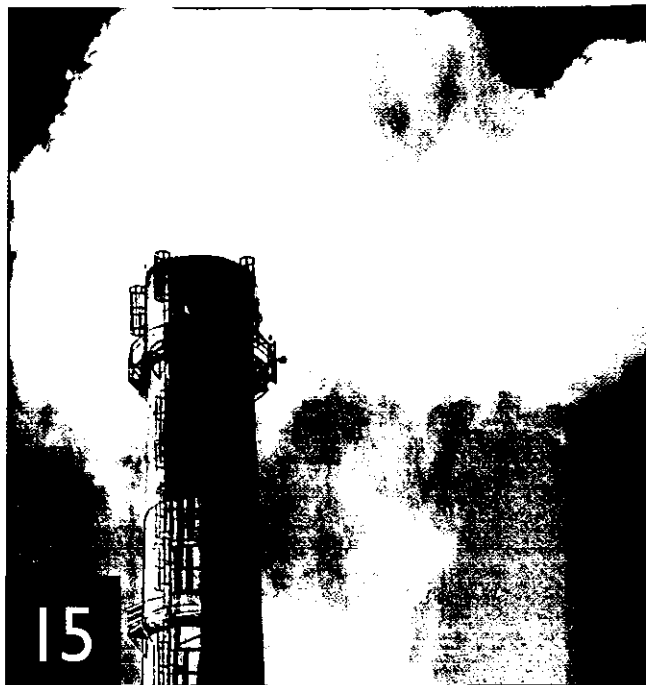
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STATE NEWS, 1549-3628, August 2008, Vol. 51, No. 7—Published monthly with combined issues in June/July and Nov./Dec. by The Council of State Governments.

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CSG WEB



States' prison populations are expected to grow in the next decade and prison costs are projected at almost too much to afford. You can read about efforts of some states in the article on Page 19, and share your experiences on Capitol Comments. E-mail mchavers@csg.org and we may feature your programs and efforts dealing with the growing prison population on our blog, Capitol Comments.

Several states are working hard to make higher education more affordable for residents as tuition costs skyrocket. Read about some of those efforts on Page 30, and check out Capitol Comments for more details about Indiana's 21st Century Scholars program and Oklahoma's Promise. You can also get advice about steps to affordability and learn more about state 529 programs on the blog.

Alan Sokolow, director of The Council of State Governments' Eastern Regional Conference, is retiring after more than four decades with CSG. Read the interview on Page 11 and hear more from Sokolow at Capitol Comments.

And don't forget to check Capitol Comments for updates from the ERC meeting in August, as well as the previous regional meetings held in July.

NEW



This month's issue of *State News* includes a new indicator that alerts you to more information about a particular topic at Capitol Comments. Look for it throughout the magazine, then check CSG's blog for special Web-only features.

capitol trivia

Question:

What are the three states that employ the most people to operate state government? Which state has the fewest state employees?

To find the answer, log onto CSG's Web site at www.csg.org/



\$1 MILLION EVERY MINUTE OF EVERY DAY



By Daniel Sullivan

By the time you finish reading this, Canada and the United States will have traded well-over \$1 million. That's \$1 million every minute of every day. Canadians and Americans produce things together. We create jobs together. Trade with Canada supports 7.1 million American jobs—that's one in 25.

As Canada's representative in New York, New Jersey and Connecticut, in June, I shared the impor-

tance of the Canada-U.S. economic relationship with members of Congress. The message? Think North American competitiveness. Think jobs in your state. Think Canada.

Canada buys four times more from the United States than does China. Canada, not China. Thirty-five states, including New York, New Jersey and Connecticut, sell more to Canada than to any other country in the world. All 50 states sold \$250 billion to Canada last year alone.

In fact, for every \$1 of New York's goods that China buys, Canada buys more than \$5.25. And in New Jersey, Canada buys nearly \$7 to China's \$1 purchase.

Incredibly, Connecticut exports more goods to Canada than to the United Kingdom, Japan, Mexico and Australia combined.

The jobs supported by U.S.-Canada trade are equally impressive—207,000 jobs in New Jersey are linked to U.S.-Canada trade, 469,000 jobs in New York and 90,250 Connecticut jobs.

Take Montreal-based Bombardier, a leader in the production of aircraft, trains and other transport systems. Facilities in

Québec produce rail car shells destined for urban and suburban transport systems in the U.S. These shells are finished in Plattsburgh, N.Y., using a process that employs 800 workers. A new rail car system at JFK International Airport will utilize Bombardier rail cars, a project that has enabled its contractor, Total Transit Systems of Pittsburgh, to bring 100 jobs to New York.

And consider, Unison, a GE subsidiary with a manufacturing plant in the town of Brookhaven, N.Y., that employs 115 people and manufactures aviation components while providing maintenance and support services. Unison enjoys an extensive supply-management relationship with Canada that includes both purchasing component pieces from Canadian suppliers and then selling finished aviation products to clients, such as Bombardier.

And Campbell Soup Company, founded in Camden, N.J., is one of many international firms that depend on the fluid exchange of goods between the U.S. and Canada. Campbell relies on a highly integrated North American supply chain organized around 23 facilities in 14 states and Ontario. In 2007, Campbell shipped nearly 4,500 truckloads from Canada to the United States containing its premium soups and frozen foods. Meanwhile, 3,500 truckloads entered Canada, bringing microwavable soups from the company's largest plant, located in northwest Ohio, as well as Pepperidge Farm snacks from Connecticut, Pennsylvania and other sites.

The movement of goods across the U.S.-Canada border is key to the competitiveness of companies like Bombardier, Unison/GE and Campbell Soup Company whose operations are integrated across North America.

Canadians and Americans are in this together. We depend on one other to compete globally. Deal makers and job creators—that's who we are.

—Daniel Sullivan, who was appointed consul general of Canada in New York in October 2006, will speak at The Council of State Governments' Eastern Regional Conference in August.



*Inaugural
Henry Toll Fellowship
Class of 1986*

Location: Lexington, Ky.

Building Leadership REACHING OUT

In founding The Council of State Governments, Colorado Sen. Henry Toll displayed his exceptional leadership skills by recognizing a national need and taking the steps to fill that need.

In recognition of its founding father and his leadership, CSG in 1986 started the Henry Toll Fellowship Program with

an eye to equipping state leaders with the tools, knowledge and skills necessary to be the statesmen and women of tomorrow—leaders in the mold of Toll himself.

Twenty-two years later, the Toll Fellowship Program is one of the nation's foremost leadership development programs. Graduates have gone on to serve

1980 • 1981 • 1982 • 1983 • 1984 • 1985

S

**Twenty-two years later, the Toll Fellowship Program
is one of the nation's foremost leadership
development programs.**

as governors, secretaries of state, chief justices and as members of the United States Congress. Just as CSG is the only organization serving all three branches of state government, each year the Toll Fellowship Program brings together representatives of all three branches from across the country. A key goal for the Toll program is, to assist state leaders in working successfully across party lines, across branches of state government and across state borders to make creative policy and solve key problems.

Annually, 40 of the nation's most promising state leaders come to Lexington, Ky., for a five-night, six-day "intellectual boot camp." CSG routinely brings in some of the nation's top lecturers on a variety of topics that have included effective political communication techniques, time management, crisis management, state governance transformation and generational communication styles. Dynamic team building and leadership exercises are important components of the Toll program.

Since its inception, the Toll Fellowship Program was designed to provide a broad foundation of leadership skills. While CSG's committees and task forces focus on specific policy issues, the Toll Fellowship Program strives to provide the skills with which its alumni can tackle the policy problems facing the states. In addition, one of the program's most beneficial outcomes is the creation of a national, multi-branch network. The relationships forged during the Toll Fellowship Program provide an opportunity for sharing policy ideas and solutions with leaders from other states and branches of government. Recognizing the importance of such networking, the Toll Fellow Alumni

network meets regularly at CSG spring and annual meetings allowing these new bonds to spread between classes as well.

CSG Associates Program

Also in the 1980s, CSG began to reach out to members of the corporate community and established the Associates Program in 1984. Since then, the program has provided three key elements to government relations professionals:

- access to key decision-makers in all three branches of state government;
- participation in discussions on policy development and emerging trends in the states; and
- opportunities to network and exchange ideas on cutting edge issues.

Members of the CSG Associates Program include Fortune 100 and Fortune 500 companies as well as trade associations. As partners with CSG, the Associates participate in CSG's committee and task force deliberations and participate actively in CSG's 21st Century Foundation decision-making process. In addition to providing their perspectives on state trends, the Associates also make significant contributions to CSG's meetings and international exchanges.

Founding members of the Associates program are 3M, Altria, American Chemistry Council, AT&T, Avon, Eastman Kodak Company, PhRMA, R.J. Reynolds and The Proctor & Gamble Company.

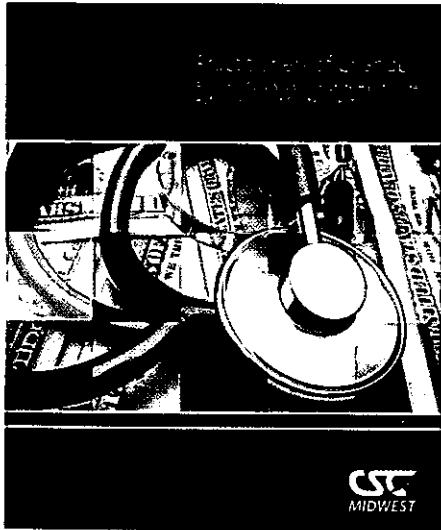
Associates members are encouraged to be actively involved in CSG's task forces and committees that help establish CSG policy and programs. CSG's Associates Awards program recognizes Associates for public-private programs that benefit the states.

- 1980 Frank H. Bailey named executive director of CSG
- 1983 Carl W. Stenberg named executive director of CSG
- 1983 National Association of Secretaries of State re-affiliates with CSG
- 1984 National Association of State Personnel Executives (NASPE) affiliates with CSG
- 1984 CSG Associates Program established
- 1986 The Toll Fellows Program established
- 1986 Midwestern Legislative Conference moves its office from Chicago to Lombard, Ill.
- 1987 National Association of State Facilities Administrators (NASFA) affiliates with CSG
- 1987 American Probation & Parole Association (APPA) affiliates with CSG
- 1989 Daniel M. Sprague named executive director of CSG



toolbox

New CSG Midwest Report Examines Health Care Reform in Region



As the price of health care increases and states face myriad budget challenges, reducing costs and ensuring quality health care for all is a top concern of lawmakers and their constituents.

Last month, The Council of State Governments' Midwest Office released a report exploring recent health reforms in the region.

"Practitioners of Change: Regional Case Studies in State Health Care Reform and Cost Containment" was unveiled in July at the Midwestern Legislative Conference Annual Meeting in Rapid City, S.D.

Using 11 case studies—one from each Midwestern state—the report examines key

policy issues in health care and highlights innovative efforts in the region to control costs and reform state health systems.

The case studies are based on interviews with Midwestern state officials, legislators and experts, as well as studies and data from the nation's top sources in health policy.

The report also includes an appendix on cost-containment strategies in the Canadian provinces.

The project was completed as part of the 2008 MLC chair's agenda of South Dakota Sen. Tom Dempster.

To read the report, visit www.csamidwest.org.

statesource

States Look to Save on Gasoline Bills



As prices at the pump continue to hover around \$4 a gallon this summer, several states are considering options to cut costs.

In July, Kentucky State Police announced a plan to scale back patrols and set up at least 200 checkpoints to reduce the amount of gas used, according to *The Courier-Journal*.

The new policy began July 4 and is expected to continue through Labor Day, according to the Louisville newspaper. Kentucky State Police spent \$132,000 more for gasoline in May than the agency did in May 2007, according to *The Courier-Journal*.

State Police Capt. Tim Lucas told the newspaper the plan was an effort to "let traffic come to us instead of us seeking traffic."

And in June, Utah became the first state to mandate four-day workweeks for the majority of its state employees. Many Utah state employees will work from 7 a.m. to 6 p.m. Monday through Thursday, and 1,000 of the 3,000 Utah state buildings will close on Friday, according to *Stateline.org*.

"Utah is the only state to mandate a four-day workweek for most of its state government employees and no other state currently has plans to mandate a four-day work week, although a number of states are going to be keeping a close eye on

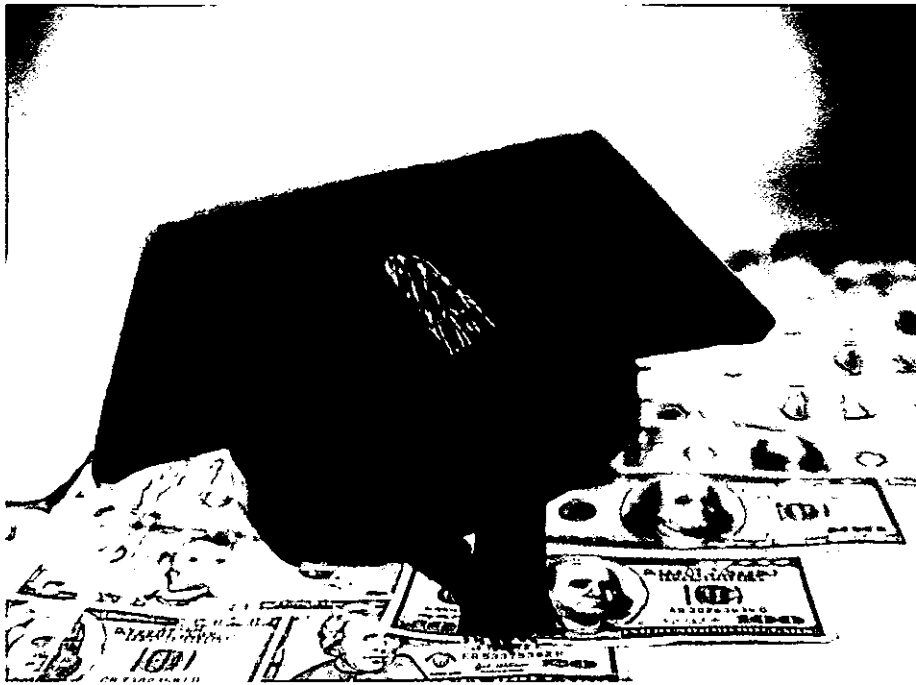
Utah's effort," said Leslie Scott, executive director of the National Association of State Personnel Executives, an affiliate of The Council of State Governments.

In Michigan, Gov. Jennifer Granholm announced in July that her office is considering work-schedule alternatives to save fuel. In New Mexico, Gov. Bill Richardson ordered state agencies to adopt policies for telecommuting and alternative work schedules by Sept. 1.

Kentucky and South Carolina are also offering shorter work weeks to state employees this summer, according to *Stateline.org*.

"Many states are promoting the greater use of already existing alternative work schedule and telecommuting policies to be used whenever possible," Scott said. "Some states are in the process of updating their policies, which may have been written decades ago. The handful of states that didn't already have telecommuting and/or flexible work schedule policies are creating them."

Ohio Gives Veterans, Families In-State Tuition



To combat rising higher education costs, all military veterans, their spouses and dependent children can now attend Ohio colleges and pay the in-state tuition rate, according to *The Plain Dealer* in Cleveland.

"This is a great benefit for veterans, as well as for Ohio," Gov. Ted Strickland said in a press release after signing an executive order July 8. "It delivers real support to veterans while helping strengthen Ohio's strategic plan for higher education, which calls for attracting and keeping

talent in the state. Who better to have as part of Ohio's colleges and universities, work force and communities than the veterans who have served, led and protected our country?"

State officials hope the plan will help more veterans and their families attend the state's 13 colleges and universities and 23 community and technical colleges, according to *The Plain Dealer*.

"We think we have an incredible value," Ohio Board of Regents Chancellor Eric Fingerhut told the newspaper. "We

"It delivers real support to veterans while helping strengthen Ohio's strategic plan for higher education, which calls for attracting and keeping talent in the state."

—Ohio Gov. Ted Strickland

hold the University System of Ohio as second to none."

In addition to the in-state tuition for all veterans and their families, the executive order will also:

- Establish The Ohio GI Promise Council;
- Launch The Ohio GI Promise Hotline and Web site;
- Schedule a University System of Ohio systemwide conference on veterans services;
- Expand the use of Ohio National Guard Scholarships; and
- Designate Ohio colleges and universities "Servicemember Opportunity Colleges."

Read more about what the states are doing to help make higher education more affordable in the story, "Funding the Future" on page 30.

States Testing New 9-1-1 System

Public safety agencies—including those in Montana and Indiana—have spent weeks testing a new 9-1-1 system, a project organized by the U.S. Department of Transportation.

The current 9-1-1 system is designed around telephone technology and cannot handle the text, data, images and video that are increasingly common in the way people communicate and are critical to the future, according to the U.S. Department of Transportation Web

site. The Next Generation 9-1-1 initiative, nicknamed NG 9-1-1 by the federal government, "will establish the foundation for public emergency communications services in a wireless mobile society," according to the Department of Transportation.

Joining Indiana and Montana as testing sites are three cities: Rochester, N.Y., Seattle, Wash., and St. Paul, Minn.

The testing began June 16 and the initiative aims to improve 9-1-1 access for deaf or hearing-impaired users, such as

through text messaging, according to *The Journal Gazette* of Fort Wayne, Ind.

The initiative also aims to improve how the 9-1-1 system tracks callers, regardless of whether the 9-1-1 call is made from a landline or from a wireless phone or using Voice over Internet Protocol, according to the newspaper.

For more information on the new initiative, visit the U.S. Department of Transportation's Web site at <http://www.its.dot.gov/ng911/index.htm>.

Cash for Corrections

Some States Spend More on Corrections than on Higher Education

State	How Much Corrections Cost the State (2007)	Ratio of Higher Education Spending to Corrections Spending (2007)
Alabama	\$388 million	\$1:\$0.23
Alaska	\$227 million	\$1:\$0.77
Arizona	\$895 million	\$1:\$0.77
Arkansas	\$314 million	\$1:\$0.46
California	\$8.795 billion	\$1:\$0.83
Colorado	\$599 million	\$1:\$0.78
Connecticut*	\$661 million	\$1:\$1.03
Delaware	\$240 million	\$1:\$1
Florida	\$2.719 billion	\$1:\$0.66
Georgia	\$998 million	\$1:\$0.50
Hawaii	\$205 million	\$1:\$0.31
Idaho	\$179 million	\$1:\$0.56
Illinois	\$1.125 billion	\$1:\$0.51
Indiana	\$649 million	\$1:\$0.40
Iowa	\$313 million	\$1:\$0.38
Kansas	\$312 million	\$1:\$0.40
Kentucky	\$454 million	\$1:\$0.35
Louisiana	\$552 million	\$1:\$0.46
Maine	\$122 million	\$1:\$0.49
Maryland	\$1.084 billion	\$1:\$0.74
Massachusetts	\$1.139 billion	\$1:\$0.98
Michigan*	\$2.063 billion	\$1:\$1.19
Minnesota	\$438 million	\$1:\$0.17
Mississippi	\$227 million	\$1:\$0.30
Missouri	\$586 million	\$1:\$0.67

State	How Much Corrections Cost the State (2007)	Ratio of Higher Education Spending to Corrections Spending (2007)
Montana	\$142 million	\$1:\$0.81
Nebraska	\$172 million	\$1:\$0.28
Nevada	\$222 million	\$1:\$0.43
New Hampshire	\$92 million	\$1:\$0.73
New Jersey	\$1.468 billion	\$1:\$0.67
New Mexico	\$241 million	\$1:\$0.32
New York	\$2.622 billion	\$1:\$0.73
North Carolina	\$1.083 billion	\$1:\$0.33
North Dakota	\$55 million	\$1:\$0.24
Ohio	\$1.766 billion	\$1:\$0.69
Oklahoma	\$461 million	\$1:\$0.51
Oregon*	\$684 million	\$1:\$1.06
Pennsylvania	\$1.638 billion	\$1:\$0.81
Rhode Island	\$157 million	\$1:\$0.83
South Carolina	\$444 million	\$1:\$0.49
South Dakota	\$74 million	\$1:\$0.41
Tennessee	\$619 million	\$1:\$0.41
Texas	\$3.292 billion	\$1:\$0.51
Utah	\$324 million	\$1:\$0.41
Vermont*	\$111 million	\$1:\$1.37
Virginia	\$1.136 billion	\$1:\$0.60
Washington	\$832 million	\$1:\$0.55
West Virginia	\$171 million	\$1:\$0.36
Wisconsin	\$890 million	\$1:\$0.73
Wyoming	\$82 million	\$1:\$0.23

*These states spend more on corrections than on higher education.

SOURCE: The Pew Center On The States Report: "One in 100: Behind Bars in America 2008"

For more on how the states are dealing with rising prison populations and escalating corrections costs, see the story on page 19. For more on higher education funding, see the story on page 30.

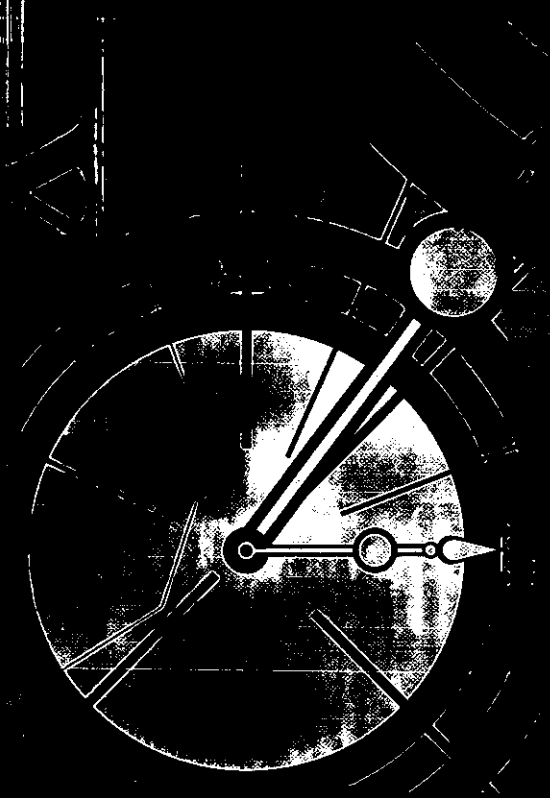


XII



CHANGING TIMES

*Longtime ERC Director Reflects on
His Tenure as Retirement Nears*



Alan Sokolow, director of The Council of State Governments' Eastern Regional Conference in New York City, will retire in December after 41 years. Sokolow, 65, began as a field representative and became director of the ERC in the fall of 1972. The Brooklyn native, who now lives in Montclair, N.J., spoke recently with *State News* about his tenure and the successes of CSG, as well as the changes he's witnessed in state government operations. Here are highlights of that interview.

By Mary Branham Dusenberry

As you look back on your tenure at CSG, what do you see as your most significant accomplishment?

"I think I've kind of sent the message to the whole organization of always trying to have us work as a team and believe in the esprit and treat colleagues as part of the family. I think I've also been successful in doing that with the Eastern leadership over the years so that their investment is deeper than just being a member of an organization, but feeling a significant commitment to its work and to its staff.



Alan Sokolow, left, who is retiring from The Council of State Governments after 41 years, is pictured with New York Sen. Hugh Farley, center; and Wendell Hannaford, who will take over as ERC director upon Sokolow's retirement.

Specific things that we've accomplished over the years: One that we've grown the office in member jurisdictions. ... We have now 10 states, the U.S. Virgin Islands, Puerto Rico and six Canadian provinces. We have gone from 11 to 18 over this period, so that's been very exciting growth for us.

Secondly, in the late 90s, we had an active program through our criminal justice project that was focusing on issues of overrepresentation of minorities in the prison system of the Northeast. It attracted a number of key Hispanic legislators who were part of National Hispanic Caucus of State

Legislators. That had been in existence for about 10 years but had fallen on harder days, and had a very minimal budget, no full-time staff, just struggling to survive. Four of the members ... approached me at one of our annual meetings in 1998 to see whether I would be willing to help them reenergize the organization. It was a real joy and labor of love."

ERC has also created a number of affiliate organizations. Can you discuss those?

"We're the only one that has a regional trade group of state trade directors that the states fund and we staff through this office. It was really the work of that regional group since 1999 or 2000, that created the decision by the national organization, SIDO (State International Development Organizations), to join CSG as an affiliate member.

In the late 90s ... we created a regional agriculture project that is also being funded primarily by our member states, called the Northeast States Association for Agricultural Stewardship. That's provided a really significant support system for rural legislators in the region who are interested in northeast agriculture not only surviving, but growing. It was an uphill battle because we didn't have the leverage or strength compared to other regions of the country where the powerful agriculture interests are based ...

On the criminal justice front I'm beyond thrilled about how the regional effort led by Mike Thompson has grown so phenomenally and astoundingly over the last 10 years and turning it into the Justice Center for national CSG. I'm very, very proud of the major accomplishments they've made in serving all of state government and being a wonderful example of our mission and purpose and providing very exciting and important technical assistance to the states."

You have worked with state governments for 40 years. What has been the biggest change in state government operations or funding during that time?

"I would say the biggest change is the growth of partisanship and ideology in the political process. When I started, Republicans and Democrats could fight like cats and dogs over substantive issues in legislation, but when the debate on the floor was over,

they would get together and socialize and enjoy each other's company. There was a respect for the institution to support it.

I think over the years ... you see the parties separating both politically and socially. You see the use of the press to point the finger at the other side. It plays out for us in a very big way when participation in conferences becomes a political issue between the parties. Everyone gets very insecure to travel no matter what the value of the event is. So I think that's probably been the biggest—the loss of mutual trust and camaraderie in the legislative houses over the years. It's the big states and small states as well. It just poisons the atmosphere.

I've also seen the amazing growth of the influence of lobbyists in state capitals. It's a huge industry. That's certainly had an impact. Responding to that, at least in this region, is the growth of the conflict of interest and ethics laws and rules to challenge too cozy relationships. But all of that lends itself to people looking over their shoulders and not being as open with each other about working on things in a bipartisan fashion. You just rarely see that these days, which is really a shame."

What challenges are states facing that they may not have faced 40 years ago?

"I think one of the most significant challenges now is that there is not a federal government committed financially to the federal system in terms of domestic spending. It's a terrible struggle for the states to handle all the issues that they're confronted with without a strong federal presence, whether it's health care, education, transportation. ... The federal government continues to try to promulgate rules to have control over these areas but they've backed away because of, currently, the war or because of deficit and debt issues. Also, I guess, ideologically opposed to what's called big government, there has been a real shift of federal resources away from domestic spending, which has made it so difficult for the states.

The second, I think, is just the power of the anti-tax agenda that has made it impossible for state government, federal government to probably face the bigger challenges of the financial cost of doing domestic programs as needed, whether it's health care, infrastructure, education ... kind of starving themselves by not being able to

raise taxes when necessary. I think that's a very difficult problem for our whole government, state and federal, local. There's still a demand for valued services, but no willingness to be taxed to get that done.

I think the other is the continuing view by the media of government as almost the enemy, not the friend—the assumption that federal officials and state officials are venal and on the take and that less government is better. I think all of those themes still play large."

We are in the midst of another energy crisis, similar to the one in the 1970s. What is different about how states are responding this time as opposed to the 1970s?

"I think the states are doing everything they possibly can, particularly to protect the poorest of the poor, through the Low Income Home Energy Assistance. ... A lot of families in this region, particularly in New England, get their heat through home heating oil and kerosene, so there've been efforts by the states to supplement the federal spending. (While states are working on energy efficiency issues) the realities are without a very deep and committed federal program, it's very hard for the states to deal with this; and they have no control over the cost of gas or foreign oil. They can plug away at trying to do the right thing, but without a federal commitment to alternative fuels and auto efficiency standards and climate change. ... The states are trying but you probably make difference at the edges, I think, without a major national leadership to make this a high priority, almost like a Marshall plan decision at becoming energy independent. The resources at the states are limited and they need the federal government resources to make a significant difference."

How has the relationship between the state and federal governments changed over the years?

"In the Nixon administration there was a great deal of commitments to the federalism idea and the grants programs domestically and trying to work through the regionalization of the federal agencies to support the states and work as teams. I think that was a highlight until, when the Reagan administration came in, there was less ambition to do so. I think to this day, there seems to be

greater effort by the feds to have a much bigger say in education than it ever had and yet not providing the resources to make the kind of changes that were contemplated.

I'm not sure where the Supreme Court is going to go on the 10th amendment. Losing the Sandra Day O'Connors of the world is a tough hit for the states because she was very supportive of states' rights in the best sense of that phrase. I'm not sure that's going to continue with the court.

And in the transportation area, the Bush administration is basically on a path to privatize or turn over the responsibilities of transportation to the states and probably with a grants program that is not enough for the states to do the job. There's not a belief in the national transportation system. When you think back to the '50s with Eisenhower and the interstate highway system, it's kind of turned on its head. There's much less investment or perception that there's a national system and that it needs to be invested in and protected by the national government."

Is there a particular policy issue that creates more challenges for state government than other issues?

"I think we're not going to get to the bottom of our domestic needs without a committed federal government that's in much better economic shape to support the states. I think it's going to be an ongoing struggle to make change, but I think it's going to be on the edges and incremental and never get to the bottom of how to deal with this. Whether it's housing or transportation, we're losing ground."

—*Mary Branham Dusenberry conducted the interview and is managing editor of State News.*



Alan Sokolow discussed the growth of The Council of State Governments Eastern Regional Conference's jurisdictions, as well as the ERC associates program and changes in the relationships between the national CSG headquarters and the regions, in greater depth. Visit Capitol Comments, CSG's blog, for more from the interview.



CSG'S 75th Anniversary Celebration

Annual Conference • December 4-7, 2008

Register Now at www.csg.org



PRELIMINARY AGENDA

Thursday, Dec. 4

Noon Registration Opens
 Noon-4 p.m. Guest Program
 1:30-3 p.m. Interbranch Working Group
 1:30-3 p.m. Technology Working Group
 1:30-3 p.m. Investment Subcommittee
 3:30-5 p.m. Financial Services Working Group
 3:30-5 p.m. Transportation Advisory Group
 3:30-5 p.m. Finance Committee
 3:30-5 p.m. Associates Advisory Committee
 5-5:45 p.m. New Members Reception
 6-8 p.m. Opening Reception
Holland Performing Arts Center

9-12:15 p.m. Strategic Planning Committee
 9-4 p.m. Guest Program
 9-4:30 p.m. CSG Exhibit Show
 9-12:15 p.m. Energy & Environment Policy Task Force
 9-12:15 p.m. Education Policy Task Force
 9-12:15 p.m. Health Policy Task Force
 9-12:15 p.m. Public Safety & Justice Task Force
 12:30-2 p.m. Lunch Plenary
 2-3:45 p.m. International Committee Annual Meeting
 2-3:45 p.m. Committee
 2-5 p.m. Suggested State Legislation (I)
 2-5:30 p.m. Technical Tours
 5:30-6:45 p.m. Regional Receptions
 9-Midnight SCAC Late Night Event

Saturday, Dec. 6

7:30-8:30 a.m. Breakfast Tabletop
 Policy Discussions

7:30-10:15 a.m. Suggested State Legislation (II)
 8:30-1:30 p.m. CSG Exhibit Show
 8:30-10:15 a.m. Intergovernmental Affairs Committee
 8:30-10:15 a.m. 21st Century Foundation
 8:30-10:15 a.m. Policy Workshop
 9-4 p.m. Guest Program
 10:30 a.m.-Noon Plenary II
 Noon-2:00 p.m. Awards Luncheon
Quest Center Ballroom
 Speaker: Mark Shields
 2:30-4 p.m. Policy Workshop: Health
 3-5 p.m. Governing Board/Executive Committee Meeting
 6-9 p.m. Omaha Host State Dinner
Joslyn Art Museum

Sunday, Dec. 7

7:30-8:30 a.m. Breakfast Tabletop
 Policy Discussions
 8:30 a.m. Conference Adjourns

KEYNOTE SPEAKER



Mark Shields

Mark Shields is a nationally known columnist and commentator with unmatched credentials for an analysis of the U.S. political system. He is best known for his work as moderator on CNN's *Capital Connection*, where he debated policy issues with Robert Novak, Al Hunt, Kate O'Beirne and Margaret Carlson. He currently serves as an analyst on *The NewsHour with Jim Lehrer* on PBS, seen every Friday and during primaries, national conventions and elections.

Since 1979, Mark Shields has been writing his column on national politics for the *Washington Post*. This column is now distributed nationally by Creators Syndicate.

adapting to

SURVIVE



**States Prepare
for the Health
Effects of
Climate Change**



In the absence of federal action, a number of states and localities are stepping up to the plate to address issues surrounding climate and health.

“I think everyone’s focus originally was on mitigation but there is a clear understanding now that we have to look at adaptation. The fact is (climate change) is already here and to ignore steps that need to be taken, I think, you do at your own peril.”

—Maryland Sen. Paul Pinsky,
Chair of the Environment Subcommittee

With its relatively mild temperatures and persistent drizzle, Seattle isn’t usually the first city that comes to mind when discussing the effects of climate change. But rising global temperatures could mean more frequent, more intense and longer lasting heat waves, even for the land of Starbucks. The city could see heat waves like the ones responsible for hundreds of deaths in the United States in recent years.

In addition, increased smog and fine particulate matter, combined with a longer pollen season, could mean more respiratory problems for many of Seattle’s 580,000 residents, according to the Climate Impacts Group at the University of Washington. Rising temperatures and flooding in the Emerald City could also contribute to higher numbers of communicable diseases spread by rodents, shellfish and mosquitoes.

Washington state is one of a handful of states trying to address both the causes of climate change and its probable impacts. Gov. Christine Gregoire in 2007 charged the directors of the state departments of ecology and community, trade and

economic development with determining steps the state should take to prepare for impacts to five sectors—public health, agriculture, the coast line, forestry and infrastructure. The directors formed several preparation and adaptation working groups to develop recommendations for the governor.

Anne Biklé, a former Seattle-King County Public Health Department official, was a member of the working group on human health.

“When the (work group) came up, we at the health department were very excited about it because we felt like finally there (would) be a place to talk about what our changing climate means for people,” said Biklé, who now works for the National Wildlife Federation.

Biklé’s working group issued a series of recommendations that included enhancements to public health tracking of diseases, emergency preparedness and response, and community design policies to reduce driving.

The group also recommended the state departments of health and agriculture collaborate on improving monitoring of diseases spread by animals

and insects. It called for establishing long-term laboratory capacity, funding for disease identification and testing, and increased training of veterinarians in reporting these diseases. The group also called for the state departments of health and ecology to collaborate on outdoor air quality surveillance and health risk communication strategies.

In the area of emergency preparedness and response, members recommended creating a heat emergency task force and called on the Washington Military Department’s Emergency Management Division to help improve the state’s ability to respond to heat wave emergencies.

The working group also included a series of recommendations for local governments to make communities more walkable and pedestrian friendly.

“If we are building communities and engaging in new developments, are we siting them in a way that means people have to drive every time they want to try to accomplish some part of their daily routine?” Biklé said. “Or are we designing things in a way that we minimize the primary generating source for greenhouse gas emissions? We also want more walkable, livable communities so people can get more physical activity to help reduce rates of overweight and obesity.”

A bill introduced in the 2008 session of the Washington legislature would have directed the state department of ecology to develop a report using the recommendations of the human health and other work groups. Though the Senate approved the bill, the House

failed to pass it, due largely to budgetary concerns. But state Rep. Dave Upthegrove, who chairs the House Ecology and Parks Committee, expects a similar proposal to be introduced next year. "There was great interest," he said.

States' Mitigation and Adaptation Plans

Washington isn't the only state tackling both the causes of climate change through mitigation of greenhouse gas emissions and its probable impacts through adaptation policies. The Pew Center on Global Climate Change reports that 33 states have created or are in the process of creating climate action plans, most of which deal primarily with reducing greenhouse gas emissions.

While reduced emissions may help, climate scientists say global warming will be a reality for decades, so states will also need to adopt strategies to adapt to the probable impacts of climate change. While six states—Arizona, Colorado, New Hampshire, North Carolina, Utah and Vermont—include adaptation within the scope of climate action plans, six others—Alaska, California, Florida, Maryland, Oregon and Washington—address adaptation with parallel, stand-alone efforts. These adaptation plans, which are in various stages of implementation, address the health effects of climate change to varying degrees.

In Florida, a 2007 executive order by Gov. Charlie Crist calls for the Governor's Action Team on Energy and Climate Change to issue legislative recommendations for "adaptation strategies to combat adverse impacts to society,

public health, the economy, and natural communities in Florida" by Oct. 1, 2008.

In 2006, Oregon Gov. Ted Kulongoski established the Climate Change Integration Group by executive order. The group's final report, issued in January, offered 10 recommendations, which include incorporating the public health implications of climate change into state policy, planning and preparation. It promotes recognizing the public health benefits of many climate change mitigation, preparation and adaptation activities, and encourages watching for unintended public health consequences of these activities.

In California, the secretary of the state environmental protection agency is required to report to the governor and the state legislature biannually on the impacts of global warming on the state, including impacts to public health, and to report on mitigation and adaptation plans to address them.

In Maryland, a 2007 executive order by Gov. Martin O'Malley established the Maryland Climate Change Commission, which is charged both with developing an action plan to address the causes of climate change and preparing for the likely consequences and impacts of climate change. The commission's Web site, www.mdclimatechange.us, includes an analysis of policy options, several of them health-related.

Maryland Sen. Paul Pinsky is a member of the commission and chairs the Environment Subcommittee in the state Senate. "For the state of Maryland, which has the Eastern Shore just a couple of feet above sea level, with tourism and agriculture and with the Chesapeake Bay, (climate change) has significant implications," he said. "I think everyone's focus originally was on mitigation but there is a clear understanding now that we have to look at adaptation. The fact is (climate change) is already here and to ignore steps that need to be taken, I think, you do at your own peril."

Preparedness of the Public Health Work Force

The success of states in adapting to the health effects of climate change may hinge on personnel and resources, public health officials believe.

"The public health system will be a frontline responder to potential emergency conditions caused by climate change," Dr. Georges Benjamin, executive director of the American Public Health Association, told the U.S. House Select Committee on Energy Dependence and Global Warming in April. "As a frontline protector and communicator to communities, the public health community plays a key role in helping to mitigate and adapt to climate change. As such, the public health community must have the tools, skills, training and education and resources to fulfill this role," he said.

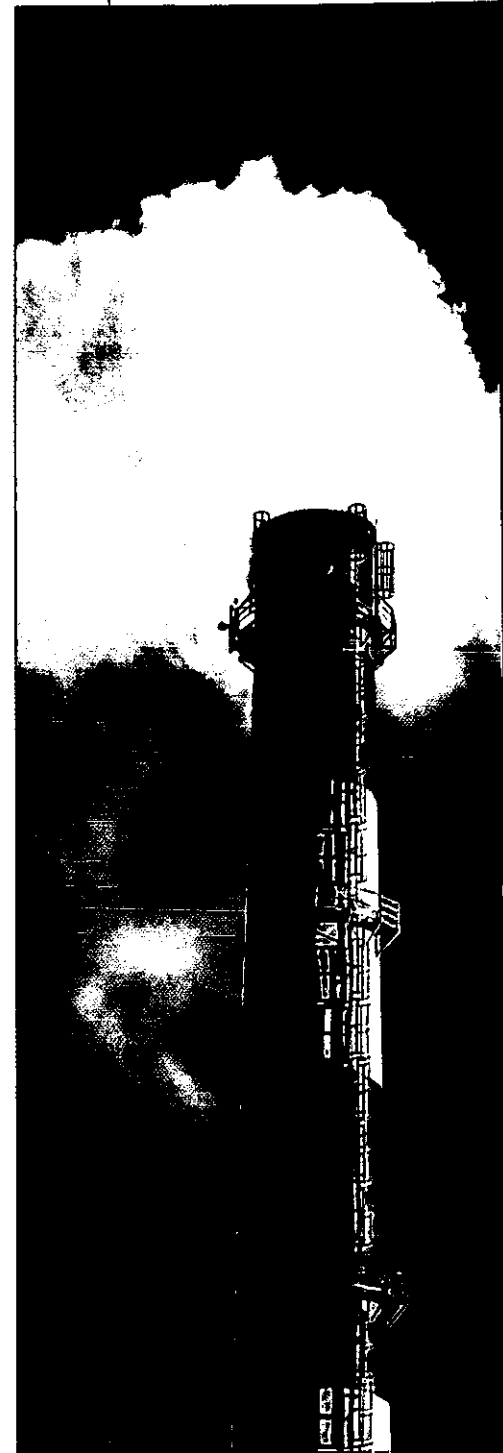
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effects of climate change. Three-fourths of local health directors surveyed by the Environmental Defense Fund, George Mason University and the National Association of City and County Health Officials (NACCHO) said they lacked the expertise to assess local health impacts of climate change in their region or to craft adaptation plans. Moreover, they said their state departments of health also lacked expertise in crafting such plans. The directors also believed they lacked the necessary resources to address climate-related health threats and specifically cited a need for additional funding and staff.

"The response doesn't surprise me at all," said Dr. Dennis McBride, health director for the Milford, Conn., Health Department and chairman of NACCHO's Environmental Health Committee. "I think there's a set of skills ... that health departments have to be brought up to speed on. Most of us in public health rarely use climate as something we have to take into account. There's also the expertise on the interface of human ecology with other ecologies, which to me involves a whole different set of skills that are not there in public health."

NACCHO and the Trust for America's Health reported last year that even as state and local

health agencies work to meet public health preparedness goals, funding has declined by more than 25 percent since 2005, threatening the sustainability of new emergency preparedness programs. The Trust also reported that 12 states lack an electronic disease surveillance system compatible with the national system and nationwide disease monitoring remains disconnected from monitoring of related health, behavioral and environmental factors.

Another disconnect between human and animal health agencies prevents quick responses to climate-related emerging diseases that can be transmitted between animals and humans. Moreover, the Centers for Disease Control and Prevention this year said that public health departments and state public health laboratories have reported difficulty recruiting and retaining qualified epidemiologists and laboratory scientists.

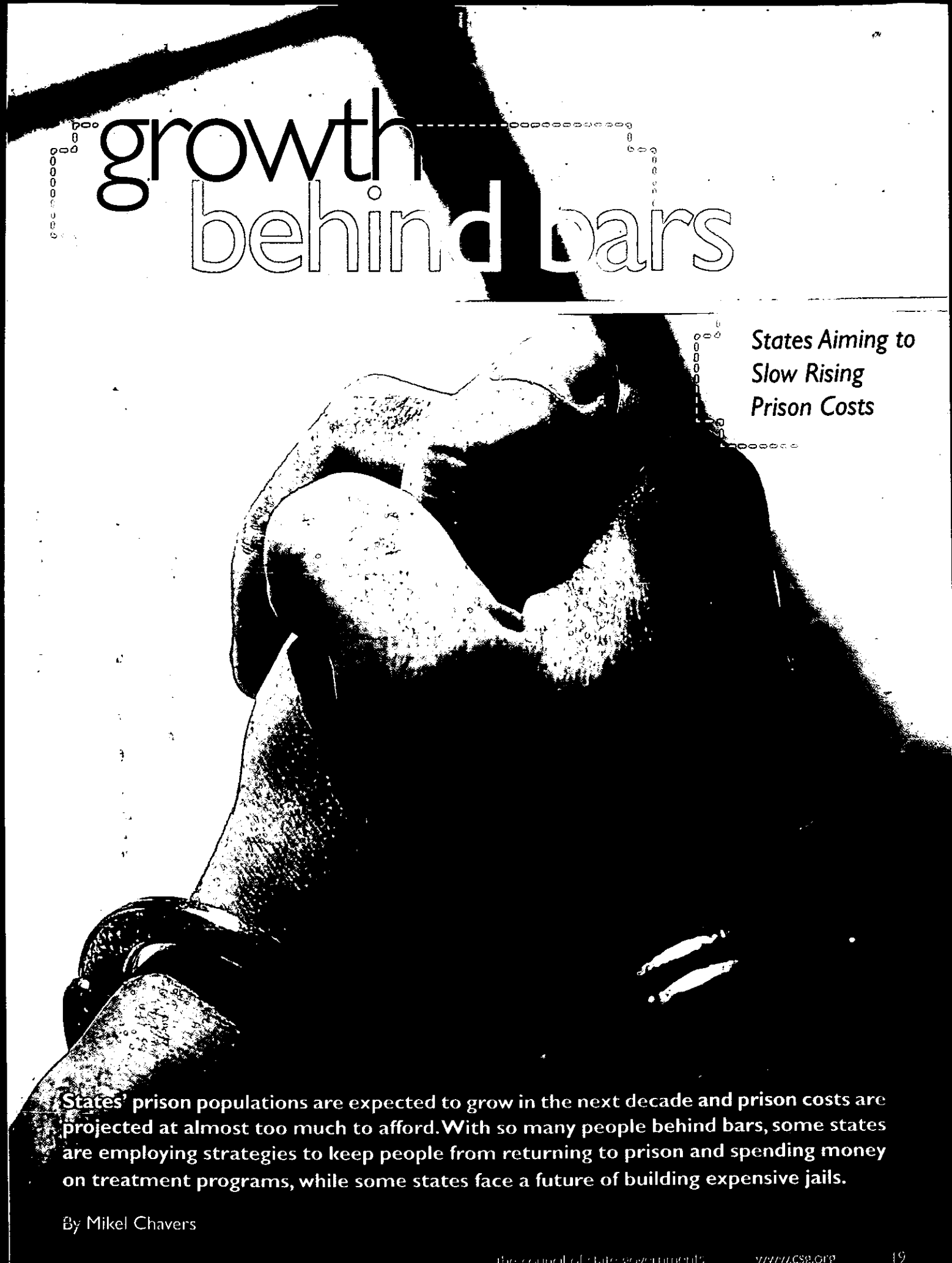
The Climate Change Health Challenge

Two University of California-Berkeley researchers earlier this year recommended several adaptation strategies for states to consider. Richard Jackson and Kyra Naumoff Shield in the *Annual Review of Public Health* recommended that states:

- Create a multidisciplinary leadership team to lead state adaptation and mitigation scenario planning;
- Develop partnerships with other government agencies, the private sector, nongovernmental organizations and universities to more effectively address health aspects of climate change;
- Support training programs in universities and other settings to develop the interdisciplinary experts needed to confront the broad spectrum of climate and health issues;
- Encourage state health departments to implement asthma tracking and control programs with a view toward instating similar programs at the local health department level; and
- Explore opportunities for the detection of real-time heat stress-related conditions by tracking electronic medical records.

Jackson and Naumoff Shield also wrote: "As the impact of climate on health is expected to vary by location and given the level of leadership shown on this issue by the U.S. government, it is important to address issues at the state level rather than wait for federal agencies to respond."

—Sean Slone is a health and transportation policy analyst at *The Council of State Governments*.

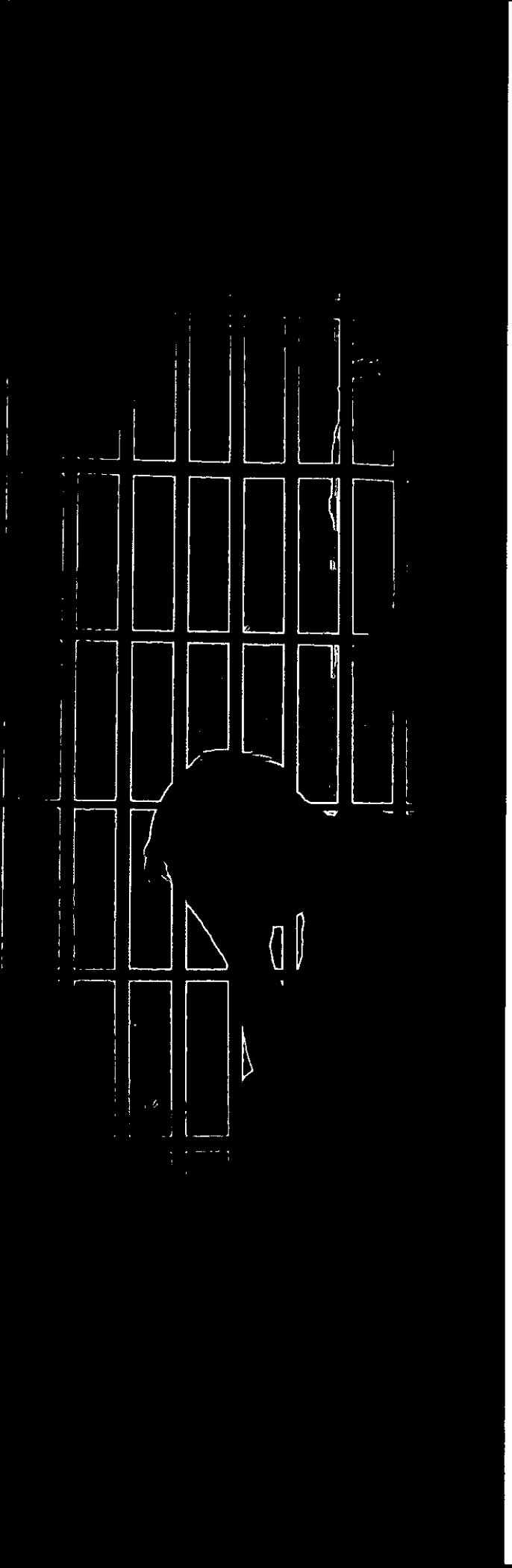


growth behind bars

States Aiming to
Slow Rising
Prison Costs

States' prison populations are expected to grow in the next decade and prison costs are projected at almost too much to afford. With so many people behind bars, some states are employing strategies to keep people from returning to prison and spending money on treatment programs, while some states face a future of building expensive jails.

By Mikel Chavers



In 2006, Kansas, like many other states, was feeling the pressure of a corrections system that was ready to bust at the seams.

Legislators feared the state would need to handle an influx of inmates projected at far more than the state could afford to lock up.

The Kansas prison system was staring a dismal future in the face—it would need an additional \$500 million by 2016 to house an inmate population projected to increase by 22 percent, according to The Council of State Governments' Justice Center.

In fact, according to a new Pew Center on the States report, "One in 100: Behind Bars in America 2008," released in January, for the first time in history more than one in every 100 Americans is locked up in prison.

And like Kansas, many state departments of corrections' budgets are feeling the crunch.

But prisons are expensive to build.

In Texas, for example, it costs \$250 million to \$300 million to build a medium security prison housing 2,200 to 2,500 inmates and another \$40 million a year to staff and operate the facility, according to Texas Rep. Jerry Madden, who is also the chair of the Texas Corrections Committee for the legislature.

Last year, states spent more than \$49 billion on corrections, up from \$11 billion 20 years earlier, according to the Pew report.

"The stakes here truly are high," Jake Horowitz, senior associate with the Public Safe-

ty Performance Project of the Pew Center on the States, told an audience at CSG's spring meeting in Lexington, Ky., in May. "If we don't do our job well in this field, people get hurt and taxpayer dollars can get squandered."

Kansas Takes Action

Kansas officials decided a better use of taxpayer dollars would be to curb prison spending and reinvest those dollars in programs targeting the root of the problem.

Partnering with the Justice Center, Kansas officials worked to uncover the multiple factors driving the prison population growth.

At the root of the problem, for one, were individuals whose parole or probation was revoked—landing them back in prison. Those individuals accounted for 65 percent of prison admissions and took up 27 percent of prison capacity in the state, according to the Justice Center.

Ninety percent of those who lost their probation or parole in Kansas in 2006 went back to jail because they violated the terms of their parole or probation. Thirty-two percent broke parole or probation with alcohol or drug use, the Justice Center reports. And 58 percent of the people who lost their parole or probation demonstrated a need for substance abuse or mental-health treatment, according to the Justice Center.

In May 2007, Kansas lawmakers came up with a plan to solve all that—Senate Bill 14.

The bill "was designed to give (the corrections depart-

“... We ought to look at some programs that keep people either from returning to prison or from coming there in the first place that do not endanger public safety.”

—Texas Rep. Jerry Madden

ment) funding to kick-start risk reduction programs,” said Margie Phelps, director of Re-entry Services in the Kansas Department of Corrections.

Kansas risk-reduction programs are designed to keep people from relapsing and coming back to prison once they get out. And legislators in Kansas believe in these programs.

Lawmakers are seeing that risk reduction programs that are a few years old are reducing return rates, the number of people absconding is going down, and crimes committed by parolees are going down, Phelps said.

With Senate Bill 14, lawmakers in Kansas basically provided an additional \$7 million in funding to special risk reduction programs in the prisons and provided incentives to get more offenders to participate in those programs. Those measures and others in the bill are expected to avert \$80 million in state spending over the next five years, according to the Justice Center.

As a result of the new law, state officials changed prison population projections. Instead of a 22 percent increase, state officials are expecting a much lower 4 percent increase in Kansas’ prison population over the next 10 years.

Of the treatment programs receiving additional funding, therapeutic communities—an extreme Kansas program that seeks to change risky behaviors in specific groups of the prison population—are receiving additional funding. In the yearlong program, inmates with similar issues are literally

housed together in a specific satellite unit or prison facility and they learn to function socially within that community.

“It’s uncomfortable,” Phelps said. “Think about the behavior that you have had that most bothers you and that it’s a habit that you’ve had for the longest time in your life and you’re trying to change that—that’s what we’re dealing with here.”

But it can be difficult to get inmates to sign up for such a life-changing and behavior-breaking experience.

When staff in the Kansas Department of Corrections asks offenders to work with the risk reduction staff and join one of these therapeutic communities or other treatment programs, “one out of three will say no,” Phelps said.

But with the new legislation, inmates can qualify to get out of jail 60 days early if they participate. “So the 60-day credit is just one incentive in their toolbox now,” Phelps said. “If you’re in a yearlong or 22-week program, you come to some spots where you just want to chuck it—again, that’s very common in our population. I think this will be a chance to say, ‘are you sure you want to chuck it? Look how far you’ve come, and remember you can get these 60 days of credit.’ It will just be a part of the conversation.”

The first offenders eligible for the 60-day credit are those whose offenses occurred after Jan. 1—and to date, no in-

mates are eligible, according to Phelps.

Prison Beds No Longer for Rent

Virginia, like Kansas, is also feeling the budget crunch in the department of corrections. To make up a budget shortfall in the department, state lawmakers OK’d a plan to rent prison beds to out-of-state inmates. But Virginia Gov. Timothy Kaine halted that plan in June.

“The issue there is we all had budget cuts. Every agency had budget cuts and (are) getting ready to go through some more,” said Barry Green, deputy secretary of Public Safety in Virginia. “So for the Department of Corrections it was \$19.2 million a year.”

The plan to rent the prison beds was supposed to make up that money.

“That way they’ll be able to keep all of their existing prisons open,” Green said. “But with a \$19.2 million reduction—and if you had to take that in cuts—they’d have to close something.”

The governor put a stop to the plan after several sheriffs complained that Virginia was leasing space in its prisons to out-of-state prisoners while Virginia inmates remained in local jails funded with local tax dollars, according to *The Virginian-Pilot*.

The state is currently housing 300 Wyoming inmates—generating \$7.2 million a

year for two years, according to Green, but won’t take in any other states’ inmates, although more may come from Wyoming.

“So how they’re going to make up that budget cut is still up in the air,” Green said.

That shortfall is an estimated \$12 million a year, according to Green. That means a new 800-bed expansion to a Virginia state prison will not open because the state doesn’t have the money to operate it, Green said.

And further adding stress to the budget, Virginia’s prison population is expected to grow by 1,000 prisoners a year, Green said. “It would take a prison a year to meet that forecast,” he said. “If it’s necessary to protect public safety, we’ll find the money.”

Delegate David Albo agrees. “We usually don’t have a problem finding communities for prisons, because they provide good jobs,” he said.

The newest project is a prison in Charlotte County, which could be a privately run prison, although that decision is not final, Green said. The new prison could house another 1,500 to 2,000 beds, he said.

“There’s a lot of stuff that we’re trying and I can’t tell you that it hasn’t made a difference. I can just tell you that we continue to have a reasonable amount of (prison population) growth—or unreasonable amount of growth as you might call it,” Green said.

Texas Says Prisons Cost Too Much

Texas, some might say, used to be in a similar spot as Virginia.

Back in 2005 when Texas Rep. Madden became chair of the Texas Corrections Committee, the speaker of the state House gave him one charge: Don't build any prisons—they cost too much, he said.

"We had the projection going into the last legislative session that by 2012 we would be 17,000 plus prison beds short in the state of Texas," Madden said. "We had facing us what would have amounted to a big building project that would have cost us lots of money."

The dilemma for Texas was how to keep from spending billions of dollars in construction costs.

Then in May 2007, the Texas legislature passed a package of criminal justice legislation that included funding to expand treatment and diversion programs as well as new policies and procedures for probation and parole.

The biggest part of that package, according to Madden, was in the appropriations act where slightly less than \$250 million was included to expand existing programs. Those programs include:

- 800 new beds in a residential substance abuse program for people on probation;
- 3,000 slots for outpatient substance abuse treatment for people on probation;



- 1,400 new beds in intermediate sanction facilities, diverting probation and parole technical violators from prison;
- 300 new beds in halfway houses;
- 500 new beds in a treatment facility targeting drunken drivers;
- 1,500 new beds for an in-prison intensive substance abuse treatment program; and
- 1,200 slots for intensive substance abuse treatment programs in the state jail system, according to the Justice Center.

"Here's a group of things we should spend money on and oh by the way, it's a lot less expensive than this other option of putting down a lot of concrete and a lot of bars and doing the things that you have to do to build a prison," Madden said.

Some of the programs got an early start after the funds became available Sept. 1, 2007. However, the programs that required new facilities are still in the planning stages, Madden said.

Texas is still several months away from measurable results, Madden said.

But with the new funding and policy changes in place, the statistical evidence is enough to make Texas lawmakers proud.

"They came out with our new projection in January of this year as to what our prison needs are and what the prison population needs will be in 2012," Madden said.

"The number of prison beds we have to build is zero."

—Mikel Chavers is associate editor of State News magazine.





KEEPING TRACK

Updated Compact Keeps Juvenile Offenders from Falling Through the Cracks

After more than five years, a new Interstate Compact for Juveniles is expected to soon be official. The compact, which is designed to keep juvenile offenders from falling through the cracks of the justice system, needed passage in 35 states before becoming effective.

By Mikel Chavers



Every year thousands of juvenile offenders cross state lines and are lost in the system. Often left to fend for themselves and disconnected from social services and the help they need, some young offenders who would otherwise be supervised commit violent and nonviolent crimes.

But the new Interstate Compact for Juveniles seeks to change that.

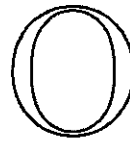
First written in 1955, the compact is an agreement among states to track young offenders. The Council of State Governments' National Center for Interstate Compacts took on the challenge of rewriting the outdated compact in 2001 and advocating for its passage. The first state introduced the compact in 2003. In order to take effect, 35 states must sign the compact into law.

The new Interstate Compact for Juveniles significantly updates the agreement for tracking and supervising juveniles who move across state borders. The new language provides enhanced accountability, enforcement, visibility and communication and seeks to update a tool for ensuring public safety as well as preserving child welfare.

Now fully updated from the 1955 version, changes in the new Interstate Compact for Juveniles include:

- The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support;
- Gubernatorial appointments of representatives for all member states on a national governing commission (The commission would meet annually to elect the compact operating authority members, and to attend to general business and rule-making procedures);
- Rule-making authority, provision for significant sanctions to support essential compact operations;
- A mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.); and
- Language to compel collection of standardized information on juvenile offenders.

For up-to-date information on the passage of the compact in the 35th state, go to www.csg.org and click on the Capitol Comments link. For more information on the new compact, visit CSG's National Center for Interstate Compacts Web site at <http://www.csg.org/programs/ncic/default.aspx>.



On Sept. 18, 1998, the bodies of Gordon and Barbara Erickstad were found in a desolate area near Selfridge, N.D.—they had been stabbed. Earlier that day, police searched the couple's bloodstained home in Bismarck and found knives in the kitchen sink, according to North Dakota Supreme Court records.

The police investigation focused on the couple's adopted son and his friend from Texas. The two were later picked up in Texas and extradited to North Dakota where they faced charges of murder and other offenses, according to the court documents.

"It was just a horrific deal from one end to the other," said North Dakota Rep. Duane DeKrey. "When it was all done and said, we found out that the Texas kid was under supervision in Texas but had come to North Dakota, and Texas had absolutely no idea where this guy was or what he was up to."

With such a horrific murder involving youth lost in the system fresh in their minds, the North Dakota legislature became the first state to pass a special agreement for tracking and monitoring juvenile offenders designed to update an old, broken system.

"With this murder at the backdrop and the success of the adult compact, we were able to get it adopted," DeKrey said.

Back in March 2003, North Dakota was signed onto the new Interstate Compact for Juveniles. And after a more than five-year effort, the compact is expected to become official soon.

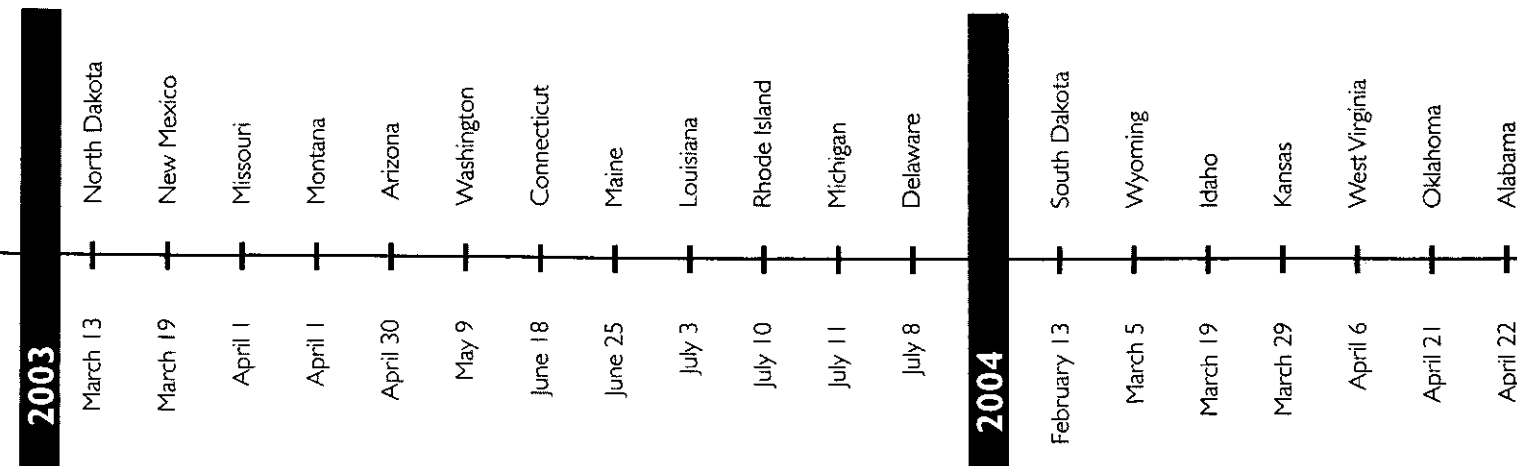
Illinois became the 35th state to pass the agreement when the legislature approved the compact and sent it to the governor for his signature in late June. As soon as the governor signs it there, the new compact will take effect nationwide. **EDITOR'S NOTE:** At the time *State News* went to press, Illinois Gov. Rod Blagojevich had not yet signed the compact. Check *The Council of State Governments blog*, *Capitol Comments*, for the latest update.

Fixing a Broken Compact

After taking on the project in 2001, The Council of State Governments' National Center for Interstate Compacts has stayed the course with the updated compact. "NCIC has devoted significant time and resources to making sure that 2008 did not end without something to show for our efforts," said Keith Scott, director of the center, which is based at CSG's Lexington, Ky., headquarters.

When 2008 began, Scott and his staff were faced with the predicament of having four states that had carryover legislation for the compact from 2007. The center began discussions with sponsors

Passing the Interstate Compact for Juveniles (date compact passed)



of the carryover legislation in an effort to jumpstart the bills for the 2008 session, according to Scott. At the same time, the center began intensive discussions with potential sponsors in the other respective legislative chambers.

“Fortunately we were successful on both counts in Illinois and Tennessee,” Scott said. “Consequently, Tennessee has now enacted the compact into law and Illinois is on the verge of doing the same if the governor signs the bill.”

And the old version compact was in dire need of an update, said Ray Wahl, a juvenile court administrator in Utah.

“First of all the compact language was antiquated; it hadn’t been updated for quite some time,” Wahl said of the original compact, which was written in 1955.

“Then there was this problem that there were three amendments to the original juvenile compact that some states signed on to (and some states didn’t sign on to them,” Wahl said. “So it became very confusing for states to know which states were on board with certain stuff and not on board with certain stuff.”

And because of the outdated compact, children were falling through the cracks, as in the case of the Bismarck murders. States were literally losing track of their young offenders when they crossed state borders.

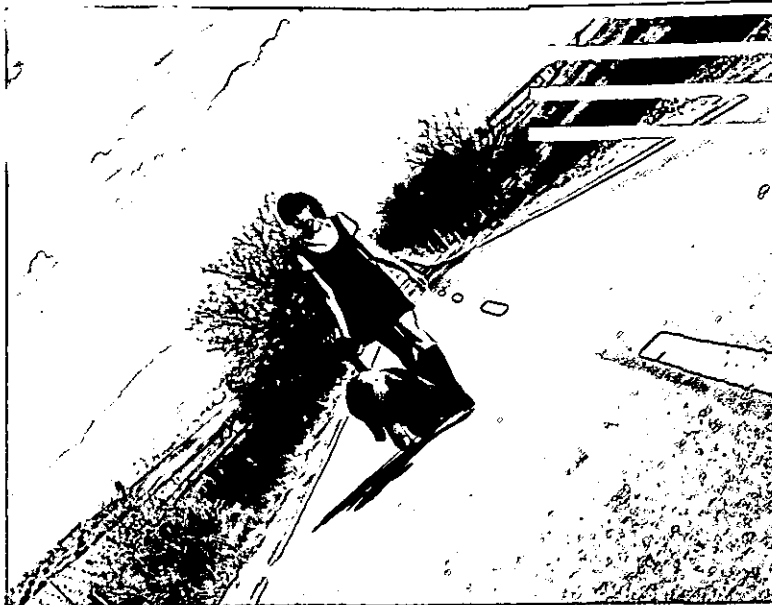
“Another big deal is there was really no authority anywhere to promulgate rules about this compact so whatever policies or rules that existed weren’t promulgated with the proper authority—and that was part of the reason why they were unenforceable,” Wahl said.

So, in effect, even though the old compact is still in place, there’s no real way to settle disputes through the compact, Wahl said.

“So you have these rules that some states were complying with and some states weren’t complying with but when a state didn’t comply with the rules, there was no way to get a grievance, if you will, or a complaint heard about that,” Wahl said.

But the new compact seeks to change all that with a built-in system to review complaints. The juvenile compact language took much the same form as the Interstate Compact for Adult Offender Supervision’s language (the compact’s equivalent for adult offenders), in that a national commission serves as a rule-making authority.

“And then there are the state councils and the state councils file complaints to this national commission for review and there’s a process by which you resolve those,” Wahl said.



The new juvenile compact was written with this in mind.

“The new compact was specifically designed to fill in those types of holes,” Scott said. “Everyone has recognized for quite some time that enforcement was lacking. They have also realized that disputes between states have arisen with little in the way of structured resolutions. The current compact, with its interstate commission structure, is specifically set up for the purposes, among others, of providing just such a means of reliable enforcement and conflict resolution between jurisdictions.”

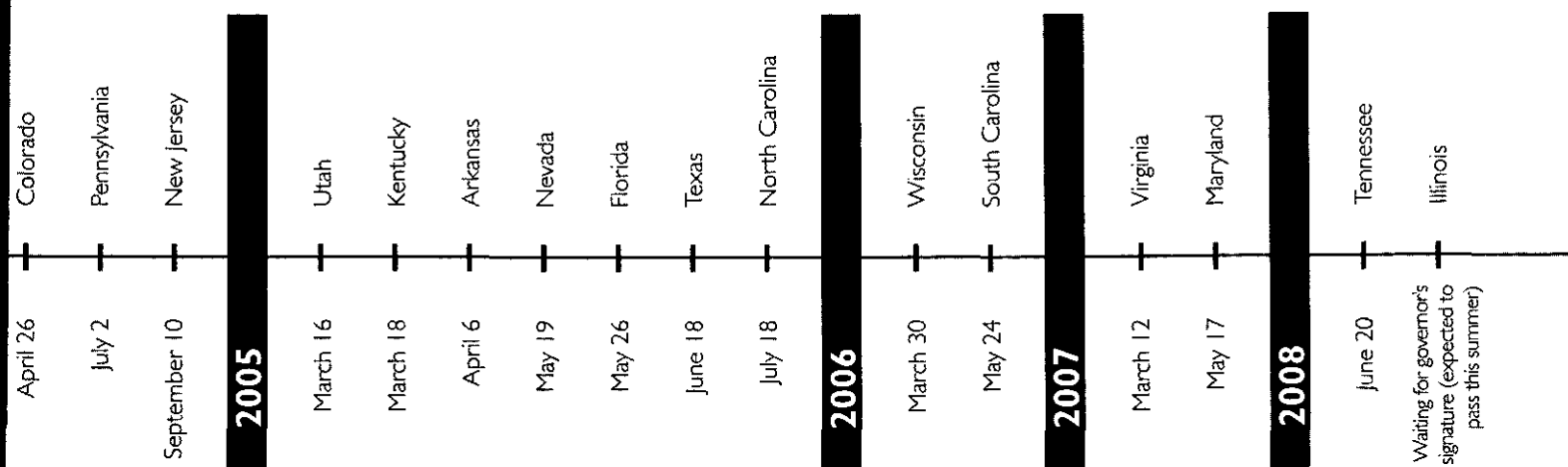
The Next Steps

When Illinois officially enacts the compact, member states can implement the changes they intended when they passed the compact into law, Scott said. The states will all participate in, and develop, the transition from the old compact to the new one, he said.

And states such as Utah and North Dakota realize the benefit of getting in on the ground floor—participating in the transition from the old compact to the new one.

“I think its going to be something that is really going to be important in the juvenile area,” Wahl said.

—Mikel Chavers is associate editor of State News magazine.



ANALYSIS: PAVING THE ROAD TO

PROSPERITY

Auto Industry in the South Faring Well in Contracting National Economy

In stark contrast to the difficult fiscal positions states such as Michigan and Ohio face—primarily as a result of the decreasing automobile sector there—the auto industry continues to flourish in the South, generating billions of dollars in economic impact and creating thousands of direct and indirect jobs.

By Sujit M. CanagaRetna

The auto industry's drive to move South is paving the road for prosperity in the region, even while the U.S. economy inches toward recession.

The auto industry continues to prosper and play a dominant role in the economic calculations of the South with the advancement of several foreign automakers at a time when the industry's domestic Big Three—Chrysler, Ford and General Motors—face wrenching problems. As the U.S. economy experiences a great deal of tumult with a serious slowdown in growth, the automobile industry in general and the industry in the South in particular, have received an additional boost from the depreciating U.S. dollar—increasing auto exports of autos and other goods.

As a result, the industry's drive to move South continues, unabated and with renewed vigor.

A Growing Industry in the South

The South has attracted an impressive roster of foreign automakers in the last 25 years or so. Researchers attribute the success to a number of factors:

- the ability to construct new manufacturing facilities—incorporating all the latest technologies—more efficiently and effectively at a Southern location, than reconfiguring older assembly plants in the Midwest;

- the economies of scale created by the cluster effect with the growing number of automobile assembly plants and thousands of auto parts suppliers in close proximity to each other;
- the low or nonexistent rates of unionization and the negligible level of interest among Southern autoworkers to unionize;
- the attractive incentive packages—including tax breaks, worker training programs, an abundant labor pool and the ability to train a work force that has not worked in the auto industry previously—proffered by Southern states; and
- the extremely cost-effective intermodal transportation network in the region, spanning railways, highways, airports and, most importantly, ports.

Other attributes make the South attractive for automakers. The weather, reduced cost-of-living, lower or no personal income taxes, free or inexpensive property to build assembly plants, along with other attractive quality of life attributes, all make Southern locations very enticing. In addition, the cutting-edge research being conducted by two high-end research facilities—the Advanced Vehicle Research Center in Garysburg, N.C., and Clemson University's International Center for Automotive Research in

Clemson, S.C.—confirms that the automotive industry in the South now extends far beyond assembly operations.

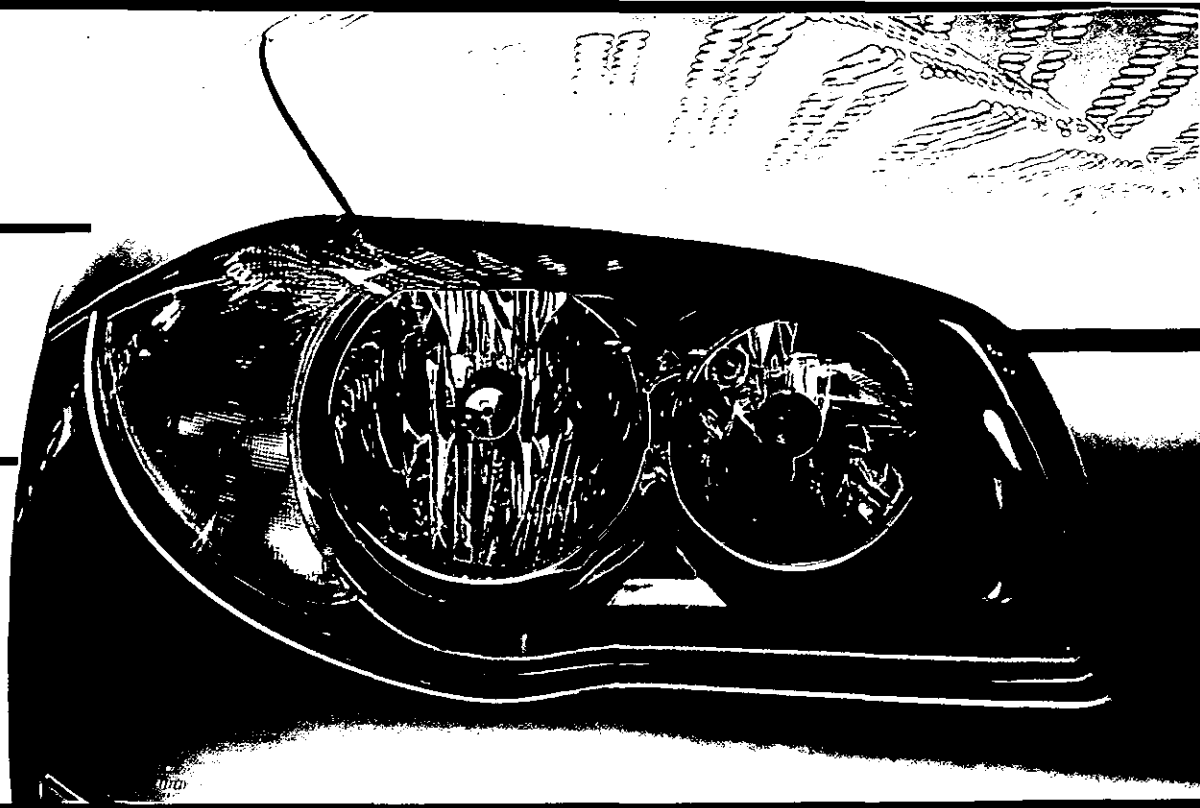
The region's success in attracting automakers has helped the South in the growing economic slowdown.

The ominous signs of a slowdown in the national economy apparent in several parts of the country by mid-2007, were made clearer in early 2008 with the release of recent gross domestic product figures, as well as weakening consumer spending, mounting inflation rates, tightening credit, rising unemployment, falling home prices and surging foreclosure rates.

But even with the gloomy economic news affecting both the national and individual state economies, the auto industry in the South has continued its upward trajectory in the last year. One factor driving this trend has been the rapidly depreciating U.S. dollar.

Automotive Exports from the South Increase

In the last year or so, the deteriorating economic situation in the U.S. was precipitated by the collapse in the housing and construction sectors in many areas of the country—propelled by the unraveling of the subprime mortgage sector—along with an unprecedented rise in energy prices and severe tightening in the credit



markets. But in the midst of all this economic doom and gloom, the nation's export sector has been the one bright spot.

Not only did exports increase twice as fast as imports in 2007, which narrowed the U.S. trade deficit for the first time since 1995, but the increased level of trade is keeping the economy afloat. The impetus for the blossoming export sector has been the depreciating U.S. dollar.

On a year-to-year basis for the past seven years or so, the U.S. dollar has depreciated steadily, thus providing a sizable boost not only to American exports but also in attracting foreign direct investment into the country. The automobile sector in general and the South in particular, have benefited tremendously from both developments.

A depreciating dollar makes U.S. exports much more competitive with exports from other countries. Similarly, purchasing or investing in America becomes relatively less expensive compared to times when the dollar's value is rising.

The dollar depreciated by 79 percent between 2002 and 2008. In April 2001, a single Euro cost 90 U.S. cents; by April 2008, a single Euro cost \$1.57 in U.S. currency. (See Table 1) The critical role played by a depreciating dollar in stimulating exports is apparent in U.S. trade flows of road motor vehicles between 2002 and 2007. (See Table 2)

Motor vehicle exports increased by impressive levels, both in terms of value and units, from 2002 to 2007, with the exception of 2003 when there was a nearly 3 percent drop in units exported. In 2007, in particular, when the depreciation of the dollar was significant, road motor vehicle exports increased by more than 22 percent in terms of value and more than 18 percent in terms of units, a trend that reinforces how the depreciating dollar promoted vehicle exports.

Even in terms of the 16 states is The Council of State Governments' Southern Legislative Conference, the impressive growth in U.S. transportation equipment exports—including motor vehicles and motor vehicle bodies and parts—to the world is apparent from a review of federal export statistics: Between 2002 and 2007, these exports expanded on average in these Southern states by nearly 97 percent, with Mississippi (279 percent), Alabama (141 percent) and North Carolina (132 percent) leading the way. In terms of the value of transportation equipment exports in key Southern states in 2007, Texas led the way with \$16.3 billion, followed by Kentucky with \$7.7 billion, Florida with \$7.1 billion, Alabama with \$5.9 billion, and South Carolina with \$5.6 billion.

Previous SLC research noted how Southern ports rank at the highest level

of significance from a national trade dimension—more than two-thirds of all U.S. exports and imports transit through a Southern port. Recent data from the ports of Baltimore, Md., Jacksonville, Fla., Charleston, S.C., and Savannah, Ga., document the significant number of automobiles handled by these Southern ports—more than any other set of ports in the country.

In 2007, Baltimore surpassed Jacksonville as the nation's top vehicle exporter—with an 80 percent increase from the previous year, to nearly 294,000 units—as the weakening dollar propelled a surge in auto exports. Jacksonville still handled an imposing 614,647 vehicle units in fiscal year 2007, while Charleston saw a 67 percent jump in BMW vehicle exports from its terminals in 2007. Savannah's growth in automotive exports over the five-year period from 2003 to 2007 amounted to a staggering 183 percent, including a 52 percent expansion between 2006 and 2007.

Foreign Investment in the South Grows

Along with the surge in automobile industry exports, particularly from the South, the atrophying U.S. dollar also resulted in sizable foreign investment in the industry in the region. In March 2008, BMW announced it would spend \$750 million and

The Council of State Governments' Southern office, the Southern Legislative Conference, continues to focus on the economic impact of the automobile industry in the South. In November 2003, the SLC released a report titled *The Drive to Move South: The Growing Role of the Automobile Industry in the Southern Legislative Conference Economies*. This 148-page report featured an in-depth review of the auto industry in the South. The SLC has also published articles further clarifying the growing importance of the automobile industry in the South in *Global Corporate Expansion*. Visit www.slcatlanta.org to read the publications.

hire 500 workers in an expansion that will transform its Greer, S.C., plant into one of its largest facilities. While increasing production by 50 percent at the South Carolina plant by 2012, BMW will slash 7.5 percent of its German work force in the next two years.

Then, Volkswagen, which relocated its North American headquarters from Michigan to Virginia in 2007, announced it would build "a high-volume auto factory in the USA to escape the currency exchange pinch from a weak dollar and a strong Euro." Once again, a number of Southern states—Alabama, Kentucky, South Carolina and Tennessee—top the list of prospective locations for the plant, which will begin producing up to 250,000 vehicles and employ about 2,000 people by 2011. Also, in April 2008, Nissan announced it would invest an additional \$118 million in its Canton, Miss., facility to build three new models of light commercial vehicles by June 2010.

On the auto parts supplier front, more news confirmed the continuing importance

of the South in the auto industry. In Tennessee, 948 auto suppliers operate in 194 communities across the state; in total, the industry employs 125,000 Tennesseans, including the assembly workers at the Nissan plants in Smyrna and Decherd, the GM plant in Spring Hill and the Peterbilt truck plant in Madison.

After considering two other states, the Indiana-based automotive supplier PK chose to invest \$35 million and build a facility in Senatobia, Miss., to make stamped and welded steel parts for the \$1.3 billion Toyota manufacturing plant that will open in nearby Blue Springs in 2010. Also in preparation for the new Mississippi Toyota plant, auto parts supplier Vuteq plans a \$31 million facility that will employ 630 people in New Albany, Miss., to manufacture molded plastic pieces and components. Another supplier, Toyoda Gosei, will establish a \$19 million plant creating 120 new jobs in



Batesville, Miss., to build injection-molded plastic parts for the Toyota Highlander. Mississippi has more than 90 automotive manufacturing, distribution and supplier companies.

In Georgia, Kia auto parts supplier Daehan Solutions revealed plans to open a \$35 million facility creating 300 new jobs in Harris County, Ga., near the proposed Kia manufacturing facility in West Point.

—Sujit M. CanagaRetna is a senior fiscal analyst in The Council of State Governments' Southern office, the Southern Legislative Conference.

Table 1:

Value of Euro to U.S. Dollar, April 1998 to April 2008

Year	Value of Euro to Dollar	Percentage Change in Dollars
April 8, 1998	1.0882	-
April 7, 1999	1.0835	0
April 7, 2000	0.959003	11%
April 9, 2001	0.901404	6%
April 8, 2002	0.874998	3%
April 8, 2003	1.0684	-22%
April 8, 2004	1.2088	-13%
April 7, 2005	1.29231	-7%
April 7, 2006	1.2109	6%
April 9, 2007	1.3367	-10%
April 8, 2008	1.5705	-17%

Table 2:

U.S. Road Motor Vehicles Exports to the World, 2002 to 2007

	Value (in Billions of Dollars)		Units	
	Amount	Change	Amount	Change
2002	\$27.405	14.9%	1,644,831	9.5%
2003	\$30.388	10.9%	1,601,019	-2.7%
2004	\$33.973	11.8%	1,766,186	10.3%
2005	\$40.939	18.4%	2,051,858	8.6%
2006	\$46.307	13.1%	2,197,429	7.1%
2007	\$56.596	22.2%	2,597,845	18.2%

Table 1: Source: <http://www.x-rates.com/cgi-bin/lookup.cgi>

Table 2: Source: U.S. Department of Commerce, Office of Aerospace and Automotive Industries

How many bills were passed during the 2006 state legislative sessions?

Which states have the most legislators?

How much do state officials earn each year?

How many women officials are in each state?

Which states will hold legislative elections in 2007?

Which states have legislative term limits?

How many judges sit on each state supreme court?

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States Strive to Make Higher
Education Affordable

As tuition increases at sometimes double-digit rates across the country, states are looking for ways to help students from low-income families pay for higher education. Some states are providing full tuition at in-state public universities, while others give scholarships based solely on academic performance.

By Mary Branham Dusenberry

When she was an Indiana eighth grader, Joy Martin-Day made a decision: She would go to college, regardless of the obstacles she might face along the way.

Like many students, one of her biggest obstacles was the ability to pay tuition and all the costs associated with higher education. Another was getting her mother to buy into the education dream.

"Parents, their mindsets are more on 'I'm trying to plan our meal for tonight. If you look in our cupboard, there's not much there, and how can you plan for college and there's nothing in the house to eat,'" Martin-Day said.

Indiana's 21st Century Scholars program changed that attitude, and convinced both Martin-Day and her mom that a college education was within the youngster's reach.

Seana Murphy, director of the 21st Century Scholars, said a first step in the program's success was changing people's perceptions about the ability of low-income students to afford college.

"The initial thought behind it was how do you change student aspirations so that they believe themselves capable of going to college, with the understanding that the affordability issue was one of the primary barriers to students in that income percentile even thinking about going to college," Murphy said.

That's why Indiana's scholarship program is about more than just money. It strives to educate parents and students about the whole college experience. But the financial worry was a major hurdle, even with Indiana's robust need-based aid program. The assurance of additional scholarship money to help pay the growing college costs, Martin-Day said, "is like a pillow ... easy to sleep at night."

Costs of Education Rising

As tuition and other college costs skyrocket, more states are looking at programs to make college more affordable.

Measuring Up 2006—the latest report card available from the National Center for Public Policy and Higher Education judging state performance on such issues as affordability, participation and benefits of higher education—said college tuition and fees rose 375 percent between the 1982–84 baseline to 2005. That's more than the increases in the cost of medical care, which increased 223 percent, the consumer price index, which increased 95 percent, and family income, which increased 127 percent.

But Patrick Callan, the center's president, advises state officials to not look past their own borders to determine whether their residents can afford college.

Each state's report card, he said, is based neither on the perceived value of higher education nor on what other states are charging. Instead, it's based "in terms of family income in your state—what portion of that income it would take to send someone to a two-year public, a four-year public or a four-year private college or university," he said. "Of course, the whole country has gone south dramatically."

In fact, Measuring Up 2006 gave only seven states passing scores for affordability, and their grades were Cs and Ds.

In Indiana, for instance, the cost to attend a public university would take, on average, about 30 percent of annual family income—but that's up to 69 percent of annual

income for those in the lowest income category, according to the 2006 report. Even after financial aid is factored in, those with the lowest income would still pay more than 44 percent of their income for higher education. While Indiana received an F for affordability, it did get good marks for state investment in need-based aid, and the 21st Century Scholars is just one program that ensures college is within reach.

By contrast, in Utah—which, with a C-, had the best grade on affordability—families would need to pay an average 18 percent of their income for college expenses, the report said. The range was from 7 percent for the highest income earners to 40 percent for those with the lowest income.

The need for increased family contribution comes as states have decreased the amount given to colleges and universities, and is also at a time when colleges and universities are increasing tuition costs.

While state funding for higher education has fared well in good years, it's been cut more severely than other programs in the bad years, Callan said. "You have this roller coaster effect which spills over, unfortunately, into tuition," he said. "So we end up cutting budgets and raising tuition the most when the economy is down, when it's harder on students."

That often comes at a price for states: "The bottom line is that in states with citizenry that have a higher likelihood of having a degree, per capita, income is higher. The higher the educational attainment is, the higher per capita tax revenues flow back to state coffers," said Dan Hurley, director of state relations and policy analysis for the American Association of State Colleges and Universities.

The need for better educating the nation's younger work force is heightened by the retirement of baby boomers, which, Callan said, comprise not only the biggest generation but the most educated one as well. To fill the gap left by those retirements, states will need to educate a larger portion of subsequent generations, and for that reason, he said, states should set a goal for higher education attainment, and find funding to meet that goal.

States Offer Programs

Several states have done just that. Oklahoma, for example, includes educational excellence, along with strengthening the economy, among its top priorities. In-

creasing the number of college graduates is a key to meeting both those goals.

"The states that have a higher percentage of their citizens with college degrees are the states with higher per capita income and a stronger economy," said Glen D. Johnson, chancellor of the state's Board of Regents. "I think we've made the case that there's not an entity in state government that helps the state reach its goals quicker or more comprehensively than higher education."

That case has helped state regents to secure permanent funding for the Oklahoma's Promise scholarship program, which pays the full tuition for students who meet eligibility criteria. "The state of Oklahoma, through our legislature and governor, is saying that the top priority in state government is funding the Oklahoma's Promise program," Johnson said. "They literally fund that before they fund anything else in state government."

The scholarship is available to students from families with less than a \$50,000 annual income. Students must also maintain a 2.5 grade point average and take college preparation courses in high school, and agree to "stay out of trouble," said Johnson.

Bryce Fair, associate vice-chancellor for scholarships and grants, said the \$50,000 income limit takes in about half of Oklahoma's families.

Fair said the income eligibility was much lower when the program began in 1992. He said the program had a stigma because it was limited to families earning under \$24,000, and therefore had fewer students interested in participating. With the change to \$50,000 in 2000, "it instantaneously became a broad-based program ... the sensitivity about being identified as an Oklahoma's Promise student dropped dramatically," Fair said.

More than 20,000 students have received the scholarship to date. By 2010, Johnson said, more than 20,000 students will be participating in the program in any given year. The scholarship is available to students on top of other traditional need-based and merit-based aid.

Not all educational assistance programs being developed by states are need-based. Kentucky, for instance, funds scholarships for students based on grades and test scores.

Former Gov. Paul Patton believes states should also provide assistance to middle and upper income students who make the

grade. Patton spearheaded higher education reform in Kentucky in 1997, and was recently appointed to the state's Council on Postsecondary Education.

Part of the reform effort, Patton said, was to get more money for scholarships. The Kentucky Lottery funds need-based college aid, but a portion also goes to the Kentucky Educational Excellence Scholarship. The popular program—commonly known as KEES—is based on a student's grade point average in each of the four years of high school as well as the ACT or SAT score. It's not an all or nothing proposition, Patton said, because the amount earned is based on performance in individual years.

"What KEES does is give parents the opportunity to sit down with their child as a freshman in high school and start talking about the college education," he said. "They can start saying, it's your responsibility to earn part of the cost of your education."

That additional tuition assistance has helped to offset the annual increases in the cost of higher education, Patton said. When he was elected, the state offered \$15 million worth of scholarships, but by the time he left office after his second term, scholarship investment had grown to about \$150 million, he said.

Like Kentucky, Arkansas is considering a lottery to fund scholarships. Lt. Gov. Bill Halter is backing a constitutional amendment to allow the state to operate a lottery with the restriction that all net proceeds be used for college scholarships. Arkansas residents will vote on the amendment in November. Halter said some estimate the proceeds could reach \$100 million a year for scholarships. He believes more funding for college scholarships is imperative for Arkansas.

"We are 49th out of 50 states with the percentage of the adult population with a college degree. We need to be competitive in the 21st century economy and we need to change that," he said.

"Higher education has never been more important to the economic success of the individual or the states and at the same time, it's never been more expensive," said Halter. "The initiative we have underway is designed to bridge that gap."

529s Bridge the Gap

States across the country are striving to bridge similar gaps in the affordability of higher education for their residents. And

some states have been offering a tax-free way for parents to save for their children's higher education costs since 1988.

Similar to 401(k) retirement plans, the 529 savings plans grow depending on the investment options selected by parents. Michigan and Florida started the first two college savings plans in 1988, and now 10.5 million accounts exist in 49 states and Washington, D.C., according to Kevin Johnson, communications manager for the National Association of State Treasurers, with which the College Savings Plan Network is affiliated.

"All the earnings in these plans are exempt from federal taxes as long as they're used for qualified education expenses," Johnson said.



"Higher education has never been more important to the economic success of the individual or the states and at the same time, it's never been more expensive."

—Arkansas Lt. Gov. Bill Halter

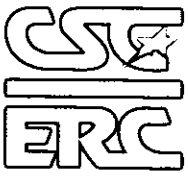
Some states previously offered prepaid tuition plans through the 529 program, but these plans are not as common as the savings plan, Johnson said.

"States saw this problem of families not being able to afford college, so these plans address that need and they also make it affordable for most families to do it," Johnson said.

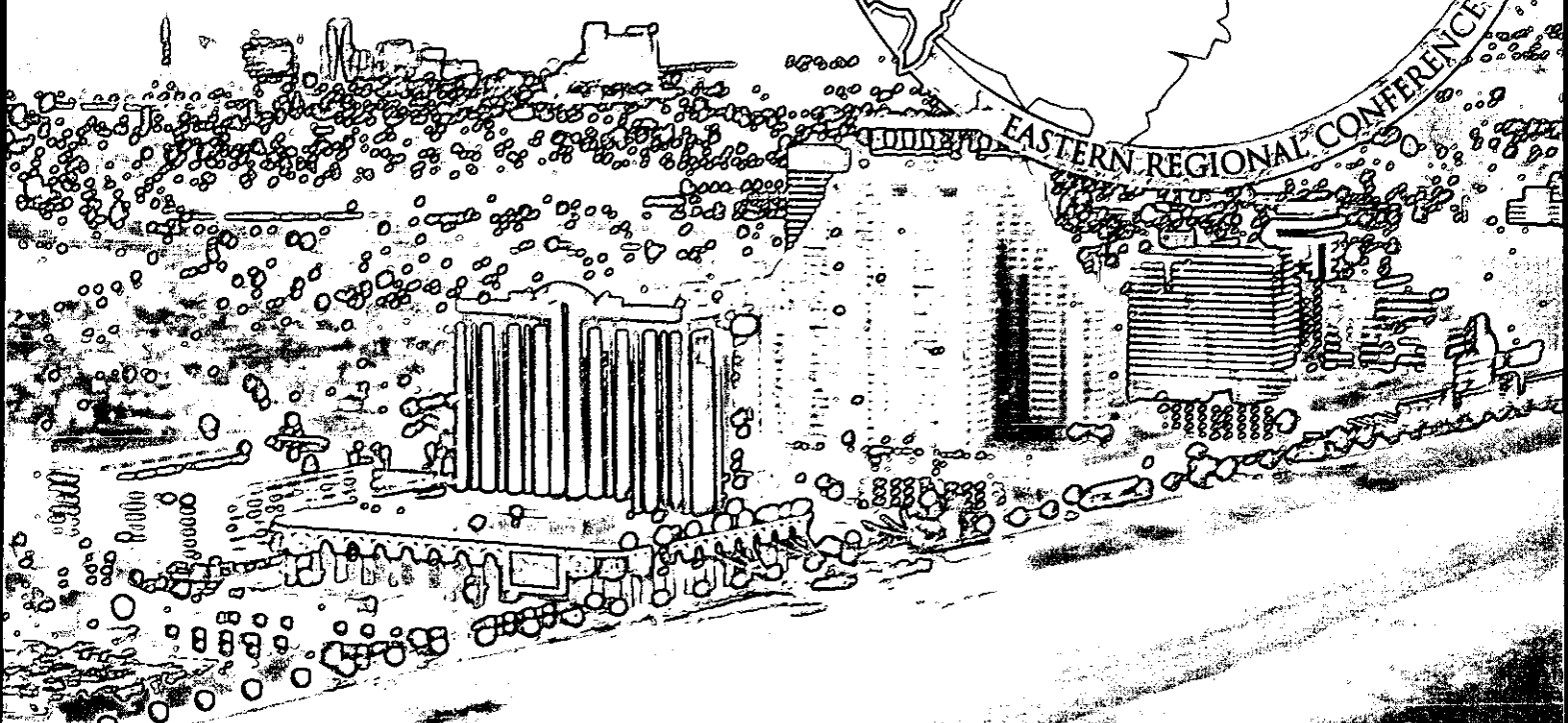
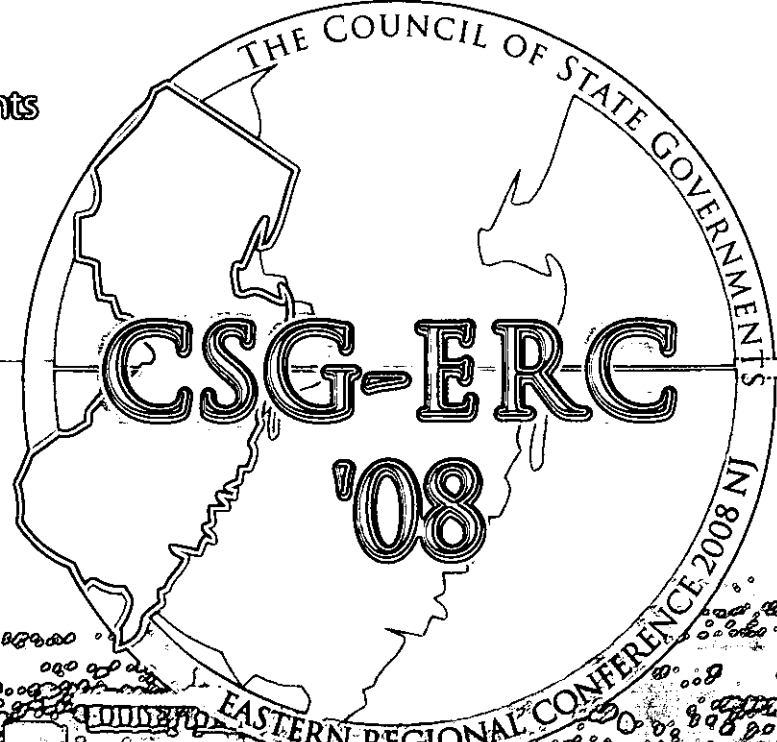
Anything states can do will help, Hurley, of the American Association of State Colleges and Universities, said. "We need to seek collectively to elevate higher education as a major public policy priority," he said. "Otherwise, that whole middle class is going to continue to erode further and faster."

—Mary Branham Dusenberry is managing editor of *State News* magazine.





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CSG Initiative Aims to Reduce Childhood Obesity



SCORE team members visited Osceola High School to view their anti-obesity efforts while attending the Southern Collaborative on Obesity Reduction Efforts Leadership Summit in May in Orlando, Fla. Dr. Veronica Gunn, from left, Tennessee's chief medical officer, talks to Susan McKay, physical education/health specialist at Osceola High School. Kentucky state Rep. Addia Wuchner discusses physical education programs with Principal Charles Paradiso. Photo by Jennifer Ginn.

How can states fight childhood obesity? Who needs to be involved? What type of policies can be implemented, and how do you get the public to buy in to these new ideas?

Those were just a few of the questions facing policymakers during the Southern Collaborative on Obesity Reduction Efforts—known as SCORE—Leadership

Summit in Orlando May 8–10. A new Council of State Governments' initiative, SCORE is a two-year program funded by the Leadership for Healthy Communities aimed at reducing childhood obesity through policymaking in six Southern states.

The conference brought together teams from Kentucky, North Carolina, South Car-

olina, Tennessee, Texas and West Virginia to share ideas and begin planning how each state will tackle childhood obesity.

Dr. Robert Cluck, a physician and mayor of Arlington, Texas, said the best part of SCORE is that the teams bring together a wide array of people from each state—legislators, representatives of the departments of education, health and agriculture, mayors and even local educators. The time to talk to other states during the meeting also helped form new ideas, he said.

"There's no need to reinvent the wheel," Cluck said. "A lot of the states are doing innovative programs."

Each state is eligible for a \$10,000 grant to be awarded this fall. The grants will be targeted toward helping the team advance its work of reducing childhood obesity in its state.

"Every state appears to be at a different level," said Lynn Hoggard, state director of child nutrition services at the North Carolina Department of Public Instruction. "For North Carolina, this allows us to continue the momentum. ... The meeting gave us new ideas, different ways of approaching this epidemic."

CSG Launches New Transportation Advisory Group

A new panel to address the increasing importance of transportation policy in state governments met for the first time during The Council of State Governments' Spring Conference in Lexington, Ky. CSG's movement into this policy area comes at a critical time, as Congress prepares to debate the future federal role in transportation financing.

"The debate over transportation needs and how government meets them in the next generation is fundamental," said Tennessee Senate Majority Leader Mark Norris, the group's chairman. "The Transportation Advisory Group assures CSG a voice in that debate and an opportunity to provide an additional forum ... not only to represent the interests of our stakeholders in the defense of states' rights but to assure fairness within our federal system as funding is reauthorized."

The advisory group was assembled based on the recommendations of staff from the CSG regional offices. Its initial membership includes two legislators and one executive branch official from each of the four regions. Sens. Carlene Walker of Utah and Yvonne Miller of Virginia were elected as vice-chairs during the Lexington meeting.

At its initial meeting, the group passed a resolution in support of transportation initiatives that incorporate increased inter-governmental participation, a multi-modal and regional approach, environmental and economic development concerns, as well as preservation of the federal-state partnership in transportation funding. The resolution also calls on Congress to take immediate steps to ensure the Highway Trust Fund does not reach a negative balance and to pass legislation establishing a reliable and

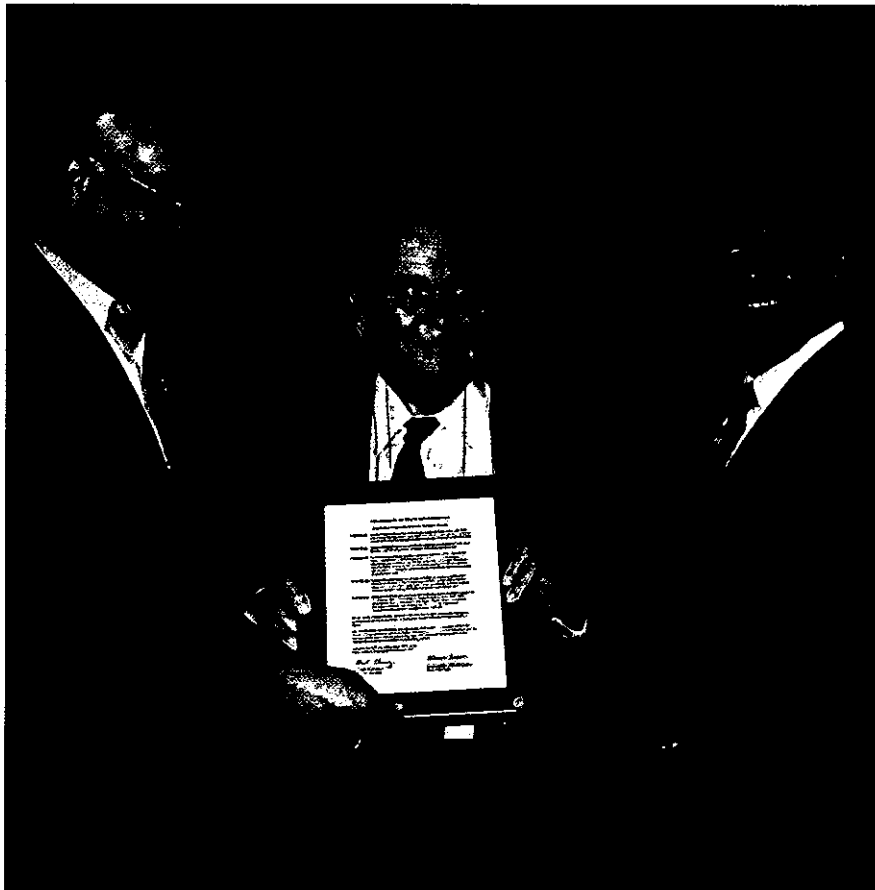
predictable long-term funding source for transportation.

Norris said the enthusiasm of members and panelists during the Lexington forums was very high. "Everyone is eager to be a part of the advocacy," Norris said. "There is a sense of urgency about this with the realization that the lifeblood of liberty flows through our transportation network, and it is in jeopardy."

CSG hopes to eventually expand the membership of the Transportation Advisory Group and to convene in the future as a full working group.

"I am honored to chair the advisory group at this critical time and value the wisdom of my colleagues and resources of CSG," Norris said. "They will be invaluable in meeting the challenge we face."

Guardian of Federalism Award Named for Tennessee Sen. Douglas Henry



State Sen. Douglas Henry of Tennessee, center, was presented a resolution renaming the Guardian of Federalism Award in his honor at CSG's spring conference in Lexington, Ky., by Kentucky Senate President David Williams, left, and CSG Executive Director Daniel M. Sprague. The award is now the Douglas Henry Guardian of Federalism Award. Photo by Jack Penchoff.

The annual Guardian of Federalism Award, presented each year by The Council of State Governments to members of Congress who demonstrate outstanding efforts on issues concerning states' rights, is now named in honor of Tennessee state Sen. Douglas Henry.

Each year CSG presents the awards to one member of the U.S. House and one member of the U.S. Senate who during the past year most actively defended federalism and the interests of states.

The Senator Douglas Henry Guardian of Federalism Awards were announced Saturday, May 31, at the CSG 75th Anniversary Spring Conference in Lexington, Ky. Sen. John D. Rockefeller of West Virginia and U.S. Rep. Tom Davis of Virginia were recognized with the award this year.

Following the announcement, CSG Vice Chair David Williams, president of the Kentucky State Senate, said Henry's "fidelity to the cause of federalism has provided the crucial contribution advancing CSG's participation in amicus briefs filed by the State and Local Legal Center before the U.S. Supreme Court defending state sovereignty and the core principles of federalism."

Henry is a past chairman of The Southern Legislative Conference of CSG and serves on CSG's national governing board and intergovernmental affairs committee, of which he is past chairman.

David Eisenhower Returns to Midwestern Leadership Institute

Prominent author, historian and political scientist David Eisenhower will return for a second year as the keynote speaker at the Bowhay Institute for Legislative Leadership Development, the leadership training program hosted by The Council of State Governments Midwestern Legislative Conference.

Eisenhower is director of the Institute for Public Service at the University of Pennsylvania's Annenberg Public Policy Center. His biography of his grandfather, *Eisenhower: The War Years, 1942-45*, was

a runner-up for the Pulitzer Prize in history. Eisenhower has a unique perspective on the workings of American politics, and will discuss the meaning of public service and his insights as part of a family legacy of public service with this year's BILLD Fellows.

In May, the BILLD Steering Committee met to award this year's BILLD Fellowships. Thirty-seven lawmakers from the Midwestern states and Canadian provinces will gather in Madison, Wis., Aug. 8 for five days of intense leadership training, profes-

sional development seminars and policy workshops. A complete list of this year's BILLD class can be found on the CSG Midwest Web site at www.csgmidwest.org.

Each year, fellowships are awarded to Midwestern legislators through a competitive, nonpartisan selection process overseen by the MLC BILLD Steering Committee. Iowa Rep. J. Scott Raecker and Illinois Rep. Elaine Nekritz serve as the committee's co-chairs and Minnesota Rep. Laura Brod and Michigan Rep. John Moolenaar are the panel's vice chairs.

Wilson Wins Rooney Award

Sara Redding Wilson was selected as the winner of the 2008 National Association of State Personnel Executives Eugene H. Rooney Jr. Leadership Award.

Wilson was appointed director of the Virginia Department of Human Resource Management in April 1998 and is the first person since 1974 to be reappointed twice to that position. During her tenure, Wilson was instrumental in re-engineering human resource programs statewide and introducing technological solutions to human resources initiatives.

She is a former executive vice president, general counsel and corporate secretary for Signet Banking Corporation and served as a

member of the management committee. She is a graduate of Hamilton College and the University of Richmond School of Law. Wilson served as NASPE president from 2006 to 2007 and hosted the association's 2007 Annual Meeting in Williamsburg, Va.

Delaware's DelaWELL and the Delaware Employment Link share honors as winners of the 2008 Rooney Award for Innovative State Human Resource Management Program. Louisiana's Retiree Rehire Database received the Award of Merit. Visit NASPE's Web site at www.naspe.net to see the winning submissions and other entries. The winning submissions were recognized in July during the

awards banquet during NASPE's 2008 Annual Meeting Strategic HR: The New Frontier, in Oklahoma City.

The Rooney program was established in memory of Eugene H. Rooney Jr., who served as NASPE president at a time of great growth for the organization. This awards program recognizes innovative state human resource management practices that ensure access and equity while enhancing productivity and service delivery. It also recognizes individuals who exemplify the character, qualities and influence Rooney had on state personnel administration.

New Member Orientation Featured at Joint Legislative Service Agency Meeting



New member orientation was at the top of the agenda for legislative service agency directors from around the U.S. when they gathered in Lexington, Ky., May 29-30.

Staff leaders from Virginia, Ohio, Louisiana and Wyoming opened the discussions on new member orientation. In a second session, lawmakers from Kentucky, Idaho and Connecticut were invited to tell participants what works and what doesn't from legislators' perspective.

Participants in the meeting also enjoyed a morning spent in teamwork training offered by the University of Kentucky.

In addition, participants were invited to optional policy briefings on interstate compacts, health and criminal justice at CSG national headquarters as well as to meetings on Selected State Legislation and financial services.

Hosted by the Southern and Western regions of The Council of State Governments, the joint meeting was an opportunity for legislative staff directors to share best legislative management practices across their respective regions. This was the first joint meeting of CSG's regional staff groups in 10 years.

Limited copies of new member orientation agendas from the Southern and Western regions of CSG are available by calling 404-633-1866 and 916-553-4423 respectively.

conferencecalendar

This calendar lists meetings as designated by CSG's Annual Meeting Committee. For details of a meeting, call the number listed. "CSG/" denotes affiliate organizations of CSG. Visit www.csg.org for updates and more extensive listings.

Other meetings have value to state officials. Purchase a meeting listing by calling (800) 800-1910 or by e-mailing sales@csg.org. Announce your meetings to thousands in the state government market through an advertisement or a Web listing.

August 2008

- Aug. 3-6 **CSG/American Probation and Parole Association—33rd Annual Training Institute**—Las Vegas, NV—Rio All-Suite Hotel. Contact Kris Chappell at (859) 244-8204 or visit www.appa-net.org.
- Aug. 8-12 **CSG/Midwestern Legislative Conference—14th Annual Bowhay Institute for Legislative Leadership Development (BILLD)**—Madison, WI—Fluno Center of Executive Education. Contact Laura Tomaka at (630) 925-1922 or ltomaka@csg.org, or visit <http://www.csgmidwest.org> for more information.
- Aug. 9-11 **CSG/Southern Governors' Association—SGA Annual Meeting**—White Sulphur Springs, WV—The Greenbrier. Contact Liz Purdy Porter at (202) 624-5897 or sga@sga.org.
- Aug. 10-13 **CSG/ERC 48th Annual Meeting and Regional Policy Forum**—Atlantic City, NJ—Sheraton Hotel. Contact Pamela Stanley at (212) 482-2320 or pstanley@csg.org.
- Aug. 18-21 **National Association of State Treasurers (NAST) Annual Conference**—Rockport, ME—Samoset on the Ocean Resort. Contact Adnée Hamilton at (859) 244-8174 or ahamilton@csg.org.
- Aug. 23-27 **National Association of State Technology Directors (NASTD) 31st Annual Conference & Technology Showcase**—Boston, MA—Seaport Hotel & World Trade Center. Contact Pamela Johnson at (859) 244-8184 or pjohnson@csg.org.

September 2008

- Sept. 8-11 **CSG/National Emergency Management Association—NEMA Annual Conference**—Portland, OR—Contact Karen Cobuluis at (859) 244-8143 or kcobuluis@csg.org.
- Sept. 8-11 **Interstate Commission for Adult Offender Supervision (ICAOS) Annual Business Meeting**—Palm Springs, CA—Wyndham Palm Springs Hotel. Contact Bambo Saturday at (859) 244-8235 or bsaturday@csg.org.
- Sept. 20-24 **CSG/Southern Legislative Conference—Center for the Advancement of Leadership Skills (CALs)**—Norman, OK—University of Oklahoma and the Carl Albert Congressional Research and Studies Center. Contact Lori Jones-Rucker at (404) 633-1866 or ljones-rucker@csg.org.
- Sept. 25-27 **XVIII Border Legislative Conference**—Santa Monica, CA. Contact Edgar Ruiz at (916) 553-4423 or eruz@csg.org.
- Sept. 27-Oct. 2 **CSG—Henry Toll Fellowship Program**—Lexington, KY—Hilton Suites at Lexington Green. Contact Krista Rinehart at (859) 244-8249 or krinehart@csg.org.

December 2008

- Dec. 4-7 **CSG 75th Anniversary Celebration—Annual Conference**—Omaha, NE. Contact registration at (800) 800-1910 or registration@csg.org.
- Dec. 8-11 **National Association of State Treasurers (NAST) Treasury Management Conference & Exposition**—Addison, TX—InterContinental Hotel Dallas. Contact Adnée Hamilton at (859) 244-8174 or ahamilton@csg.org.

Fall 2008

CSG/State International Development Organizations—SIDO China Market Research Missions. Contact Chris Whatley, Director of International Programs, at cwhatley@csg.org or (202) 624-5460.

May 2009

May 16-19 **CSG 2009 Spring Conference**—Coeur d'Alene, ID. Contact registration at (800) 800-1910 or registration@csg.org.

July 2009

July 10-14 **CSG/Midwestern Legislative Conference—15th Annual Bowhay Institute for Legislative Leadership Development (BILLD)**—Madison, WI—Fluno Center of Executive Education—Contact Laura Tomaka at (630) 925-1922 or ltomaka@csg.org.

August 2009

- Aug. 9-12 **CSG/Midwestern Legislative Conference—64th Annual Meeting**—Overland Park, KS. Contact Cindy Andrews at (630) 925-1922 or candrews@csg.org, or visit www.csgmidwest.org for more information.
- Aug. 15-19 **CSG/Southern Legislative Conference—Annual Meeting**—Winston-Salem, NC. Contact Elizabeth Lewis at (404) 633-1866 or visit www.scatlanta.org for additional information.
- Aug. 22-24 **CSG/Southern Governors' Association (SGA) Annual Meeting**—Williamsburg, VA. Contact Liz Purdy Porter at (202) 624-5897 or sga@sga.org.

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November 2009

Nov. 12-15 **CSG 2009 Annual Conference**—Palm Springs, CA. Contact Registration at 800-800-1910 or registration@csg.org.

July 2010

July 31-Aug. 4 **CSG Southern Legislative Conference—64th Annual Meeting**—Charleston, SC. Contact Elizabeth Lewis at (404) 633-1866 or elewis@csg.org.

August 2010

- Aug. 8-11 **Midwestern Legislative Conference—65th Annual Meeting**—Toronto, ON, Canada. Contact Cindy Andrews at (630) 925-1922 or candrews@csg.org. Visit www.csgmidwest.org for more information.
- Aug. 22-24 **CSG/Southern Governors' Association (SGA) Annual Meeting**—Williamsburg, VA. Contact Liz Purdy Porter at (202) 624-5897 or sga@sga.org.

Although the federal government tends to get more attention, state officials are often on the front lines of cutting-edge trends and issues. On the other hand, sometimes in the community of state governments, the more things change, the more they stay the same.

In print since 1958, *State News* (formerly *State Government News*) has chronicled many of the changes ... and continuities.

Here's what we reported on:

40 years ago—August 1968

Lieutenant Governors Call for Educational Change

The National Conference of Lieutenant Governors—now known as the National Lieutenant Governors Association, an affiliate of The Council of State Governments—called for a major re-examination of the 12-year system of public education, according to an article in the August 1968 *State Government News*.

The lieutenant governors, in their eighth annual meeting, adopted a resolution suggesting the Department of Health, Education and Welfare, in cooperation with the Education Commission of the States, meet with state representatives to consider compressing the present education system into a shorter time-span, improving the curricula and improving flexibility.

Update

Many state education systems were reformed in the past few decades, and state legislatures are constantly looking for ways to improve the schools in their states. However, the 12-year system of education has actually been expanded, with many states adding kindergarten and preschool as educational opportunities for children.

25 years ago—August 1983

States Pursue High-Tech Jobs

As early as 1983, states were going after high-tech jobs, and governors focused their messages on proposals to attract such industries, according to an article in the August 1983 *State Government News*. While experts at the time said the Silicon Valley of California, the Research Triangle in North Carolina and the Boston area accounted for most of the high-tech jobs, they expected a shift to the Midwest, South and Plains states because of the availability of labor. The problem, they said in 1983, was education. The shortage of math and science teachers at the time raised concerns about those areas' ability to educate the labor force.

A panel of governors, business and education leaders said strengthening all levels of education is imperative for the U.S. to be able to compete with countries such as Japan for high-technology and energy-related industries. A National Governors Association survey of state initiatives in high-tech industries, found many governors had appointed task forces or boards to recommend overall state policy on high tech.

Update

States are still learning to compete in the global marketplace. Check out the analysis of the auto industry in the South on page 26, and learn what some states are doing to increase the education level of residents on page 30.

10 years ago—August 1998

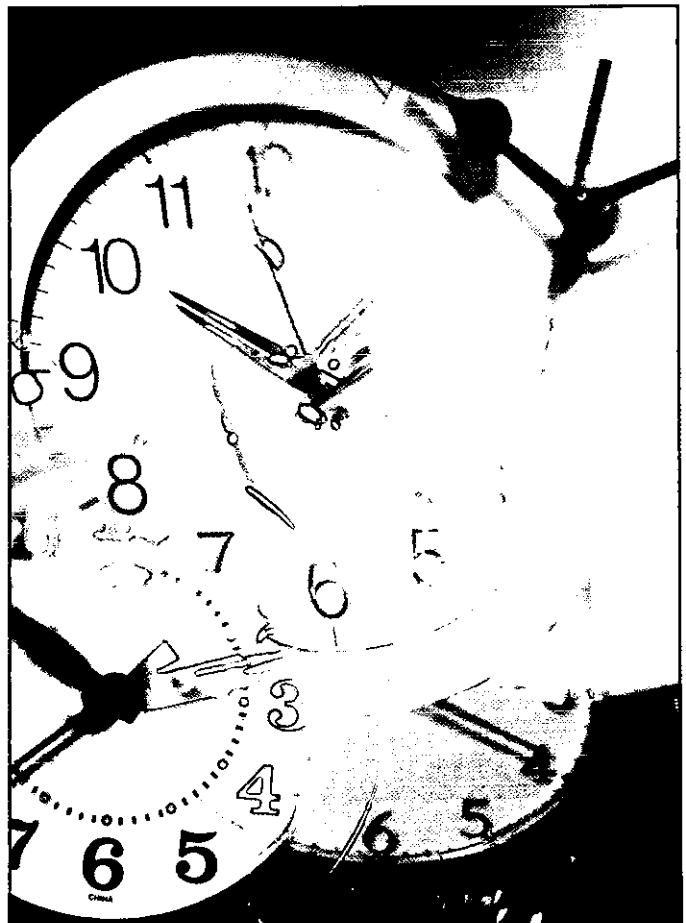
Increasing Numbers of College Graduates

An article in the August 1998 issue of *State Government News* predicted a surge of college-age students in the coming decades. Enrollment in the nation's elementary and secondary schools reached an all-time high in 1996. And the U.S. Department of Education predicted in the mid-1990s that about 3 million more children would be enrolled in the nation's schools than at that time. That means more students would be enrolling in postsecondary education, wrote Robin Zuniga, then a research associate at the Western Interstate Commission for Higher Education.

Zuniga suggested in the article that state leaders would be forced to decide how to make room for every student who wants a postsecondary education and is eligible for admission.

Update

States today are trying to figure out how to get even more students into higher education. Because of the changing global economy, states are recognizing that if they are to remain competitive, they need to increase the rates of people attending and graduating from college. To that end, many states are focusing on programs to make college more affordable, especially for students from the lowest-income families. Read the story on page 30, and check out the CSG blog, *Capitol Comments*, for more on what states are doing to address college affordability issues.

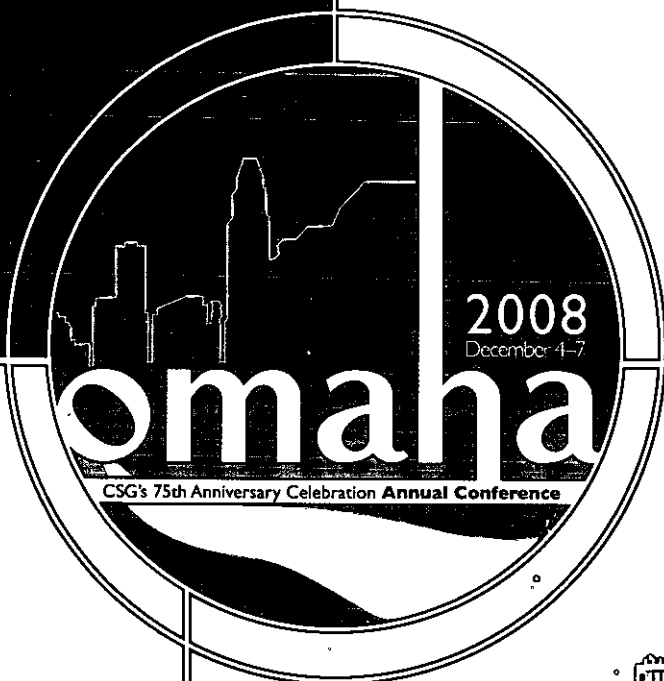


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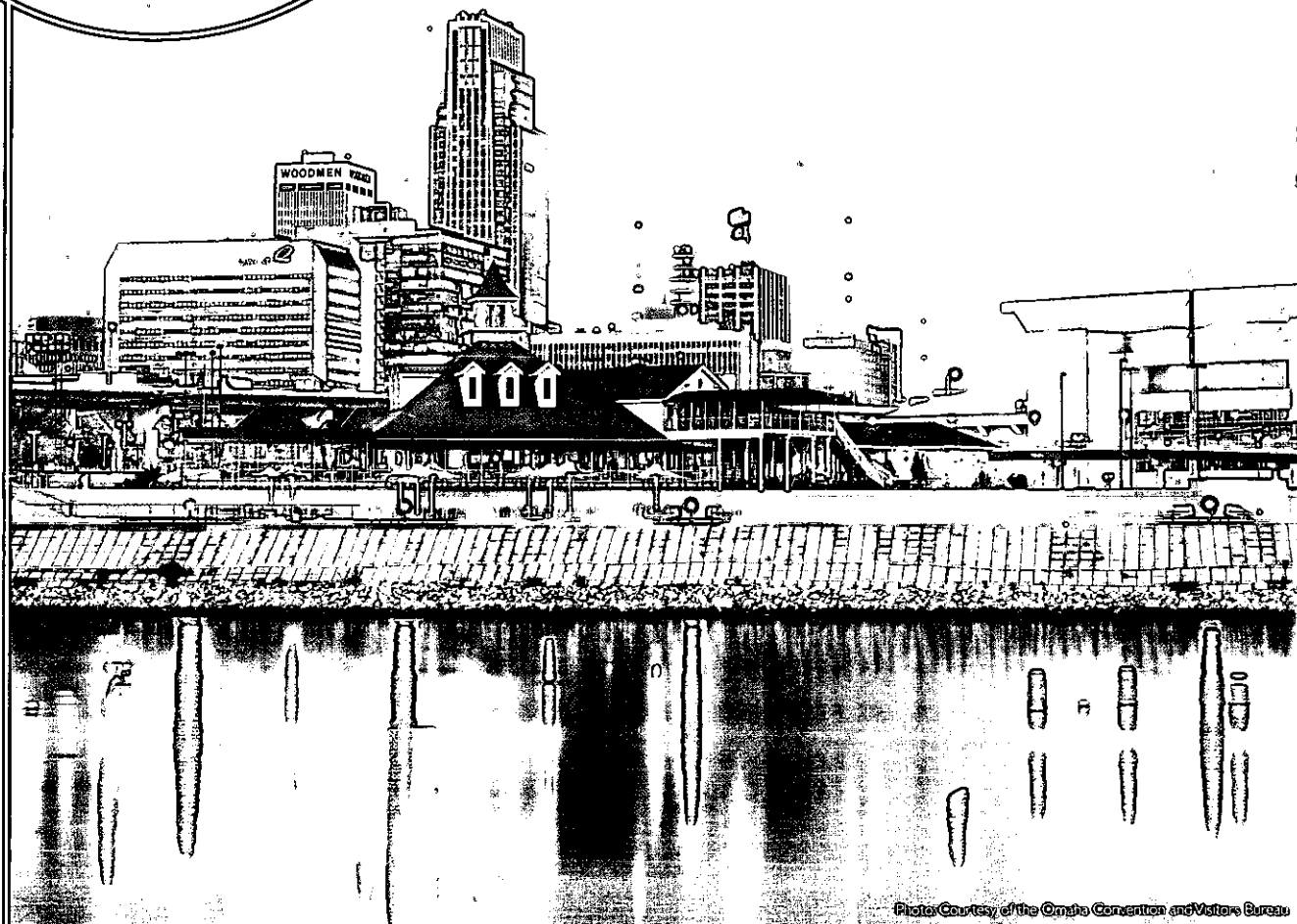


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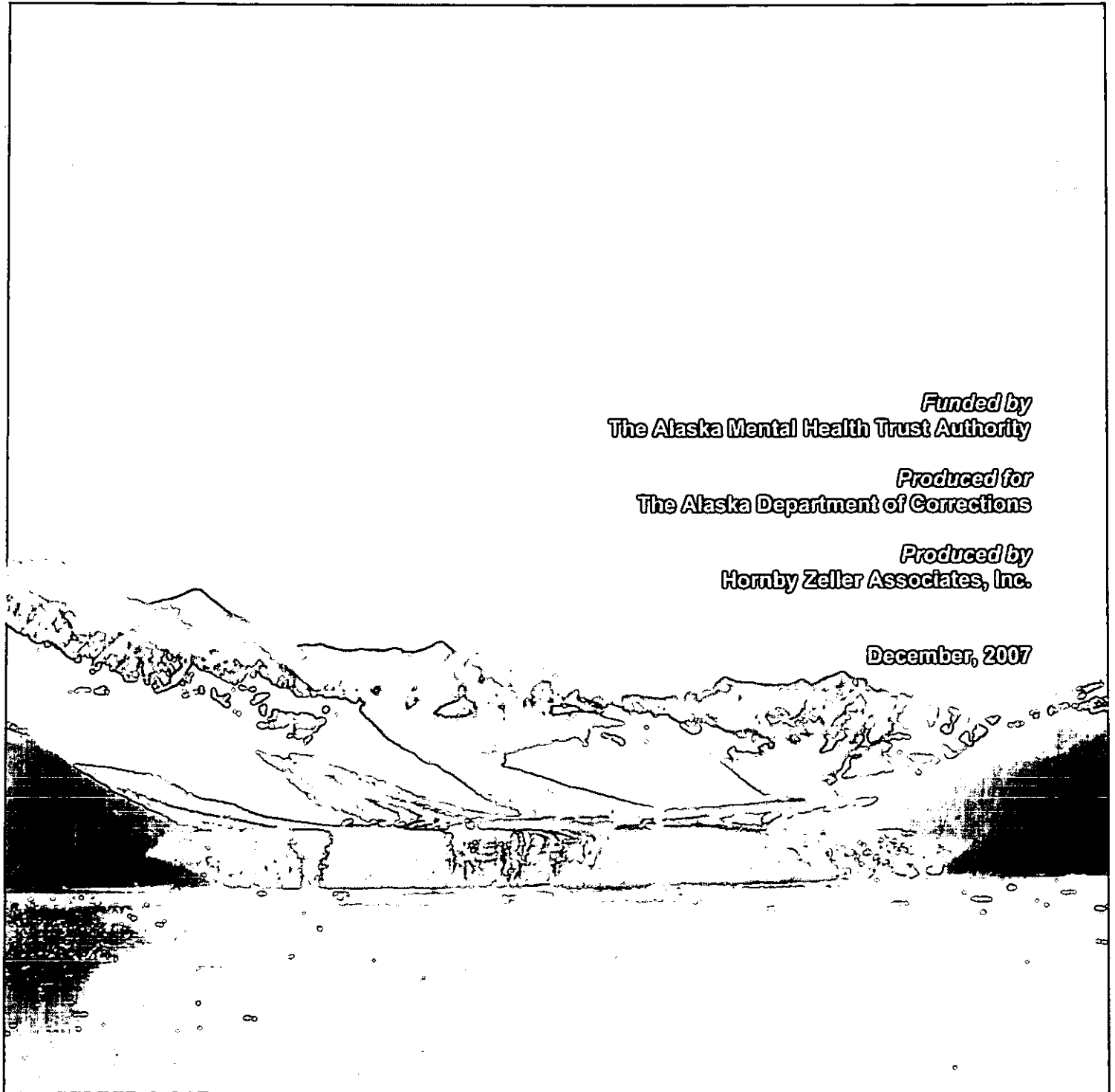
**A Study of Trust Beneficiaries in the
Alaska Department of Corrections**

Funded by
The Alaska Mental Health Trust Authority

Produced for
The Alaska Department of Corrections

Produced by
Hornby Zeller Associates, Inc.

December, 2007



A Study of Trust Beneficiaries in the Alaska Department of Corrections

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Funded by:

Alaska Mental Health Trust Authority

Partners:

Alaska Department of Corrections

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Acknowledgements

Hornby Zeller Associates would like to acknowledge the support received from all of the agencies and individuals involved in this study. The depth and intricacy of the data analysis presented in this report was made possible through landmark business, research and confidentiality agreements between the Department of Corrections and Department of Health and Social Services.

In particular, we would like to thank Linda Walsh and Ron Hollar from the Alaska Department of Health and Social Services, Division of Health Care Services, for dedicating the time to generate a data extract from the State's Medicaid Management Information System. We would also like to thank Stephen Schneider from the Alaska Psychiatric Institute and Mike Gimm from the Department of Corrections for generating the data extracts from their respective data warehouses. We would not have been able to produce many of the outcomes in this report had it not been for their cooperation and assistance. We would also like to thank all the key officials within the Alaska Department of Corrections, Alaska Department of Health and Social Services and the Alaska Mental Health Trust Authority. We particularly acknowledge Steve Williams and Colleen Patrick-Riley for their guidance and detailed reviews of previous drafts. Without this collaborative support, this report simply would not have been possible.

This project is funded by the Alaska Mental Health Trust Authority under contract with the Alaska Department of Corrections. Colleen Patrick-Riley from the Alaska Department of Corrections and Steve Williams from the Mental Health Trust Authority served as the primary officials involved in the study. Its contents are the sole responsibility of the authors and do not represent the opinions of the funding agency.

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Executive Summary

People with mental illness and cognitive impairments are over-represented in the correctional system compared to their prevalence in society. This has been shown in previous research. However, the impact of over-representation both on the correctional system itself and on the individuals affected remained largely unexplored. Therefore, the Alaska Mental Health Trust Authority (AMHTA) in conjunction with the Alaska Department of Corrections commissioned this study to obtain a more in-depth and comprehensive understanding of the experiences of this population. They wanted answers to questions such as: Are people with mental illness and cognitive impairments more or less likely to be incarcerated than others who commit similar crimes? Are they identified and treated while incarcerated? Do they stay longer? Do they recidivate more? What kinds of mental illnesses and cognitive impairments do they have and how do these relate to the kinds of offenses committed? How long does it take for them to get services in the community once they are released? Are there particular service models that have been shown to be effective and could reduce recidivism?

Performed by Hornby Zeller Associates, Inc. (HZA), the study examines four years of data using a unique methodology which matches information from multiple agencies and information systems within Alaska. The sources include Medicaid data from the Alaska Department of Health and Social Services, Division of Health Care Services (DHSS), psychiatric history from the Alaska Psychiatric Institute (API) and correctional history from the Alaska Department of Corrections (ADOC). The methodology allows, for the first time, the identification of individuals who were known to have a history of mental health treatment but who may not have been identified as needing treatment by ADOC during their period of incarceration. It also provides the ability to track Medicaid funded and hospital services received in the community during periods of diversion or post-incarceration.

Results of the study provide the State of Alaska with a unique opportunity to explore a critical and yet largely neglected dimension in correctional research — the impact of those with mental illness¹ or cognitive impairments on the statewide correctional systems as well as the impact of state services and correctional detention on the individual. More importantly, the report provides key baseline information from which changes in the system can be assessed.

The report reveals the consequences of not adequately treating the needs of Trust Beneficiaries² in the community. It costs the State of Alaska millions of dollars each year in added prison costs and loss of Federal entitlements to have people recycle through the corrections system. Many Trust Beneficiaries are not identified as having mental health or substance abuse problems while incarcerated; as a result, a large proportion of these individuals are not receiving the mental health and behavioral health-related services they need upon release. For others there is a delay in time to resume Medicaid-funded services upon release. Consequently, Trust Beneficiaries as a whole are far more likely to return into the custody of ADOC and stay in custody longer than other offenders in the general population.

Additional correctional resources, improved systems integration, and better linkages with community health care providers will undoubtedly assist in alleviating the burden of care for Trust Beneficiaries on Alaska's criminal justice system. Should the State of Alaska invest in more diversionary strategies and implement

¹ As defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR). See Appendix C for the list of multi-axial classifications.

² Trust beneficiaries are those experiencing: 1) mental illness; 2) developmental disabilities; 3) chronic alcoholism with psychosis; and, 4) Alzheimer's disease, related dementias and other cognitive impairments. See Appendix B for a more complete definition of Beneficiaries that fall under the purview of the Alaska Mental Health Trust Authority.

more evidence-based service programs, the State should ultimately realize net institutional savings while at the same time improving public safety and generating better quality-of-life outcomes for Trust Beneficiaries in Alaska's communities.

Major findings from the study indicate that approximately 42 percent of all inmates in custody ADOC are Beneficiaries of the Alaska Mental Health Trust Authority. Among those identified, Trust Beneficiaries are more likely to recidivate, recidivate sooner and spend more time in custody of the ADOC than other inmates.

The following highlights other key findings presented in the report:

- Over a four year time frame, a total of 11,631 people within the ADOC were identified as Beneficiaries of the Alaska Mental Health Trust Authority.
- On June 30, 2006, of the 3,628 people who were in the custody of one of Alaska's thirteen correctional institutions, 1,524 people (42 percent) constituted AMHTA Beneficiaries³.
- Approximately 62 percent of Trust Beneficiaries in the Alaska Department of Corrections were identified from sources provided by the Department of Health and Social Services as opposed to databases maintained by the ADOC. Most of these had Axis I substance-related disorders and generalized mood disorders such as depression. Only a small proportion of Trust Beneficiaries with severe mental disorders such as schizophrenia or other psychotic disorders were identified as not having been known to both agencies.
- With the exception of those with more severe mental illnesses, there was an overall decline in mental health service utilization among previously Medicaid-funded Trust Beneficiaries exiting the ADOC. Medicaid-eligible Trust Beneficiaries with more severe mental illness (e.g., schizophrenia and other psychotic disorders) received more services after exiting the ADOC than they did prior to entry.
- The overall rate of recidivism for the Trust Beneficiary population is 1.6 times higher (36.2%) than for other offenders released from the ADOC (21.9%). Trust Beneficiaries are significantly more likely to re-enter the ADOC sooner than others released who did not have a mental illness. On the whole, Trust Beneficiaries with severe mental illness were less likely to recidivate than Trust Beneficiaries with mild mental illness or substance-related disorders who had a far higher rate of recidivism.
- Trust Beneficiaries who are either Alaska Native or Black are significantly more likely to recidivate than Whites or other races.
- Trust Beneficiaries with Axis I disorder(s) and Axis II personality disorder(s) are 1.6 times more likely to recidivate than Trust Beneficiaries who do not have both disorder.
- Trust Beneficiary populations most likely to recidivate are young, Black or Alaska Native males who have Axis I disorder(s) and Axis II personality disorder(s) but not an adjustment disorder.
- Trust Beneficiary populations least likely to recidivate are older, white females presenting mild mental health disorders who do not have Axis I disorder(s) and Axis II personality disorder(s).

³ This does not include individuals in custody of the ADOC either in community residential centers or the contracted facility in Arizona.

- Sixty-one percent of Trust Beneficiaries with a psychiatric admission in the year preceding entry into the ADOC were re-admitted to a psychiatric facility in the one-year period following release from the ADOC.
- More than half of Trust Beneficiary clinical recidivists had at least two Axis I mental health disorders and nearly three-quarters had a co-occurring substance-related disorder.
- Trust Beneficiaries who receive mental health services upon release from the ADOC have a lower rate of recidivism than Trust Beneficiaries who did not receive any mental health services.

As a result of the major findings presented throughout the report, HZA encourages the Alaska Department of Corrections and key Stakeholders within the State to consider the following recommendations:

Recommendation 1:

Review and revise screening and assessment protocols for mental health to capture a higher, more accurate portion of the population.

Approximately two-thirds of all Trust Beneficiaries incarcerated within the Alaska Department of Corrections were identified by administrative data sources not maintained by the ADOC. Although the clinical characteristics of these unidentified Beneficiaries constitute mostly those with alcohol, drug and mild mental disorders such as anxiety or depression, the ADOC should consider reviewing its screening and assessment protocols because many of these Beneficiaries are continually recycling in and out of its correctional institutions. Current DOC screening provides identification of individuals with severe or obvious mental illness, but relies on self report to identify other Beneficiaries. It would be useful to develop screening tools to systemically identify moderate mental illness, brain injury, fetal alcohol spectrum disorder (FASD) and other brain disorders. Better identification will enable the ADOC to increase the number of potential Beneficiaries appropriate for referral to substance abuse or other institutional programming or for diversion into community-based services, thereby reducing recidivism and related costs while at the same time preserving public safety.

Recommendation 2:

Consider replacing the CONCON system with one that is more standardized, would allow entry of information pertaining to clinical screens and would be online so that contracted service providers in remote areas could also have access to it.

The Alaska Department of Corrections database (referred to as CONCON) used to maintain records on the Trust Beneficiary population it serves is antiquated, designed largely for qualitative purposes and the information it contains cannot be quantified without reading narrative summaries and hand counting, a particularly onerous task for staff within the ADOC as there are thousands of records maintained in that system.

In addition, information pertaining to the Trust Beneficiary population is entered into the CONCON database only for those individuals who assessed positively for a mental illness while in custody at one of Alaska's 13 correctional facilities. If an individual received a positive *screening* for mental illness but was released from the ADOC before he or she could receive a full assessment, the information would not be captured (screening results exist on paper copy only.)

There is also missing information in the CONCON database about Trust Beneficiaries being served among the remote facilities where the ADOC uses contractors to provide clinical services. These service providers do not enter information into the CONCON database; rather, they maintain assessment and clinical information on paper copy form only.

The number of Trust Beneficiaries identified by the ADOC without an electronic version of their clinical assessment in the CONCON database is estimated to be 1,124 people.

For these reasons and others, the ADOC should consider replacing the system with one that is more standardized, would allow entry of information pertaining to clinical screens and would be online so that contracted service providers in remote areas can also have access to the system. The new system should also include the ability to identify specific Trust Beneficiary populations particularly those with traumatic brain injury, fetal alcohol spectrum disorder, borderline intellectual functioning, and mental retardation, to name a few. This system should also identify and track individuals appropriate for or participating in diversion programs, therapeutic courts, and DOC mental health release programs.

This new system should also be designed in such a way to facilitate cross-referencing against DHSS systems to identify current or former clients of the behavioral health system. As previously noted, the cross-referencing activity in this study yielded a significant number of Trust Beneficiaries who were not identified by the Department of Corrections. Although it is recognized that this cross-referencing activity will not identify every inmate with a mental illness (e.g., an inmate who received private, grant, or other public or federally funded mental health care), it does represent a starting point from which to gather more reliable baseline data. Alaska would benefit from exploring other ways of exchanging information between DHSS divisions and DOC so as to best identify and serve the Trust Beneficiary population.

Recommendation 3:

Identify Trust Beneficiaries entering the ADOC who are Medicaid-eligible so that upon release assistance can be provided to help ensure continuity of care. Use ADOC liaisons with local Social Security and State Medicaid offices to facilitate reinstatement of Federal disability benefits (SSI, SSDI, Medicaid) for a broad diagnostic population of Trust Beneficiaries just prior to their release.

Individuals can qualify for Medicaid-funded mental health services in one of four ways, either through a qualifying mental health diagnosis that meets the Social Security definition of disability, as a side treatment for a qualifying physical disability that meets the Social Security definition of disability, as a side treatment for individuals who qualify for Medicaid because they are age 65 or older, or as a side treatment for individuals who qualify for Medicaid as the caretaker relative of a family with dependent children. While the primary reason for initial eligibility was not available, the study found that many Medicaid-eligible Trust Beneficiaries who were receiving mental health services prior to entering the ADOC, 28 percent were not receiving any Medicaid-funded mental health services after release. Among those not re-engaged in services, the State of Alaska is potentially losing the equivalent of an eight percent match in supplemental federal funds that might otherwise be used to pay for additional mental health services. As a result, there needs to be better identification of Trust Beneficiaries entering the ADOC who were receiving Medicaid or are Medicaid-eligible so that upon release assistance can be provided to help ensure continuity of care.

Since 2004, there has been a Memorandum of Understanding in place with the ADOC, the Social Security Administration and the Alaska Division of Public Assistance that allows the ADOC to facilitate Pre- and Post-Release Applications for severely mentally ill Trust Beneficiaries. ADOC mental health has a 100 percent approval rate for SSI/SSDI applications. ADOC could expand this working relationship to provide application assistance to individuals with other eligible diagnoses with additional staffing resources.

Recommendation 4: Implement more evidence-based services such as Forensic Assertive Community Treatment Teams or Forensic Intensive Case Managers (FACT/FICM) for the severely mentally ill Trust Beneficiary population exiting the ADOC.

Alaska's criminal justice system currently diverts Trust Beneficiaries from incarceration through a variety of avenues such as therapeutic mental health and addictions courts and some specialized release programs. The

ADOC should continue to sustain and expand the existing APIC Reentry and other DOC mental health release programs for misdemeanors and felons. The ADOC should also consider expanding its partnership with community agencies to divert more Trust Beneficiaries from incarceration by implementing additional evidence-based services targeted to the population most at risk.

For example, national evidence-based best practice research suggests that Forensic Assertive Community Treatment (FACT) and Forensic Intensive Case Management (FICM) are the most promising approaches to managing correctional populations with severe mental illness. The main difference between the two FACT/FICM models largely surround organizational structure. FACT operates within the domain of a self-contained team providing direct services whereas FICM has case managers with individual caseloads who refer out to psychiatric treatment services in the community. Both models have generated positive results for correctional populations with severe mental illness.

Improving its efforts to ensure that Medicaid eligibility is sustained upon release and implementing evidence-based services (such as Forensic Assertive Community Treatment Teams or Forensic Intensive Case Managers (FACT/FICM) for the high-risk Trust Beneficiary population, the State would ultimately realize net institutional savings while at the same time improving public safety and generating better quality-of-life outcomes for the seriously mentally ill Trust Beneficiary population.

While there is clear and convincing evidence that incorporating diversion and best practice models does promote success, it is important to carefully identify appropriate candidates for diversion. Some individuals require a period of incarceration before release to appropriate programs in the community. Others could effectively be diverted pre or post charge.

Recommendation 5:

Expand more culturally sensitive programs for Alaska Natives.

Alaska Native Trust Beneficiaries receiving mental health care services after release from the ADOC have the highest rate of criminal recidivism. When compared to the general population of Alaska, the prevalence of Alaska Native Trust Beneficiaries sentenced to the ADOC (36%) is significantly higher than their prevalence in the general population (16%). While there are a number of other factors that are associated with the disproportionate arrest and detainment of Alaska Natives, the ADOC and community health care providers should consider introducing more culturally sensitive programming into the services they provide. The State of Alaska could partner with Alaska Native Tribal organizations to improve the design and delivery of behavioral health services.

Recommendation 6:

Develop more community-based mental health, substance abuse treatment and support services for Trust Beneficiaries exiting the Alaska Department of Corrections.

There is a general lack of community-based mental health and substance abuse treatment services for the growing number of Trust Beneficiaries exiting the Alaska Department of Corrections. In addition, safe and sober housing is inadequate to meet the current needs of the Trust Beneficiary population. The State should consider allocating additional funding for community-based alternatives to incarceration and increase capacity to deliver essential services to Trust Beneficiary probationers and parolees, including co-occurring substance abuse treatment. Developing an appropriate spectrum of community housing will be critical to Beneficiary success, ranging from independent to supportive living situations to structured options all with an emphasis on sobriety and consumer and public safety. Key stakeholders within the criminal justice system should work closely with mental health consumers, families and advocacy groups to improve services, develop new initiatives and involve all relevant agencies.

To obtain a copy of the complete report, visit the Alaska Mental Health Trust's web site:

<http://www.mhtrust.org/documents/12-07%20Final%20DOC%20Trust%20Beneficiary%20Study.pdf>

For more information about the Alaska Mental Health Trust Disability Justice Focus Area, contact:

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Should Convicted Felons Have Voting Rights?

by Bryan Knowles
 Friday, June 9, 2000

As federal and state prison populations continue to swell and the 2000 elections are fast approaching, the issue of voting rights for convicted felons has gained increasing attention from candidates and the media. With the exceptions of Maine, Vermont and Massachusetts, the remaining 46 states and the District of Columbia prohibit inmates serving felony convictions from voting in any public elections. While a majority of states restore voting rights to convicted felons after they complete their prison terms or probation periods, at least ten states, including Virginia, Delaware and New Mexico permanently prohibit former felons from voting.

The legal authority of a state to revoke an inmate's voting rights is based upon the Fourteenth Amendment. While this amendment stipulates that, "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States", it allows for the denying of the voting rights of individuals guilty of "participation in rebellion, or other crime". Under current law, the federal government may not infringe upon a state's authority to grant or rescind voting rights to prison inmates and former felons.

The legal disenfranchisement of inmates and former felons has come under increased scrutiny by civil rights and criminal justice groups. According to Human Rights Watch and The Sentencing Project, nearly 3.9 million people are prohibited from voting, a majority of whom are former convicts who completed their sentences. While legislation has been introduced in Congress that would allow former convicts to vote in federal elections if successful, the Supreme Court of New Hampshire ruled in March to strip incarcerated felons of all voting privileges.

On One Hand...

Assertions that the Fourteenth Amendment justifies the disenfranchisement of felons by states are dubious at best, especially when deciding what "other crimes" constitute the serious magnitude of "participation in rebellion." Disenfranchising inmates is counter to the American tradition of laboring for the expansion of voting rights for all citizens. In many states, the prohibiting of former convicts from voting has become a form of government-sanctioned discrimination against felons who have completed their restitution to society. This is especially true for African-American males who constitute a disproportionate percentage of disenfranchised former felons. Congress and state assemblies must support legislation that reverses this unconstitutional practice.

On the Other Hand...

The Fourteenth Amendment clearly demonstrates that the states have the Constitutional authority to disenfranchise both currently incarcerated and former felons for as long as they deem fit. In limiting the freedoms of convicted felons, incarceration is designed to punish inmates and impress upon them the magnitude of their crimes. As a privilege to be enjoyed by law-abiding citizens, prohibiting inmates from voting further drives this point home. Prohibiting former felons from voting for life ensures the integrity of the electoral process, especially in states and jurisdictions where

Surveys

Agree

Despite their convictions, felons are citizens and should be able to exercise their voting rights, especially after they have repaid their debt to society.

Disagree

Under the 14th Amendment, states are well within their powers to deny convicted felons all voting rights during and after their incarcerations.

Documents

[Civic Participation and Rehabilitation Act of 1999](#)

Features

[A Deafening Silence at the Polls: One in Seven Black Males Cannot Vote](#)

[Court Takes Away Inmate Voting Rights](#)

[Proposal Would Automatically Restore Ex-Cons' Voting Rights](#)

Organizations

[Bureau of Justice Statistics](#)

[Human Rights Project](#)

[The Sentencing Project](#)

Perspectives

[Criminal Voters](#)

[The Disenfranchised](#)

the populace directly elects judges, law enforcement officers and district attorneys.

- Alabama, Delaware, Florida, Iowa, Kentucky, Mississippi, Nevada, New Mexico, Virginia and Wyoming permanently prohibit voting rights for felons.
- According to Human Rights Watch and The Sentencing Project, "1.4 million African American men, or 13% of black men, are disenfranchised, a rate seven times the national average."
- At the conclusion of 1998, an estimated 5.9 million people were incarcerated or serving parole throughout the entire U.S. criminal justice system.
- Arizona and Maryland permanently disenfranchise felons after the conviction of a second offense.

Bureau of Justice Statistics, U.S. Department of Justice, Human Rights Watch, The Sentencing Project

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Instate Inmate Count - Alaska Department of Corrections - March-2009

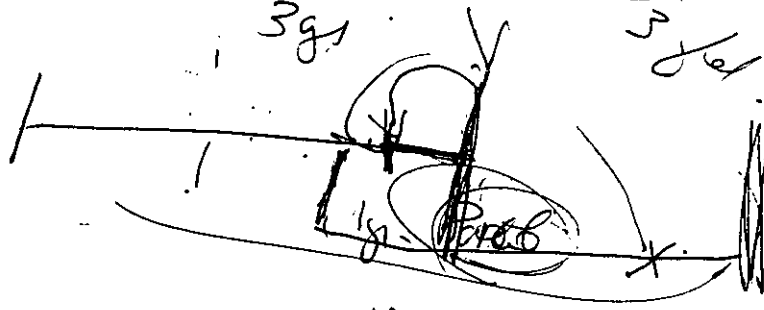
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	400	418	102	309	395	52	222	98	307	176	128	541	258	110	126	Gen Cap		3642
Day	ACCE	ACCW	AMCC	FCC	HMCC	KCC	LCCC	MSPT	PCC Med	PCC Min	PT Mac	SCCC	WCC	WPT	YKCC	Max Cap	Totals	%
1	438	426	114	247	341	81	196	108	318	176	128	538	262	136	124	3753	3613	96%
2	446	420	114	240	340	80	194	109	318	176	127	537	261	135	121	3753	3598	96%
3	441	431	112	246	337	89	195	104	314	173	126	543	262	130	116	3753	3589	96%
4	441	430	108	244	337	88	194	103	317	176	125	541	263	127	117	3753	3581	95%
5	443	430	108	243	341	89	193	103	315	174	126	540	263	120	119	3753	3577	95%
6	453	449	109	243	333	88	195	104	310	176	125	538	260	119	115	3753	3587	96%
7	451	445	109	248	343	88	196	106	308	176	129	537	259	117	116	3753	3598	96%
8	425	456	110	248	349	47	212	107	317	176	128	540	259	121	122	3753	3617	96%
9	425	450	110	252	350	47	215	113	306	176	127	551	259	121	129	3753	3631	97%
10	427	447	110	241	364	46	212	105	306	176	126	551	259	128	128	3753	3626	97%
11	427	435	103	246	361	46	208	104	303	175	124	550	255	134	125	3753	3594	96%
12	420	439	104	238	362	48	201	94	309	175	128	551	250	135	120	3753	3574	95%
13	440	424	104	240	367	48	203	97	305	176	128	551	249	134	118	3753	3584	95%
14	430	434	102	240	364	50	207	96	308	176	124	549	247	137	116	3753	3580	95%
15	418	427	104	250	369	50	206	96	315	175	128	551	246	135	122	3753	3592	96%
16	425	420	103	246	360	48	208	103	314	176	128	560	245	139	117	3753	3592	96%
17	427	415	104	240	364	47	207	106	310	176	127	559	245	138	115	3753	3580	95%
18	420	434	103	242	359	46	207	104	308	176	125	558	254	128	119	3753	3583	95%
19	434	425	101	242	367	48	210	97	310	176	128	555	252	122	113	3753	3580	95%
20	418	443	105	229	364	45	215	98	312	176	128	552	256	117	112	3753	3570	95%
21	438	439	105	241	374	42	223	90	315	176	126	552	254	126	118	3753	3619	96%
22	428	444	109	252	380	44	226	92	315	176	126	553	256	121	122	3753	3644	97%
23	425	443	113	261	378	43	224	93	311	176	126	553	253	119	119	3753	3637	97%
24	411	447	116	254	376	43	222	100	303	176	128	553	250	123	121	3753	3623	97%
25	429	436	116	252	376	41	222	96	302	176	127	557	249	120	117	3753	3616	96%
26	422	437	116	248	374	40	225	99	304	176	127	556	250	119	116	3753	3609	96%
27	438	429	124	246	367	40	226	98	300	176	126	556	249	114	114	3753	3603	96%
28																3753	0	0%
29																3753	0	0%
30																3753	0	0%
31																3753	0	0%
Avg	431.11	435.37	108.74	245.15	359.15	48.983	208.89	100.93	310.11	175.7	128.7	549.33	254.33	126.48	118.93	3753	3600	96%
10 dy	3	0	8	0	0	0	0	0	0	0	0	0	0	0	0			
30/90	74	39	36	0	0	4	0	33	81	0	1	3	0	87	11			

Max Cap=General beds plus half of segregation beds including converted gym beds

General Cap=All hards beds in general population including converted gym beds

4/6
 1652 ment 462
 not sent 5750
 3890 62240
 1/2 plus
 3554
 5211
 3/31/2009

Institution	MEN	MEN	WOMEN	WOMEN	TOTAL
	Sent.	Unsent	Sent.	Unsent	
ACCE	60	371	0	7	438
ACCW	41	388	0	0	429
Anvil Mt. (Nome)	48	63	7	6	124
Fairbanks CC	34	183	1	28	246
Hiland Mt. CC	0	0	210	157	367
Ketchikan CC	12	24	1	3	40
Lemon Creek CC	137	77	7	5	226
MatSu Pre-Trial	12	72	2	12	98
Palmer Med. CC	228	72	0	0	300
Palmer Min. CC	176	0	0	0	176
Pt. Mac	126	0	0	0	126
Spring Creek CC	548	8	0	0	556
Wildwood CC	221	28	0	0	249
Wildwood PT	22	74	3	15	114
YKCC (Bethel)	18	92	0	4	114
Total	1683	1452	231	237	3,603
		Unsent		Sept.	
Total		1689		1914	3,603
		47%		53%	

391
2/3 mixed
5/5 fel

TRB

Community Residential Program - Treatment Beds								March 27, 2009	
	G.H.S.	Clitheroe	Akeela	RCAOA	YKHC	Manilliq			
Total Contract Beds									
	2	13	5	4	1	1	Allotted:		25
Institutional Beds									
Beds Assigned	0	11	5	3	1	0	Allotted:		20
Furlough	0	4	3	0	3	0			10
Confined Misd.	0	0	0	0	0	0			0
Restitution	0	0	0	0	0	0			0
Unsentenced	0	0	0	0	0	0			0
3rd Party	0	0	0	0	0	0			0
Total Filled	0	4	3	0	3	0	Filled:		10
Field Beds									
Beds Assigned	2	2	0	1	0	1	Allotted:		6
Probation	2	5	0	1	5	3			16
Parole	0	2	0	0	0	0			2
Total Filled	2	7	0	1	5	3	Filled:		18
JAIL ALTERNATIVE SERVICES									
Jail Alt. Serv.	0	0	0	0	0	0	Filled:		0
TOTAL TREATMENT BEDS									
Total Filled	2	11	3	1	8	3	Total Filled:		28

March 27, 2009

	Cordova	Midtown	Parkview	Glenwd	N.S.	Tundra	Glacier	Seaside		
	170	27+5*32	95+17*112	76+14*90	81+18*107	72+13*85	72+13*85	42+8*50		753

Institutional Beds

Assigned	182	32	107	70	97	75	75	44	Allotted:	682
Furlough	46	0	44	68	32	4	42	18		254
Conf Misd/Fel	31	32	20	1	20	32	3	22		161
Restitution	9	0	8	3	12	0	7	0		39
Unsent.	62	0	32	2	15	14	0	8		133
3rd Party	13	0	0	1	0	8	0	0		22
Filled Beds	161	32	104	75	79	58	52	48	Filled:	609

Field Beds

Assigned	10	0	5	20	10	10	10	6	Allotted:	71
Probation	5	0	1	2	9	13	22	0		52
Parole	11	0	6	10	9	2	6	1		45
Filled Beds	16	0	7	12	18	15	28	1	Filled:	97

TOTAL CRC BEDS

Total Filled	177	32	111	87	97	73	80	49	Filled:	706
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TOTAL CRC SUPERVISION-OSP

				10+10=20	10		10+5=15		30+15=45	
Furlough	0	0	0	5	0	0	1	0	6	
Probation	0	0	0	0	0	0	0	0	0	
Parole	0	0	0	0	0	0	0	0	0	
TTL SUPV	0	0	0	5	0	0	1	0	Total	6

[Handwritten scribbles and lines]

Trk. 1,2	0	0	0	1	0	0	8	0	Total	9
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EM	EM				3603	INSTITUTIONAL				
Anchorage	Fairbanks				870	Red Rock, AZ				
183	37				17	OTHER: OUT OF STATE				
					706	CRC				
					28	TREATMENT BEDS FILLED				
EM	EM				6	CRC OFF SUP				
Kenai	Ketchikan				231	EM				
9	2				Total	5461				

* PerDiem Slots

men sent. men visit women sent women visit total

ACCW	45	391			436
Anvil Mt.(Nome)	48	57	8	3	116
Fairbanks CC	35	186	2	29	252
Hiland Mt. CC			211	165	376
Ketchikan CC	13	23	1	4	41
Lemon Creek CC	138	70	7	7	222
MatSu Pre-Trial	12	73	2	9	96
Palmer Med.CC	234	68			302
Palmer Min.CC	176				176
Pt. Mac	127				127
Spring Creek CC	549	8			557
Wildwood CC	220	29			249
Wilwood PT	28	72	3	17	120
YKCC (Bethel)	17	95		5	117
3/26/2009 ACCE	58	362		2	422
ACCW	41	396			437
Anvil Mt.(Nome)	47	58	7	4	116
Fairbanks CC	33	185	2	28	248
Hiland Mt. CC			211	163	374
Ketchikan CC	13	23	1	3	40
Lemon Creek CC	138	71	8	8	225
MatSu Pre-Trial	12	75	1	11	99
Palmer Med.CC	231	73			304
Palmer Min.CC	176				176
Pt. Mac	126	1			127
Spring Creek CC	548	8			556
Wildwood CC	222	28			250
Wilwood PT	24	76	4	15	119
YKCC (Bethel)	20	92		4	116
3/27/2009 ACCE	60	371		7	438
ACCW	41	388			429
Anvil Mt.(Nome)	48	63	7	6	124
Fairbanks CC	34	183	1	28	246
Hiland Mt. CC			210	157	367
Ketchikan CC	12	24	1	3	40
Lemon Creek CC	137	77	7	5	226
MatSu Pre-Trial	12	72	2	12	98
Palmer Med.CC	228	72			300
Palmer Min.CC	176				176
Pt. Mac	126				126
Spring Creek CC	548	8			556
Wildwood CC	221	28			249
Wilwood PT	22	74	3	15	114
YKCC (Bethel)	18	92		4	114
ACCE					0
ACCW					0
Anvil Mt.(Nome)					0
Fairbanks CC					0
Hiland Mt. CC					0
Ketchikan CC					0
Lemon Creek CC					0
MatSu Pre-Trial					0

Date	Institution	MEN Sent.	MEN Unsent	WOMEN Sent.	WOMEN Unsent	Total
1/1/2009	Anchorage Jail	44	346	1	5	396
	Anvil Mt.(Nome)	23	57	2	1	83
	Cook Inlet PT	53	389			442
	Fairbanks CC	45	167	5	17	234
	Hiland Mt. CC			194	127	321
	Ketchikan CC	19	21	1	2	43
	Lemon Creek CC	104	71	1	6	182
	MatSu Pre-Trial	8	71	1	6	86
	Palmer Med.CC	199	62			261
	Palmer Min.CC	176				176
	Pt. Mac	117				117
	Spring Creek CC	545	6			551
	Wildwood CC	234	24			258
	Wilwood PT	23	79	5	11	118
	YKCC (Bethel)	16	91		2	109
1/2/2009	Anchorage Jail	44	361	1	6	412
	Anvil Mt.(Nome)	21	60	1	2	84
	Cook Inlet PT	50	387			437
	Fairbanks CC	46	177	4	21	248
	Hiland Mt. CC			200	125	325
	Ketchikan CC	19	21	2	1	43
	Lemon Creek CC	105	74	1	9	189
	MatSu Pre-Trial	7	79	1	9	96
	Palmer Med.CC	200	61			261
	Palmer Min.CC	173				173
	Pt. Mac	116				116
	Spring Creek CC	545	6			551
	Wildwood CC	234	24			258
	Wilwood PT	25	84	4	11	124
	YKCC (Bethel)	15	98	1	2	116
1/3/2009	Anchorage Jail	45	360	1	2	408
	Anvil Mt.(Nome)	21	60	1	2	84
	Cook Inlet PT	51	382			433
	Fairbanks CC	43	173	6	17	239
	Hiland Mt. CC			201	119	320
	Ketchikan CC	22	21	2	1	46
	Lemon Creek CC	108	76	2	8	194
	MatSu Pre-Trial	7	79	1	6	93
	Palmer Med.CC	203	57			260
	Palmer Min.CC	176				176
	Pt. Mac	116				116
	Spring Creek CC	545	6			551
	Wildwood CC	234	24			258
	Wilwood PT	27	84	5	12	128
	YKCC (Bethel)	19	99		2	120
1/4/2009	Anchorage Jail	44	356	1	3	404
	Anvil Mt.(Nome)	21	60	2	1	84
	Cook Inlet PT	50	387			437
	Fairbanks CC	46	173	5	19	243
	Hiland Mt. CC			200	125	325

PATC	Mani	Cordova	Midtown	Parkview	Glenwood	N.S.	Tundra	Glacier	Seaside	G.H.S.	Clithroe	Akeela
Furlough	Furlough	Con.	MisdCon.	MisdCon.	MisdCon.	MisdCon.	MisdCon.	MisdCon.	MisdCon.	MisdCon.	MisdCon.	Misd
3		30	32	22	1	13	21	5	26			
3		25	32	22	1	13	22	4	25			
3		38	32	22	1	12	21	4	26			
3		35	31	21	1	12	21	3	26			
3		30	30	21	1	11	20	3	24			
3		35	32	23	1	14	24	4	24			
3		38	32	25	1	15	24	7	24			
3		40	32	24	1	14	25	7	24			
3		44	32	26	3	15	24	7	25			
3		64	32	27	3	13	27	7	27			
3		58	32	27	4	13	26	6	27			
3		46	32	27	3	14	26	7	27			
3		49	32	29	3	16	29	6	27			
3		54	32	28	2	20	30	5	26			
3		58	32	28	2	20	30	5	26			
3		59	32	27	2	17	26	6	26			
3		67	32	28	2	19	24	5	26			
3		61	31	28	2	19	23	5	27			
3		52	30	27	2	19	23	5	26			
3		44	32	26	2	19	22	5	25			
3		60	32	26	2	19	24	5	30			
3		57	32	27	2	26	28	5	33			
3		56	32	27	2	25	29	5	31			
3		63	32	27	2	25	29	5	32			
3		60	32	25	2	21	29	6	29			
3		53	32	26	2	20	29	3	28			
3		52	32	26	2	19	27	3	28			
3		49	32	25	3	19	30	2	28			
3		50	32	24	3	17	29	2	28			
3		46	32	24	3	15	27	2	26			

3	49	32	26	5	20	32	1	22
3	50	32	23	5	20	32		21
3	54	32	23	5	19	33		21
3	53	32	26	4	19	34		21
3	49	31	25	4	17	34		20
3	37	32	22	4	17	33		20
3	41	32	21	4	18	32	1	20
3	43	32	21	3	18	33	1	20
3	43	32	21	3	20	33	1	20
3	45	32	24	3	21	32	1	21
3	38	32	23	3	20	31	1	19
3	36	32	22	3	20	26	1	18
3	30	32	23	3	20	26	1	19
3	28	32	22	2	19	31	1	19
3	28	32	22	3	18	31	1	19
3	33	32	20	3	21	30	1	20
3	38	32	21	3	23	29	1	20
3	37	32	21	3	23	26	2	20
3	33	32	20	3	22	26	2	20
3	28	32	20	3	22	26	2	19
3	29	32	19	3	21	25	2	17
3	32	32	19	3	20	30	2	20
3	31	32	20	2	21	29	2	21
3	31	32	20	1	20	32	3	22

3/27/09

Date	Cordova Furlough	Midtown Furlough	Parkview Furlough	Glenwood Furlough	N.S. Furlough	Tundra Furlough	Glacier Furlough	Seaside Furlough	G.H.S. Furlough	Clithroe Furlough	Akeela Furlough	RCAOA Furlough
1/1/2009	33		34	60	50	9	39	11		9		1
1/2/2009	33		36	60	49	9	39	11		9		1
1/3/2009	34		36	59	49	9	39	10		9		1
1/4/2009	34		35	59	49	9	38	10		9		1
1/5/2009	34		34	59	49	9	38	11		9		1
1/6/2009	34		32	59	48	9	38	11		8		2
1/7/2009	34		33	57	49	8	39	12		8		3
1/8/2009	35		32	59	48	7	39	12		8		3
1/9/2009	39		31	57	48	7	39	12		8		3
1/10/2009	41		31	57	44	7	39	12		8		3
1/11/2009	41		32	56	44	7	40	12		8		3
1/12/2009	41		31	57	48	7	39	12		8		3
1/13/2009	40		31	57	45	7	41	12		10		3
1/14/2009	40		31	59	46	7	42	12		10		3
1/15/2009	40		31	58	43	7	42	12		8		3
1/16/2009	40		31	58	46	8	42	12		8		3
1/17/2009	42		31	55	46	8	41	12		8		3
1/18/2009	42		31	55	46	8	42	11		8		3
1/19/2009	42		31	55	46	8	42	11		8		3
1/20/2009	41		31	55	46	8	42	11		8		3
1/21/2009	39		30	56	46	8	42	11		8		3
1/22/2009	44		30	58	46	8	44	10		8		3
1/23/2009	47		30	57	46	8	43	10		8		3
1/24/2009	49		30	58	46	8	43	10		8		3
1/25/2009	49		30	59	45	8	43	12		8		3
1/26/2009	49		30	59	45	8	41	11		8		3
1/27/2009	49		30	61	45	8	40	12		8		3
1/28/2009	47		31	63	46	8	42	11		8		3
1/29/2009	49		31	61	46	8	43	12		8		3
1/30/2009	50		31	60	47	7	45	12		8		3

Incourt Data

	ACE	ACW	Amcc	cc	Amcc	cc	LL	mspt	rc/mc	rt-mc spec/min	rt-mc SPEC	WWCC	WWPT	YKCC	Total	
2/28/2009	429	437	106	226	349	58	197	105	316	175	127	531	259	131	122	3568
3/1/2009	438	426	114	247	341	61	196	108	318	176	128	538	262	136	124	3613
3/2/2009	446	420	114	240	340	60	194	109	318	176	127	537	261	135	121	3598
3/3/2009	441	431	112	246	337	59	195	104	314	173	126	543	262	130	116	3589
3/4/2009	441	430	108	244	337	58	194	103	317	176	125	541	263	127	117	3581
3/5/2009	443	430	108	243	341	59	193	103	315	174	126	540	263	120	119	3577
3/6/2009	453	449	109	243	333	58	195	104	310	176	125	538	260	119	115	3587
3/7/2009	451	445	109	248	343	58	196	106	308	176	129	537	259	117	116	3598
3/8/2009	425	456	110	248	349	47	212	107	317	176	128	540	259	121	122	3617
3/9/2009	425	450	110	252	350	47	215	113	306	176	127	551	259	121	129	3631
3/10/2009	427	447	110	241	364	46	212	105	306	176	126	551	259	128	128	3626
3/11/2009	427	435	103	246	361	46	206	104	303	175	124	550	255	134	125	3594
3/12/2009	420	439	104	238	362	48	201	94	309	175	128	551	250	135	120	3574
3/13/2009	440	424	104	240	367	48	203	97	305	176	128	551	249	134	118	3584
3/14/2009	430	434	102	240	364	50	207	96	308	176	124	549	247	137	116	3580
3/15/2009	418	427	104	250	369	50	206	96	315	175	128	551	246	135	122	3592
3/16/2009	425	420	103	246	360	48	208	103	314	176	128	560	245	139	117	3592
3/17/2009	427	415	104	240	364	47	207	106	310	176	127	559	245	138	115	3580
3/18/2009	420	434	103	242	359	46	207	104	308	176	125	558	254	128	119	3583
3/19/2009	434	425	101	242	367	48	210	97	310	176	128	555	252	122	113	3580
3/20/2009	418	443	105	229	364	45	215	98	312	176	128	552	256	117	112	3570
3/21/2009	438	439	105	241	374	42	223	90	315	176	126	552	254	126	118	3619
3/22/2009	428	444	109	252	380	44	226	92	315	176	126	553	256	121	122	3644
3/23/2009	425	443	113	261	378	43	224	93	311	176	126	553	253	119	119	3637
3/24/2009	411	447	116	254	376	43	222	100	303	176	128	553	250	123	121	3623
3/25/2009	429	436	116	252	376	41	222	96	302	176	127	557	249	120	117	3616
3/26/2009	422	437	116	248	374	40	225	99	304	176	127	556	250	119	116	3609
3/27/2009	438	429	124	246	367	40	226	98	300	176	126	556	249	114	114	3603

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Singleton v. State
921 P.2d 636
Alaska App., 1996.
Jul 05, 1996

◀ Term ▶

921 P.2d 636, 75 A.L.R.5th 701

Court of Appeals of Alaska.

Brenda J. **↔SINGLETON,↔** Appellant,

v.

↔STATE↔ of Alaska, Appellee.

No. A-5578.

July 5, 1996.

Ethan A. Berkowitz, Anchorage, for Appellant.

Cynthia L. Herren, Assistant Attorney General, Office of Special Prosecutions and Appeals, Anchorage, and Bruce M. Botelho, Attorney General, Juneau, for Appellee.

Before BRYNER, C.J., and COATS and MANNHEIMER, JJ.

OPINION

BRYNER, Chief Judge.

Brenda J. Singleton was convicted by a jury of robbery in the second degree, AS 11.41.510(a)(1). On appeal, she argues that the trial court erred in allowing an unqualified person to serve as a juror and that the state failed to preserve exculpatory evidence. We affirm.

Singleton and two codefendants, Dudley Fuqua, Jr., and Tyree McCray, were jointly indicted and tried for robbing Elaine G. Copeland. The robbery occurred outside Copeland's Anchorage apartment building. Singleton, Fuqua, and McCray--possibly accompanied by two other people--had driven to the building in a white van, ostensibly to enable Singleton to get money that she claimed Copeland owed her. An altercation between Singleton and Copeland ensued, culminating in Singleton forcibly taking a jacket, which had \$201 cash in its pocket, from Copeland's person. After Singleton took the jacket, she, Fuqua and McCray left the area in the van.

The incident was immediately reported to the police by the manager of Copeland's apartment building. A short time later, the police found the van stopped on a nearby street, with Singleton, Fuqua, McCray, and two or three other people present. Copeland and a friend of her's who had witnessed the robbery were brought to the scene and identified Singleton, Fuqua, and McCray. They were arrested. Copeland and her friend evidently told the police that the other individuals present at the arrest scene had not been involved in the incident.

The state brought Singleton, Fuqua and McCray to trial on robbery charges. During the jury selection process, prospective juror Richard Porter disclosed that he had been convicted ten years previously of "felony retail theft" for stealing 52 cartons of cigarettes from a store in Chicago. Porter stated that he had served seventeen days in jail for the offense and had received three years' probation, which he had successfully completed. Because he never received any formal notice that his civil rights had been restored, Porter had not hunted or voted since his conviction. Porter did not believe the conviction would affect his ability to be fair and impartial.

All parties had the opportunity to question Porter about his prior

conviction and his fitness for jury service. All passed him for cause, and none exercised a peremptory challenge.

For the first time on appeal, Singleton questions Porter's qualifications to serve as a juror. Singleton cites AS 09.20.020(2), which provides that "[a] person is disqualified from serving as a juror if the person ... (2) has been convicted of a felony for which the person has not been unconditionally discharged[.]" Singleton argues that, since Porter's civil rights had apparently never been restored, he had not been "unconditionally discharged" and therefore did not qualify for jury duty. Singleton insists that, for this reason, the trial court was obligated to strike Porter from the panel *sua sponte*. Singleton maintains that Porter's inclusion on the panel violated her right to an impartial jury; she further maintains that she was deprived of due process because she was never personally informed of her right to challenge Porter for cause and did not knowingly waive that right.

Strong authority supports the conclusion that Singleton waived her argument on appeal by failing to exercise a challenge--either for cause or peremptory--after learning of Porter's potential disability. See United States v. Boney, 977 F.2d 624, 632-34 (D.C.Cir.1992); Sirotiak v. H.C. Price Co., 758 P.2d 1271, 1275 n. 2 (Alaska 1988); Sharp v. State, 837 P.2d 718, 723 (Alaska App.1992). However, we need not decide the issue of waiver, for here the record fails to substantiate Singleton's claim that Porter was disqualified.

Singleton builds her argument for Porter's disqualification on the premise that formal restoration of Porter's civil rights--such as the right to vote or to carry a firearm--was a prerequisite to Porter's being "unconditionally discharged" from his prior felony conviction, as required under AS 09.20.020(2). However, the juror disqualification statute itself specifies that the term "unconditional discharge has the meaning given in AS 12.55.185." AS 09.20.020(2). Alaska Statutes 12.55.185 defines the term "unconditional discharge" to mean "that a defendant is released from all disability arising under a sentence, including probation and parole[.]" This definition conditions renewed eligibility for jury service upon release from all restrictions directly imposed "under a sentence," but not from collateral disabilities--such as loss of firearms or voting privileges--that flow from sources outside the judgment of conviction or sentencing order. Singleton cites no authority to support a departure from the apparent plain meaning of the statutory definition.

Moreover, adopting Singleton's argument would yield anomalous results. Alaska's voting laws illustrate the point. Under AS 15.05.030(a), any person convicted of a felony involving moral turpitude loses the right to vote "from the date of the conviction through the date of the unconditional discharge of the person." For purposes of this provision, the term "unconditional discharge" is defined in AS 15.60.010(33) to mean "that a person is released from all disability arising under a conviction and sentence, including probation and parole[.]" This definition is functionally identical to the definition of the same term set out in AS 12.55.185(12), which AS 09.20.020(2) adopts for purposes of determining juror qualification.

When viewed through the prism of the voting statutes, the flaw in Singleton's argument becomes apparent. For if, as Singleton argues, the right to vote must be restored as a prerequisite of unconditional discharge, then a person's right to vote could never be restored: under AS 15.05.030(a) a person who lost the right to vote upon conviction of a felony would be entitled to have that right restored only upon unconditional discharge, but unconditional discharge could occur only upon restoration of the right to vote. Singleton's definition of unconditional discharge would thus be wholly circular and entirely self-defeating.

[1] We conclude that the definition of "unconditional discharge" set forth in AS 12.55.185 must be interpreted in accordance with the statute's plain meaning. So interpreted, unconditional discharge

requires completion of any sentence of imprisonment, discharge from parole or probation, and release from any other restriction directly imposed as part of the judgment of conviction. Restoration of collaterally affected rights or privileges is not required. [FN1]

FN1. In this connection, it is worth noting that the Attorney General

has interpreted "unconditional discharge" in the context of the voting rights statutes to require completion of probation or parole, but not formal restoration of collaterally affected civil rights. See 1985 Op. Att'y Gen. No. 103 (Alaska, Jan. 29, 1985).

[2] Applying this interpretation to Singleton's case, we conclude that the record fails to support Singleton's claim that juror Porter was disqualified from jury service under AS 09.20.020(2). Porter's testimony on *voir dire* indicated a prior conviction for a felony involving moral turpitude. But according to Porter, he had long ago been discharged after serving his sentence and successfully completing his probation. The record provides no reason to suspect that Porter had not been "released from all disability arising under [the] sentence" in his case, and so, no reason to conclude that he had not been "unconditionally discharged." AS 09.20.020(2). Under these circumstances, the status of Porter's voting or hunting rights was irrelevant to his qualification as a juror in Singleton's case.

Singleton next claims that the state violated her right to due process and her discovery rights under Criminal Rule 16 by failing to preserve the names of the witnesses who were at the scene when Singleton, Fuqua, and McCray were arrested. The argument is meritless. At a pretrial discovery hearing on June 16, 1994, Singleton's counsel mentioned that Singleton had not yet received copies of notes made by the officers who arrested her. Counsel went on to say: "The officers interviewed some people or at least spoke to some people at the scene of the--at the incident scene, and we don't have the names of those people. We're hoping they would appear in the officer notes." Superior Court Judge Elaine M. Andrews ordered the notes produced by June 23. Following this deadline, on July 1, 1994, Fuqua's attorney moved to compel discovery of the names and addresses of the interviewed witnesses. In an affidavit accompanying the motion, Fuqua's attorney indicated that police notes disclosed by the District Attorney's Office did not name the witnesses; the affidavit also indicated that all existing police notes had apparently already been transmitted by the police to the District Attorney's office. Fuqua thus requested a hearing to determine "the reason for the disappearance of the names and the appropriate sanction." The record provides no indication that Singleton joined in Fuqua's motion to compel.

Several days after Fuqua filed his motion to compel, Judge Andrews denied it, concluding that all police notes had been disclosed and that a failure to memorialize the names of bystanders at the scene of the arrest would not amount to a discovery violation or an impermissible failure to preserve evidence. In reaching this conclusion, the judge emphasized that, in the absence of notes, defense counsel's remedy was to interview the arresting officers:

Defense counsel is free to call the officers and ask them to name the witnesses that they claim to have been able to identify.... There is no basis to claim a "disappearance" of real evidence on the defense version of the facts.

At trial, one of Singleton's arresting officers mentioned that he had not taken notes of the names of bystanders at the arrest scene but that he "knew one of the individuals." The other arresting officer testified that he did not know of any previously undisclosed witnesses to the alleged robbery; when asked about an unidentified person at the arrest scene; the officer responded that the police did not know if that person had

been an eyewitness.

No further mention of the discovery issue was made by Fuqua or Singleton. The record is silent as to whether Singleton made any attempt to conduct pretrial interviews with the arresting officers. Neither Singleton nor Fuqua claimed any prejudice at trial.

Singleton fails to demonstrate any error by the trial court. As we have recently held:

While officers have a duty to preserve potentially exculpatory evidence actually gathered during a criminal investigation, the due process clause has never required officers to undertake a state-of-the-art investigation of all reported crimes. Officers investigating a crime need not "track down every conceivable investigative lead and seize every scintilla of evidence regardless of its apparent importance or lack of importance at the time, or run the risk of denying a defendant due process or his discovery rights." *Nicholson v. State*, 570 P.2d 1058, 1064 (Alaska 1977).

March v. State, 859 P.2d 714, 716 (Alaska App.1993).

[3] Here, officers at the scene of Singleton's arrest were evidently informed that no one other than Singleton, Fuqua, and McCray had been involved in the alleged robbery. The officers had no obvious basis to believe that other individuals at the arrest scene had "potentially exculpatory evidence." *Id.* If the other individuals were merely bystanders at the scene of the arrest, there is little reason to suppose that they had any material information to offer--exculpatory or inculpatory. If, on the other hand, the individuals at the arrest scene had been companions of Singleton in the van and had indeed witnessed the alleged robbery, their identities would presumably have been known by, or readily available to, Singleton without police assistance. Moreover, Singleton has failed to establish any effort on her part to determine the identities of potential witnesses through direct interview of her arresting officers, as suggested by Judge Andrews. And finally, it appears that Singleton failed even to join in Fuqua's motion to compel disclosure of the bystanders' names.

Under the circumstances, we find no discovery or due process violation. The conviction is AFFIRMED.

Alaska App.,1996.

←Singleton→ v. ←State→

921 P.2d 636, 75 A.L.R.5th 701

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FELON DISENFRANCHISEMENT IN ALASKA AND THE VOTING RIGHTS ACT OF 1965

CHRISTOPHER R. MURRAY*

Alaska and forty-seven other states have provisions that limit the voting rights of felons. In many of these states, including Alaska, minority groups are disproportionately affected by these felon disenfranchisement laws. This Note examines the validity of these laws generally, and Alaska's laws in particular, under the the Voting Rights Act of 1965.

I. INTRODUCTION

Alaska limits the voting rights of felons.¹ Forty-seven other states have similar policies.² And, as in many of these other states, racial minorities in Alaska are disproportionately affected.³ Indeed, the state's largest minority group, Alaska Natives, is overrepresented in the state's prison population, indicating a greater likelihood of disenfranchisement.⁴ Because the right to vote is central to democratic government, any law that tends more frequently to disenfranchise racial minorities should be cause for

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* The author would like to thank Professor Erwin Chemerinsky and the ALR staff for valuable contributions.

1. ALASKA CONST. art. V, § 2 ("No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored.").

2. JAMIE FELLNER & MARC MAUER, LOSING THE VOTE: THE IMPACT OF FELONY DISENFRANCHISEMENT LAWS IN THE UNITED STATES pt. IV (1998), available at <http://www.hrw.org/reports98/vote>.

3. *Id.* pt. III.

4. Alaska Natives constituted approximately sixteen percent of Alaska's general population as of 2000, United States Census, available at <http://factfinder.census.gov> (under "get a Fact Sheet for your community" enter "Alaska" into "state" field; then follow "2000" link) [hereinafter U.S. Census], but represent over thirty-seven percent of the state's prison population, ALASKA DEPT. OF CORRECTIONS, 2003 OFFENDER PROFILE 11 (2004), available at <http://www.correct.state.ak.us/corrections/admin/docs/profile2003.pdf> [hereinafter ALASKA OFFENDER PROFILE].

alarm. Nevertheless, because Alaska's felon disenfranchisement laws appear not to have been enacted with a discriminatory purpose, they likely do not violate the Federal Constitution.

The laws may, however, run afoul of the Voting Rights Act of 1965 ("VRA"), which was amended in 1982 to invalidate state voting qualifications that have a racially disproportionate impact.⁶ Recent litigation has challenged state felon disenfranchisement laws on this basis.⁷ Though none of these challenges have succeeded—and two circuits have held that the VRA simply does not apply to felon disenfranchisement⁸—the Ninth Circuit recently allowed a VRA challenge to the State of Washington's felon disenfranchisement provision.⁹

To date, no case has been brought challenging felon disenfranchisement in Alaska. This Note is directed to that possibility. Part II puts Alaska's felon disenfranchisement laws into national context and explains why, even if they produce a racially discriminatory impact, they are likely not unconstitutional. Next, Part III assesses the circuit split over whether the VRA applies to felon disenfranchisement laws and the Ninth Circuit's decision that it does. Lastly, Part IV outlines the Ninth Circuit law that would govern a VRA challenge to Alaska's felon disenfranchisement laws in light of a recent similar challenge in Washington.

II. ALASKA'S FELON DISENFRANCHISEMENT LAWS

A. National Context

Disenfranchisement of criminals is neither a unique nor a recent phenomenon. The United Kingdom, Canada, and Australia all, to some degree, have voting qualifications based on criminal status.¹⁰ The ancient Greeks and Romans disenfranchised those guilty of infamous crimes, and voting was among a range of civil

5. See discussion *infra* Part II.C.

6. See *Thornburg v. Gingles*, 478 U.S. 30, 43–44 (1986).

7. See, e.g., *Hayden v. Pataki*, 449 F.3d 305 (2d Cir. 2006); *Johnson v. Governor of Fla.*, 405 F.3d 1214 (11th Cir. 2005).

8. *Hayden*, 449 F.3d at 310; *Johnson*, 405 F.3d at 1234.

9. *Farrakhan v. Washington (Farrakhan I)*, 338 F.3d 1009, 1016 (9th Cir. 2003).

10. Debra Parkes, *Ballot Boxes Behind Bars: Toward the Repeal of Prisoner Disenfranchisement Laws*, 13 TEMP. POL. & CIV. RTS. L. REV. 71, 73 (2003). Restrictions abroad, however, tend to be more mild than those found in the United States. *Id.*

rights denied in post-Renaissance Europe on the theory that criminals suffer a "civil death."¹¹

Today in the United States, disenfranchisement is among many collateral consequences of felony conviction such as exclusion from certain professions and restrictions on carrying a concealed weapon.¹² In a frequently quoted opinion, Judge Henry Friendly justified the practice on a Lockean social-contract theory by arguing that criminals, in breaking societal rules, waive their rights to participate in the rule-making.¹³ Other courts have expressed an interest in preserving the "purity of the ballot box" from infection by those who by their acts have proven themselves morally unfit.¹⁴

Nevertheless, the practice is not without critics.¹⁵ With respect to traditional justifications for criminal sanction—rehabilitation, retribution, and deterrence—felon disenfranchisement seems to fall short given the counter-productivity of keeping criminals from participating in civil society, the disproportionate application of, in some cases, lifetime disenfranchisement to a broad range of crimes, and the limited deterrent effect of the threat of disenfranchisement.¹⁶ Abroad, felon disenfranchisement laws have been judicially rejected on political and human-rights grounds.¹⁷

11. *Id.* at 73–74; Alec C. Ewald, "Civil Death": *The Ideological Paradox of Criminal Disenfranchisement Law in the United States*, 2002 WIS. L. REV. 1045, 1059–60 (2002).

12. See Scott M. Bennett, Note, *Giving Ex-Felons the Right to Vote*, 6 CAL. CRIM. L. REV. 1 (2004) (outlining the most common normative arguments for and against felon disenfranchisement).

13. *Green v. Bd. of Elections*, 380 F.2d 445, 451–52 (2d Cir. 1967) (Friendly, J.) ("A contention that the equal protection clause requires New York to allow convicted mafiosi to vote for district attorneys or judges would not only be without merit but as obviously so as anything can be.")

14. *Dunn v. Blumstein*, 405 U.S. 330, 345 (1972) (quoting TENN. CONST. art. IV, § 1).

15. See, e.g., Alec C. Ewald, *An "Agenda for Demolition": The Fallacy and the Danger of the "Subversive Voting" Argument for Felony Disenfranchisement*, 36 COLUM. HUM. RTS. L. REV. 109 (2004).

16. See Bennett, *supra* note 12, ¶¶ 29–45.

17. The Canadian Supreme Court recently struck down a law preventing prisoners from voting. *Suavé v. Canada*, [2002] S.C.R. 519. The European Court of Human Rights held that a United Kingdom felon disenfranchisement law violated the human rights of convicts. *Hirst v. United Kingdom* (No 2), 38 Eur. Ct. H.R. 40 (2005). For a detailed analysis of the Canadian decision, see Parkes, *supra* note 10, at 79–85. For an analysis of the ECHR decision as well as an assessment of a "growing international consensus," see Robin L. Nunn, Comment, *Lock Them Up and Throw Away the Vote*, 5 CHI. J. INT'L L. 763, 778–79 (2005).

The modern practice of felon disenfranchisement in the United States is primarily a function of state law.¹⁸ Forty-eight states and the District of Columbia have some form of felon disenfranchisement, generally consisting of constitutional provisions buttressed by statute.¹⁹ Felon disenfranchisement expanded after the nation's founding, with most such laws enacted during the mid- to late-nineteenth century.²⁰ At the time the Reconstruction Amendments were enacted, twenty-nine of the thirty-six states had some form of felon disenfranchisement.²¹

Modern practice varies by state. At the extreme, at least three states impose lifetime voting bans on felons.²² These jurisdictions go beyond the historical scope of felon disenfranchisement laws in the United States and the contemporary practice in other states and internationally.²³ The reach of these laws is striking—lifetime disenfranchisement may even be predicated upon crimes such as jaywalking, vagrancy, or breaking a water pipe.²⁴

Alaska's felon disenfranchisement law is not as severe. The state constitution provides that "[n]o person may vote who has

18. Although the United States Constitution generally grants states the authority to establish voter qualifications, *see* U.S. CONST. art. I, § 2, cl. 1, that authority is constrained, not only by other express constitutional provisions, *e.g.*, U.S. CONST. amend. XV (right to vote cannot be denied on account of race); U.S. CONST. amend. XIX (gender); U.S. CONST. amend. XXIV (poll taxes), but also by strict scrutiny under the Equal Protection Clause as interfering with the fundamental right of voting, *see* *Kramer v. Union Free Sch. Dist.*, 395 U.S. 621 (1969); *Reynolds v. Sims*, 377 U.S. 533 (1964).

19. *See* FELLNER & MAUER, *supra* note 2, pt. II (surveying severity of felon disenfranchisement laws by state). For a state-by-state summary of state felon disenfranchisement laws, *see* SUSAN M. KUZMA, U.S. DEP'T OF JUSTICE, OFFICE OF THE PARDON ATTORNEY (DOJ/OPA), CIVIL DISABILITIES OF CONVICTED FELONS: A STATE-BY-STATE SURVEY (1996), http://www.usdoj.gov/pardon/forms/state_survey.pdf (last visited Oct. 2, 2006).

20. Angela Behrens, Christopher Uggens & Jeff Manza, *Ballot Manipulation and the "Menace of Negro Domination": Racial Threat and Felon Disenfranchisement in the United States, 1850-2002*, 109 AM. J. SOC. 559, 563-67 (2003).

21. *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1218 n.5 (11th Cir. 2005).

22. *See* FELLNER & MAUER, *supra* note 2, pt. II. Restoration of civil rights, including the franchise, is possible in some states upon pardon of the offense. *See id.*

23. For example, the United Kingdom, Canada, and Australia generally restore voting rights upon the completion of sentence. *See* Parkes, *supra* note 10, at 73.

24. *Richardson v. Ramirez*, 418 U.S. 24, 75-76 n.24 (1964) (Marshall, J., dissenting).

been convicted of a felony involving moral turpitude unless his civil rights have been restored."²⁵) The provision was adopted at Alaska's constitutional convention in 1956 and became law upon Alaska's admission to the union in 1959.²⁶ Congress approved Alaska's constitution, including the felon disenfranchisement provision, when it granted statehood.²⁷ The language mirrored that of contemporary provisions in other states' constitutions.²⁸

The contours of the constitutional provision are set by statute. The term "felony involving moral turpitude" is defined to include nearly all felonies.²⁹ Voting registration is automatically cancelled upon conviction.³⁰ Voting rights are restored, and felons may re-register to vote upon completion of their sentences including any terms of parole or probation.³¹ Felon disenfranchisement in Alaska, which is more lenient than the lifetime ban imposed in

25. ALASKA CONST. art. V, § 2.

26. GORDON HARRISON, ALASKA'S CONSTITUTION: A CITIZEN'S GUIDE, 3 (4th ed. 2003), available at http://w3.legis.state.ak.us/infodocs/constitution/citizens_guide.pdf [hereinafter CITIZEN'S GUIDE].

27. See *id.* at 3-4.

28. GERALD A. MCBEATH, THE ALASKA STATE CONSTITUTION: A REFERENCE GUIDE 125 (1997). The voting qualifications in Alaska's original constitution included a literacy test. CITIZEN'S GUIDE, *supra* note 26, at 105.

29. ALASKA STAT. § 15.60.010(8) (2006). At present, crimes meriting disenfranchisement ("felon[ies] involving moral turpitude") include:

those crimes that are immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault, sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion, coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a forgery device, offering a false instrument for recording, scheme to defraud, falsifying business records, commercial bribe receiving, commercial bribery, bribery, receiving a bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor, escape, promoting contraband, interference with official proceedings, receiving a bribe by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical evidence, hindering prosecution, terroristic threatening, riot, criminal possession of explosives, unlawful furnishing of explosives, promoting prostitution, criminal mischief, misconduct involving a controlled substance or an imitation controlled substance, permitting an escape, promoting gambling, possession of gambling records, distribution of child pornography, and possession of child pornography.

Id.

30. ALASKA STAT. § 15.07.135.

31. ALASKA STAT. § 15.05.030 ("Upon the unconditional discharge, the person may register under AS 15.07."). "Unconditional discharge" occurs when "a person is released from all disability arising under a conviction and sentence, including probation and parole." ALASKA STAT. § 15.60.010(38).

some states, is in line with the policies of a majority of other states.³²

B. Felon Disenfranchisement and Race

Though facially race-neutral, felon disenfranchisement laws were, historically, enacted with a discriminatory purpose. Authors have noted that many states enacted such laws in the aftermath of the Civil War as part of a larger defensive response to the Reconstruction Amendments' extension of the franchise to African-Americans.³³ This response included poll taxes, literacy tests, and other Jim Crow measures to suppress the voting power of African-Americans.³⁴ For example, a 1901 felon disenfranchisement provision to Alabama's state constitution was expressly intended to single out only those felonies believed to be more frequently committed by African-Americans.³⁵ In 1985, the Supreme Court struck down that provision in the case of *Hunter v. Underwood*.³⁶

To the extent felon disenfranchisement laws were tailored to maximize a racially disparate impact, they have enjoyed considerable success.³⁷ Nationally, an estimated thirteen percent of African-American men are disenfranchised, with as many as thirty-one percent of African-American men in two states—Alabama and Florida—permanently disenfranchised.³⁸ Following a review of voting in the United States, the National Commission on Federal Election Reform, chaired by former presidents Jimmy Carter and Gerald Ford, urged states to scale back felon disenfranchisement laws, citing that as many as one in six African-Americans were disenfranchised in many states.³⁹ Even where discriminatory intent

32. See FELLNER & MAUER, *supra* note 2, pt. III.

33. Behrens et al., *supra* note 20, at 563 (analyzing post-Civil War responses to extending the franchise to African-Americans and drawing on social science theories of race competition and criminal justice).

34. *Id.*

35. *Hunter v. Underwood*, 471 U.S. 222, 228-29 (1985). The Alabama statute at issue was not discriminatory on its face, but the Court nevertheless struck it down on the basis of discriminatory intent evidenced in the legislative history. See *id.* at 227-32; *Underwood v. Hunter*, 730 F.2d 614, 618-20 (11th Cir. 1984).

36. *Hunter v. Underwood*, 471 U.S. at 232-33.

37. See FELLNER & MAUER, *supra* note 2, pt. II (setting out the racially disproportionate impact of felon disenfranchisement laws).

38. *Id.* pt III.

39. THE NATIONAL COMMISSION ON FEDERAL ELECTION REFORM, TO ASSURE PRIDE AND CONFIDENCE IN THE ELECTORAL PROCESS 51 (August 2001), available at http://millercenter.virginia.edu/programs/natl_commissions/final_report.html.

has not been proven, discriminatory effect continues to be the reality.⁴⁰

Alaska's experience is comparable. Although comprehensive studies of racial disparity in felon disenfranchisement in Alaska are unavailable, incarceration statistics provide a useful proxy.⁴¹ Alaska's largest minority group, Alaska Natives, comprise approximately sixteen percent of the state's general population,⁴² but they account for thirty-seven percent of its prison population.⁴³ Similar disparity exists in the cases of other minorities, including African-Americans, who account for over ten percent of the prison population⁴⁴ while representing less than four percent of the general population.⁴⁵ It has been suggested that cultural factors may make Alaska Natives more susceptible to felon disenfranchisement.⁴⁶ The precise mechanism by which racial bias in the criminal justice system may result in disproportionate disenfranchisement, and indeed whether racial bias is the cause of the disparity, is unclear and would require further study.

C. Constitutionality of Alaska's Felon Disenfranchisement Law

Felon disenfranchisement laws come under constitutional scrutiny in two ways. First, as a restriction on voting, the laws interfere with a fundamental right and implicate the Equal

40. In Florida, the Eleventh Circuit denied an equal protection challenge to the state's felon disenfranchisement laws for lack of demonstrated racially discriminatory intent, *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1223 (11th Cir. 2005), even though nearly one in three African-American men in Florida is permanently disenfranchised, see *FELLNER & MAUER, supra* note 2, pt. III.

41. Incarceration rates are, at best, an imprecise proxy for felon disenfranchisement. They are over-inclusive in that they include those inmates who are ineligible to vote, as well as those incarcerated for misdemeanors, and they are under-inclusive in that they do not include parolees or Alaska felons incarcerated outside of the state who are also unable to vote.

42. U.S. Census, *supra* note 4.

43. ALASKA OFFENDER PROFILE, *supra* note 4.

44. *Id.*

45. U.S. Census, *supra* note 4.

46. See, e.g., Dave Stephenson, *For Alaska Natives: Extermination by Incarceration?*, INDIAN COUNTRY TODAY, June 26, 2003, available at <http://www.indiancountry.com/content.cfm?id=1056628610> (advancing the argument that Alaska Natives may be more likely to confess to a crime upon arrest than are white arrestees, thereby reducing the likelihood of a plea agreement for a lesser charge or sentence). If true, such factors might make felony—as opposed to misdemeanor—conviction more likely, leading to longer incarceration periods and thereby exacerbating the impact of felon disenfranchisement.

Protection Clause of the Fourteenth Amendment. Second, because the laws affect the voting rights of racial minorities, they also implicate the Fifteenth Amendment's prohibition on disenfranchisement "on account of race."⁴⁷ Supreme Court decisions addressing both theories have concluded that felon disenfranchisement laws are constitutional unless it can be proved they were enacted with racially discriminatory intent.⁴⁸

Ordinarily, a state law affecting a fundamental right, such as voting, would be subject to strict scrutiny.⁴⁹ However, in the 1974 case of *Richardson v. Ramirez*, the Supreme Court held that felon disenfranchisement laws are not subject to heightened scrutiny under Section 1 of the Fourteenth Amendment because Section 2 of that Amendment includes an "affirmative sanction" of such laws.⁵⁰ Section 2 of the Fourteenth Amendment, which reduces a state's representation in Congress in proportion to its disenfranchisement of otherwise qualified voters, provides an exception for disenfranchisement based on "participation in rebellion, or other crime."⁵¹ Chief Justice Rehnquist, writing for a divided court, reasoned that "those who framed and adopted the Fourteenth Amendment could not have intended to prohibit outright in § 1 of that Amendment that which was expressly exempted from the lesser sanction of reduced representation imposed by § 2 of the Amendment."⁵² Put another way, the voting

47. See U.S. CONST. amend. XV.

48. The Court has also heard and rejected Eighth Amendment challenges to felon disenfranchisement. See *Trop v. Dulles*, 356 U.S. 86, 96-97 (1958) (felon disenfranchisement is not punitive and merely designates a grounds for voting eligibility). For an in-depth treatment of felon disenfranchisement as punishment in the context of the Eighth Amendment, see Pamela A. Wilkins, *The Mark of Cain: Disenfranchised Felons and the Constitutional No Man's Land*, 56 SYRACUSE L. REV. 85 (2005).

49. See, e.g., *Kramer v. Union Free Sch. Dist.*, 395 U.S. 621, 627-28 (1969) (applying strict scrutiny to voting restrictions); *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964) ("Undoubtedly, the right of suffrage is a fundamental matter. . ."); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) ("[T]he political franchise . . . is regarded as a fundamental political right . . .").

50. *Richardson v. Ramirez*, 418 U.S. 24, 54 (1974).

51. U.S. CONST. amend. XIV, § 2. The Amendment provides in pertinent part that "when the right to vote at any election . . . is denied . . . or in any way abridged, except for participation in rebellion, or other crime, the basis of representation [in Congress] shall be reduced . . ." *Id.* (emphasis added).

52. *Richardson*, 418 U.S. at 43.

rights of felons are not protected as "fundamental" under the Equal Protection Clause.⁵³

Nevertheless, even if *Richardson* shields felon disenfranchisement laws from strict scrutiny under the Equal Protection Clause,⁵⁴ Section 1 of the Fourteenth Amendment still operates independently to prevent purposeful racial discrimination. In *Hunter v. Underwood*,⁵⁵ the Supreme Court struck down a provision in Alabama's constitution disenfranchising those convicted of certain enumerated felonies.⁵⁶ The provision was enacted in 1901 with the purpose of disenfranchising on the basis of race and applied only to felonies believed committed more frequently by African-Americans.⁵⁷ Chief Justice Rehnquist, writing for the Court as he did in *Richardson*, explained that "[w]ithout again considering the implicit authorization of [felon disenfranchisement under § 2 of the Fourteenth Amendment], we are confident that § 2 was not designed to permit the purposeful

53. At least one circuit has framed the law in this way. See *Owens v. Barnes*, 711 F.2d 25, 27 (3d Cir. 1983).

54. *Richardson's* reading of Section 2 of the Fourteenth Amendment has been widely criticized. See, e.g., Carlos M. Portugal, *Democracy Frozen in Devonian Amber: The Racial Impact of Permanent Felon Disenfranchisement in Florida*, 57 U. MIAMI L. REV. 1317, 1325-26 (2003); John Hart Ely, *Interclass Immunity*, 87 VA. L. REV. 1185, 1195 (2001). Dissenting, Justice Marshall argued in *Richardson* that Section 2 merely established a system of punitive reduction in representation for disenfranchisement as a compromise because wholesale enfranchisement of African-Americans would have been unpalatable and, therefore, that the scope of the language of Section 2 is limited to the operation of its punitive sanction and not to the entirety of the Fourteenth Amendment. *Richardson*, 418 U.S. at 73-74 (Marshall, J., dissenting).

For an argument that the Fifteenth Amendment effectively repealed Section 2 of the Fourteenth Amendment and, therefore, that the latter cannot shield felon disenfranchisement laws from equal protection scrutiny, see Gabriel J. Chin, *Reconstruction, Felon Disenfranchisement, and the Right to Vote: Did the Fifteenth Amendment Repeal Section 2 of the Fourteenth Amendment?*, 92 GEO. L.J. 259 (2004).

Richardson preempts the question of whether, without a Section 2 shield, felon disenfranchisement would survive strict scrutiny. For an argument that felon disenfranchisement fails strict scrutiny because it is over-inclusive and only tenuously related to the most commonly cited state interests, see Angela Behrens, Note, *Voting—Not Quite a Fundamental Right? A Look at Legal and Legislative Challenges to Felon Disenfranchisement Laws*, 98 MINN. L. REV. 231, 259-72 (2004).

55. 471 U.S. 222, 232 (1985).

56. *Id.* at 232.

57. *Id.* at 227-28; see discussion *supra* note 35.

racial discrimination attending the enactment and operation of [a law] which otherwise violates § 1 of the Fourteenth Amendment."⁵⁸

Independently of the Fourteenth Amendment, the Fifteenth Amendment prohibits the denial of the right to vote "on account of race."⁵⁹ The Supreme Court has construed this prohibition to apply only to intentional discrimination.⁶⁰ In *City of Mobile v. Bolden*, the Supreme Court held that "action by a State that is racially neutral on its face violates the Fifteenth Amendment only if motivated by a discriminatory purpose."⁶¹

Alaska's felon disenfranchisement laws are facially neutral and would, therefore, be unconstitutional only if enacted with a discriminatory purpose. Because the laws do not appear to have been adopted with racially discriminatory intent,⁶² they are subject to legal challenge, if at all, only under federal legislation.⁶³

III. THE VOTING RIGHTS ACT OF 1965

A. The Voting Rights Act of 1965 and the 1982 Amendments

Though the Fifteenth Amendment was ratified in 1870, it took nearly one hundred years before Congress systematically addressed disenfranchisement of racial minorities.⁶⁴ The Voting Rights Act of 1965⁶⁵ was enacted by Congress to "banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century."⁶⁶ Congress was prompted to act after case-by-case litigation under previous legislation, including the Civil Rights Act of 1957, failed to

58. *Id.* at 233.

59. U.S. CONST. amend. XV.

60. *City of Mobile v. Bolden*, 446 U.S. 55, 62 (1980).

61. *Id.*

62. This Note assumes, for the purpose of analysis, that discriminatory intent did not drive enactment of Alaska's felon disenfranchisement laws—or, at the very least, that discriminatory purpose likely could not be proven in the context of a constitutional challenge.

63. Of course, less countermajoritarian methods of legal reform remain available to Alaskans, such as constitutional amendment and the state legislative process.

64. Portugal, *supra* note 54, at 1328.

65. 42 U.S.C. §§ 1971–1973 (2000), as amended in 1970, Pub. L. 91-285, 84 Stat. 314 (1970), and in 1982, Pub. L. 97-205, 96 Stat. 131 (1982). The VRA has been reauthorized and amended by Congress on several occasions, including in 1970, 1975, and 1982, and was reauthorized by the President in July 2006. *Bush Signs Extension of Voting Rights Act*, N.Y. TIMES, July 28, 2006, at A22.

66. *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966).

adequately prevent disenfranchisement on account of race.⁶⁷ The VRA imposed bold measures, including section 5, which prohibited the use of discriminatory tests or devices, such as literacy tests, and required that any state making use of such devices would thereafter have to apply for pre-clearance from the U.S. Attorney General or a federal circuit judge in Washington, D.C. for any future changes to voting laws.⁶⁸ At the time of the VRA's enactment, Alaska employed a literacy test and was, therefore, designated a "covered jurisdiction" for these purposes.⁶⁹ Federal supervision of the voting laws of "covered jurisdictions," most of which are in the South, continues today.⁷⁰

In 1966, the Supreme Court upheld the VRA as a valid exercise of Congress's enforcement powers under Section 2 of the Fifteenth Amendment.⁷¹ In 1980, however, the Court narrowed the effect of the VRA in *City of Mobile v. Bolden*.⁷² There, the Court held that section 2 of the VRA⁷³ had "an effect no different from that of the Fifteenth Amendment itself" and that a voting qualification law would only be struck down under the Act if it were proved that the law was enacted with a racially discriminatory purpose.⁷⁴ In so doing, the Court overruled the then-applicable "effects test" for voting qualifications.⁷⁵

In 1982, Congress responded to *City of Mobile* by adding a "totality of the circumstances" test to section 2 of the VRA.⁷⁶

67. *Id.* at 313.

68. See Voting Rights Act of 1965, 89 Pub. L. 110, 79 Stat. 437 (1965).

69. See Laughlin McDonald, *The Voting Rights Act in Indian Country: South Dakota, A Case Study*, 29 AM. INDIAN L. REV. 43, 45-46 (2004); CITIZEN'S GUIDE, *supra* note 26, at 107.

70. Congressional representatives from southern states covered by the VRA's section 5 pre-clearance provisions sought to remove those provisions during the reauthorization of the VRA in 2006. See Raymond Hernandez, *After Challenges, House Approves Renewal of Voting Act*, N.Y. TIMES, July 14, 2006, at A13.

71. *Katzenbach*, 383 U.S. at 337.

72. 446 U.S. 55 (1980) (plurality opinion).

73. The original text of the section read, "No voting qualification or prerequisites to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color." Voting Rights Act of 1965, 89 Pub. L. 11, 79 Stat. 437 (1965).

74. *City of Mobile*, 446 U.S. at 61-62.

75. See, e.g., *White v. Regester*, 412 U.S. 755, 769 (1973) (totality of the circumstances test applied to vote dilution case brought under section 2 of the VRA).

76. *Thornburg v. Gingles*, 478 U.S. 30, 43 (1986). The amended section 2 provides, in pertinent part:

Under the amended VRA, "plaintiffs [can] prevail by showing that, under the totality of the circumstances, a challenged election law or procedure [has] the effect of denying a protected minority an equal chance to participate in the electoral process."⁷⁷ As the Court later explained, "[t]he essence of a § 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions" to cause unequal voting power.⁷⁸

B. Applicability of the VRA to Felon Disenfranchisement Laws

Since the 1982 amendments to the VRA, several plaintiffs have sought to use it to invalidate felon disenfranchisement laws on the basis of their racially disproportionate effects.⁷⁹ Circuits have split over whether the VRA does, in fact, apply to felon disenfranchisement laws. The Second Circuit in *Hayden v. Pataki* and the Tenth Circuit in *Johnson v. Governor of Florida* both held the VRA inapplicable to felon disenfranchisement laws.⁸⁰ In contrast, in *Farrakhan v. Washington*,⁸¹ the Ninth Circuit held that "[f]elon disenfranchisement is a voting qualification, and Section 2 is clear that any voting qualification that denies citizens the right to vote in a discriminatory manner violates the VRA."⁸² Therefore, a claim against Alaska's felon disenfranchisement laws would be

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color

(b) A violation of subsection (a) of this section is established if, based on the totality of the circumstances, it is shown that . . . members of [protected racial minorities] have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

42 U.S.C. § 1973 (2000) (emphasis added).

77. *Gingles*, 478 U.S. at 44 n.8.

78. *Id.* at 47.

79. *Id.*; see, e.g., *Hayden v. Pataki*, 449 F.3d 305 (2d Cir. 2006); *Johnson v. Governor of Fla.*, 405 F.3d 1214 (11th Cir. 2005).

80. *Hayden*, 449 F.3d at 310; see *Johnson*, 405 F.3d at 1234.

81. *Farrakhan v. Washington (Farrakhan I)*, 338 F.3d 1009, 1016 (9th Cir. 2003).

82. *Id.* The Sixth Circuit also considered a VRA challenge to Tennessee's felon disenfranchisement law in *Wesley v. Collins*, 791 F.2d 1255 (2d Cir. 1986). The court did not directly consider whether the VRA applies to felon disenfranchisement but appears to have assumed that it did. See *id.* at 1262 (affirming dismissal of the VRA claim on summary judgment).

"cognizable under Section 2 of the VRA" under Ninth Circuit precedent.⁸³

The Second and Tenth Circuit opinions concluding that the VRA does not apply to felon disenfranchisement laws rely on three arguments: (1) that the Fourteenth Amendment authorizes felon disenfranchisement laws (the "affirmative sanction" argument); (2) that application of the VRA to felon disenfranchisement would be an unconstitutional exercise of Congress's enforcement power; and (3) that canons of statutory construction support construing the VRA not to apply to felon disenfranchisement laws. The relative merits of each argument are assessed in turn.

I. The "Affirmative Sanction" Argument. As discussed previously, the *Richardson* case established that felon disenfranchisement laws enacted without racially discriminatory intent do not violate the Equal Protection Clause.⁸⁴ This is because Section 2 of the Fourteenth Amendment's enforcement mechanism—that a state's representation in Congress will be reduced in proportion to the disenfranchisement of otherwise qualified voters—carries an express exception for disenfranchisement based on "participation in rebellion, or other crime."⁸⁵

The Eleventh Circuit, in *Johnson*, seized on language in *Richardson* describing Section 2 of the Fourteenth Amendment as an "affirmative sanction" of felon disenfranchisement and cited it for the proposition that states have discretion to deny the vote to convicted felons.⁸⁶ The court argued that applying the VRA to Florida's felon disenfranchisement law would allow "a congressional statute to override the text of the Constitution."⁸⁷ More recently, the Second Circuit, in *Hayden*, cited Section 2 of the Fourteenth Amendment as the "starting point" in the analysis of the VRA's applicability to New York's felon disenfranchisement law.⁸⁸ The Second Circuit, while noting that felon

83. *Farrakhan I*, 338 F.3d at 1016.

84. See *Richardson v. Ramirez*, 418 U.S. 24, 54-55 (1974); *supra* notes 50-58 and accompanying text.

85. U.S. CONST. amend. XIV, § 2.

86. *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1228-29 (11th Cir. 2005) (quoting *Richardson*, 418 U.S. at 54).

87. *Id.* at 1229.

88. *Hayden v. Pataki*, 449 F.3d 305, 316 (2d Cir. 2006); accord *Muntaqim v. Coombe*, 366 F.3d 102, 122 (2d Cir. 2004). *Hayden* is the *en banc* rehearing of the *Muntaqim* decision, which is incorporated by reference. *Hayden*, 449 F.3d at 313-14.

disenfranchisement provisions are not entirely immune from constitutional or congressional scrutiny, found that the Fourteenth Amendment provided "explicit approval" of those types of laws.⁸⁹ Dissenting from the Ninth Circuit's denial of an *en banc* rehearing of the *Farrakhan* case, Judge Alex Kozinski argued that felon disenfranchisement laws were presumptively valid due to the Fourteenth Amendment's textual endorsement of such laws.⁹⁰

Interestingly, neither the Second Circuit nor Judge Kozinski addressed the fact that the VRA was enacted to enforce the Fifteenth Amendment, not the Fourteenth. The Eleventh Circuit brushed off the distinction in a footnote.⁹¹ The distinction is, however, the key weakness to the "affirmative sanction" argument because the Fifteenth Amendment grants its own protections that are not hindered by purported limitations to the scope of the Fourteenth Amendment.

Judge Barrington Daniels Parker, Jr. of the Second Circuit made this point in his dissent in *Hayden*. Pointing out that *Richardson's* "affirmative sanction" came in the context of a claim that felon disenfranchisement was a *per se* violation of the Fourteenth Amendment, Judge Parker noted that "*Richardson* did not grant felon disenfranchisement immunity against any other ground of invalidity. . . ."⁹² As a textual matter, Section 2 of the Fourteenth Amendment at most "*declines to prohibit*" felon disenfranchisement and does not affirmatively immunize the practice relative to other constitutional protections.⁹³ As Judge Parker reasoned:

The Constitution does not endorse felon disenfranchisement when it declines to prohibit the practice, any more than the Constitution endorses felon enslavement when the Thirteenth Amendment states: "Neither slavery nor involuntary servitude, *except as punishment for crime whereof the party shall have been duly convicted*, shall exist within the United States" Declining to prohibit something is not the same as protecting it.⁹⁴

Nor does Section 2 of the Fourteenth Amendment *require* states to disenfranchise felons. If states can choose not to disenfranchise felons without running afoul of the Fourteenth Amendment, then Congress, acting pursuant to its power to

89. *Hayden*, 449 F.3d at 316.

90. *Farrakhan v. Washington (Farrakhan II)*, 359 F.3d 1116, 1121 (9th Cir. 2004) (Kozinski, J., dissenting).

91. *Johnson*, 405 F.3d at 1228-29 n.29.

92. *Hayden*, 449 F.3d at 349 (Parker, J., dissenting).

93. *Id.* (citation omitted) (emphasis added).

94. *Id.* (citation omitted).

enforce the Fifteenth Amendment, can compel the same result. Indeed, the "affirmative sanction" argument is more of a rhetorical device than an independent constitutional limitation on the VRA.

2. *Arguments on the Constitutionality of the VRA as Enforcement Legislation.* Enforcement legislation under the Fourteenth and Fifteenth Amendments is valid only to the extent that it remedies or prevents actual constitutional violations.⁹⁵ The Eleventh Circuit, Chief Judge John M. Walker, Jr.'s concurrence to the Second Circuit's *Hayden* opinion, and Judge Kozinski's dissent in the Ninth Circuit have all argued that the VRA would be unconstitutional as applied to felon disenfranchisement laws.⁹⁶

The enforcement power is limited by two independent requirements. The first is that enforcement legislation must be supported by a history of constitutional violations.⁹⁷ The second is that the measures must be narrowly tailored to the constitutional ill sought to be avoided.⁹⁸ In his *Hayden* concurrence, Chief Judge Walker found no congressional record establishing that felon disenfranchisement laws have been used to discriminate against minority voters.⁹⁹ In *Johnson*, the petitioners had argued that specific examples of violations should not be required because Congress could not envision every possible means of racial discrimination.¹⁰⁰ The Eleventh Circuit rejected this argument, citing the widespread use of felon disenfranchisement laws at the time that the VRA was enacted.¹⁰¹ Lastly, Judge Kozinski emphasized in his dissent from the Ninth Circuit's denial of a rehearing in *Farrakhan* that "[t]he theoretical, undocumented threat of unconstitutional felon disenfranchisement laws simply doesn't justify" application of section 2 to those state laws.¹⁰²

95. See *City of Boerne v. Flores*, 521 U.S. 507, 519 (1997).

96. See *Hayden*, 449 F.3d at 330 (Walker, C.J., concurring); *Johnson*, 405 F.3d at 1231-32; *Farrakhan v. Washington (Farrakhan II)*, 359 F.3d 1116, 1121 (9th Cir. 2004) (Kozinski, J., dissenting).

97. *Bd. of Trs. of the Univ. of Ala. v. Garrett*, 531 U.S. 356, 374 (2001); *Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 91 (2000); *Oregon v. Mitchell*, 400 U.S. 112, 130 (1970) (holding the amendment to VRA lowering the voting age to eighteen invalid because Congress made no findings that an age limit of twenty-one was used to discriminate on race).

98. See *City of Boerne*, 521 U.S. at 520.

99. *Hayden*, 449 F.3d at 330-31 (Walker, C.J., concurring).

100. *Johnson*, 405 F.3d at 1231 n.33.

101. *Id.*

102. *Farrakhan v. Washington (Farrakhan II)*, 359 F.3d 1116, 1123 (9th Cir. 2004) (Kozinski, J., dissenting).

Lack of congressional findings of a pattern of historical discrimination through felon disenfranchisement laws¹⁰³ informs the analysis of the proportionality and congruence of the purported remedial measure at issue. Although the Supreme Court has repeatedly emphasized the importance that enforcement legislation be geographically targeted,¹⁰⁴ the VRA applies to all states regardless of their individual histories.¹⁰⁵ To the extent the VRA is either inadequately supported by findings of a pattern of discrimination or not narrowly tailored, application of the VRA to felon disenfranchisement would be unconstitutional.

The Ninth Circuit did not consider this issue in *Farrakhan* when it allowed a VRA challenge to Washington's felon disenfranchisement law to proceed.¹⁰⁶ On remand, the *Farrakhan* case was dismissed on summary judgment, mooting for now the question of constitutionality of the VRA as applied to felon disenfranchisement laws.¹⁰⁷ Indeed, the narrow issue of as-applied constitutionality of the VRA as enforcement legislation relative to felon disenfranchisement laws would not be ripe until such a law is actually invalidated. Rather, the constitutional doubt associated with application of the VRA to felon disenfranchisement serves primarily as a predicate for the statutory construction arguments discussed next.

3. *Statutory Interpretation Arguments.* The Ninth Circuit's interpretation of the VRA was the same as that pointedly expressed in a dissent by Judge Sonia Sotomayor of the Second Circuit: "[i]t is plain to anyone reading the Voting Rights Act that it applies to all 'voting qualification[s].'"¹⁰⁸ The majority in the

103. This is not to say that there is not an actual record of state use of felon disenfranchisement laws to discriminate on race. That states used felon disenfranchisement laws in order to discriminate is well documented. See *supra* notes 33-37 and accompanying text. Rather, that history is not part of the congressional findings made at the time of the enactment of the VRA and its relevant amendments. See *Hayden*, 449 F.3d at 330-31 (Walker, C.J., concurring).

104. *Farrakhan II*, 359 F.3d at 1124 (Kozinski, J., dissenting) (noting that a purported enforcement legislation was not geographically targeted and was therefore struck down in *United States v. Morrison*, 529 U.S. 598 (2000)).

105. Geographic targetedness is particularly relevant to the present analysis of Alaska and is addressed in Part IV.

106. See *Farrakhan v. Washington (Farrakhan I)*, 338 F.3d 1009, 1016 (9th Cir. 2003).

107. See *Farrakhan v. Gregoire (Farrakhan III)*, No. CV-96-076-RHW, 2006 U.S. Dist. LEXIS 45987, at *2 (E.D. Wash. July 7, 2006).

108. *Hayden*, 449 F.3d at 367-68 (Sotomayor, J., dissenting) (second alteration in original); *Farrakhan I*, 338 F.3d at 1016.

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Second Circuit, though admitting that “[t]here is no question that the language of [section 2] is extremely broad . . . and could be read to include felon disenfranchisement provisions,” nevertheless stressed the importance of interpretation in light of congressional intent, cryptically citing dated authority for the proposition that “[t]he circumstances of the enactment of particular legislation may persuade a court that Congress did not intend the words of common meaning to have their literal effect.”¹⁰⁹

Two canons of construction have been deployed to interpret the VRA away from felon disenfranchisement provisions: the avoidance canon and the clear statement rule. The Eleventh Circuit relied upon the avoidance canon, which counsels that, in the case of an ambiguous statute, “where an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress.”¹¹⁰

The Second Circuit—both sitting *en banc* in *Hayden* and through the three-judge panel that decided *Muntaqim v. Coombe*, the predecessor to *Hayden*—distanced itself from the Eleventh Circuit’s reliance on the avoidance canon.¹¹¹ The reason expressed in *Muntaqim* is that the clarity of the text of section 2 of the VRA is impossible to reconcile with the avoidance canon’s ambiguity requirement.¹¹² Indeed, a concurring judge on the Eleventh Circuit conceded that the majority “overstates the case for constitutional avoidance” because “[a]s a purely textual matter, a voting

109. *Hayden*, 449 F.3d at 315 (quoting *Watt v. Alaska*, 451 U.S. 259, 266 (1981)).

110. *DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988).

111. *See* 366 F.3d 102, 128 n.22 (2d Cir. 2004) (“[Section 2], while vague, does not seem ambiguous.”), *aff’d en banc*, *Hayden*, 449 F.3d 305. The *Hayden* court barely mentioned the avoidance canon and made only passing reference to the Eleventh Circuit’s reliance on it. 449 F.3d at 313, 328 n.24.

112. *See* *Muntaqim*, 366 F.3d at 128 n.22. The *Johnson* court, ironically, turned to the *Muntaqim* decision for the proposition that section 2 is ambiguous, citing that court’s assessment that the meaning of section 2 is “exceedingly difficult to discern.” *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1229 n.30 (11th Cir. 2005) (quoting *Muntaqim*, 366 F.3d at 116). In the quoted passage, however, the *Muntaqim* court referred to ambiguity in the degree of intent required to establish a violation of section 2, not the scope of the Act’s coverage relative to felon disenfranchisement laws. *Johnson*, 405 F.3d at 1229 n.30; *Muntaqim*, 366 F.3d at 116–18.

qualification based on felony status . . . falls within the scope of the VRA."¹¹³

A stronger statutory construction argument, and the one adopted by the majority in *Hayden*, is premised on the so-called clear statement rule. The rule provides that "if Congress intends to alter the 'usual constitutional balance between the States and the Federal Government,' it must make its intention to do so 'unmistakably clear in the language of the statute.'"¹¹⁴ The *Hayden* court held that the clear statement rule does not require ambiguity but only a lack of a clear statement, explaining that "we will apply the clear statement rule when a statute admits of an interpretation that would alter the federal balance but there is reason to believe . . . that Congress may not have intended such an alteration of the federal balance."¹¹⁵ The rule is intended to prevent a statute from inadvertently affecting the federal-state balance of power. The Supreme Court has held, in another context, that "clear statement rules ensure Congress does not, by broad or general language, legislate on a sensitive topic inadvertently or without due deliberation."¹¹⁶ Given that sweeping language alone may not satisfy the clear statement rule, the question becomes one of congressional intent.

Considerable evidence suggests that Congress did not intend the VRA to apply to felon disenfranchisement laws.¹¹⁷ For example, though Congress expressly identified common forms of discriminatory voter qualifications, including literacy, educational, and moral character tests, it never mentioned felon disenfranchisement in the text of the VRA.¹¹⁸ In fact, as noted by the *Hayden* court, the only reference to felon disenfranchisement in the legislative history of the VRA was to clarify that the VRA's character test provisions "would not result in the proscription of the frequent requirement of States and political subdivisions that an applicant for voting or registration for voting be free of conviction of a felony or mental disability."¹¹⁹ Indeed, the *Hayden*

113. *Johnson*, 405 F.3d at 1239-40 (Wilson, J., concurring in part).

114. *Gregory v. Ashcroft*, 501 U.S. 452, 460-61 (1991) (quoting *Will v. Mich.*, 491 U.S. 58, 65 (1989) (internal citation omitted)).

115. *Hayden*, 449 F.3d at 325.

116. *Spector v. Norwegian Cruise Line, Ltd.*, 545 U.S. 119, 139 (2005) (addressing a presumption against applying statutes to the internal affairs of foreign vessels).

117. See, e.g., *Hayden*, 449 F.3d at 315.

118. See 42 U.S.C. § 1973b(c) (2000).

119. *Hayden*, 449 F.3d at 318 (quoting S. Rep. No. 89-162, at 24 (1965), reprinted in 1965 U.S.C.C.A.N. 2508, 2562); see also H.R. Rep. No. 89-439, at 19

court reasoned that, given the prevalence of felon disenfranchisement statutes, "it seems unfathomable that Congress would silently amend the Voting Rights Act in a way that would affect them."¹²⁰

Whether application of the VRA to felon disenfranchisement laws would upset the federal-state balance is in dispute. In *Muntaqim*, the Second Circuit held that the federal-state balance would be upset because applying the VRA to felon disenfranchisement laws would exceed Congress's enforcement power and contradict Section 2 of the Fourteenth Amendment.¹²¹ The Eleventh Circuit in *Johnson* concurred generally with that conclusion but did not rely on it.¹²² On a rehearing of *Muntaqim* in *Hayden*, the Second Circuit hewed its analysis more directly to "three important state interests" that would be affected by applying the VRA to New York's felon disenfranchisement law: "(1) the regulation of the franchise; (2) the State's authority to craft its criminal law; and (3) the regulation of correctional institutions."¹²³

Rejecting the federalism concerns similarly raised by the Tenth Circuit in *Johnson*, Judge Rosemary Barkett in dissent reasoned that federalism is not implicated by the VRA because the "Fourteenth and Fifteenth Amendments altered the constitutional balance between the two sovereigns—not the Voting Rights Act, which merely enforces the guarantees of those amendments."¹²⁴ This argument was repeated in Judge Parker's *Hayden* dissent.¹²⁵

(1965), reprinted in 1965 U.S.C.C.A.N. 2437, 2457. Nor did the 1982 amendments expand the scope of the VRA. *Chisom v. Roemer*, 501 U.S. 380, 383–84 (1991) ("[T]he coverage provided by the 1982 amendment is coextensive with the coverage provided by the Act prior to 1982."). The 1982 amendments merely lowered the evidentiary burden to establish a violation by replacing an "intent" test with an "effects" test. *Id.* at 403–04.

120. *Hayden*, 449 F.3d at 317 (quoting *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1234 (11th Cir. 2005)).

121. See *Muntaqim v. Coombe*, 366 F.3d 102, 126 (2d Cir. 2004). Both arguments against applying the VRA to felon disenfranchisement discussed serve as predicates for application of the clear statement rule because they implicate federalism.

122. The court makes passing reference to the clear statement rule in a footnote. See *Johnson*, 405 F.3d at 1232 n.35.

123. *Hayden*, 449 F.3d at 326.

124. *Johnson*, 405 F.3d at 1250 (Barkett, J., dissenting) (citing a dissent from an equally divided court in the Second Circuit's first consideration of the question in *Baker v. Pataki*, 85 F.3d 919, 938 (2d Cir. 1996) (Feinberg, J., dissenting)).

125. *Hayden*, 449 F.3d at 358.

Whatever the uncertainties of the basis for these divergent circuit decisions, Ninth Circuit law is, for now, clear that a challenge to Alaska's felon disenfranchisement law is possible under section 2 of the VRA.

IV. ALASKA'S FELON DISENFRANCHISEMENT LAW AND THE VOTING RIGHTS ACT OF 1965

A. Ninth Circuit's Framework for Challenges Under Section 2 of the VRA

Nearly a decade before *Farrakhan*, the Ninth Circuit set a framework for challenges under section 2 of the VRA in *Smith v. Salt River*.¹²⁶ *Salt River* involved an Arizona agricultural district power board election rule that limited voting to landowners within the district.¹²⁷ African-American plaintiffs claimed that the voting qualification combined with racial disparities in land ownership rates had a racially disproportionate effect on voting rights in violation of section 2 of the VRA.¹²⁸

The *Salt River* court affirmed that section 2 of the VRA "prohibits voting qualifications which result in discrimination on account of race or color... [and] requires proof only of a discriminatory result, not of discriminatory intent."¹²⁹ Further, the intent is judged under the "totality of the circumstances" test with reference to several non-exclusive, so-called Senate Factors identified in the legislative history of the VRA.¹³⁰

126. *Smith v. Salt River Project Agric. Improvement & Power Dist.*, 109 F.3d 586 (9th Cir. 1997).

127. *Id.* at 589.

128. *Id.* at 588.

129. *Id.* at 594 (citing *Chisom v. Roemer*, 501 U.S. 380, 394 (1991)).

130. *Id.* at 594 n.6. The Senate Factors are:

- (1) the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process[;]
- (2) the extent to which voting in the elections of the state or political subdivision is racially polarized;
- (3) the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
- (4) if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
- (5) the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as

Significantly, in interpreting the "totality of the circumstances" test under the VRA, the *Salt River* court held that "a bare statistical showing of disproportionate *impact* on a racial minority does not satisfy the § 2 'results' inquiry. Instead, 'section 2 plaintiffs must show a causal connection between the challenged voting practice and [a] prohibited discriminatory result.'"¹³¹

As the Ninth Circuit explained, "[t]he real question this case presents is whether the land ownership requirement denies African-Americans the right and opportunity to vote . . ." ¹³² Affirming the district court's dismissal for lack of a "causal connection," the Ninth Circuit, relying heavily on a stipulated lack of historical racial discrimination, concluded that "the statistical disparity in African-American and white home ownership does not prove the District has violated § 2."¹³³

B. Applying the VRA in *Farrakhan*

In late 2000, the Eastern District of Washington dismissed for the first time a claim by Muhammad Shabazz Farrakhan and others that Washington's felon disenfranchisement law violated section 2 of the VRA.¹³⁴ The court held that "although the disenfranchisement provision clearly has a disproportionate impact on racial minorities, there is no evidence that the provision's enactment was motivated by racial animus, or that its operation by

education, employment and health, which hinder their ability to participate effectively in the political process;

(6) whether political campaigns have been characterized by overt or subtle racial appeals;

(7) the extent to which members of the minority group have been elected to public office in the jurisdiction;

Additional factors . . . are:

whether there is a significant lack of responsiveness on the part of elected officials to the particularized need of the members of the minority group; [and] whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice, or procedure is tenuous.

Id. (citing S. Rep. No. 97-417, at 28-29 (1982), reprinted in 1982 U.S.C.C.A.N. 177, 206-07).

131. *Id.* at 595 (alteration in original) (quoting *Ortiz v. City of Philadelphia Office of the City Comm'rs Voter Registration Div.*, 28 F.3d 306, 312 (9th Cir. 1997)).

132. *Id.* at 596.

133. *Id.*

134. *Farrakhan v. Locke*, No. CS-96-76-RHW, 2000 U.S. Dist. LEXIS 22212, at *18 (E.D. Wash. Dec. 1, 2000), *rev'd in part sub nom.*, *Farrakhan v. Washington (Farrakhan I)*, 338 F.3d 1009 (9th Cir. 2003).

itself has a discriminatory effect."¹³⁵ The court referenced the Senate Factors but declined to apply them directly.¹³⁶ Instead, the court reasoned that, factoring out racial discrimination in the criminal justice system, it was impossible to show a discriminatory effect from the disenfranchisement provision.¹³⁷

The Ninth Circuit rejected the district court's reasoning and held that section 2 of the VRA required more than an isolated inquiry into the challenged voting qualification without reference to external factors.¹³⁸ Instead, the court emphasized that section 2's "totality of the circumstances" test "requires courts to consider how a challenged voting practice interacts with external factors such as 'social and historical conditions' to result in denial of the right to vote on account of race or color."¹³⁹ Holding that an inquiry into a "causal connection" between racial discrimination and denial of voting rights involves reference to the relevant Senate Factors, the court specifically noted that "racial bias in the criminal justice system" is relevant and encompassed in the factors.¹⁴⁰

Having rejected the "by itself" causation standard applied by the district court, the Ninth Circuit remanded the case for an evaluation of the external factors that may establish a causal relationship between discrimination in the criminal justice system and the voting mechanism based on felony status.¹⁴¹ The court explained that "a causal connection may be shown where the discriminatory impact of a challenged voting practice is attributable to racial discrimination in the surrounding social and historical circumstances."¹⁴² The court illustrated the test with reference to the *Salt River* case.¹⁴³ There, the challenge failed because the external factor—a difference in land ownership rates—was not "substantially explained by race."¹⁴⁴

Captioned *Farrakhan v. Gregoire* on remand, the case was heard a second time by Judge Robert Whaley of the Eastern

135. *Locke*, 2000 U.S. Dist. LEXIS 22212, at *9-*10.

136. *Id.* at *9 n.4.

137. *Id.* at *10.

138. *Farrakhan I*, 338 F.3d at 1011-12.

139. *Id.* (quoting *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986)).

140. *Id.* at 1020.

141. *Id.* at 1019-20 ("[C]ourts must be able to consider whether voting practices 'accommodate or amplify the effect that . . . discrimination has on the voting process.'" (alteration in original) (quoting *Smith v. Salt River Project Agric. Improvement and Power Dist.*, 109 F.3d 595 n.7 (9th Cir. 1997))).

142. *Id.* at 1019.

143. *Id.* (citing *Salt River*, 109 F.3d at 595).

144. *Id.* at 1017 (quoting *Salt River*, 109 F.3d at 591).

District of Washington.¹⁴⁵ Reviewing statistical evidence of racial discrimination in Washington's criminal justice system, Judge Whaley wrote that "the Court is compelled to find that there is discrimination in Washington's criminal justice system on account of race . . . [and] this discrimination 'clearly hinder[s] the ability of racial minorities to participate effectively in the political process . . .'"¹⁴⁶

In spite of this finding, the court in *Farrakhan III* took the "totality of the circumstances" test as an opportunity to balance away intentional discrimination in the criminal justice system with reference to historical and social factors indicating a lack of discriminatory intent in Washington. Addressing the Senate Factors, the court cited a range of historical and social conditions such as: Washington's support for racial minorities; a lack of discriminatory intent in the enactment of the felon disenfranchisement law; the long tradition of felon disenfranchisement in the United States; and even the implicit endorsement of felon disenfranchisement in Section 2 of the Fourteenth Amendment.¹⁴⁷ Weighing the factors, the court concluded that "the totality of the circumstances does not support a finding that Washington's felon disenfranchisement law results in discrimination in its electoral process on account of race."¹⁴⁸

C. Alaska's Felon Disenfranchisement Law in Light of *Farrakhan III*

The court in *Farrakhan III* found that Washington's felon disenfranchisement law did not violate section 2 of the VRA in spite of "compelling" evidence of racial discrimination in the criminal justice system.¹⁴⁹ Despite the Ninth Circuit's holding that a violation depends on the interaction between a voting mechanism and external factors, the court in *Farrakhan III* weighed "Washington's history, or lack thereof, of racial bias in its electoral process" to find that the totality of the circumstances test does not support a finding that Washington's felon disenfranchisement law violates the VRA.¹⁵⁰

145. *Farrakhan v. Gregoire (Farrakhan III)*, No. CV-96-076-RHW, 2006 U.S. Dist. LEXIS 45987 (E.D. Wash. July 7, 2006).

146. *Id.* at *18 (quoting *Farrakhan I*, 338 F.3d at 1020) (evaluating evidence under the summary judgment standard).

147. *Id.* at *23-28.

148. *Id.* at *29.

149. *Id.* at *28.

150. *Id.* at *28-29.

Significantly, the court in *Farrakhan III* allowed historical evidence to stand in for an analysis of the required causal connection between discrimination and racially disproportionate effects of a voting qualification. In *Salt River*, the disproportionate land ownership rates were not the result of discrimination—they were simply a statistical anomaly.¹⁵¹ In *Farrakhan III*, disproportionate felony conviction was more than a statistical anomaly—it was evidence of racial discrimination.¹⁵² Nevertheless, this causal nexus was deemed outweighed by other Senate Factors. Indeed, applying a balancing test to the Senate Factors may provide a back door for other arguments, such as the “affirmative sanction argument,” which the Ninth Circuit has rejected.¹⁵³

In Alaska, the statistics demonstrate that felon disenfranchisement has a racially disproportionate impact.¹⁵⁴ Compared with Washington, however, Alaska may not be able to rely so heavily on evidence of a historical lack of racial bias to defeat a challenge to its felon disenfranchisement law. One factor sure to be considered by any court hearing a VRA challenge to Alaska's felon disenfranchisement law will be that Alaska was designated a “covered jurisdiction” because of its use of a literacy test at the time of the VRA's enactment.¹⁵⁵ Although Alaska was able to demonstrate in 1966 that it had not made racially discriminatory use of that test for the preceding five years,¹⁵⁶ the stigma of having been singled out under section 5 of the VRA weighs in favor, perhaps, of additional scrutiny under section 2. Nevertheless, the outcome of a challenge to Alaska's felon disenfranchisement law is certain to be, as it was in *Salt River* and *Farrakhan III*, a fact-specific inquiry shaded by the trial court's view of the proper application of the totality of the circumstances test.

V. CONCLUSION

Felon disenfranchisement in Alaska will continue to be cause for concern as long as it works a racially disproportionate effect. Though recent decisions in the Tenth and Second Circuits have

151. *Smith v. Salt River Project Agric. Improvement & Power Dist.*, 109 F.3d 586, 596 (9th Cir. 1997).

152. *Farrakhan III*, 2006 U.S. Dist. LEXIS 45987 at *28.

153. See *Wesley v. Collins*, 791 F.2d 1255, 1261 (6th Cir. 1986) (considering the Fourteenth Amendment as a factor in the totality of the circumstances test).

154. See discussion *supra* Part II.B.

155. See *supra* note 68 and accompanying text.

156. CITIZEN'S GUIDE, *supra* note 26, at 107 (noting that literacy tests in Alaska “lingered under a cloud of suspicion”).

rejected claims against state felon disenfranchisement laws brought under section 2 of the Voting Rights Act of 1965, the Ninth Circuit has expressly held that such challenges can proceed. One such claim, in the State of Washington, was ultimately unsuccessful. Nevertheless, a case brought in Alaska, on different facts and before a different court, may well invalidate the state's practice of disenfranchising felons on the basis of its racially disproportionate impact.

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Alaska Department of Corrections

Division of Administrative Services



2008 Offender Profile

www.correct.state.ak.us/corrections/admin

Vision Statement

The Alaska Department of Corrections enhances the safety of our communities. We provide secure confinement, reformatory programs, and a process of supervised community reintegration.

Commissioner's Letter



The Mission of the Department of Corrections is to enhance the safety of our communities while providing secure confinement, reformatory programs, and a process of supervised community reintegration.

I am pleased to make this profile available on line. This report is based on our best information and serves as a snapshot of a typical day. Data comes from our Offender Tracking Information System (OTIS), and is meant to give a general summary of Alaska's offender population.

The 2008 Offender Profile – which encompasses many hours of research and calculation on the part of department staff – serves as a valuable tool for our department in the successful accomplishment of our mission.

A handwritten signature in black ink, which appears to read "Joe Schmidt". The signature is stylized and cursive.

Joe Schmidt
Commissioner

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Questions regarding data in this report may be e-mailed to: Bonnie.Walters@alaska.gov

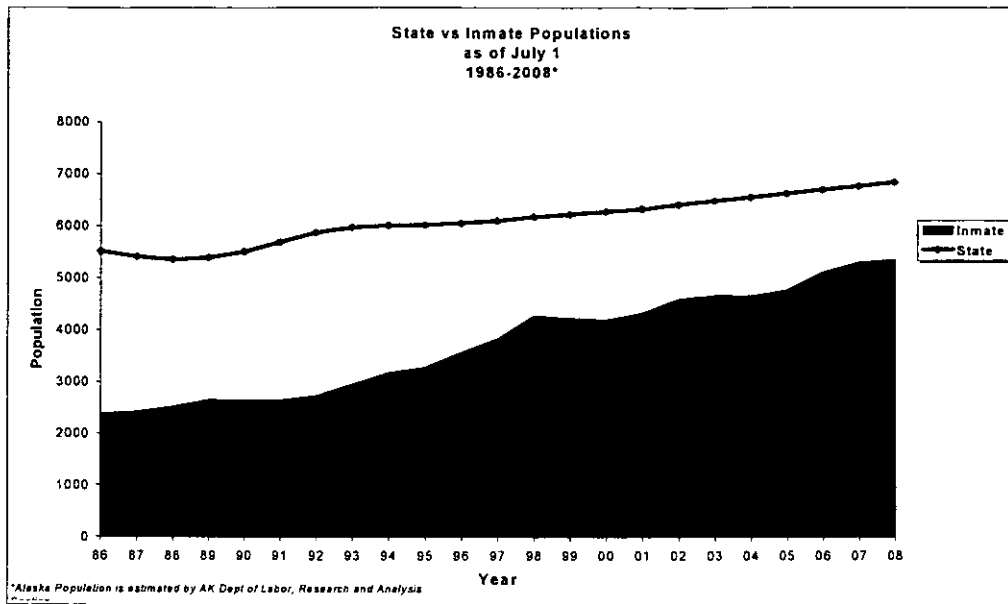
Trends

Notes:

Count and admissions data include information about all offenders under the jurisdiction of the state of Alaska who are entered into the OTIS database.

Count information consists of monthly averages of daily counts; incarcerated offenders not entered into the OTIS database when a count was tallied were not included.

Admissions data includes all criminal admits (except transfers) for all offenders.



Total Offender Population Based on Monthly Averages - January 2006 to December 2008

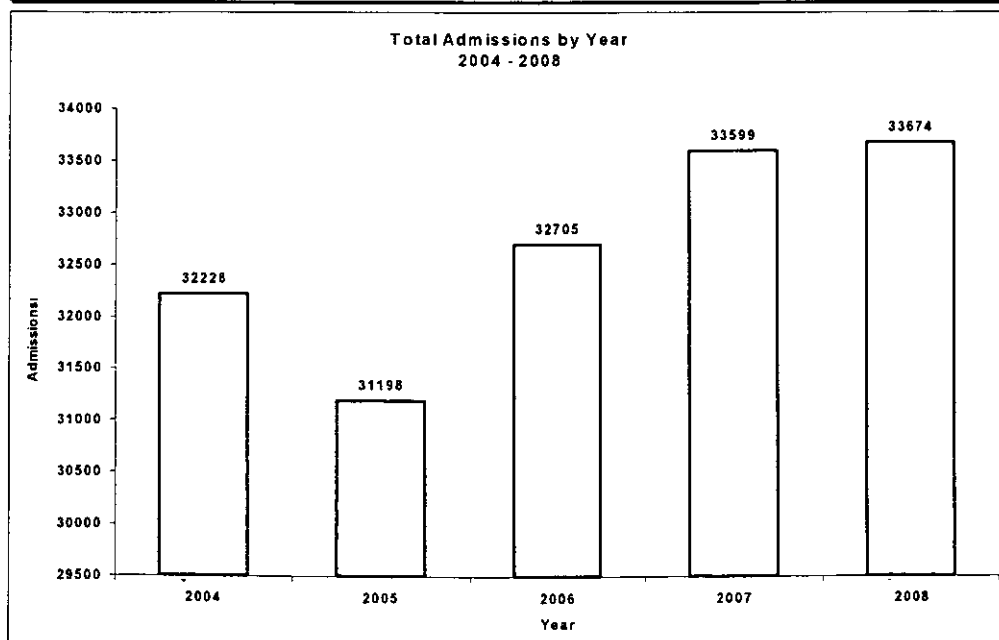
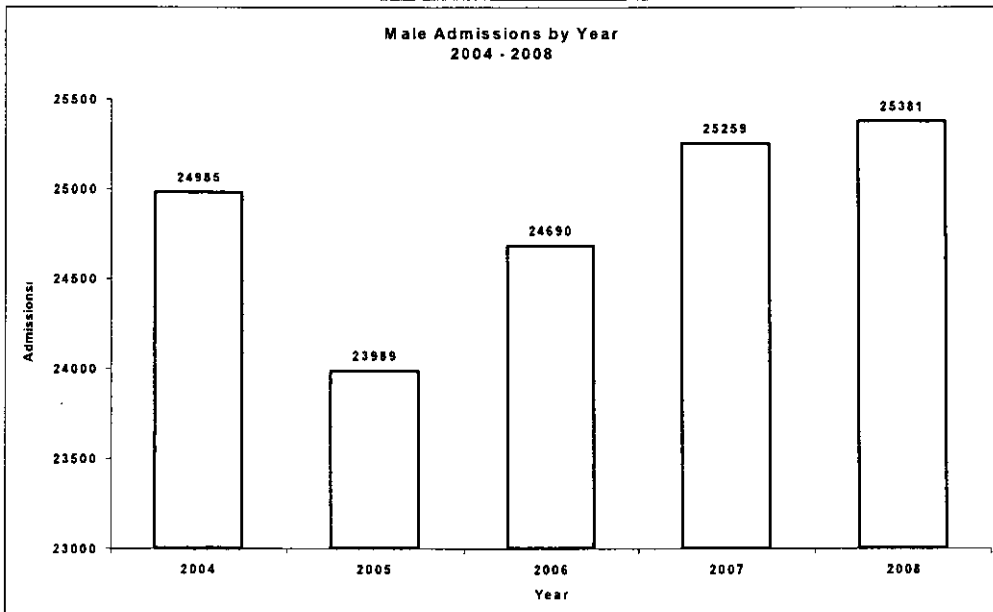
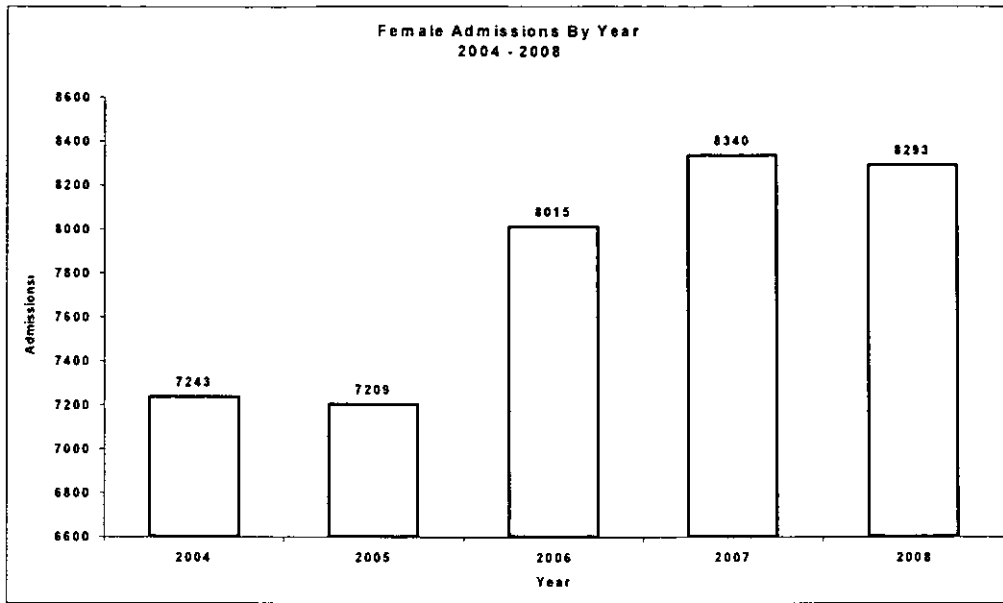
Includes all Offenders in all Facilities (CCs and CRCs)

YEAR	2006			2007			2008		
	Female	Male	Total	Female	Male	Total	Female	Male	Total
January	493	4507	5000	526	4682	5208	619	4802	5421
February	512	4489	5001	556	4670	5226	607	4798	5405
March	486	4538	5024	550	4657	5207	610	4791	5401
April	484	4589	5073	579	4721	5300	619	4790	5409
May	523	4594	5117	610	4822	5432	622	4777	5399
June	530	4543	5073	607	4679	5286	617	4715	5332
July	512	4596	5108	603	4678	5281	585	4716	5301
August	545	4584	5129	624	4703	5327	589	4734	5323
September	554	4597	5151	646	4754	5400	588	4754	5342
October	520	4689	5209	640	4742	5382	591	4729	5320
November	528	4618	5146	639	4835	5474	564	4718	5282
December	510	4559	5069	638	4759	5397	522	4674	5196
Daily Avg	516	4575	5092	602	4725	5327	594	4750	5344

Total Admissions - January 2006 to December 2008

Includes all Offenders in all Facilities (CCs and CRCs)

YEAR	2006			2007			2008		
	Female	Male	Total	Female	Male	Total	Female	Male	Total
January	630	2007	2639	681	2007	2688	704	2031	2735
February	608	1867	2475	611	1910	2521	617	1942	2559
March	635	2135	2770	672	2062	2734	731	2179	2910
April	638	2126	2764	710	2137	2847	671	2078	2749
May	737	2141	2878	729	2246	2975	738	2287	3025
June	654	2078	2732	729	2187	2916	741	2177	2918
July	744	2227	2971	735	2096	2831	673	2090	2763
August	771	2114	2885	713	2324	3037	746	2212	2958
September	695	2009	2704	651	2099	2750	671	2105	2776
October	669	2109	2778	720	2085	2805	749	2183	2932
November	586	1857	2443	717	2103	2820	628	2048	2676
December	648	2018	2666	672	2003	2675	624	2049	2673
Total	8015	24690	32705	8340	25259	33599	8293	25381	33674



Institutions

Institution Address List

Institution	Address	City	Zip	Superintendent	Phone
Anchorage Correctional Complex	1400 E 4th Avenue	Anchorage	99501	Debbie Miller	907-269-4100
Anvil Mtn Correctional Center	PO Box 730	Nome	99762	Marc Okuley	907-443-2241
Fairbanks Correctional Center	1931 Eagan Avenue	Fairbanks	99701	Charles Stevenson	907-458-6700
Hiland Mtn Correctional Center	9101 Hesterberg Road	Eagle River	99577	Dean Marshall	907-694-9511
Ketchikan Correctional Center	1201 Schoenbar Road	Ketchikan	99901	Alan Bailey	907-228-7350
Lemon Creek Correctional Center	2000 Lemon Ck. Road	Juneau	99801	Scott Wellard	907-465-6200
Matsu Pretrial Facility	339 E Dogwood Road	Palmer	99645	Steve Brunger	907-745-0943
Palmer Correctional Center	PO Box 919	Palmer	99645	Cindy Betts	907-745-5054
Pt. MacKenzie Correctional Farm	PO Box 877730	Wasilla	99687	Amy Rabeau	907-376-2976
Spring Creek Correctional Center	PO Box 2109	Seward	99664	Craig Turnbull	907-224-8200
Wildwood Correctional Complex	10 Chugach Avenue	Kenai	99611	Robert Hibpshman	907-260-7200
Yukon-Kuskowim Correctional Ctr	Box 400	Bethel	99559	Chris Liu	907-543-5245
Red Rock Correctional Center	1750 E Arica Road	Eloy, AZ	85231	Bruno Stoll	520-464-3899

Notes:

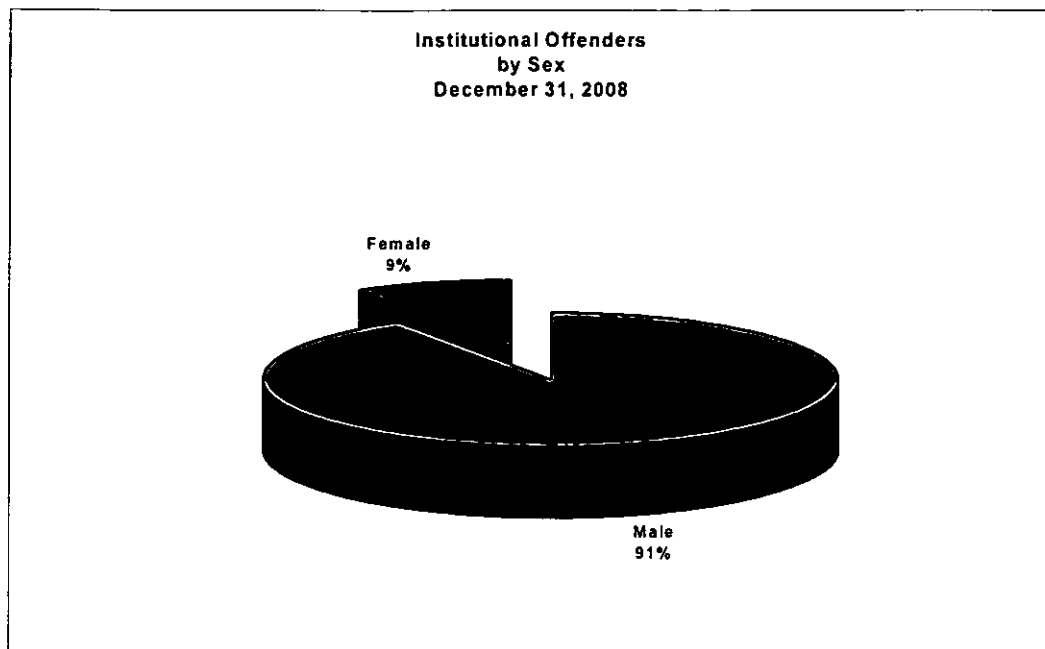
Includes information about all offenders incarcerated in in-state and out-of-state institutions who are entered into the OTIS database.

Consists of a snapshot of offenders incarcerated and entered into the OTIS database on or before December 31, 2008.

Alaska Native race category includes a small number of Native Americans not indigenous to Alaska.

Information about offenses is the most serious charge only.

Offense classes are semi-arbitrary.



**Number of Offenders in Institutions
December 31, 2004 - 2008**

Institutions	Females					Males					All Offenders				
	2008	2007	2006	2005	2004	2008	2007	2006	2005	2004	2008	2007	2006	2005	2004
In-State															
Anchorage CCE	6	1	1	34	18	390	456	473	421	361	396	457	474	455	379
Anchorage CCW	-	-	-	-	-	442	484	486	420	397	442	484	486	420	397
Anvil Mountain CC	3	12	10	8	10	80	101	97	116	91	83	113	107	124	101
Fairbanks CC	22	28	28	35	20	212	250	231	229	187	234	278	259	264	207
Hiland Mountain CC	321	362	311	240	204	-	-	-	73	70	321	362	311	313	274
Ketchikan CC	3	7	8	4	4	40	47	44	59	60	43	54	52	63	64
Lemon Creek CC	7	13	8	16	20	175	182	183	183	152	182	195	191	199	172
Mat-Su Pretrial	7	13	7	15	6	79	107	86	97	80	86	120	93	112	86
Palmer Medium CC	-	-	-	-	-	261	254	231	245	209	261	254	231	245	209
Palmer Minimum CC	-	-	-	-	-	176	176	133	175	172	176	176	133	175	172
Point Mackenzie CF	-	-	-	-	-	117	112	100	85	97	117	112	100	85	97
Spring Creek CC	-	-	-	-	-	551	537	465	495	491	551	537	465	495	491
Wildwood CC	-	-	-	-	-	258	254	227	254	230	258	254	227	254	230
Wildwood Pretrial	16	22	21	24	16	102	103	106	103	97	118	125	127	127	113
Yukon-Kuskokwim CC	2	7	5	4	5	107	105	98	112	112	109	112	103	116	117
Total	387	465	399	380	303	2990	3168	2960	3067	2806	3377	3633	3359	3447	3109
Out-of-State															
Arizona Detention Ctr	-	-	-	-	-	-	-	-	765	755	-	-	-	765	755
Red Rock CC, AZ	-	-	-	-	-	879	853	993	-	-	879	853	993	-	-
Colorado State Prison	1	1	1	1	-	2	2	2	1	2	3	3	3	2	2
Federal Bureau of Prisons	1	1	1	1	3	12	9	10	13	20	13	10	11	14	23
Minnesota State Prison	1	1	1	1	-	-	-	-	-	-	1	1	1	1	0
Oregon State Prison	-	-	-	-	-	1	-	-	-	-	1	0	0	0	0
Washington State Prison	-	-	-	-	-	-	2	2	2	-	0	2	2	2	0
Total	3	3	3	3	3	894	866	1007	779	777	897	869	1010	784	780
Total All	390	468	402	383	306	3884	4034	3967	3846	3583	4274	4502	4369	4231	3889

Demographic Information for Offenders in Institutions
December 31, 2004-2008

Ethnicity	Females					Males					All Offenders				
	2008	2007	2006	2005	2004	2008	2007	2006	2005	2004	2008	2007	2006	2005	2004
Asian/Pacific Islan	11	7	9	8	6	117	113	104	91	81	128	120	113	99	87
Black	30	42	26	27	22	416	443	420	415	405	446	485	446	442	427
Hispanic	9	11	6	9	8	102	94	93	89	111	111	105	99	98	119
Alaska Native*	124	159	136	132	112	1404	1381	1413	1378	1319	1528	1540	1549	1510	1431
Caucasian	213	246	223	205	156	1832	1989	1922	1867	1656	2045	2235	2145	2072	1812
Unknown	3	3	2	2	2	13	14	15	8	11	16	17	17	10	13
Total	390	468	402	383	306	3884	4034	3967	3848	3583	4274	4502	4369	4231	3889

Age Group (Years)	Females					Males					All Offenders				
	2008	2007	2006	2005	2004	2008	2007	2006	2005	2004	2008	2007	2006	2005	2004
19 and Under	10	15	13	12	14	109	114	98	105	116	119	129	111	117	130
20-24	67	74	62	53	47	613	637	672	672	632	680	711	734	725	679
25-29	78	65	65	57	48	754	724	660	574	522	832	789	725	631	570
30-34	58	67	62	61	47	475	495	510	503	494	533	562	572	564	541
35-39	52	74	50	48	51	481	514	513	533	505	533	588	563	581	556
40-44	47	74	58	77	51	460	552	567	566	501	507	626	625	643	552
45-49	48	54	64	46	33	423	470	454	439	392	471	524	518	485	425
50-54	15	26	17	17	7	278	262	245	229	209	293	288	262	246	216
55-59	9	13	5	8	4	155	142	136	133	111	164	155	141	141	115
60-64	4	3	3	1	1	72	74	60	61	63	76	77	63	62	64
65 and over	2	3	3	3	3	64	50	52	33	38	66	53	55	36	41
Total	390	468	402	383	306	3884	4034	3967	3848	3583	4274	4502	4369	4231	3889

Mean Age 35.02

36.55

36.41

Median Age 33.64

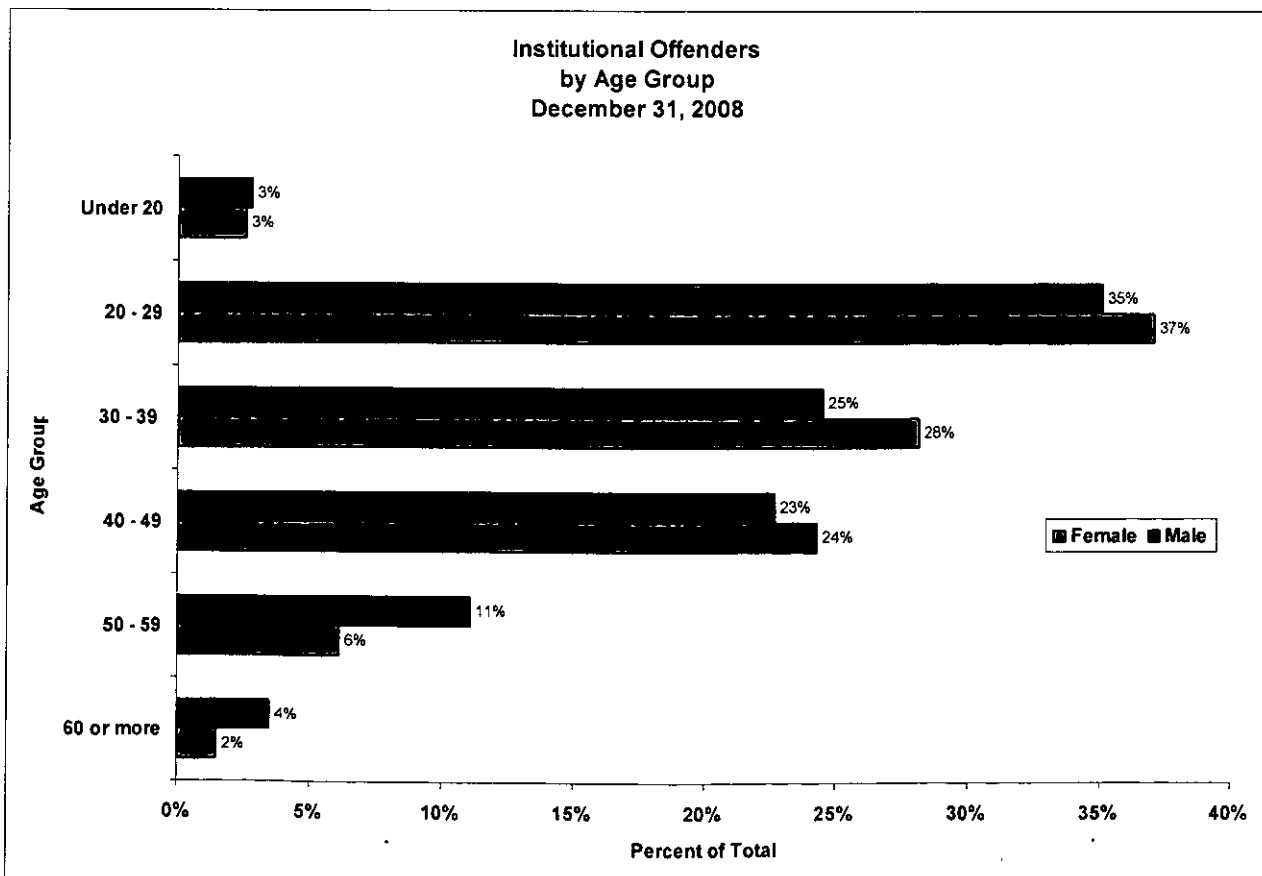
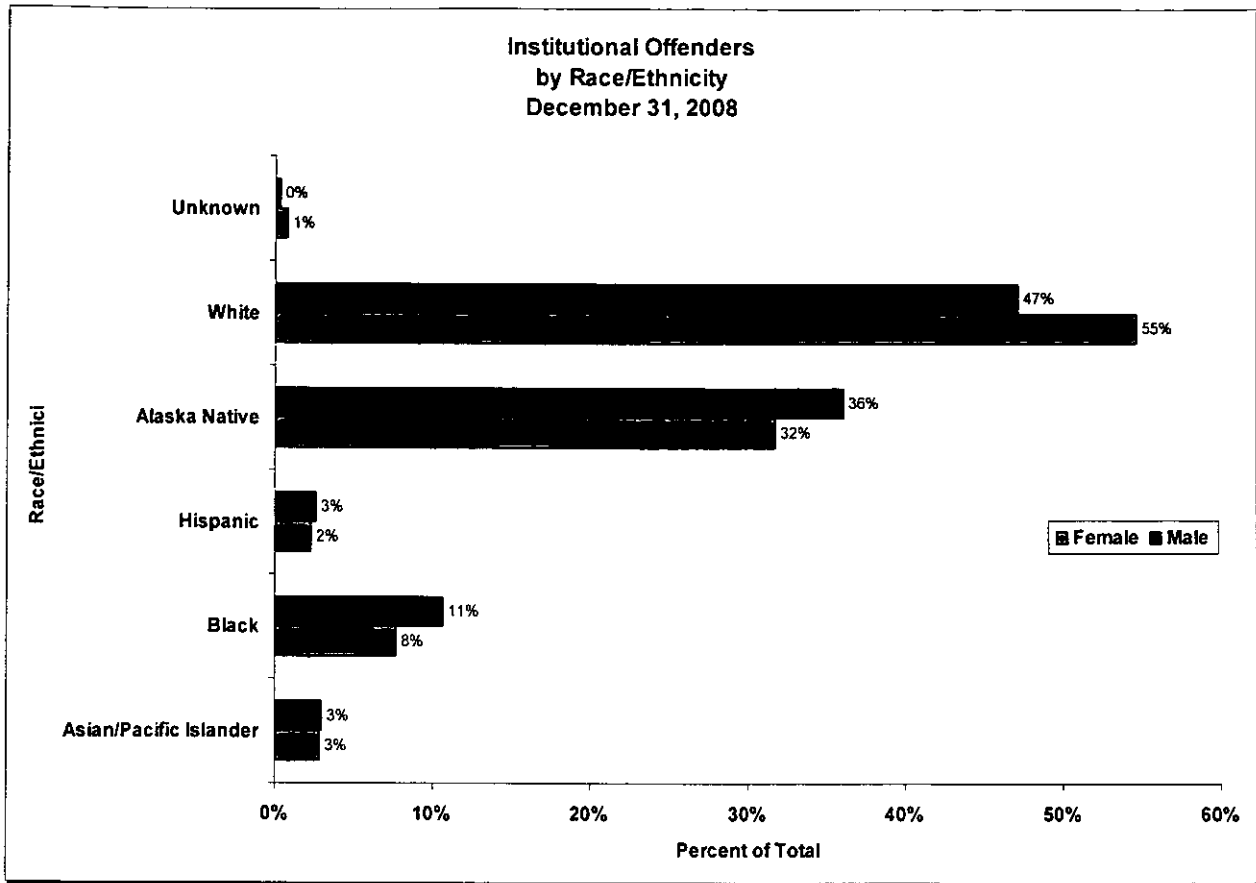
34.91

34.71

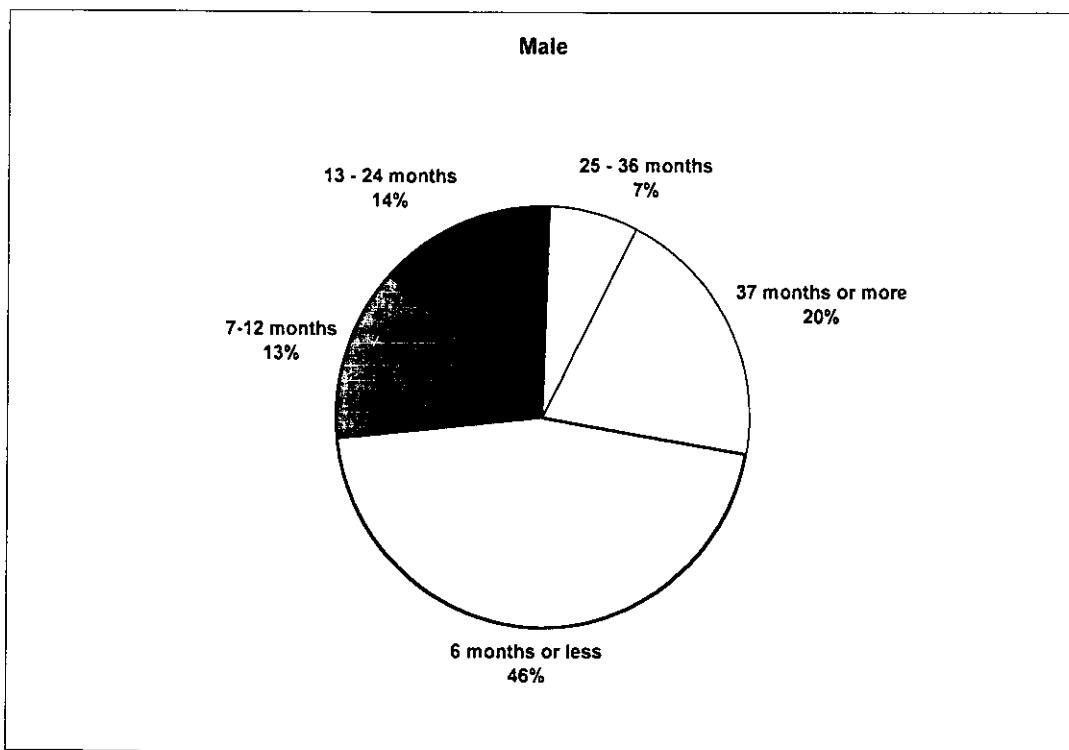
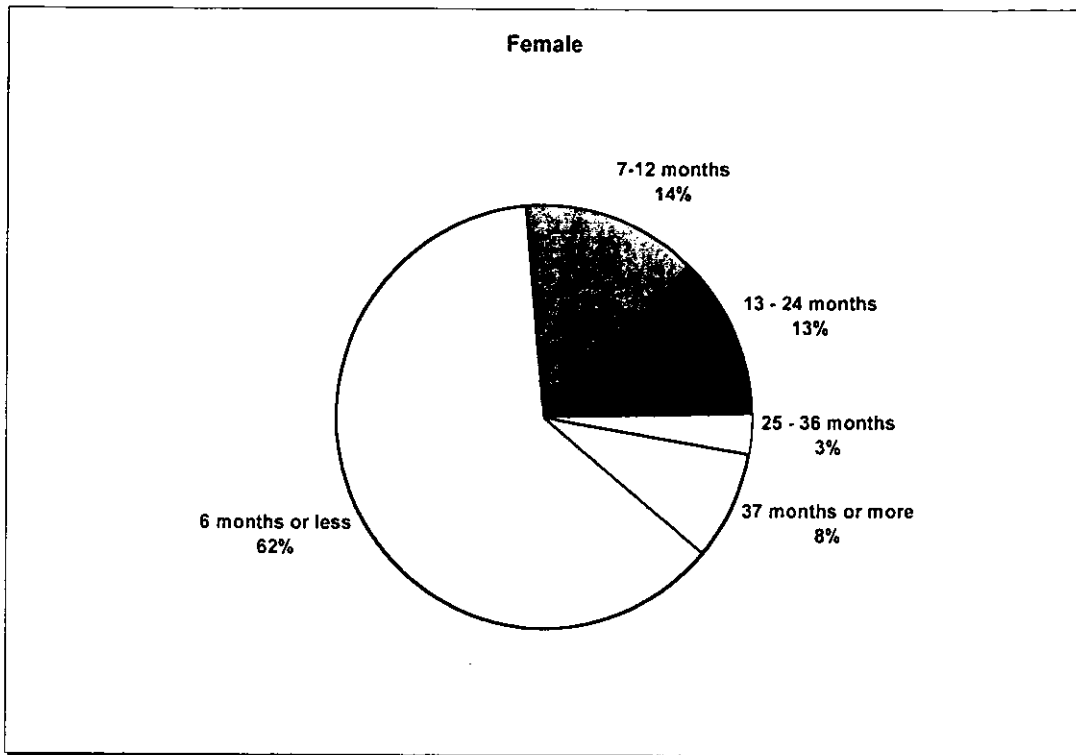
*includes a small number of Native Americans not indigenous to Alaska

Length of Time from Admissions for Offenders in Institutions
December 31, 2008

Months In	Females	Males	Total
6 months or less	244	1767	2011
7 months - 12 months	53	524	577
13 months - 24 mon	49	539	588
25 months 36 months	11	269	280
37 months or more	33	785	818
Total	390	3884	4274
<i>Mean Length (months)</i>	<i>13.07</i>	<i>25.57</i>	<i>24.43</i>
<i>Median Length (months)</i>	<i>3.00</i>	<i>8.00</i>	<i>8.00</i>



Length of Time from Admission Institutional Offenders by Sex December 31, 2008



**Offense Classifications of Offenders in Institutions
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	308	3398	3,706	86.7%
Misdemeanor	81	486	567	13.3%
Violation	1	-	1	0.0%
Total	390	3,884	4,274	100.0%

Alcohol

Attempt to Furnish Liquor to a Minor	-	1	1	
Drinking in Public	-	1	1	
Driving While Intoxicated	9	54	63	
Drunk Person on Licensed Premises	-	2	2	
Felony DWI - 2+ Priors w/in 5 Yrs	23	184	207	
Felony Refusal of Chem Test- 2+ Priors	-	9	9	
Furnish Alcohol to a Minor	-	5	5	
Illegal Liquor - Make, Possess, Sell	-	2	2	
License or Permit Required	-	1	1	
Minor Consuming/Possessing Alcohol	1	2	3	
Persons Under 21 on Alcohol Premises	-	1	1	
Prohibition of Importation after Election	1	1	2	
Refuse to Submit to Chem Test	-	1	1	
Total	34	264	298	7.0%

Drugs

Attempted Drugs 2	3	15	18	
Attempted Drugs 3	-	3	3	
Misconduct - Controlled Substance 1	1	5	6	
Misconduct - Controlled Substance 2	9	59	68	
Misconduct - Controlled Substance 3	11	57	68	
Misconduct - Controlled Substance 4	35	107	142	
Misconduct - Controlled Substance 5	1	1	2	
Total	60	247	307	7.2%

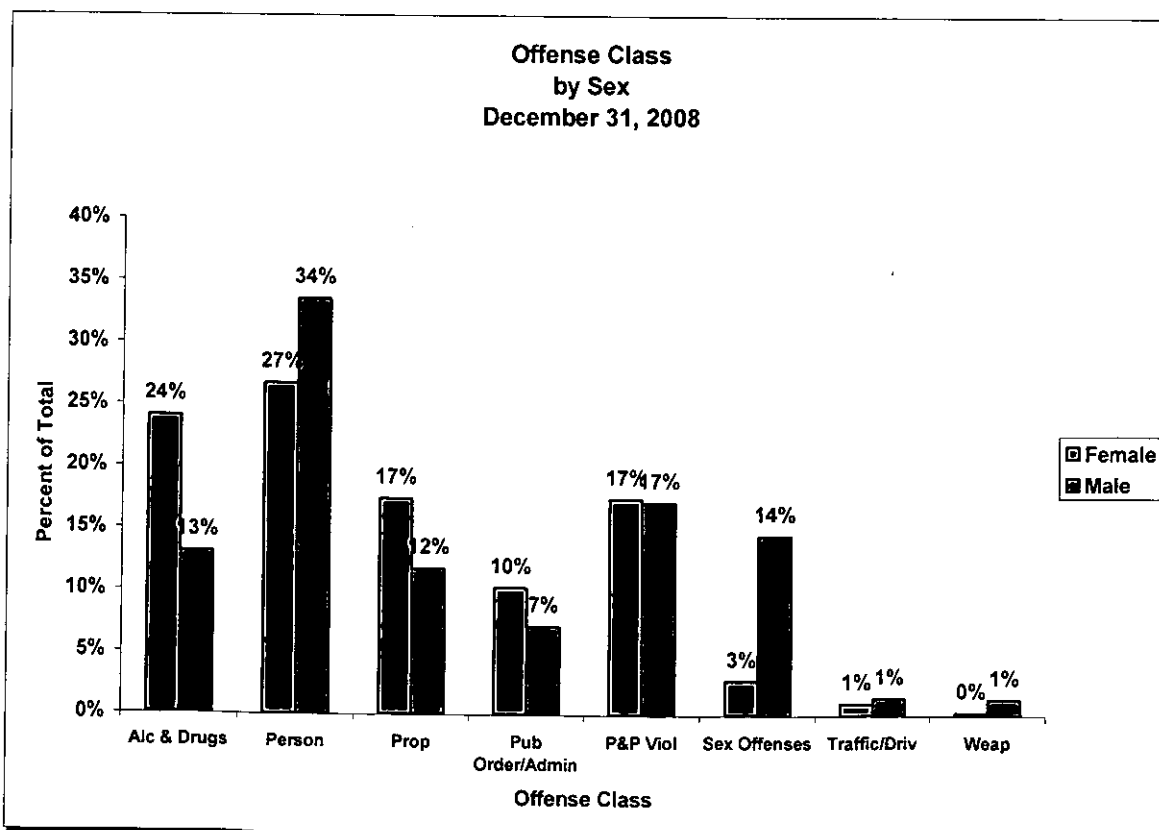
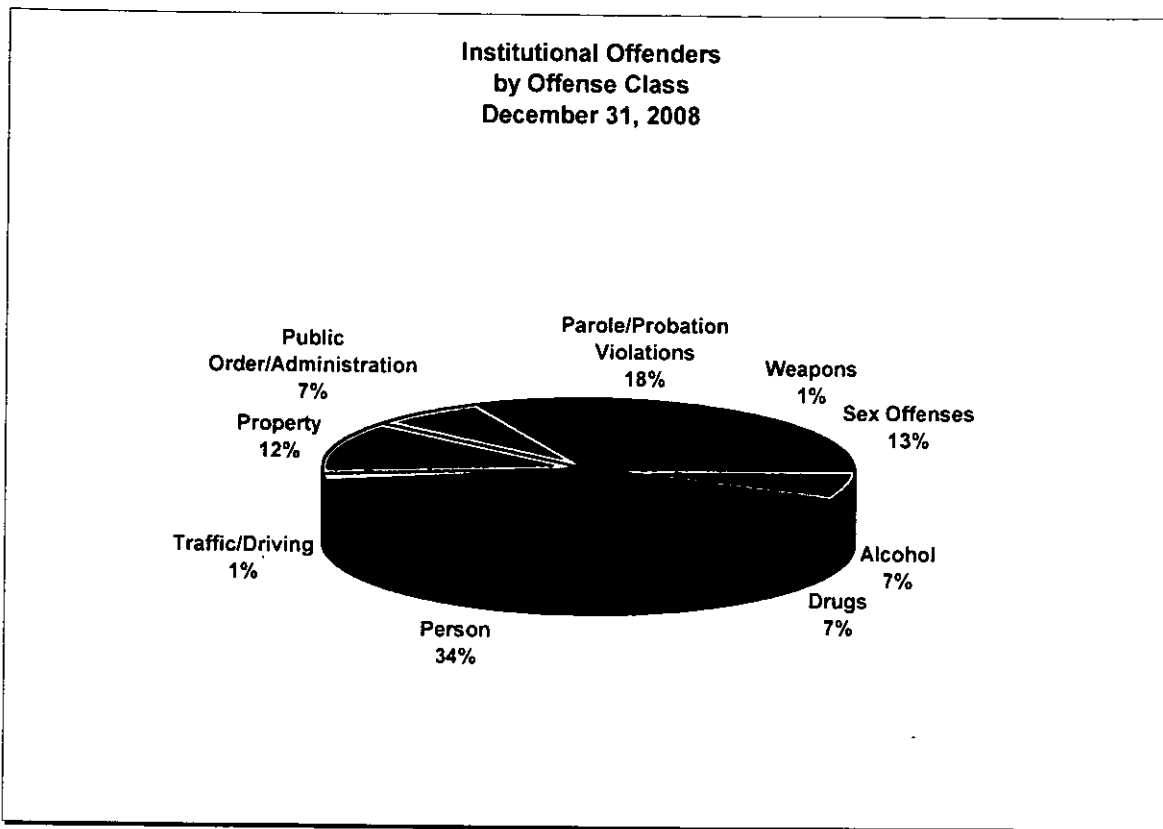
Person

Assault 1	7	92	99	
Assault 2	5	117	122	
Assault 3	16	176	192	
Assault 4	10	122	132	
Assault	7	33	40	
Attempted Assault 1	-	1	1	
Attempted Murder 1	1	46	47	
Attempted Murder 2	-	2	2	
Attempted Robbery 1	-	2	2	
Child Abuse	1	-	1	
Coercion	-	6	6	
Conspiracy Murder 1	-	3	3	
Conspiracy Robbery 1	2	1	3	
Contributing to Delinquency of Minor	-	1	1	
Criminally Negligent Homicide	-	4	4	
Custodial Interference 1	-	1	1	
DV Assault	3	16	19	

Person	Female	Male	Total	Pct
Endanger Vulnerable Adult 1	-	1	1	
Endanger Welfare Minor 1	2	-	2	
Kidnapping	1	51	52	
Manslaughter	12	47	59	
Murder 1	12	233	245	
Murder 2	15	184	199	
Reckless Endangerment	1	5	6	
Robbery 1	9	112	121	
Robbery 2	-	42	42	
Robbery	-	2	2	
Stalking 1	-	1	1	
Total	104	1,301	1,405	32.9%
Property				
Arson 1	1	9	10	
Arson 2	-	3	3	
Attempted Arson 1	-	2	2	
Attempted Burglary 1	-	4	4	
Attempted Forgery 1	1	-	1	
Attempted Forgery 2	-	1	1	
Attempted Fraud	-	1	1	
Attempted Issue Bad Checks	-	1	1	
Attempted Theft 2	1	-	1	
Attempted Theft 3	-	1	1	
Attempted Vehicle Theft 1	-	2	2	
Burglary 1	6	94	100	
Burglary 2	2	36	38	
Conceal Merch - <\$50	-	1	1	
Conceal Merch - Value \$500+	-	2	2	
Criminal Impersonation 1	-	3	3	
Criminal Mischief 1	-	1	1	
Criminal Mischief 2	-	2	2	
Criminal Mischief 3	1	22	23	
Criminal Mischief 4	1	5	6	
Criminal Trespass 1	1	4	5	
Criminal Trespass 2	1	2	3	
Criminal Trespass	-	5	5	
Criminally Negligent Burning	1	-	1	
Forgery 1	-	2	2	
Forgery 2	4	12	16	
Fraud Use of Access Device Value \$500 - \$2,500	1	2	3	
Issuing Bad Check - Value \$50-\$499	-	1	1	
Issuing Bad Check - Value \$500-\$24,999	-	1	1	
Issuing Bad Check - Value >\$25,000	-	1	1	
Malicious Destruction of Property	-	1	1	
Obtain Credit Card by Fraud	-	1	1	
Scheme to Defraud	2	8	10	
Theft 1	6	4	10	
Theft 2	28	138	166	
Theft 3	3	8	11	
Theft 4	-	2	2	

Property	Female	Male	Total	Pct
Theft	-	1	1	
Theft by Shoplifting	4	5	9	
Unauthorized Entry	-	1	1	
Vehicle Tampering	-	2	2	
Vehicle Theft 1	4	65	69	
Vehicle Theft 2	-	3	3	
Total	68	459	527	12.3%
Public Order/Administration				
	Female	Male	Total	Pct
Bribery	-	1	1	
Contempt of Court	3	8	11	
Disorderly Conduct	2	8	10	
Eluding	-	2	2	
Escape 1	-	2	2	
Escape 2	-	25	25	
Escape 3	-	5	5	
Escape 4	-	5	5	
Failure to Satisfy Judgement	2	8	10	
Failure to Appear	8	43	51	
Failure to Comply	-	5	5	
Failure to Reg as Sex Offender 1	1	11	12	
Failure to Reg as Sex Offender 2	-	2	2	
Failure to Remand	-	1	1	
False Information	1	3	4	
Federal Offense	4	31	35	
Fugitive from Justice	-	15	15	
Harassment	-	1	1	
Hindering Prosecution 1	2	-	2	
Interfere w/ Report of DV Crime	-	1	1	
Interstate Custody Compact	-	1	1	
Leaving Scene of Accident	1	3	4	
Making a False Report	3	6	9	
Perjury	-	3	3	
Promoting Contraband 1	-	4	4	
Promoting Contraband 2	-	1	1	
Resist/Interfere Arrest	-	3	3	
Resist/Interfere Officer	1	4	5	
Tampering w/ Physical Evidence	-	11	11	
Tampering w/ Witness 1	-	1	1	
Unlawful Contact 1	-	1	1	
Unlawful Evasion 1	3	3	6	
Urinating in Public	-	1	1	
Violate Conditions of Release	5	45	50	
Violate DV Restraining Order	3	13	16	
Violate Order to Submit to DNA Testing	1	-	1	
Total	40	277	317	7.4%
Parole/Probation Violations				
Parole Violation	8	157	165	
Probation Violation	60	509	569	
Total	68	666	734	17.2%

Non-Registerable Sex Offenses	Female	Male	Total	Pct
Indecent Exposure 2	-	1	1	
Practicing Prostitution	4	-	4	
Total	4	1	5	0.1%
Registerable Sex Offenses				
Attempted Sex Abuse 1	-	14	14	
Attempted Sex Abuse Minor 2	-	14	14	
Attempted Sex Abuse Minor 3	-	2	2	
Attempted Sex Assault 1	-	10	10	
Attempted Sex Assault 2	-	6	6	
Attempted Sex Assault 3	-	3	3	
Distribute Child Pornography	-	5	5	
Incest	-	1	1	
Indecent Exposure 1	-	2	2	
Indecent Exposure 2	-	2	2	
Online Enticement of a Minor	-	1	1	
Possess Child Pornography	-	16	16	
Promote Prostitution 1	1	-	1	
Sex Abuse Minor 1	2	143	145	
Sex Abuse Minor 2	1	114	115	
Sex Abuse Minor 3	1	10	11	
Sex Assault 1	-	151	151	
Sex Assault 2	2	49	51	
Sex Assault 3	-	18	18	
Solicitation Sex Abuse 1	-	1	1	
Total	7	562	569	13.3%
Traffic/Driving				
Drive w/ License Canc/Susp/Revoked/Lim	4	24	28	
Drive without Valid Operator's License	-	3	3	
Fail to Stop at Direction of Officer 1	-	20	20	
Fail to Stop at Direction of Officer 2	-	3	3	
Improper Use of Regis/Title/Plates	-	1	1	
No MV Liability Insurance	-	2	2	
Reckless Driving	-	3	3	
Total	4	56	60	1.4%
Weapons				
Attempted Misconduct - Weapons 3	-	1	1	
Concealed Weapon	-	1	1	
Misconduct - Weapons 1	-	6	6	
Misconduct - Weapons 2	1	15	16	
Misconduct - Weapons 3	-	25	25	
Misconduct - Weapons 4	-	1	1	
Misconduct - Weapons 5	-	1	1	
Unlawful Discharge of Firearm	-	1	1	
Total	1	51	52	1.2%
Total All	390	3,884	4,274	100.0%



**Crime Classifications by Class/Sex/Ethnicity
for Offenders in Institutions
December 31, 2008**

Class/Sex	Ethnicity	Count	Percent
Alcohol			
Females	Asian	1	0.3%
	Black	1	0.3%
	Caucasian	17	5.7%
	Hispanic	1	0.3%
	Ak Native	12	4.0%
	Unknown	2	0.7%
	Males	Asian	7
	Black	14	4.7%
	Caucasian	157	52.7%
	Hispanic	8	2.7%
	Ak Native	78	26.2%
	Total	298	100.0%
Drugs			
Females	Asian	1	0.3%
	Black	6	2.0%
	Caucasian	44	14.3%
	Hispanic	0	0.0%
	Ak Native	9	2.9%
	Males	Asian	7
	Black	50	16.3%
	Caucasian	157	51.1%
	Hispanic	4	1.3%
	Ak Native	28	9.1%
	Unknown	1	0.3%
	Total	307	100.0%
Person			
Females	Asian	2	0.1%
	Black	7	0.5%
	Caucasian	46	3.3%
	Hispanic	2	0.1%
	Ak Native	47	3.3%
Males	Asian	53	3.8%
	Black	155	11.0%
	Caucasian	580	41.3%
	Hispanic	36	2.6%
	Ak Native	475	33.8%
	Unknown	2	0.1%
		Total	1,405

Class/Sex Property	Ethnicity	Count	Percent
Females	Asian	1	0.2%
	Black	7	1.3%
	Caucasian	45	8.5%
	Hispanic	3	0.6%
	Ak Native	11	2.1%
	Unknown	1	0.2%
Males	Asian	9	1.7%
	Black	39	7.4%
	Caucasian	261	49.5%
	Hispanic	10	1.9%
	Ak Native	138	26.2%
	Unknown	2	0.4%
	Total	527	100.0%

Public Order/Administration

Females	Asian	3	0.9%
	Black	5	1.6%
	Caucasian	14	4.4%
	Hispanic	1	0.3%
	Ak Native	17	5.4%
Males	Asian	14	4.4%
	Black	38	12.0%
	Caucasian	116	36.6%
	Hispanic	15	4.7%
	Ak Native	94	29.7%
	Total	317	100.0%

Parole/Probation Violations

Females	Asian	2	0.3%
	Black	3	0.4%
	Caucasian	38	5.2%
	Hispanic	2	0.3%
	Ak Native	23	3.1%
Males	Asian	12	1.6%
	Black	76	10.4%
	Caucasian	283	38.6%
	Hispanic	9	1.2%
	Ak Native	284	38.7%
	Unknown	2	0.3%
	Total	734	100.0%

Non-Registerable Sex Offenses

Females	Caucasian	1	20.0%
	Ak Native	3	60.0%
Males	Ak Native	1	20.0%
	Total	5	100.0%

Class/Sex	Ethnicity	Count	Percent
Registerable Sex Offenses			
Females	Asian	1	0.2%
	Black	1	0.2%
	Caucasian	4	0.7%
	Ak Native	1	0.2%
Males	Asian	11	1.9%
	Black	25	4.4%
	Caucasian	223	39.2%
	Hispanic	9	1.6%
	Ak Native	288	50.6%
	Unknown	6	1.1%
	Total	569	100.0%
Traffic/Driving			
Females	Caucasian	3	5.0%
	Ak Native	1	1.7%
Males	Black	5	8.3%
	Caucasian	35	58.3%
	Hispanic	6	10.0%
	Ak Native	10	16.7%
	Total	60	100.0%
Weapons			
Females	Caucasian	1	1.9%
Males	Asian	4	7.7%
	Black	14	26.9%
	Caucasian	20	38.5%
	Hispanic	5	9.6%
	Ak Native	8	15.4%
	Total	52	100.0%
	Total All	4,274	100.0%

Community Residential Centers (CRC's)

CRC Facility Address List

CRC	Address	City	Zip	Phone
Akeela House	2804 Bering St.	Anchorage	99503	561-1200
Clitheroe Center	P.O. Box 190567	Anchorage	99519	276-2898
Cordova Center	130 Cordova St.	Anchorage	99501	274-1022
Glacier Manor	5597 Aisek	Juneau	99801	780-3020
Glennwood Center	835 D St.	Anchorage	99501	277-4501
Manillaq	PO Box 256	Kotzebue	99752	442-7640
Midtown Center	2507 Eide St.	Anchorage	99503	222-6502
Northstar Center	PO Box 80670	Fairbanks	99708	474-4955
Parkview Center	831 B St.	Anchorage	99501	272-1641
Phillips Ayagnirvik Treatment Center	PO Box 528	Bethel	99559	543-6735
Ralph Perdue Center	3100 S Cushman St.	Fairbanks	99701	456-7819
Seaside Center	PO Box 2129	Nome	99762	443-6390
Tundra Center	PO Box 485	Bethel	99559	543-3414

Notes:

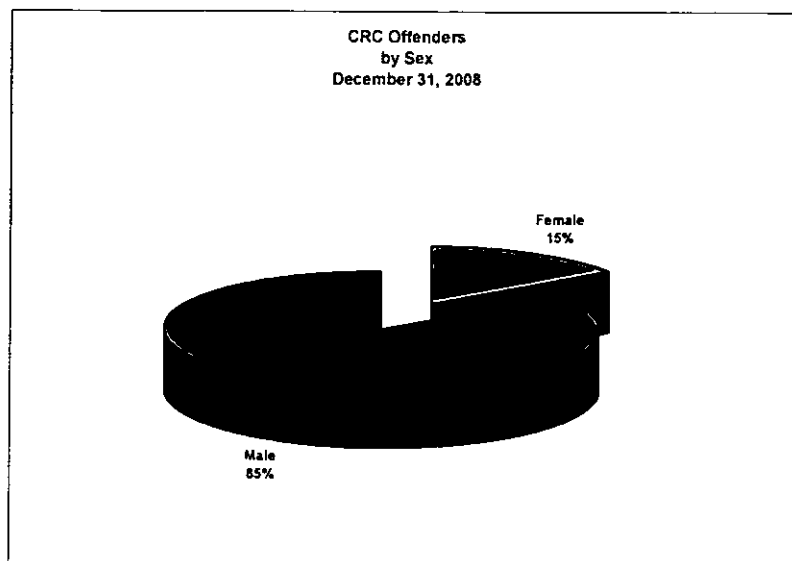
Includes information about all offenders incarcerated in CRC's and treatment centers as well as those under electronic monitoring and those who are monitored by CRC's offsite who are entered into the OTIS database.

Consists of a snapshot of offenders incarcerated and entered into the OTIS database on or before December 31, 2008.

Alaska Native race category includes a small number of Native Americans not indigenous to Alaska.

Information about offenses is the most serious charge only.

Offense classes are semi-arbitrary.



Number of Offenders in Community Residential Centers
December 31, 2004 - 2008

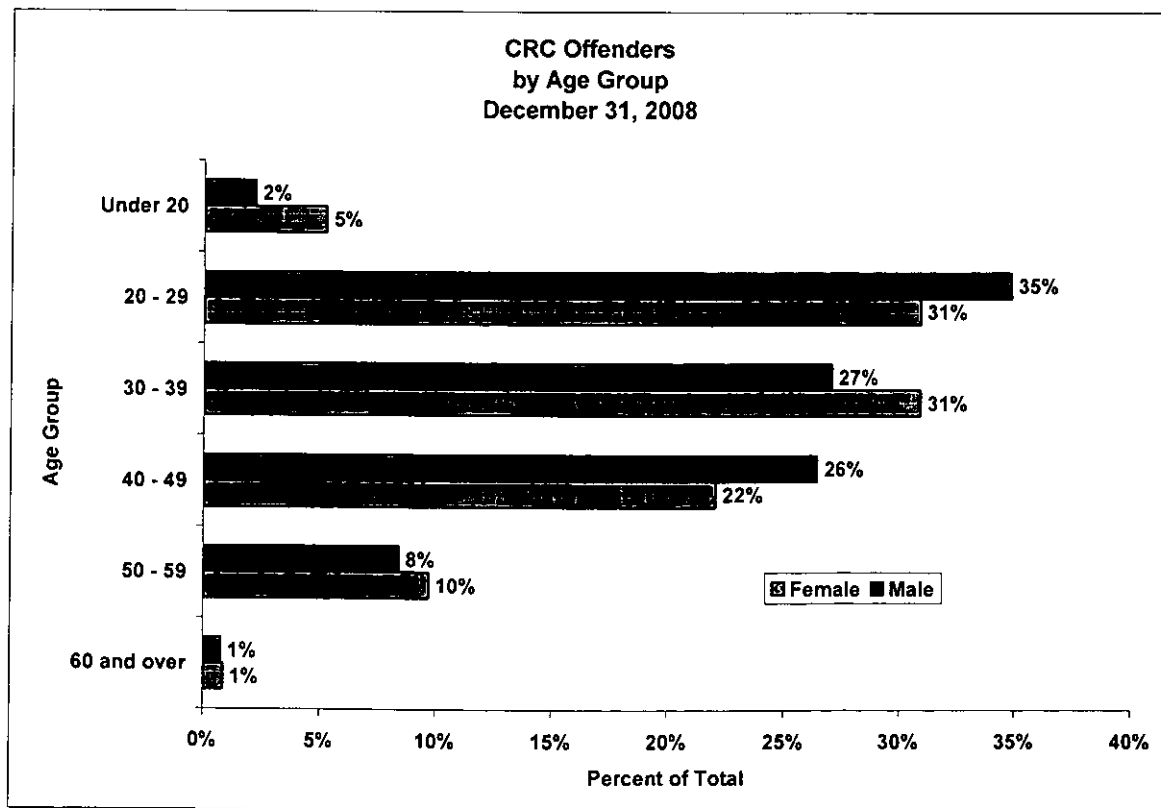
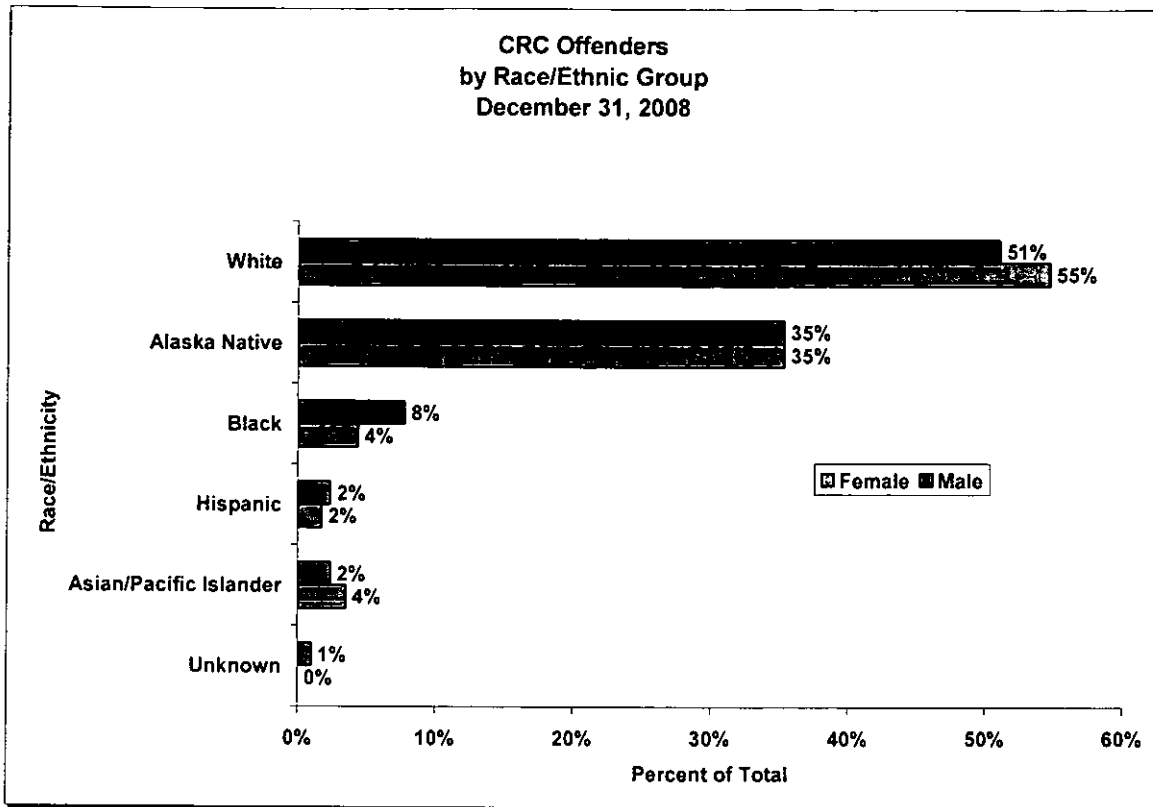
CRCs	Females					Males					All Offenders				
	08	07	06	05	04	08	07	06	05	04	08	07	06	05	04
Akeela House	1	-	1	1	1	1	1	-	3	3	2	1	1	4	4
Aullaqisaatqigvik*	-	-	-	-	-	-	-	-	-	4	-	-	-	-	4
Clitheroe Center	3	1	2	-	2	6	2	2	10	9	9	3	4	10	11
Cordova Center	28	23	23	19	23	93	83	41	123	138	121	106	64	142	161
Glacier Manor	11	7	3	11	8	44	50	35	39	49	55	57	38	50	57
Glennwood Center	9	7	8	8	12	59	57	43	33	43	68	64	51	41	55
Safe Harbor/Hope House*	-	-	1	1	1	-	-	1	2	1	-	-	2	3	2
Kar House*	-	-	-	-	1	-	-	-	-	2	-	-	-	-	3
Maniilaq	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-
Midtown Center	-	-	-	-	-	35	29	-	12	28	35	29	-	12	28
Northstar Center	6	9	9	13	10	74	67	41	64	47	80	76	50	77	57
Parkview Center	-	-	-	-	-	98	113	95	71	69	98	113	95	71	69
Philips Treatment Center	-	-	-	-	-	-	-	-	1	1	-	-	-	1	1
Ralph Perdue Center	-	-	-	1	-	-	-	2	3	3	-	-	2	4	3
Seaside Center	13	6	9	6	7	37	29	28	42	40	50	35	37	48	47
Tundra Center	1	3	2	5	8	52	40	36	47	43	53	43	38	52	51
Total	72	56	58	65	73	499	471	324	451	480	571	527	382	516	553
Special Offsite Programs															
Anchorage Elect Monitor	32	25	29	15	20	95	73	127	68	70	127	98	156	83	90
Anchorage CRC Monitor	-	1	-	-	2	1	1	1	2	8	1	2	1	2	10
Fairbanks Elect Monitor	8	9	6	5	1	26	25	12	2	12	34	34	18	7	13
Fairbanks CRC Monitor	-	-	-	-	-	-	1	-	1	4	-	1	-	1	4
Kenai Elect Monitor	1	2	-	-	-	6	2	-	-	-	7	4	-	-	-
Ketchikan Elect Monitor	-	2	-	-	-	-	2	1	-	3	-	4	1	-	3
Total	41	39	35	20	23	128	104	141	73	97	169	143	176	93	120
Total All	113	95	93	85	96	627	575	465	524	577	740	670	558	609	673

**Demographic Information for Offenders in Community Residential Centers
December 31, 2004-2008**

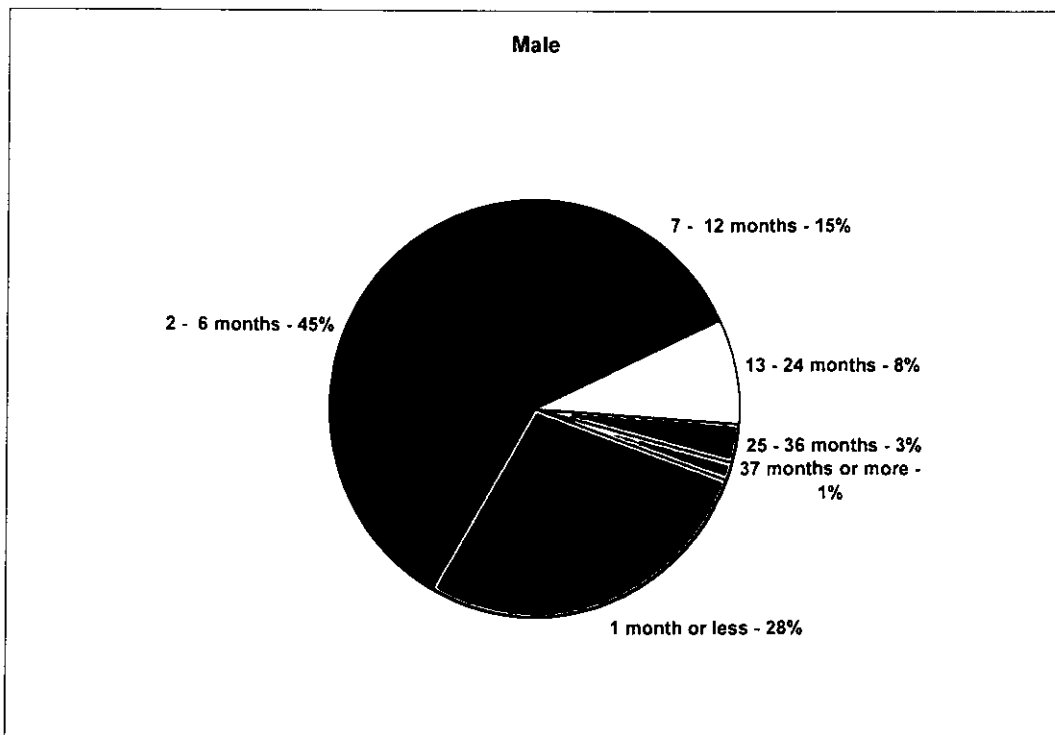
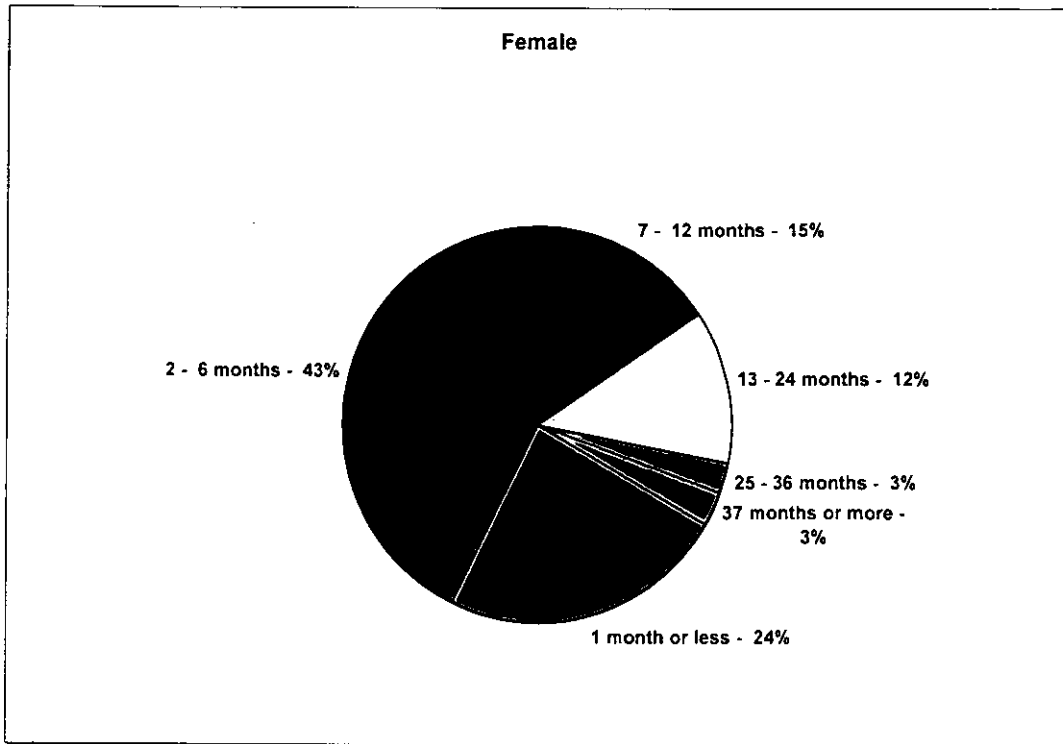
Ethnicity	Females					Males					All Offenders				
	08	07	06	05	04	08	07	06	05	04	08	07	06	05	04
Asian/Pac Island	4	2	1	0	1	17	14	12	17	14	21	16	13	17	15
Black	5	7	9	7	7	49	39	45	46	50	54	46	54	53	57
Hispanic	2	1	1	3	0	15	7	9	22	17	17	8	10	25	17
AK Native	40	34	34	34	47	222	223	204	200	224	262	257	238	234	271
Caucasian	62	50	46	40	40	321	289	193	237	272	383	339	239	277	312
Unknown	0	1	2	1	1	3	3	2	2	1	3	4	4	3	2
Total	113	95	93	85	95	627	575	465	524	577	740	670	558	609	672
19 and Under	6	3	3	3	4	14	8	14	11	19	20	11	17	14	23
20-24	18	10	13	12	11	103	107	57	87	87	121	117	70	99	98
25-29	17	20	15	17	11	116	116	82	85	87	133	136	97	102	98
30-34	17	11	8	11	15	94	77	73	83	89	111	88	81	94	104
35-39	18	11	16	11	15	76	82	60	75	99	94	93	76	86	114
40-44	13	14	20	15	19	86	70	76	75	82	99	84	96	90	101
45-49	12	16	11	12	16	80	60	63	65	68	92	76	74	77	84
50-54	7	5	5	1	3	36	34	22	29	34	43	39	27	30	37
55-59	4	2	2	2	0	17	16	10	8	6	21	18	12	10	6
60-64	1	2	0	0	1	5	5	6	3	3	6	7	6	3	4
65 and over	0	1	0	1	1	0	0	2	3	4	0	1	2	4	5
Total	113	95	93	85	96	627	575	465	524	578	740	670	558	609	674
<i>Mean Age (yrs)</i>	<i>35.34</i>					<i>35.67</i>					<i>35.62</i>				
<i>Median Age (yrs)</i>	<i>34.48</i>					<i>34.27</i>					<i>34.30</i>				

**Length of time from admission
for Offenders in Community Residential Centers
December 31, 2008**

Months In	Females	Males	All Offenders
1 month or less	27	175	202
2 months - 6 months	49	283	332
7 months - 12 months	17	91	108
13 months - 24 months	14	51	65
25 months - 36 months	3	18	21
37 months or more	3	9	12
Total	113	627	740
<i>Mean Length (months)</i>	<i>6.66</i>	<i>8.13</i>	<i>7.90</i>
<i>Median Length (months)</i>	<i>3.00</i>	<i>3.00</i>	<i>3.00</i>



**Length of Time from Admission
CRC Offenders by Sex
December 31,2008**



**Offense Classifications of Offenders in Community Residential Centers
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	74	364	438	59.2%
Misdemeanor	35	259	294	39.7%
Violation	4	4	8	1.1%
Total	113	627	740	100.0%

Alcohol

Drinking in Public	-	1	1	
Driving While Intoxicated	14	54	68	
Felony DWI - 2+ Priors w/in 5 Yrs	14	80	94	
Felony Refusal of Chem Test- 2+ Priors	-	5	5	
Furnish Alcohol to a Minor	-	2	2	
License or Permit Required	-	1	1	
Manufacture, Sell, Offer for Sale	-	2	2	
Minor Consuming/Possessing Alcohol	4	6	10	
Prohibition of Importation after Election	1	1	2	
Refuse Chemical Test	-	2	2	
Send/Bring Alcohol to Dry Area	1	-	1	
Total	34	154	188	25.4%

Drugs

Attempted MICS2	-	3	3	
Attempted MICS4	1	-	1	
Misconduct - Controlled Substance 2	3	10	13	
Misconduct - Controlled Substance 3	6	7	13	
Misconduct - Controlled Substance 4	9	25	34	
Misconduct - Controlled Substance 5	-	2	2	
Misconduct - Controlled Substance 6	-	1	1	
Total	19	48	67	9.1%

Person

Assault 1	-	3	3	
Assault 2	-	9	9	
Assault 3	2	17	19	
Assault 4	6	67	73	
Assault	1	19	20	
Attempted Murder 1	-	1	1	
Child Abuse	-	1	1	
Contributing to the Delinquency Minor	-	3	3	
Criminal Nonsupport	-	1	1	
Criminally Negligent Homicide	2	-	2	
DV Assault	-	11	11	
Endanger Welfare Minor 1	-	1	1	
Kidnapping	-	1	1	
Manslaughter	-	2	2	
Murder 1	-	3	3	
Murder 2	-	1	1	
Reckless Endangerment	-	3	3	

Person	Female	Male	Total	Pct
Robbery 1	1	10	11	
Robbery 2	1	3	4	
Total	13	156	169	22.8%

Property

Attempted Theft 1	-	1	1	
Attempted Vehicle Theft 1	-	2	2	
Burglary 1	1	14	15	
Burglary 2	-	3	3	
Criminal Impersonation	-	1	1	
Criminal Mischief 3	-	3	3	
Criminal Mischief 4	1	3	4	
Criminal Mischief 5	-	1	1	
Criminal Trespass 1	-	2	2	
Criminal Trespass 2	1	2	3	
Criminal Trespass	-	1	1	
Forgery 1	-	1	1	
Forgery 2	4	5	9	
Fraud Use of Access Device	-	2	2	
Issuing Bad Check - \$500-\$24,999	1	-	1	
Scheme to Defraud	-	2	2	
Theft 1	1	1	2	
Theft 2	11	26	37	
Theft 3	1	9	10	
Theft by Shoplifting	1	5	6	
Vehicle Theft 1	1	16	17	
Total	23	100	123	16.6%

Public Order/Administration

Contempt of Court	1	1	2	
Disorderly Conduct	-	3	3	
Failure to Satisfy Judgement	-	2	2	
Failure to Appear	-	1	1	
Failure to Comply	-	3	3	
False Information	-	1	1	
Federal Offense - INS	-	1	1	
Fugitive from Justice	1	-	1	
Harassment	-	1	1	
Hinder Prosecution 1	1	-	1	
Leaving Scene of Accident	3	3	6	
Making a False Report	2	2	4	
Medical Assistance Fraud	1	1	2	
Promote Contraband 2	-	1	1	
Resist/Interfere with Arrest	-	3	3	
Resist/Interfere with Officer	-	2	2	
Tampering with Physical Evidence	-	2	2	
Violate Conditions of Release	-	12	12	
Violate DV Restraining Order	-	2	2	
Total	9	41	50	6.8%

Parole/Probation Violations

Parole Violation	10	13	23	
Probation Violation	-	79	79	
Total	10	92	102	13.8%

Non-Registerable Sex Offenses

Family Violence	-	1	1	
Practicing Prostitution	2	-	2	
Total	2	1	3	0.4%

Registerable Sex Offenses

	Female	Male	Total	Pct
Sex Assault 2	-	2	2	
Total	-	2	2	0.3%

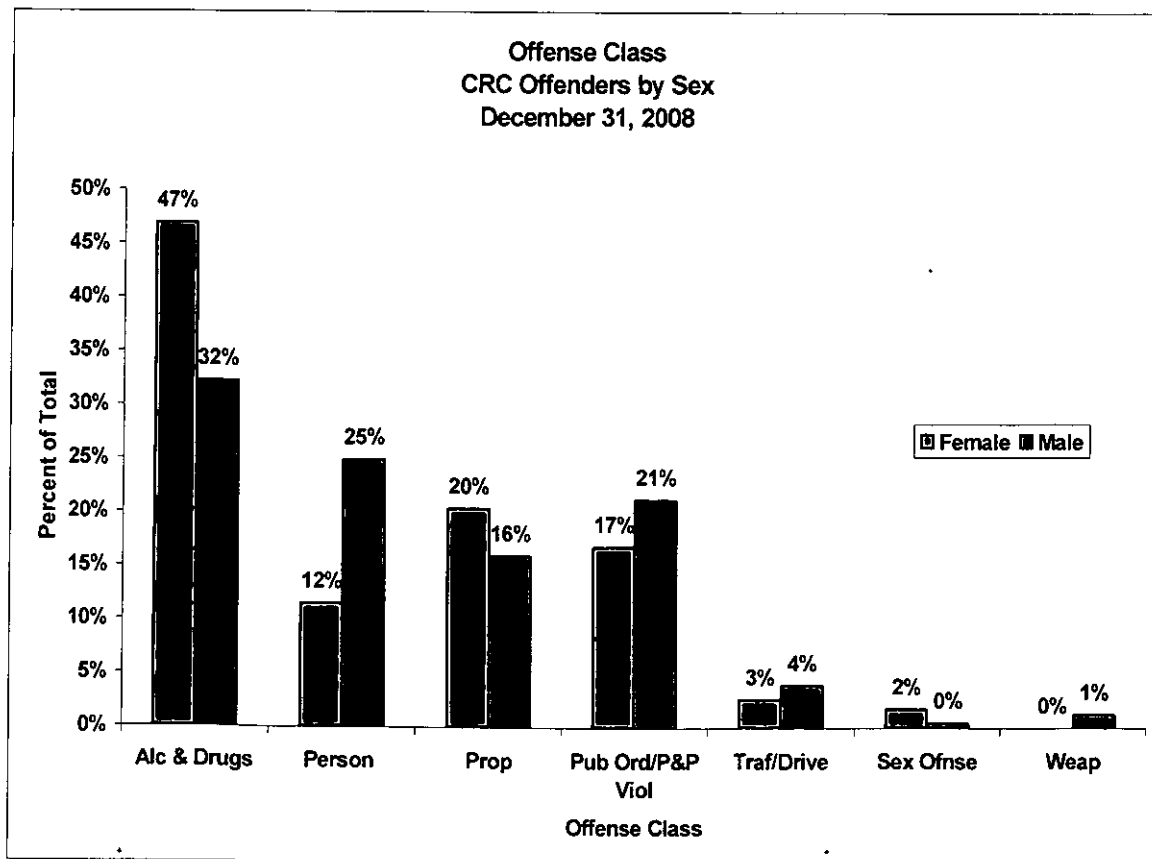
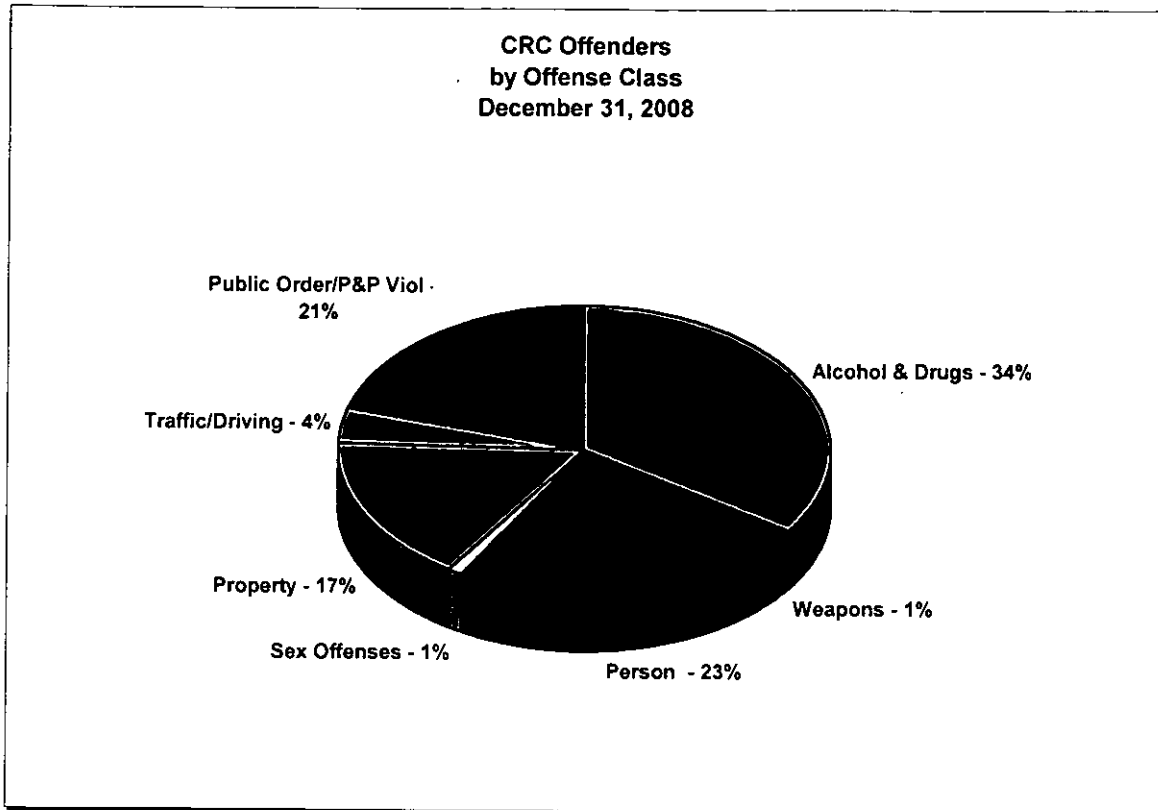
Traffic/Driving

Drive w/ License Canc/Susp/Rev/Lim	1	14	15	
Driving w/o Valid Operators License	-	6	6	
Fail to Stop at Direction of Officer 1	2	4	6	
Reckless Driving	-	1	1	
Total	3	25	28	3.8%

Weapons

Misconduct - Weapons 2	-	3	3	
Misconduct - Weapons 3	-	4	4	
Misconduct - Weapons 4	-	1	1	
Total	-	8	8	1.1%

Total All	113	627	740	100.0%
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**Crime Classifications by Class/Sex/Ethnicity
for Offenders in CRC's
December 31, 2008**

Class/Sex	Ethnicity	Count	Percent
Alcohol			
Females	Asian	0	0.0%
	Black	1	0.5%
	White	18	9.6%
	Hispanic	1	0.5%
	AK Native	14	7.4%
Males	Asian	3	1.6%
	Black	6	3.2%
	White	97	51.6%
	Hispanic	3	1.6%
	AK Native	45	23.9%
	Total	188	100.0%
Drugs			
Females	Asian	1	1.5%
	Black	0	0.0%
	White	15	22.4%
	Hispanic	0	0.0%
	AK Native	3	4.5%
Males	Asian	1	1.5%
	Black	6	9.0%
	White	32	47.8%
	Hispanic	2	3.0%
	AK Native	6	9.0%
	Unknown	1	1.5%
	Total	67	100.0%
Person			
Females	Asian	1	0.6%
	Black	0	0.0%
	White	4	2.4%
	Hispanic	1	0.6%
	AK Native	7	4.1%
Males	Asian	6	3.6%
	Black	17	10.1%
	White	46	27.2%
	Hispanic	5	3.0%
	AK Native	82	48.5%
	Total	169	100.0%

Class/Sex Property	Ethnicity	Count	Percent
Females	Asian	0	0.0%
	Black	2	1.6%
	White	15	12.2%
	Hispanic	0	0.0%
	AK Native	6	4.9%
Males	Asian	5	4.1%
	Black	11	8.9%
	White	59	48.0%
	AK Native	24	19.5%
	Unknown	1	0.8%
	Total	123	100.0%
Pub Order/Administration			
Females	Asian	2	4.0%
	Black	1	2.0%
	White	5	10.0%
	Hispanic	0	0.0%
	AK Native	1	2.0%
Males	Asian	0	0.0%
	Black	1	2.0%
	White	22	44.0%
	Hispanic	2	4.0%
	AK Native	16	32.0%
	Total	50	100.0%
Parole/Probation Violations			
Females	Asian	0	0.0%
	Black	1	1.0%
	White	3	2.9%
	Hispanic	0	0.0%
	AK Native	6	5.9%
Males	Asian	0	0.0%
	Black	7	6.9%
	White	42	41.2%
	Hispanic	2	2.0%
	AK Native	41	40.2%
	Total	102	100.0%
Non-Registerable Sex Offenses			
Females	Asian	0	0.0%
	Black	0	0.0%
	White	1	33.3%
	Hispanic	0	0.0%
	AK Native	1	33.3%

Class/Sex	Ethnicity	Count	Percent
Non-Registerable Sex Offenses			
Males	Asian	0	0.0%
	Black	1	33.3%
	White	0	0.0%
	Hispanic	0	0.0%
	AK Native	0	0.0%
	Total	3	100.0%
Registerable Sex Offenses			
Females	Asian	0	0.0%
	Black	0	0.0%
	White	0	0.0%
	Hispanic	0	0.0%
	AK Native	0	0.0%
	Males	Asian	0
Black		0	0.0%
White		0	0.0%
Hispanic		0	0.0%
AK Native		2	100.0%
Total		2	100.0%
Traffic/Driving			
Females	Asian	0	0.0%
	Black	0	0.0%
	White	1	3.6%
	Hispanic	0	0.0%
	AK Native	2	7.1%
	Males	Asian	1
Black		0	0.0%
White		20	71.4%
Hispanic		0	0.0%
AK Native		4	14.3%
Total		28	100.0%
Weapons			
Females	Asian	0	0.0%
	Black	0	0.0%
	White	0	0.0%
	Hispanic	0	0.0%
	AK Native	0	0.0%
	Males	Asian	1
Black		0	0.0%
White		3	37.5%
Hispanic		1	12.5%
AK Native		2	25.0%
Unknown		1	12.5%
Total	8	100.0%	
Total All		740	100.0%

Focus 2008

Information About Groups of Particular Interest

Notes:

Includes information about all offenders incarcerated in Alaskan and out-of-state institutions, CRC's, treatment centers, and those under electronic monitoring and offsite supervision who are entered into the OTIS database.

Consists of a snapshots of offenders incarcerated and entered into the OTIS database on December 31, 2008.

Alaska Native race category includes a small number of Native Americans not indigenous to Alaska.

Information about offenses is the most serious charge only.

Offense classes are semi-arbitrary.

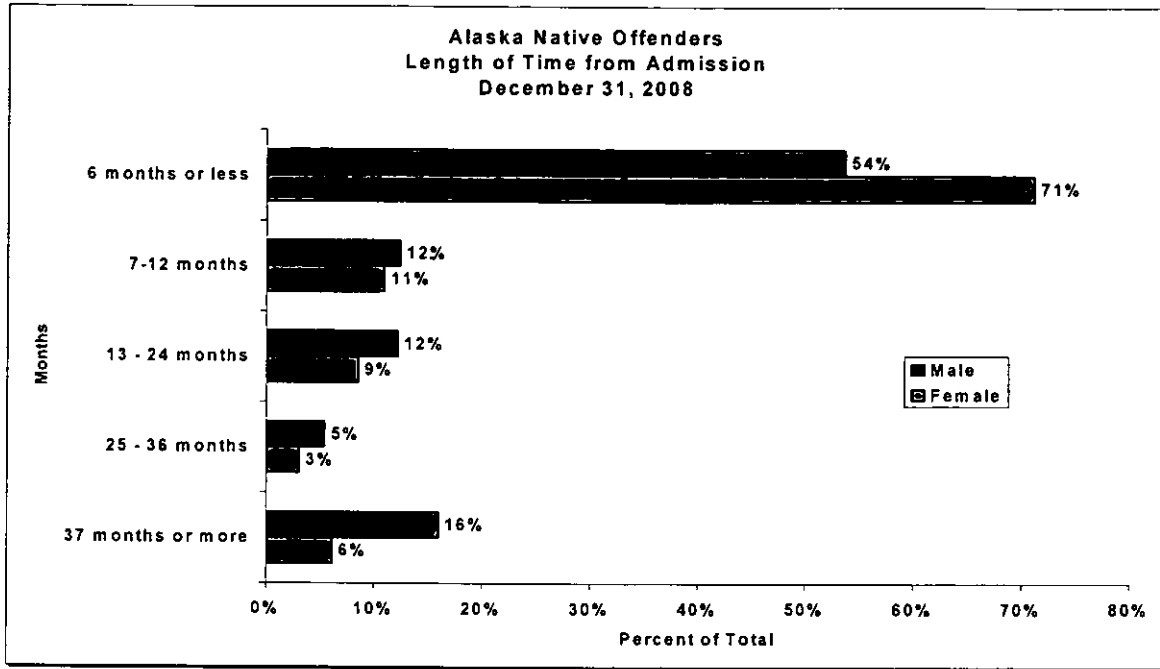
Alaska Natives

Notes:

Includes information about all offenders listed within the OTIS database as Indian or Alaska Native.
Includes information about a small number of Native Americans who are not indigenous to Alaska.

**Distribution of Alaska Natives
December 31, 2008**

In-State Institutions	Female	Male	Total
Anchorage CCE	3	119	122
Anchorage CCW	-	127	127
Anvil Mountain CC	3	77	80
Fairbanks CC	12	80	92
Hiland Mountain CC	94	-	94
Ketchikan CC	2	17	19
Lemon Creek CC	3	79	82
Mat-Su Pretrial	2	8	10
Palmer Minimum CC	-	63	63
Palmer Medium CC	-	81	81
Point MacKenzie CF	-	33	33
Spring Creek CC	-	206	206
Wildwood CC	-	93	93
Wildwood Pretrial	3	8	11
Yukon-Kuskokwim CC	2	104	106
<i>Total</i>	<i>124</i>	<i>1,095</i>	<i>1,219</i>
Out-of-State Institutions			
Red Rock CC - Arizona	-	307	307
Federal Bureau of Prisons	-	2	2
<i>Total</i>	<i>-</i>	<i>309</i>	<i>309</i>
CRC's			
Akeela House	-	1	1
Cordova Center	7	35	42
Glacier Manor	6	10	16
Glennwood Center	4	9	13
Midtown Center	-	13	13
North Star Center	2	31	33
Parkview Center	-	20	20
Seaside Center	13	35	48
Tundra Center	1	52	53
<i>Total</i>	<i>33</i>	<i>206</i>	<i>239</i>
Special Offsite Programs			
Anchorage Electronic Monitoring	5	13	18
Fairbanks Electronic Monitoring	2	3	5
<i>Total</i>	<i>7</i>	<i>16</i>	<i>23</i>
Total All	164	1,626	1,790



**Demographic Information for Alaska Native Offenders
December 31, 2008**

Age Group (Years)	Female	Male	Total
19 and Under	8	54	62
20 - 24	30	291	321
25 - 29	38	331	369
30 - 34	22	218	240
35 - 39	17	201	218
40 - 44	23	179	202
45 - 49	13	158	171
50 - 54	6	106	112
55 - 59	4	52	56
60 - 64	2	16	18
65 and over	1	20	21
Total	164	1,626	1,790
<i>Mean Age</i>	<i>33.94</i>	<i>35.21</i>	<i>35.10</i>
<i>Median Age</i>	<i>31.96</i>	<i>33.06</i>	<i>32.93</i>
Length of time from admission			
6months or less	117	876	993
7 months - 12 months	18	203	221
13 months - 24 months	14	199	213
25 months 36 months	5	88	93
37 months or more	10	260	270
Total	164	1,626	1,790
<i>Mean Length (months)</i>	<i>9.77</i>	<i>20.87</i>	<i>19.86</i>
<i>Median Length (months)</i>	<i>2.00</i>	<i>5.00</i>	<i>5.00</i>

**Offense Classifications of Alaska Native Offenders
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	104	1,268	1,372	76.6%
Misdemeanor	56	355	411	23.0%
Violation	4	3	7	0.4%
Total	164	1,626	1,790	100.0%

Alcohol

Attempt Furnish Liquor to Minor	-	1	1	
Drinking in Public	-	2	2	
Driving While Intoxicated	7	31	38	
Drunk Person on Licensed Premise	-	2	2	
Felony DWI - 2+ Priors w/in 5 Yrs	12	64	76	
Felony Refusal of Chem Test- 2+ P	-	2	2	
Furnish Alcohol to a Minor	-	7	7	
License or Permit Required	-	2	2	
Manuf/Sell Alcohol w/o license	-	3	3	
Minor Consuming/Possessing Alcoh	5	7	12	
Prohibition of Importation after Elec	1	1	2	
Refuse Chemical Test	-	1	1	
Send/Bring Alcohol to Dry Area	1	-	1	
Total	26	123	149	8.3%

Drugs

Attempted Misconduct - Controlled	-	2	2	
Misconduct -Controlled Substance 2	1	3	4	
Misconduct -Controlled Substance 3	5	7	12	
Misconduct -Controlled Substance 4	5	20	25	
Misconduct -Controlled Substance 5	1	1	2	
Misconduct -Controlled Substance 6	-	1	1	
Total	12	34	46	2.6%

Person

Assault 1	4	33	37	
Assault 2	3	58	61	
Assault 3	7	78	85	
Assault 4	11	128	139	
Assault	7	23	30	
Attempted Assault 1	-	1	1	
Attempted Murder 1	-	17	17	
Attempted Murder 2	-	1	1	
Attempted Robbery 1	-	1	1	
Child Abuse	1	-	1	
Coercion	-	4	4	
Contributing to the Delinquency Min	-	2	2	

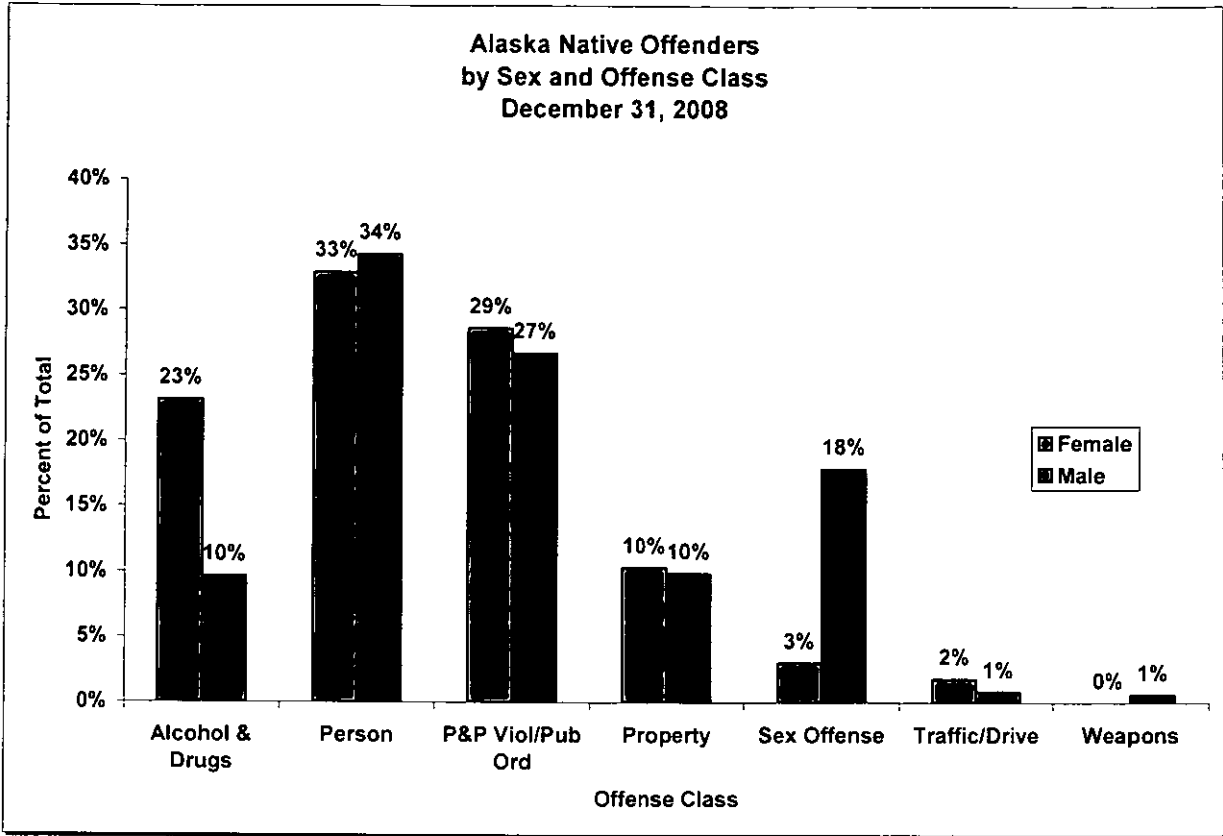
Person	Female	Male	Total	Pct
Criminal Nonsupport	-	1	1	
Criminally Negligent Homicide	-	3	3	
DV Assault	2	14	16	
Kidnapping	-	13	13	
Manslaughter	7	15	22	
Murder 1	2	49	51	
Murder 2	7	78	85	
Reckless Endangerment	1	5	6	
Robbery 1	2	19	21	
Robbery 2	-	15	15	
Total	54	558	612	34.2%

Property				
Arson 1	1	4	5	
Arson 2	-	1	1	
Attempted Arson 1	-	1	1	
Attempted Theft 3	-	1	1	
Attempted Vehicle Theft 1	-	2	2	
Burglary 1	1	31	32	
Burglary 2	-	11	11	
Conceal Merch - Value \$500+	-	1	1	
Criminal Impersonation 1	-	2	2	
Criminal Mischief 2	-	1	1	
Criminal Mischief 3	1	11	12	
Criminal Mischief 4	1	7	8	
Criminal Mischief 5	-	1	1	
Criminal Trespass 1	1	4	5	
Criminal Trespass 2	2	3	5	
Forgery 1	-	1	1	
Forgery 2	1	3	4	
Scheme to Defraud	1	-	1	
Theft 2	5	31	36	
Theft 3	-	8	8	
Theft	-	1	1	
Theft by Shoplifting	1	2	3	
Vehicle Tampering	-	1	1	
Vehicle Theft 1	2	31	33	
Vehicle Theft 2	-	2	2	
Total	17	161	178	9.9%

Public Order/Administration

Bribery	-	1	1	
Contempt of Court	1	2	3	
Disorderly Conduct	1	5	6	
Escape 2	-	15	15	
Escape 3	-	2	2	
Escape 4	-	4	4	

Public Order/Administration	Female	Male	Total	Pct
Failure Satisfy Judgement	1	4	5	
Failure to Appear	3	14	17	
Failure to Comply	-	2	2	
Failure to Reg as Sex Offender 1	1	6	7	
Failure to Reg as Sex Offender 2	-	1	1	
Federal Offense	1	1	2	
Leaving Scene of Accident	1	1	2	
Making a False Report	3	5	8	
Promoting Contraband 2	-	2	2	
Resist/Interfere Arrest	-	2	2	
Resist/Interfere Officer	1	-	1	
Tampering w/ Physical Evidence	-	3	3	
Unlawful Contact 1	-	1	1	
Unlawful Evasion 1	1	1	2	
Urinating in Public	-	1	1	
Violate Conditions of Release	2	30	32	
Violate DV Restraining Order	2	7	9	
Total	18	110	128	7.2%
Parole/Probation Violations				
Parole Violation	2	69	71	
Probation Violation	27	256	283	
Total	29	325	354	19.8%
Non-Registerable Sex Offenses				
Indecent Exposure 2	-	1	1	
Practicing Prostitution	4	-	4	
Total	4	1	5	0.3%
Registerable Sex Offense				
Attempted Sex Abuse 1	-	4	4	
Attempted Sex Abuse Minor 2	-	9	9	
Attempted Sex Abuse Minor 3	-	1	1	
Attempted Sex Assault 1	-	5	5	
Attempted Sex Assault 2	-	4	4	
Attempted Sex Assault 3	-	3	3	
Incest	-	1	1	
Indecent Exposure 1	-	1	1	
Indecent Exposure 2	-	1	1	
Sex Abuse Minor 1	-	50	50	
Sex Abuse Minor 2	-	60	60	
Sex Abuse Minor 3	-	7	7	
Sex Assault 1	-	87	87	
Sex Assault 2	1	43	44	
Sex Assault 3	-	13	13	
Solicitation Sex Abuse 1	-	1	1	
Total	1	290	291	16.3%



	Female	Male	Total	Pct
Traffic/Driving				
Drive w License Canc/Susp/Rev/Li	2	6	8	
Fail to Stop at Direction of Officer	1	5	6	
Reckless Driving	-	2	2	
Valid Operators License Required	-	1	1	
Total	3	14	17	0.9%
Weapons				
Misconduct - Weapons 2	-	4	4	
Misconduct - Weapons 3	-	6	6	
Total	-	10	10	0.6%
Total All	164	1,626	1,790	100.0%

Juveniles

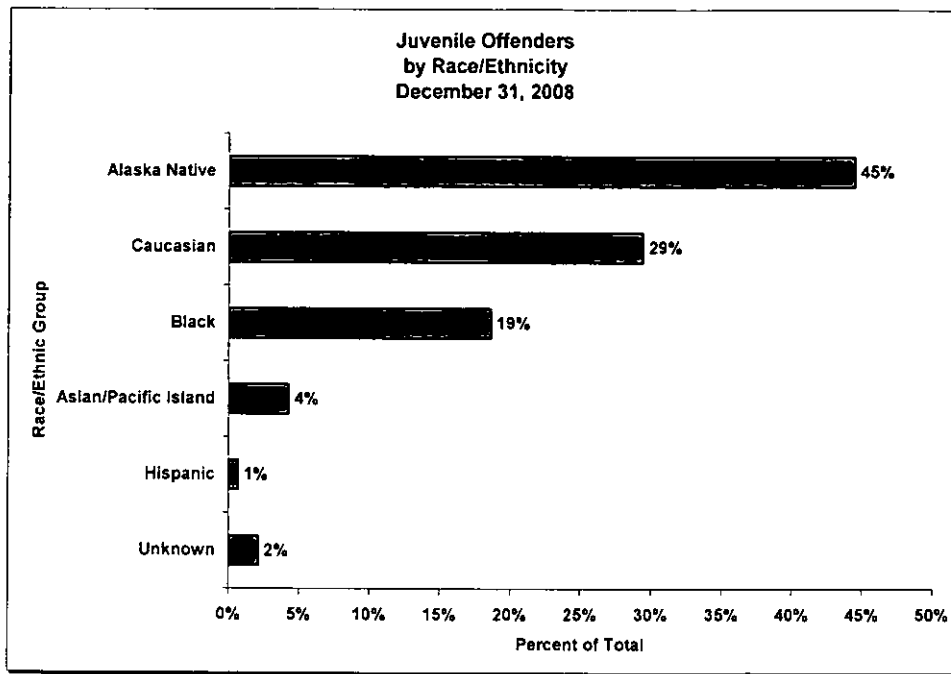
Notes:

Includes information about all offenders who are less than 20 years old.

A small number of Native Americans who are not indigenous to Alaska are included in the Alaska Native category.

**Distribution of Juvenile Offenders
December 31, 2008**

In-State Institutions	Female	Male	Total
Anchorage CCE	0	19	19
Anchorage CCW	0	12	12
Anvil Mountain CC	0	15	15
Fairbanks CC	1	11	12
Hiland Mountain CC	6	0	6
Ketchikan CC	1	3	4
Lemon Creek CC	1	6	7
Mat-Su Pretrial	0	2	2
Palmer Minimum CC	0	1	1
Palmer Medium CC	0	9	9
Point Mackenzie CF	0	3	3
Spring Creek CC	0	14	14
Wildwood CC	0	4	4
Wildwood Pretrial	1	3	4
Yukon-Kuskokwim CC	0	6	6
<i>Total</i>	<i>10</i>	<i>108</i>	<i>118</i>
Out-of-State Institutions			
Red Rock CC - Arizona	0	1	1
<i>Total</i>	<i>0</i>	<i>1</i>	<i>1</i>
CRC's			
Cordova Center	1	2	3
Glacier Manor	1	2	3
North Star Center	0	1	1
SeasideCenter	4	3	7
Tundra Center	0	3	3
<i>Total</i>	<i>6</i>	<i>11</i>	<i>17</i>
Special Offsite Programs			
Anchorage Electronic Monitoring	0	3	3
<i>Total</i>	<i>0</i>	<i>3</i>	<i>3</i>
Total All	16	123	139



**Demographic Information for Juvenile Offenders
December 31, 2008**

Ethnicity	Female	Male	Total
Alaska Native	8	54	62
Asian/Pacific Island	1	5	6
Black	0	26	26
Caucasian	6	35	41
Hispanic	0	1	1
Unknown	1	2	3
Total	16	123	139

Age (years)	Female	Male	Total
16	0	2	2
17	0	9	9
18	6	39	45
19	10	73	83
Total	16	123	139

<i>Mean Age (years)</i>	<i>19.08</i>	<i>19.10</i>	<i>19.10</i>
<i>Median Age (years)</i>	<i>19.24</i>	<i>19.24</i>	<i>19.24</i>

Length of Time From Admission	Female	Male	Total
Under 1 month	11	38	49
1 month to 6 months	4	58	62
7 months to 12 months	1	12	13
12 months and over	0	15	15
Total	16	123	139

<i>Mean Length (months)</i>	<i>0.81</i>	<i>4.31</i>	<i>3.91</i>
<i>Median Length (months)</i>	<i>< 1</i>	<i>1.00</i>	<i>1.00</i>

**Offense Classifications of Juvenile Offenders
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	9	95	104	74.8%
Misdemeanor	5	28	33	23.7%
Violation	2	0	2	1.4%
Total	16	123	139	100.0%
Alcohol				
Driving While Intoxicated	1	4	5	
Minor Consuming	3	2	5	
Persons Under 21 on Alcohol Premises	0	1	1	
Prohibition of Importation After Election	1	0	1	
Total	5	7	12	8.6%
Drugs				
Misconduct - Controlled Substance 2	1	0	1	
Misconduct - Controlled Substance 4	1	1	2	
Total	2	1	3	2.2%
Person				
Assault 1	0	10	10	
Assault 2	0	2	2	
Assault 3	0	5	5	
Assault 4	0	6	6	
Attempted Murder 1	0	3	3	
Conspiracy Robbery 1	0	1	1	
DV Assault	0	1	1	
Manslaughter	0	3	3	
Murder 1	0	2	2	
Murder 2	1	0	1	
Reckless Endangerment	0	1	1	
Robbery 1	0	10	10	
Robbery 2	0	3	3	
Total	1	47	48	34.5%
Property				
Attempted Theft 3	0	1	1	
Attempted Vehicle Theft 1	0	1	1	
Burglary 1	0	8	8	
Burglary 2	0	1	1	
Criminal Mischief 4	0	1	1	
Criminal Trespass 1	0	1	1	
Forgery 2	0	1	1	
Theft 1	0	1	1	
Theft 2	2	6	8	
Theft 3	0	1	1	
Vehicle Theft 1	0	3	3	
Total	2	25	27	19.4%

Public Order/Administration

Failure to Satisfy Judgement	0	1	1	
Failure to Appear	1	2	3	
Leaving Scene of Accident	1	0	1	
Perjury	0	1	1	
Resist/Interfere w/ Arrest	0	1	1	
Violate Conditions of Release	1	3	4	
Total	3	8	11	7.9%

Parole/Probation Violations

Parole Violation	0	1	1	
Probation Violation	2	12	14	
Total	2	13	15	10.8%

Registerable Sex Offenses

Attempted Sex Abuse 1	0	1	1	
Possess Child Pornography	0	1	1	
Promote Prostitution 1	1	0	1	
Sex Abuse Minor 1	0	5	5	
Sex Abuse Minor 2	0	3	3	
Sex Assault 1	0	2	2	
Sex Assault 2	0	1	1	
Total	1	13	14	10.1%

Traffic/Driving

Drive with License Susp/Canc/Rev/Lim	0	2	2	
Fail to Stop at Direction of Officer 1	0	1	1	
Reckless Driving	0	1	1	
Total	0	4	4	2.9%

Weapons

Misconduct - Weapons 2	0	3	3	
Misconduct - Weapons 3	0	2	2	
Total	0	5	5	3.6%

Total All	16	123	139	100.0%
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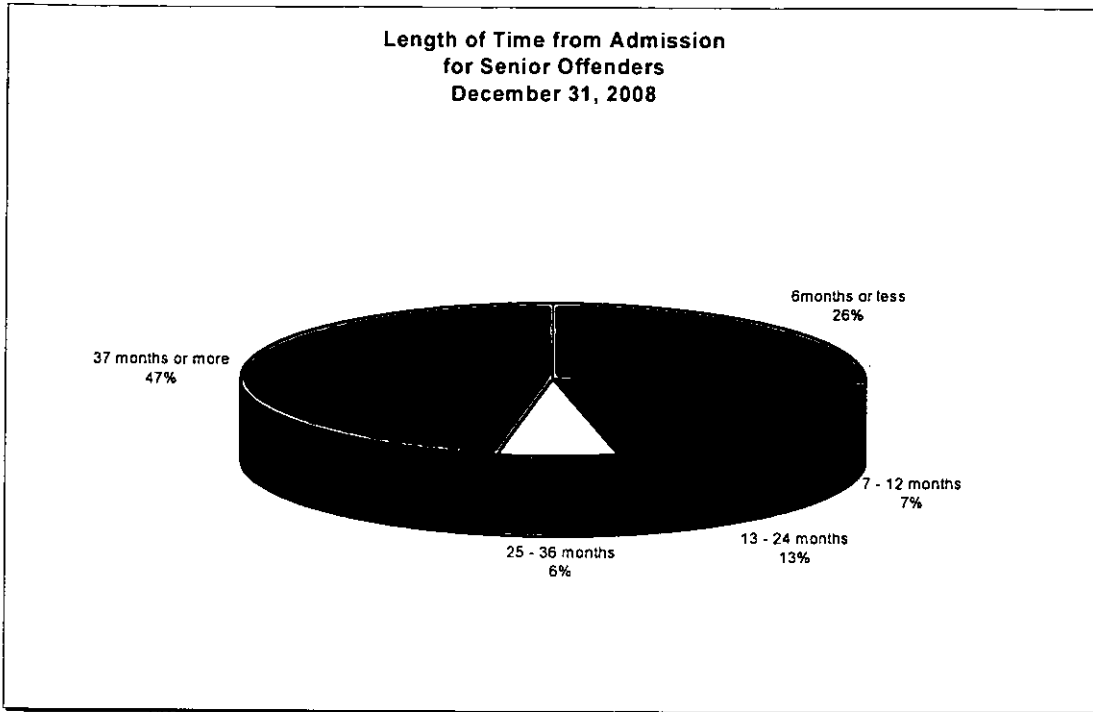
Seniors

Notes:

Includes information about all offenders in the OTIS database who are 60 years old or older,
Alaska Native race category includes a small number of Native Americans not indigenous to Alaska.

**Distribution of Senior Offenders
December 31, 2008**

In-State Institutions	Female	Male	Total
Anchorage CCE	-	10	10
Anchorage CCW	-	11	11
Fairbanks CC	2	9	11
Hiland Mountain CC	4	-	4
Ketchikan CC	-	-	-
Lemon Creek CC	-	3	3
Mat-Su PreTrial	-	1	1
Palmer Minimum CC	-	7	7
Palmer Medium CC	-	6	6
Point MacKenzie CF	-	-	-
Spring Creek CC	-	12	12
Wildwood CC	-	9	9
Wildwood PreTrial	-	4	4
Yukon-Kuskokwim CC	-	4	4
<i>Total</i>	<i>6</i>	<i>76</i>	<i>82</i>
Out-of-State Institutions			
Red Rock CC - Arizona	-	58	58
Federal Bureau of Prisons	-	2	2
<i>Total</i>	<i>-</i>	<i>60</i>	<i>60</i>
CRC's			
Glennwood Center	-	2	2
<i>Total</i>	<i>-</i>	<i>2</i>	<i>2</i>
Special Offsite Programs			
Anchorage Electronic Monitoring	-	3	3
Fairbanks Electronic Monitoring	1	-	1
<i>Total</i>	<i>1</i>	<i>3</i>	<i>4</i>
Total All	7	141	148



**Demographic Information for Senior Offenders
December 31, 2008**

Ethnicity	Female	Male	Total
Asian/Pacific Island	1	2	3
Black	1	8	9
Caucasian	2	92	94
Hispanic	-	3	3
Alaska Native	3	36	39
Total	7	141	148

Age Group (Years)	Female	Male	Total
60 - 64	5	77	82
65 - 69	1	46	47
70 - 74	1	11	12
75 - 79	-	6	6
80 and over	-	1	1
Total	7	141	148

Mean Age	63.24	65.29	65.19
Median Age	61.51	64.17	64.09

Length of time from admission	Female	Male	Total
6 months or less	4	35	39
7 months - 12 months	-	11	11
13 months - 24 mon	2	17	19
25 months 36 months	-	9	9
37 months or more	1	69	70
Total	7	141	148

Mean Length (months)	24.14	67.52	65.47
Median Length (months)	2.00	35.00	31.50

**Offense Classifications of Senior Offenders
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	4	129	133	89.9%
Misdemeanor	3	12	15	10.1%
Total	7	141	148	100.0%
Alcohol				
Driving While Intoxicated	-	2	2	
Felony DWI - 2+ Priors w/in 5 Yrs	-	5	5	
Felony Refusal of Chemical Test	-	1	1	
Total	-	8	8	5.4%
Drugs				
Misconduct-Controlled Substance 2	-	1	1	
Misconduct-Controlled Substance 3	-	1	1	
Misconduct-Controlled Substance 4	-	2	2	
Total	-	4	4	2.7%
Driving				
Drive w/ Lic Canc/Susp/Rev/Lim	1	1	2	
Total	1	1	2	1.4%
Person				
Assault 1	-	5	5	
Assault 2	-	1	1	
Assault 3	-	3	3	
Assault 4	1	-	1	
DV Assault	-	1	1	
Attempted Murder 1	-	1	1	
Endanger Vulnerable Adult 1	-	1	1	
Kidnapping	-	3	3	
Manslaughter	-	5	5	
Murder 1	-	27	27	
Murder 2	1	8	9	
Robbery 1	-	2	2	
Total	2	57	59	39.9%

Property	Female	Male	Total	Pct
Burglary 1	-	1	1	
Criminal Trespass	-	2	2	
Scheme to Defraud	-	1	1	
Theft 2	2	-	2	
Total	2	4	6	4.1%
Parole/Probation Violations				
Parole Violation	-	9	9	
Probation Violation	2	5	7	
Total	2	14	16	10.8%
Public Order/Administration				
Contempt of Court	-	1	1	
Escape 4	-	1	1	
Failure to Appear	-	2	2	
Federal Offense	-	2	2	
Fugitive From Justice	-	1	1	
Tampering w/ Physical Evidence	-	1	1	
Violate Conditions of Release	-	1	1	
Violate DV Restraining Order	-	1	1	
Total	-	10	10	6.8%
Registerable Sex Offenses				
Attempted Sex Abuse 1	-	2	2	
Attempted Sex Abuse Minor 2	-	1	1	
Online Enticement of a Minor	-	1	1	
Possess Child Pornography	-	2	2	
Sex Abuse Minor 1	-	19	19	
Sex Abuse Minor 2	-	8	8	
Sex Assault 1	-	8	8	
Sex Assault 2	-	1	1	
Sex Assault 3	-	1	1	
Total	-	43	43	29.1%
Total All	7	141	148	100.0%

Sex Offenders

Notes:

Includes information about all offenders in the OTIS database who have listed as their most serious charge an offense that would unambiguously identify them as a registerable sex offender.

**Distribution of Sex Offenders
December 31, 2008**

In-State Institutions	Female	Male	Total
Anchorage CCE	-	22	22
Anchorage CCW	-	46	46
Anvil Mountain CC	-	9	9
Fairbanks CC	-	19	19
Hiland Mountain CC	7	-	7
Ketchikan CC	-	4	4
Lemon Creek CC	-	21	21
Mat-Su Pretrial	-	7	7
Palmer Minimum CC	-	31	31
Palmer Medium CC	-	31	31
Spring Creek CC	-	87	87
Wildwood CC	-	27	27
Wildwood Pretrial	-	7	7
Yukon-Kuskokwim CC	-	24	24
<i>Total</i>	7	335	342
Out-of-State Institutions			
Red Rock CC - Arizona	-	227	227
<i>Total</i>	-	227	227
CRC's			
Seaside Center	-	1	1
Tundra Center	-	1	1
<i>Total</i>	-	2	2
Total All	7	564	571

**Demographic Information for Sex Offenders
December 31, 2008**

Ethnicity	Female	Male	Total
Asian/Pacific Island	1	11	12
Black	1	25	26
Caucasian	4	223	227
Hispanic	-	9	9
Alaska Native	1	290	291
Unknown	-	6	6
Total	7	564	571

Age Group (Years)	Female	Male	Total
19 and Under	1	13	14
20 - 24	1	86	87
25 - 29	-	63	63
30 - 34	1	48	49
35 - 39	3	73	76
40 - 44	-	80	80
45 - 49	1	72	73
50 - 54	-	52	52
55 - 59	-	34	34
60 - 64	-	22	22
65 and over	-	21	21
Total	7	564	571

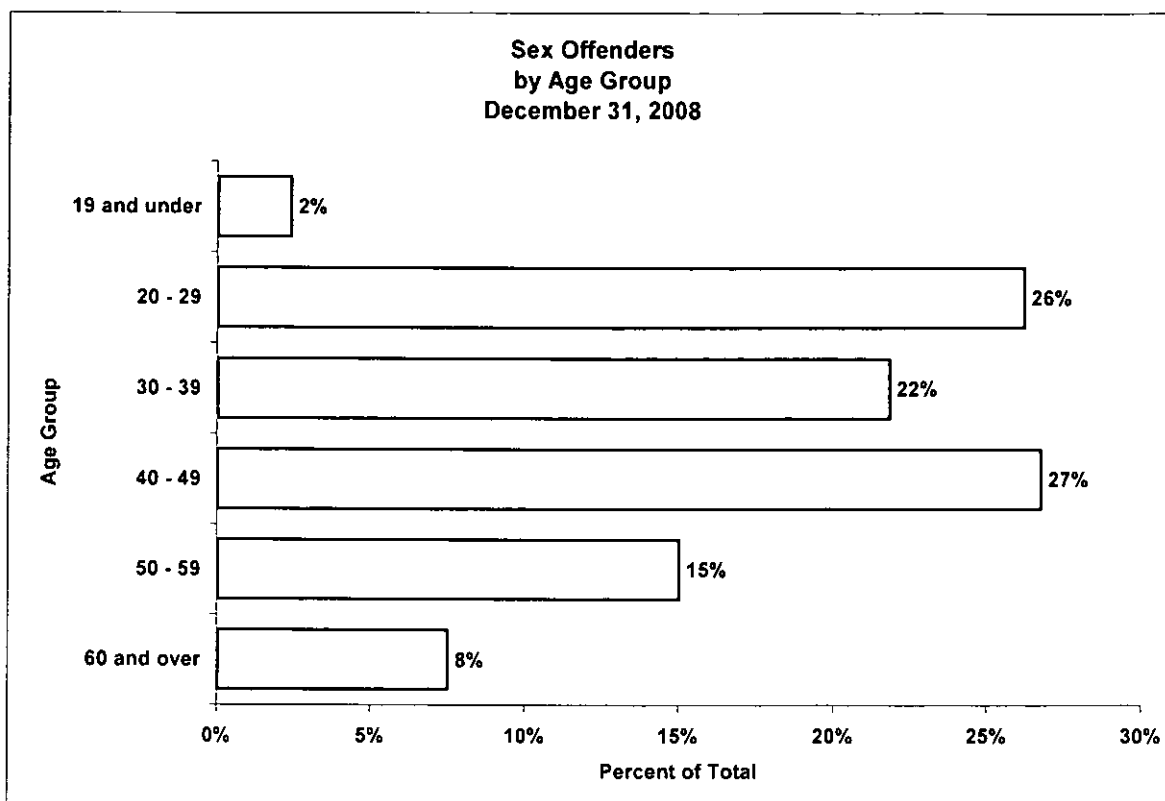
<i>Mean Age</i>	<i>34.23</i>	<i>39.88</i>	<i>39.81</i>
<i>Median Age</i>	<i>37.39</i>	<i>39.79</i>	<i>39.70</i>

Length of time from admission	Female	Male	Total
6 months or less	2	127	129
7 months - 12 months	2	82	84
13 months - 24 months	2	100	102
25 months 36 months	-	71	71
37 months or more	1	184	185
Total	7	564	571

<i>Mean Length (months)</i>	<i>21.86</i>	<i>35.04</i>	<i>34.88</i>
<i>Median Length (months)</i>	<i>9.00</i>	<i>21.00</i>	<i>20.00</i>

**Offense Classifications for Sex Offenders
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	7	554	561	98.2%
Misdemeanor	-	10	10	1.8%
Total	7	564	571	100.0%



Registerable Sex Offenses	Female	Male	Total
Attempted Sex Abuse 1	-	14	14
Attempted Sex Abuse Minor 2	-	14	14
Attempted Sex Abuse Minor 3	-	2	2
Attempted Sex Assault 1	-	10	10
Attempted Sex Assault 2	-	6	6
Attempted Sex Assault 3	-	3	3
Distribute Child Pornography	-	5	5
Incest	-	1	1
Indecent Exposure 1	-	2	2
Indecent Exposure 2	-	2	2
Online Enticement of a Minor	-	1	1
Possess Child Pornography	-	16	16
Promote Prostitution 1	1	-	1
Sex Abuse Minor 1	2	143	145
Sex Abuse Minor 2	1	114	115
Sex Abuse Minor 3	1	10	11
Sex Assault 1	-	151	151
Sex Assault 2	2	51	53
Sex Assault 3	-	18	18
Solicitation Sex Abuse 1	-	1	1
Total	7	564	571

Substance Abusers

Notes:

Includes information about all offenders in the OTIS database who have listed as their most serious charge an offense related to alcohol or drugs.

**Distribution of Substance Abuse Offenders
December 31, 2008**

In-State Institutions	Alcohol			Drugs		
	Female	Male	Total	Female	Male	Total
Anchorage CCE	1	19	20	-	19	19
Anchorage CCW	-	16	16	-	28	28
Anvil Mountain CC	-	2	2	-	-	-
Fairbanks CC	2	18	20	-	5	5
Hiland Mountain CC	26	-	26	57	-	57
Ketchikan CC	-	-	-	-	1	1
Lemon Creek CC	1	11	12	1	14	15
Mat-Su Pretrial	2	9	11	1	8	9
Palmer Minimum CC	-	24	24	-	11	11
Palmer Medium CC	-	33	33	-	28	28
Point MacKenzie CF	-	16	16	-	14	14
Spring Creek CC	-	19	19	-	31	31
Wildwood CC	-	40	40	-	28	28
Wildwood Pretrial	2	16	18	1	11	12
Yukon-Kuskokwim CC	-	5	5	-	-	-
<i>Total</i>	<i>34</i>	<i>228</i>	<i>262</i>	<i>60</i>	<i>198</i>	<i>258</i>
Out-of-State Institutions						
Red Rock CC - Arizona	-	36	36	-	47	47
Federal Bureau Prisons	-	-	-	-	2	2
<i>Total</i>	<i>-</i>	<i>36</i>	<i>36</i>	<i>-</i>	<i>49</i>	<i>49</i>
CRC's						
Akeela House	-	-	-	1	-	1
Clitheroe Center	-	3	3	2	2	4
Cordova Center	9	19	28	5	3	8
Glacier Manor	4	10	14	2	4	6
Glennwood Center	1	13	14	4	9	13
Midtown Center	-	7	7	-	-	-
North Star Center	1	19	20	1	6	7
Parkview Center	-	20	20	-	6	6
Seaside Center	5	6	11	-	5	5
Tundra Center	-	6	6	-	-	-
<i>Total</i>	<i>20</i>	<i>103</i>	<i>123</i>	<i>15</i>	<i>35</i>	<i>50</i>
Special Offsite Programs						
Anchorage Electronic Monitoring	13	41	54	3	11	14
Anchorage CRC Monitoring	-	1	1	-	-	-
Fairbanks Electronic Monitoring	1	9	10	1	2	3
<i>Total</i>	<i>14</i>	<i>51</i>	<i>65</i>	<i>4</i>	<i>13</i>	<i>17</i>
Total All	68	418	486	79	295	374

**Demographic Information for Substance Abuse Offenders
December 31, 2008**

Ethnicity	Alcohol			Drugs		
	Female	Male	Total	Female	Male	Total
Asian/Pacific Island	1	10	11	2	8	10
Black	2	20	22	6	56	62
Caucasian	35	254	289	59	189	248
Hispanic	2	11	13	0	6	6
Alaska Native	26	123	149	12	34	46
Unknown	2	0	2	0	2	2
Total	68	418	486	79	295	374
Age Group (Years)						
19 and Under	5	7	12	2	1	3
20 - 24	7	40	47	10	42	52
25 - 29	14	58	72	13	79	92
30 - 34	11	55	66	10	46	56
35 - 39	12	48	60	9	25	34
40 - 44	4	86	90	15	30	45
45 - 49	6	60	66	17	39	56
50 - 54	5	38	43	2	20	22
55 - 59	4	18	22	1	9	10
60 - 64	-	5	5	-	3	3
65 and over	-	3	3	-	1	1
Total	68	418	486	79	295	374
<i>Mean Age</i>	<i>34.88</i>	<i>38.91</i>	<i>38.35</i>	<i>36.81</i>	<i>35.59</i>	<i>35.85</i>
<i>Median Age</i>	<i>33.31</i>	<i>40.17</i>	<i>38.76</i>	<i>37.76</i>	<i>33.01</i>	<i>33.73</i>
Length of time from admission						
6 months or less	50	257	307	40	119	159
7 months - 12 months	10	66	76	15	64	79
13 months - 24 months	8	73	81	13	48	61
25 months - 36 months	-	17	17	6	36	42
37 months or more	-	5	5	5	28	33
Total	68	418	486	79	295	374
<i>Mean Length (months)</i>	<i>4.35</i>	<i>7.19</i>	<i>6.80</i>	<i>10.60</i>	<i>14.88</i>	<i>13.97</i>
<i>Median Length (months)</i>	<i>1.50</i>	<i>4.00</i>	<i>3.00</i>	<i>6.00</i>	<i>10.00</i>	<i>9.00</i>

**Offense Classifications of Substance Abuse Offenders
December 31, 2008**

Offense Level	Alcohol			
	Female	Male	Total	Pct
Felony	39	291	330	67.9%
Misdemeanor	25	123	148	30.5%
Violation	4	4	8	1.6%
Total	68	418	486	100.0%

Offenses

Attempted Furnish Liquor to Minor	-	1	1	
Drinking in Public	-	2	2	
Driving While Intoxicated	23	108	131	
Drunk Person on Licenses Premises	-	2	2	
Felony DWI - 2+ Priors w/in 5 Yrs	37	264	301	
Felony Refusal of Chem Test- 2+ Priors	-	14	14	
Furnish Alcohol to Minor	-	7	7	
License or Permit Required	-	2	2	
Manuf/Sell Alcohol w/o lic	-	2	2	
Manufacture, Sell, Offer for Sale	-	2	2	
Minor Consuming/Possessing Alcohol	5	8	13	
Persons Under 21 on Alcohol Premises	-	1	1	
Prohibition of Importation after Election	2	2	4	
Refuse to Submit to Chem Test	-	3	3	
Send/Bring Alcohol to Dry Area - Lg Amt	1	0	1	
Total	68	418	486	

Offense Level	Drugs			
	Female	Male	Total	Pct
Felony	76	291	367	98.1%
Misdemeanor	3	4	7	1.9%
Total	79	295	374	100.0%

Offenses

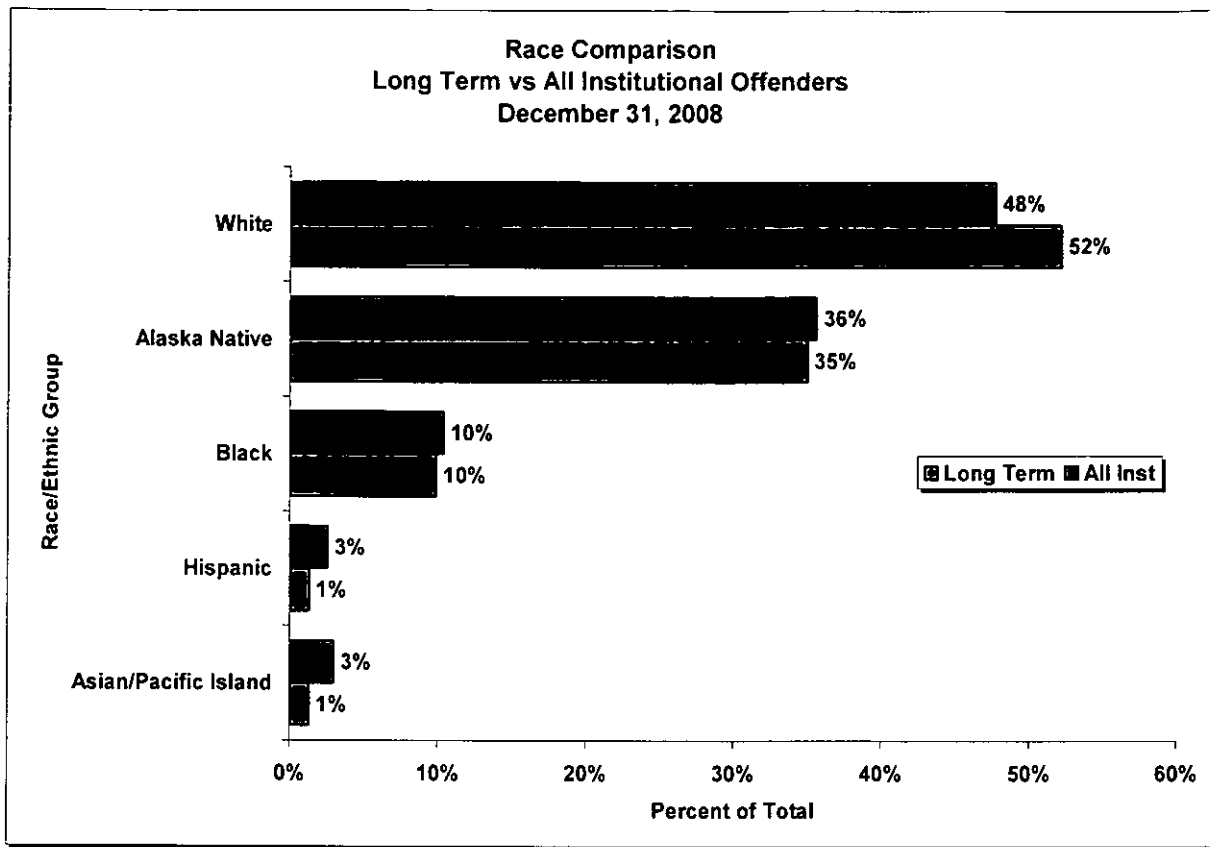
Attempted MICS 2	3	18	21	
Attempted MICS 3	-	3	3	
Attempted MICS 4	1	0	1	
Misconduct - Controlled Substance 1	1	5	6	
Misconduct -Controlled Substance 2	12	69	81	
Misconduct - Controlled Substance 3	17	64	81	
Misconduct - Controlled Substance 4	44	132	176	
Misconduct - Controlled Substance 5	1	3	3	
Misconduct - Controlled Substance 6	-	1	1	
Total	79	295	374	

Long Term Offenders

Notes:

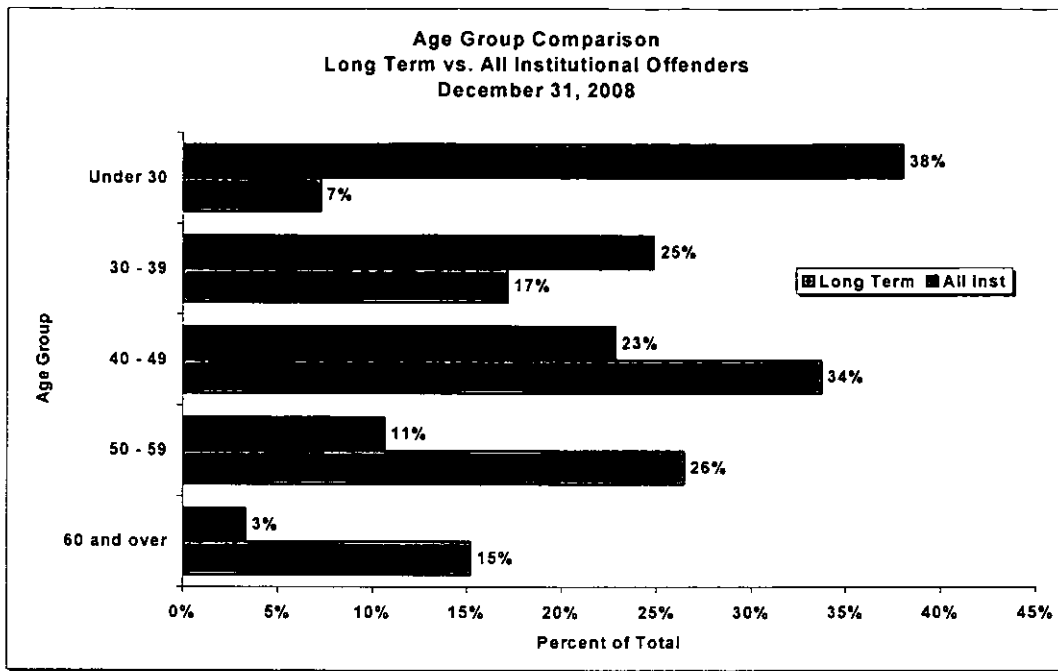
Includes information about all offenders in the OTIS database who have been in continuous DOC custody for ten (10) years or more.

Alaska Native race category includes a small number of Native Americans not indigenous to Alaska.



**Distribution of Long Term Offenders
December 31, 2008**

In-State Institutions	Female	Male	Total
Anchorage CCE	1	2	3
Anchorage CCW	-	1	1
Hiland Mountain CC	9	-	9
Lemon Creek CC	-	1	1
Palmer Minimum CC	-	3	3
Palmer Medium CC	-	3	3
Pt. MacKenzie CF	-	2	2
Spring Creek CC	-	48	48
Wildwood CC	-	2	2
<i>Total</i>	<i>10</i>	<i>62</i>	<i>72</i>
Out-of-State Institutions			
Red Rock CC - Arizona	-	73	73
Federal Bureau of Prisons	1	3	4
<i>Total</i>	<i>1</i>	<i>76</i>	<i>77</i>
CRC's			
Glennwood Center	-	2	2
<i>Total</i>	<i>-</i>	<i>2</i>	<i>2</i>
Total All	11	140	151



**Demographic Information for Long Term Offenders
December 31, 2008**

	Female	Male	Total
Ethnicity			
Asian/Pacific Island	-	2	2
Black	1	14	15
Caucasian	6	73	79
Hispanic	-	2	2
Alaska Native	4	49	53
Total	11	140	151

Age Group (Years)	Female	Male	Total
19 and Under	-	-	-
20 - 24	-	-	-
25 - 29	-	11	11
30 - 34	1	8	9
35 - 39	3	14	17
40 - 44	2	14	16
45 - 49	4	31	35
50 - 54	-	26	26
55 - 59	-	14	14
60 - 64	-	14	14
65 and over	1	8	9
Total	11	140	151

<i>Mean Years</i>	<i>45.03</i>	<i>48.12</i>	<i>47.90</i>
<i>Median Years</i>	<i>43.89</i>	<i>48.35</i>	<i>47.95</i>

Length of time from admission (years)

10 to 14	9	61	70
15 to 19	-	31	31
20 to 24	1	26	27
25 and over	1	22	23
Total	11	140	151

<i>Mean Years</i>	<i>13.26</i>	<i>17.55</i>	<i>17.24</i>
<i>Median Years</i>	<i>11.00</i>	<i>16.29</i>	<i>15.50</i>

**Offense Classifications of Long Term Offenders
December 31, 2008**

Offense Level	Female	Male	Total	Pct
Felony	11	140	151	100%
Total	11	140	151	100%

Person

Attempted Assault 1	-	1	1	
Attempted Murder 1	-	8	8	
Kidnapping	-	6	6	
Murder 1	5	66	71	
Murder 2	6	37	43	
Robbery 1	-	3	3	
Total	11	121	132	87%

Public Order/Administration

Tampering w/ Physical Evidence	-	1	1	
Total	-	1	1	1%

Registerable Sex Offenses

Attempted Sex Abuse 1	-	1	1	
Sex Abuse Minor 1	-	2	2	
Sex Abuse Minor 2	-	3	3	
Sex Assault 1	-	12	12	
Total	-	18	18	12%

Total All	11	140	151	100%
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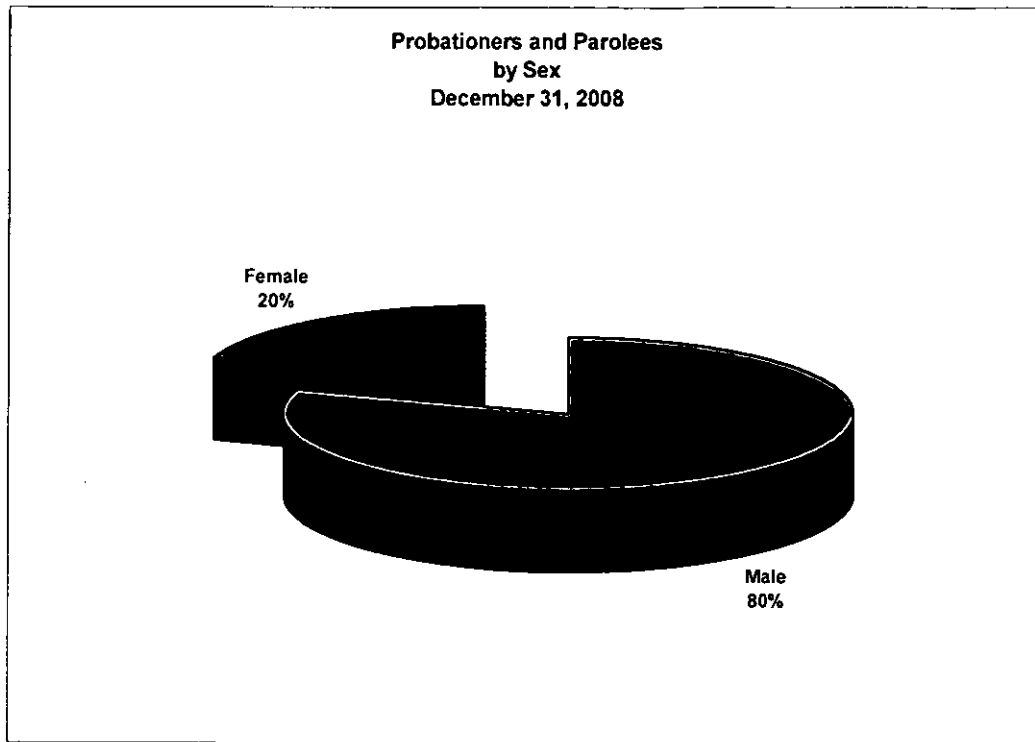
Probation and Parole

Notes:

Includes information about all probationers and parolees under the supervision of the Division of Probation and Parole who are entered into the OTIS database.

Consists of a snapshot of probationers and parolees entered into the OTIS database on or before December 31, 2008.

Alaska Native race category includes a small number of Native Americans not indigenous to Alaska.



**Supervising Authority for Probationers/Parolees
Under Supervision on December 31, 2004-2008**

Offices	Females					Males					All				
	08	07	06	05	04	08	07	06	05	04	08	07	06	05	04
Anchorage	557	480	473	463	458	2,189	2,075	1,966	1,923	1,828	2,746	2,555	2,439	2,386	2,286
Barrow	10	7	4	6	8	33	34	41	45	64	43	41	45	51	72
Bethel	19	15	23	27	27	213	212	232	261	236	232	227	255	288	263
Dillingham	12	8	10	5	1	82	68	71	64	60	94	76	81	69	61
Fairbanks	127	154	145	134	130	564	538	592	557	553	691	692	737	691	683
Juneau	55	47	52	55	53	203	214	235	221	205	258	261	287	276	258
Kenai	112	127	98	75	62	404	470	384	308	262	516	597	482	383	324
Ketchikan	40	32	31	24	29	106	110	118	123	139	146	142	149	147	168
Kodiak	15	15	15	20	24	85	89	86	69	68	100	104	101	89	92
Kotzebue	13	21	26	22	13	71	78	101	99	91	84	99	127	121	104
Nome	9	12	13	8	14	48	65	66	58	89	57	77	79	66	103
Palmer	173	157	132	110	114	600	564	470	408	425	773	721	602	518	539
Sitka	13	19	21	27	25	60	63	59	68	62	73	82	80	95	87
Total All	1,155	1,094	1,043	976	958	4,658	4,580	4,421	4,204	4,082	5,813	5,674	5,464	5,180	5,040

**Demographic Information for Probationers/Parolees
Under Supervision on December 31, 2004-2008**

Ethnicity	Females					Males					All				
	08	07	06	05	04	08	07	06	05	04	08	07	06	05	04
Asian/Pac Is	44	37	35	31	31	187	185	153	142	129	231	222	188	173	160
Black	78	64	69	70	76	440	417	408	388	386	518	481	477	458	462
Hispanic	21	19	14	12	13	138	138	138	122	105	159	157	152	134	118
AK Native	282	273	273	256	241	1,198	1,173	1,200	1,216	1,213	1,480	1,446	1,473	1,472	1,454
White	698	669	623	566	550	2,640	2,604	2,466	2,269	2,189	3,338	3,273	3,089	2,835	2,739
Unknown	32	32	29	41	47	55	63	56	67	60	87	95	85	108	107
Total	1,155	1,094	1,043	976	958	4,658	4,580	4,421	4,204	4,082	5,813	5,674	5,464	5,180	5,040
Age Group															
19 & Under	15	14	18	15	12	73	89	98	106	101	88	103	116	121	113
20-24	194	193	176	149	142	808	775	795	783	773	1,002	968	971	932	915
25-29	205	179	175	156	148	861	859	713	679	615	1,066	1,038	888	835	763
30-34	169	168	161	166	160	597	590	577	547	561	766	758	738	713	721
35-39	173	146	152	141	128	563	548	575	540	548	736	694	727	681	676
40-44	129	149	130	131	154	560	545	569	543	549	689	694	699	674	703
45-49	131	123	117	115	110	455	468	494	483	456	586	591	611	598	566
50-54	91	75	65	55	60	348	342	289	252	241	439	417	354	307	301
55-59	30	26	25	29	28	211	209	163	138	128	241	235	188	167	156
60-64	10	16	16	14	11	99	81	77	79	59	109	97	93	93	70
65 & over	8	5	8	5	5	83	74	71	54	51	91	79	79	59	56
Total	1,155	1,094	1,043	976	958	4,658	4,580	4,421	4,204	4,082	5,813	5,674	5,464	5,180	5,040
<i>Mean Age</i>	<i>36.08</i>					<i>36.83</i>					<i>36.68</i>				
<i>Median Age</i>	<i>34.79</i>					<i>34.85</i>					<i>34.82</i>				

**CRITICAL CONDITION
AFRICAN-AMERICAN YOUTH IN
THE JUSTICE SYSTEM**

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FOREWORD

By Hilary O. Shelton, Washington Bureau Director, NAACP

Recent events in Jena, Louisiana, have brought attention to critical issues facing the African-American community including the issues of racial disparities in the justice system, trying children in adult court, and the heinous practice of placing children in adult jails and prisons. The "Jena Six" cases captured the nation's attention when six teens faced overly aggressive prosecution and extended incarceration for fighting with a white classmate after a series of racial incidents that included the hanging of nooses in a tree at the local high school. One defendant, Mychal Bell, was jailed in an adult facility for nine months before being initially freed. Thousands converged in Jena on September 20, 2007 to demonstrate their outrage and as of this writing, the Jena Six are still being processed in the criminal justice system.

Unfortunately, the Jena Six cases are not isolated incidents but reflect larger system failures by the justice system. It is difficult for any American of conscience to say with conviction that our current legal system is operating with the creed "equal justice under the law." Shameful stories of disparate treatment from across the country prompted the NAACP to declare a national "State of Emergency" that requires immediate action by local and state authorities as well as the U.S. Department of Justice and the U.S. Congress.¹ This policy brief renews that call to action by presenting the latest data on African-American youth in the justice system.

It is well documented that African-American youth are treated more harshly by the justice system than white youth, for the same offenses, at all stages in the justice system. The National Council on Crime and Delinquency recognized that African-American youth face a "cumulative disadvantage" in the justice system (where the disparities grow deeper as a youth penetrates the justice system) in their landmark 2000 report, *And Justice for Some*, updated and reissued in 2007.² Disparities start at the beginning, when a decision is made to arrest a child or let him or her go with a warning: African-American youth make up 30% of those arrested while they only represent 17% of the overall youth population.³ At the other extreme end of the system, African-American youth are 62% of the youth prosecuted in the adult criminal system, and are nine times more likely than white youth to receive an adult prison sentence.⁴

There is no simple answer to the question of why African-American youth are being treated so poorly, and so unequally. Racial profiling, targeting patrols in certain low-income neighborhoods, and racial bias within the justice system all contribute to the stark disparities confirmed in this policy brief. However, the disparity in treatment between African-American youth and white youth by the court system is both a civil rights and racial justice issue that cannot continue to go unaddressed. It has been two decades since Congress first recognized these disparities through the Juvenile Justice and Delinquency Prevention Act (JJDP). On this twentieth anniversary, we need a long-term commitment from the U.S. Congress and from the Administration that adequate resources will be provided to eradicate these inequities and ensure that "justice and equality" are not just empty words.

The decision to transfer youth to the adult criminal system – the most disparate point in the justice system – is really a decision about whether a youth is "redeemable" and should be rehabilitated by the juvenile justice system, or considered "unsalvageable" and prosecuted in the adult criminal system forever to be branded with an adult court conviction. As this brief shows, African-American youth have been disproportionately deemed unsalvageable by federal and state laws.

The NAACP opposes any policies, statutes, or laws that increase the number of youth transferred to the adult criminal justice system and the number of youth held in adult jails and prisons. Our organization's policy in opposition to the transfer of youth to the adult criminal justice system is included with this brief demonstrating our commitment to changes in federal and state law and practice. We are committed to working with other civil rights and children's rights organizations to try to put an end to all of the practices that result in the disparities in how children are treated when they become involved with the justice system.

We need to address these grave concerns now, in a coordinated effort that recognizes the seriousness of the problem and that our collective future is threatened. We must put ourselves in the shoes of our children, the ones who have been prosecuted as adults, placed in an adult jail or prison, children with adult convictions, whose future has effectively been abandoned by our system. The status of our children in the justice system is in critical condition. We must do better.

- **“Overrepresentation”** exists when, at various stages of the justice system, the proportion of a certain population exceeds its proportion in the general population.
- **“Disparity”** refers to a situation in which different groups have different probabilities that certain outcomes will occur. Disparity may in turn lead to overrepresentation.
- **“Discrimination”** refers to differential decision-making among juvenile justice professionals affecting different groups of youth based on their gender, racial, and/or ethnic identity.

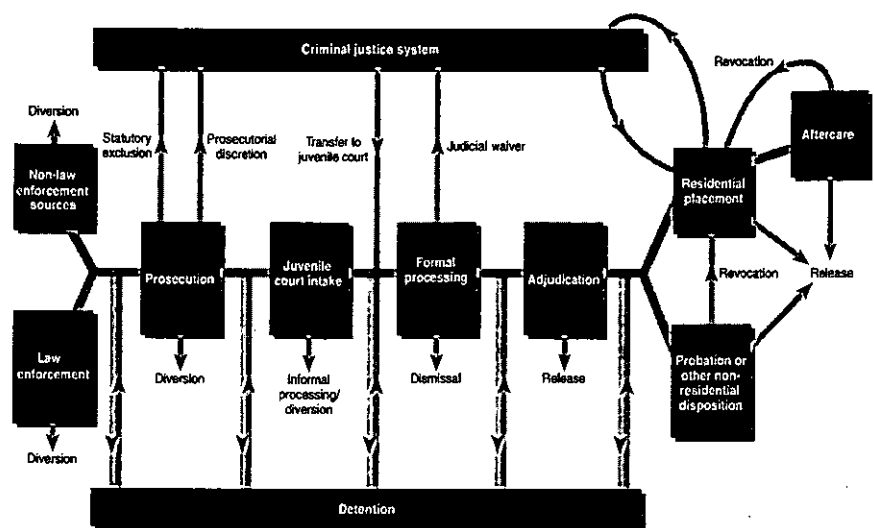
I. OVERVIEW

The juvenile justice system was originally enacted for the very purpose of separating youth from adult criminals; however, during the 1980s and 1990s every state except Nebraska enacted “get tough” juvenile policies making it easier to try youth as adults by: lowering the age at which juveniles can be prosecuted as adults; greatly expanding the categories of crimes for which youth are automatically prosecuted in criminal court; giving prosecutors the exclusive authority to decide which juveniles are charged as adults; and limiting the discretion of judges to overturn decisions by prosecutors and law enforcement officials.⁵ As a result of these laws, thousands of African-American youth are prosecuted in the adult criminal justice system every year.

There are three primary ways children are sent to adult court (see Figure 1). Forty-six states have *judicial waiver*, the traditional path to the adult system wherein a juvenile court judge makes a decision to transfer a youth’s case to adult court after considering several factors (e.g., age, offense, services available in the juvenile system).⁶ In contrast to a judicial decisionmaker, the *prosecutorial discretion* transfer mechanism (also known as direct file) allows the prosecutor a choice between filing the case in juvenile or adult court, usually depending on cases that meet certain offense or offender criteria. Fifteen states

grant prosecutors full discretion to decide whether certain cases will be tried in the adult system.⁷ Finally, *statutory exclusion* (also known as automatic waiver or legislative waiver) provisions expressly prohibit the juvenile court from hearing certain types of cases. For example, thirteen states currently require all youth ages 16 or 17 (depending on the state) to be tried in the adult criminal system regardless of how minor the offense.⁸ Twenty-nine states have mandatory transfer policies for certain violent offenses.⁹ Thirty-four states have “once an adult, always an adult” provisions requiring that youth who have been tried or convicted as adults be prosecuted in the adult system for any subsequent offense.¹⁰

FIGURE 1: JUSTICE SYSTEM CASE PROCESSING¹¹



When youth are prosecuted in the adult system, they are deprived of rehabilitative opportunities including education, mental health services, and other age-appropriate services that make it more likely that the youth will become a law-abiding productive citizen. In addition, youth prosecuted in the adult system can be held in adult jails and prisons where they are at great risk of assault, abuse, and suicide. Since enactment of these laws, new research has called into question the efficacy of these laws.

In 2007, the U.S. Centers for Disease Control and Prevention's Task Force on Community Preventive Services found that youth who are tried as adults are, on average, 34% more likely to commit crimes than youth retained in the juvenile justice system. The Task Force also found that transfer to the adult criminal justice system typically increases rather than decreases rates of violence among transferred youth. As a result, the Task Force recommended against "laws or policies facilitating the transfer of juveniles from the juvenile to the adult judicial system."¹²

In August 2008, the Office of Juvenile Justice and Delinquency Prevention, the federal agency dedicated to juvenile justice issues at the U.S. Department of Justice, released, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, a bulletin finding that laws making it easier to transfer youth to the adult criminal court system have little or no general deterrent effect on crime (i.e., transfer laws do not prevent youth from engaging in criminal behavior). On the contrary, youth transferred to the adult system are more likely to be rearrested and to reoffend than youth who committed similar crimes, but were retained in the juvenile justice system. According to the bulletin, higher recidivism rates are due to a number of factors including:

- Stigmatization/negative labeling effects of being labeled as a convicted felon;
- Sense of resentment and injustice about being tried as an adult;
- Learning of criminal mores and behavior while incarcerated with adults;
- Decreased access to rehabilitation and family support in the adult system; and
- Decreased employment and community integration opportunities due to a felony conviction.¹³

With clear evidence that transfer laws do not protect public safety and are harmful to youth, this policy brief examines the racial disparities in the adult system and is intended to serve as a resource for federal and state policymakers, juvenile justice professionals, and others interested in reforming state and federal laws. The brief begins with a discussion of demographics and disparities in education, health care, child welfare, and economic opportunity that contribute to delinquency and the cycle of incarceration that disproportionately affects the African-American community. Second, this brief examines the self-reported criminal behaviors of African-American and white youth,

and compares them to more traditional criminal justice statistics to show that African-American youth are not disproportionately committing crimes to justify the current disparities. Third, this brief takes an in-depth look at the disproportionate treatment that African-American youth receive at all major decision points in the justice system. Fourth, this brief looks at national initiatives aimed at reducing disparities and highlights recent law and policy changes that are helping African-American youth. Finally, the brief concludes with a series of recommendations for federal and state policymakers to address the pervasive racial disparities in the juvenile and adult criminal justice systems and minimize the negative impact of transfer laws on African-American youth.

II. DEMOGRAPHICS

Approximately 38 million African-Americanⁱ people live in the United States, comprising 13% of the total population.¹⁴ Black people live in every state of the country, and the states with the highest African-American populations are southern states and states with large urban centers (see Tables 1 and 2). In 2006, the vast majority (89%) of African Americans lived in urban settings, compared to 73% of whites.¹⁵ Similarly, 90% of poor blacks live in urban areas.¹⁶

The African-American population is relatively young: 41% percent of African-Americans are under age 25, versus 34% of the total U.S. population. There are 5,325,000 African-American youth ages 10 to 17 in the United States, making up 16% of that age group overall.¹⁷

ⁱ The terms "African American" and "black" are used interchangeably. The terms "youth of color" or "minority youth" refer to black, Latino, Asian and Native-American youth.

TABLE 1. AFRICAN-AMERICAN POPULATION, 2006¹⁸

Top 10 Highest Proportion States			
State	Number	Percentage of State Population that is African American	Percentage of National African American Population
District of Columbia	329,000	57%	1%
Mississippi	1,081,000	37	3
Louisiana	1,358,000	32	4
Georgia	2,800,000	30	7
Maryland	1,657,000	30	4
South Carolina	1,253,000	29	3
Alabama	1,212,000	26	3
North Carolina	1,921,000	22	5
Delaware	178,000	21	0
Virginia	1,520,000	20	4

TABLE 2. AFRICAN-AMERICAN POPULATION, 2006¹⁹

Top 10 Highest Population States			
State	Number	Percentage of State Population that is African American	Percentage of National African American Population
New York	3,353,000	17%	9%
Florida	2,864,000	16	7
Texas	2,805,000	12	7
Georgia	2,800,000	30	7
California	2,445,000	7	6
Illinois	1,928,000	15	5
North Carolina	1,921,000	22	5
Maryland	1,657,000	30	4
Virginia	1,520,000	20	4
Michigan	1,444,000	14	4

III. RISK AND PROTECTIVE FACTORS

Too many African-American youth are exposed to risk factors known to be common precursors to delinquency, including poverty, unemployment, school failure, unstable families, and neighborhoods plagued by violence. While the statistics below highlight the magnitude of disadvantage threatening the development of black children, it is important to remember that the majority of black youth are not involved with the juvenile or criminal justice systems. Sometimes these startling statistics may inadvertently reinforce stereotypes that African-American youth, particularly poor urban black boys, are prone to violence and criminal activity simply because they are considered "at risk."

Poverty. One in three African-American children under age 18 (35%) was living in poverty in 2007, more than three times the proportion of white youth (10%).²⁰ While the poverty status of African-American youth has improved dramatically since 1992, when nearly half (47%) of all black children were in poverty, poverty rates have not fallen fast enough.²¹ Recent data have shown that poverty rates have not declined since 2001.²²

Both the juvenile and adult justice systems disproportionately affect people with low incomes. Not only are poor youth more vulnerable to contact with law enforcement, but their families are less likely to be able to afford legal representation to protect them from penetrating further into the system. White youth are twice as likely as African-American youth to be able to retain private counsel. African-American youth whose families disproportionately have limited income are often provided indigent defense by lawyers who carry high case loads with meager resources.²³

Families and the Impact of Incarceration. While many children are successfully raised by single parents and extended families, research shows that youth living without both parents are at increased risk for delinquency.²⁴ In 2006, 65% of African-American children under age 18 were not living with both parents, versus only 26% of white children.²⁵ Mass-incarceration has significant consequences for children and families in the African-American community. An estimated 1.7 million children had parents who were incarcerated in federal or state

prison in 2007. Black children were seven and a half times more likely than white children to have a parent in prison.²⁶ Recent estimates are that 20% of all black children have a father with an incarceration history.²⁷ In 2006, one in every nine black men ages 20 to 34 was incarcerated, along with one out of every 100 black women ages 35 to 39.²⁸ If these trends continue, one in three black males born today can expect to spend time in prison during his lifetime.²⁹

Education. There is a strong relationship between the education a child receives and his or her future life success. Negative educational outcomes, such as dropping out, being suspended, or being expelled increase the likelihood that youth will have contact with the juvenile or criminal justice system. Students who are suspended are more than twice as likely to be incarcerated than students who have never been suspended.³⁰ African-American youth are disproportionately suspended and expelled: in 2003, in grades K through 12, 20% of black students were suspended and 5% were expelled, compared to 9% and 1%, respectively, for white students.³¹

Dropping out of school triples the likelihood that a person will be arrested.³² Without a high-school diploma or GED, youth transitioning into adulthood have significant difficulties obtaining employment or further education. Three-quarters of white students, but only half of black students, graduate from high school after four years.³³ In many of the nation's large urban districts, graduation rates for black youth are even lower (30% to 40% range).³⁴ Research demonstrates that increasing high school graduation rates would decrease violent crime by 20% and drug and property crimes by more than 10%. Economists have calculated that each black male who graduates from high school is associated with a savings to the criminal justice system of more than \$55,000 (the estimate accounts for the expense of trials, sentencing, and incarceration).³⁵

There are some signs of improvement in the education of African Americans. Black elementary school students have made significant improvements in test scores,³⁶ and black high school students participate in after-school activities at the same rate as white students.³⁷ African-American enrollment in undergraduate degree-granting institutions has also increased by 40% in the past decade.³⁸ In fact, blacks in 2007 made up 13% of the fall enrollment in degree-granting undergraduate institutions, about equal to their proportion of the total pop-

ulation.³⁹ With the increasing value of a college degree on the job market, high post-secondary enrollment is a promising sign.

Employment: The lack of employment opportunities for both young African Americans and their parents substantially increases the risk of exposure to the justice system by encouraging participation in the illicit economy. In 2006, half of African-American children lived in a family in which no parent had full-time, year-round employment, versus only one-quarter of white children who lived in the same kind of family.⁴⁰ Eleven percent of African-American youth and young adults were unemployed in the years 2005 to 2007, almost twice the percentage of unemployed whites (6%) in that age group.⁴¹

Criminal justice system involvement also dramatically limits employment opportunities. Most states allow employers to deny jobs to anyone with a criminal record. In fact, in most states employers can deny jobs to people who were arrested but never convicted of a crime.⁴² One study of employers found that more than 60% of employers probably would not hire an applicant with a criminal record.⁴³ Another study found that having a criminal record led to a 50% reduction in employment opportunities for white applicants, and a 64% reduction for African-American applicants.⁴⁴ Employers in a growing number of professions, including home health care, nursing, education, eyeglass dispensing, plumbing, and even barbering, are barred by state licensing agencies from hiring people with a wide range of criminal convictions, even convictions that are unrelated to the job or license sought.⁴⁵

Health. The health disparities that begin before birth and continue throughout the lifespan for African Americans may also be linked to delinquency. African-American mothers often fail to receive adequate prenatal care, which resulted in 2005 a black infant mortality rate that was more than twice the rate for white children.⁴⁶ Black children are also at higher risk of exposure to environmental toxins which compromise proper development and impair cognitive functioning. From 2001 to 2004, black children ages 1 to 5 were more than twice as likely as white children in this age group to have elevated blood lead levels.⁴⁷ Many black children also have inadequate access to the health services they need either because they lack health insurance, or because their coverage is not sufficient. Twelve percent of African-American children (versus 7% of white children) did not have health

insurance in 2007.⁴⁸ HIV poses a severe problem in the African-American community, especially for youth. In 33 states studied by the Centers for Disease Control and Prevention in 2006, black youth accounted for 70% of new HIV/AIDS cases diagnosed among adolescents ages 13 to 19.⁴⁹

Despite longstanding health disparities between whites and African Americans, some indicators have shown improvement for African-American youth. Between 1991 and 2005, the birth rate for black teenagers ages 15 to 17 dropped 60% (from 86 to 35 per 1,000 females).⁵⁰ According to 2005 data, the child-death rate and the teen-death rate have also both fallen since 1999.⁵¹

School and Community Safety. Community supports are instrumental in helping African-American youth overcome significant challenges and avoid justice system involvement. Many African-American children live in unsafe communities or attend schools where parents fear for their children's safety. A 2003 national survey of parents of black children found that 32% did not feel that they lived in a supportive neighborhood, versus only 13% of parents of white children who felt this way. Thirty-one percent of African-American parents, versus only 8% of white parents, believed their child is never or only sometimes safe in their community or neighborhood.⁵²

Even though there are no significant differences in the proportions of black and white students who report being threatened or injured with a weapon on school property, African-American youth and parents are more afraid of violence in their schools.⁵³ According to the 2005 National Crime Victimization Survey, 9% of African-American students and 4% of white students reported they were afraid of being attacked at school.⁵⁴ One-quarter of parents of African-American children believe that their child is never or only sometimes safe at school, as opposed to 6% of white parents.⁵⁵

Gangs. Gang violence has garnered much attention in recent years even though estimates from law enforcement suggest that no more than 1% of all youth ages 10 to 17 are gang members.⁵⁶ In a 2005 survey of students ages 12 to 18, 37% of African Americans reported that gangs were present at their schools, versus only 17% of white students.⁵⁷ Self-report surveys conducted from 1997 to 2001 find that 12% of African Americans reported gang membership, versus 7% of

whites.⁵⁸ Law enforcement estimates find greater racial discrepancies in gang membership than measures that directly survey youth. According to the 2004 National Youth Gang Survey, law enforcement agencies estimate that 37% of gang members are African American, as opposed to 8% white.⁵⁹ U.S. Sentencing Commission data from 2003 to 2006 also show that gang-related crime laws are disproportionately applied to minorities. Between 60% to 75% of individuals convicted under current gang-related statutes are minorities, even though minority groups only make up 33% of the general U.S. population.⁶⁰

Part of the difficulty in addressing gang violence is that current research and policy solutions often fail to distinguish between serious gang behaviors and the minor, fleeting involvement characteristic of most gang members. In fact, the majority of youth "age out" of gang-related activities. Research demonstrates that half to two-thirds of gang members are affiliated for one year or less and are not members "for life."⁶¹ Overly reactive and punitive responses to gang membership, such as gang databases or mandatory sentencing laws, may actually increase the likelihood that a youth remains in a gang. According to a 2007 report from the Justice Policy Institute, increased arrests and longer sentences actually create more cohesive and stronger gang identification.⁶²

Victimization. Research has shown that childhood exposure to violence leads to an increased risk of being arrested for violent crime.⁶³ Being abused or neglected as a child increases the likelihood of arrest as a juvenile by 59%, as an adult by 28%, and for a violent crime by 30%.⁶⁴ African-American youth are almost twice as likely as white youth to be the victims of child maltreatment.⁶⁵ Black children make up 15% of the child population but 23% of child maltreatment victims⁶⁶ and 32% of the foster care population.⁶⁷ In addition to high rates of child abuse, African-American youth ages 16 to 19 are more likely than blacks of any other age group to be victims of violent crime. They are more than twice as likely as white youth in the same age group to be the victims of serious violent crimes including rape, sexual assault, robbery, and aggravated assault.⁶⁸ Black youth are nearly 15 times more likely than are white youth to die from homicide.⁶⁹ In fact, homicides accounted for 25% of deaths of African-Americans ages 10 to 17, the second leading cause of death for that age group in 2005.⁷⁰

IV. CRIMINAL ACTIVITY REPORTED BY AFRICAN-AMERICAN YOUTH

Self-report surveys help answer the question of whether African-American youth commit more crimes than white youth. Traditional criminal and delinquency statistics (e.g., arrest rates or court processing data) tell us only how government agencies respond to youth who have been arrested or brought to the attention of the authorities. To the extent that other factors or biases influence outcomes in the juvenile justice system, the official data may be open to multiple interpretations.⁷¹ For example, an increase in juvenile arrest rates for drug-abuse violations may reflect increasing drug use, greater police monitoring, changing laws and policies, or a combination of factors. In contrast, self-report data (participants anonymously report on their own experiences and actions) reveal behavior that is never reported or detected by law enforcement and is more likely to reflect actual levels of criminal activity. Recognizing the importance of self-report data, the Centers for Disease Control and Prevention has surveyed the nation's youth since 1991 using the National Youth Risk Behavior Surveillance System (YRBSS).⁷²

Drug and Alcohol Use. According to the 2007 YRBSS survey, African-American youth report lower rates than white youth of most drug- and alcohol-related behavior (see Table 3). These results have been largely consistent since 1991, when the YRBSS began.⁷³ The finding of lower rates of drug use for black youth has also been replicated in other self-report studies.⁷⁴ This finding has especially important implications because of the disproportionate rate at which African Americans are arrested and detained for drug violations, discussed in the following section.

TABLE 3. SELF-REPORTED DRUG- AND ALCOHOL-RELATED RISK BEHAVIOR, 2007⁷⁵

Risk Behavior	Black Students (%)	White Students (%)
Lifetime alcohol use (had at least one drink of alcohol during their life)	69	76
Episodic heavy drinking (had five or more drinks of alcohol within a couple of hours on at least one occasion during the last 30 days)	13	30
Lifetime cigarette use (ever tried cigarette smoking, even one or two puffs)	50	50
Lifetime marijuana use (used marijuana one or more times during their life)	40	38
Lifetime cocaine use (used any form of cocaine, including powder, crack, or freebase one or more times during their life)	2	7
Lifetime inhalant use (sniffed glue, breathed the contents of aerosol spray cans, or inhaled any paints or sprays to get high one or more times during their life)	9	14
Lifetime hallucinogenic drug use (used hallucinogenic drugs such as LSD, acid, PCP, angel dust, mescaline, or mushrooms one or more times during their life)	2	9
Lifetime methamphetamine use (used methamphetamines [also called speed, crystal, crank, or ice] one or more times during their life)	2	5
Lifetime ecstasy use (used ecstasy [also called MDMA] one or more times during their life)	4	6

Note: Shaded boxes are statistically significant differences based on t-test analyses, $p < .05$.

TABLE 4. SELF-REPORTED VIOLENT AND DELINQUENT BEHAVIOR OF SECONDARY SCHOOL STUDENTS, 2007⁷⁶

Risk Behavior	Black Students (%)	White Students (%)
In a physical fight (one or more times during the past 12 months)	45	32
Carried a weapon (for example, a gun, knife, or club during the past 30 days)	17	18
Carried a weapon on school property (for example, a gun, knife, or club during the past 30 days)	6	5
Carried a gun (during the past 30 days)	6	4

Note: Shaded boxes are statistically significant differences based on t-test analyses, $p < .05$.

TABLE 5. LIFETIME PREVALENCE OF SELF-REPORTED VIOLENT AND DELINQUENT BEHAVIOR BY AGE 17, 1997-2001⁷⁷

Risk Behavior	Black Students (%)	White Students (%)
Vandalism (damaged or purposely destroyed property that did not belong to you)	33	39
Theft of less than \$50	38	44
Theft of more than \$50	15	12
Drug selling (ever sold or helped sell marijuana, hashish, or other hard drugs such as heroin, cocaine, or LSD)	13	17
Assault (attacked someone with the idea of seriously hurting them)	36	25
Carry a handgun	15	16
Runaway (left home, at least overnight, without parents permission)	18	21

Note: Shaded boxes are statistically significant differences based on t-test analyses, $p < .05$.

Violent and Delinquent Behavior. According to the YRBSS survey and another self-report survey, the National Longitudinal Survey of Youth (NLSY) conducted by the U.S. Bureau of Labor Statistics, racial discrepancies exist in offending and these differences vary by offense (see Tables 4 and 5). In both surveys, African-American youth report that they are more likely than white youth to commit assault and be involved in serious physical altercations. However, white youth report that they are more likely to commit drug infractions, including both use and distribution, than are black youth. Black and white youth are equally likely to report carrying weapons, findings that have been largely consistent since the YRBSS began in 1991.⁷⁸

The self-report data indicate that African-American youth are not disproportionately committing crimes or engaging in delinquent behavior to warrant the disparities currently seen in the justice system. In fact, with the exception of assaults and thefts of more than \$50, white youth consistently report engaging in more criminal behavior than black youth.

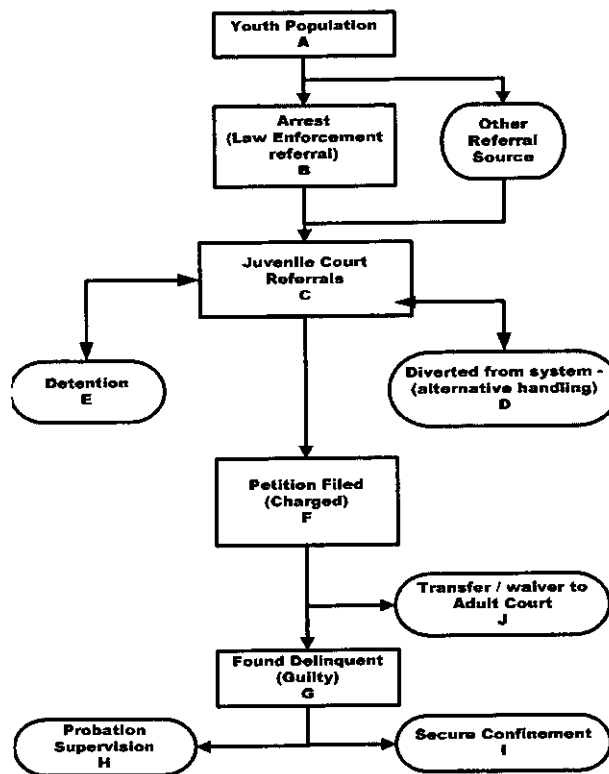
V. DISPARITIES IN THE JUVENILE JUSTICE SYSTEM

Congress first recognized the vast disparities in treatment between African-American and white youth in 1988 when the federal Juvenile Justice and Delinquency Prevention Act (JJDPFA) required states to address the disproportionate confinement of minority youth (i.e., when the proportion of a minority group's youth in a state's secure facilities exceeded their proportion in the population) in their State plans. Four years later, Congress elevated the issue to a "core requirement" of the Act, meaning that federal funding eligibility was tied to compliance. In 2002, Congress broadened the requirement from a focus on disproportionate minority "confinement" to disproportionate minority "contact" with any part of the juvenile justice system. The "DMC" requirement now requires that states address disparities at each contact point (i.e., decisions to arrest, detain, charge, sentence, etc.) to maintain compliance with the law. Despite twenty years of explicit acknowledgement of the problem and some progress in specific jurisdictions, African-American youth continue to be overrepresented at most stages in the justice system.⁷⁹

As African-American youth are disproportionately arrested compared to their proportion of the overall population, they are overrepresented at most stages of case processing.⁸⁰ This overrepresentation persists in further stages of the system regardless of how they are treated at other points in case processing. To identify precisely which justice system contact points contain disparities, a new tool, the Relative

Rate Index (RRI) was developed. The Relative Rate Index measures disparities at each of the contact points where DMC may occur in the juvenile justice system (see Figure 2). Since youth prosecuted in the adult system via prosecutorial or statutory waivers don't have contact with the juvenile court, data is currently not available at the national level for those types of transfer mechanisms.

FIGURE 2: RELATIONSHIP OF DATA ELEMENTS FOR RELATIVE RATE INDEX CALCULATIONS⁸¹



The RRI "controls" for the disparities at arrest or other points in the system by comparing what happens at a particular decision point to the rates at the previous point in the system. For example, the RRIs for arrests are based on the differences in rates between points B and A, and the RRIs for whether a youth is adjudicated delinquent are based on the differences in rates between points G and F. An RRI that is greater than 1 indicates that black youth are more likely than white

youth to be at that contact point; an RRI of less than 1 indicates that black youth are less likely than white youth to be at that contact point. Table 6 contains the absolute rates for African-American and white youth at each point of contact, as well as the RRI (shaded column) comparing the two groups. African-American youth are more than twice as likely to be arrested as white youth. After referral, white youth are 50% more likely than African-American youth to be diverted before adjudication, and African-American youth are 40% more likely than white youth to be detained before adjudication.

TABLE 6. RATES AND RELATIVE RATE INDICES (RRIS) FOR ALL DELINQUENCY OFFENSES, 2005⁸²

Rate	All	White	Black	Black / White RRI
Juvenile arrests per 1,000 persons in population	56.2	49.1	101	2.1
Cases referred per 100 juvenile arrests	88.8	84.3	98.5	1.2
Cases diverted per 100 cases referred	26.6	29.6	20.7	0.7
Cases detained per 100 cases referred	21.7	19.3	26.5	1.4
Cases petitioned per 100 cases referred	55.5	52.2	61.9	1.2
Cases adjudicated per 100 cases petitioned	66	68.4	61.7	0.9
Probation cases per 100 adjudicated cases	60.9	63.1	56.5	0.9
Placement cases per 100 adjudicated cases	22.4	20.7	25.5	1.2
Cases judicially waived per 100 cases petitioned	0.8	0.7	0.8	1.1

The disparities in treatment are exacerbated when considering specific offenses (see Table 7). The disparities are greatest in arrest rates for person offenses, for which African Americans are nearly four times more likely than whites to be arrested. For property and drug offenses, black youth are twice as likely to be arrested. The disparities in detention, diversion, and waiver to the adult court are greatest for drug offenses. White youth are twice as likely as black youth to be diverted before adjudication for a drug offense. African-American youth are more than twice as likely as white youth to be detained pre-adjudication for a drug offense. In addition, African Americans are 40% more likely than whites to be waived to adult court for a drug offense.⁸³

TABLE 7. AFRICAN AMERICAN RELATIVE RATE INDICES BY OFFENSE CATEGORY, 2005⁸⁴

RELATIVE RATES: Black	Total Delinquency Offenses	Person Offenses	Property Offenses	Drug Law Violations	Public Order Offenses
Arrest rate	2.1	3.6	1.9	2.0	1.7
Referral rate	1.2	0.9	1.1	0.8	1.5
Diversion rate	0.7	0.7	0.7	0.5	0.8
Detention rate	1.4	1.1	1.4	2.1	1.3
Petitioned rate	1.2	1.2	1.2	1.4	1.1
Adjudicated rate	0.9	0.9	0.9	0.9	0.9
Probation rate	0.9	0.9	0.9	0.8	0.9
Placement rate	1.2	1.2	1.2	2.0	1.1
Waiver rate	1.1	1.2	0.6	1.4	0.7

Note: Person offenses include, but are not limited to, homicide, assault, rape, and robbery. Property offenses include burglary, theft, and arson. Drug offenses include trafficking and possession. Public order offenses include weapons possession offenses.

Compared to the self-report data discussed previously, the findings in Table 7 strongly suggest the presence of biases in the juvenile justice system's treatment of African-American youth. Whereas the self-report data suggest that African-American youth are roughly 40% more likely to be involved in a physical fight or assault, they are over 300% more likely to be arrested for aggravated assault and other assaults.⁸⁵ Even though white youth are more likely to report using drugs and 30% more likely to report selling drugs, African-American youth are more than twice as likely to be arrested and detained for drug offenses.⁸⁶

Arrest Rates. After a peak in juvenile arrests in the mid 1990s, the juvenile arrest rate for all youth has remained near a 25-year low according to 2006 data.⁸⁷ However, while the arrest rate for white youth decreased 9% from 2001 to 2006, the arrest rate for black youth increased by 7% during this same time period.⁸⁸ From 2001 to 2006, arrest rates of black youth increased 50% for robbery; almost 40% for curfew, loitering, and weapons violations; and almost 30% for disorderly conduct.⁸⁹ Although African-American youth were 17% of the population in 2005, they represented 30% of children arrested in the U.S.⁹⁰ In fact, the overall RRI for arrests of African-American youth in 2006 remained at the highest point in a decade.⁹¹

Most African-American youth are arrested for nonviolent crimes (see Table 8). The five most common offenses for which African-American youth are arrested are "other" assaults (i.e., not aggravated assaults), disorderly conduct, larceny-theft, drug abuse violations, and curfew and loitering laws. With the exception of alcohol-related offenses, black youth are disproportionately arrested for every offense.

TABLE 8. JUVENILE ARREST RATES BY RACE, 2006⁹²

Offense, sorted by highest rate	Black (per 100,000 youth ages 10-17)	White (per 100,000 youth ages 10-17)	Relative Rate Index (RRI)
Total including suspicion	12179	5773	2.1
Other assaults	1753	566	3.1
Disorderly conduct	1524	469	3.3
Larceny-theft	1502	735	2.0
Drug abuse violations	1069	519	2.1
Curfew and loitering law violations	1054	369	2.9
Runaways	519	304	1.7
Burglary	477	214	2.2
Aggravated assault	463	131	3.5
Robbery	436	43	10.2
Vandalism	407	358	1.1
Weapons carrying, possessing, etc.	316	112	2.8
Motor vehicle theft	272	72	3.8
Liquor laws	124	495	0.2
Arson	27	25	1.1
Drunkenness	24	57	0.4
Forcible rape	21	8	2.5
Murder and nonnegligent manslaughter	14	2	7.0
Driving under the influence	13	71	0.2

Referral. Once a youth is arrested, law enforcement officers make the decision about whether to refer the case to juvenile court or divert the case out of the court system. Youth can also be referred to juvenile

court by means other than arrest, such as through schools, social services, or family members. After arrest, African-American youth are 20% more likely than white youth to be referred to juvenile court.

At least for drug and person offenses, the overrepresentation of African-American youth at the stage of arrest seems to be slightly corrected at the referral stage. According to the RRI's from 2005, black youth arrested for drug and person offense arrests were less likely than white youth to be referred to court, suggesting that many black youth were unnecessarily arrested for their offenses. In contrast, black youth were 50% more likely than white youth to be referred for a public order offense, and 6% more likely to be referred for property offenses.⁹³

Juvenile court intake. After referral to juvenile court, a youth's case may be dismissed, handled informally, or a petition may be filed in the juvenile court for formal intervention. A large proportion of juvenile cases are handled informally (44% in 2004),⁹⁴ in which case they may be dismissed if the youth consents to and complies with a set of conditions. After referral, African-American youth were 20% more likely to have their cases petitioned to the juvenile court for formal handling. Another way of looking at the data is that in 2005, white youth were nearly 50% more likely to have their case diverted to an alternative program than were African-American youth. The disparity in cases petitioned was greatest for drug law violations, for which African Americans were 40% more likely to be petitioned, and whites were twice as likely as blacks to have their drug cases diverted.⁹⁵

Detention. Many youth are detained while waiting for trial, in both secure detention facilities and non-secure placements like group homes. When youth are detained, their lives are interrupted. According to the Justice Policy Institute report, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*:

[Youth] can spend anywhere from a few days to a few months in locked custody. At best, detained youth are physically and emotionally separated from the families and communities who are the most invested in their recovery and success. Often,

detained youth are housed in overcrowded, understaffed facilities—an environment that conspires to breed neglect and violence. [In addition,] detention has a profoundly negative impact on young people's mental and physical well-being, their education, and their employment. One psychologist found that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration, and another suggests that poor mental health, and the conditions of confinement together conspire to make it more likely that incarcerated teens will engage in suicide and self-harm... the experience of detention may make it more likely that youth will continue to engage in delinquent behavior, and that the detention experience may increase the odds that youth will recidivate, further compromising public safety.⁹⁶

African-American youth in 2005 were 40% more likely than white youth to be detained after arrest.⁹⁷ The disparity was greatest for drug law violations, for which African Americans were more than twice as likely to be detained.⁹⁸ As a result of these disparities, in many detention centers across the country the majority of youth locked up are African American. Nationally, African-American youth comprised 43% of youth detained in detention centers in 2006.⁹⁹

African Americans are overrepresented in the number of youth detained in detention centers in every offense category: black youth make up 60% of the youth detained for drug trafficking, 43% of those detained for non-trafficking drug offenses, 44% of those detained for theft, 53% of those detained for weapons possession, and 34% of those detained for status offenses (youth such as runaways and truants whose activities would not be illegal but for their age).¹⁰⁰ One-third of the African-American females detained in detention centers in 2006 were held for technical violations or status offenses.¹⁰¹

There is evidence to suggest that many youth are unnecessarily detained before trial. In 2004, of African-American youth who were

detained, only 20% were placed in juvenile facilities following their adjudication, while 26% were released, 33% were given probation, and 19% were treated with other penalties such as fines, restitution, or community service.¹⁰²

As the majority of African-American youth are detained for nonviolent offenses, it is likely that they could be better served with community-based services or other alternatives to detention.

Adjudication. A juvenile court "adjudication" is analogous to an adult court "conviction." In both cases a hearing is held to determine whether the person committed the alleged offense. In 2005, African Americans were slightly less likely than whites to be found guilty (have their cases adjudicated delinquent) once petitioned (RRI 0.9).¹⁰³ This holds almost equally across all offense categories. Based on these RRIs, it appears that the juvenile court hearing process does not exacerbate racial disparities, but may actually correct for disparities in previous stages. It may be that juvenile court judges at this stage are identifying youth who could have been more appropriately handled informally or diverted out of the juvenile justice system.

Youth Committed to Residential Placement. After a youth has been adjudicated (i.e., found guilty), the court develops a "disposition" (the equivalent to an adult court "sentence") to identify the necessary services and sanctions for the child to be rehabilitated. Possible dispositions for delinquent youth range from the most severe punishment of incarceration in a youth correctional facility to placement in other non-secure residential facilities such as group homes or treatment facilities, or lesser sanctions such as probation, fines, restitution, or community service. The vast majority of delinquency cases do not result in an incarceration sentence or out-of-home placement; only 10% of black adjudicated youth and 8% of white adjudicated youth are removed from their homes.¹⁰⁴ However, black youth are more likely to receive the harshest sentence, incarceration, after being found guilty. African-American youth are 23% more likely than white youth to be removed from home, and black youth are twice as likely to be removed from home for drug offenses.¹⁰⁵

The majority of African-American youth who were placed outside of their homes (e.g., secure facility, residential treatment facility, or group home) were not being held for violent offenses. In 2006, more than

60% of committed black youth had been found guilty of nonviolent offenses, including 24% committed for property offenses, 10% for drug offenses, 10% for public order offenses, 12% for technical violations, and 5% for status offenses.¹⁰⁶

VI. DISPARITIES IN THE ADULT CRIMINAL JUSTICE SYSTEM

Although there is no national data system that collects data on youth transferred to the adult system, researchers estimate that as many as 200,000 youth are prosecuted as adults each year.¹⁰⁷ All available evidence indicates that African Americans are overrepresented in the population of youth tried as adults.

The only national data available on youth tried in the adult system is data on youth transferred to the adult system via judicial waiver. In 2005, 7,000 youth were transferred via judicial waivers, and 39% of these youth were African-American.¹⁰⁸ According to the 2005 RRIs, African-American youth were only 13% more likely than whites in 2005 to be waived to the adult court once petitioned (RRI 1.1). Black youth were much less likely than whites to be waived for property offenses (RRI 0.6) and public order offenses (RRI 0.7) and much more likely to be waived for drug law violations (RRI 1.4).¹⁰⁹ However, these RRIs significantly underestimate the racial disparities of youth transferred to the adult system because judicial waiver represents a very small portion of youth tried in the adult system.

In 2007, the Campaign for Youth Justice commissioned a study by Jolanta Juskiewicz, Ph.D., to learn more about the characteristics of youth in the adult system. *To Punish a Few: Too Many Youth Caught in the Net of Adult Prosecution*, provides the most in-depth look at the issue of youth in the adult system through the lens of 40 jurisdictions from all the major regions of the country (West, Midwest, South, and Northeast) using the most recent available data from 1998.¹¹⁰ The study analyzed data collected by the Bureau of Justice Statistics as part of the Juvenile Defendants in Criminal Courts, Survey of 40 Counties, 1998 (JDCC) program. The JDCC consisted of cases involving juveniles prosecuted for felony offenses in criminal courts in 40 large, urban jurisdictions. All the cases involving juveniles that were filed for felony offenses during calendar year 1998 in the state criminal courts were selected for the study. Please note that the study examined only felony cases, not misdemeanors, and did not include youth automatically transferred to the adult system via a reduced age of juvenile court jurisdiction. The key findings of *To Punish a Few* with respect to African-American youth are:

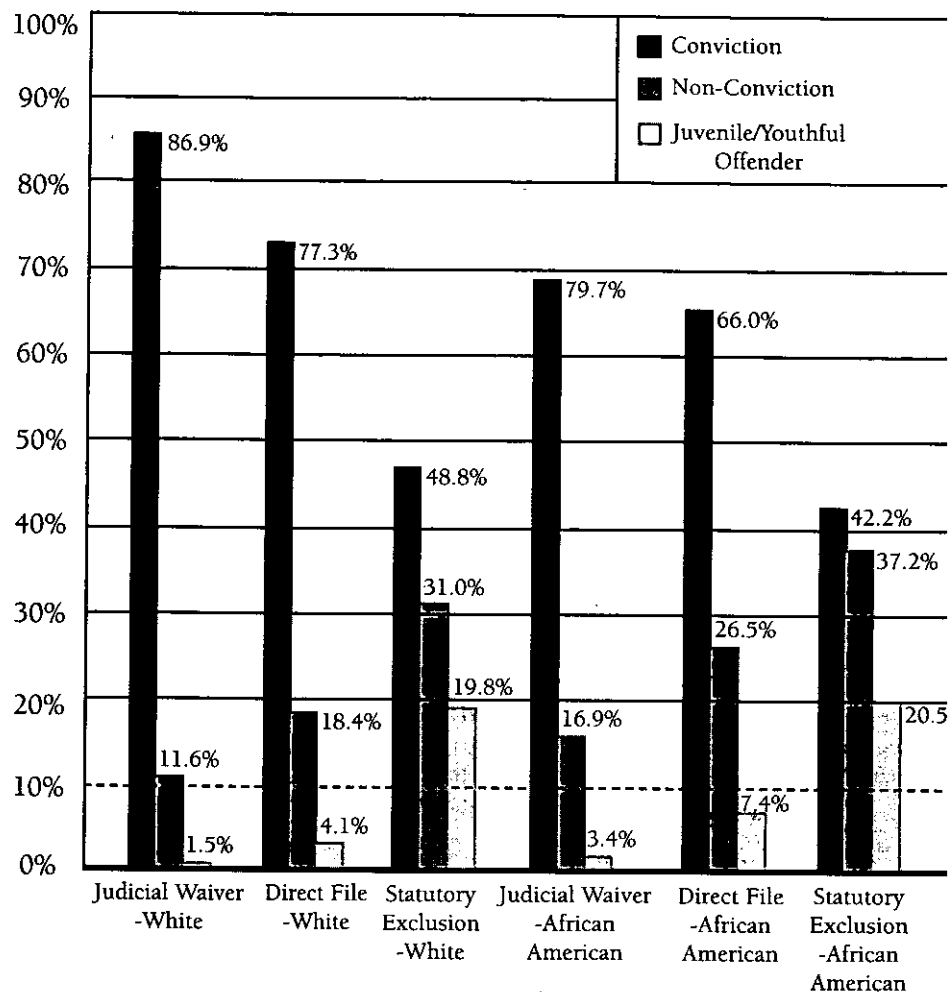
Youth of color are disproportionately impacted by transfer policies. The overwhelming majority of cases (83%) that were filed in adult courts involved youth of color. African-American youth constituted 62% of the youth, and Latino youth were 19%. With the exception of two counties in the study, youth of color constituted between 60% and 100% of all youth prosecuted as adults in the 40 counties included in the study.

Most African-American youth do not receive the benefit of a juvenile court judge individually evaluating their case, but are transferred to the adult system via statutory exclusion or prosecutorial waiver mechanisms. Half (49.2%) of all cases involving African-American youth were filed in criminal court as a result of statutory exclusion. A third (31.9%) of cases were filed as a result of direct file/prosecutorial discretion. Only 18.9% were judicial waiver cases where a judge could make an individual decision after a hearing.

Many African-American youth tried in the adult system are not convicted, suggesting that cases brought against these youth are not very strong. More than 40% of all African-American youth prosecuted in adult court did not receive an adult court conviction (versus only 27.3% of white youth). A third of the youth (27.7%) were not convicted at all, and 12.7% were returned to juvenile court. In fact, African-American youth were more likely than other racial/ethnic groups to have their cases transferred back to juvenile court. This finding is disturbing because many youth will have been subject to detention in an adult facility, discussed below. In addition, African-American youth charged as a result of statutory exclusion laws or a direct file provision were much less likely to be convicted than youth transferred to adult court via judicial waiver (see Figure 3).

Similar to youth in the juvenile justice system, disparities vary by type of offense. Out of all youth cases in adult court, African-American youth accounted for 87% of those charged with drug offenses; 48% of those charged with property offenses; 59% of those charged with property offenses; and 63% of those charged with public order offenses.

FIGURE 3: FINAL DISPOSITION BY FILING MECHANISM FOR AFRICAN-AMERICAN AND WHITE JUVENILE DEFENDANTS IN CRIMINAL COURTS, 1998



Drug cases were filed against African-American youth at nearly 5 times the rate of white youth. More than one-fifth (21.4%) of all African-American youth tried in adult court were charged with a drug offense, and one-quarter of these youth were charged with a drug offense that did not include sales or manufacturing (i.e., drug possession or possession of drug paraphernalia). More African-American youth charged with drug offenses were detained pretrial than white

youth (86.2% of white youth with drug charges were released versus 65.8% of African-American youth).

Most youth prosecuted in the adult system are not serious violent offenders. A common misperception about youth transferred to the adult system is that the majority are charged with the most serious violent offenses of rape and murder. However, the top five offenses (75% of all cases) of African-American youth tried in adult court were for crimes that are regularly handled in juvenile courts: robbery (33.2%); assault (18.2%); drug sales/manufacture (16.1%); burglary (5.7%); and other drug offenses (5.3%).

African-American youth are routinely incarcerated in adult jails. Overall, a higher proportion of white youth were released pretrial (59.8%) than any other racial/ethnic categories. Only half (50.5%) of African-American youth were released pretrial. Of the African-American youth detained pretrial, 65.4% were held in adult jails and only 34.6% were held in juvenile facilities (72% of white youth were held in adult jails pretrial).

Most youth convicted in adult court do not receive an adult prison sentence, and most sentenced to adult prison are not convicted of a violent offense. The majority of African-American youth (55.5%) convicted in adult court do not receive an adult prison sentence. Of the African-American youth convicted in adult court, 44.5% received an adult prison sentence, 24.6% received probation, 16.6% were sentenced to jail, 10.3% received a juvenile sanction or bootcamp, and 4% were released for time served.

The majority of African-American youth (57.6%) sentenced to adult prison were not sentenced for a violent offense. Of the African-American youth sentenced to adult prison: 43.4% had a violent offense charge, 24.8% had a property offense charge; 12.5% had a drug offense charge; and 7.9% had a public order offense charge.

Racial disparities in youth serving time in adult prison. According to a report by the National Council on Crime and Delinquency, *And Justice for Some*, nearly three-quarters of youth admitted to adult prisons were youth of color in 2002 (the most recent data available). For every 10 youth admitted to adult prison, six were black youth. The rate of commitment to adult prison was more than nine times higher

for black youth than for white youth.¹¹¹ The five states with the highest prison commitment rates for African-American youth were Wisconsin (155 per 100,000), Oregon (143 per 100,000), South Carolina (101 per 100,000), North Carolina (101 per 100,000) and South Dakota (97 per 100,000).¹¹²

Racial disparities are also observed for youth serving life without parole sentences. According to a 2005 report by Human Rights Watch and Amnesty International, black youth are serving life without parole sentences at a rate that is ten times higher than white youth. African-American youth constitute 60% of the youth offenders serving life without parole sentences nationwide, compared with 29% of white youth.¹¹³

VII. PROMISING APPROACHES TO ADDRESSING DMC

Jurisdictions that have a commitment to reducing racial and ethnic disparities have demonstrated the ability to move toward more equitable treatment of youth of color as they move through and out of the justice system. Successful approaches to addressing DMC are targeted and tailored to the specific state, county, city or region; however, these approaches share some consistent commonalities including:

- *Strengthened leadership* through creation of DMC committees and focused state efforts on addressing the problem.
- *Collection and monitoring of state data* to improve states' ability to assess and address the root causes of DMC in their state.
- *Standardized and objective screening instruments* used by decision-makers, such as judges, to eliminate subtle stereotypes and biases.
- *Community-based prevention, intervention, and diversion* efforts to eliminate biases and encourage diversion of youth out of the juvenile justice system.
- *Community empowerment* by engaging communities at the local level to assist with DMC reduction activities.
- *Efforts to increase cultural sensitivity* (e.g., training) to make system stakeholders more sensitive to the needs of minority youth.
- *Legislative changes* to reduce the disparate impact of state laws.¹¹⁴

Nationwide Initiatives to Reduce DMC

There are several nationwide efforts aimed at reducing disparities. For the past fifteen years, the Juvenile Detention Alternatives Initiative (JDAI), a project of the Annie E. Casey Foundation, has demonstrated that jurisdictions can safely reduce reliance on secure detention and generally strengthen their juvenile justice systems through a series of inter-related reform strategies. From the beginning, JDAI recognized that juvenile detention reform efforts must reflect the reality that minority youth bear the brunt of policies that lead to arrest, referral, detention, adjudication, and imprisonment of young people.¹¹⁵ JDAI is now being replicated in over 80 jurisdictions across the country.

A key partner in the JDAI initiative is the W. Haywood Burns Institute, an organization working to reduce the overrepresentation of youth of color in juvenile justice systems since 2001.¹¹⁶ The Burns Institute works with over 21 local jurisdictions across the country to reduce racial disparities in their juvenile justice systems by improving decision-making, court processes, and alternatives to incarceration. The Burns Institute provides technical assistance to jurisdictions prepared to implement institutional changes to remedy disparities. The Burns Institute engages traditional and non-traditional stakeholders in a data-driven examination of their policies and practices, followed by a remedial plan aimed at measurable results. A key component of reducing racial disparities is the use of effective, culturally-appropriate neighborhood-based programming that primarily serves communities of color.

The John D. and Catherine T. MacArthur Foundation began making grants in the field of juvenile justice in 1996. Since then, the foundation has launched Models for Change, an effort to create successful and replicable models of juvenile justice system reform through targeted investments in key states.¹¹⁷ The Center for Children's Law and Policy's (CCLP) coordinates the DMC activities in each of the four Models for Change states (Illinois, Louisiana, Pennsylvania, and Washington).¹¹⁸ CCLP staff work in Allegheny, Berks, and Philadelphia counties in Pennsylvania; on statewide policy in Illinois; in Jefferson and Rapides parishes in Louisiana; and in two counties and with state officials in Washington. In these sites, CCLP staff conduct quantitative and qualitative research to understand the racial and

ethnic disparities and learn how decisions are made at the local level, recommend interventions based on their analyses, and monitor the implementation of interventions. In addition, CCLP manages the DMC Action Network, a network of 12 sites across the country working to achieve sustainable reductions in racial and ethnic disparities in the juvenile justice system.

Reducing Racial Disparities without Compromising Public Safety in Illinois

In the early 1980s, Illinois was one of the first states to adopt a "tough on crime" approach by passing laws to automatically try youth in adult court for a range of offenses, including drug offenses. Illinois' drug transfer laws required that 15- and 16-year-olds be automatically tried as adults for drug offenses that occurred within 1,000 feet of schools or public housing. This automatic transfer provision prohibited judges from making individual determinations about whether children accused of certain drug offenses should remain in the juvenile justice system.

These policies subsequently proved to be racially biased as research demonstrated that of all youth transferred in 2003, 99% were minorities, and 92% were African-American. The overwhelming disproportionate impact on minority youth made the law "the most racially biased drug transfer law in the Nation."¹¹⁹ Fueled by concern over the growing number of minority youth in adult court charged with nonviolent drug offenses, on August 12, 2005, Governor Blagojevich signed PA-94-0574 into law, repealing Illinois' nearly 20 year policy of automatically transferring youth charged with drug offenses to adult court.¹²⁰

Nearly four years later, automatic transfers in Cook County have gone down by more than two-thirds without any corresponding increase in juvenile caseloads. The first year after PA 94-0574, the number of youth automatically transferred in Cook County went down by approximately two-thirds, from 361 in 2003 to 127 in 2005-2006. There was no corresponding increase in juvenile court petitions or judicial waivers to adult court. This same rate of reduction held steady in the second year, with the number of youth automatically transferred in Cook County declining again to 103 in 2006-2007 without a corresponding increase in juvenile court petitions or judicial waivers to adult court. The absence of any increase in juvenile

court caseloads after the law went into effect demonstrates that the rollback of Illinois' drug transfer law had no detrimental effect on public safety.¹²¹

Illinois was one of the first states to allow automatic transfer of youth, was one of the first to re-think its policies, and is now demonstrating that there are more fair and appropriate ways to treat youth who do not include transferring drug offenders to adult court. Illinois is continuing to reassess other aspects of their transfer policies as well. Legislation is pending in the Illinois Legislature to allow 17-year-olds facing misdemeanor charges to be returned to juvenile court jurisdiction. The legislation would also create a task force to review increasing the age of jurisdiction for youth charged with felonies.

Raising the Age of Juvenile Court Jurisdiction in Connecticut

Connecticut currently locks up more children in adult prisons than any other state in the nation. Approximately 425 youth are held in adult prisons in Connecticut each year. This is mainly because Connecticut is one of only three states that tries all 16- and 17-year-olds as adults – even those youth accused of minor and nonviolent offenses. Nearly 8,000 youth in Connecticut enter the adult court system each year, the vast majority for nonviolent crimes (96% of the 16- and 17-year-old youth arrested were charged with nonviolent crimes). The law has a disproportionate impact on youth of color. Although African-Americans represent only 13% of the youth population, more than 82% of youth held in adult corrections were youth of color.¹²²

Deprived of the rehabilitative focus of the juvenile system, youth prosecuted in the adult system are denied appropriate services, given limited educational and employment opportunities, and exit the adult system with the stigma of a criminal conviction. In response to these concerns, two symbiotic efforts were started – a “Raise the Age CT” campaign coordinated by the Connecticut Juvenile Justice Alliance (CTJJA) and the Juvenile Jurisdiction Planning and Implementation Committee (JJPIC), a legislatively-mandated committee comprised of key stakeholders – were formed with the goal of raising the age of juvenile court jurisdiction in the state. The combined efforts of legislators, state agencies, law enforcement officials, judicial officers, advocacy and grassroots organizations, and parents and family members led the Connecticut state legislature to unanimously pass Public Act 07-4 in June 2007 returning 16- and 17-year-olds to juvenile court jurisdiction.¹²³

Although the law will not take effect until January 1, 2010, Connecticut has a strong plan for changing the policies that have negatively impacted African-American youth. The youth who will be returned to the juvenile justice system will have access to improved diversion programs, regional youth courts, and new services and supports to ensure that they are successful.

Dismantling the School to Prison Pipeline in Clayton County, Georgia

In 2003, community leaders in Clayton County, Georgia, voiced concerns about the numbers of children being sent to juvenile court by schools. Between 1993 and 2003, juvenile court referrals had jumped from about 200 to more than 1,100 each year largely as a result of school-based referrals. Even though serious school safety issues had not increased (felony referrals from schools were constant), school-based referrals were almost a quarter of all juvenile court referrals.

Troubled by these numbers, community leaders from schools, law enforcement, the juvenile court, the district attorney's office, child-serving programs, parents and other stakeholders came together in 2003 to explore ways to improve school safety and reduce referrals to court.

After several months, the group developed a collaborative agreement now referred to as the School Offense Protocol. This protocol zeros in on low-level misdemeanor offenses like disorderly conduct and affray, which had accounted for a majority of school referrals in Clayton County. For those offenses, the protocol establishes a system of graduated sanctions to standardize consequences for youth.

Everyone has seen tremendous gains from the School Offense Protocol. School Resource Officers (SROs) are no longer required to spend time arresting students for every minor infraction. As a result, school-based referrals of African Americans have been reduced by 46 percent.

An important lesson from Clayton County is that new sources of funding were not needed to reduce racial disparities, rather it required local leaders to come together and think about the best way to use existing resources more efficiently. Schools in Clayton County are not only safer places to learn as a result of the protocol, but now that fewer students are being referred to juvenile court, instructional time has increased and graduation rates are expected to improve as well.¹²⁴

VIII. POLICY RECOMMENDATIONS

To address the pervasive racial disparities in the juvenile and adult criminal justice system, and minimize the negative impact of transfer laws on African-American youth as documented in this policy brief, federal and state policymakers should take immediate action.

Congress should:

- Strengthen the “Disproportionate Minority Contact (DMC)” core requirement of the Juvenile Justice and Delinquency Prevention Act (JJDP A) by giving states specific guidance on action steps to reduce disparities such as identifying and analyzing key decision points to determine where disparities exist, collecting data, developing a work plan, and publicly reporting on progress.
- Close the loophole allowing youth charged as adults to be housed in adult jails. The “Jail Removal” and “Sight and Sound” core requirements of the JJDP A should be expanded to apply to youth who are charged in the adult system. In addition, states should be encouraged to house youth convicted in adult court in juvenile facilities, rather than adult prisons.
- Fully fund the JJDP A so that these recommendations can be effectively implemented by states.
- Invest in significant data collection efforts to identify and track youth prosecuted in the adult criminal system.
- Support proposals, including Representative Robert C. “Bobby” Scott’s Youth PROMISE Act, that will effectively prevent crime before it occurs and provide intervention programs to redirect youth already involved with the juvenile or adult criminal justice systems toward law-abiding and productive futures.
- Repeal provisions of federal laws that make it more difficult for youth convicted in the adult system to reintegrate into the community successfully (e.g., limitations on the eligibility of financial aid for college, food stamps, or Medicaid).
- Oppose legislation that increases the transfer of youth to the adult criminal system.
- Oppose legislation that adds additional mandatory minimum sentences (e.g., gang enhancements).

- Oppose legislation that increases the likelihood that youth will be incarcerated instead of receiving appropriate community-based treatment and services.

State Policymakers should:

- Reduce racial and ethnic disparities of youth tried in the adult criminal system in their state by identifying and bringing together stakeholders, collecting accurate and timely data, developing a work plan, and publicly reporting on progress.
- Immediately stop housing young people in adult jails and prisons.
- Increase the age of juvenile court jurisdiction to 18.
- Substantially reduce the prosecution of youth in adult court by providing judges with sole discretion to make the decision on whether or not to prosecute a youth in adult court.
- Invest in quality and effective legal counsel for youth.
- Redirect resources from incarceration to developmentally-appropriate and cost-effective treatment and services for youth.
- Reduce barriers to employment by sealing or expunging arrests that never led to conviction and conviction records after an appropriate period of time has lapsed.
- Repeal state laws (e.g., employment, voting, and other restrictions for people with criminal histories) that make it more difficult for youth convicted in the adult system to reintegrate into the community successfully.
- Enact laws that recognize a youth's ability to mature and be rehabilitated by permitting individualized reassessments of youth serving long sentences in the adult system (e.g., establishing a juvenile clemency board).

NOTES

NAACP Resolution*
Opposition to Transfer of Youth to the
Adult Criminal Justice System

WHEREAS the NAACP has previously resolved that prevention and rehabilitation are vital components of any juvenile justice policy, and that equal protection to youthful offenders be guaranteed under the law; and

WHEREAS youth of color receive more punitive treatment than their white peers for the same offenses at all stages of the justice system; and

WHEREAS African-American youth are disproportionately represented in cases transferred to adult court, representing 16% of the youth population but 35% of youth judicially transferred, and 58% of youth committed to state prison; and

WHEREAS, African-American youth are five times more likely than white youth to be charged in adult court for a drug offense; and

WHEREAS the adult criminal justice system is punitive and not rehabilitative by nature, resulting in youth being denied programming such as education, mental health treatment, and employment skills training which are essential to proper development; and

WHEREAS the historical role of the juvenile system is to rehabilitate and treat youthful offenders while holding them accountable and maintaining public safety, and it is therefore better equipped to work with youth than the adult criminal justice system; and

WHEREAS an average of 7,500 youth are held in adult jails each day in America, many of whom will be adjudicated back to the juvenile system or will not be convicted; and

WHEREAS there exists serious human rights concerns, as well as physical and emotional health concerns, for housing youth in adult jails as youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility, and youth comprise 21% of all substantiated victims of inmate-on-inmate sexual violence although they are only 1% of the jail population; and

WHEREAS public safety is compromised, when youth transferred to the adult court are 34% more likely to reoffend than youth of a similar background and offense type treated in the juvenile system according to the federal Centers for Disease Control; and

WHEREAS the use of statutes or procedures that automatically exclude youth from the juvenile court without an assessment of individual circumstances by a judge denies youth basic fairness, and contradicts public opinion polls revealing that 92% of the U.S. public disagrees with such policies; and

WHEREAS the collateral consequences of an adult charge or conviction may cause youth to be denied opportunities to obtain education, employment, federal assistance, and voting rights, thereby creating further obstacles to rehabilitation.

THEREFORE, BE IT RESOLVED that the NAACP strongly opposes any policies, statutes, or laws that increase the number of youth transferred to the adult criminal justice system and the number of youth held in adult jails and prisons; and

THEREFORE, BE IT RESOLVED that the NAACP will work to end the practice of youth being tried in the adult criminal justice system and to ensure that young people are appropriately adjudicated in ways that enhance community rehabilitation, safety and stability; and

THEREFORE, BE IT RESOLVED that the NAACP strongly supports reforms that effectively reduce the overrepresentation and disparate treatment of African-American youth among youth who are prosecuted, detained, sentenced, and incarcerated as adults; and

THEREFORE BE IT FINALLY RESOLVED that the NAACP supports the creation and maintenance of programs and services that address the educational, health, mental health, and vocational needs of youth currently in and exiting from the juvenile and adult criminal justice systems.

*NAACP Resolution approved at the July 2008 National Convention.

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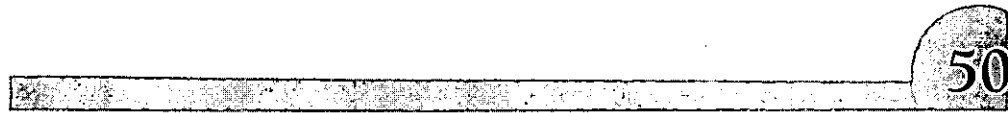
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The Campaign for Youth Justice would like to gratefully acknowledge our funders who support our work, including the Annie E. Casey Foundation, the Chasdrew Fund, the Eckerd Family Foundation, the John D. and Catherine T. MacArthur Foundation, the Open Society Institute, the Public Welfare Foundation, and individual anonymous donors.

We would also like to thank the National Council on Crime and Delinquency, the Center for Children's Law and Policy, the W. Haywood Burns Institute, and all of the dedicated people and partners who worked on the Building Blocks for Youth Initiative, a multi-year initiative from 1999 to 2005, whose groundbreaking research and efforts to reduce racial disparities in the justice system paved the way for this policy brief.