

956

HJ

HB

983

(FILE NO.

4)

HB

983

#4

(parallel hand)



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Charlie Parr, Chairman
FROM: Margaret W. Berck, Staff
DATE: February 6, 1980
RE: Sunset Review of the Parole Board (Based on review of audit report and Corrections Master Plan)

Each of the five recommendations of the Legislative Auditor should be explored. The audit report is riddled with factual disputes between the auditor and the Parole Board. Despite these disputes, it seems clear that the Parole Board has not submitted annual reports to the Legislature as required in AS 37.07.090, a copy of which^{is} attached hereto. The board's response is that^{they} need forms from Legislative Audit and additional staff in order to comply with this requirement.

One of the Auditor's recommendations would require the board to codify its regulations. From the materials in our files, it seems that the board is in the midst of adopting new regulations. The Corrections Master Plan indicates that the Parole Board is not subject to the APA and recommends that legislation be adopted to make them subject to the APA. The board should probably be questioned on this point. Furthermore, as the nuts and bolts of Parole Board policy and procedure would be contained in those regulations, the Committee may wish to obtain a copy of those proposed regulations.

The main objective of the Parole Board is to maintain a less than 8% rate of felonies committed by parolees within one year after parole release. Regardless of the differing statistics offered by the auditor and by the board on this point, it is clear that the board is meeting this objective. This 8% figure compares well with available national statistics as well as other States on an individual basis. The fact that the board's statistics as well as the auditor's statistics both indicate a figure something less than 8%, raises a question of whether the board has been too tight fisted in paroling individuals. In any case it seems that one can not criticize the board for acting contrary to the interest of general public safety.

Existing criteria used by the board in determining who gets paroled should be explored. Presently the board is in the midst of establishing parole guidelines to supplant existing vague criteria. These proposed guidelines should be explored both for content as well as operation. This line of questioning is significant to determining whether the board acts in a racially discriminatory manner or generally in an irrational manner. In fact on this point you may wish to ask the board if they keep any statistics based on race. The special commission on ^{minority} racial sentencing looked at the parole board. You may wish to obtain their comments on this point. Hopefully the new guidelines will prevent irrational or racially motivated decisions.

In many cases the board responded to the auditor's recommendations with the cry for more money and staff. These needs are echoed in the Corrections Master Plan Report. The need for additional funds should possibly be explored in terms of the new criminal code. Under the new

code ONLY first-time offenders will be eligible for parole. Will this reduce the Board's caseload? The new criminal code certainly limits discretion of the Board to adjust sentences. How else does new code affect them?

The conditions imposed on the parolee should be explored. The majority of Alaska parolees are subject to revocation for technical violations. Are these technical violations reasonable in light of additional tax burdens resulting from re-confinement in institutions? (Copies of the forms used for parole orders as well as the special conditions of parole will be in each member's files).

The exact counting method utilized by the parole board to determine when a prisoner might obtain parole should be clarified. It seems that those serving more than 180 days must serve 1/3 of their maximum sentences (for lifers, 15 years). How does good time, which is computed at the ratio of one day off the sentence for every three served with good conduct, fit into this picture? A few examples might be instructional to the Committee.

What are the board's responsibilities regarding mandatory release violators?

How does the Board handle Alaskans in institutions located out of state?

How can one now appeal a Parole Board decision. Will this be changed at all in the proposed regulations?

Parole Board hearings presently aren't recorded nor are summaries of findings made. The Corrections Master Plan Report recommends that such procedures be established. This matter should be explored by the Committee.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: HOUSE JUDICIARY COMMITTEE
FROM: ROCKY PLOTNICK
DATE: SEPTEMBER 13, 1979
SUBJECT: ALASKA BOARD OF PAROLE

The Alaska Board of Parole has been assigned to this committee for sunset review. I have started to gather information about the Parole Board and its duties and will share what I have with you. Please note these are preliminary findings and more specific information will be supplied to you.

Before I go any further, a distinction must be made between parole and probation. Parole is administered by the Executive Branch and must proceed sentenced time in prison. Probation is administered by the Judicial Branch in lieu of prison. The Alaska Statutes specify when a prisoner is eligible for parole. AS 33.15.080 says,

"However, no prisoner may be released on parole who has not served at least one-third of the period of confinement to which he has been sentenced, or in the case of a life sentence, has not served at least 15 years." *

*Effective January 1, 1980, delete "or in the case of a life sentence, has not served at least 15 years".

The Parole Board is a separate agency within the Department of Health & Social Services, and not within the Division of Corrections. It has an executive director with one clerical person. There are five part-time members on the Board serving without pay, though they do get travel costs. The Parole Board conducts hearings at least quarterly at state correctional institutions. At those hearings parole may be granted, denied, continued (pending), or revoked.

When parole is revoked it means some law or condition of parole has been violated. However, it is important to note that sometimes parole is revoked and then a person is reparaoled, never going back to prison. So while Alaska's revocation rates are higher than the national average on the attached statistics, in reality not that many are returning to prison. Also, the revocations are mainly for technical violations or misdemeanors. An example would be a parolee getting stopped for having one marijuana joint, a misdemeanor in Alaska. That person could have parole revoked and be reparaoled at the same time. So in some cases, the revocation serves as a warning.

The Corrections Master Plan makes several recommendations for the Parole Board. They include:

1. three full-time members
2. an increase and reorganization of staff
3. change hearing procedure
4. establish a formal appeals process
5. adopt a guideline or matrix system to aid decision making

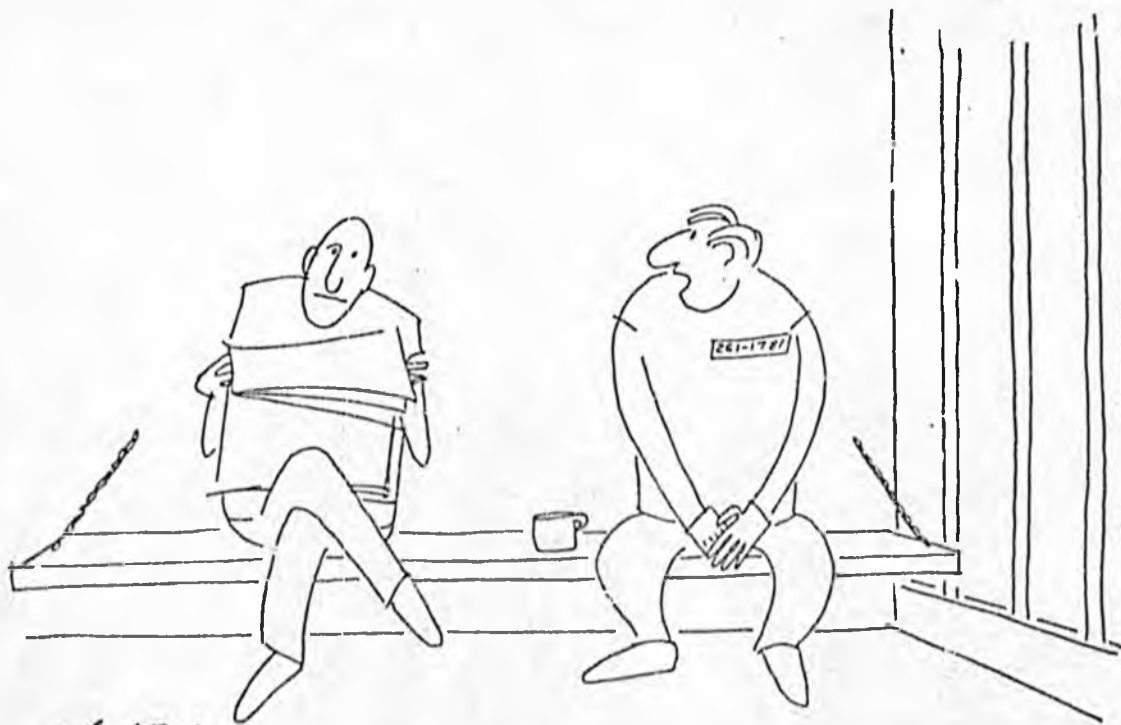
6. prepare a manual of policy
7. introduce legislation to allow credit for "street time" when parole is revoked
8. introduce legislation to allow the release from parole after two years of successful parole
9. conduct hearings to determine presumptive release date
10. obtain a common philosophy between the Parole Board and the Division of Corrections

When I met with Sam Trivette, the executive director, he said he was already working on the recommendations. We went over each one of them and I plan to follow-up in the future.

As we look at the Division of Corrections, keep in mind these people effect a person applying for parole. They are responsible for getting the application to the Parole Board. They make a report of a person's conduct in prison. Indirectly, the Division of Corrections does play a very significant part in the parole process.

THE NEW YORKER

JULY 30, 1979



"Which are you—a victim of society or a crook?"

ALASKA BOARD OF PAROLE

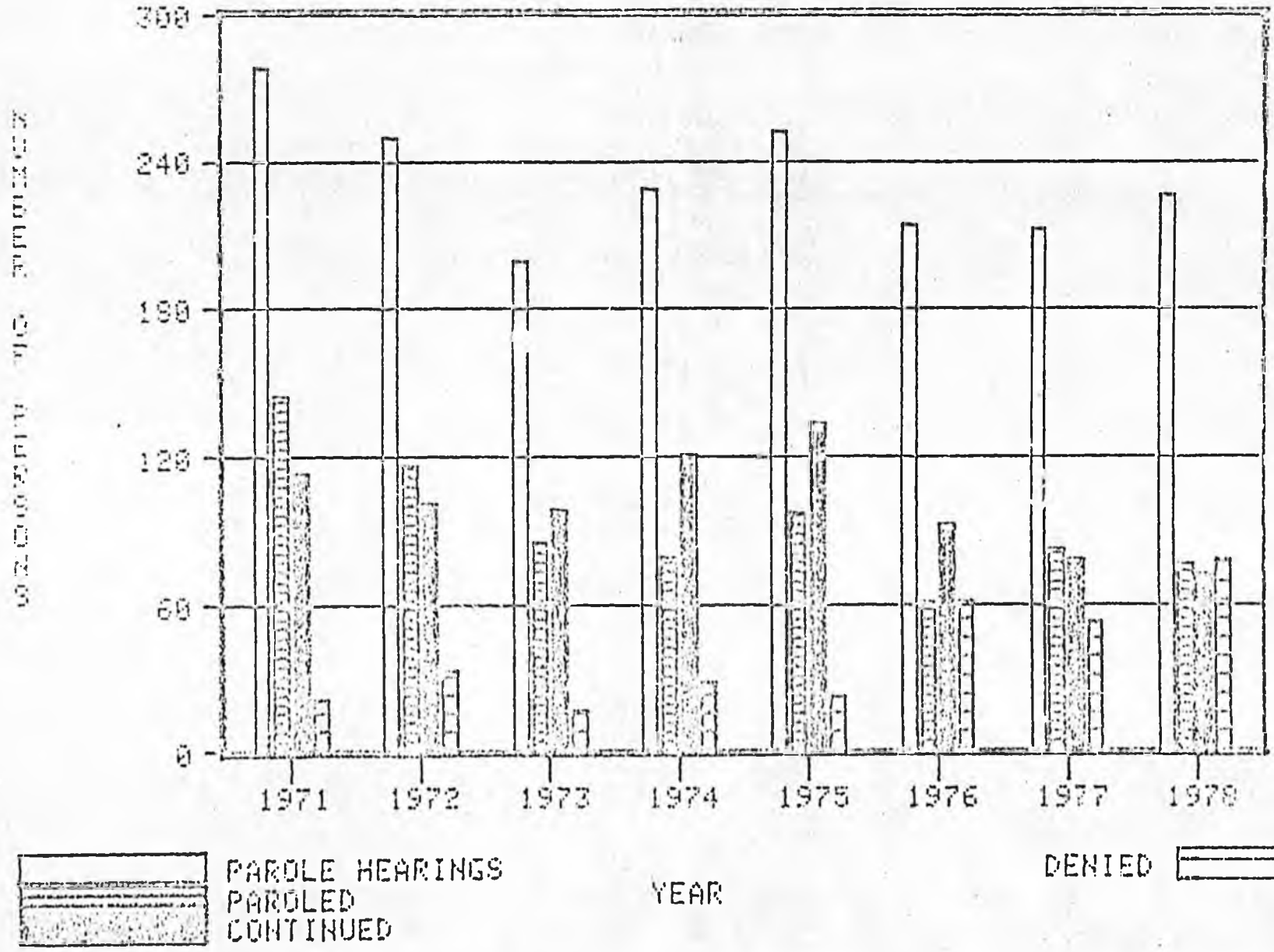
STATISTICS

	1975	1976	1977	1978	1979 (First Half)	
PAROLE HEARINGS	252	214	212	226	91	
PAROLED	93	53	75	64	34	
CONTINUED	133	92	78	72	30	
DENIED	22	61	52	78	27	
OTHER	4	8	7	12		
REVOCATIONS	TECH/FELONY		TECH/FELON		TECH/FELONY	
1-3 Months (on parole)	10	3	5	1	5	3
4-6 Months	7		6	2	8	
7-12 Months	7		4	2	4	1
13-18 Months	3		4	1		
19-24 Months	1					
25 Or More Months	2		1			
TOTAL	30	3	16	3	19	4
AVERAGE PERIOD * OF SUPERVISION REMAINING	20.3 Mo.	16.6 Mo.	17.4 Mo.	15.4 Mo.	15.4 Mo.	18.1 Mo.
REVOCATION RATE (Total)	3 1/2 Yr. Follow Up 35%	<i>to 3 1/2 yr</i> 2 1/2 Yr. Follow Up 36%	<i>to 2 1/2 yr</i> 1 1/2 Yr. Follow Up 31%	<i>to 18 months</i> 6 Mo. Follow Up 20%		
FELONY REVOCATION RATE	3.2%	5.6%	5.3%	1.6%		

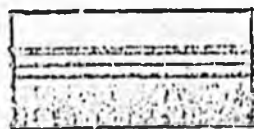
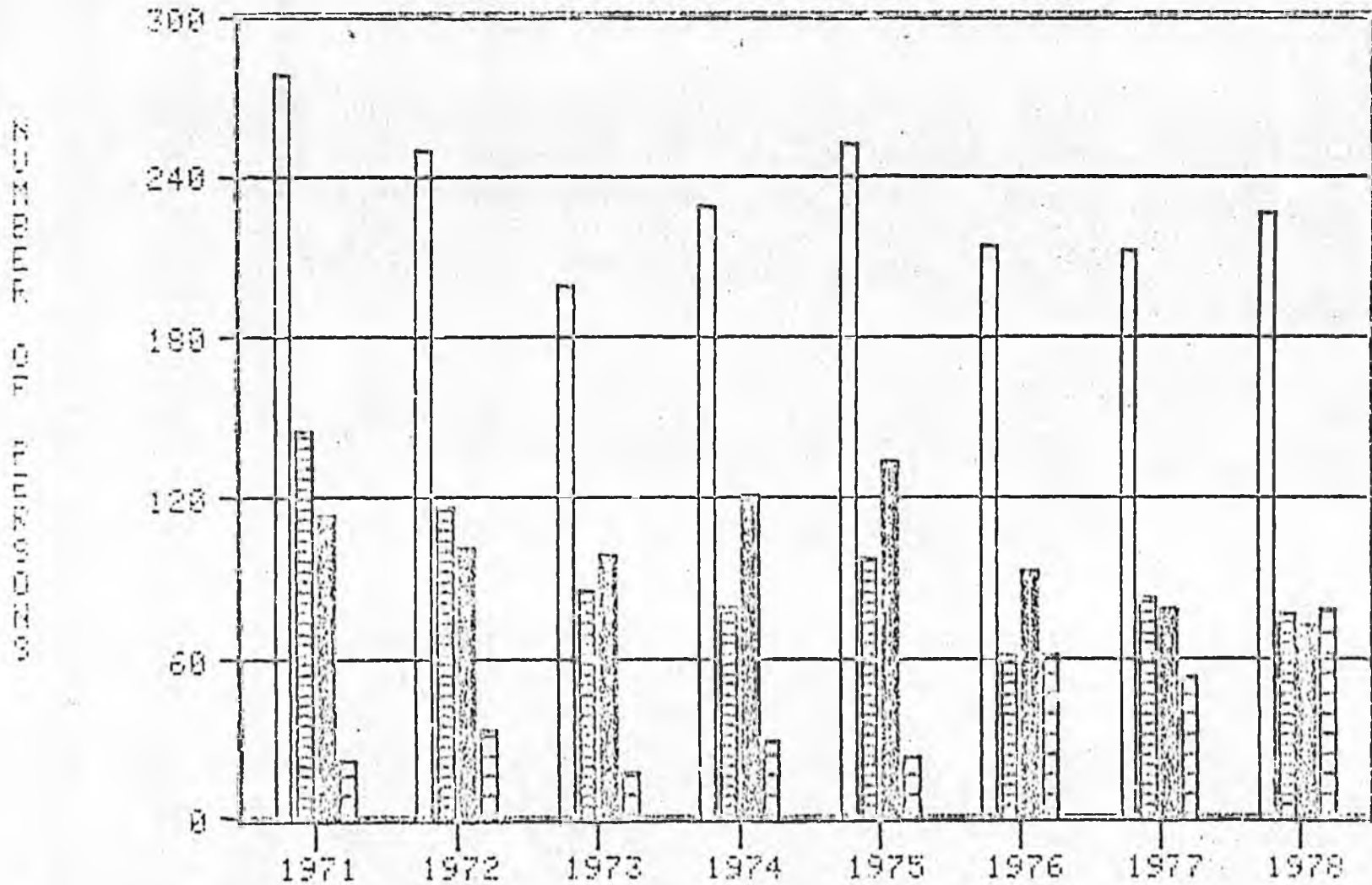
(nat'l average @ 8% 1 yr. follow up - 14% 2 yr.)

* IN EACH YEAR THE BOARD PAROLED A FEW INDIVIDUALS THAT HAD SUCH A LONG PERIOD OF SUPERVISION IT INFLATED THE AVERAGE. THIS FIGURE ONLY INCLUDES THE 90% WITH UNDER FOUR YEARS OF SUPERVISION LEFT.

PAROLE BOARD ACTIVITY
 (Tektronix 4051 -- Data Graphing)



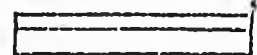
PAROLE BOARD ACTIVITY
 (Tektronix 4051 -- Data Graphing)



PAROLE HEARINGS
 PAROLED
 CONTINUED

YEAR

DENIED



PAROLE BOARD ACTIVITY
 (Tektronix 4051 -- Data Graphing)



..... PAROLE HEARINGS
 _____ PAROLED
 - - - - - CONTINUED

YEAR

..... DENIED - - - - -

PAROLE STATISTICS

1979

($\frac{1}{2}$ year)

PAROLE HEARINGS	91	
PAROLED	34	37%
CONTINUED	30	33%
DENIED	27	30%

PAROLE STATISTICS

1978

PAROLE HEARINGS	221	
PAROLED	64	29%
CONTINUED	75	33%
DENIED	78	35%
PAROLED (NOT RELEASED)	7	3%

*REVOCATIONS:

	Technical Violations Misdemeanors	Felonies
1-3 Months	3	(1) 1
4-6 Months	8	
7-12 Months	1	
13-18 Months		
19-24 Months		
25 of More	_____	_____
TOTAL	12 19%	1 1%

(1) Rape committed in Juneau.

As of May 1, 1979, short, inconclusive, Follow up.

PAROLE STATISTICS

1977

PAROLE HEARINGS	210	
PAROLED	73	35%
CONTINUED	78	37%
DENIED	52	25%
PAROLED (NOT RELEASED)	7	3%

*REVOCATIONS:

	Technical Violations Midemeanors	Felonies
1-3 Months	5	
4-6 Months	6	(1) (2) 2
7-12 Months	4	
13-18 Months	4	(3) 1
19-24 Months		
25 or More	<hr/>	(4) <hr/> 1
TOTAL 31%	19 25%	4 5%

- (1) Armed Robbery Committed in Anchorage.
- (2) Burglary (Interstate) Committed in Washington.
- (3) Burglary (Interstate) Committed in Texas.
- (4) Assault (Interstate) Committed in Louisiana.

*As of May 1, 1979, 6 months to 18 months Follow up.

PAROLE STATISTICS

1976

PAROLE HEARINGS	219	
PAROLE	49	22%
CONTINUED	92	42%
DENIED	61	28%
PAROLED (NOT RELEASED)	17	8%

*REVOCATIONS:

	Technical Violations Misdemeanors	Felonies
1-3 Months	5	(1) 1
4-6 Months	6	
7-12 Months	4	(2) (3) 2
13-18 Months		
19-24 Months		
25 or More	<u>1</u>	<u> </u>
TOTAL	39%	16 33%
		3 6%

(1) Possession of Stolen Property (Interstate) Committed in New York.

(2) Armed Robbery, Committed in Anchorage.

(3) Robbery, (Interstate) committed in New Mexico.

*As of May 1, 1979, 18 months to 30 months Follow up.

Introduced: 3/31/80
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 *CS for* HOUSE BILL NO. 983

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

10 CHAPTER 16. PAROLE ADMINISTRATION.

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

15 (b) Members of the board serve for staggered terms of five years
16 and until their successors are appointed and qualified. A vacancy on
17 the board shall be filled for the unexpired term.

18 (c) The governor shall designate the presiding officer of the
19 board.

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

25 Sec. 33.16.030. SELECTION CRITERIA FOR BOARD MEMBERS. (a) The
26 governor shall appoint board members on the basis of their qualifica-
27 tions to make decisions that are compatible with the welfare of the
28 community and of individual offenders. The governor shall appoint board
29 members who are able to consider the character and background of

1 offenders and the circumstances under which offenses were committed.

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

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

7 Sec. 33.16.040. REMOVAL OF MEMBERS. (a) The governor may remove
8 a board member only for disability, inefficiency, neglect of duty, or
9 malfeasance in office.

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

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

28 Sec. 33.16.050. COMPENSATION AND EXPENSES. (a) A board member is
29 entitled to compensation of \$100 per day for each day he is concerned

1 with the business of the board and is also entitled to the per diem and
2 travel allowances provided by law for other boards and commissions.

3 (b) The governor shall adjust the compensation in (a) of this
4 section to compensate the board members for changes in the cost of
5 living as reflected in the consumer price index for Anchorage, Alaska.

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

9 (b) ~~Four~~ ^{Three Four} members of the board constitute a quorum for the conduct
10 of business.

11 (c) Decisions and orders of the board require the votes of a
12 majority of the members present and in no case less than the votes of
13 ~~three~~ ^{two} ~~members~~ ^{members}.

14 Sec. 33.16.070. PROCESS. The board or a member of the board may
15 issue subpoenas and subpoenas duces tecum. *In addition to any other responsibilities prescribed by law, the*

16 Sec. 33.16.080. RESPONSIBILITIES OF THE BOARD. (a) ~~The~~ ^{board}
17 shall

18 (1) serve as the parole authority for the state;
19 (2) consider the suitability for parole of all prisoners
20 serving sentences who are eligible for consideration for parole, unless
21 a prisoner waives consideration of parole;

22 (3) discharge a person from ~~prison~~ ^{parole} when supervision ~~within~~ ^{is}
23 ~~the prison is~~ no longer required;

24 (4) maintain records of the meetings and proceedings of the
25 board; *which apply fairly to all prisoners not including RACE OF SEX*

26 (5) adopt standards[^] for the determination as of when a pri-
27 soner should be considered for and receive parole;

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

1 (7) recommend to the commissioner changes in the practices of
2 the department and of other departments of the executive branch.

3 (b) The board shall adopt regulations under the Administrative
4 Procedure Act (AS 44.62) *which apply fairly to all prisoners*
not including race or sex

5 (1) establishing the standards under which the suitability of
6 a prisoner for parole will be decided; and

7 (2) providing for the supervision of parolees and for recom-
8 mitment of parolees.

9 Sec. 33.16.090. EXECUTIVE DIRECTOR. The board shall ^{appoint} hire an
10 executive director who has training and experience in the field of
11 probation and parole. The executive director shall serve as the execu-
12 tive officer for the board in the accomplishment of its functions. He
13 shall serve at the pleasure of the board. The executive director shall
14 employ the staff of the board.

15 Sec. 33.16.100. ELIGIBILITY FOR PAROLE. (a) A state prisoner
16 other than a juvenile delinquent, wherever confined, who is serving a
17 definite term of over 180 days or a term the minimum of which is at
18 least 181 days and who is not imprisoned in accordance with AS 12.55.-
19 125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e) 1), or (e)(2), whose
20 record shows that he has observed the rules of the institution in which
21 he is confined, may, in the discretion of the board, be released on
22 parole subject to AS 33.16.110 and 33.16.120(b).

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

26 (c) ^{ANY} state prisoner ^{including ONE} imprisoned in accordance with AS 12.55.125-
27 (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2), who is released
28 under AS 33.20.030 shall be placed on parole for the period specified in
29 the certificate of deduction, subject to written ~~release~~ conditions

1 imposed by the board, ~~or his parole officer.~~

2 Sec. 33.16.110. FIXING ELIGIBILITY FOR PAROLE AT TIME OF SEN-
3 TENCING. When in its opinion justice and the best interests of the
4 public require that a defendant be sentenced to imprisonment for a term
5 exceeding one year, the court having jurisdiction to impose sentence,
6 upon entering a judgment of conviction, may designate in the sentence of
7 imprisonment a ~~minimum~~ term at the expiration of which the prisoner is
8 eligible for parole. The ~~minimum~~ term shall be at least one-third of
9 the ~~maximum sentence~~ ^{period of confinement} imposed by the court ^{or the minimum term}
10 ^{prescribed in AS 12.25.125, whichever is greater.}

11 Sec. 33.16.120. GRANTING OF PAROLE. (a) The board may authorize
the release of a prisoner on parole if it determines that

12 (1) the prisoner eligible for parole will, in reasonable
13 probability, live and remain at liberty without violating the laws or
14 without violating the conditions imposed by the board; and

15 (2) his release on parole is not incompatible with the welfare
16 of society.

17 (b) A prisoner may not be released on parole until the prisoner
18 has served at least one-third of the period of confinement to which he
19 was sentenced.

20 Sec. 33.16.130. SUITABILITY FOR PAROLE. In determining whether a
21 prisoner is suitable for parole, the board shall consider

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

23 (2) the recommendations made by the sentencing court, by the
24 prosecuting attorney, by the defense attorney, and any statement made by
25 the prisoner at sentencing;

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

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

1 (5) official reports of earlier crimes and earlier probation
2 and parole experiences;

3 (6) physical, mental, and psychiatric examinations of the
4 prisoner;

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

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

9 *to a prisoner* Sec. 33.16.140. LACK OF TREATMENT. The board shall not deny parole
10 *otherwise* on the basis that the prisoner did not obtain desirable or necessary
11 *suitable* treatment while confined if such treatment was not available to the
12 *for* prisoner at the correctional facility to which he was designated to
13 *parole* be confined by the Division of Corrections.
14 *Society*

15 Sec. 33.16.150. HEARING ON APPLICATION FOR PAROLE. (a) The board
16 shall hold a hearing to review the suitability of a prisoner for parole
17 or for the setting, posting, or rescinding of parole dates. The prisoner
18 shall be provided reasonable notice of the hearing.

19 (b) The prisoner shall be permitted to have a copy of all infor-
20 mation and records which will be considered by the board no less than 30
21 days before the hearing. The prisoner has a right to enter written
22 responses to all information and records which will be considered by the
23 board.

24 (c) The prisoner has a right to be present at the hearing, to
25 present evidence on his behalf, *and* to cross-examine witnesses who testify
26 against him, ~~and to remain silent~~

27 (d) The board shall issue its decision in writing and provide
28 reasons for the decision. The prisoner is entitled to a copy of the
29 decision on its issuance.

30 Sec. 33.16.160. ORDER FOR PAROLE. The board shall furnish to each
31 person released under its supervision an order for parole. The order for

1 parole shall contain the conditions imposed by the board for parole and
2 the date that the parole supervision expires. The order for parole does
3 not take effect until it is accepted and signed by the parolee.

4 Sec. 33.16.170. COMPUTATION OF GOOD TIME WHILE ON PAROLE. A
5 person released from confinement under AS 33.16.120 or under AS 33.-
6 20.040 is entitled to a deduction from the term of parole of one day for
7 every three days of good conduct while on parole. Good time earned
8 while on parole is subject to forfeiture by the board if a violation of
9 a condition of parole occurs during parole.

10 Sec. 33.16.180. CONDITIONS OF PAROLE. (a) The board shall re-
11 quire that a prisoner released on parole refrain from violation of state
12 or federal law as a condition of parole.

(b) Depending upon the nature ^(AND CIRCUMSTANCES) of the crime for which the prisoner
was convicted, the board may also require as a condition of parole
under AS 33.16.160 that a parolee accept ^{one or more of following} the requirement, that he

- 16 (1) meet his family obligations;
- 17 (2) apply himself to employment, education, training, or
18 subsistence;
- 19 (3) remain within stated geographic limits unless granted
20 written permission from his parole officer to depart from the stated
21 limits;
- 22 (4) report on release to his parole officer;
- 23 (5) report at regular intervals to his parole officer;
- 24 (6) reside at a stated place and notify the parole officer of
25 a change in his place of residence;
- 26 (7) have in his possession no dangerous firearm or dangerous
27 weapon unless granted permission in writing by ^{the board;} ~~his parole officer;~~
- 28 (8) refrain from consuming alcoholic beverages;
- 29 ~~(9) refrain from possessing or consuming illegal drugs;~~
- (10) submit to searches and seizures conducted reasonably by a

officer;

- (11) submit himself to necessary available medical, psychiatric, alcohol, or other examination or treatment;
- (12) refrain from entering into any agreement or other arrangement with any law enforcement agency which will place him in the position of violating any state or federal law or any condition of his parole;
- (13) refrain from opening, maintaining, or utilizing a checking account;
- (14) refrain from entering into any contracts, other than a pre-nuptial contract or a contract of marriage, unless granted permission in writing by his parole officer;
- (15) refrain from operating a motor vehicle;
- (16) refrain from entering any liquor store, bar, pub, tavern, or night club specifically designated by the board.

Sec. 33.16.190. HEARING ON APPLICATION FOR CHANGE IN PAROLE CONDITIONS. (a) A parolee is entitled to reasonable notice of and may request a hearing on a proposal to change a parole condition or to add new parole conditions. The board shall provide the parolee with the reasons for the proposal.

(b) The parolee shall be permitted to have a copy of all information and records which will be considered by the board no less than 30 days before the hearing. The parolee has a right to enter written responses to all information and records which will be considered by the board.

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

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

Sec. 33.16.200. WAIVER OF HEARING. A prisoner or parolee may waive a hearing provided under AS 33.16.150 or 33.16.190 by submitting a written waiver to the board.

Sec. 33.16.210. CONFIDENTIALITY OF RECORDS AND INFORMATION. The pre-parole reports submitted to the board are confidential and may not be disclosed to anyone other than the board, the sentencing judge, the prosecuting and defense attorneys, ^{the prisoner and prisoner's attorney} or others granted the right under this chapter to receive the information.

Sec. 33.16.220 APPEALS. A prisoner or a parolee may appeal a decision or order of the board to the superior court on the ground of arbitrariness or abuse of discretion.

1 Sec. 33.16.230. DUTIES OF THE COMMISSIONER. The commissioner
2 shall

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

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

7 (3) appoint and assign parole officers and personnel to the
8 judicial districts in the state and to train and supervise parole offi-
9 cers and personnel;

10 (4) keep records, files and accounts as the board requests.

11 Sec. 33.16.240. ACCESS TO LAW BY PRISONERS. The commissioner
12 shall make available at each correctional facility in the state and at
13 each correctional facility outside the state at which a prisoner of the
14 state is maintained a current edition of Alaska Statutes and of the
15 ~~regulations of the board.~~ *ALASKA ADMINISTRATIVE CODE, Rules of Court*

16 Sec. 33.16.250. PAROLE OFFICERS. The commissioner may assign the
17 duties of probation officers under AS 33.05 to parole officers appointed
18 under AS 33.16.230(3).

19 Sec. 33.16.260. DISCHARGE OF PAROLEE. (a) The board retains
20 legal custody of a parolee until the expiration of the maximum term or
21 terms to which the parolee is sentenced less a good time allowance
22 provided by AS 33.16.170 *AND AS 33.20.010.*

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

26 (c) A parolee who has been on parole for five years and who has
27 not been convicted of, *INDICTED FOR, or bound over for prosecution of*
28 ~~or charged with~~ a felony since entering parole
shall be discharged from parole and from the custody of the board.

29 Sec. 33.16.270. DISCRETIONARY DISCHARGE OF PAROLEE. The board may

1 discharge a parolee from supervision and the custody of the board and
2 from further liability under his sentence after the parolee has com-
3 pleted two years of parole.

4 Sec. 33.16.280. RELEASE OF PRISONER TO ANSWER PROCESS. If a court
5 of this state, another state, or the United States, or other authority
6 issues a warrant charging a prisoner with a crime, the board may release
7 the prisoner on parole to answer the warrant.

8 Sec. 33.16.290. REVOCATION OF PAROLE. (a) The board may revoke
9 the parole granted to a parolee for violation of a state or federal law
10 or a condition imposed by the board under AS 33.16.180(b).

11 (b) A parolee has the right to a preliminary hearing before a
12 single member of the board ^{or a person authorized by the board to act as} to determine whether probable cause exists to ^{A hearing}
13 revoke parole. The preliminary hearing shall be held within ¹⁴ ~~10~~ days of ^{officer}
14 the arrest of the parolee on the charge of violation of a state or
15 federal law or violation of a condition of parole. The single member of
16 the board ^{or the authorized hearing officer} who holds the hearing may release the parolee pending the
17 hearing under (c) of this section.

18 (c) The parolee is entitled to a hearing before the board at the
19 first meeting of the board held after the preliminary hearing held under
20 (b) of this section. The parolee has the rights of a parolee under
21 AS 33.16.150 and 33.16.190 at the hearing. The board shall issue its
22 decision in writing and provide reasons for the decision. The parolee
23 is entitled to a copy of the decision on its issuance.

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

27 (e) If after the hearing the board determines that a violation of
28 a condition of parole has occurred, it may revoke a portion of the
29 parole granted, change the conditions of parole, or cancel a portion of

1 the good time earned on parole. If the board does not revoke a portion
2 of the parole granted, the parolee shall be released from confinement
3 and continued on parole under terms and conditions established by the
4 board.

5 (f) If after the hearing the board determines that a parolee has
6 violated a state or federal law, the board may require the parolee to
7 serve all or a part of the remainder of the term to which he was sen-
8 tenced. In fixing the term to be served, the board shall ~~subtract~~ ^{deduct} good
9 time earned by the parolee while on parole.

10 (g) If the board revokes parole for a reason other than a violation
11 of a state or federal law, the board may not return the parolee to
12 confinement for a period in excess of six months.

13 (h) A parolee may waive a hearing under (b) or (c) of this section
14 by submitting a written waiver to the board.

15 Sec. 33.16.300. ARREST OF PAROLE VIOLATOR. (a) A parolee charged
16 with violation of a condition of his parole may be arrested only on a
17 warrant for arrest issued by a judicial officer based on probable cause
18 to believe that a violation of the condition of parole has occurred.

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

22 Sec. 33.16.310. EXECUTION OF WARRANT FOR ARREST OF PAROLEE. (a)
23 A parole officer or a peace officer acting at the request of a parole
24 officer shall execute the warrant issued under AS 33.16.300 by arresting
25 the parolee and confining the parolee in a correctional facility desig-
26 nated by the commissioner.

27 (b) The parole officer shall immediately notify the board or a
28 member of the board of an arrest under (a) of this section. If the
29 arrest was without warrant, the parole officer shall immediately provide

1 the board or a member of the board with a report in writing indicating
2 in what manner the parolee violated a condition of his parole.

3 Sec. 33.16.320. APPLICABILITY TO PERSONS ON PAROLE OR INCARCERATED.

4 (a) This chapter applies to all persons convicted and sentenced in the
5 superior court and the district courts of the state.

6 (b) If the appropriate officers of the United States agree, the
7 legislature intends that this chapter also apply to persons convicted
8 before Alaska statehood of a crime punishable under the laws of a state
9 notwithstanding the fact that the prosecution may have been brought by
10 the United States and the prisoners were convicted and sentenced in
11 courts of the United States before Alaska became a state or before the
12 Alaska state court system was in operation.

13 Sec. 33.16.330. DEFINITIONS. In this chapter

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

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

17 (3) "department" means the Department of Health and Social
18 Services;

19 (4) "parole" means the release of a prisoner to the community
20 by the board ^{or by operation of law} before the expiration of his term, subject to conditions
21 imposed by the board and subject to its supervision;

22 (5) "parolee" means a prisoner released to the community by
23 the board or by operation of law.

24 * Sec. 2. AS 44.66.010(a)(3) is amended to read:

25 (3) State Board of Parole (AS 33.16.010 [AS 33.15.010] -
26 June 30, 1984 [1980];

27 * Sec. 3. AS 33.16 enacted in sec. 1 of this Act applies to persons on
28 parole or being considered for parole on the effective date of this Act.

29 * Sec. 4. The terms of the members of the Board of Parole appointed under

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

6 * Sec. 5. AS 33.15 is repealed.

7 * Sec. 6. This Act takes effect July 1, 1980.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

Sec. 7 AS 33.20.040 is amended to read:

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

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

The prisoner shall be released on parole pursuant to AS 33.16.100(c)



Official Business

Alaska State Legislature

Sunset

Senate
Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

February 11, 1980

MEMORANDUM TO: Judiciary Committee
From: Secretary of the Senate
Subject: Sunset Audits

The President has referred the following to your committee
for review and recommendation:

A Performance Review of the Alaska State
Board of Parole

Encl: Report

*Sandra - members'
packets on parole bd,
pls*

Law at the
of Law, has
d of parole.
University of
le Law School
iversity of
to 1972, and
rd of Parole

DOES PAROLE MAKE A DIFFERENCE?

Professor of
ecticut, has
iminal just-
t of the de-
is offenders.
Journal of
Science, Law
cial Science
ew. He re-
of Wisconsin
sity (1971).

HOWARD R. SACKS

Professor of Law
The University of Connecticut School of Law

CHARLES H. LOGAN

Associate Professor of Sociology
The University of Connecticut

THE UNIVERSITY OF CONNECTICUT SCHOOL OF LAW PRESS

information about the disposition. Since the charge was a serious one, it probably was not dismissed lightly. On the other hand, we had no evidence as to a conviction. The conservative course of action was to eliminate the case, which we did.

The figures on the Success/Failure variable for the two groups were dramatically different:

TABLE I Comparison of Experimental Group (Dischargees)
With Control Group (Parolees) on Success/Failure
Variable

	<u>Experimental Group</u> N=112	<i>Parolees</i> <u>Control Group</u> N=57
Successes	41 (37%)	36 (63%)
Failures	<u>71 (63%)</u>	<u>21 (37%)</u>
Total	112 (100%)	57 (100%)

This finding--that parolees failed at the rate of 37% while dischargees failed at the rate of 63%--is "statistically significant". By this, we mean that the possibility that our finding is due to chance, and would not recur if we repeated the study on similar groups, is very slight. Usually, social scientists require a "significance level" of .05 or less--five chances in a hundred that a finding could be due to chance--before being willing to state that the finding is "statistically significant". The .05 level is what we will use in this report, unless otherwise indicated. However, as to our finding on the difference in failure rates between the parolees and the dischargees, the significance level is .02, i.e. there are only two chances in a hundred that the



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff *1/11/80*

DATE: February 11, 1980

RE: House Judiciary Sunset Review of Alaska Parole Board.

The House Judiciary Committee has been designated the committee of referral by the House for the sunset review of the Alaska Parole Board. In conjunction with its sunset obligations the Committee requests the following legal opinion. Pursuant to the Alaska Constitution (Art. III, Sec. 21) " A parole system shall be provided by law." My reading of this constitutional provision is that a parole system must be provided, but that this does not necessarily require the continuation of a Parole Board. If this interpretation is correct, it seems that the Committee could terminate the Parole Board so long as it set up a parole system. A parole system without a board might be accomplished by providing for the following: automatic release of prisoners before their sentence terms are completed at the time which their good time (computed at the rate of one day^{off sentence} for every three days served with good conduct) permits their release. Thus the prisoner would serve the remainder of his sentence on parole in the community. Perhaps revocations could be handled by the original sentencing judge. Do you believe that the above scheme would meet the constitutional requirements of a parole system? Do you have any alternative suggestions as to how a parole system might be accomplished without a board?



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman
FROM: Margaret W. Berck, Staff
DATE: February 6, 1980
RE: Sunset Review of the Parole Board (Based on review of audit report and Corrections Master Plan)

Each of the five recommendations of the Legislative Auditor should be explored. The audit report is riddled with factual disputes between the auditor and the Parole Board. Despite these disputes, it seems clear that the Parole Board has not submitted annual reports to the Legislature as required in AS 37.07.090, a copy of which^(L/M) is attached hereto. The board's response is that^{they} need forms from Legislative Audit and additional staff in order to comply with this requirement.

One of the Auditor's recommendations would require the board to codify its regulations. From the materials in our files, it seems that the board is in the midst of adopting new regulations. The Corrections Master Plan indicates that the Parole Board is not subject to the APA and recommends that legislation be adopted to make them subject to the APA. The board should probably be questioned on this point. Furthermore, as the nuts and bolts of Parole Board policy and procedure would be contained in those regulations, the Committee may wish to obtain a copy of those proposed regulations.

The main objective of the Parole Board is to maintain a less than 8% rate of felonies committed by parolees within one year after parole release. Regardless of the differing statistics offered by the auditor and by the board on this point, it is clear that the board is meeting this objective. This 8% figure compares well with available national statistics as well as other States on an individual basis. The fact that the board's statistics as well as the auditor's statistics both indicate a figure something less than 8%, raises a question of whether the board has been too tight fisted in paroling individuals. In any case it seems that one can not criticize the board for acting contrary to the interest of general public safety.

Existing criteria used by the board in determining who gets paroled should be explored. Presently the board is in the midst of establishing parole guidelines to supplant existing vague criteria. These proposed guidelines should be explored both for content as well as operation. This line of questioning is significant to determining whether the board acts in a racially discriminatory manner or generally in an irrational manner. In fact on this point you may wish to ask the board if they keep any statistics based on race. The special commission on ^{minority} racial sentencing looked at the parole board. You may wish to obtain their comments on this point. Hopefully the new guidelines will prevent irrational or racially motivated decisions.

In many cases the board responded to the auditor's recommendations with the cry for more money and staff. These needs are echoed in the Corrections Master Plan Report. The need for additional funds should possibly be explored in terms of the new criminal code. Under the new

code ONLY first-time offenders will be eligible for parole. Will this reduce the Board's caseload? The new criminal code certainly limits discretion of the Board to adjust sentences. How else does new code affect them?

The conditions imposed on the parolee should be explored. The majority of Alaska parolees are subject to revocation for technical violations. Are these technical violations reasonable in light of additional tax burdens resulting from re-confinement in institutions? (Copies of the forms used for parole orders as well as the special conditions of parole will be in each member's files).

The exact counting method utilized by the parole board to determine when a prisoner might obtain parole should be clarified. It seems that those serving more than 180 days must serve 1/3 of their maximum sentences (for lifers, 15 years). How does good time, which is computed at the ratio of one day off the sentence for every three served with good conduct, fit into this picture? A few examples might be instructional to the Committee.

✓ ~~Corre~~ What are the board's responsibilities regarding mandatory release violators?

How does the Board handle Alaskans in institutions located out of state?

✓ How can one now appeal a Parole Board decision. Will this be changed at all in the proposed regulations?

✓ Parole Board hearings presently aren't recorded nor are summaries of findings made. The Corrections Master Plan Report recommends that such procedures be established. This matter should be explored by the Committee.

(3) reallocation between appropriation items. (§ 1 ch 188 SLA 1970; am §§ 1—3 ch 26 SLA 1976; am §§ 2, 3 ch 74 SLA 1977)

Effect of amendments. — The 1976 amendment deleted paragraph (3) of subsection (c) relating to modification or withholding of planned expenditures during the appropriation period and in subsection (e), substituted "Transfers or changes" for "Appropriation transfers or changes as" and "between allocations" for "activity areas within a program" in the first sentence, deleted the former second sentence, relating to appropriation transfers or changes between programs within an agency, and substituted "appropriations" for "agencies" in the present second sentence. The amendment also added subsection (g).

The 1977 amendment added "except as provided in (h) of this section" to the end of subsection (e) and added subsection (h).

Editor's note. — Section 5, ch. 26, SLA 1976, provides: "Notwithstanding the provisions of Section 2 of this Act, transfers between appropriations may be made as provided by law between appropriation items contained in Section 16(a) and (b) of Chapter 209, SLA 1975."

Section 4, ch. 74, SLA 1977 provides: "The requirement of approval by both the governor and the Legislative Budget and Audit Committee of revision of appropriations to the extent permitted in AS 37.07.080(h) is intended to provide a

degree of flexibility in administration of the budget provided both required approvals are obtained. It is not intended that these revisions may be made with the sole approval of the governor. If a court of competent jurisdiction invalidates the requirement of approval by the Legislative Budget and Audit Committee for revision as authorized in AS 37.07.080(h) (1), (2) or (3), the entire paragraph or paragraphs for which that requirement was invalidated shall be totally void and of no effect whatsoever. If that requirement is invalidated for the entire subsection AS 37.07.080(h), that entire subsection shall be totally void and of no effect whatsoever."

Section 5, ch. 74, SLA 1977 provides: "Executive Order No. 20 dated June, 1962 is repealed."

Legislative committee report. — For report on ch. 26, SLA 1976 (HB 760 am S), see 1976 House Journal, p. 388.

Budgetary system established by statutes implementing Constitution. — Statutory language implementing Alaska Const., art. IX, § 13, establishes a budgetary system in which all appropriations are made by legislative act. Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

Sec. 37.07.090. Performance reporting. (a) Each state agency shall submit a performance report to the division no later than September 1 for the preceding fiscal year. These reports shall be in the form prescribed by the division after consultation with the legislative finance division, and shall include

(1) an identification of the objectives intended for the program and the problem or need which the activities and operations of the board, commission or program is intended to address;

(2) an assessment of the degree to which the original objectives of the program have been achieved expressed in terms of performance, effects, or accomplishments of the program and of the program or need which it was intended to address;

(3) a statement of the performance and accomplishments of the program in each of the last four completed fiscal years and of the costs incurred in the operation of the program;

(4) a statement of the number and types of persons affected by operation of the program;

(5) a su years, of and a su carrying

(6) an a state;

(7) an program, commissi establish

(8) an achieved continued

(b) The forward e am § 5 c

Effect of amendment concerning division, an sentence of present pa former par sentence.

Editor's 1977, provi the substas state agen and the regulations

Sec. 3 ations. T ture pro judgmer transmiss shall acc including 1970)

Budgeta statutes in Statutory Const., a budgetary

Sec. 3 construe If a sect requirem

(5) a summary statement, for each of the last three completed fiscal years, of the number of personnel employed in carrying out the program and a summary of the cost of personnel employed under contract carrying out the program;

(6) an assessment of the effect of the program on the economy of the state;

(7) an assessment of the degree to which the overall policies of the program, as expressed in regulations adopted by the agency, board or commission and its decisions, meet the objectives of the legislature in establishing the program; and

(8) an analysis of the services and performance estimated to be achieved if the life of the agency, board or commission were to be continued.

(b) The division shall summarize the performance reports and forward copies to each member of the legislature. (§ 1 ch 188 SLA 1970; am § 5 ch 95 SLA 1971; am § 6 ch 149 SLA 1977)

Effect of amendment. — The 1977 amendment deleted "statements concerning" following "legislative finance division, and shall include" in the second sentence of subsection (a) and substituted present paragraphs (1) through (8) for former paragraphs (1) through (4) in that sentence.

Editor's note. — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have

contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system of periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 37.07.100. Proposed supplemental or deficiency appropriations. The governor from time to time may transmit to the legislature proposed supplemental or deficiency appropriations which in his judgment are necessary on account of laws enacted after the transmission of the budget, or are otherwise in the public interest. He shall accompany each proposal with a statement of the reasons for it, including the reasons for its omission from the budget. (§ 1 ch 188 SLA 1970)

Budgetary system established by statutes implementing Constitution. — Statutory language implementing Alaska Const., art. IX, § 13, establishes a budgetary system in which all

appropriations are made by legislative act. *Municipality of Anchorage v. Frohne*, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

Sec. 37.07.110. Interpretation of chapter. This chapter shall be construed as supplemental to all other state laws not in conflict with it. If a section or part of a section of this chapter is in conflict with federal requirements for a program for which federal grant-in-aid funds are

Alaska State Legislature

*Ref. Nels Anderson
Jan. 21/6*

HOME ADDRESS
P.O. BOX 65
GALENA, ALASKA 99741

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753



SENATOR
John C. Sackett
CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
BUDGET & AUDIT COMMITTEE

Senate

MEMORANDUM

TO: Senator John Sackett

FROM: Alephe Morris

SUBJECT: Native Culture Group - Juneau Correctional Center
Saturday, January 26, 1980

Present: Representative Nels Anderson
Alephe Morris

The meeting was called to order by the newly elected president, Byron Charles. The main topics of discussion were indiscriminate transferring of prisoners without due process, good time being held over their heads like a whip, discrimination at disciplinary hearings and horrible food.

TRANSFER:

In October, 1979, Michael Clary and former president of the Native Group, Anatak Buell were transferred to Fairbanks without due process. Recently, Larry Uptagraft, David Meeks and former president Ross Shakley were transferred to Fairbanks without due process. It was inadvertently discovered in their "jackets" a charge of inciting a riot which is a criminal offense. This could go against them in a parole hearing, work-release, and they could be charged with it. There was no hearing at the sending institution.

Please note the DOC classifies Fairbanks Medium Custody even though it is the exact floor plan as the Juneau facility, other than Fairbanks has a gym and Juneau a GUN TOWER. They have men, women and children, both sentenced and unsentenced offenders. One man transferred was starting a 10 year sentence and the other 27 years. It was mentioned the person with 27 was kept behind because of some action on his case.

EDUCATION:

The group voiced their concern about **CETA** funding that is going to be discontinued, as the educational classes at the institution are funded fully by **CETA**. They are asking legislation insure their funding. Please note enclosed letter from the Native Group requesting classroom furniture. There are 48 students involved in education and the equipment earmarked for various institutions didn't get there. I had the same complaint at Ridgeview when I visited there in December.

It is my impression the discussion with this group barely skims the surface of the underlying problems within the institution as well as others. Senator Ferguson received a letter from the 6th avenue jail in which a person stated a man handcuffed in the next cell was whipped. It is also my feeling that there may be near-riot circumstances in Juneau. I do not believe its parancia, it comes from experience.

cc: Representative Nels Anderson

AM/lh

JAN 15 1980

Native Culture Group
box, 309



Juneau, Ak, 99802



Senator John C. Sackett
Pouch "V"
Juneau, Alaska 99811

January 13, 1980

Dear Senator Sackett:

I write you this letter at the request of the Native Culture Group. At a meeting of the group, the discussion was the needs of the institution and how the group could help to better our situation. The decision was that the institution needs to have chairs and reading tables for the library, and also for the classroom. The library is in need of two reading tables, and about six chairs. The classroom now has six tables that go in a circle but need replacing. Chairs for the classroom are now carried from the dining room to the classroom and back. Twelve chairs for the classroom would be very effective for the time being. Also needed are two electric typewriters for the law library. The two electric typewriters now in the law library are just about useless; they have been around this institution for about four years. They came to this institution as secondhand typewriters.

Rather than appropriate money to the budget for this equipment, it would be appreciated if you could find a way to get this equipment to us for this school semester. There are 48 students participating in classes; 41 in college, and 7 students in Adult Basic Education classes. Should this information arouse your interest and you believe you should have more information, you would be greeted warmly by our group: The Native Culture Group. We are patiently waiting to hear what your reply will be.

Thank You

Ross T. Sheakley
Native Culture President

Alphe received 1/29/80



By John Deacon

The Alaska Parole Board system is unfair to Native Alaskans. That is the assertion of all Native inmates. You, the reader may ask, "Why is the Alaska Parole Board unfair to the natives?"

The parole board is comprized of five members. There are three Whites, one Native, and one Black. The Governor personally appoints the members to the board, it is entirely at his discretion.

It is the opinion of the Native inmates here at the Juneau correctional facility that two or more Natives or of Native lineage be appointed to the parole board, for the following reasons. 50% or more of the inmate population are Native. Statistics reveal that the Alaska Native receives longer sentences than Whites, furthermore the Native has the lowest percentage of being released on parole. Therefore it should be of top priority of business for the Bush Caucus to resolve this problem. Without some form of revision, the parole board will continue to be bias to the Native inmates.

The Parole Board has certain stipulations an inmate must meet even to be considered as a possible parolee. The stipulation of having a job is the Native's greatest drawback. It is common knowledge to everyone in the bush areas, that jobs are virtually nonexistent. Statistics will also verify this statement.

The majority of the Native inmates are from small bush communities. They do not have college degrees or any technical training. All they know is fishing, hunting, and trapping. So why not parole them back to their respective villages, as subsistence lifestylers.

There is a considerable amount of controversy on the definition of the subsistence way of life. In my opinion, subsistence is living in a small bush community, without a regular job; hunting, fishing, and trapping for a livelihood. Carving and making artifacts could also fit this category. There should be a wide generalization in the categorization of the subsistence way of lifedue to the wide geographical differences.

An example is comparing Kaltag with Point Hope. Both communities are predominantly Native and can be categorized as maint ining a subsistence lifestyle. However, there the similarity ends. The Point Hope area is situated on the northwest coast of Alaska. The surrounding area is completely devoid of trees. The people's main source of livelihood is derived from marine mammals, such as seals, wulrus, and whales. Whereas, the inhabitants of Kaltag depend chiefly on moose, bear, and beaver to supply their major food supplements. Kaltag is also situated in a wooded region.

My purpose is not to discuss the pros and cons of living in either community. It is merely a hypothetical illustration to show the wide differences in the subsistence lifestyles due to geographical locations.

There are communities where fishing is the major source of income. Can inhabitants of such communities be classified on a subsistence basis. It is possible for these people to catch \$10,000, \$20,000, or even \$30,000 with fish in a season. At some point there must be a distiction between being a component of the fishing industry and the subsistence person. However a fishermen's income is highly inconsistant, depending on the fish spawn.

Can an ivory carver claim to be a subsistence person when he is carving up to five or six thousand dollars of artifacts, yearly. This figure may be a bit high or low, depending on the quantity and quality of the individual's work. At what dollar amount dose the carver cease being a subsistence individual and become a sole proprietor of a small business enterprize.

This breif backgroud on life in the bush may seem immaterial to the parole of Native inmates. Nothing could be further from the truth, based on the following reasons. (1) Jobs are virtually nonexistent in the bush areas; (2) many Native inmates have very little or no formal education or technical skills to secure jobs in the metropolitan areas like Anchorage or Fairbanks.

For these reasons among others, once again, I argue that the Native inmate should be granted parole to his respective village.

While the law will argue against this issue for the following reason; that one law or stipulation imposed on one citizen should pertain to all. For all practical purpose I would be inclined to agree, however here lies a very unique situation.

The Federal Government has always introduced special legislation in the past to deal with Indian problems. They recognized the various differences and dealt with them accordingly. For this very purpose the Bureau of Indian Affairs was established. I believe the State Government can follow similar guide lines in setting down policies to insure the Native inmate an equal opportunity on the issue of parole.

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

It should be no great problem for the state government to establish a network of acting parole officers within the villages. The village councils could be given implied or expressed powers in determining if they would be willing to accept the parolee. They would also have the power to revoke should the occasion arise. Without a doubt, the Department of Corrections and its component the Alaska Parole Board in conjunction with the village councils can implement a feasible program that is long overdue.

In conclusion, I will say, it is the task of the Native leaders to fight for these reforms. It is now time for the Bush Caucis to stand in unison and shout, we demand equal treatment for our people.

(THE UNDERSIGNED ARE IN FULL ACCORD WITH THIS ARTICLE)

- | | |
|---------------------------------|---------------------------------|
| (1) <u>Timothy Adams Sr.</u> | (16) <u>Harmon Johnson</u> |
| (2) <u>P. Phillip Campbell</u> | (17) <u>Wesley Johnson</u> |
| (3) <u>Thomas Wood</u> | (18) <u>Paul H. Johnson</u> |
| (4) <u>Fred Eukamaw</u> | (19) <u>John J. Johnson</u> |
| (5) <u>George J. Johnson</u> | (20) <u>Paul J. Johnson</u> |
| (6) <u>Vernon Mack</u> | (21) <u>Benon E. Charles</u> |
| (7) <u>Robert Nord</u> | (22) <u>Peter M. Church Jr.</u> |
| (8) <u>Edward Anderson</u> | (23) <u>Edward L. Starvick</u> |
| (9) <u>Harold H. Gale</u> | (24) <u>Edwin Johnson</u> |
| (10) <u>Don Stephens</u> | (25) <u>John Johnson</u> |
| (11) <u>Solomon Roberts</u> | (26) <u>Raymond J. Jacobs</u> |
| (12) <u>Ray Walter</u> | (27) <u>Larry O. Larson</u> |
| (13) <u>Peter Christian</u> | (28) <u>Conrad Kruloff</u> |
| (14) <u>Lawrence V. Gregors</u> | (29) <u>Emil Krasvick</u> |
| (15) <u>John Johnson</u> | (30) <u>Frank Johnson</u> |
| | 31. <u>Chesto Johnson</u> |
| | 32. <u>Robert O. Penn</u> |

Native Culture Group
box, 309



Juneau, Ak, 99802

January 30, 1980

To : Rep. Nels Anderson
Pouch "v"
Juneau, Alaska 99802

From : Byron E. Charles
Native Culture President
Juneau, Alaska 99802

Subject; Invitations

Dear Mr. Anderson;

I received the list of names of the Senators, Representatives. I would like to make you aware that instead of sending an invitation to each Senator, Representative; I thought it would be easier if I just sent you this letter stating that you and the following names below are cordially invited to attend our scheduled February 9th, 1980 meeting at 7:00 pm.

Senators

Sen. John Sackett
Sen. George Hohman
Sen. Frank Ferguson
Aide;; Alphi Morris

Representatives:

Rep. Phillip Guy
Rep. Jack Fuller
Rep. Sharoff
Rep. Vern Herlbert
Rep. Leo Schafer

Thank you for your time and attention to the above invitations.

Sincerely;

Byron E. Charles

Byron E. Charles
Native Culture President



rec'd 2/1/80

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

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

November 21, 1979

Ms. Rochelle Plotnick
Administrative Assistant
Committee on Judiciary
House of Representatives
Alaska State Legislature
1016 W. 6th Avenue, Suite 201
Anchorage, Alaska 99501

Dear Ms. Plotnick:

I have enjoyed talking to you on the several occasions we have had a chance to discuss Parole Board matters. Per your recent letter and as you requested personally of me during our attendance at the Criminal Justice meeting on October 13, I have reviewed the letter to the Editor in the Tundra Times dated August 15, 1979, and the following information is provided to you and the Judiciary Committee.

It is evident from the letter the author, who chose to remain anonymous, is currently an inmate at the Juneau Correctional Center. Unfortunately, we do not know anything about his background or involvement with the Parole Board, and therefore we are unable to give the letter any case perspective. This information would probably be invaluable to the members of the committee in assessing the weight to give such correspondence.

The author asserts that "all native inmates" support his contention in the letter that the Board discriminates against all native inmates. As you probably aware, there is a strong native culture group there at the institution. There is no indication that this letter by one inmate was supported by that group. The letter to the Editor is as entitled in the paper, one person's opinion, and not based upon accurate statistics and facts as the author would have the reader believe.

Rochelle Plotnick
Page 2
November 21, 1979

Let me point out some of the errors in the letter. The author states the appointment of Board members is entirely at the discretion of the Governor. It is true the Governor does appoint all Board members as he does his commissioners, division directors, deputy directors, and hundreds of other board and commission members throughout the state. The Governor also has the authority to appoint all judges in the state. However, all appointments of Board members (the same as any commissioner, director, and other board and commission members) must be confirmed by both Houses of the Legislature. This is a similar selection process to the one utilized in many other jurisdictions. Although the author of the letter implies that the Governor has extraordinary power in Alaska, the process here is not unusual from that utilized in other jurisdictions.

The author states 50% or more of the inmate population in the Juneau Correctional Center are natives. This figure is relatively accurate. However, that information is of little importance specifically. Alaska natives comprise about 27% of the total population in Alaska correctional facilities according to the Division of Corrections. The Parole Board handles all parole applications statewide and it is the statewide statistics that are relevant in considering the scope of its operation. The author suggests the Parole Board membership of Alaska natives needs to be increased to two because of the high native population in Juneau. If that were the case, then the Board should have a higher black composition in other correctional facilities because of the larger percentage of black inmates. His contention does not hold much credence when the overall picture is viewed. The author states Alaska natives have the lowest percentage of being released on parole. He offers no data to support this and I do not believe he has any. Most unfortunately, there is very little data regarding the parole process in Alaska. We do however have some data regarding release rates of various ethnic groups, and the most recent data we have for the major categories is as follows.

Black	40 %
Native	25.5%
White	22.6%

This information unfortunately has not been updated since the report was completed in early 1977. I would encourage the State to devote more resources to the research on Parole

Rochelle Plotnick

Page 3

November 21, 1979

Board matters that would make this information available to the public on an ongoing basis. By the way, to my knowledge, this study was the only one available that has even attempted to look at the issue of "parole rates", and criminal justice statisticians that have reviewed the report indicate the figures are not statistically significant. This lack of statistical significance is related to the small number of cases reviewed in the sample by the researcher.

The next paragraph in the letter to the Editor states "the Parole Board will continue to be biased to the native inmates" without intervention by the Bush Caucus. Again, there is absolutely no data available to my knowledge regarding the decisions of the Board that indicate a bias toward any racial or minority group. The data I have supplied regarding parole release by racial groups are the facts.

The author states the Board requires full time employment before considering release on parole and will not consider releasing a person on parole to a subsistence life style. The Board's requirement regarding employment is not as stated by the author. The Board's policy reads as follows. "In the best interest of the applicant and society the Parole Board usually insists that the applicant has verified employment, a domicile in which to live when paroled, acceptance back within the family and the community, . . .". The Board maintains the flexibility to review all of the facts in each case and will require suitable employment in most cases where the defendant is released in a "non-subsistence area." The Board has released offenders to subsistence plans including fishing, trapping, ivory and wood carving, training others to carve, chopping firewood to heat the home, repair fishing gear for the next season, etc. The Board has even paroled people to subsistence gardening in an appropriate case. The issue here is not one of native versus non-native, but that of the life style of the offender before his involvement in criminal behavior and the circumstances that will likely lead to his non-involvement in criminal behavior in the future. The Board does release persons other than native persons to a rural Alaska subsistence plans and will continue to do so when the Board members feel the offender's plan is realistic considering his entire life history. Some parole applicants have continually failed in some bush settings and the Board will not release any offender to a remote location so that he can escape supervision or just to get him out of sight.

Rochelle Plotnick

Page 4

November 21, 1979

In the next paragraph of the article the author states a majority of native inmates are from small bush communities. I assume the author's definition "from bush communities" has some relationship to the offender's life style and his place of residence before his current incarceration. Any reasonable definition would use this as a basis. To check the accuracy of the author's statement I reviewed the files from a fairly recent Board hearing of all Alaskan native applicants that applied for parole to get some idea of the proportion of rural to urban applicants. Fortunately information regarding previous residence is easily retrievable from the presentence reports prepared by the Division of Corrections. Sixteen Alaska native offenders applied for parole at the particular Board hearing. Twelve of the sixteen had been residents of Juneau, Anchorage, Fairbanks, or Ketchikan prior to their current incarceration. One had been a residence of Bethel prior to incarceration, and the other three were from small bush communities. Even counting Bethel as a "small bush community", only 25% of the applicants fit into the "bush" category. Only 19% of the applicants came from truly bush communities where subsistence is a way of life for a majority of the residents. The Bethel applicant was not living a subsistence life style before his incarceration. The author's statement regarding a majority of native inmates coming from bush communities is far from being correct.

The author suggests that the village councils be given authority in determining whether or not they would be willing to accept the parolee for supervision. The author also suggests that the village council be given the power to revoke parole, and stated that the Board and councils could "implement a feasible program that is long overdue." The Board has often made contact with village councils through the Division of Corrections when offenders applying for parole presented the Board with a plan to return to a bush community where a village council has been established as an active body. The Board will continue to do so in the future. If a parolee is released on supervision to a bush community, the Board certainly has and will continue to welcome and encourage testimony regarding a parolee's behavior at a hearing if he is alleged to have violated conditions of his parole. The Board actively encourages information from any reasonable persons in a community regarding a parolee and

Rochelle Plotnick
Page 5
November 21, 1979

will continue to do so, whether it be bush or urban communities. There is no need to "implement a feasible program" to accomplish this, this cooperation between correctional agencies and village councils has been a common occurrence in years past. As a matter of fact our policy encourages parole applicants to seek out support in bush areas before they apply for parole and further makes it clear that the Board is interested and concerned with the community's willingness to have the parolee return as a residence of such communities.

A particularly pertinent paragraph from the Board policy reads as follows. "Those inmates who expect to reside in a community not regularly serviced by a parole officer are advised to arrange for a parole advisor. A parole advisor can be anyone who will be living near the parolee and is of reputable character. A parole advisor has no responsibility for the actions of the parolee and no authority over him. An advisor offers to assist and counsel the parolee in anyway possible and to cooperate with the parolee's assigned parole officer." Another short paragraph is also of some value in attempting understanding the Board's position and factors it considers. "The attitude of the community toward the parolee and his release has considerable bearing on the individual's adjustment. Assessment of this community attitude must be made in determining the adequacies of the release plan." Of course, the village councils are an excellent vehicle for assessing this willingness to work with the parolee if he is returning to an area where a council is established.

The author several times throughout his article refers to the Parole Board as being a component of the Department of Corrections. First of all, there is no department of corrections in Alaska. Both the Division of Corrections and the Parole Board are separate administrative entities within the Department of Health and Social Services. Neither entity is responsible to the other although obviously the Division and the Board do work closely together and are interdependent upon each other for information and services. The Legislature did separate the Parole Board from the Division of Corrections in 1972, to insure that the persons responsible for the day to day operation of correctional facilities would not have an undue influence upon the decision-making processes of the Parole Board.

Rochelle Plotnick
Page 6
November 21, 1979

In summary, the article that appeared on page 11 of the August 15, 1979 issue of the Tundra Times is just as it is entitled; "Opinion: A Native Looks at the parole system". The author has offered no citations to research papers for any of the erroneous figures he claims are facts. I certainly believe there are some problems with the parole system in Alaska, and certainly one of the biggest problems we have is lack of concrete data on which to evaluate the system. Unfortunately, the State has shown no interest in the past in devoting the necessary resources to allow for the gathering and analysis of data regarding the parole process.

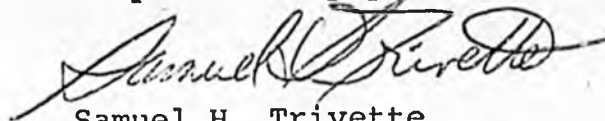
There is hope. The Parole Board applied for and is currently the recipient of a grant from the National Institute of Corrections to aid us in developing a parole guidelines matrix model. Some research has been completed in order to assist us in developing this model. A final report from the contractor under that grant will be available within the next few weeks. The Division of Corrections grant to establish the OBSCIS system will hopefully give us the capability in the future of providing some ongoing research with a small amount of additional money appropriated to the Parole Board for this task.

I have worked for the Division of Corrections or the Parole Board in Alaska for over 13 years now, and I personally do not feel the decisions of the Board are based upon racial issues. Although the Board has made decisions in which I have been a participant in which I might disagree with the final outcome, I again do not believe my disagreement with any case decision has any relationship to the applicant's race or ethnic background. The Parole Board is the only component I am aware of in the criminal justice system where a black, a native, and a female make up the majority of the voting Board members. I believe the remainder of the system does have something to learn from the makeup of the Board and I personally believe the makeup of the Board does have some relationship to the lack of bias in the Board's decision-making process. Chairman William Lyons and I certainly appreciate the opportunity to appear before the House Judiciary Committee, and we look forward to seeing you in the morning of November 30, 1979.

Rochelle Plotnick
Page 7
November 21, 1979

Again, we do appreciate the invitation to appear before the House Committee. I am glad to see an interest in this segment of the criminal justice system.

Very sincerely yours,

A handwritten signature in cursive script, appearing to read "Samuel H. Trivette".

Samuel H. Trivette
Executive Director

SHT/vh



Official Business

Alaska State Legislature

House of Representatives

277-7540
or 277-7549

Committee on Judiciary

Address until Dec. 1:
1016 West 6th Ave., Suite 201
Anchorage, Alaska 99501

Pouch V
State Capitol
Juneau, Alaska 99811

October 29, 1979

Susan Knighton
Criminal Justice Planning Agency
Pouch AJ
Juneau, Alaska 99811

Dear Susan:

Sam Trivette, Executive Director of the Parole Board, told me you were compiling some data on the Parole Board. He said you were breaking down the number of denials and paroles granted by race (Alaska Natives, Blacks, Caucasians, etc.). Is CJPB doing this or anything like it?

The House Judiciary Committee is reviewing the Parole Board and one of the items the Committee is interested in, is discrimination. Please let me know what kind of research CJPB is doing regarding this matter and when it will be available.

Sincerely,

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

Rochelle Plotnick
Administrative Assistant for
the Committee



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 11, 1980

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

Dear Mr. Speaker:

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

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

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

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

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

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

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

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

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

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

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

Findings required by AS 44.66.050(d) follow:

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

Finding: There is a need to avoid unnecessary incarceration.

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

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

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

Finding: There are no similar or conflicting programs.

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

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

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

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

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

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

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

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

The Judiciary Committee finds that:

- (1) The Alaska State Board of Parole is necessary and should be continued.
- (2) Statutory changes are needed to improve the functioning of the Board. The Committee will propose a bill incorporating these changes.
- (3) The chances that parole will be successful, from the standpoints of both society and the parolee, are to some extent dependent on the prisoner's willingness and ability to change while in prison. Educational, alcohol treatment, psychiatric counseling and work programs are generally unavailable or inadequate. The Judiciary Committee recommends approval of additional funds and personnel spaces for the Division of Corrections for programs which can be shown to reduce recidivism.

Charles H. Parr, Chairman

Nels A. Anderson, Jr.

Ramona L. Barnes

Fred E. Brown

Thelma Buchholdt

Hugh Malone

Terry Martin

Patrick M. O'Connell

Randy Phillips

P. 6 Anch Times, 1/1973

Parole board conference set

Associated Press

Juneau — The House Judiciary Committee will begin "sunset review" hearings on the State Parole Board on Feb. 6-7 in Juneau, with teleconference broadcast of the proceedings planned, according to Rep. Charles Parr, chairman of the committee.

Parr said the hearings can be listened to, or witnesses can testify at

teleconference outlets in Anchorage, Fairbanks, Nome, Ketchikan, Barrow, Bethel, Kenai and Dillingham.

Sunset reviews are held to reassess the need for existing state agencies and offices.

Local legislative offices can provide information on the review process and local times of the hearing, Parr said. Written testimony also will be accepted.

Alaska State Legislature

file

REPRESENTATIVE
ALVIN OSTERBACK

BOX 71
SAND POINT, ALASKA 99661
(907) 303-2303

CO-CHAIRMAN
HOUSE RESOURCES COMMITTEE



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-3715
465-3701

House of Representatives

DISTRICT 15

- ADAK
- AKHIOK
- AKUTAN
- ALITAK
- ATKA
- BEKOPFSKI
- CHIGNIK
- CHIGNIK LAGOON
- CHIGNIK LAKE
- COLD BAY
- FALSE PASS
- IVANOF BAY
- KARLUK
- KING COVE
- LARGEN BAY
- NELSON LAGOON
- NIKOLSKI
- OLD HARBOR
- PERRYVILLE
- PORT LIONS
- SAND POINT
- SQUAW HARBOR
- ST. GEORGE
- ST. PAUL
- UQANIK BAY
- UNALASKA

February 20, 1980

TO: ALL LEGISLATORS

SUBJECT: Criminal Justice System

FROM: Alvin Osterback, Chairman
House Resources Committee

Alvin Osterback

I am attaching a copy of an article that appeared in Newsweek/February 18, 1980 "The Killing Ground" - Justice.

Referral is made to the fact that Alaska export 21% of it's prisoners to other states. This article brings to light the problem we face regarding our very own criminal justice system.

I have introduced HB 812 "Commission to Secure Equality of Justice." My bill deals directly with some of the problems addressed in this article. A 1976 study by the Judicial Council showed that Natives/Blacks are sentenced to state prison at a rate five times higher than that of whites.



Buddy Mays—Black Star

Chill aftermath: Blanket-clad inmates huddle in the prison yard after escaping from the carnage inside

JUSTICE

The Killing Ground

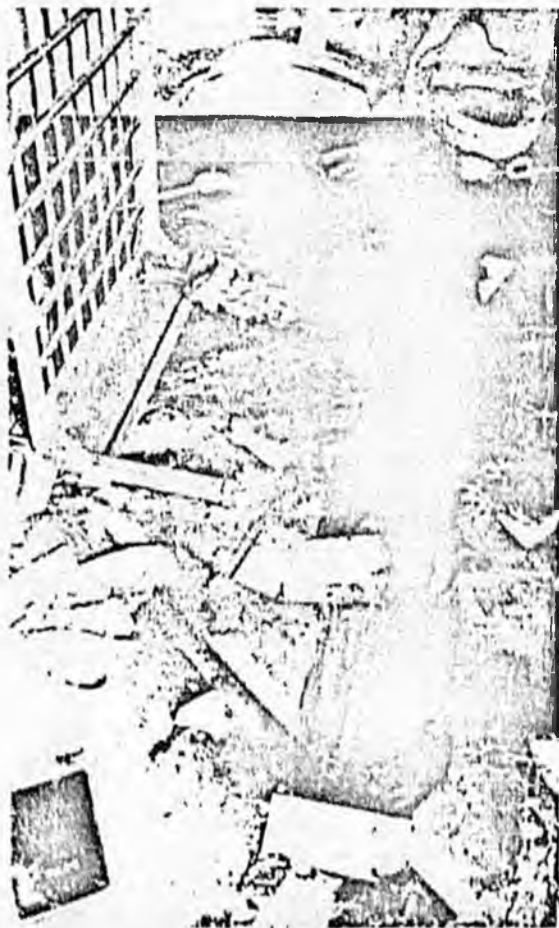
No shots were fired, no prison guards were killed, and state authorities from Gov. Bruce King to warden Jerry Griffin showed remarkable restraint. And yet, through 36 hours of rage last week, the New Mexico State Penitentiary near Santa Fe was the site of one of the most brutal prison riots in U.S. history—a sadistic display of convict-against-convict violence that included beheading, hanging, torching and rape. In the end, 33 inmates were dead—four burned so badly that their race could not be determined. The prison itself was almost destroyed: water

from broken pipes flowed through the corridors; walls were blackened from fire; offices were sacked; the kitchen, educational wing, psychological unit and Protestant chapel were trashed beyond repair, and the gymnasium was gutted to its girders. "Man's inhumanity to man," said warden Griffin, "is mind-boggling."

The New Mexico riot is certain to revive concern about how U.S. society warehouses its felons (following story). The New Mexico pen, praised at its 1954 dedication as "among the most advanced correctional institutions in the world," turned into one of the worst. There were 1,136 prisoners packed into space designed for 800.

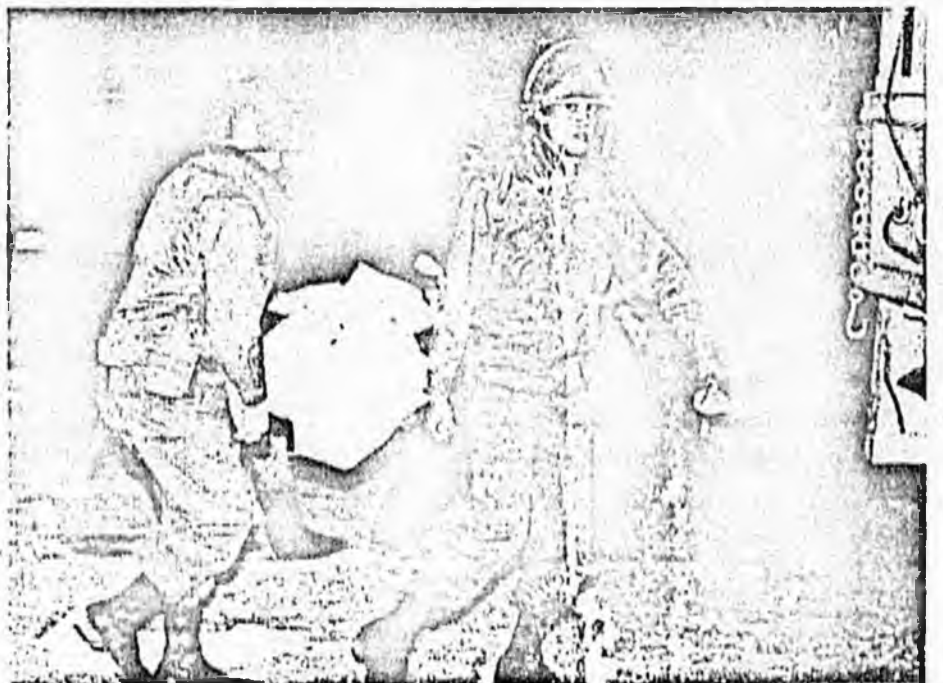
Young inmates serving time for relatively minor crimes were housed, sometimes five to a cell, alongside case-hardened long-termers. The prisoners complained often about rats in their cells, roaches in their food and rough treatment by guards. One diabetic inmate told his father that when he went into insulin shock late at night and pleaded for help, he was ignored.

"Russian Roulette": Despite protests from the inmates and their families, the state government was reluctant to spend money on the facility, which was run by five wardens in five years. The guard staff was undermanned, underpaid and poorly trained. Some progress was made after the American Civil Liberties Union filed a Federal lawsuit two years ago to end the overcrowding, but the improvements—a new housing wing, more pay for the guards—were slow in com-



Gory destruction in Cellblock 4 (left), National Guardsmen removing a prisoner's corpse: 'Stop killing each other,' an inmate said, 'there's blood up to your ankles'

Photos by Jim Nachtwey—Black Star



ing. Last month, two California corrections experts were hired to analyze the situation after eleven prisoners escaped. The consultants reported that the official attitude toward the prison "results in playing Russian roulette with the lives of the inmates, the staff and the public." During last week's chaos, inmate Vincent Candelaria put it more bluntly: "If you pull the pin to a grenade, sooner or later it's going to go off."

It went off just after midnight on a Friday night. Some of the 50 inmates in dorm E-2 were watching a late movie on television; two were in their bunks drinking raisinjack, a homemade hooch. One of only 22 guards on duty, Capt. Greg Roybal, attempted to confiscate the booze, but the two prisoners, in a drunken rage, jumped him and grabbed his keys. Seizing the moment, the cons raced down the 1,000-foot central corridor to the control center of the administration building, where they quickly broke through newly installed, 1½-inch-thick "shatter-proof" glass. At the push of a button, electrically controlled gates swung open throughout the prison.

Other guards were quickly overpowered. Two barricaded themselves in an unused gas chamber, and a medical technician locked himself in a pharmacy vault as seven prisoners grabbed the guard in the infirmary ward. One guard walking outside patrol spotted the trouble and shouted to watchmen in one of four guard towers; he was tackled and dragged inside a cellblock. Still, the watchmen were unable to call for help because phone lines had been cut.

Berserk: When Captain Roybal failed to come home on time, his wife called the state police, who called the prison and got no response. At 2 a.m., a patrol car arrived at the prison and reported smoke and flames

coming from the complex. At 2:30, state police chief Martin Vigil was awakened at home; he called Governor King, who called out the National Guard. Finally, at 10 a.m. Saturday, 60 policemen and 50 guardsmen surrounded the prison.

By that time, many of the prisoners had simply gone berserk. Unable to reach the prison armory, they fashioned makeshift weapons and went on a destructive rampage. They set fire to nearly every mattress in the prison and destroyed much of three cellblocks and four dorms. They broke into the infirmary and stuffed themselves with mixtures of every drug they could find. Some even made their way to the shoemaking shops and sniffed the glue in a frantic attempt to get high.

Carnage: The most brutal cons went after the "snitches," a group of prison informers held in protective isolation in Cellblock 4. The marauders opened cell doors with acetylene torches—then turned the torches on the informers. Margaret Babcock, a prison secretary, was able to see some of the carnage. "Four or five men were holding one man down and burning his head and face with a torch," she said. "He was screaming. I couldn't believe it." The torchers grabbed another man, pulled down his pants and burned their way up his legs until they melted his genitals; then they seared his face.

Another snitch had a steel rod driven through one ear and out the other. One was stomped to death. One had the word "rat" carved into his abdomen. Seven were slashed to death in their cells, their bodies then thrown off a second-tier catwalk. One man had a rope tied around his neck and looped around a second-tier railing. He was thrown off the tier and jerked at the end of

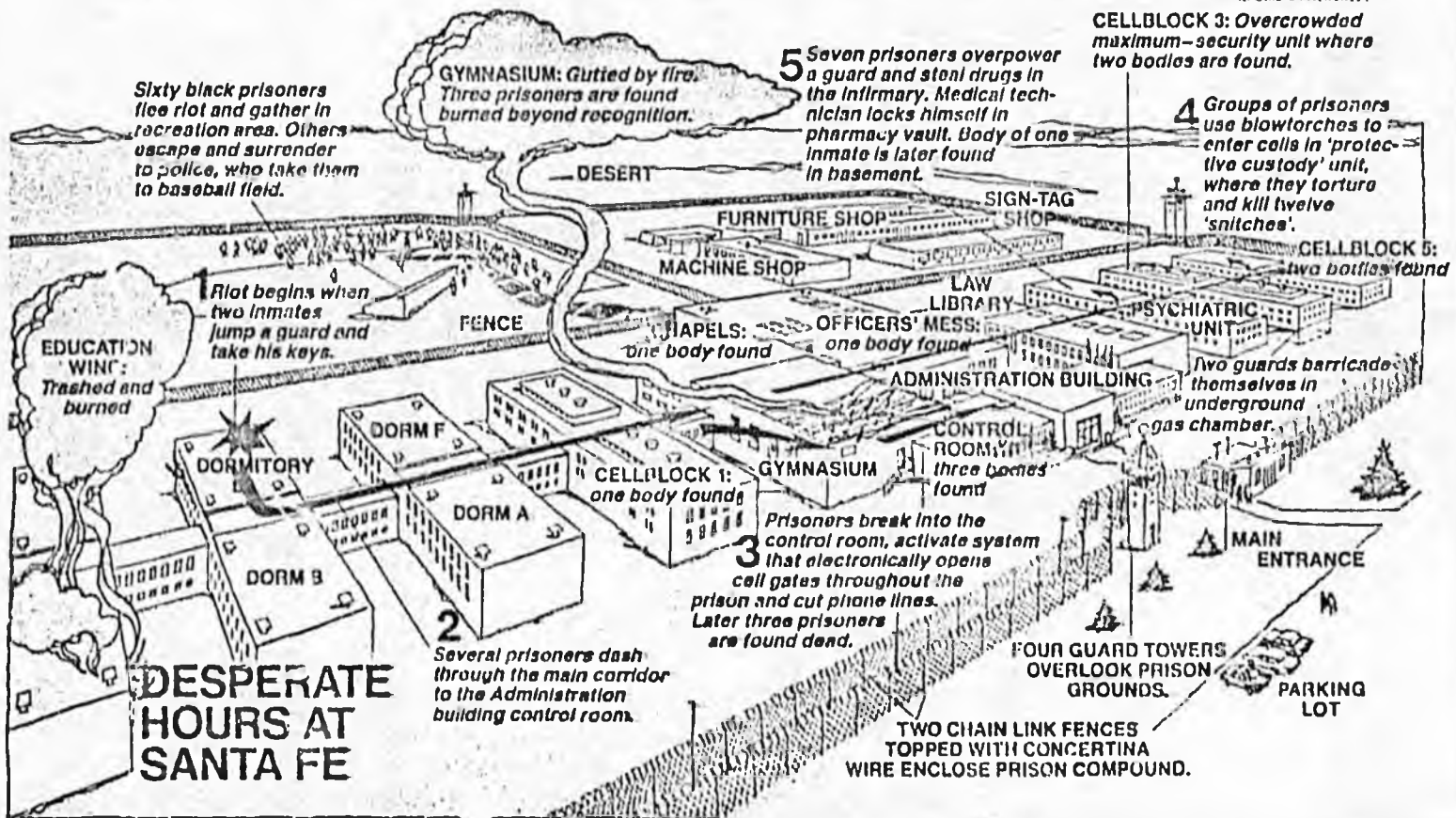
the rope so violently that his head was nearly severed. Another con, his face beaten and right eye nearly gouged out, was beheaded with several whacks of a shovel. Much of the killing was done in Cellblock 4, but bodies were found throughout the prison, some the victims of fire. The savagery sickened the most hardened observers. "I was in World War II in the Marine Corps and I saw a lot of bodies," said National Guard Lt. Col. Bill Fields. "I don't remember anything as bad as this."

The uncontrolled fury frightened many inmates. "Everybody turned into animals once this whole thing started," said Robert Mosley, 21, a handsome blond who said he was locked naked in a room, tied, gagged, hooded and raped at least ten times. Some inmates tried to escape to the police lines outside. One group of 84 cut their way out of a cellblock and rushed to surrender.

By the end, 700 had given themselves up. They were handcuffed, questioned and kept in areas within the outer prison fence or in the baseball field, where they huddled through freezing nights with blankets and scant food and water. Sixty frightened blacks were moved to a separate area after militant chicanos inside threatened to come out and kill them. (The prison population is 58 per cent chicano, 30 per cent white and 12 per cent black; most of the dead were chicanos, apparently killed by other chicanos.)

'Stop Killing': Throughout the day-and-a-half ordeal, inmate leaders communicated with officials by phone and on the walkie-talkies. The first message was delivered to Governor King Saturday morning: "We want to be treated like men, not children." Later, state correction officials met at the prison gate with masked inmate negotiators, who demanded media presence, an end to

By Ohlson Newsweek



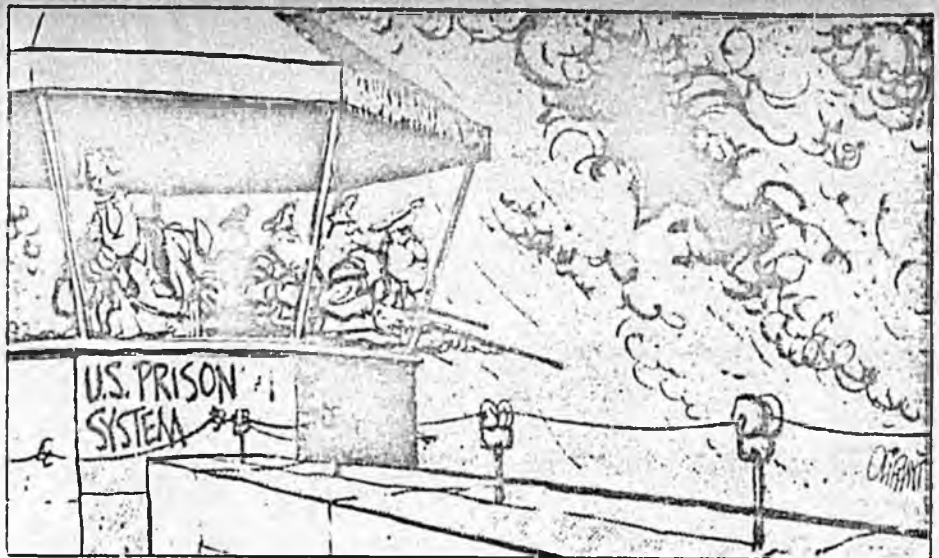
overcrowding and better food. As the siege wore on, the negotiators made repeated threats against the eleven guards held hostage: "We've got a whole bunch of people we're going to start killing." But by Saturday night, the mood had changed. "Attention all units," one inmate radioed. "Stop killing each other. There's blood all over the corridor, blood up to your ankles."

At that point, the riot seemed to be running out of steam, confirming the strategy of state officials to wait out the inmates. "As long as there was no confirmation any guards were killed, we were going to let it go the way it was," said Chief Vigil, who felt that an assault on the prison would have jeopardized the hostages and probably not saved the murdered inmates. As it turned out, the inmate negotiators traded their hostages for interviews with reporters until they were all released. The guards received mixed treatment. Two were released before the first dawn, suffering from smoke inhalation. One, who had hidden under a bed, was befriended by prisoners who gave him an inmate's uniform and a steel bar to protect himself and smuggled him out with surrendering prisoners. But another guard, Mike Schmitt, was bludgeoned and sodomized with an ax handle.

'It's Over': On Sunday afternoon, nineteen minutes after the last two hostages walked out, 24 members of police SWAT teams with shotguns, pistols, automatic rifles and gas grenades marched double-file into the administration building, followed by 60 National Guardsmen with M-16s. The soldiers were under strict orders to keep silent and avoid shooting unless a guard's life was in danger. But what the cops and soldiers found inside was a group of glassy-eyed prisoners sitting peacefully drugged or reeling around. In ten minutes, the word was passed outside: "It's over with." There was no resistance as the cops flushed the prisoners out one by one. "I think we did it perfect this time," said guard commander Bill Fields, remembering the bloody retaking of Attica prison in 1971.

In the aftermath of the riot, the state government soon came in for its share of blame. "Obviously, it didn't happen overnight," said King. This spring, he will call a special session of the legislature to consider emergency prison expenditures that may well wipe out his planned \$60 million tax rebate. Quick repairs at the prison along with temporary housing costs will come to an estimated \$28.5 million. In addition, King is also pushing for a new maximum-security facility that would relieve overcrowding and separate hard-core cons—at a cost of \$45 million. "They wouldn't spend the money before," sniffed one inmate's mother last week outside the prison gates. "Now they'll have to spend a goddam lot of money."

DENNIS A. WILLIAMS with MARTIN KASINDORF and PETER KATEL in Santa Fe



Cliphart © 1980 Washington Star

'Tell the governor not to sweat it—we'll have all murder, mutilation, brutality, rape and mayhem back to the normal acceptable levels in no time!'

When Will It Happen Again?

America's prisons are a riot waiting to happen. Throughout the vast U.S. penal system, violence has become just another routine commodity in the catalog of wretched conditions. Every day, somewhere, an inmate beats or is beaten, rapes or is raped, stabs or is stabbed. And, at least once a decade, the level of this *mano a mano* abuse slides far enough up the brutality scale that it simply can't be ignored any longer. Indeed, experts agreed last week that the truly ghastly question about the

estimate that 45 per cent of all inmates live in unreasonably cramped conditions. They offer little to fill the time of prisoners, breaking the spirit of some and giving others the opportunity to complain and plot. They debilitate prisoners with petty rules and endanger their health with inferior medical care. They allow tough convicts and gangs to control cellblocks and entire prisons. "There are too many institutions that are overcrowded, underfunded and run by an undertrained and underpaid staff," says former California prisons chief Ray Procunier. "With these conditions, you have the certainty of other Santa Fe's."

There is some hope for improvement. In the past decade, a dedicated cadre of lawyers and judges has forced states to begin putting their big houses in order. Prisons in fifteen states have actually been declared unconstitutional. Legal challenges to another fifteen—including New Mexico's—are in progress. Conjugal visits relieve tension, and some states have stepped up alternate punishment programs.

While the Federal prison system still runs large, dangerous, archaic penitentiaries, forces outside its control have recently relieved some problems. Since the Department of Justice has stopped pursuing small-time hoods, the Federal prison population has dropped sharply. This year, it's down more than 6,000. But state systems haven't had such good fortune. Still, with crime continuing to frighten people, many states see the answer as more of the same. About \$10 billion in new prison construction is under way or under consideration. The only certainty about these \$75,000-a-cell plans, says Milton G. Rector, president of the National Council on Crime and Delinquency, is that "if cells are built, the states will fill them."

Only fifteen years ago, prison reform

Prisons fail in almost every way, and more riots like Santa Fe's seem certain.

New Mexico slaughter was not how men could behave like that, but rather when it would happen again.

By any standard, America's prisons do not accomplish their mission. They do not seem to rehabilitate—at least not in any systematic fashion. They don't deter—crime rates seem to be unaffected by incarceration. They don't satisfy the victim's need for vengeance—the erroneous perception continues that many criminals are coddled. Prisons do punish, but often in a way that repels civilized society. "Would we tolerate a penal law that said guilty men must be sent away, gang raped, and returned home?" asks Daniel Steinbock, a veteran prison-rights lawyer. "No, but we allow it to exist in fact."

No one should be surprised that prisons fail. They are overcrowded; authorities

JUSTICE

seemed to be distinctly possible. Inmate populations were dropping and some states began experimenting with work-release programs and other alternatives. But once the baby-boom generation entered its crime-prone adolescence, urban crime rates increased and "law and order" returned as a *lingua franca* for many politicians.

New Rights: Almost immediately, the prisons felt the impact. In the ten years ending in 1978, inmate population jumped by almost two-thirds to more than 300,000, a record. The inmates themselves appeared different. They were younger, more aggressive, openly rebellious and insistent upon their rights even if it meant creating new ones. They were also, in distressingly disproportionate numbers, black and Hispanic. While these significant changes were occurring, neither legislators nor the public paid much attention to the unpleasant subject of prisons. Now, Santa Fe has forced them to notice—and at a time when important decisions about the future of U.S. prisons must soon be made.

In the long list of problems facing U.S. prisons now, overcrowding is the most obvious. The Federal system is operating at 97.2 per cent of capacity, and many state institutions are filled to overflowing. In Texas, 2,000 inmates—one of every ten—sleep on the floor. Alaska exports 21 per cent of its prisoners to other states. At Boston's Deer Island House of Correction, an old saw barn has been converted into a dormitory. Last month, Boston penal commissioner William R. Celester himself filed suit against state officials, demanding that 200 inmates be moved so he could begin making \$1.8 million of badly needed repairs.

Braying: The jammed cells are more than inconvenient. "Under normal circumstances, a prison is a volatile place," says Anthony Trivisono, executive director of the American Correctional Association. "When it's crowded, it becomes more volatile. All the elements are there for a disturbance." No one knows that better than the inmates. In California's Folsom Prison, Richard Davis spends seventeen hours a day in his cell—131 inches long, 52 inches wide and 86 inches high. A convicted murderer doing 25 years to life, Davis now must share his space with another killer. "They are forcing men doing a long, long time to double-cell," Davis says with an air of resignation. "Then they sit back and bray about prison violence."

As state prisons reach and pass capacity, they spill over into local jails. Corrections Magazine reported last year that more than 5,000 inmates wait, sometimes for months,

in municipal and county pens for cell assignments to prisons. Since local jails are supposed to hold inmates for only short periods of time, they offer almost no activities and few amenities. The problem is particularly acute in the South. Twenty Louisiana parish jails have been attacked in court for their inhumane conditions. In Alabama, 1,700 state inmates are stuck in local jails, and a Birmingham Federal judge has ordered the counties to relieve overcrowding. In Mississippi, 1,000 felons are waiting for room in Parchman Penitentiary. A 1978 study found that two-thirds of these jails are firetraps and half of them have no heat in the cells.



Jerry Smith—Montgomery Advertiser-Journal

Crowding in Alabama: Cruel and unusual punishment

Overstuffed cells only exacerbate a host of other problems. For example, an American Medical Association official said last fall that a majority of prisons "are so lacking in appropriate resources that they actually may contribute to the health problems of inmates." Examples are almost endless. In a 1978 lawsuit, an Alabama female inmate testified that after prison doctors set her broken leg in a cast, her leg itched excessively. When doctors reluctantly agreed to remove the cast, they found roaches inside eating her leg. In Colorado, a depressed prisoner requested an appointment with the prison psychologist. The doctor sent back a note, asking, "What the hell do you want me to do about it?" Within a week the prisoner committed suicide.

Guards tend to be just as unsympathetic and inadequate as doctors. All over the nation, guards are poorly paid, casually trained and psychologically overwrought. In a Tennessee test, guards at the state's maximum-security prison had no idea how to evacuate prisoners in case of fire. In Rhode Island, it took a guard more than twenty minutes to open a door during a fire drill. Since guards can't possibly watch everything in a prison, they often cede control of areas to inmates, who badly outnumber them anyway. And because guards find themselves locked behind the same walls as their charges, they suffer from similar anxieties. "You're always under pressure," says Ernest Benevento, 33, a New York state corrections officer. "It turns your insides upside down."

Game of Wits: The task of corrections officers is made more difficult by enforced idleness within prisons. Wardens simply cannot find enough jobs and recreational or educational programs to keep prisoners busy. "Life in prison becomes a game of wits, a game in which prisoners spend their time trying to outwit the guards and do the things guards try to keep them from doing," says Dr. Robert E. Gould, a psychiatrist who advised the commission investigating the 1971 riot at New York's Attica prison. "When the game gets out of bounds, it becomes dangerous." Last December, U.S. Judge John L. Kane Jr. found that lack of activity damaged the minds of prisoners in Colorado's Old Max prison, one reason that he held the penitentiary unconstitutional.

Most insidious of all prison conditions is the unceasing violence. Behind bars, the inmates' safety depends entirely upon the state, but prison officials can offer them only minimal security. Nearly 100 inmates and guards have been killed in California since 1970. At the Michigan state prison in Jackson, the world's largest walled pen, there have been seven murders in eighteen months. In the last ten years, 30 inmates have been killed at Walpole Prison in Massachusetts—the latest last week.

Most of this violence is inmate against inmate. This was a relatively minor phenomenon until recent years, according to Columbia University historian David Rothman: in the past, prisoners had more to fear from brutal guards and wardens. Now, the law of the prison jungle permits tough cons to extort all manner of favors and requires comparatively weaker men to fight, lest they become prey for an entire tier. Homosexual rapes are commonplace. For example, one Colorado inmate last month wrote a friend the following note: "I was threatened to get beat up and possibly killed if I didn't go to this man's cell to

How many inmates?

JUSTICE

visit. I did and it ended up in a horrifying experience. I was beaten and raped with a razor blade to my throat and also getting burnt in the face with a cigarette. I am really hurt emotionally, as I have never encountered an act like this before. I'm scared. I couldn't tell the authorities because I hate to be a rat. I need help!"

Poor Males: The cauldron of prison life also boils with racial tension. While blacks and Hispanics account for only 17 per cent of the U.S. population, they make up about 55 per cent of the state prison count. Many explanations have been offered for this disquieting fact. One is that crimes of violence, which are more likely to be punished by imprisonment, tend to be committed by young, badly educated, poor males in urban settings. Blacks and Hispanics fall heavily into those categories. A 1979 national study showed that blacks are sentenced to state prison at a rate eight times higher than that of whites, and a Minnesota survey disclosed that a black or American Indian who committed a felony had twice as great a chance of going to jail as a white person. Whatever the reason for the disproportionate number of minority-group convicts, race relations in prisons are terrible. Prisoners of different races usually segregate themselves voluntarily in dining halls, for example, and violence is traced to racial conflict. Ironically, blacks, who form the majority in many prisons, often have power that is denied them outside. It is small comfort, as Cornell sociologist James B. Jacobs observes, that "prison may be the one institution in American society that blacks control."

This catalog of problems will not be solved for years, if ever. For the moment, the most promising avenue for reformers is

the Federal court system. In the most famous case, U.S. Judge Frank Johnson upheld the American Civil Liberties Union's prison project and declared the Alabama state prison system unconstitutional. Johnson held in 1976 that conditions were so inhuman that they violated the Eighth Amendment prohibition against cruel and unusual punishment. Among other things, the judge found, "as many as six inmates were packed in 4-foot by 8-foot cells with no beds, no lights, no running water and a hole in the floor for a toilet."

Winning cases in court is one thing, but causing real change in the prisons is another. Alabama officials refused to obey Johnson's order for three years until Fob James replaced George Wallace as governor. James has fired some corrupt prison workers and has cracked down on guards who helped inmates deal in drugs.

In another major case two years ago, U.S. Judge Anthony Alaimo ordered reforms at the Reidsville, Ga., state penitentiary—perhaps the South's most violent prison. Acting on suits by Reidsville inmates, Alaimo ordered Georgia officials to reduce the prisoner population by 300, and improve safety and living conditions. In late 1979, however, the judge's special monitor reported that state officials still had not obeyed Alaimo's orders. The judge then gave the state until the end of February to improve conditions in about one-third of the prison's 600 cells. Only then did the state partially comply and improve its isolation cells.

Promise: For decades, U.S. penologists operated on the philosophical premise that they could rehabilitate most criminals. According to this widely accepted theory, prison officials could diagnose a criminal's problems, counsel him, teach him a trade and release him when he was fit to return to society. To make this possible, judges gave



James D. Wilson—NEWSWEEK

Reforms: A conjugal visit at San Quentin

"indeterminate" sentences, such as ten to twenty years, designed to allow for adjustments in the convict's behavior and response to treatment. For a variety of reasons—lack of funds, qualified staff and inadequate facilities—prisons did not deliver on their promise. "The rumors of the existence of rehabilitation were always greatly exaggerated," University of Chicago law Prof. Franklin Zimring says. The failure was evident when many convicts were released and returned to a life of crime.

Today, liberals and conservatives agree that rehabilitation as conceived and practiced did not work. Still, the nation's leading criminologist, Marvin E. Wolfgang of the University of Pennsylvania, urges that work-and-treatment programs continue on a voluntary basis for prisoners interested enough to use them. Many corrections officials contend that if inmates cannot gain early release by trying to rehabilitate themselves, prison unrest will grow even greater. "The inmates have got to have hope of getting out early," says the director of Michigan's corrections department, Perry Johnson. "Otherwise, they're just a time bomb ticking."

Hope: The theory of rehabilitation is being widely replaced by another old concept: prison as sheer punishment or "just deserts." According to this view, a convict should be judged according to the severity of his crime, rather than his individuality. Punishment must be swift and certain; a

Strip-searching prisoners after Attica riot: 'Most criminals get out in a short time'

N.Y. State Special Commission on Attica



JUSTICE

criminal would know that if caught he would go to prison for a definite period. Since few prisoners served the maximum time under the flexible sentencing, advocates of determinate sentences contended that short, but specific, prison terms were sufficient punishment for all but the most heinous crimes. But that sounded too soft to anxious legislators. When they wrote determinate sentences into the law, they wrote them long. The new bills stripped convicts of any hope of early release, and helped boost prison populations even further.

The seemingly easy way to solve those problems is to build more prisons, but reformers resist that idea. Groups have organized across the country to oppose the estimated \$10 billion of current and proposed cell construction. A campaign of ads, letters and demonstrations, for example, is being mounted against the U.S. Bureau of Prisons' plan to convert the Winter Olympics village at Lake Placid, N.Y., into a Federal prison.

Victims: Reformers contend that not every felon needs to be imprisoned. As many as half the nation's inmates are serving time for non-violent crimes. It is more humane and far cheaper to punish these unarmed criminals without locking them up, many criminologists argue. This approach, a variation on traditional court probation programs, appears to be catching on. In the last decade, Minnesota, Kansas and Oregon, among others, have passed laws that provide extra funds and other blandishments for communities that keep criminals at home. Mississippi and Oklahoma operate restitution programs so that crime victims can reap some benefits from the criminals' punishment. For instance, not long ago a teen-age Pascagoula, Miss., burglar repaid a victim \$160, which he had earned working as a kitchen helper as part of the local restitution program. The cause has been endorsed by prominent law-enforcement officers as well. "We're locking up too many people," says sheriff John Buckley of Middlesex County, Massachusetts. "We have to move toward other penalties."

Americans have preferred to ignore the conditions in the country's prisons, or to support superficial reforms at best. "Each generation discovers anew the scandals of incarceration, each sets out to correct them and each passes on a legacy of failure," writes historian Rothman. The American attitude overlooks the fact that the current penal system simply breeds more crime and a desire for revenge—inside and outside prison walls. Unless the U.S. begins to rehabilitate its prisons by running better, more humane facilities, and adopts new ways of punishing nonviolent criminals, it will be only a matter of time before another Attica or Santa Fe bursts on the nation.

ARIC PRESS with MICHAEL REESE in San Francisco, VERN SMITH and VINCENT COPPOLA in Atlanta, DIANE CAMPER in Washington, EMILY F. NEWHALL in New York and bureau reports



Male *Aegyptopithecus*: He feasted on fruits and showed glimmerings of intelligence

SCIENCE

A Catty Ancestor Of Man and Ape

The Faiyum Depression, southwest of Cairo, is one of the most inhospitable places on earth, its temperatures soaring above 135 degrees, its annual rainfall less than an inch. It wasn't always so. Thirty million years ago, the region bloomed with grasslands and forests, in which creatures the size of house cats roamed. These animals, a team of U.S. paleontologists concluded last week, are the oldest common ancestors of man and apes yet discovered.

The rich trove of fossils, preserved under volcanic lava, tells a story about a whole animal society. *Aegyptopithecus zeuxis* ("connecting ape of Egypt") gathered in complex groups headed by dominant males. The creatures lived in trees, feasted on fruits and showed glimmerings of intelligence. "The animal is 30 million years old, yet we know as much about its daily life as we do about any other fossil primate," says anthropologist John Fleagle of the State University of New York at Stony Brook, a member of the team that has been unearthing fragments of *Aegyptopithecus* since 1965.

The key to this knowledge was provided by the creature's teeth. According to team leader Elwyn Simons of Duke University, they foreshadow the teeth of *Dryopithecus*, another common ancestor of man and the apes that lived in East Africa more recently, between 22 million and 12 million years ago.

Eyeteeth: Anthropologists confirmed the social structure of *Aegyptopithecus* in two ways. First, they did dental studies of the ancient creature; then they made comparisons with modern apes and monkeys. For example, the *Aegyptopithecus* males possessed larger eyeteeth than females. Since such variations occur today only among primates in male-dominated bands, the researchers inferred that *Aegyptopithecus* inhabited a similar environment. Their eye sockets were small enough to indicate that the creatures roamed during the day rather than the night—another clue consis-

tent with a complex social organization. The animals also displayed enlargement of the brain's visual cortex, which processes messages from the eye. This suggests that man's 30-million-year-old ancestors were already developing the intelligence necessary to deal with complex social surroundings.

Is There a Ring Around the Sun?

The moon will hide the sun for about four minutes this week in an eclipse that will sweep a narrow swath over Africa and Asia. Theologians and scientists plan to greet the event in very different ways. Pilgrims in India will take holy baths during the darkness. Hindus have been warned to fast before and during the eclipse. Brahman priests will recite Vedic hymns to ward off any likely disaster. Astronomers will focus on more concrete matters. They will measure energy levels in the corona (the solar atmosphere) and seek evidence of a brand new possibility—a faint ring around the sun.

Energy: By studying the corona—which can be seen from Earth only when the sun's bright light is obscured by the moon—scientists hope to learn why it is millions of degrees hotter than the solar surface. They will test a theory that energy moves in waves like sonic booms, which shake the corona. Astronomers will also try to discover how the sun ejects charged subatomic particles into its atmosphere which ultimately disrupt radio communications on Earth.

The ring-around-the-sun theory is even newer. Since planets such as Jupiter, Saturn and Uranus are now known to have rings, astronomers speculate that other giant cosmological bodies may have them as well. Unlike Saturn's rings, which are probably formed mainly of ice, a solar ring would have to be made of a material like carbon that does not melt except at extremely high temperatures. If the astronomers find evidence of rings, they will again have to modify their conclusions about how bodies in the solar system formed eons ago.

Robert F. Cochrane
71316-011
P.O. Box 1000
Oxford, Wisconsin 53952

The Honorable Jay S. Hammond
Governor of the State of Alaska
Pouch A
Juneau, Alaska 99811
and all the
Legislature

Sir:-

I am an Alaskan State prisoner incarcerated in the federal system, unlawfully and against my will.

This writing is to show Alaska Corrections, is perforating a fraud on the People of Alaska. Alaska Corrections is not following the Legislative Intent as shown in the Administrative Justice Budget of 1980. "The number of Alaskan prisoners confined out of state shall not exceed 161. That number shall be reduced to 125 by the end of the fiscal year 1980."

On June 7th, 1979, a story appeared in the Anchorage Times, as well as, Mr. Bob Spindie, (of the corrections department) appearing on T.V. News. The story and news cast stated Alaska Corrections was reducing the number of prisoners in out of state institutions. Alaska Corrections had no intentions of reducing these numbers. Infact Corrections did transfer a number of short time prisoners back to Alaska, but for everyone transferred back one prisoner from the Alaska system took his place. End result, just as many or more Alaskans in the federal system.

My wife has written Mr. Spindie, in an attempt to have me transferred back to the west coast. At that writing, we were informed, "the outlook for the next few years is that we shall be sending more and more people to the federal system. I see no real prospect of a change in this pattern until such time as our capacity to house prisoners within Alaska is greatly expanded." This is not the Legislative intent at all.

Alaska Corrections, criteria for prisoners with a sentence of 10 years or more, without any consideration are automadically transferred out of state. No consideration is given to his loved ones or family. The unwanted one can be incarcerated any where in the United States. Granted, some prisoners have to be transferred. But not all that fit ths criteria.

When I was first seen by the counselor at 3rd ave jail, Anchorage, I was told that due to the length of sentence. Corrections was not able to house me. I was also told that the federal system was the only place I could be incarcerated. Since I became one of Alaska's unwanted ones, I asked to be placed at McNiel Island, Washington, or Lompoc, Calif. Close to my family in the lower 48.

I was accepted in to the federal system on March 21, 1979, after vacating a court order holding me in Alaska, I was transferred to McNiel on July 6th, 1979. In late July, I was classified and told I would stay at McNiel. I moved my wife to the Seattle area, only to be transferred away from her once more. On Sept. 10th, 1979, I was transferred via, "see America in chains", to Oxford F.C.I., Wisconsin. Since my sentencing, this unwanted one has travel over 12,000 miles in chains, all at the expense of the People of Alaska. As a Rent-A-Prisoner, no consideration has been given this unwanted one; only the available Bed Space in the federal system.

The people of Alaska have voted a \$31 million bond package for new jails and prisons. These moneies have been allocated for sometime. Where are these new prisons, the people of Alaska have voted for?

It would seem that last year someone was putting pressure on the Legislature to bring it's unwanted ones home. So, Corrections put on a BIG SHOW to make the people of Alaska think they were complying with the intent of the Legislature. But infact, they had no intentions of doing any such thing. The bottem line; this is another fraud to the people of Alaska to cover up mismanagment in the Alaska Corrections System.

I have filed a petition for writ of Habeas Corpur, challenging 18 U.S.C. § 5003, per; Lono vs. Fenton, No. 77-1141, (581 F2 645) (7th Cir., 1978). Other Alaska prisoners have also challenge 18 U.S.C. § 5003. some of these cases are before the 7th Cir. Court of Appeals, to be answered some time in April, 1980. If these petitions are granted, Alaska will have to take her unwanted ones home. Due to the Department of Corrections useing this law unwisely, Alaska may lose this some time need facilities to house it's unrulely prisoners.

The Government provides the State of Alaska with a Rent-A-Prison, so why build a prison in Alaska to house it's long term prisoners, when the Government so willingly excepts it's unwanted ones.

The Courts of Alaska do not consider where a long term prisoner is housed or his rehabilitative purposes. Granted the federal system is more set up to provide custody, care and treatment for long term prisoners. But, no consideration is given by Alaska Corrections Classification Committee to there rehabilitation; per; Keeping the person close to his loved ones or family;; what programs or trades may be offered, so when he does reture to society he will beable to find work and become useful to society.

As it stands now, the only consideration in the federal system is available bed space. This is not rehabilitation, this is cruel and unusual punishment on the unwanted ones. These unwanted ones begain to hate and withdrew fdr̄m society, for they are the out cast of Alaska. Surely, this is not the intent of rehabilitation, Alaska wishes for it's longterm prisoners.

At this time I have a long running paper battle going on with the Bureau of Prisons. I am asking proper Security/ Designation, as well as programing, as stated in the Alaska, Bureau of Prisons Contract Jlc-20,759. The only thing I am receiving at this time is bed space. Clearly a violation of this contract, as well as 18 U.S.C. § 5003.

Short term prisoners are placed in institions, where they receive proper rehabilitation. Contact visits, freedom to move and reaccess there values in life. Long term prisoners are locked away and for oten about till they are released. Consequently, society recieves a more hardened person, then when he was incarcerated. Rebellious of all societ̄es rules.

Inclosing, I beleave Alaska should take a long hard look at the Department of Corrections. These prisoners are Alaskan citizens too, and someday will return to Alaska's society. Alaska does not wait this type of person in there society. But, Alaska Corrections have made them the person they are when they return, As the Governing Body in Alaska, is this what you want for Alaska'a longterm UNWANTED ONES?

Very truly yours,

R.F. Cochrane

RFC/rfc
cc; file

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF CORRECTIONS
CENTRAL OFFICE ANCHORAGE

338 DENALI, ROOM 209
ANCHORAGE, ALASKA 99501
PHONE: 1907/274-7573

November 15, 1979

Lynn Cochrane
9911 31st Avenue S.E.
Everett, WA 98204

Dear Ms. Cochrane:

Reference is made to your letter of October 18, 1979 regarding your husband, Robert Cochrane. I appologize for the delay in responding. I simply had a period when I fell a bit behind in transacting the business at hand.

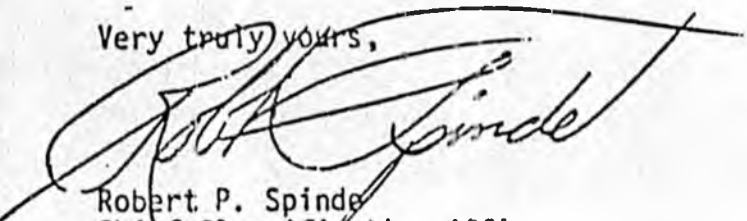
The selection of a specific federal facility for an Alaska prisoner rests entirely with federal officials. Mr. Cochrane's very best channel of communication to effect a transfer would be through his federal caseworker. That is not to say that he will get the results that he desires, but only that such a request would have to be submitted in that fashion.

There is no possibility at all of your husband's being moved to Idaho. Our contract there is only for an extremely small number of individuals who absolutely cannot be placed in the federal system.

With regard to the possibility of his being returned to Alaska, the outlook for the next few years is that we shall be sending more and more people to the federal system. I see no real prospect of a change in this pattern until such time as our capacity to house prisoners within Alaska is greatly expanded.

I regret that I am unable to give you a more favorable response at this time.

Very truly yours,


Robert P. Spinde
Chief Classification Officer

RPS/1jt

Alaska Prisoners Will Be Returned

About 50 Alaska prisoners now held in federal prisons Outside are being returned to Alaska because the state has no money to keep them Outside.

Bob Spinde, chief classification officer for the division of corrections, said this morning the Legislative finance committees told the division that the state's fiscal 1980 budget does not allow for more than 122 prisoners to be held in the federal prison system.

Until recently there were 170 Alaska convicts in federal prisons.

"It turns out we were budgeted for 122 but had 170 out there," Spinde said, "so that's the reason right there."

Orders were handed down to bring a dozen prisoners home immediately, he said.

Two women have been returned to the Ridgeview Correctional Center for Women, five men to the state jail in Juneau, one to Fairbanks and four to the Third Avenue state jail in Anchorage. The prisoners returned to the Third Avenue jail will be reclassified and sent to other state prisons.

Spinde said prisoners are being brought back a few at a time because state prisons "just cannot absorb the almost 50 that it would take" to bring the level Outside down to the 122-prisoner limit.

"Those that we have out there are the worst to start with," Spinde said. "And we're bring back the best of what we have out there."

Corrections guidelines provide that prisoners sentenced to more than 10 years or those with psychological or medical problems are incarcerated Outside.

But the cost of maintaining prisoners in the federal system is much less than keeping them in Alaska, Spinde said. "What we pay is really a bargain. It's less, far less, than our own cost of care, which is right around \$50 per day."

He said the prison at McNeil Island, Wash., is the cheapest. It costs about \$25 a day. Other prisons, such as Leavenworth in Kansas, average between \$25 and \$30 a day, he said.

Even considering the cost of transportation for prisoners and their Alaska State Trooper escorts, Spinde said, if a prisoner's stay is long, the state saves money by placing them in the federal system.

Additionally, Alaska would be hard-pressed to keep all state prisoners here. "We simply do not have

any place to put them," Spinde said, referring to the 122 kept in the federal system. "It would take two new institutions the size of Juneau or Fairbanks to put them in." The Juneau and Fairbanks jails have capacities of about 95 inmates each.

Spinde said corrections officials don't have the option of keeping certain prisoners in Alaska because of the length-of-sentence criteria for classification. "If somebody gets a 25- to 30-year sentence we really don't have a choice but to send him out there."

The pressure to return prisoners to Alaska has not come from federal officials but from the Legislature's finance committees, Spinde said. Federal prison officials "have treated us very well," he said.

A shuffling of prisoners within the state to make room for the returned convicts has created few problems, Spinde said.

But the Eagle River jail is overcrowded, with 91 prisoners, about a dozen more than its usual capacity of 80. "It's kind of a domino effect," Spinde said.

February 18, 1980

Mr. Byron Charles
P. O. Box 309
Juneau, Alaska 99802

Dear Mr. Charles:

This is to inform you that a meeting between inmates at Lemon Creek wishing to comment on the functions and performance of the Parole Board and the House Judiciary Committee of the Legislature has been arranged for Monday night, February 25, from 7:00 to 9:00 p.m. Captain Huston is helping the Committee set up the meeting.

Sincerely,

Sandra Stringer
Administrative Assistant
House Judiciary Committee

SS:vc

February 18, 1980

Captain William Huston
P. O. Box 309
Juneau, Alaska 99802

Dear Captain Huston:

This letter confirms our telephone request to meet with any inmates at the Lemon Creek facility who might be interested in commenting on the functions and performance of the Parole Board next Monday night, February 25, from 7:00 to 9:00 p.m.

Any assistance you can provide us in advertising this meeting to inmates would be greatly appreciated.

Sincerely,

Sandra Stringer
Administrative Assistant
House Judiciary Committee

SS:vc

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

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

February 4, 1980

Members

House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Members:

This letter is being prepared for your information and will be presented at the public hearings conducted on the Parole Board Sunset Audit scheduled for February 6-8, 1980. This letter is being prepared to provide you pertinent information in case sufficient time is not made available during the hearing process.

The comments in this correspondence relate to four areas of concern. These are areas that the statutes require you to look at in making your Sunset Review decision and other areas which you raised questions about when Chairman Lyons and I appeared before your committee on November 30, 1979. I hope this information will be valuable to you as you deliberate.

The first topic of concern relates to racial discrimination. As you know, the allegation of racial discrimination has been leveled against all segments of the criminal justice system in Alaska during the past year. I believe the data now available supports my long-standing contention that the Parole Board does not racially discriminate against any minority or "protected class" of prisoner. Let me first redirect your attention to my letter of November 21, 1979, which was handed out to all of the members and staff of the House Judiciary Committee on November 30, 1979.

Members
House Judiciary Committee
Page 2
February 4, 1980

Let me again point out the data compiled in Mel Martin's study completed in 1977 regarding prisoners released by the Board in 1976. This information gives us some idea of how frequently prisoners from various racial backgrounds are paroled, but let me emphasize that these figures are not a true parole rate. In compiling this information, the researcher looked only at the people seen by the Board in 1976 and how many of various races were released to parole supervision during that same year.

Blacks	40.0%
Natives	25.5%
Whites	22.6%

Although the figures for Blacks appears inordinately high, a quick check of those prisoners' files showed that they had served a significantly larger portion of their sentences before being released on parole. Again, let me reemphasize that this data gives some indication of the direction of the Board's decisions, but is not a true parole rate. Many of the prisoners seen in 1976 and not paroled at that time were paroled at future hearings.

As a result of a supplemental parole guidelines grant we anticipate receiving from federal sources in the near future, we have pulled together other data from our files that will hopefully will give a more realistic picture of the Board's parole rates by various categories. The following data are UNOFFICIAL totals for the years 1971-1979. These figures include only those prisoners who have actually been released from prison either after serving their entire sentences minus good time, or through parole. There are a large number of prisoners in the system who are eligible for release in the future but have not yet been released. Obviously when those people are released, the parole rates for all categories are expected to increase somewhat. Although these figures are much closer to being accurate than the data from the Mel Martin study conducted in 1977, they still are not complete and cannot yet be called "true parole rates". As of December, 1979, the unofficial totals are as follows:

Blacks	77%
Whites	54%
Others	53%
Natives	49%

eligibles - 100%

Members
House Judiciary Committee
Page 3
February 4, 1980

Let me again emphasize the figures in the above paragraph are unofficial and we anticipate having additional information and an explanation of these and related figures within the next few months. For example, probably even more important than the parole rate data per se is how much time we are requiring people to serve for a specific crime with a certain background. At least some of this information is going to become available soon if our supplemental guidelines grant is approved.

The Parole Board is the only segment of the criminal justice system that has historically had a substantial representation in its members by persons from the minority and "protected class" citizens on a consistent basis.

Secondly, I believe that the Board is currently making fair, just, and responsible decisions. I believe the data will support my contention when sufficient funds are made available for an indepth analysis of the Board's decision making processes. To support this content the following information is presented. Three of the five members of the Parole Board are racial minorities or in the "protected class". Parole rates are not significantly lower for minority applicants. The Board has adopted a system of parolee release based upon verified, measureable, researched factors that have a direct statistically-significant relationship to success or failure on parole. Although some lip service has been paid in the media by many other segments of criminal justice system about fairness and equity, no other segment has adopted anything close to this comprehensive statewide policy of administrating releases. The Board has been actively working on this approach since 1977, long before there was any public concern expressed in the media regarding the issues of discrimination, equity, and fairness.

The Board members have shown themselves to be a responsible group of citizens making sound decisions even before the development of the specific guidelines. This is shown by the fact that Alaska parolees have fewer problems than parolees released elsewhere in the nation, thereby providing better protection to the public.

The following information is taken from the Uniform Parole Reports tables and show the outcome of persons paroled from all parole jurisdictions around the country two years following release. Negative behavior or problems occurring after the two year period would not be reported in these figures.

Continued on Parole	73%
Absconder	5%
Technical Violation	15%
New Felony	8%

The following data gives follow-up information regarding all Alaska prisoners released on parole during the years 1971 through early 1979, and includes parolees that were under supervision sometimes for as long as 8 years. The much longer follow-up period normally results in a much higher violation rate. Only technical violations are higher in Alaska, and only after the much longer follow-up period.

Continued on Parole	75%
Absconder	2%
Technical Violation	17%
New Felony	6%

Although many paroling authorities in other jurisdictions interview and make decisions on as many as 35 cases per day, the Alaska Parole Board has gone the other direction and has reduced the number of hearings from up to 22 hearings per day down to less than 12 hearings a day in recent years. Frequently the Board does not hear more than 10 cases a day, thereby providing us with more time to carefully review each case before making a decision.

The Parole Board is currently releasing a number of prisoners from institutions each year following constitutionally and statutorily mandated guidelines with very little risk to the community and at a substantially reduced cost to taxpayers over the cost of incarceration of these offenders.

Thirdly, the Parole Board is a relatively cheap and efficient agency in carrying out its responsibilities under state law. With no additional state funding, the Parole Board has accomplished the following objectives in recent years.

Members
House Judiciary Committee
Page 5
February 4, 1980

1. Substantially streamlined the executive clemency investigation process, requiring much less staff time with no decrease in the thoroughness of investigations.
2. Completed a comprehensive revision and expansion of all policies, procedures, forms and instructions.
3. Developed a master case file system with the assistance of federal funds, greatly decreasing the time spent on case files and dramatically increasing the information available to the Board at parole release hearings.
4. Developed a comprehensive parole guidelines matrix as set forth in the report sent to Committee members. This report is being utilized as the basis for developing similar decision-making tools by the Division of Corrections for prisoners in correctional institutions and in helping to make probation release decisions.

Part of the work of the Alaska Corrections Master Plan Consultants in 1978-1979 was to provide an analysis of the operation of various segments of the corrections system. The staff of the consultants spent in excess of three days reviewing the operations of the Board and discussing matters with the staff of the Board during the development of the plan. At least one member of the team of consultants that spent time going through our files has previous work history with a well recognized parole authority. The consultants were in an excellent position to evaluate the overall operation of the Board, and they did review its operations in relationship to national standards developed by the Commission on Accreditation for Corrections in 1976. These standards are stringent and very few parole agencies in the country have yet become accredited. Here are some of the pertinent comments from the Corrections Master Plan report.

"As can be seen from the foregoing, the Alaska Parole Board is doing nearly all that it can within its current capabilities and limitations to operate a professionally competent

Members
House Judiciary Committee
Page 6
February 4, 1980

parole authority. With some organizational changes and minor increases in staff it can do even better." "The present status of the Alaska Parole Board presents an excellent base upon which to build, and it would appear highly desirable to undertake those additional steps which would improve the professional capability and efficiency of the Board." "The Parole Board is not sufficiently staffed to carry out as fully as might be desirable the remaining four recommendations of the Accreditation Commission, related to public legislative relations:". "In connection with all of the foregoing recommendations regarding planning and coordination, it is essential to point out that the Board's less-than-perfect compliance with these standards is due primarily to lack of sufficient staff to carry out all of these activities." "In examining the Board's operations, as this section will illustrate, it is apparent that in most respects it meets or exceeds national standards for adult paroling authorities." "In general, there seems to be a desire to professionalize the operations of the Board, so as to further ensure that decisions will be made in accordance with court requirements and national standards." "The additional staff would make it possible for the Board to undertake tasks that are not now within its capabilities, particularly in the areas of research, report preparation, manual preparation and updating, and the increasingly detailed procedures that are being imposed upon modern paroling authorities. It is essential that the staff be enlarged, even if Board members are full-time appointees."

A fourth area that the statute requires be addressed is the analysis of public need. The recent data made available as a result of our parole guidelines grant shows that many offenders can be released from custody at a substantially reduced cost to the taxpayers of the State of Alaska with very little risk to the community. (e.g., only 1 parolee was convicted of a new felony in 1978.) The Board has developed a policy of releasing offenders that is comprehensive and is applied statewide without regard to other data not relating to risk on parole. The Board appears to be the only entity capable of establishing and implementing statewide guidelines that can fairly and equitably be applied to all

Members
House Judiciary Committee
Page 7
February 4, 1980

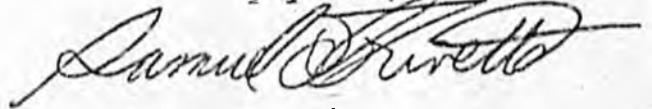
offenders sentenced to imprisonment. Unfortunately, the new criminal code will make a number of offenders ineligible to be reviewed by the Board, and therefore the system cannot be utilized to its fullest extent.

The legislative auditors did make some recommendations regarding the Board. The Board certainly wishes to comply with the recommendations made in the areas of ongoing research, holding public hearings, report writing etc., and I feel that these recommendations probably can be followed if the FY-81 budget as approved by the Department and the Governor's Review Committee is funded. Based upon the information presented to the House Judiciary Committee in earlier correspondence, in person, and information contained in this letter, I believe the Board has met the test of adequately and efficiently providing for the public need of the citizens of the State of Alaska.

At our meeting on November 30, 1979, the members of the Committee mentioned that they expected to invite the Board back during the current legislative session to discuss Parole Board policy and legislation. We would certainly welcome the opportunity and believe we can assist the Committee in gaining some perspective regarding the legislative history of parole in Alaska.

Feel free to contact me if you require additional information before making a final decision on the Sunset Audit regarding the Parole Board.

Sincerely yours,



Samuel H. Trivette
Executive Director

SHT/vh

cc: William B. Lyons
Chairman
Parole Board

Helen D. Beirne
Commissioner
Department of Health
and Social Services

All Board Members