

958

HJ

HB

983

(FILE

NO.

4)

-HB

1027

Feb ⁶ 11, 1980 Tues

Sunset hearing - Parole bd
called Sam Towette 465-2384
11:30 am 2/11/80
he suggested notifying parole
bd members by letter, tho
he also agreed to notify
verbally

tele conf - 3 pm -> dinner

✓ Bruce Horvath

7:30 pm -> ?
Lindsay

Called Rick ~~Morley~~, ch. public
defender 4911

Legal
Sgt. B. Black - 1st
officer

✓ *Campbell - Corrections *

✓ Dept. of Law

Dean
Guaralle
Div. of
Corrections

✓ Legal Services

Walter (Crim Justice Center) ?
1 Bud Carpenter 586-1786
Pub. Def.

Walter
319 Seward

Burt Campbell -
Alison

subcom. a monthly part.

Parole Bd

- 6-6 teleconf (3pm)
- 6-6 " (7pm)
- 6-7 in-person (3pm)
testimony
- 6-8 com. discuss. (3pm)
parole bd
- 12- further (3:30pm)
testimony
parole bd
- 25 discussion (3:30pm)
parole bd
- 25 testimony (7pm)
parole bd - ~~Lenora~~
Creek

Feb 27 discussion (3pm)
parole bd

SCHEDULED

mar 5 discus. (7:30pm)
parole bd

STATE OF ALASKA

PAROLE BOARD

PAROLE PROGRESS REPORT
(OUTLINE)

PRIOR BOARD ACTION

PRESENT OFFENSE

- A) OFFICIAL VERSION
- B) APPLICANT'S VERSION
- C) JUDGE'S REMARKS AT SENTENCING
- D) JUDGE'S RESPONSE
- E) DISTRICT ATTORNEY'S RESPONSE
- F) SUPREME COURT COMMENTS (IF APPLICABLE)

PRIOR RECORD

- A) JUVENILE RECORD
- B) ADULT RECORD
- C) PREVIOUS PROBATION/PAROLE EXPERIENCES

MEDICAL/PSYCHOLOGICAL

- A) MEDICAL INFO. *and*
- B) PSYCHOLOGICAL; PSYCHIATRIC, OR OTHER EMOTIONAL
PROBLEM INFO.

INSTITUTIONAL RECORD

RELEASE PLAN

EVALUATION/RECOMMENDATION

ATTACHMENTS TO PROGRESS REPORT

JUDGMENTS

PRE-SENTENCE REPORT

PSYCH. MATERIAL

PAROLE APPLICATION

0165. DIVISION OF CORRECTIONS RESPONSIBILITIES. (a) The Division of Corrections will supply prisoners with parole applications furnished by the Parole Board.

(b) The Division of Corrections staff will advise prisoners of the availability of the Board's regulations and of the criteria utilized by the Board in case decisions.

(c) The Division shall solicit comments from the District Attorney and sentencing judge and provide these comments to the Board on each case presented.

(d) The Division shall provide the Board in a timely manner with a comprehensive parole progress report as outlined in instructions from the Parole Board.

(e) The Division shall not disclose the parole progress report to anyone without the specific written permission of the Alaska Board of Parole.

(f) The Division shall make the applicant's entire file available for review at the release hearing.

(g) The Division shall distribute paperwork to the applicant from the Board as directed.

(h) The Division shall provide the Board with a current psychiatric examination on any applicant convicted of Lewd or Lascivious Acts Toward Children pursuant to AS 11.15.134.

Authority:	11.15.134
	12.55.075
	33.15.060
	33.15.100
	33.15.140
	33.15.150
	33.15.230

0170. PAROLE BOARD RESPONSIBILITIES AND PROCEDURAL OPPORTUNITIES. (a) The Parole Board will make use of the most comprehensive and complete information available to it in arriving at case decisions. The Board may use any of the following information that it considers to be trustworthy in arriving at a decision. The Board shall determine the creditability and the weight of the information required by it.

(1) Presentence Report.

(2) All attachments to the presentence report.

(3) The transcript prepared at the sentencing hearing and any information testified to by any party at sentencing.

(4) Other documents or testimony presented at the sentencing hearing.

(5) Psychiatric, psychological, and other mental health reports.

(6) Relevant information made available to the Board from the trial or during any other part of the legal proceedings leading to the conviction in the present offense(s).

(7) Information relating to the person's previous or subsequent delinquency or criminal experience, including juvenile record.

(8) Information relating to the applicant's previous violations of laws, ordinances, or orders verified information regarding other crimes, and information regarding the other antisocial or violent behavior.

(9) Information relating to the social background, capabilities, lifestyle, and mental and physical health of the applicant.

(10) Information regarding the applicant's behavior in the community if released on bail, bond or O.R. pending trial or sentencing.

(11) Recommendations of the sentencing court and the district attorney's office.

(12) Information regarding the behavior of the applicant since incarcerated.

(13) The release plan of the applicant.

(14) Information from those persons the applicant plans on living with, their feelings towards the applicant, the applicant's financial solvency, residence, and the community and environment to which he is requesting parole.

(15) All references and recommendations submitted to the Board regarding the applicant either recommending or protesting the applicant's release to parole supervision.

(16) Police reports considered relevant by the Parole Board.

(17) Information which the Board thinks might reasonably relate to the success or failure on parole if the applicant was released from custody. This includes the attitude of the community toward the applicant and his assessed ability by the Board to adjust to any given release plan presented.

(18) Any other information the Board feels would be helpful in making the most informed decision possible in a given case.

(b) The Parole Board will preserve all written material made available to it and utilized by it in arriving at a decision in the case.

(c) When considering an application for parole, the Board will review the following factors, determining the interrelationships and priorities and weights to be given each factor, in determining whether or not to release the prisoner on parole.

(1) The applicant's readiness and willingness to face his obligations in the community and to undertake normal responsibilities.

(2) The applicant's family status, and how the family views the applicant, and their interest and readiness to accept him back as part of the family.

(3) The residence, including the home, neighborhood and the community in which the applicant will reside.

(4) The employment history, including vocational and academic skills and training learned within the institution. Also previous training, job experiences including military training are also factors where appropriate in determining the applicant's employability.

(5) The availability of community and family resources to assist the applicant if he is released on parole.

(6) Other important factors regarding the applicant's release plan.

(7) The institutional conduct of the applicant such as adjustment to group living, performance within the assigned institutional area, relationship to the institutional staff, overall behavior during the period of incarceration and how this might relate to the applicant's adjustment in the community.

(8) Whether or not there is any information indicating the applicant has ever misused any drugs or alcoholic beverages, the extent of the misuse or abuse of these, and the relationship to the applicant's behavior, criminal behavior, and current offense(s). Previous involvement in any treatment programs and applicant's subsequent behavior after release from treatment.

(9) Relevant information from the sentencing judge and the district attorney's office.

(10) Previous probation or parole experience and behavior when out of custody on bail, bond or OR release, and the recency of these experiences.

(11) The applicant's willingness to discuss all information the Board considers relevant in making a responsible decision, The applicant's willingness to accept criminal responsibility and remorse expressed. The applicant's truthfulness with the Board when presenting information in any form.

(12) Noticeable changes in the application, his behavior, self concept, and his general attitude toward the offense, and his understanding of causal factors and a need for change. Information regarding the applicant's lifestyle, productivity, any previous assaultive behavior and any other antisocial acts in the community.

(13) The physical and emotional condition of the applicant including written or verbal reports from psychiatrists, psychologists, and related mental health persons.

(14) The applicant's attitudes including behavior and concern for his fellow man, his readiness to return to free society, and how he views himself and the society he will return to if paroled.

(15) Any letters, petitions or other information from concerned citizens or groups recommending the applicant be or not be paroled, and the reasons for these recommendations.

(16) The applicant's willingness to abide by any special conditions of parole discussed with him at the parole release hearing.

(17) The relationship between the applicant's crime, length of sentence, background, and the Board's handling of similarly-situated sentenced prisoners in the past.

(18) The relationship between the applicant's crime, his sentence, his background, and other similarly-situated sentenced prisoners and their handling by the court system.

(19) Whether the applicant's release at this time is compatible with the welfare of society and whether it would depreciate the seriousness of the offense, considering the amount of time served by the applicant, the length of his sentence, and other relevant factors.

(20) The Board will consider all relevant factors involved in the present offense based upon the best evidence available from all sources. The Parole Board is not limited to considering the title of the crime of conviction, but may consider any information it considers reliable regarding the facts of the crime.

(21) The Board's perception of the applicant's risk to the community if released on parole.

(22) Any other factors which the Board determines to be relevant in considering the prisoner's application.

(d) The Parole Board will insure that the following information is provided to the parole applicant who is granted parole.

File: Alcoholism



Superior Court
State of Alaska
THIRD JUDICIAL DISTRICT
BOX 1367
KODIAK, ALASKA 99615

Chambers of
JUDGE ROY H. MADSEN

February 22, 1980

Hon. Nels A. Anderson, Jr.
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Nels:

I have been long concerned and at times frustrated in my efforts to deal with individuals appearing before me on criminal charges who obviously have serious drinking problems.

Knowing that the programs, if any, in our correctional facilities are negligible or non-existent makes it very difficult to fashion a sentence that truly reflects the need of the offender if he is to be rehabilitated.

In some instances I have imposed conditional sentences, i.e. two years with one year suspended on condition the defendant is accepted into an alcohol rehabilitation program and making that a condition of any parole provisions. It would be so much more beneficial for the offender if there were on-going alcohol rehabilitation programs in the institutions and some kind of a program on the outside for those being released. The hearings which I was fortunate to see on the Capital 80 T.V. program are hopefully signs of steps to be taken in the near future to deal with these problems.

Keep up the good work!

Sincerely,
Roy

ROY H. MADSEN,
SUPERIOR COURT JUDGE

RHM:tw

*Copied meekins
Suckett 2/27/80*

rec'd 2/25/80

SCHEDULE OF PAROLE BOARD

SUNSET REVIEW

Wednesday, February 6

3:00 p.m. - Teleconference testimony:

~~Anchorage~~
~~Ketchikan~~
~~Kenai~~
~~Dillingham~~

7:00 p.m. - Teleconference testimony:

Fairbanks
Nome
Bethel
Barrow

Thursday, February 7

3:00 p.m. - In-person testimony:

Juneau

Friday, February 8

3:00 p.m. - Committee consideration of testimony

(2) employ a person whose duties require expertise in determining or reducing the hazards of radiation.

(b) As used in this section, "state agency" or "agency of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the Alaska State Housing Authority; "state agency" or "agency of the state" does not include the University of Alaska, a municipality, or an agency of a municipality.

(c) As used in this section, "radiation" does not mean radiation emitted from a Federal Communications Commission licensed facility emitting radiation of a wave length longer than one centimeter and an average power output not exceeding two kilowatts. (§ 2 ch 172 SLA 1978)

Cross reference. — As to radiation protection, see AS 18.60.475.

Chapter 66. Review of the Activities of Agencies, Boards and Commissions.

Section	Section
10. Termination of state boards and commissions	30. Program identification
20. Agency programs	50. Legislative oversight
	60. Existing claims

Cross reference. — As to the termination, continuation and reestablishment of regulatory boards, see AS 08.03.010.

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 for 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. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.05.010) — June 30, 1979;
- (2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1979;
- (3) State Board of Parole (AS 33.15.010) — June 30, 1980;
- (4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1980;

- (5) Alaska Pipeline Commission (AS 42.06.010) — June 30, 1981;
- (6) Alaska Council on Science and Technology (AS 44.19.181) — June 30, 1983;
- (7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 1979 SLA 1978)

Effect of amendments. — The first 1978 amendment added paragraph (6) of subsection (a). The second 1978 amendment added paragraph (7) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in § 30 of this chapter are subject to termination during the regular legislative session convening in the month and year set out after each:

- (1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;
- (2) programs in the budget categories of education and the University of Alaska — January, 1981;
- (3) programs in the budget categories of health and social services — January, 1982;
- (4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under § 30 of this chapter. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in § 20 of this chapter, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. dissolu under under house, as pro more l of the board, or con commi commi 37.07.0 commi division any of: includi Legislat manne progra

(b) I have t exist any ch increas public

(c) A progra take ir

(1) t operat

(2) t agency proced includi

(3) t recom public

(4) t encour regula service

(5) t encour decisio

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or § 10 of this chapter, or of an agency program under §§ 20 and 30 of this chapter, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

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

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

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

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

(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;

(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

(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.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board,

commission, or agency
(§ 3 ch 149 SLA

Sec. 44.66.060.
termination or dis
commission or pr
which is subject t
department to w
chapter was attac

Pa

Cha

Sec. 44.77.010.

Legislative history
State v. ZIA, Inc., Su
(File No. 2518), 556 P.

This section is only
claimant has pursued
remedy. State v. ZIA, I
1337 (File No. 2518), §

The word "given" is
the word "services."
Sup. Ct. Op. No. 1337
P.2d 1257 (1976).

It is apparent that
"money," "labor,"
"supplies," each term
modifier and the statu
to construction not c
legislature. State v. ZI
No. 1337 (File No. 2
(1976).

For the purposes
contract claims, "I
defined in calendar t
Inc., Sup. Ct. Op. No. I
556 P.2d 1257 (1976).

If the legislature ha
"promptly" for other
contract claims) and ha

Ch:

A

Section

70. Special use of hi
areas

Sec. 44.80.070. I
state, or a departm
highway or vehicu

commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Part 8. Claims and Liability.

Chapter 77. Claims Against the State.

Sec. 44.77.010. Presentation of claims.

Legislative history of section. — See State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

This section is only applicable after the claimant has pursued an administrative remedy. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

The word "given" serves only to modify the word "services." State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

It is apparent that if "given" modified "money," "labor," "materials" and "supplies," each term would have a double modifier and the statute would be subject to construction not contemplated by the legislature. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

For the purposes of the filing of contract claims, "promptly" is not defined in calendar terms. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

If the legislature had intended to define "promptly" for other claims (including contract claims) and had a period of time in

mind, it can be assumed that a reasonable legislature would have so legislated. In the absence of those intentions, no definite time limit should delimit "promptly" as applied to contract claims under subsection (a). State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

The legislature chose to define "promptly" only for medical claims. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

Corporation's claim for damages against state for breach of contract was based on contract. — See State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

And was reimbursement for money expended for state. — Where, in its complaint, a corporation sought recovery against the state for money expended for labor, materials, administrative expenses, design and lost profits due to breach of contract, it sought "reimbursement for money expended ... for the state ..." as contemplated by this section. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

Chapter 80. Liability of the State.

Article 3. Special Use of Highways.

Section

70. Special use of highways and other areas

Sec. 44.80.070. Special use of highways and other areas. When the state, or a department or agency of the state, which has control over a highway or vehicular way or area, permits a portion of the highway or

LIST OF PARTICIPANTS

2/16/80

- PAROLE BOARD -

Anchorage:

KETCHIKAN:

DICK PEARSON, STATE JAIL

BART PENNY, PROBATION OFFICER

SITKA: (OBSERVE ONLY)

LINDA ZAUG, SITKA PROBATION
OFFICER

DILLINGHAM:

KENAI PENINSULA:

JANUARY Testimony

* SOB COLLINS, DISTRICT PROBATION OFFICER
JANUARY

Charlie

It is my opinion

that Beard testimony officially
under 44.66 (Sunset
Law) must be given during
the session, not the interim (when
we didn't even yet have the referrals
from the speaker).

FRO

PRESS RELEASE

BERT CAMPBELL, PRESIDENT
ANCHORAGE NATIVE CAUCUS 264-7730

IN HIS STATE OF THE JUDICIARY ADDRESS TO THE STATE LEGISLATURE, CHIEF JUSTICE RABINOWITZ STATED IN REFERENCE TO THE RACIAL DISCRIMINATION OCCURRING IN THE COURT SYSTEM THAT: "THE REMARKABLE THING IS THAT IN THE SUPERIOR COURTS IT NOW SHOWS, IN FACT, THAT THERE IS NO DIFFERENCE IN THE SENTENCING PATTERNS", REGARDING NATIVES AND BLACKS, EXCEPT POSSIBLY IN THE AREA OF DRUG CRIMES AFFECTING BLACKS.

IN RESPONDING TO THE ADDRESS, BERT CAMPBELL, PRESIDENT OF THE ANCHORAGE NATIVE CAUCUS AND CHAIRMAN OF THE ADVISORY COMMITTEE ON MINORITY SENTENCING PRACTICES, WHICH HAS BEEN MANDATED BY THE LEGISLATURE TO INVESTIGATE RACIAL DISCRIMINATION IN THE ENTIRE CRIMINAL JUSTICE SYSTEM STATED: "THE CHIEF JUSTICE'S REMARKS WERE IMPROPERLY PREMATURE AND SHOW A RECKLESS DISREGARD FOR THE TRUTH, SINCE THE STUDY IS ONLY 1/5 COMPLETE AND MOST OF THE STATISTICAL ANALYSIS HAS NOT BEEN COMPLETED BY THE JUDICIAL COUNCIL. ALTHOUGH THE CHIEF JUSTICE MENTIONED THAT THE NEW STUDIES WERE PRELIMINARY FINDINGS, TO USE SUCH INFORMATION AS A BASIS IN STATING THAT THERE IS NO LONGER ANY DISPARITY IN SENTENCING IS EXTREMELY MISLEADING TO THE LEGISLATORS AND THE PUBLIC, AND EXEMPLIFIES THE SMOKE SCREENING ATTITUDE OF THE CRIMINAL JUSTICE SYSTEM TO THIS HIGHLY SENSITIVE AREA. THE INCOMPLETE STUDY THE CHIEF JUSTICE WAS REFERRING TO, IN NO WAY, SHAPE OR FORM SHOWS THAT RACIAL DISPARITY IN THE SUPERIOR COURTS HAS DISAPPEARED."

"WHEN THE INITIAL STATISTICS AROSE OUT OF THE JUDICIAL COUNCILS PLEA BARGAINING STUDY FOR 1974 to 1976, THE MINORITY COMMUNITIES FOUND SUPPORT TO THEIR STRONG BELIEF THAT THE CRIMINAL JUSTICE SYSTEM DID NOT GIVE THEM EQUAL TREATMENT. THE CHIEF JUSTICE WAS HIGHLY CRITICAL OF THE STUDY AND CONTESTED THE VALIDITY OF THE STATISTICS, WHICH CLEARLY SHOWED THAT MINORITIES RECEIVED SIGNIFICANTLY LONGER SENTENCES. HOWEVER, AS SOON AS THE CHIEF JUSTICE LEARNED THAT THE VERY PRELIMINARY ANALYSIS OF THE DATA OF THE 1976 to 1979 STUDY, WHICH IS ONLY 1/5 COMPLETE, BEGAN WITHOUT SHOWING SIGNIFICANT DISPARATE SENTENCING, HE IMMEDIATELY CONGRATULATED THE COURT SYSTEM AND ACCEPTED THE INCOMPLETE STATISTICS AS A VALID INDICATION THAT ALASKA'S CONSTITUTIONAL MANDATE OF EQUAL JUSTICE WAS BEING FULFILLED. SUCH APPARENT WILLINGNESS TO ACCEPT PREMATURELY AND INCOMPLETE STUDY SHOWS A DISTURBING ATTITUDE THAT THE COURT SYSTEM WILL GRASP AT STRAWS TO FIND VINDICATION FOR THEIR RACIALLY DISCRIMINATORY SENTENCING PRACTICES."

THE "SIGNIFICANT STEPS", WHICH THE CHIEF JUSTICE REFERRED TO AS TAKEN BY THE COURT SYSTEM TO ALLEVIATE RACIALLY DISPARATE SENTENCES, CONSISTED MAINLY OF A 2 or 3 DAY SENSITIVITY TRAINING SESSION FOR THE JUDGES HELD IN SITKA LAST JUNE. CAMPBELL FURTHER STATED: "I DO NOT FEEL THAT THIS REPRESENTS A SIGNIFICANT STEP IN REMOVING RACIALLY DISPARATE SENTENCES. IN ADDITION, A SENTENCING GUIDELINES COMMITTEE WAS CREATED, HOWEVER, IT PROGRESS HAS BEEN LIMITED TO A FEW DRUG CRIME AREAS."

"THE PUBLIC MAY NOT BE AWARE OF IT, BUT THE CHIEF JUSTICE OF THE SUPREME COURT, THE JUDICIAL COUNCIL, AND ART SNOWDEN, DIRECTOR OF THE ALASKA COURT SYSTEM, ALL LOBBIED VERY STRONGLY AGAINST THE FORMATION OF THE ADVISORY COMMITTEE ON MINORITY SENTENCING PRACTICES, BUT THE GOVERNOR AND THE LEGISLATURE SHOWED THEIR CONCERN FOR EQUAL JUSTICE IN MANDATING THIS COMMITTEE TO PROCEED WITH AN INVESTIGATION OF THE CRIMINAL JUSTICE SYSTEM."

CONCLUDES CAMPBELL, "MY COMMITTEE IS IN THE FINAL PREPARATION OF ITS REPORT TO THE GOVERNOR AND THE LEGISLATURE, AND I CAN ASSURE YOU BEYOND A SHADOW OF A DOUBT THAT RACIAL DISCRIMINATION IS ALIVE AND WELL IN THE CRIMINAL JUSTICE SYSTEM OF THE STATE OF ALASKA, DESPITE THE CHIEF JUSTICE'S WISHFUL THINKING."

END.

Charlie
I thought
you might
want to review
this. It regards
Parole Bd.

Will
have me
tomorrow

Ray

CORRECTIONS MASTER PLAN

DRAFT

Rec'd 1/20/79
S. M. M. M.

PAROLE DECISION-MAKING

Parole policies and practices have as direct an effect on corrections as do court actions in pretrial release and sentencing decisions. Parole policies determine, within statutory and judicially determined limits, the length of time a sentenced inmate serves in prison, and the type of conditions that are imposed on his or her parole. The criteria used by the Parole Board in its decision-making shape the manner in which the Division of Corrections utilizes its institutional and community supervision resources.

As previously stated, if a sentencing guidelines model is adopted, eventually the need for parole as a means of adjusting for sentencing disparities may well disappear, and at this point it will become necessary to consider the statutory abolishment of parole decision-making. However, one must differentiate between parole decision and the reintegrative services offered by the Division of Corrections to parolees. Such "parole" services should not be discontinued; whether releasees are released through Parole Board action or at the end of a sentence determined by statute and guidelines, most will continue to require some type of "depressurization" to help them adjust to life in their home communities. Prerelease programs operated by the Division, such as work release and furlough, will become even more critical if parole is abolished. At this juncture, it may also prove to be necessary to statutorily provide for some portion of the end of every sentence to incarceration to be served under community supervision (similar to the mandatory release law now in effect).

What
is
it
all
about
Changes

There is!! see new Crim. Code

However, it is not likely that parole decision-making will be abolished in Alaska in the near future, since such a step would require a thorough reexamination of the revised Criminal Code, and concerted efforts to develop a guidelines matrix for sentencing decisions which could eliminate

examples

And all ~~some~~ ~~inmates~~ ~~of~~ ~~the~~ ~~inmate~~ ~~parole~~ ~~released~~ ~~mandatory~~ ~~on~~ ~~"parole"~~ ~~under~~ ~~new~~ ~~Crim. Code~~ ~~Need~~ ~~for~~ ~~more~~ ~~hearings~~ ~~to~~ ~~set~~ ~~conditions~~ ~~(~~ ~~hold~~ ~~revocation~~ ~~)~~ ~~etc~~
the need for Parole Board sentence adjustments. In addition, all inmates

sentenced under old sentencing statutes will continue to be eligible for parole for some time to come.* Therefore, given that the Parole Board will continue to function in Alaska for the foreseeable future, it is important that the Parole Board's policies and practices are consistent with the state's overall corrections philosophy, and that the Board is provided with sufficient resources and authority to efficiently accomplish its responsibilities. This section describes the current operations of the Board, comparing it with ACA standards, and suggests actions which could be taken to improve the Board's functioning and to enhance coordination between the Board and the Division of Corrections.

Operations of the Alaska Parole Board have attracted limited attention in recent years, the controversy which has surrounded other criminal justice decision-making areas (especially sentencing and correctional classification) has been largely absent from Alaska's parole decision-making process. Although nationally the fairness of parole decision-making has come under attack from many sources (inmates, corrections agencies, the courts, researchers), this has not been echoed in Alaska. This may in part be due to the fact that Alaska's Parole Board has observed the controversies in other parts of the nation, and has reacted with efforts to prevent such conflicts before they arise. In examining the Board's operations, as this section will illustrate, it is apparent that in most respects it meets or even exceeds national standards for adult paroling authorities. In addition, the Board has received a grant from the National Institute of Corrections to develop a parole guidelines model for Alaska, *has commenced 4/78* ~~although work on this task has not yet commenced.*~~

*In one of the few comments in any recent Alaskan study which was directed at the Parole Board, the report of the January 1978 Statewide Conference on Incarceration and Re-entry Alternatives recommended that a guidelines system, similar to that of Oregon and the Federal parole board, be used for parole decision-making.

Division of Corrections, and the Parole Board a mutual understanding of what would be expected of the offender during his imprisonment, and could facilitate joint programming and release preparation programming decisions.

10. A mechanism should be established within the Department of Health and Social Services to assure that the Board of Parole and the Division of Corrections function under a common correctional philosophy and policy. At present there appears to be some difference in the goals of these two organizations. As indicated in other sections of this master plan, for example, the Division of Corrections makes virtually no use of the community-based programs that are useful for pre-parole testing and preparation. Also, the Board has a very limited role, other than informal contacts of the Executive Director with community services offices of the Division of Corrections, in the training of parole supervision personnel. Joint meetings of Division of Corrections and Parole Board personnel should be established on a regular basis, to evaluate programs affecting parole readiness and to work out procedures under which, for example, the Parole Board may, in its decisions in individual cases, require that applicants be sent to halfway house or prerelease center for a period of time before the parole date becomes effective. Such considerations involve the use of personnel and funds of both agencies, and management policies and decisions affecting them should be worked out on a mutual basis.

(needs Commissioner to act)

from parole should be denied, a hearing should be granted the individual parolee.

9. ^{planned} Consideration should also be given to legislation, and/or changes in Parole Board procedure, under which the Board would conduct initial hearings, in the case of prisoners with maximum sentences of five years or less, within four months of their commitment, for the purpose of setting a presumptive release date, either by parole or by mandatory release (the latter in effect a denial), or of setting an effective date of parole. Prisoners with maximum terms of more than five years would be heard within a month prior to the completion of their minimum terms, also for the purpose of setting a presumptive release date, either by parole or by mandatory release, setting an effective date of parole, or setting a future date for a reconsideration hearing.

Where presumptive release dates have been set, the case should be reviewed administratively by a Parole Board member two to three months prior to the presumptive release date, to determine whether the conditions of the presumptive release date have been satisfied. Upon the basis of his or her findings, the member should be authorized to approve the parole date, advance or retard the parole date for good cause, or refer the case to a two-member panel for a rescission hearing at the next regularly scheduled quarterly meeting of a panel at the institution where the offender is confined.

The actual provisions of a proposal of this kind should be much more detailed. However, under this general procedure the prisoner would be much more aware of his or her parole status than at present during the course of confinement. Also, the Division of Corrections, with a similar awareness of the prisoner's parole status, would be in a more informed position to make decisions concerning the prisoner such as custody classification and assignment to community-based programs such as halfway houses, furloughs and work, educational or vocational training release. It would give the prisoner, the

21

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.

Organization of the Parole Board

For the most part parole decision-making in most jurisdictions in the United States remains in the traditional pattern, dependent upon the judgments of individual board members augmented only by due process procedures imposed by the courts. This is also presently the situation in Alaska. The Alaska Parole Board is composed of 5 part-time members appointed by the Governor for staggered terms of 4 years; as of July 1, 1978 they are paid \$50 a day plus travel expenses when on official business. The Board is administratively located in the Department of Health and Social Services, but is separate and apart from the Division of Corrections. It has a staff of 3 persons: an Executive Director, a Parole Board Officer, and a clerk. The office is located in Juneau.

*Alaska
Department of
Health and Social
Services*

The Board has jurisdiction over parole release, rescissions and revocations. The Parole Board is also responsible for processing mandatory release violators. The Board's Executive Director, in addition to performing the administrative work of the Board, is an advisor to the Governor's Executive Clemency Advisory Board and handles administrative duties for the Advisory Board, including investigations and recommendations.

The Board meets every three months at the institutions in Anchorage, Fairbanks and Juneau. At Anchorage the hearings are held at Eagle River, and eligible applicants from ~~Ridgeview~~, 3rd Avenue, 6th Avenue and Nome are transported there for personal appearances. Hearings are also held at Palmer *and*

Ridgeview.

At Juneau, the Board also hears the cases of eligible applicants from Ketchikan, who are transported there for this purpose. Every six months ~~two~~ ^{or 1 board member & 1 staff member} board members and one staff member travel to the Federal institutions at McNeil Island, Washington; Lompoc, California; and Springfield, Missouri to conduct hearings for Alaska prisoners boarded in those institutions.

At each institution counselors prepare reports for the use of the Board, assist inmates in the preparation of applications, and counsel inmates and work with community services offices in connection with arrangements for releases on parole.

The Board hears about ²⁵⁰ ~~300~~ ^{same} cases annually, although there may be a considerable variation in number by quarter, from about 60 to 100 or more. On the average, prisoners serve nearly half of their terms before being released on parole. While perhaps half of the applications (the proportion varies by quarter) are denied or continued for future consideration at their initial hearings, approximately two-thirds are eventually granted parole. At any one time there are about 200 offenders on parole.

Under current law prisoners (those serving more than a 180-day sentence) must serve one-third of their maximum sentences (for lifers, 15 years) before becoming eligible for parole; however, the court can increase this one-third minimum up to the maximum sentence length. Under the new sentencing law, to become effective January 1, 1980, only first-time felon offenders will be eligible for parole consideration within the above limits. Under both the old and new codes, good time is computed at a ratio of one day off the sentence for every three served with good conduct. ^{- No MGT under new Code!}

As a result of parole hearings the board may issue one of three alternative decisions in individual cases: (1) parole denied with no provision for further review (under which the prisoner will serve his full term minus good time), (2) action deferred and a date set for a future review, or (3) a grant of parole to an approved release plan.

*NO
at
with
part*

O.R.

*NO
NOT
SAME*

*WRONG
33.20.020*

Operations of the Parole Board

The work of the Board can perhaps best be examined by reviewing the recommended standards of the ACA's Accreditation Commission and comparing them with actual practice in Alaska. "The Manual of Standards for Adult Parole Authorities" has several sections, the first of which is Organization. The organization of the Alaska board is generally consistent with these recommendations, which indicate that the board should have full statutory authority for parole decision-making, it should be autonomous, it should be administratively independent of field services, and it should have the authority to impose general and specific parole conditions. The last recommendation in this section, which permits the use of hearing examiners, is not applicable to Alaska due to the relatively small workload in comparison to other states, excepting where the Board uses parole administrative staff for preliminary revocation hearings.

The section on Legal Basis contains five recommendations. As suggested by the Commission, the Alaska Board "has power to grant or deny parole and does not serve merely as an advisory body to another official or agency." The Board also "has the statutory power to cause the arrest of parolees and the power to revoke parole," and it has "the statutory power to secure prompt and full information...from institutional staff, parole field staff, and those responsible for the administration of part-way programs, such as halfway houses and furloughs," although it should be noted that under current practice the use of halfway houses and furloughs in Alaska is very minimal. The recommendation that written policy should set forth "the roles, functions, duties and responsibilities of the hearing examiners" is implemented in Alaska to the extent that Parole Board staff may conduct preliminary revocation hearings.

The Alaska Board does not have the "statutory power to discharge from parole" which is recommended by the ACA standards. It does have the authority to discharge parolees from supervision, but they must remain in parole status until the end of their terms, minus earned good time.

*see institution
in institution
(no good time on street)*

Agreed

The seven standards on Planning and Coordination are only partially implemented in Alaska. The Board does not have "a written set of long-range goals and policies which are developed continuously and reviewed annually..." and does not "document the existence of practical and specific plans to move toward the realization of these long-range goals and policies." The Board does participate "through the agency of which it is a part...in criminal justice planning efforts," but it does not "meet at least annually with representatives of relevant criminal justice agencies...to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans." Nor do members of the Board "meet at least semi-annually with the directors of institutions from which paroles are granted and/or with the head of the jurisdiction's correctional agency" for the same purpose. A mechanism of this kind seems particularly appropriate and necessary.

The standards recommend similar meetings of Board members with field service staff, but in Alaska this is not done on any formal basis. Also, board members are to "visit all institutions and a representative sample of the part-way facilities in their jurisdiction at least annually, specifically for the purpose of gaining first-hand information about the operations and programs in these facilities from both staff and inmates/residents." The Alaska Board does meet on a quarterly basis at several institutions, but these meetings are exclusively for the purpose of holding hearings.

However, ^{at times} have toured some facilities when time allows. (Palmer, E.R., Redona, 1/2 Way Home, Fairbanks. & some members some of these. Also toured some F.B.P.'s)

The last standard states that there should be "documentation that the parole authority promotes and enhances communication with field parole staff through such means as visits, conferences, and seminars at field parole offices." The Executive Director of the Alaska board does visit field offices from time to time to provide advice and some measure of training, although this interaction is limited due to lack of time on the part of the

Director. *Dist. in @ training academy 10/70, 1st time invited in 2 yrs.*

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 these activities. Moreover, it is frequently difficult for part-time Board members to find time to attend the quarterly institutional hearings, let alone participate in supplementary meetings, visitations, conferences and seminars as recommended by the standards.

The Manual's section on Administration and Budget has 15 standards, the implementation of which in Alaska is also impeded by the organization of the Board and the lack of adequate staffing. The Board does have a "clearly defined budget" but is not a system "which allows it to weigh the costs of the various functions carried out and thereby plan effectively for the wise allocation of resources". However, the operation of the Board cannot be said to be so elaborate as to require a system of this kind.

The standards provide that the Chairman of the Board should be responsible for the preparation of the budget, that Board members and staff participate in this process, and that the Chairman participates in budget hearings. In Alaska, all of these functions are carried out by the Executive Director, who is not required to consult with the Chairman or Board members (although such communication ~~usually~~ does occur) *and the members are given the*

budget info.

The board does not have the staff needed to carry out "the variety of administrative tasks which are required of it," and while its "space and equipment" is adequate for the present number of staff, the space and equipment, as well as the staff, are not sufficient to meet the requirements of an "effective and efficient processing of the authority's business."

One of the standards recommends that "all current procedures and policies of the parole authority are written and available for public review." The board does have two manuals which set forth procedures and policies, but these manuals have been modified and supplemented over the years by a variety of memoranda, which are not readily available for public review. As recommended in another standard, the Board does have "skilled legal assistance" available through the Attorney General's office, but it shares this attorney with the Division of Corrections, and occasionally other state agencies as well. The standards stress that "with present-day demands on parole authorities, sufficient and effective legal staff must be available on a continuous basis"; therefore, it is essential that the responsibility of the Assistant Attorney General assigned to work with the Board be clearly defined.

The Board is in general compliance with the standard recommending that the staff be covered by a merit system. However, the staff is not large enough that the recommendations providing for the grouping of tasks, for clear lines of demarcation between administrative personnel, and a supervision ratio of six to one, have any significant relevance.

The Board does not have "a manual of administrative procedures which specifies the operating procedures of the parole authority's administrative staff," again primarily because the staff is so small that no one has time to develop one. The standards also recommend that "all employees of the parole

authority attend staff meetings at least quarterly, where they participate in shaping policies which affect their work." The staff is so limited in numbers and works so closely together that it can virtually be said that they are in continuous staff meeting. The last standard, recommending at least 40 hours of training annually for "all staff who relate to offenders in either a decision-making or a supervisory capacity" would appear to apply to the Executive Director and the Parole Board Officer, but under current circumstances these two persons simply do not have time for this training, nor does the Board have the funds.

The section on Personnel has a number of recommendations affecting the appointment of parole board members:

- members should be chosen through a statutorily or administratively defined system, with explicitly defined criteria, which results in the merit appointment of parole authority members.
- at least two-thirds of the members of the parole authority should have at least a B.A. or B.S. degree in one of the social or behavioral sciences or related fields.
- at least two-thirds of the members should have at least three years experience in a responsible criminal justice or juvenile justice position, or equivalent experience in a relevant profession, such as law or clinical practice.
- both sexes are represented among parole board members, as well as members of the racial and ethnic groups which are represented significantly in the population of the jurisdiction.
- members of the parole authority do not seek or hold partisan elected office while a member of the authority.
- positions on the parole authority are full-time.
- tenure is no less than 5 years.

--if a fixed term of office is used, the terms of the members are staggered.

--salaries of parole board members are comparable to those paid judges of courts of general jurisdiction (or highest trial court).

--the Board consists of no less than three members.

In Alaska there is no merit system for the appointment of parole board members, nor any statutory requirement as to education and experience. There is a woman on the Board, and the major ethnic groups are represented. The statute does not prohibit members from seeking elective office. The five Board positions are part-time, and tenure is for four years, on a staggered basis. The salary rate, for the time worked, is not consistent with that of a Superior Court judge, which averages about 200 a day statewide. Obviously, to meet accepted standards, some changes in the method of appointment and status of the Board members are warranted.

The standards also provide for the designation of one of the members as the Chairman, with the responsibility for coordinating the work of members, acting as official spokesperson for the board, directing the work of staff, and involving colleagues and staff in the formulation of policy. In Alaska, the Board does have a Chairman, who functions chiefly in that capacity at parole hearings. The other functions are carried out by the Executive Director, which is necessitated by the part-time status of the Board's members.

Three other standards, relating chiefly to hearing examiners, are not currently applicable to Alaska. However, the last of these, which recommends that parole board members also receive at least 40 hours of relevant training and education annually, is not in effect in Alaska. Again, considering the part-time status of members and the difficulty they have in finding time even for parole hearings, it would not be feasible to comply with this

*members have attended at least one National Parole Institute
+ staff hearing seminar*

standard under current circumstances.

The first standard in the section on Management Information Systems recommends that the Parole Board have "available to it an organized system of information retrieval and review, which is part of an overall research capacity." The discussion on this standard states:

"A parole authority can neither chart new policies, control the applications of old ones, nor even be aware of their consequences without an organized system of information retrieval and review. Not only is such a system important in terms of controlling applications of policy, but also in providing a base for evaluating different kinds of policy options. It is crucial that parole authority members have competent research personnel who are available to work with them in designing data to be collected and interpreting results."

Three other standards also recommend that the parole board should (1) maintain parole outcome measures, such as those developed by the Uniform Parole Reports, (2) receive at least quarterly summaries of the population characteristics and statuses of inmates in the correctional institutions and part-way programs from which paroles are granted, and (3) receive at least quarterly summaries of the population characteristics and statuses of parolees under supervision.

The Board does collect data on parolees, and has available to it the statistics prepared and analyzed by the research staff of the Division of Corrections. But the system is not as elaborate, as organized, nor as structured as the Accreditation Commission's standards call for. The Board itself does not have the staff and resources to develop and operate an information-gathering system on the scale recommended.

The limitations of the Board in this respect also impede its ability to comply with the standard recommending that the Board "receives management information from the institutions and field authorities pertinent to parole policy, that it puts aside regular time for study of this information, and that

the authority demonstrate that management information is considered and acted upon where appropriate." The Board does comply to some extent with the standard recommending that it "or the larger agency of which it is part collaborates with criminal justice and human service agencies in programs of information gathering, exchange, and standardization." As a participant since 1976 in the Uniform Parole Reports program sponsored by the National Council on Crime and Delinquency Center, the Board has enacted the standard recommending that "the parole authority or the larger agency of which it is a part participates in national data collection efforts."

The Board does not have a research capability, but as it moves to carry out its parole guidelines project under the National Institute of Corrections grant, the recommendations of the Accreditation Commission in its section on Research would appear to apply. The completion and adoption of the proposed guidelines would implement the recommendation that "statistical and research data are used by parole authority members in decision-making and policy development," as well as the recommendation that "parole authority members participate with researchers in shaping the nature of data to be gathered, the form of its presentation, and the types of questions which are to be addressed." The Commission recognizes that "it is impractical for a parole agency to carry out internally all research needed," and recommends that in addition to internal research, the parole authority "permits, encourages, and utilizes.... research conducted by outside professionals." * Given the lack of staff resources on the part of Alaska's Board, the National Institute of Corrections project will most likely have to be done primarily by outside personnel. The Board, as a matter of course, recognizes the principle of the last standard in this Research section, which states that "the privacy and interests of offenders, their families and other persons" should be safeguarded.

* This the Board has done by encouraging research & allowing access to its files by the Alaska Court system to do some basic research

The Board has substantially implemented the standards in the section on Scheduling and Information. One of the board's manuals sets forth "the criteria which are employed...in its decision-making," but whether or not these criteria "are specific enough to permit consistent application to individual cases" is questionable. The fact that the Board applied to the National Institute of Corrections for a grant to develop parole guidelines would suggest to the contrary. However, once developed and adopted, the guidelines would fulfill this recommendation.

In Alaska, offenders are not "scheduled automatically for hearing and review by the parole authority when they are first legally eligible for parole consideration, or within one year after being received in a correctional institution." Offenders must apply for parole, but this requirement would not appear to violate the intent or spirit of this recommendation. Similarly, although Alaska procedure differs, the Board's practice would appear to be consistent with the recommendation that:

"At the first hearing, the parole authority sets a tentative release date. If circumstances prevent the setting of a tentative release date at the first hearing, a subsequent hearing is held within one (1) year for the purpose of setting a tentative release date. In any event, the parole authority gives reasons in writing for any deferral of decision."

At the first hearing, the board may deny a parole, with no further review, set a date for a future review, or grant a parole to an approved release plan. It also gives the applicant the reasons for a denial of parole or deferral of a decision until a future review date; these reasons are stated in writing and are specific and clear.

A further standard provides that "inmates are not held beyond tentative release dates once fixed, except upon a hearing by the authority at which time the reasons for deferral of parole are articulated in writing."



is
~~violated~~
obligated
33.15.050

This standard would appear to apply to Parole Boards which fixed advanced parole dates early in the term of sentence; this is not the practice in Alaska. Delays in releasing Alaska prisoners granted parole are infrequent and usually consistent with the standard's observation that "temporary delays may be required because of circumstances surrounding a specific release plan or situation."

The standard providing that "inmates are released earlier than initially anticipated, according to law and in conformity with the authority's previously established and written criteria" would not appear to be fully applicable to Alaska. The Board may authorize a release earlier than scheduled for various reasons, but not as a result of "the behavior of the inmate in a work-release program, particularly meritorious efforts while in the institution, or a mutually agreed upon program contract." However, one of the Board's manuals does provide that applicants at initial hearings may present "the goals they hope to achieve while incarcerated, and the approximate length of time it will take to achieve them." This would appear to carry out the substance of the Commission's recommendation.

The Board does have "available in writing information about an offender's prior history, his current situation, events in his case since any previous hearing, information about the inmate's future plans, and relevant conditions in the community." Also, the materials in the Board's case files "are appropriately classified, organized, and identified according to the authority's established procedures." However, it does not appear that these materials "are clearly identified as to source, verification and confidentiality," although the Board's instructions as to their preparation include these considerations.

The Board is in substantial compliance with the recommendation that "in those cases which in the opinion of parole authority members require an examination and opinion by psychiatrists or psychologists, certified members of the appropriate professions are available for such examination and review." For example, under Alaskan law, an offender convicted of lewd and lascivious acts towards a child cannot be paroled "until the paroling authority receives a report from a reputable psychiatrist stating the mental condition of the person and stating that the person was under observation while confined in prison." It is the Board's policy that it will not review the case of an applicant who has not been seen by a psychiatrist, and at the time of the hearing the Board must have available to it a recent psychiatric report and a parole progress report in which appropriate attention has been given to this consideration.

The final recommendation in this section states that "the parole authority and the agency of which it may be a part have a written policy regarding the confidential nature of individual case information, and have promulgated specific rules as to the persons who may have access to such information, and the staff who are responsible for the release of that information." While the Board apparently does not have a written policy of this kind, it is reflected in section 302 of the proposed institutional manual of the Division of Corrections. Inasmuch as the Division has custody of the primary case files, the proposed regulation and its detailed procedures would appear to conform to the Commission's recommendation.

The practice of the Board are reasonably consistent with most of the Accreditation Commission's recommendations in the section on Hearings.

However, the Board's practice does not conform to the Commission's recommendation that "the person conducting the hearing records and preserves a summary of the major issues and findings in the hearing." In this connection the Commission comments:

"It is essential that a record of the events of the hearing be kept for the purpose of subsequent review. It is particularly important for future hearings to be able to review the record of a hearing, and have an awareness of the issues which had been raised previously. The use of dictating equipment is quite appropriate for this purpose."

The board does not record the hearing or prepare a summary. However, during the hearing, notes are taken.

The Commission also recommends that "There is a process, available in written form, whereby parole authority decisions can be reviewed under the rules fixed by the authority, and inmates are informed of the steps necessary to avail themselves of that process." The explanation accompanying the recommendation states:

"The development of a decision review process is an important development in parole. In general, most parole decisions should be made by the hearing examiners or panels of parole authority members who interview the offender. However, a system of appeal, preferably to authority members not involved in the first hearing, should be established, and rules for the use of this appellate process should be fixed. If there are only a few authority members, and all of them participate in initial decisions, some process of review or rehearing in a case should nonetheless be in effect. Such a system tends to make parole consideration more careful, and the probabilities of developing reasonable criteria through an appeal process are enhanced."

The board does not have a written or structured appeals process, *as outlined above,*
but does allow offenders to apply at any time for a review of
The board's practice is generally consistent with the ~~board's~~ *which may*
Commission's recommendations on Conditions of Parole.

hearing based upon specific guidelines outlined in the Board's policy.

has request for "special hearing"

However, the Board's practice is in conflict with one standard in this section which recommends that "general conditions for release which apply to all parolees and mandatory releases under supervision are limited to requirements that a parolee observe the law, maintain appropriate contact with the parole system, and notify the parole agency of changes in residence." ^(employment)

The Board's general conditions for parolees and mandatory releasees ^{number 10} are rather ~~are rather~~ numerous.)

and all but one do conform to the
However, in view of the trend toward increasing litigation in the corrections field, the board's practice ^{in specifically worded conditions} can be supported. Offenders should be fully advised of the rules and regulations that will be expected of them, so that they cannot charge that the correctional authority failed to inform them.

Another standard in this section recommends that "the offender is given an opportunity to present his or her views to the parole authority about specific parole conditions which may be imposed on him or her." While this process is not formally reflected in written policy or procedure, it is informally carried out during the course of the hearing.

The board's policies and procedures are for the most part in compliance with the standards in the section on Arrest and Revocation. These standards discuss procedures for issuance of arrest warrants, use of pretrial release for arrested parolees, the timing and nature of preliminary hearings, and revocation procedures.

However, state law does not permit compliance with the recommendation that "in reimprisonment of the parolee, the parole authority's written policies provide for credit to the parolee for time served on parole in the community," with the Commission noting in this respect:

"Careful review of individual cases is required in reaching the decision on provision of credit to the parolee for time served in the community when the parolee is reimprisoned for a parole violation. Written policy should state specific criteria for allowing or disallowing credit for time served in the community."

In Alaska, when parole is revoked, the parolee loses all credit for the time spent on parole, and he or she must serve the remainder of his term, less good time credits *earned in the institution.*

The Parole Board does not have the statutory authority to implement either of the two recommendations in the section on Discharge. The first of these reads, "The parole authority uses its power to provide both release from active parole supervision, and to grant complete discharge to offenders, "with the comment:

"The powers to provide for no active supervision and the discharge of offenders are essential to the parole authority. These powers should be employed frequently. It is both uneconomical, and an unnecessary intrusion in the lives of offenders, to continue active supervision when it is no longer required. It is important that parole authorities look for opportunities to use means other than active parole supervision in individual cases."

The other reads, "Parolees are not continued under active supervision after two years unless, consistent with the parole authority's written policy, good reasons exist to show that such continued supervision is required," with the comment:

"There is evidence that the number of violations of parole decline after the first two years under supervision. There is also a tendency for parole systems to continue to exercise active supervision over cases when there is no longer a necessity to do so. A policy should exist stating that continued active supervision of an individual after two years under supervision requires a specific affirmative justification."

Alaska statutes do authorize the Board to adopt rules and regulations for "discharge from supervision" but do not provide for complete discharge from parole statutes. Under the Board's written policy a parolee may petition the board for a conditional discharge from parole supervision. The parolee must discuss this request with the supervising parole officer, and receive a favorable recommendation from that officer. The Board hears these requests at its regularly scheduled quarterly meetings, and to be considered, the parolee must usually have served at least one year on parole with satisfactory performance. If the parolee is granted early discharge from supervision, he or she is no longer supervised but remains under the jurisdiction of the board until his or her sentence expiration date, less good time. If the unsupervised parolee violates the conditions of parole, his or parole may be revoked; alternatively if it is later determined that he or she requires parole supervision, the parolee may be reinstated to active supervision for the remainder of his or her sentence. Thus, many cases not actively supervised remain on the paper caseload of the Board, some for many years; this may in part account for the relatively high percentage of murder convictees observed among parolees (see survey data).

The Parole Board is not sufficiently staffed to carry out as fully as might be desirable the remaining four recommendations of the Accreditation Commission, in the section on Public/Legislative Relations:

- The parole authority provides evidence of a public information program, which includes the development and distribution of information about the authority, its philosophy and operations.
- The parole authority publishes a report, at least biennially, which conveys the major work of the authority, and describes trends in parole release, revocation and discharge, along with similar information.

--The parole authority has a written policy which assures that accurate and timely information on cases is disseminated to the public (including written policy as to who is to provide such information and how it is to be provided).

--The parole authority maintains regular liaison with appropriate legislative committees, during at least each regular session of the legislature, for the purpose of offering advice and opinions on appropriate legislative matters.

The Board does collect basic information and data concerning its operations, but these are not analyzed and presented in the structured and systematic way apparently contemplated by the ^{SYK C?} ~~sex~~ standards. However, when requested to do so with reference to particular issues, the Executive Director of the Board does work closely with appropriate legislative committees.

Summary of Recommendations

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 parole authority. With some organizational changes and minor increases in staff it can do even better. However, the relatively small size of the Alaskan corrections system--in terms of the number of prisoners and parolees--will continue to dictate some compromises with the recommendations of the Accreditation Commission. 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.

1. For professional decision-making and operations the Parole Board should be reorganized. While the current members of the Board are doing as well as can be expected under the circumstances that exist, reportedly the members are hard-pressed to find time for their parole duties and Parole

Board business requires 40 to 60 days annually of a member's time and there is an excessive turnover among members. Also, while under the current structure, the overburdened Executive Director is capably directing the work of the Board, with its limited resources, the arrangement under which he in effect must perform the duties that normally would be assigned to the Board Chairman is somewhat awkward. Alaska should have a professionally qualified and structured board.

It is therefore recommended that legislation be enacted providing that:

- a. the Alaska Board of Parole be composed of three full-time members.
- b. appointments be made by the Governor from a panel of candidates submitted by the Commissioner of Health and Social Services, preferably with the aid of an inter-governmental committee.
- c. candidates for appointment to the Board should have a background of education and experience in the social or behavioral sciences, criminal justice, the law or clinical practice.
- d. the Board should represent the major ethnic and minority groups found in Alaska.
- e. the salary of a Board member should be equivalent to that of a Superior Court Judge.
- f. the Board members should be located in Juneau.
- g. the Governor should designate one of the members as Chairman, who would serve as the operational head of the Board.

↳ set in statute

The caseload of the Parole Board is not sufficient to require the then full-time members of the Board to spend all of their time in parole decision-making. However, under the direction of the Chairman there are numerous other essential activities that could more than occupy their available time: (1) formulation of parole board policy, (2) budget preparation, (3) development of manuals (administrative, rules and regulations), (4) coordination with other criminal justice agencies, (5) public information and liaison, (6) their own training and the training of parole board and parole field services personnel, (7) review of appeals, and (8) information-gathering visitations to the facilities, both institutional and community-based, of the Division of Corrections.

2. The staff of the Board should be reorganized and augmented. With the Chairman directing the work of the Board, the position of Executive Director should be reconstituted as that of Staff Director, reporting directly to the Chairman. Another administrative assistant should be appointed, making a total of two, and the clerical staff increased to a total of 3. These personnel would assist the members of the Board in carrying out their respective responsibilities, as assigned by the Chairman. The additional staff would make it possible for the Board to undertake tasks that are not now within its capabilities, in the areas of research, report preparation, manual preparation and updating, and the increasingly detailed procedures that are being imposed upon modern parolling authorities. It is essential that the staff be enlarged, even if Board members are full-time appointees.

The Board should also have an Assistant Attorney General assigned to assist in the formulation of its policy and procedure, to review legal issues raised in individual cases, and to provide advice to Board members to

22

Board business requires 40 to 60 days annually of a member's time and there is an excessive turnover among members. Also, while under the current structure, the overburdened Executive Director is capably directing the work of the Board, with its limited resources, the arrangement under which he in effect must perform the duties that normally would be assigned to the Board Chairman is somewhat awkward. Alaska should have a professionally qualified and structured board.

It is therefore recommended that legislation be enacted providing that:

- a. the Alaska Board of Parole be composed of three full-time members.
- b. appointments be made by the Governor from a panel of candidates submitted by the Commissioner of Health and Social Services, preferably with the aid of an inter-governmental committee.
- c. candidates for appointment to the Board should have a background of education and experience in the social or behavioral sciences, criminal justice, the law or clinical practice.
- d. the Board should represent the major ethnic and minority groups found in Alaska.
- e. the salary of a Board member should be equivalent to that of a Superior Court Judge.
- f. the Board members should be located in Juneau.
- g. the Governor should designate one of the members as Chairman, who would serve as the operational head of the Board.

(S) set in Statute

assure that its work is carried out in accordance with the Constitution, as reflected in the mandates of the U. S. Supreme Court, and with the laws of the State of Alaska. The Attorney General's office presently provides such services, but it would be desirable for one AAG to be assigned to work exclusively with the Parole Board and the Division of Corrections. Parole boards elsewhere are becoming more heavily involved in litigation, as parole policies, rules and regulations are challenged in the courts, and such a designation would help to ensure that the assigned AAG would have sufficient time to work both to minimize such litigation and to facilitate the handling of litigation when actions are filed against the Board.

3. With the appointment of a full-time three-member Board, hearing procedures should be changed to provide for parole grant and revocation hearings to be conducted by a two-member panel of Board members, composition of the panels alternating among the three members as directed by the Chairman; at present hearings are attended by three to five members of the Board. Also, one of the members should be designated to conduct the hearings; at present, the Executive Director of the Board performs this function. Preliminary hearings should be conducted by a single Board member.

All hearings--parole, parole rescission, parole revocation--should be recorded. This can be done electronically. The recordings need not be transcribed, but should be filed for availability in connection with appeals and litigation. At the conclusion of the hearing in individual cases, a Board member should dictate a short summary of the proceedings according to a format prescribed by the Board. These summaries should be transcribed by Board staff, and made a part of Parole Board records.

4. A formal appeals process should be established under which a prisoner or a parolee may submit to the Board a written appeal of a decision to grant (usually involving special conditions or the date of parole), rescind, deny or revoke parole, within a reasonable period of time after the decision

Done - in draft reg.

has been made. Authorized grounds for appeal should include:

- the decision was not supported by the reasons or facts stated by the Board.
- mitigating circumstances appear to justify a different decision.
- the decision was based on faulty information.
- the Board did not follow its prescribed procedures in making its decision and prescribed procedure would have lead to a different decision.
- there was significant information in existence but not known at the time of the hearing.
- there are compelling reasons why a more lenient decision should be made on grounds of compassion.

With a three-member Board, it is not possible to establish a procedure for considering an appeal by members who were not involved in the decision being appealed from. However, as a compromise the appeal should initially go to the board member who was not a part of the two-member panel who made the decision. This member should be authorized to deny the appeal on his or her own signature. However, if he or she feels there are grounds for a different decision, the appeal may be sent to the other two Board members together with the recommended decision and reasons for it, and if one of these members concurs, the original decision will be changed as recommended. If neither concurs, the original decision would stand and the appeal denied.

5. If the Alaska Board works toward adopting a parole guidelines or matrix system similar to that in use in the Federal system, Oregon and Michigan, it should be considered a long-range effort. The guidelines in use elsewhere cannot be applied to the Alaska prisoner population without considerable

modification and research. While the guidelines in use in various jurisdictions have some common elements, the prisoner population differs in some respects from one jurisdiction to another, and this would particularly appear to be the case in Alaska. For example, guideline models usually includes a factor taking into consideration whether the offender was unemployed at the time of his crime or for a period of time prior to the crime. In Alaska it would seem that the unemployment of a native offender who resides in a remote area in a subsistence economy would not have the same significance as unemployment would for a Caucasian in an urban area. *

To develop a guidelines model in Alaska will require extended research into the decisions made by the Board in the past, and a trial run and an in-depth evaluation for a period of time on a sample of the Alaskan prisoner population, prior to adoption for the entire sentenced prisoner population. Also, if experience elsewhere is repeated in Alaska, a guidelines system would require more detailed procedures and more personnel, and may not necessarily bring about more satisfaction with the parole decision-making process on the part of the prisoners, the criminal justice community, or the legislature. Because of the more structured decision-making imposed by guidelines, a higher volume of appeals and litigation is an inevitable consequence.

Finally, because of the statistical basis of guidelines which are applied to categories of prisoners with given matrix scores, their predictive capability is far from perfect. That is, some prisoners with poor scores may in fact be good risks, and on the other hand, some prisoners with scores indicating they are good risks will fail. Therefore, the guidelines should be used as an aid to decision-making and should not entirely replace the discretion of Board members.

Done

6.

The Board should prepare and keep up-to-date a manual of policy, rules and procedures, and an administrative manual. At present the Board has two manuals, one of policy and procedure and the other covering parole supervision and revocation standards, and early termination of supervision. Both are out-of-date and have been supplemented by numerous memoranda. The Board is not sufficiently staffed to undertake the needed task of manual preparation. If its staff is augmented as recommended, this tasks should be given early priority.

planned

In this connection legislation should be enacted to make the Board subject to the provisions of the Alaska Administrative Procedures Act, so that its proposed rules, regulations and procedures can be published and comment elicited from interested parties, prior to final consideration and adoption of rules, regulations and procedures by the Board.

yes

7. Legislation should also be considered, as recommended by the Accreditation Commission, to allow the Board to give credit to parolees whose paroles have been revoked credit on their sentence for time served on parole between the date of release from an institution and the date of arrest for a violation of parole conditions.

yes

8. The Board should be authorized by legislation to discharge from parole status at any time after two years in the cases of persons with sentences of more than ten years, parolees who in the judgement of at least two members of the Board have so conducted themselves that they are unlikely to become again involved in violations of the law. Affirmative decisions should be made administratively, without the necessity for a hearing. However, when in the judgement of at least two members of the Board, discharge

Legislators in jail, focus on Native rehabilitation

By SUSAN FISHER
News-Miner Bureau

JUNEAU—Bush legislators will be going back to the Juneau Correctional Center this Saturday, in a followup meeting with Native inmates.

But interest by the Bush delegation is going beyond what might be predicted complaints of rotten food and inadequate facilities.

At the heart of the legislators' interest is what Alaska's judicial and correctional system is doing to—and with—Native offenders.

It was underscored during a recent public hearing before the House Judiciary Committee on a sunset review of the state parole board.

It was re-inforced by a hearing last week on the public defender's office, and was mentioned again this morning in Chief Justice Jay Rabinowitz's annual judicial address.

The issue is a complicated web of social ills, cultural differences, lack of job and educational opportunity, and alcohol abuse.

What Bush legislators learned in meeting with Native inmates in January is that there is no coordination of the educational program offered.

There also is no alcohol treatment program in jail.

Prisoners are not being prepared for jobs or life after release. They wonder what is being done with their confiscated money while they're in jail, and why they can't get medical and dental treatment.

Good time is used as a lever, and earned good time, which can be applied against a sentence, can be taken away arbitrarily.

What legislators are nearing is that aspects of the system may be discriminatory against minorities; Natives have a tougher time earning parole because they do not have job skills recognized by white society, that Natives are not familiar with their rights of attorney and court procedure.

House Minority Leader Rep. Nels Anderson, D-Dillingham, said his interest now is "to see whether or not the state is remiss and neglecting some of the things by law we are required to do" to help rehabilitate offenders.

Anderson, Sen. Frank Ferguson, D-Kotzebue, and other Native legislators are tackling the problem of alcohol abuse in the state through legislation introduced this session.

Witnesses before the judiciary committee have testified that alcohol and crime are closely linked in Alaska.

In testimony before the House Judiciary Committee Wednesday, parole supervisor Robert Collins of Juneau was asked to name the biggest hurdle a parolee faces upon release.

"Without any shadow of a doubt, employment. It's difficult for a person with a criminal record, fresh out of prison, to be hired by anyone to do anything," Collins said.

The problem is compounded in smaller communities, where fewer jobs exist, he added.

"Many who come out have never had successful employment in their life," Collins said, pointing to under-employment, lack of schooling, military or other experiences.

The parole officer maintains an intimate, regular contact with the parolee during the initial stage of release.

"By far the greatest emphasis on the part of the parole officer is to help that person get a job" or into a vocational education or learning program, Collins said.

(See JAIL, page 5)

JAIL . . .

(Continued from page 1)

Rep. Thelma Buchholdt, D-Anchorage, asked Collins what type of training parole officers receive in cultural sensitivity.

Collins said the training academy for correctional and parole officers includes perhaps three to five hours of cultural training. But Collins estimated that 70 per cent of the parole officers have actually taken the training.

Last week, Public Defender Brian Shortell told the committee that the public defender staff has a turnover of about two years or less, depending on the part of the state.

He said caseload assignment per public defender exceeds the national recommended average.

Parole officers also said their caseload exceeds the national average.

This morning, Supreme Court Chief Justice Jay Rabinowitz, in his annual

judicial address, said he was recently informed that the latest Judicial Council studies show Native Americans are not discriminated against in sentencing in Alaska.

There is, however, a preliminary indication that blacks do receive higher sentences than whites in drug cases, he said.

But Rabinowitz pointed out that sentencing is part of the broader question of "unjustified disparity."

He said judges, attorneys and defendants need a system to allow them to know how sentences have been imposed in similar cases.

Without knowing how sentences have been imposed in the past, and on what consideration, "How else can our sentencing courts know whether a particular sentence promotes the goal of reasonable uniformity," Rabinowitz asked.

News Miner
Feb 7, 1980

TELECONFERENCE HEARINGS



TELECONFERENCE CONTACT SHEET

TAKEN BY Sionyx

TOPIC: SUNSET REVIEW
PAROLE BOARD

COMMITTEE: HOUSE JUDICIARY

DATE: ~~Feb 5~~ FEB. 6 DAY: ~~THURSDAY~~ WED.

TIME: 3 PM — SCHEDULED DURATION:
Break for dinner/reconvene by 7:00.

SITES PARTICIPATING: ALL*

CONTACT SANDRA STRINGER

PHONE 3718

DATE SCHEDULED 1/16

LOCATION _____

MODERATOR _____

CONFERENCE MODE: Audio Video _____

- PUBLICITY:
- Invitational
 - Committee making contacts
 - PSAs _____ date _____ quantity _____
 - News Release _____ date _____ quantity _____
 - Summary to be provided
 - Text to be provided
 - Quotes to be provided
 - Direct Mail _____ date _____ quantity _____
 - Phone _____ date _____ quantity _____
 - Post at Info. Office
 - Post other local locations

PERSONS PARTICIPATING	SITE
<u>REP. C. PARR, CHR.</u> <u>AND OTHER COMMITTEE MEMBERS</u>	<u>JUNEAU</u>

2 Parole

SPECIAL NOTES:

* Decision on exact # of sites forthcoming.

AGENDA / PSA BACK-UP FORTHCOMING.

JUNEAU LOCATION:
HOUSE JUDICIARY / RM. 124

POST-TELECONFERENCE NOTE:	
Participants	<u>0</u>
Observers	<u>0</u>
Total	<u>0</u>

May 1971
We've considered these
two & I've made some
corrections.

Why

DRAFT #1 10/9
Law
D.H.
#126



Book Proofed
10/13
Due 10/15

For an Act entitled: "An Act relating to Parole Administration ^{and} ~~remission of sentences~~"
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 33.15.010 is amended to read:

Sec. 33.15.010. STATE BOARD OF PAROLE. There is in the department a board of parole consisting of five members to be appointed by the governor, subject to confirmation by a majority of the members of the legislative in joint session. One member shall be appointed chairman of the board. [ONE OF THE MEMBERS, WHO SHALL BE CHAIRMAN OF THE BOARD, SHALL BE A PERSON WITH TRAINING OR EXPERIENCE IN THE FIELD OF PROBATION AND PAROLE, AND HE MAY BE AN OFFICIAL OR EMPLOYEE OF THE DEPARTMENT BUT MAY NOT BE AN OFFICIAL OR EMPLOYEE OF THE DIVISION OF CORRECTIONS.] The term of each of the five members [EACH OF THE OTHER FOUR MEMBERS] of the board is ~~four~~⁵ years and until his successor is appointed and qualifies. Successors are appointed in the same manner as provided for the board members first appointed. A vacancy shall be filled for the unexpired term.

* Sec. 2. AS 33.15.020 is amended to read:

Sec. 33.15.020. COMPENSATION AND EXPENSES. The members of the board [OTHER THAN THE CHAIRMAN,] shall not receive salaries but are entitled to compensation per day at an amount to be set by the governor for every day they are in session, and a per diem and travel allowance as provided by law. [THE CHAIRMAN IS NOT ENTITLED TO A SALARY OR COMPENSATION FOR DAYS HE ATTENDS A SESSION OF THE BOARD, BUT IS ENTITLED TO A PER DIEM ALLOWANCE AND TRAVEL COST AS PROVIDED BY LAW.]

* Sec. 3. AS 33.15.060 is amended to read:

Sec. 33.15.060. CONSIDERATIONS IN DETERMINING SUITABILITY
[ELIGIBILITY] FOR PAROLE. In considering a prisoner, the board shall
consider the presentence report made to the sentencing court, ^{The recommendations by the Sentencing} and the ^{local} prosecuting attorney, the report from the proper officers of the institution where the prisoner is incarcerated, the record of the prisoner and all pertinent information that will enable the board to make a determination.

* Sec. 4. AS 33.15.070 is amended to read:

Sec. 33.15.070. ORDER FOR PAROLE. An order for parole shall contain the conditions imposed, and the parole expiration date [INCLUDING THE FIXING OF THE PAROLEE'S RESIDENCE, WHICH MAY BE CHANGED AT THE DISCRETION OF THE BOARD]. The order does not take effect until signed by the parolee and the plan of parole is approved.

* Sec. 5. AS 33.15.080 is amended to read:

Sec. 33.15.080. GRANTING OF PAROLE. If it appears to the board from a review that a prisoner eligible for parole will, in reasonable probability, live and remain at liberty without violating the laws, or without violating the conditions imposed by the board, and if the board determines that his release ^{ON PAROLE} is not incompatible with the welfare of society, the board may authorize the release of the prisoner on parole. 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, but in no case will this mandatory period of confinement exceed the 15 years required for a life sentence [OR IN THE CASE OF A LIFE SENTENCE, HAS NOT SERVED AT LEAST 15 YEARS].

* Sec. 6. AS 33.15.100 is amended to read:

Sec. 33.15.100. ADOPTION OF RULES AND HOLDING OF MEETINGS. The board shall adopt rules which it considers necessary or proper with

* Sec. 3. AS 33.15.060 is amended to read:

Sec. 33.15.060. CONSIDERATIONS IN DETERMINING SUITABILITY
[ELIGIBILITY] FOR PAROLE. In considering a prisoner, the board shall
consider the presentence report made to the sentencing court, ^{The recommendations by the Sentencing} and the ^{local}
prosecuting attorney, the report from the proper officers of the
institution where the prisoner is incarcerated, the record of the
prisoner and all pertinent information that will enable the board to
make a determination.

* Sec. 4. AS 33.15.070 is amended to read:

Sec. 33.15.070. ORDER FOR PAROLE. An order for parole shall
contain the conditions imposed, and the parole expiration date [IN-
CLUDING THE FIXING OF THE PAROLEE'S RESIDENCE, WHICH MAY BE CHANGED AT
THE DISCRETION OF THE BOARD]. The order does not take effect until
signed by the parolee and the plan of parole is approved.

* Sec. 5. AS 33.15.080 is amended to read:

Sec. 33.15.080. GRANTING OF PAROLE. If it appears to the board
from a review that a prisoner eligible for parole will, in reasonable
probability, live and remain at liberty without violating the laws, or
without violating the conditions imposed by the board, and if the
board determines that his release ^{ON PAROLE} is not incompatible with the welfare
of society, the board may authorize the release of the prisoner on
parole. 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, but in no case will this mandatory period of confine-
ment exceed the 15 years required for a life sentence [OR IN THE CASE
OF A LIFE SENTENCE, HAS NOT SERVED AT LEAST 15 YEARS].

* Sec. 6. AS 33.15.100 is amended to read:

Sec. 33.15.100. ADOPTION OF RULES AND HOLDING OF MEETINGS. The
board shall adopt rules which it considers necessary or proper with

respect to the eligibility of prisoners for parole, the conduct of
of parole hearings, and conditions of release to be imposed on parolees
The board shall meet as often as it finds necessary, but it shall meet
at least four times [twice] each year. Three members constitute a
quorum for the conduct of business.

* Sec. 7. AS 33.15.130(b) is amended to read:

(b) The board shall keep a record of its acts and shall notify
the commissioner of its decisions relating to prisoners considered for
parole. At the close of each fiscal year the board shall submit to
the governor, the commissioner, and the attorney general, a report
containing statistical and other data of its work, including research
studies which it may make of probation, sentencing, parole or related
functions, [AND A COMPUTATION AND ANALYSIS OF DISPOSITIONS AND CRIMINAL
MATTERS BY THE COURTS IN THE STATE].

* Sec. ~~3~~⁸. AS 33.15.180 is amended to read:

Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. A state prisoner
other than a juvenile delinquent, wherever confined and serving a
definite term of over 180 day or a term the minimum of which is at
least 181 days [,WHOSE RECORD SHOWS THAT HE HAS OBSERVED THE RULES OF
THE INSTITUTION IN WHICH HE IS CONFINED,] may, in the discretion of
the board, be released on parole, subject to the limitation prescribed
in secs. 80 and 230(a)(1) of this chapter.

* Sec. 9. AS 33.15.190 is amended to read:

Sec. 33.15.190. RELEASE AND TERMS AND CONDITIONS OF RELEASE.
The board may permit a parolee to return to his home if it is in the
state, or to go elsewhere in the state, upon such terms and conditions
including personal reports from the paroled person as the board pre-
scribes. The board may permit the parolee to go into another state
upon terms and conditions as the board prescribes, and subject to the

respect to the eligibility of prisoners for parole, the conduct of
of parole hearings, and conditions of release to be imposed on parolees
The board shall meet as often as it finds necessary, but it shall meet
at least four times [twice] each year. Three members constitute a
quorum for the conduct of business.

* Sec. 7. AS 33.15.130(b) is amended to read:

(b) The board shall keep a record of its acts and shall notify
the commissioner of its decisions relating to prisoners considered for
parole. At the close of each fiscal year the board shall submit to
the governor, the commissioner, and the attorney general, a report
containing statistical and other data of its work, including research
studies which it may make of probation, sentencing, parole or related
functions, [AND A COMPUTATION AND ANALYSIS OF DISPOSITIONS AND CRIMINAL
MATTERS BY THE COURTS IN THE STATE].

* Sec. ~~3~~⁸. AS 33.15.180 is amended to read:

Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. A state prisoner
other than a juvenile delinquent, wherever confined and serving a
definite term of over 180 day or a term the minimum of which is at
least 181 days [,WHOSE RECORD SHOWS THAT HE HAS OBSERVED THE RULES OF
THE INSTITUTION IN WHICH HE IS CONFINED,] may, in the discretion of
the board, be released on parole, subject to the limitation prescribed
in secs. 80 and 230(a)(1) of this chapter.

* Sec. 9. AS 33.15.190 is amended to read:

Sec. 33.15.190. RELEASE AND TERMS AND CONDITIONS OF RELEASE.
The board may permit a parolee to return to his home if it is in the
state, or to go elsewhere in the state, upon such terms and conditions
including personal reports from the paroled person as the board pre-
scribes. The board may permit the parolee to go into another state
upon terms and conditions as the board prescribes, and subject to the

1 provisions of any compact executed under the authority of chapter 10 of
2 this title and amendments to it. A prisoner released on parole remains
3 in the legal custody of the board until the expiration of the maximum
4 term or terms to which he was sentenced, less good time allowances
5 provided by law. However, the board may discharge a parolee from
6 supervision and from the remainder of his sentence at its discretion
7 after he has completed at ^{least} one year successfully on parole supervision.
8 While in the custody of the board, a person is subject to the dis-
9 abilities imposed by AS 11.05.070; but this section shall not deny
0 parolees access to civil tribunals.

1 x SEC. 10 - see next page
2

HB

984

(REFERRAL
NOTE)

REFERRAL NOTE:

SEE LAST OF HOUSE JUDICIAL FILE (1979-80)
ALASKA BAR ASSOCIATION SUNSET REVIEW

HB

1000

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER 700

DEPARTMENT JUDICIARY

ATTENTION _____

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

FROM:
MAIL STATION NUMBER 3150

DEPARTMENT C+KA

BY Mekie Campbell DATE 4/25/88

02-002 (REV.10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 1000

Title An Act allowing municipalities to prescribe offenses related to marijuana

Requested by _____ Date 4-15-80

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected Local Government Assistance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. / .SIS (See Fiscal Note Preparation Instructions, Section III)

None

IV. DATE 4-15-80 PREPARED BY Steve Van Sant 

AGENCY Community & Regional Affairs

PHONE 465-4787

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

April 10, 1980

To: Rep. Randy Phillips
House Judiciary

From: Rep. Eliason

For your information



City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

March 13, 1980

Representative Richard I. Eliason
State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Dick:

Enclosed is a copy of City and Borough of Sitka Ordinance No. 80-418 which was ratified by the electorate at a Special Election held on February 13, 1980. Also enclosed is a copy of City and Borough of Sitka Resolution No. 80-154 requesting that you initiate and support legislation which will enable Sitka to carry out the provisions of Ordinance No. 80-418. Please note that the legislation requested is for local option, and it is not the intent of Sitka to impose our views in this matter on any other political subdivision.

Very truly yours,


Fermin Gutierrez
Administrator

Enclosures

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 80-154

A RESOLUTION OF THE CITY AND BOROUGH OF SITKA REQUESTING OUR REPRESENTATIVES IN THE STATE LEGISLATURE TO PASS LEGISLATION GIVING HOME RULE CITIES THE OPTION OF MAKING LAWS TO CONTROL THE SALE OF MARIJUANA, HASHISH OR OTHER CANNABIS MATERIALS OUTSIDE THE RESIDENCE OF THE POSSESSOR.

WHEREAS, on February 13, 1980 at a Special Election, the electorate of Sitka by a vote of 706 - 562, voted approval of Ordinance No. 80-418, "AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA PROHIBITING POSSESSION OF MARIJUANA, HASHISH, OR OTHER CANNABIS MATERIALS OUTSIDE THE RESIDENCE OF THE POSSESSOR", and

WHEREAS, this ordinance was prepared after a petition signed by several hundred citizens requested the Assembly to take some positive action to help control and alleviate drug-related problems of the community, and

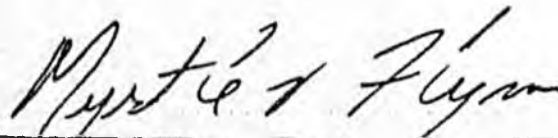
WHEREAS, Sitka has been contacted by many other Alaskan communities who also express concern over drug problems in their communities and are seeking solutions,

NOW, THEREFORE, BE IT RESOLVED by the Assembly of the City and Borough of Sitka that Sitka's representatives to the Legislature are hereby requested to pass legislation giving Home Rule cities the option of making their own laws to control the sale of marijuana, hashish, or other cannabis materials outside the residence of the possessor.

PASSED, APPROVED AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska on this 11th day of MARCH, 1980, with copies of this Resolution directed to be sent to Representative Dick Eliason, Senator Pete Meland, and Governor Jay Hammond.


John E. Dapcevich, Mayor

A T T E S T:


Myrtle V. Flynn, Clerk.

C I T Y A N D B O R O U G H O F S I T K A

ORDINANCE NO. 80-418

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA PROHIBITING POSSESSION OF MARIJUANA, HASHISH OR OTHER CANNABIS MATERIALS OUTSIDE THE RESIDENCE OF THE POSSESSOR.

BE IT ENACTED by the Assembly of the City and Borough of Sitka, as follows:

1. CLASSIFICATION. This ordinance is of a general and permanent nature and shall become a part of the SITKA GENERAL CODE.

2. SEVERABILITY. If any provision of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application thereof to any person or circumstance shall not be affected thereby.

3. PURPOSE. This ordinance is to prohibit possession of marijuana to the greatest extent allowable by the Alaska Constitution. Presently, Alaska State Law allows adults to possess up to one ounce in certain places. In addition, the Alaska Supreme Court has held that the Alaska Constitution allows adults to have marijuana in their homes.

The Assembly believes that possession by adults outside of the home should be governed by local option rather than by Statewide law.

If this ordinance is approved by the Sitka voters at an election, the Assembly will work toward amending State Law so that local governments will be allowed (through local elections) to determine if they wished to regulate marijuana within their boundaries.

Before this ordinance can go into effect, two things must happen:

1. The ordinance must be approved by the Sitka voters.
2. Alaska State Law must be amended to allow for local option on marijuana control.

4. ENACTMENT. There is hereby added to the SITKA GENERAL CODE a new Section 10.90 to read as follows:

Possession of Marijuana Prohibited

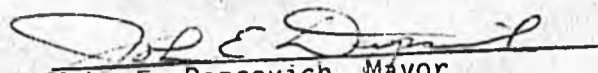
10.90.010 It is unlawful to possess or transport any amount of marijuana, hashish or other cannabis products within the City and Borough of Sitka except where such possession may be constitutionally protected.

10.90.020 Any person possessing or transporting marijuana, hashish or other cannabis products as prohibited in 10.90.010 shall be subject to a fine of not more than five hundred (\$500) dollars, a jail term of not more than 30 days, or both.

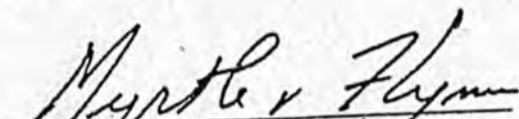
5. EFFECTIVE DATE. This ordinance shall become effective after passed by the voters of Sitka and Alaska State Law is amended to allow local option on marijuana control.

Ordinance No. 80-418

PASSED, APPROVED AND ADOPTED by the Assembly of the City and Borough of Sitka,
Alaska, on this 22nd day of January, 1980.


John E. Dapcevich, Mayor

ATTEST:


Myrtle V. Flynn, Clerk

HB

1017

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

May 7, 1980

The Honorable Charles Parr
Chairman
House Judiciary Committee
Room 124 - Capitol Building
Juneau, Alaska 99811

Dear Mr. Parr:

Re: House Bill No. 1017

House Bill No. 1017, an Act annulling 15 AAC 05. 400 (6), was introduced in the House on April 22, 1980 and was referred to the House Judiciary Committee.

For the consideration of the House Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Gary Jenkins, Director, Audit Division of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST HB 1017
 Bill/Resolution No. HB 1017
 Title An Act annulling 15 AAC 05.400(c) and Providing for an Effective
 Requested by House Judiciary Committee Date 4/28/80 Date

II. FISCAL DETAIL
 Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		185,347	185,347	185,347	185,347	185,347
200 TRAVEL		27,500	27,500	27,500	27,500	27,500
300 CONTRACTUAL		18,960	18,960	18,960	18,960	18,960
400 COMMODITIES		2,700	2,700	2,700	2,700	2,700
500 EQUIPMENT		7,200	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		241,707	234,507	234,507	234,507	234,507

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		241,707	234,507	234,507	234,507	234,507
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		6	6	6	6	6
PART TIME						
TEMPORARY						

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

See attached memorandum to R. D. Stevenson

IV. DATE 5/6/80 PREPARED BY Gary L. Jenkins
 AGENCY Department of Revenue
 PHONE 465-2321
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Special Assistant
Commissioner's Office

DATE: May 1, 1980

FILE NO:

TELEPHONE NO: 465-2321

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill No. 1017

The impact of eliminating a ceiling on bingo prizes will create additional tax compliance problems for the following reasons:

1. The established bingo houses will become more competitive in the offerings of prizes. This competition will drive the value of the prizes upward.
2. The chance to win will bring additional Revenues to the houses because the possibility of winning a big prize will attract more players.
3. This possibility of high revenues will entice more "non-profit organizations" to participate in bingo games. Increased revenues from games and more participating organizations will increase compliance work.

This compliance work will entail additional audit work to insure that each participating organization is operating as a qualified organization, that the money is being used for a charitable reason, and that each large prize winner is properly reporting this prize as required by law.

The increased activity in this area will put additional demands that cannot be absorbed by the current staff.

The increased audit work will require the following positions:

- 2 Revenue Auditor I
- 2 Revenue Auditor II
- 1 Clerk Typist III
- 1 Criminal Tax Investigator I

1	POSITION TITLE Clerk III				RANGE/STEP 8A	BARG. UNIT. G	LOCATION	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY	14,984
5	BENEFITS	2,228
6	FICA	996
7	HEALTH INS.	1,524
8	TOTAL PERSONAL SERVICES	19,732
9	TRAVEL	
10	CONTRACTUAL	3,160
11	COMMODITIES	450
12	EQUIPMENT	1,200
13	OTHER	
14	TOTAL COST	24,542

JUSTIFICATION:

	CODE	FUNDING SOURCE
15		FED RCPTS.
16		GF MATCH.
17		GEN. FUND
18		I-A RCPTS.
19		PGM RCPTS
20		OTHER

21	CONTINUATION		FOR B&M USE ONLY
22	ADDITION	X	

1A KEY NUMBER _____ COLUMN NO. _____

AGENCY Department of Revenue PROGRAM AREA Revenue Collection and Management

BRU Audit Division

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page 1 of 6

REVISED DATE _____

FY 81

1	POSITION TITLE Revenue Auditor I			RANGE/STEP 14 A	BARG. UNIT. G	LOCATION	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG	
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES: SALARY		22,089						
5	BENEFITS		3,285						
6	FICA		1,469						
7	HEALTH INS.		1,524						
8	TOTAL PERSONAL SERVICES		28,367						
9	TRAVEL		5,500						
10	CONTRACTUAL		3,160						
11	COMMODITIES		450						
12	EQUIPMENT		1,200						
13	OTHER								
14	TOTAL COST		38,677						
	CODE	FUNDING SOURCE							
15		FED RCPTS.							
16		GF MATCH.							
17		GEN. FUND		38,677					
18		I-A RCPTS.							
19		PGM RCPTS							
20		OTHER							
21	CONTINUATION								
22	ADDITION	X	FOR B&M USE ONLY						
4A KEY NUMBER		COLUMN NO.							

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

BRU Audit Division

FY 81

13 REQUEST FOR NEW
POSITION.

COMPONENT _____

Page 2 of 6

REVISED DATE _____

1	POSITION TITLE Revenue Auditor I			RANGE/STEP 14 A	BARG. UNIT. G	LOCATION	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG	

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY	22,089
5	BENEFITS	3,285
6	FICA	1,469
7	HEALTH INS.	1,524
8	TOTAL PERSONAL SERVICES	28,367
9	TRAVEL	5,500
10	CONTRACTUAL	3,160
11	COMMODITIES	450
12	EQUIPMENT	1,200
13	OTHER	
14	TOTAL COST	38,677

JUSTIFICATION:

	CODE	FUNDING SOURCE
15		FED RCPTS.
16		GF MATCH.
17		GEN. FUND
18		I-A RCPTS.
19		PGM RCPTS
20		OTHER

21 CONTINUATION

22 ADDITION FOR B&M USE ONLY

1A KEY NUMBER _____ COLUMN NO. _____

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

BRU Audit Division

FY 81

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page 3 of 6

REVISED DATE _____

1	POSITION TITLE Revenue Auditor II			RANGE/STEP 16A	BARG. UNIT. G	LOCATION	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM #2	PAGE/LINE	LEG.	

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY	26,538
5	BENEFITS	3,946
6	FICA	1,765
7	HEALTH INS.	1,524
8	TOTAL PERSONAL SERVICES	33,773
9	TRAVEL	5,500
10	CONTRACTUAL	3,160
11	COMMODITIES	450
12	EQUIPMENT	1,200
13	OTHER	
14	TOTAL COST	44,083

JUSTIFICATION:

	CODE	FUNDING SOURCE
15		FED RCPTS.
16		GF MATCH.
17		GEN. FUND
18		I-A RCPTS.
19		PGM RCPTS
20		OTHER

21	CONTINUATION	
22	ADDITION	

FOR B&M USE ONLY

AGENCY Department of Revenue PROGRAM AREA Revenue Collection and Management

BRU Audit Division

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page 4 of 6

REVISED DATE _____

FY 81

1	POSITION TITLE Revenue Auditor II				RANGE/STEP 15A	BARG. UNIT. G	LOCATION	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:				
	1	2	3							
4	PERSONAL SERVICES: SALARY		26,538							
5	BENEFITS		3,946							
6	FICA		1,765							
7	HEALTH INS.		1,524							
8	TOTAL PERSONAL SERVICES		33,773							
9	TRAVEL		5,500							
10	CONTRACTUAL		3,160							
11	COMMODITIES		450							
12	EQUIPMENT		1,200							
13	OTHER									
14	TOTAL COST		44,083							
	CODE	FUNDING SOURCE								
15		FED RCPTS.								
16		GF MATCH.								
17		GEN. FUND		44,083						
18		I-A RCPTS.								
19		PGM RCPTS								
20		OTHER								
21	CONTINUATION		FOR B&M USE ONLY							
22	ADDITION									
4A KEY NUMBER _____ COLUMN NO. _____										

AGENCY Department of Revenue PROGRAM AREA Revenue Collection and Management

BRU Audit Division

FY 81

13 REQUEST FOR NEW
POSITION.

COMPONENT _____

Page 5 of 6

REVISED
DATE _____

1	POSITION TITLE Criminal Tax Investigator I			RANGE/STEP 19A	BARG. UNIT. G	LOCATION	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY		32,934						
5	BENEFITS		4,897						
6	FICA		1,980						
7	HEALTH INS.		1,524						
8	TOTAL PERSONAL SERVICES			41,335					
9	TRAVEL			5,500					
10	CONTRACTUAL			3,160					
11	COMMODITIES			450					
12	EQUIPMENT			1,200					
13	OTHER								
14	TOTAL COST			51,645					
	CODE	FUNDING SOURCE							
15		FED RCPTS.							
16		GF MATCH.							
17		GEN. FUND		51,645					
18		I-A RCPTS.							
19		PGM RCPTS							
20		OTHER							
21	CONTINUATION								
22	ADDITION				FOR B&M USE ONLY				
1A KEY NUMBER _____ COLUMN NO. _____									

AGENCY Department of Revenue PROGRAM AREA Revenue Collection and Management

BRU Audit Division

FY 81

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page 6 of 6

REVISED DATE _____

HB

1027

Effect of amendment. — The 1974 amendment added the language beginning "or \$2.60 an hour" to the end of the first sentence and added the second and third sentences.

This section is based on the federal Fair Labor Standards Act of 1938 and the terms used in the Alaska Statute are defined in the same way as in the federal act. *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

A prisoner is not an "employee" of the state under the federal Fair Labor Standards Act of 1938, and therefore is not so by virtue of this section. *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

The legislative history indicates that Congress did not intend the Fair Labor Standards Act to cover prisoners, and there is no indication that the state statute was not meant to have parallel "noncoverage." *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

Inmates not entitled to minimum wage. — Neither the rehabilitation directive of the Alaska Constitution nor its due process clause requires the holding that inmates are entitled to a minimum wage. *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

Sec. 23.10.145. Definitions.

A prisoner is not an "employee" of the state under the federal act, and therefore is not so by virtue of AS 23.10.065. *McGinnis*

v. Stevens, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

Article 4. Equal Pay for Women.

Section
185. Definitions

Sec. 23.10.155. Wage discrimination against women. ✓

Purpose is not to render all wage differentials illegal. — The clear purpose of the Equal Pay for Women Act is to prohibit sex-based wage discrimination, not to render any wage differential as between the sexes illegal per se. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

"Occupation". — The definition of occupation in AS 23.10.185(4) does not state that only working in an industry, trade or business constitutes an occupation, but merely indicates that among the activities which constitute an occupation are those in an industry, trade or business. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

The Wage and Hour Act is directed toward a situation distinct from that of the Equal Pay for Women Act. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

The fact that the Human Rights Act prohibits wage discrimination using the same language as the Equal Rights for Women Act, yet excludes nonprofit educational institutions, could support an

inference that the legislature specifically immunized schools in one statute but not the other because it intended the provisions to have different scopes. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Discrimination not justified on basis of distinction between profit-making and nonprofit institutions. — There is no meaningful distinction between a nonprofit educational institution and a profit-making institution such that one may discriminate in the payment of wages on the basis of sex while the other may not. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Consideration of non-sex-based factors. — The legislature could not have intended that women be paid the same wages as men doing comparable jobs regardless of non-sex-based considerations such as merit or seniority. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

This section necessarily allows an employer to provide nondiscriminatory justification for salary discrepancies between women and men performing comparable work. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Although administrators have the right to make discretionary decisions regarding salaries and to consider factors other than sex in arriving at such decisions, administrative discretion does not in itself justify salary discrepancies as between the sexes. There must be some showing by those faced with evidence of unequal salaries that factors other than sex in fact explain the discrepancy. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

The University of Alaska is in fact a "business" within the definition of occupation in AS 23.10.185(4). *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Employees of University of Alaska not exempted. — Had the legislature meant to exempt the University of Alaska from an obligation to pay equal wages to men and women for comparable work it could have done so expressly. However, the supreme court not willing to read a specific exclusion into a provision as important as the Equal Pay for Women Act when the legislature had not seen fit to do so. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Other statutes which can be looked at for guidance as to a legislative intent that this section prohibits the University of Alaska from discrimination in the payment of wages on the basis of sex, are AS 14.40.050, which prohibits discrimination by the University on the basis of sex, color and nationality, and AS 18.80.255(1), which prohibits the state and its subdivisions from such discrimination. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

This section prohibits the University of Alaska from discrimination in the payment of wages on the basis of sex. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Recovery of back pay limited to 2 years. — A recovery of back pay for discrimination under the Equal Pay for Women Act is limited to that earned within

2 years prior to commencement of her suit. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

The applicable statute of limitations for a discrimination action under the Equal Pay for Women Act might possibly be tolled where a plaintiff had brought suit within 2 years of discovery of the discrimination, but not where suit was brought some 5 years after the discovery. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Burden of proof on employer after prima facie case made. — Under this section, once plaintiff in an action under the Equal Pay for Women Act made a prima facie showing that her salary was lower than that of men doing comparable work, the University of Alaska, her employer, then had the burden of going forward with evidence showing that the discrepancy was based on factors other than sex, and moreover, the University also had the burden of proving by clear and convincing evidence that the salary discrepancy was based on factors other than sex. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Where the University of Alaska had not provided a satisfactory explanation as to why a female professor's salary was consistently lower than those of her male colleagues, her prima facie showing of discrimination against her in the payment of wages stood un rebutted, allowing recovery against the University for discrimination in the payment of wages under this section. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Plaintiff allowed to furnish evidence of pattern of discrimination. — In cases involving alleged employment discrimination, a plaintiff must be allowed to furnish evidence not only that the employer discriminated against him or her, but also that there exists a pattern of similar discrimination by the employer. Such evidence of a discriminatory pattern is not to be considered as part of the plaintiff's prima facie case, but is to be viewed as evidence that the nondiscriminatory justification given by the defendant is in fact a pretext. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Sec. 23.10.185. Definitions. In §§ 155 — 185 of this chapter