

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1348 HESS HB 225 (#1) 1348

(d) The applicant shall be prepared to discuss any topic that could reasonably relate to his present offense, prior record, release plan, or possible problem areas if released on parole. These topics include, but are not limited to, present offense, prior criminal behavior, family situation, possible emotional problems, employment or training plans, institutional record, alcohol and drug use, relationships with other people, financial solvency, and release plans.

(e) The applicant shall also be prepared to discuss possible conditions of parole if he should be released and how these might relate to his adjustment in the community.

Authority: 33.15.100

140. APPLICANTS' PROCEDURAL OPPORTUNITIES. (a) Discretionary parole release hearings are nonadversary hearings and applicants are not entitled to legal representation, confrontation or cross examination of witnesses or material. The applicant has no right to present witnesses at discretionary parole release hearings, and the appearance of witnesses is discretionary by the Board.

(b) The applicant shall present any written material relevant to his case, situation, or proposed release plans. This written material should be supplied to the appropriate division of corrections staff in Alaska correctional facilities for presentation to the Board. This material should be sent to the board office or given to a Board representative interviewing the prisoner by those applicants in contract facilities.

(c) The applicant must be interviewed by at least one member of the Board and may make any verbal statement he wishes regarding his case, situation, or release plan.

(d) The applicant may waive his right to an interview by a Board member.

(e) The applicant may waive the Board's consideration of his case entirely by signing the appropriate form adopted by the Board, and with the concurrence of the Board.

(f) The applicant's access to any material considered by the Board originating from any source other than material prepared at the direction of the Board specifically, must be obtained from the originating source. This includes, but is not limited to, pre-sentence investigation reports, psychological reports, other mental health reports, police reports, sentencing transcript, judgments and commitments, disciplinary reports, classification reports, other investigative reports, and material from the prisoner's institutional file. The applicant has no general right of access to material considered by the Board.

(g) The applicant may move for reconsideration of a decision to continue his case or deny him further parole consideration in accordance with Sections 160-165 of these regulations.

(h) The applicant after having his case continued or having parole denied, may request a special hearing under the guidelines established by the Board in Sections 300-305 of these regulations.

(i) The applicant may be represented by an attorney at a discretionary parole release hearing. The responsibility for obtaining such representation lies entirely with the applicant, and neither the Board nor the division of corrections nor the staff of any contract facility have any responsibility for arranging or assuring the presence of legal representation.

(j) Witnesses for the applicant may appear before the Board pursuant to Section 085. A witness appearing on behalf of an applicant should be aware that his presence at the hearing makes him available for questioning regarding his relationship with the applicant and regarding any other area of concern as it might relate to the applicant and his possible release on parole.

(k) The applicant shall submit documentary verification of all facets of his release plan to the Board.

Authority: 33.15.100
33.15.140

145. DIVISION OF CORRECTIONS' RESPONSIBILITIES. (a) The division of corrections must supply prisoners with parole applications furnished by the Board.

(b) The division of corrections staff shall advise prisoners of the availability of the Board's regulations and of the criteria under Section 150 utilized by the Board in making discretionary parole case decisions.

(c) The division must solicit comments from the district attorney and sentencing judge and provide these comments to the Board on each case presented.

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

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

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

(g) The division must distribute paperwork to the applicant from the Board as directed.

(h) The division must 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

150. PAROLE BOARD RESPONSIBILITIES AND PROCEDURAL OPPORTUNITIES. (a) The Board may use any of the following information that it considers to be trustworthy in arriving at a case decision. The Board shall determine the creditability and the weight of the information:

- (1) Presentence report;
- (2) All attachments to the presentence report;
- (3) The transcript prepared at the sentencing hearing and any information testified to by an 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 applicant'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 other anti-social 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 own recognizance pending trial, sentencing or appeal;

(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 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 as viewed by the Board to adjust to any given release plan presented; and

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

(b) The Board must 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 may consider any of 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 current circumstances of the applicant's family, how the family views the applicant, and its interest and readiness to accept him back as part of the family, and its supportiveness to his release:

(3) The circumstances regarding the proposed 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 while incarcerated. Also previous training, job experiences including military work 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 the adjustment to group living, involvement in institutional programs, 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 used or abused any drugs or alcoholic beverages, the extent of the use or abuse of these, and 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 such treatment;

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

(10) Previous probation or parole experiences, behavior when out of custody on bail, bond or own recognizance 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 responsibility for his criminal activity, remorse expressed, and the applicant's truthfulness with the Board when presenting information in any form;

(12) Noticeable changes in the applicant, 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 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 standard or special conditions of parole;

(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;

(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 information from all available sources. The 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 Board must provide the following information to the parole applicant who is granted parole:

(1) A notice of board action advising the applicant of the earliest possible release date will be provided to the applicant within ten calendar days after the Board's decision;

(2) An informational copy of the order of parole listing the conditions of parole imposed, within the same time limits;

(3) A copy of the order of parole containing the conditions of parole and a parole expiration date upon his release from imprisonment.

(e) (1) If the applicant is not paroled, the Board must provide the applicant with a notice of board action containing the decision made by the Board. This notice will be provided to the applicant within ten calendar days after the date of the Board's decision.

(2) Within 21 calendar days after the date of the decision in the applicant's case, the Board will inform the applicant in summary, the specific reasons why parole was not granted. The staff of the Board must take notes at the parole release hearing and utilize the comments of the Board members to draft the correspondence to the applicant.

(f) The deliberations of the Board members in arriving at the decision outlined in Section 155 are confidential and only the members and Board staff are permitted to be in attendance. The vote of the individual Board member shall not be disclosed to any person and the "hearing decision vote sheet" is also confidential and shall not be disclosed to any person.

Authority: 12.55.075
33.15.080
33.15.100
33.15.230
44.62.310

155. DECISION BY THE BOARD. (a) If a quorum of the Board is present after the parole interview pursuant to Section 140, the Board will make a decision. If a quorum is not present at that time, a decision will be made when the substance of the interview together with other material pursuant to Section 150 is reviewed by a quorum of the Board.

(b) Where an applicant asserts and/or if the Board feels any information under consideration by it is significantly incorrect or significantly incomplete, the Board may defer action on the application to allow the Board or the division of corrections to obtain additional information, or to permit the applicant to gather information to support his claim.

(c) The Board may defer action when a criminal charge(s) is pending against the applicant until the final disposition of the charge is made.

(d) The Board is not required to make any findings of fact or conclusions of law regarding items in an applicant's file nor relate them to the Board's release criteria.

(e) A parole applicant may not relitigate issues determined against him in other forums, including disciplinary committees, adjustment committees, and in other administrative hearings. He may not relitigate a conviction of a crime in a court of law.

(f) If the Board members present at the hearing do not arrive at a consensus of action in the case, and the number of affirmative votes for any decision does not meet the requirement of AS 33.15.130(a), the application is denied, and the case will be automatically continued to the next regularly-scheduled quarterly Board hearing.

Authority: 33.15.100
33.15.130

ARTICLE 5. RECONSIDERATION OF BOARD DECISIONS AT
DISCRETIONARY PAROLE RELEASE HEARINGS

Section

160. Grounds for Reconsideration at Discretionary Parole Release Hearings

165. Applicant's Responsibilities

170. Handling of Reconsideration By Board

160. GROUNDS FOR RECONSIDERATION AT DISCRETIONARY PAROLE RELEASE HEARINGS. The Board will reconsider decisions from discretionary parole release hearings only for the following reasons:

(a) The decision by the Board was not supported by the reasons or facts stated by the Board, and reconsideration of the case with the clarification or correction would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board;

(b) The decision was based upon incorrect or faulty information that would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board;

(c) The Board did not follow its prescribed procedures in making its decision and following the prescribed procedures would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board;

(d) There was significant information not available to the applicant through no fault of his own at the time of the hearing that would likely lead to a different decision by the Board if reconsidered, in the opinion of the Board.

Authority: 33.15.100

165. APPLICANT'S RESPONSIBILITIES. Any applicant who wishes to have the Board reconsider its decision to not release him on parole must advise the Board of his intent and reasons for his request as follows:

(1) The notice of request for reconsideration must be mailed on the forms provided to the Board office within 15 calendar days of the date of the letter required under Section 150(e)(2). The reasons for the request shall be included on the form along with the supporting information, and additional material may be attached to the form if considered relevant by the applicant;

(2) Requests will not be processed if the proper forms provided by the Board are not utilized unless such forms are not available to the applicant. In such cases, the applicant must still notify the Board office within the 15 calendar day time limit specified in subsection (1).

Authority: 33.15.100

170. HANDLING OF REQUESTS BY BOARD. (a) Requests for reconsideration will be handled by a Board member not a party to the original decision being reconsidered if possible. If all voting Board members were a party to the original decision or a non voting member is not available to review the use, then the appeal will normally be considered by the chairman or vice-chairman.

(b) The Board member reviewing the case may grant a rehearing of the case or to deny the request for reconsideration. Requests granted will result in a new hearing by the Board at the next regularly-scheduled hearing. The granting of a request for reconsideration in no way assures that parole will be granted.

(c) The Board must arrive at a decision on the request within 21 calendar days after the receipt of the request.

(d) The burden of providing information for the request rest solely with the applicant.

Authority: 33.15.100

ARTICLE 6. CONDITIONS OF PAROLE

Section

- 175. Purpose of Conditions
- 180. Standard Conditions of Parole
- 185. Special Conditions of Parole
- 190. Search and Seizure Conditions
- 195. Parole Officer-Imposed Conditions
- 200. Modification of Board-Imposed Conditions of Parole
- 205. Modification of Parole Officer-Imposed Conditions of Parole
- 210. Reasons for Modification
- 215. Conditions on Interstate Parolees
- 220. Delegation of Authority

175. PURPOSE OF CONDITIONS. (a) The conditions of parole serve a number of purposes:

(1) They serve to notify the parolee of what conduct he must follow and what he is prohibited from doing if he is to remain in the community on parole.

(2) The conditions also advise him in writing of laws that have in the past been frequently violated by parolees, so that he does not inadvertently violate laws.

(3) Parole conditions are also imposed requiring the parolee to advise his parole officer of major changes in his life so that any problems may be dealt with before a possible crisis develops. The rules regarding keeping the parole officer advised of the situation also aid in the protection of the public by helping the parole officer monitor the parolee's activities in the community.

(b) All parolees must follow the general conditions of parole established. Other special conditions are imposed to aid in the rehabilitation of the parolee or to protect the public. Special conditions are imposed that reasonably relate to the parolee's offense, prior record, and prior behavior.

Authority: 33.15.100
33.15.230

180. STANDARD CONDITIONS OF PAROLE. The following are the standard conditions of parole established by the Board, which may be modified at any time during the period of parole by the Board:

1. Immediately upon release, report in person to the parole officer at _____, and receive further instructions regarding reporting.

2. I will make diligent effort to maintain steady employment and support legal dependents. I will not voluntarily change employment without receiving permission from my parole officer to do so; if discharged or if employment at present job is terminated (temporarily or permanently) for any cause whatsoever, I will notify my parole officer or his designee within 48 hours. If I am involved in an education or training program, I will continue active involvement in the program unless I receive permission of my parole officer to quit.

3. I will report to my parole officer at least monthly in the manner prescribed by him. I will follow any other reporting instructions established by my parole officer.

4. I will obey all state, federal and local laws, ordinances, and orders.

5. I will obtain permission from my parole officer before changing residence. Remaining away from my residence for 24 hours or more or sleeping elsewhere constitutes a change in residence for the purpose of this condition. I will notify my parole officer at once of an intended change of address and the reasons I expect to move.

6. I will obtain the prior written permission of my parole officer in the form of an interstate travel agreement before leaving the State of Alaska. Failure to abide by the conditions of that agreement is a violation of my order of parole.

7. I will not own, possess, have in my custody, handle, purchase or transport any kind of firearm without the prior written permission of the Alaska Board of Parole. I understand the federal law prohibits me from having any kind of contact specified above with firearms. I may not carry any deadly weapon concealed on my person except a pocket knife with a 3" or smaller blade. Carrying any other weapon concealed such as a hunting knife, axe, club, explosives, etc. is a violation of my order of parole. I will contact the Parole Board if I have any questions about the use of firearms or weapons.

8. I will not use, possess, handle, purchase, give or administer any narcotic, hallucinogenic, stimulant, depressant, amphetamine, barbituate, or prescription drug not specifically prescribed by a licensed physician.

9. I will report to my parole officer, no later than the next working day, any contact with law enforcement officers that involves arrest or interrogation for any crime or suspected crime.

10. I will not enter into any agreement or other arrangement with any law enforcement agency which will place me in the position of violating any law or any condition of my parole.

11. I will obey any special instructions, rules or orders given to me by the board or my parole officer.

Authority: 33.15.100
33.15.190
33.15.230

185. SPECIAL CONDITIONS OF PAROLE. The Board may impose any of the following special conditions of parole established by the Board. This list is not inclusive of all conditions the Board might impose, and the Board reserves the right to impose any reasonable condition at any time during the period of parole:

1. I will report to the supervising parole officer's office the next working day after the arrival in the state in which I am being supervised.

2. I understand that I am obligated to abide by the conditions of parole established by the Alaska Board of Parole, as conditions of the state where I will be supervised on parole. I understand the interstate supervising parole officer may set up any additional conditions he finds necessary; if this is done, informational copies will be sent to the Alaska Division of Corrections and the Alaska Board of Parole. My interstate supervising officer has the authority to change any of the conditions set by his state, but only the Alaska Board of Parole has the authority to have any conditions changed on the Alaska Board of Parole order.

3. I will not leave the state where I am being supervised without prior written permission of my supervising parole officer, including an interstate travel permit.

4. I will receive permission of my parole officer before I enter into any contracts, open or utilize a bank checking account, borrow any money or go into debt, apply for or use any credit cards, purchase an automobile, truck, snow machine, motorcycle, motorhome, trailer, house or property. I will advise my parole officer of any debts I currently owe. I will pay all bills when due, maintain all credit accounts current, and keep my parole officer advised of my financial condition and of any financial problems.

5. I will not open, maintain or utilize a checking account. I will not at any time have in my possession any checks, except payroll or business checks payable to me as the first party. I will not fill out any portion of any check except to endorse my name to a payroll or business check made payable to me.

6. I will consult with my parole officer before entering into an agreement to marry or marrying.

7. I will participate in mental health, psychiatric, psychological, or other counseling programming approved by my parole officer as directed by the Parole Board or my parole officer. I will continue active participation and attendance in any such programming determined appropriate by my parole officer, to his satisfaction. I will obtain the prior written permission of the parole officer before voluntarily discontinuing any programming established. If I am discharged or if this programming is terminated (temporarily or permanently) for any reason I will notify my parole officer or his designee within 48 hours. I agree to permit my parole officer access to any information obtained by these program personnel, including my attendance.

8. I will participate in approved alcohol/drug programming as directed by the Parole Board or my parole officer. I will continue active participation and attendance in any such programming determined appropriate by my parole officer to his satisfaction. I will obtain the prior written permission of the parole officer before voluntarily discontinuing any programming established. If discharged or if this programming is terminated (temporarily or permanently) for any reason I will notify my parole officer or his designee within 48 hours. I agree to permit my parole officer access to any information obtained by these program personnel, including my attendance, and I will sign an approved criminal justice referral consent to release information to my parole officer.

9. I will notify my parole officer within 48 hours of the use of any drugs prescribed by a licensed physician.

10. I will not at any time have on my person, or in my residence or in my car any paraphernalia normally associated with the illicit use or abuse of drugs. This includes but is not limited to: syringes, injecting needles, cooking spoons, hash pipes, cocaine spoons or weighing scales and substances used for cutting down, packaging or diluting drugs.

11. I will not consume or have in my possession at any time any alcoholic beverages. I will not enter any establishment whose primary business is the dispensing of alcoholic beverages; this includes liquor stores, bars, pubs, taverns, night clubs. I will notify my parole officer within 48 hours of the use of any prescription or counter drugs containing alcohol.

12. I will not at any time allow alcoholic beverages to be brought into my residence or to be carried in any motor vehicle that I am driving.

13. Upon request by or at the direction of a parole officer at any reasonable time, I will submit to a search of my person, personal property, my residence or any vehicle under which I have control, for the presence of dangerous weapons, knives or firearms. This search of my person may consist only of a pat down or frisk search to determine the presence of weapons, unless the searching officer reasonably believes that I have a weapon concealed on my person which is not detectable by a pat down or frisk search.

14. Upon request by or at the direction of a parole officer at any time, I will submit to a search of my person, my personal property, my residence or any vehicle under which I have control, for the presence of narcotic, hallucinogenic, stimulant, depressant, amphetamine, barbiturate or other drugs or drug paraphernalia.

15. Upon request by or at the direction of a parole officer at any reasonable time, I will submit to a search of my person, my personal property, my residence or any vehicle under which I have control for the presence of alcoholic beverages. This search of my person is limited to a pat down or frisk search.

16. Upon request by or at the direction of a parole officer at any reasonable time, I will submit to a search of my person, my personal property, my residence or any vehicle under which I have control, for the presence of property that may be stolen. A search of my person will normally be limited to a pat down or frisk search unless the searching officer reasonably believes that there is stolen property on my person which is not detectable by a pat down or frisk search.

17. I will submit to testing at any reasonable time upon request by or at the direction of a parole officer or peace officer to determine whether or not I have used any narcotic stimulant, depressant, amphetamine, barbiturate or prescription drug. This testing includes, but is not limited to, blood test, breathalyzer, urinalysis. I understand that if any of these tests show that I have ingested drugs not specifically prescribed by a licensed physician, my parole may be revoked. I will submit to testing as set forth in this condition if requested to do so by a law enforcement officer who has contacted me in conjunction with a possible OMVI, DWI, reckless driving, negligent driving arrest or other vehicular offense. Refusing to cooperate when requested to submit to testing will constitute a violation of my order of parole.

18. I will submit to testing at any reasonable time upon request by or at the direction of a parole officer or peace officer to determine whether or not I have used alcoholic beverages. This testing includes, but is not limited to, blood test, breathalyzer, urinalysis. I understand that if any of these tests show that I have ingested alcoholic beverages, my parole may be revoked. I will submit to testing as set forth in this condition if requested to do so by a law enforcement officer who has contacted me in conjunction with a possible OMVI, DWI, reckless driving, negligent driving arrest or other vehicular offense. Refusing to cooperate when requested to submit to testing will constitute a violation of my conditions of parole.

19. I will not under any circumstances, operate a motor vehicle. I will not apply for a motor vehicle operator's license without the prior written permission of the Alaska Board of Parole. If I am presently licensed to operate any kind of motor vehicle, I will immediately surrender this/these license(s) to my parole officer, who will forward them to the issuing authority and advise the issuing authority why it is being returned.

20. I will not operate a motor vehicle without first obtaining liability insurance, and providing proof of this insurance to my parole officer.

21. I will provide information to my parole officer about any motor vehicle that I own, am buying, or operate. I will advise him of the make, model, year, color, and license number of these vehicles.

22. I will receive permission from my parole officer before leaving the area of the state to which my case is assigned. My parole officer will advise me of the limits of the area to which I have been assigned.

23. I will not associate nor have any non-employment related contact with a convicted felon, without the permission of the Alaska Parole Board. This includes corresponding or visiting with any person confined in a prison, penitentiary, correctional institution, jail, halfway house, correctional work camp, work release center, etc. I will notify my parole officer if I have any job-related or any other contact with a felon.

24. I will enroll in the TASC program immediately and remain in the program unless and until written permission is granted by the Alaska Parole Board. I will cooperate with TASC program personnel and will sign the consent to release confidential information as a criminal justice referral.

Authority: 33.15.100
33.15.190
33.15.230

190. SEARCH AND SEIZURE CONDITIONS. The Board may impose conditions regarding the search of a parolee or the seizure of his property or property in his possession. The Board may impose such conditions when the information considered by the Board indicates the condition is necessary to adequately supervise the parolee. Whenever this condition is imposed by the Board, a parole officer may carry out searches if he has a reasonable belief that a parole violation has occurred. In accordance with such conditions imposed, a parole officer may order, direct, or himself conduct a lawful search at reasonable times and in a reasonable manner consistent with the circumstances. Search clauses imposed by a parole officer or the Board prior to September 1977, are permissible if carried out in a manner consistent with this Section. Unscheduled searches by the parole officer are permissible if authorized by the Board as long as they do not constitute harassment.

Authority: 33.15.100
33.15.190
33.15.230

195. PAROLE OFFICER-IMPOSED CONDITIONS. Parole officers may impose a condition of parole that meets the requirements of Section 175, except a condition regarding searches. Any permanent condition of parole imposed by a parole officer must be reduced to writing by the parole officer, and he must give a copy to the parolee as soon as practical, and forward a copy to the Board office. Special one time instructions need not be reduced to writing. A parole officer may impose a condition at any time during the period of parole.

Authority: 33.15.190
33.15.230

200. MODIFICATION OF BOARD-IMPOSED CONDITIONS OF PAROLE.

(a) Only the Board has the authority to rescind, remove or modify any condition of parole imposed by the Board. A condition imposed by the Board may be rescinded, removed, or modified at the discretion of the Board.

(b) A request for to rescind, remove or modify a condition of parole will be handled as follows:

(1) If the parolee has not yet been released from custody to parole status he must submit a written request to the institutional parole officer or other appropriate staff. The institutional parole officer will forward the request to the Board office along with his recommendations regarding the request. The Board will make a decision on the request as soon as possible and will notify the parolee of the decision in writing and the reason for the decision.

(2) If the parolee has already been released from custody and is being supervised in the community, the written request will be submitted to the supervising parole officer, who will forward the request to the Board office with his comments. The Board will make a decision on the request as soon as possible, and will notify the parolee of its decision in writing and the reason for the decision.

(c) All conditions of parole imposed by the Board remain in effect unless they are changed by the Board. The parolee must comply with all contested conditions unless he receives written notification by the Board of the modification of the conditions.

Authority: 33.15.100

205. MODIFICATION OF PAROLE OFFICER-IMPOSED CONDITIONS OF PAROLE. (a) A parolee may verbally, or in writing, request the modification of any parole officer-imposed conditions of parole by the parole officer and the parole officer has the authority to modify any parole officer-imposed condition of parole. Any changes in conditions shall be reduced to writing as soon as practical for the notification and benefit of all parties.

(b) If a parolee requests the modification of a condition of parole imposed by a parole officer, and the parole officer does not grant the modification, the parolee may appeal the request by writing to the Board as outlined in Section 200(b)(2). The Board will not grant the modification on appeal unless overwhelming evidence justifies the change, in the opinion of the Board.

(c) All conditions of parole imposed by the parole officer remain in effect unless he receives written notification by the parole officer or the Board of the modification of a condition.

Authority: 33.15.100

210. REASONS FOR MODIFICATION. The Board may modify the conditions of parole for the following reasons:

(a) A condition is no longer necessary for either the protection of the public or rehabilitation of the parolee;

(b) An additional condition(s) is necessary because of changed circumstances, for either the protection of the public or rehabilitation of the parolee;

(c) The Board determines a condition is unduly harsh or unnecessary because of changed circumstances;

(d) Any other reason deemed sufficient by the Board.

215. CONDITIONS ON INTERSTATE PAROLEES. (a) Adult parolees under supervision of the interstate compact in Alaska from other jurisdictions are subject to the same rules relating to the imposition of conditions of parole as are parolees released by the Alaska Board of Parole.

(b) The Alaska supervising parole officer or the Board may impose the general parole conditions from Alaska, in addition to those of the sending state.

(c) The Alaska supervising parole officer or the Board may impose any other special conditions of parole necessary and relevant to aid in the rehabilitation of the parolee or to assist in the protection of the community, with the exception of conditions relating to search and seizure.

(d) The Board may impose conditions regarding the search of parolees and seizure of property of parolees.

Authority: 33.05.010
33.15.100
33.15.230
33.25.010

ARTICLE 7. PAROLE RELEASE PROCEDURES

Section

- 225. Release to Approved Plan
- 230. Acceptable Plans
- 235. Preconditions
- 240. Release Date
- 245. Release Plan to Parole Officer
- 250. Parole Officer to Assist
- 255. Parole Advisors
- 260. Parolee Not Released
- 265. Interstate Plan Rejected
- 270. Detainer Plan Not Instituted
- 275. When Parole Effective
- 280. Parole Expiration Dates
- 285. Refusal to Sign Order of Parole
- 290. Certificate of Good Time Award
- 295. Copy of Order Provided Parolee and Board

225. RELEASE TO AN APPROVED PLAN. All parole releases granted by the Alaska Board of Parole are subject to any preconditions established by the Board. Release is also subject to the approval of a viable release plan by the appropriate division of corrections office. In those cases where the applicant is being paroled to a detainer, he may be released only to the appropriate officials from the jurisdiction serving the legal process on him.

Authority: 33.15.100
33.15.120
33.15.190
33.15.230

230. ACCEPTABLE PLANS: Except in unusual circumstances parole will be granted only to full time employment, to full time vocational or on-the-job training, to a full time residential treatment program, to full time education, to a verified detainer, or to a combination of these plans.

Authority: 33.15.100
33.15.120
33.15.190
33.15.230

235. PRECONDITIONS: The Board may establish conditions that must be accomplished before the parolee is released from the institution to parole supervision. All preconditions established by the Board must be met before the parolee's release can be approved by the appropriate corrections authority.

Authority: 33.15.010
33.15.100

240. RELEASE DATE. When parole is granted, the Board will set the earliest possible release date, and the parolee may not be released before that date. The division of corrections parole officer has up to three weeks from the date his office receives the case to make a final decision on the plan presented on all non-interstate cases. Parolees must be released as soon as possible after that date once a viable release plan has been approved. A parolee's release date may be retarded up to 120 days from the earliest release date without an additional hearing while he is developing an acceptable release plan.

Authority: 33.15.100

245. RELEASE PLAN TO PAROLE OFFICER. As soon as possible after the Board grants parole to an applicant, the appropriate institutional staff shall forward a copy of the parole packet to the division of corrections office for assignment where the parolee is to be supervised. Attached to this packet of information should be a memo from the institution advising the parole officer of the details of the proposed parole release plan.

Authority: 33.15.100
33.15.150

250. PAROLE OFFICER TO ASSIST. If for some reason a parolee is still in custody after the three week period specified in Section 240 has elapsed, and he has not been able to develop a viable parole plan, the supervising parole officer and institutional parole officer shall work with him to devise an acceptable parole plan consistent with his parole conditions and the intent of the Board.

Authority: 33.15.100
33.15.150
33.15.230

255. PAROLE ADVISORS. In those locations in Alaska not directly served regularly by a parole officer of the division of corrections, the Board or parole officer may require the establishment of a parole advisor before a parolee is released on supervision, or at any time thereafter. A parole advisor has no legal jurisdiction or authority over the parolee, but is someone selected as a liaison between the parolee and the parole officer, and is to report specific events to the parole officer as requested. The parole advisor must be a person of reputable character capable of cooperating with the applicant's parole officer. The parole advisor must be willing to counsel, assist, and work with the parolee.

Authority: 33.15.100
33.15.150
33.15.230

260. PAROLEE NOT RELEASED. If the parole release date has passed, and the parolee has been unable to develop an acceptable release plan, the appropriate institutional authorities shall notify the Board and the offender shall again appear before the Board at the next regularly-scheduled hearings to discuss his release plan with the Board pursuant to the provision of Section 240.

Authority: 33.15.100

265. INTERSTATE PLAN REJECTED. If the parolee has been granted parole to an interstate plan outside the State of Alaska, and the receiving state has rejected his supervision, he shall appear at the next regularly-scheduled Board hearing after the notification of rejection has been received.

Authority: 33.15.100
33.15.190
33.15.230

270. DETAINER PLAN NOT INSTITUTED. If the parolee has been paroled to a detainer or other legal process, and the receiving agency has notified the Board that it no longer wishes to exercise its legal process, the parolee's case will be considered at the next regularly-scheduled Board hearing.

Authority: 33.15.100
33.15.120
33.15.230

275. WHEN PAROLE EFFECTIVE. Parole does not become effective until such time as the release plan has been approved by the appropriate office of the division of corrections, and the order of parole has been signed by the parolee and witnessed.

Authority: 33.15.100
33.15.230

280. PAROLE EXPIRATION DATES. (a) Prisoners released on parole remain on parole until midnight of the parole expiration date. Parole expiration dates will be computed by appropriate division of corrections staff at the time the parolee is released on supervision, and parole expiration dates must be entered onto all copies of the order of parole at that time.

(b) Discretionary Parole expiration dates shall be computed by subtracting the prior service and good time earned from the maximum sentence expiration date.

(c) Mandatory parole expiration dates shall be computed according to current law.

(d) If the parolee has a period of probation to follow his parole, the period of probation shall commence immediately upon the expiration of parole, unless the court granting probation orders otherwise.

Authority: 33.15.100
33.15.190
33.15.230

285. REFUSAL TO SIGN ORDER OF PAROLE. If a person granted discretionary parole by the Board refuses to sign the conditions of parole established by the Board, he will not be released on parole supervision, and the Board office shall be immediately notified. If the parolee is still in custody at the next regularly-scheduled parole release hearings as a result of his failure to sign the conditions of parole, the Board will again review his case. Failure of the parolee to sign the conditions of parole may result in the Board rescinding his parole.

Authority: 33.15.080
33.15.100
33.15.230

290. CERTIFICATE OF GOOD TIME AWARD. A certificate of good time award and mandatory release shall be completed upon the release of each parolee pursuant to AS 33.20.030, and a copy of the certificate shall be attached to the completed order of parole that is forwarded to the Board.

Authority: 33.15.100
33.20.030

295. COPY OF ORDER PROVIDED PAROLEE. A copy of the order of parole containing the conditions of release and the parole expiration date shall be provided to the parolee prior to his release.

Authority: 33.15.070
33.15.100

ARTICLE 8. SPECIAL REVIEWS

Section

- 300. Generally
- 305. Guidelines for Special Reviews
- 310. Deadline for Applications
- 315. Applicant's Responsibilities
- 320. Board Responsibilities

300. GENERALLY. The Board will consider the granting of a special review under the circumstances set forth in Section 305 when it has continued a case to a future date or has denied the applicant any further consideration for parole. In order for the special review to be granted, some vital information or mitigating circumstances must arise that, had the knowledge been available to the Board members at the time the parole application was considered, a different decision probably would have been rendered in the opinion of the Board. The burden of proof for presenting documentation under this section rests with the parole applicant.

Authority: 33.15.100

305. GUIDELINES FOR SPECIAL REVIEWS. The guidelines used in considering applications for special hearings are as follows:

- (a) A significant change or amendment to the judgment or sentence of the applicant;
- (b) Some special type of education, training, or employment that was unavailable when the prisoner's application was considered but now is available, which must be accepted at this time or can never again be obtained. Enrollment in college which could be done the following semester or the next year or entry into similar educational or vocational programs in the future are not acceptable reasons for granting a special review;
- (c) Outstanding institutional performance over a lengthy period of time since the previous hearing. This period must exceed two years since the last Board appearance except in the most unusual circumstances;
- (d) A meritorious act, such as saving the life of correctional personnel or of a fellow prisoner;
- (e) A family tragedy, which results in the applicant being the sole surviving person who can handle family matters, and where the Board feels the applicant could reasonably be expected to fill that role, based upon the best information available;

(f) A situation where an applicant has received a set off in excess of two years, and can demonstrate to the satisfaction of the Board that this continuance is extremely disparate with other similarly-situated applicants recently considered by the Board;

(g) Any other circumstance which the Board finds is of such magnitude to warrant the granting of a special review of the case.

Authority: 33.15.100

310. DEADLINE FOR APPLICATIONS. Unless an extreme emergency situation is identified, all requests for special hearings must be received in the Board office no later than five weeks before the next regularly-scheduled Board hearing. The Board will determine the existence of extreme emergency situations.

Authority: 33.15.100

315. APPLICANTS' RESPONSIBILITIES. The prisoner must make application to the Board and specifically state why he feels he qualifies for a special hearing. The request must be sent through the appropriate division of corrections staff, usually the institutional parole officer in Alaska correctional facilities. The request may be mailed directly to the Board office when the prisoner is confined in a contract facility.

Authority: 33.15.100

320. BOARD RESPONSIBILITIES. The Board will refer the request for a special hearing to a single member for a decision, in the same manner as provided for in Section 170. The Board will notify the applicant of its decision in writing as soon as possible and of the reason for its decision. The granting of a special review in no way assures that parole will be granted. Any decision available to the Board in Section 130 may be made. Granting of a special hearing will allow the applicant to have his case reviewed at the next hearing designated by the Board.

Authority: 33.15.100

ARTICLE 9. PAROLE RESCISSION HEARINGS

Section

- 325. Reasons For Rescission Hearings
- 330. Parolee Not Released Pending Resolution
- 335. Notification to Parolee
- 340. Preliminary Rescission Hearing
- 345. Rules At Hearing
- 350. Detention or Release Pending Final Rescission Hearing
- 355. Final Rescission Hearing

325. REASONS FOR RESCISSION HEARINGS. Any time after a prisoner is granted discretionary parole by the Board and before parole takes effect, the Board may temporarily suspend the order of parole, and if sufficient cause is shown, rescind the order of parole. Parole may be suspended or rescinded for any of the following reasons:

- (a) Disciplinary action in a correctional facility;
- (b) Filing of new criminal charges which could result in a conviction in a court;
- (c) Violation of community program regulations which might have resulted in disciplinary action if the parolee was incarcerated in a state correctional facility;
- (d) Evidence becomes available to the attention of the Board indicating that the applicant willfully concealed or misrepresented information deemed significant to the Board in making its decision. All paroles are ordered on the assumption that information from the applicant has not been fraudulently given or that relevant information has not been withheld from the Board, and rescission may result if evidence to the contrary is made available to the Board;
- (e) Failure of the parolee to sign the order of parole, which may be indicative of his unsuitability for parole.

Authority: 33.15.060
33.15.080
33.15.100
33.15.230

330. PAROLEE NOT RELEASED PENDING RESOLUTION. Whenever a parolee engages in conduct set forth in Section 325 the Board shall be notified, and the parolee may not be released to parole status pending the resolution of a possible rescission hearing. When parole rescission action is initiated, the following procedure will be followed.

Authority: 33.15.100

335. NOTIFICATION TO PAROLEE. The parolee shall be notified in writing that action is being initiated which could result in the rescission of his parole. A summary of the reason the action is being initiated will be made available to the parolee.

Authority: 33.15.100

340. PRELIMINARY RESCISSION HEARING. Once the information contained in the rescission report is made available to a hearing officer of the Board, and if the hearing officer determines the information, if proven, is of such importance to consider suspending and rescinding parole, a preliminary rescission hearing will be held by the Board, within ten working days after receipt of the report. No hearing is necessary if the Board hearing officer determines that the parolee should be released to supervision because of the minor nature of the violation or the parolee has not reached his parole release date.

Authority: 33.15.100
33.15.230

345. RULES AT HEARING. The hearing conducted in accordance with Section 340 is governed by the same rules as set forth in these regulations for parole revocation hearings. The corrections agency holding the parolee or the court (if a new crime is the basis for the rescission hearing) is responsible for determining the facts that could lead to the parole rescission. The Board is responsible for determining whether or not the violation is of such importance that the parolee should not be released pending review by the Board.

Authority: 33.15.100

350. DETENTION OR RELEASE PENDING FINAL RESCISSION HEARING. If the hearing officer determines at the preliminary rescission hearing the violation is of such magnitude to have the full Board review the parolee's case, the parolee may not be released pending the final rescission hearing, but will remain in a correctional facility and not be released on parole.

Authority 33.15.100

355. FINAL RESCISSION HEARING. A parolee held in custody in accordance with Section 350 will have his case reviewed at the next regularly-scheduled Board release hearing for a final determination of whether or not he should be released on parole unless a continuance is granted by the Board. At this hearing, any decision originally available to the Board in accordance with Section 130 may be made. This hearing is also conducted in accordance with articles 22, 23, and 24 of these regulations. The deliberations of the Board members shall not be disclosed to any person and the member hearing decision "vote sheet" is also confidential and shall not be disclosed to any person. Sections 160, 165, and 170 also apply to the final rescission hearing.

Auth rity: 33.15.060
33.15.080
33.15.100
33.15.230
44.62.310

ARTICLE 10. MANDATORY PAROLE SUPERVISION

Section

- 360. Definition and Authority
- 365. Length of Supervision
- 370. Standard Mandatory Parole Conditions
- 375. Special Conditions of Mandatory Parole and When Imposed
- 380. Procedure for Board-Imposed Special Conditions
- 385. Procedure for Parole Officer-Imposed Special Conditions
- 390. Reconsideration of Mandatory Parole Conditions
- 395. Arrest and Revocation
- 400. Revocation Procedures
- 405. Effective of Revocation of Mandatory Parole

360. DEFINITION AND AUTHORITY. Those persons released pursuant to AS 33.20.040 are referred to and designated as "mandatory parolees", being on "mandatory parole".

Authority: 33.20.040

365. LENGTH OF SUPERVISION. Prisoners released under mandatory parole supervision will remain under the jurisdiction of the Board for a period of time equal to the total amount of accumulated good time awarded as of the date of release, minus 180 days.

Authority: 33.20.040

370. STANDARD MANDATORY PAROLE CONDITIONS. Prisoners released on mandatory parole supervision are subject to the same standard conditions of supervision as discretionary parolees.

Authority: 33.15.100
33.15.230
33.20.040

375. SPECIAL CONDITIONS OF MANDATORY PAROLE AND WHEN IMPOSED. The Board or a supervising parole officer may impose any other suitable and reasonable special conditions in accordance with Sections 175-195 as applied to discretionary parolees. Consideration by the Board for imposing special conditions will be made whenever any of the following factors are present in the prisoner's case:

(a) When the prisoner has been convicted of a crime of violence or potential violence such as robbery, rape, assault with a dangerous weapon, mayhem shooting or stabbing with intent to kill, wound, or maim, aggravated assault, etc., or the new code equivalents;

(b) When there has been an actual or attempted physical injury to a victim as a result of a crime although the offender may not have been charged with a crime of violence;

(c) When a homicide was committed or attempted, such as first degree murder, second degree murder, manslaughter, negligent homicide, involuntary manslaughter, or the new criminal code equivalent;

(d) When the offender has been convicted in accordance with a habitual criminal statute or a presumptive sentencing;

(e) When the crime involved the use or possession of a firearm or other weapon such as a knife, brass knuckles, etc.;

(f) When the superintendent, institutional counselor, institutional probation officer, or other staff of the facility where the offender is incarcerated, or central office staff of the division of corrections, refers the case to the Board for its consideration.

Authority: 33.15.100
33.15.230
33.20.040

380. PROCEDURE FOR BOARD-IMPOSED SPECIAL CONDITIONS. (1)
At least 60 days prior to the release of a prisoner on mandatory parole, the institution holding the prisoner shall review his file to determine if he falls within the guidelines set forth in Section 375 to be given consideration for the setting of special conditions. In cases where an Alaska prisoner is confined in a contract facility not operated by the Alaska Division of Corrections, the central office staff of the division of corrections shall be responsible for reviewing the prisoner's file.

(b) If the prisoner fits the criteria for consideration for special mandatory release conditions, the institution will forward a packet of pertinent information to the Board office within 45 days of the prisoner's anticipated release on mandatory parole. The Board staff will review the file, with a Board member, and establish any special conditions deemed necessary and appropriate. Copies of these conditions will be returned to the institution for the signature of the prisoner to be witnessed by the institutional staff.

(c) Failure of the division of corrections or the Board to strictly adhere to the time frames set forth in this section does not invalidate any condition imposed or interfere with the Board's ability to impose special conditions outside the time frames. The Board may impose special conditions at any time during the period of mandatory parole supervision.

(d) At least 24 hours before release, the prisoner will be advised of the conditions of his release.

(e) If the prisoner refuses to sign the conditions, he will be advised of his responsibility to follow the conditions and the possible consequences of his not following these conditions.

(f) A copy of the conditions of release and the certificate of good time award shall be provided the prisoner.

Authority: 33.15.070
33.15.090
33.15.100
33.15.230
33.20.040

385. PROCEDURE FOR PAROLE OFFICER-IMPOSED CONDITIONS. The parole officer may impose special conditions of mandatory parole supervision under the same procedures set forth in Section 195.

Authority: 33.15.100
33.20.040

390. RECONSIDERATION OF MANDATORY PAROLE CONDITION. A prisoner released on mandatory parole supervision may request the Board reconsider a condition of his mandatory parole supervision the same as a discretionary parolee as outlined in Sections 200 and 205.

Authority: 33.15.100
33.20.040

395. ARREST AND REVOCATION. A prisoner released on mandatory parole supervision is subject to arrest and revocation, as if he was on discretionary parole.

Authority: 11.05.070
33.15.090
33.15.100
33.15.110
33.15.190
33.15.200
33.15.220
33.15.230
33.20.040

400. REVOCATION PROCEDURES: The revocation procedures for prisoners released on mandatory parole are the same as for discretionary parolees.

Authority: 33.15.100
33.15.230
33.20.040

405. EFFECT OF REVOCATION OF MANDATORY PAROLE. (a) If the Board determines at the mandatory parole revocation hearing that the prisoner has violated condition of the release, it may be revoked.

(b) If the prisoner is to be reincarcerated the Board may require him to serve the period of time equal to the total amount of days good time credited to him when he was released on supervision. The prisoner does not receive credit for the period of time he was under mandatory parole supervision.

(c) Once returned to the institution to resume the service of his sentence, the prisoner again becomes eligible to earn good time at the original rate of sentence.

(d) The sentence begins to run from the date he is returned to a correctional facility for the mandatory parole violation.

Authority: 33.15.100
33.15.200
33.15.230
33.20.040

ARTICLE 11. OTHER MANDATORY PAROLE SUPERVISION

Section

- 410. Definition and Authority
- 415. Length of Supervision
- 420. Other Sections Applicable

410. DEFINITION AND AUTHORITY. This article refers to those sentenced prisoners released pursuant to AS 33.15.180(c), who are also designated as mandatory parolees.

Authority: 33.15.180

415. LENGTH OF SUPERVISION. The mandatory parolee released pursuant to AS 33.15.180(c) shall remain on supervision for a period of time equal to the total amount of good time awarded as of the date of release as specified in the certification of good time award.

Authority: 33.15.180
33.20.030

420. OTHER SECTIONS APPLICABLE. The provisions of Sections 370, 375, 380, 385, 390, 395, 400, 405, also apply to mandatory parolees released and being supervised in accordance with AS 33.15 180(c).

Authority: 33.15.090
33.15.100
33.15.110
33.15.180
33.15.190
33.15.200
33.15.210
33.15.220
33.15.230

ARTICLE 12. MANDATORY PAROLE RELEASE PROCEDURES

Sections

425. Applicability

425. APPLICABILITY. This article applies to those prisoners released in accordance with Sections 360 and 410. A prisoner released pursuant to this section shall work with the appropriate institutional staff to develop a viable release plan as set forth in Section 230, prior to his anticipated release date. Division of corrections employees will assist the prisoner in developing a release plan.

Authority: 33.15.100
33.20.040

ARTICLE 13. PAROLE SUPERVISION REPORTS

Section

- 430. Required Semiannually
- 435. Reports on Forms Provided By the Board
- 440. Reports Reviewed by Board
- 445. Necessary Information in Reports

430. REQUIRED SEMIANNUALLY. (a) Parole officers shall provide the Board with a progress report semiannually on each prisoner under supervision of the Board.

(b) These reports are due in the Board office no later than the end of May and the end of November of each year.

Authority: 33.15.100
33.15.150
33.15.230

435. REPORTS ON FORMS PROVIDED BY THE BOARD. The supervision reports will be completed on forms provided by the Board.

Authority: 33.15.100
33.15.150
33.15.230

440. REPORTS REVIEWED BY BOARD. The reports will be made available to and reviewed by the Board at the next regularly-scheduled Board hearing after their receipt.

Authority: 33.15.100
33.15.230

445. NECESSARY INFORMATION IN REPORTS. The reports will include information regarding any major changes in the parolee's plan since he was released or since the last report was submitted to the Board. They will also include any known problem areas or major accomplishments during the reporting period. Information regarding any searches or seizures carried out pursuant to a special condition of parole must also be documented in the supervision report. All police contacts must be reported.

Authority: 33.15.150
33.15.230

ARTICLE 14. DISCHARGE FROM SUPERVISION AND
CHANGE IN SUPERVISION STATUS

Section

- 450. Authority and to Whom Applies
- 455. Request for Less than Monthly Reporting
- 460. Effect on Granting Section 455 Request
- 465. Request for Discharge from Active Supervision
- 470. Effect of Granting Section 465 Request
- 475. Effect of Sections 455 and 465 on Special Conditions
- 480. Report Reviewed Before Decision
- 485. Decision by Parole Board
- 490. Notification by Board
- 495. Responsibility of Parolee
- 500. Effect on Parole Status

450. AUTHORITY AND TO WHOM APPLIES. The Board will adopt rules for the supervision and for the discharge from supervision of parolees. A change in supervision status set forth in Sections 455 and 465 may be granted any prisoner subject to the authority of the Board.

Authority: 33.15.070
33.15.080
33.15.100
33.15.180
33.15.190
33.15.230
33.20.040

455. REQUEST FOR LESS THAN MONTHLY REPORTING. The supervising parole officer or a parolee may initiate a request that the parolee report to his parole officer less frequently than the once a month required. A request from a parolee shall be submitted to the parole officer and then forwarded to the Board with the parole officer's recommendation.

Authority: 33.15.230

460. EFFECT OF GRANTING SECTION 455 REQUEST. (a) If the Board agrees to allow the parolee to report less frequently than required, it will establish the new minimum reporting period of the parolee.

(b) All other conditions of parole remain in full force and effect, unless otherwise altered by the Board.

Authority: 33.15.100
33.15.190
33.15.230

465. REQUEST FOR DISCHARGE FROM ACTIVE SUPERVISION. A parolee or supervising parole officer may initiate a request that the parolee be relieved of active supervision by a parole officer. A request from a parolee shall be submitted to the parole officer and then forwarded to the Board with the parole officer's recommendation. Requests for discharge from supervision will not be considered until a minimum of two years has elapsed after the date of release from custody.

Authority: 33.15.230

470. EFFECT OF GRANTING SECTION 465 REQUEST. The period of parole is not terminated by the granting of this request and the parolee is subject to all other disabilities and conditions as if he was on active parole supervision, unless the Board alters any other parole conditions.

Authority: 33.15.100
33.15.190
33.15.230

475. EFFECT OF SECTIONS 455 and 465 ON SPECIAL CONDITIONS OF PAROLE. When a request is granted under Sections 455 or 465, the Board will review all other special conditions of parole imposed to insure consistency with the intent of Sections 455 and 465.

Authority: 33.15.180
33.15.190
33.15.230

480. REPORT REVIEWED BEFORE DECISION. A comprehensive report shall be submitted by the parole officer summarizing the parolee's accomplishments and problems since released on parole when the Board receives a request for a change in a parolee's status in accordance with Sections 455 or 465. The report shall contain a detailed chronological description of his employment, job training, vocational training, and schooling since release on parole. This report will be reviewed by the Board before making a decision pursuant to Section 455 or 465.

Authority: 33.15.100
33.15.230

485. DECISION BY PAROLE BOARD. (a) A request pursuant to Section 455 and 465 shall be forwarded to the Board, and the case will be placed on the calendar for review by the Board at the next regularly-scheduled quarterly Board meeting after receipt. If the request is received less than five weeks from the beginning of the next scheduled hearings, the case will be reviewed by the Board at the next regularly-scheduled hearing following receipt of the request.

(b) In determining whether or not the request should be granted, all relevant material as set forth in Sections 095, 105, and 150 will be considered, as well as the parolee's behavior since released on supervision.

Authority: 33.15.070
33.15.100
33.15.190
33.15.230

490. NOTIFICATION BY BOARD. Once a decision has been made regarding a request under Sections 455 or 465, the Board will notify the supervising parole officer of the Board's decision. The supervising parole officer shall provide a copy of the notification of the Board's decision to the parolee.

Authority: 33.15.100
33.15.230

495. RESPONSIBILITY OF PAROLEE. It is the responsibility of the parolee to adhere to all imposed conditions of parole unless he receives official notification from the Board of the modification of his reporting status. Failure to abide by any of the modified conditions of parole, other conditions of parole and especially reporting conditions, could result in the parolee being returned to full reporting status or in the issuance of a warrant for his arrest and revocation for his failure to abide by conditions.

Authority: 33.15.070
33.15.090
33.15.100
33.15.110
33.15.190
33.15.200
33.15.230

500. EFFECT ON PAROLE STATUS. The granting of more freedom under Sections 455 or 465 in no way negates the parolee's legal responsibility under the law, and the actual period of supervision cannot be reduced by the Board. All conditions relating to parole status not specifically modified will remain in effect throughout the period of parole until the expiration date on the order of parole is reached.

Authority: 33.15.190
33.20.040

ARTICLE 15. PAROLE VIOLATION DECISIONS

Section

- 505. Violations That Must Be Reported
- 510. Other Violations
- 515. How Violations Reported
- 520. Applies to Others
- 525. Parole Officer Cannot Waive Violations

505. VIOLATIONS THAT MUST BE REPORTED. (a) Any alleged violation that could constitute felony behavior must be reported to the Board.

(b) Any alleged violation that could constitute serious misdemeanor behavior must be reported to the Board.

(c) In determining the seriousness of the alleged violation, the Board will consider all relevant background material available regarding the parolee.

Authority: 33.15.100
33.15.230

510. OTHER VIOLATIONS. The parole officer shall report any other violations of parole conditions that he feels are important factors in the parolee's potential adjustment on parole. In determining whether or not the alleged violations should be brought to the Board's attention, all background material available to the parole officer should be considered. Minor alleged violations the parole officer does not feel warrant Board action at the present time should be noted in the parole officer's chronological history.

Authority: 33.15.100
33.15.150
33.15.230

515. HOW VIOLATIONS REPORTED. Parole violations will be reported to the Board in the manner outlined in Section 530.

Authority: 33.15.100
33.15.230

520. APPLIES TO OTHERS. This Article also applies to any prisoner subject to the jurisdiction of the Board in accordance with Alaska Statutes 33.10.010, 33.15.080, 33.15.180(c), 33.20.040, and 33.25.010.

Authority: 33.15.100
33.15.230

525. PAROLE OFFICER CANNOT WAIVE VIOLATIONS. All violations noted in Section 505 must be reported to the Board as soon as possible after the behavior comes to the attention of the parole officer. Other behavior which could possibly constitute a violation of parole does not have to be reported to the Board immediately after its occurrence but may be handled informally at that time. However, any behavior that occurred after the parolee was released from custody may be used as bases for a revocation if the Board has not previously used the information at a previous revocation hearing. The Board specifically reserves the right to review any alleged violation that might have taken place after release, and no other person or employee may grant immunity from possible revocation on behalf of the Board.

Authority: 33.15.100
33.15.230

ARTICLE 16. PAROLE VIOLATION REPORTS

Section

- 530. Format of Report
- 535. Designation of Sections
- 540. Disclosure of Violation Report
- 545. Applies to Others

530. **FORMAT OF REPORT.** Parole violation reports will be prepared on the forms provided by the Board. The reports will contain the following information:

- (a) General identification information regarding the parolee;
- (b) A list of specific alleged violations in order of date of occurrence;
 - (1) The allegations should answer the questions who, what, when, and how;
 - (2) Allegations should make specific reference to the condition allegedly violated;
- (c) Supporting evidence - a separate paragraph(s) for each violation should be included to explain in detail how the parole officer became aware of the violations, the evidence available to substantiate the allegations, witnesses to the violations, etc;
- (d) Certification of service showing the date and location a copy of the allegations were served on the parolee, with the signature of the serving officer;
- (e) Conduct under supervision, including the plan to which originally released and changes in the plan since release, any Board involvement with the violator since release, and behavior of the parolee since release, including accomplishments, problems, attempts to correct problems, etc;
- (f) Evaluation and recommendation - In this section, the parole officer should relate the information in subsection (e) with any other information about the parolee since release on supervision. Behavior since released on parole should be discussed in relation to all other relevant facts from the parolee's history, and include the parole officer's analysis of his risk if returned to the community again under supervision. The parole officer should discuss the availability and advisability of other options to the Board other than reincarceration.

Authority: 33.15.100
33.15.150
33.15.230

535. DESIGNATION OF SECTIONS. (a) For purposes of this Article, subsections (a), (b), (c), (d) and (e) of Section 530 are designated as Part A of the violation report.

(b) For purposes of this Article, subsection (f) of Section 530 is designated as Part B of the violation report.

Authority: 33.15.100
33.15.230

540. DISCLOSURE OF VIOLATION REPORT. Part A of the violation report will be disclosed to the violator and attorneys that are parties to the revocation hearing, and Part B of the violation report is confidential and will not be disclosed to the violator, attorneys, or any other party without the specific written permission of the Board.

Authority: 33.15.100
33.15.230

545. APPLIES TO OTHERS. This Article also applies to any sentenced prisoner subject to the jurisdiction of the Board, in accordance with Alaska Statutes 33.10.010, 33.15.080, 33.15.180(c), 33.20.040, 33.25.010.

Authority: 33.10.010
33.15.100
33.15.080
33.15.180(c)
33.15.230
33.20.040
33.25.010

ARTICLE 17. PAROLE VIOLATION WARRANTS

Section

- 550. Definition and Authority
- 555. Who May Issue Warrants
- 560. Issued Before Expiration Date
- 565. Effect of Issuance
- 570. Length of Time Warrant Valid
- 575. Process of Obtaining Violation Warrants
- 580. Arrest of Violator Without A Warrant

550. DEFINITION AND AUTHORITY. For purposes of this section a parole violation warrant refers to an arrest warrant issued by the Board. Parole violation warrants may be issued on any prisoner subject to the jurisdiction of the Alaska Board of Parole.

Authority: 33.10.010
33.15.080
33.15.110
33.15.180
33.15.200
33.20.040
33.25.010

555. WHO MAY ISSUE WARRANTS. Warrants for the arrest of those convicted persons outlined in Section 550 may be issued by the Board or a member of the Board. Those parolees convicted in Alaska and being supervised in another state are also subject to arrest as provided in the receiving state.

Authority: 33.15.200
33.15.230

560. ISSUED BEFORE EXPIRATION DATE. All parole violation warrants must be issued before midnight of the date supervision is due to expire. A warrant issued before the expiration date may be executed after the date supervision is due to expire.

Authority: 33.15.200
33.15.230

565. EFFECT OF ISSUANCE. (a) The issuance of a parole violation warrant suspends the supervision time of the violator and his time is tolled until he is taken into custody for the violation, the case is reviewed by the Board, and a final disposition is rendered by the Board. Once a violator has been arrested as the result of a parole violation warrant, he may be released from custody only upon the order of the Board.

(b) All violation warrants are issued with the understanding that the violator shall be held without bail pending the preliminary revocation hearing. At the preliminary hearing, a determination will be made whether or not the violator will be released from custody and under what conditions, if release is granted.

(c) Persons arrested as a result of a parole violation warrant issued by the Alaska Board of Parole do not need to be arraigned by any judicial official, have no right to bail, and shall remain in custody until taken before a hearing officer of the Board.

Authority: 33.15.100
33.15.220
33.15.230

570. LENGTH OF TIME WARRANT VALID. (a) A parole violation warrant remains active and valid until executed through the arrest of the violator or until withdrawn by a Board member or by the Board.

(b) All outstanding parole violation warrants will be reviewed every two years to determine whether or not they should remain active.

Authority: 33.15.200
33.15.230

575. PROCESS FOR OBTAINING VIOLATION WARRANTS. (a) A Parole warrant will normally be issued only after the Board or Board member has reviewed the written summary of the alleged violations provided to support the issuance of the warrant. The information presented to the Board or Board member shall be sufficiently specific to allow a reasonable person to believe probable cause exists that a violation of a parole condition has taken place and that the parolee was the person committing the violation.

(b) Before the Board issues a warrant, the parole officer shall provide information to the Board establishing that the person on whom the warrant is requested is under the legal jurisdiction of the Board.

(c) Where exigencies exist indicating that the parolee might flee the jurisdiction or might be a threat to the community or himself if not immediately taken into custody, the Board or member of the Board may issue a parole violation warrant on the oral testimony of a parole officer once the information note in subsections (a) and (b) is provided the member of the Board. Whenever a warrant is issued upon the oral testimony of a parole officer, the parole officer shall as soon as practical reduce the information to writing in his chronological notes as to the reasons why the immediate issuance of the warrant was necessary.

(d) Whenever a warrant is obtained by the oral testimony of the parole officer under subsection (c), the parole officer shall reduce the violations to writing in a parole violation report and provide the report to the Board or member issuing the warrant as soon as possible.

Authority: 33.15.150
33.15.230

580. ARREST OF VIOLATOR WITHOUT A WARRANT. Parole officers may arrest a parolee without a warrant when exigencies exist requiring the immediate or quick removal of the parolee in custody, and none of these sections shall be construed to detract from the parole officer's arrest authority without a warrant.

Authority: 33.15.210
33.15.220

ARTICLE 18. HEARING OFFICERS

Section

- 585. Definition and Authority
- 590. List of Hearing Officers
- 595. Responsibilities of the Hearing Officers
- 600. Training of Hearing Officers

585. DEFINITION AND AUTHORITY. Hearing officers are individuals designated by the Board to conduct certain Parole Board hearings. Hearing officers preside over and render decisions at preliminary parole revocation hearings and preliminary parole rescission hearings.

Authority: 33.15.100
33.15.220
33.15.230

590. LIST OF HEARING OFFICERS. The Board shall maintain a list of approved hearing officers in the Board office. The Board authorizes the Executive Director to designate hearing officers. Only those persons designated by the Board may serve as hearing officers in the State of Alaska on behalf of the Board. Other jurisdictions are responsible for the designation of hearing officers in their states. The hearing officer may not be a person directly involved in the supervision of the parolee's case or a person who has made a report of alleged violations.

Authority: 33.15.100
33.15.220
33.15.230

595. RESPONSIBILITIES OF THE HEARING OFFICER. The hearing officer has the following responsibilities: (a) The hearing officer will preside at the hearings specified in Section 585, and will rule on the admissibility of evidence, procedural challenges, or other matters in dispute at a hearing;

(b) The hearing officer shall determine the weight to give any evidence or testimony presented at a hearing;

(c) The hearing officer will be the trier of fact at the hearing;

(d) Where the hearing officer determines a witness may be subject to risk or harm if his identity is disclosed, the hearing officer may examine the witness in camera;

(e) The hearing officer shall complete the required forms within 48 hours of the termination of a hearing over which he is presiding. The forms will provide the decision made by the hearing officer, the evidence utilized at the hearing, and the reasons for the decision;

(f) The hearing officer will insure that the parolee and any other parties to the hearing are provided with a copy of the order of the hearing decision;

(g) The hearing officer may continue the hearing to a future date if he determines that additional information is needed to make a reasonable and responsible decision, or for other good cause;

(h) The hearing officer does not have the authority to make a final determination of whether or not a violation has occurred or to revoke the parolee's parole.

Authority: 33.15.100
33.15.220
33.15.230

600. TRAINING OF HEARING OFFICERS. Only persons who have received training from the Board will be designated as hearing officers.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 19. BIFURCATION OF HEARINGS.

Section

- 605. Applicability
- 610. Phase I of Hearing
- 615. Phase II of Hearing
- 620. Board may Combine Phases for Good Cause

605. APPLICABILITY. This Article applies only to preliminary and final revocation hearings.

Authority: 33.15.100
33.15.220
33.15.230

610. PHASE I OF HEARING. During Phase I, testimony will be taken only relating to allegations that are set forth in the violation report. Before proceeding on to Phase II of the hearing, the hearing officer or Board will make a finding on the violations alleged, or continue the hearing.

Authority: 33.15.100
33.15.220
33.15.230

615. PHASE II OF HEARING. During Phase II any other testimony relevant to the decision to release or incarcerate the violator pending the final hearing, or release or revoke the violator at the final hearing, will be considered.

Authority: 33.15.100
33.15.220
33.15.230

620. BOARD MAY COMBINE PHASES FOR GOOD CAUSE. Since the primary purpose of bifurcation of the hearing is to insure only information relevant to the allegations are considered at the initial phase, and to help prevent confusion during the hearing, the hearing officer or Board may combine Phases I and II of the hearing when such action will assist in the reasonable operation of the hearing in the opinion of the Board representative conducting the hearing. The Board representative will consider the wishes of the parole officer and the violator in making his decision.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 20. RECORDING OF HEARINGS.

Section

- 625. Hearings to be Recorded
- 630. Tapes in Lieu of Transcripts
- 635. Request for Tape of Hearing
- 640. Malfunction of Equipment

625. HEARINGS TO BE RECORDED. All hearings conducted under Articles 4, 9, 22, and 26, shall be electronically recorded. Tapes of these hearings listed in Articles 4, 22, and 26 will be maintained in the Board office one calendar year from the date of the hearing, unless the Board office has been notified in writing that a request for reconsideration or a court appeal of the Board's decision from the hearing has been initiated. Tapes of release hearings under Article 4 will be maintained for six months, unless the Board has been notified of a request for reconsideration or appeal.

Authority: 33.15.100
33.15.220
33.15.230

630. TAPES IN LIEU OF TRANSCRIPTS. The Board will provide copies of tapes of hearings in lieu of transcripts of Board proceedings.

Authority: 33.15.100
33.15.220
33.15.230

635. REQUEST FOR TAPE OF HEARING. Upon written request from an attorney representing a client involved in a hearing set forth in Articles 4, 9, 22, or 26, a copy of the tape of the hearing will be provided. If the violator was not represented by an attorney and makes the written request, a copy of the tape will be made available to him for listening.

(a) A request for the tape of a hearing must be made in writing to the following address: Executive Director, Alaska Board of Parole, Pouch H-01E, Juneau, Alaska 99811.

(b) If the request for the tape of a hearing is made by an attorney that did not represent the violator previously at that hearing, documentation must be attached to the tape request indicating the attorney has been appointed for or retained by the violator.

(c) The Board may charge a reasonable fee for the cost of providing the tapes.

Authority: 33.15.100
33.15.220
33.15.230

640. MALFUNCTION OF EQUIPMENT. The failure or malfunction of the tape recording equipment at any hearing does not in any way invalidate the proceedings or the action taken at the hearing. If a recording is damaged or destroyed while being copied at the request of any party to the hearing, even though diligence was exercised to preserve the integrity of the tape, the action taken at the hearing will not in any way be invalidated.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 21. SUBPOENAS

Section

- 645. Authority
- 650. Who May Issue Subpoenas
- 655. Who May Request Subpoenas
- 660. Responsibility for Service and Expenses
- 665. Service of Subpoenas

645. AUTHORITY. Alaska Statute 33.15.110 allows the Board to issue subpoenas for individuals or for records.

Authority: 33.15.100
33.15.110
33.15.220
33.15.230

650. WHO MAY ISSUE SUBPOENAS. The Board authorizes any of the following individuals to issue subpoenas:

(a) Any Alaska Parole Board Member;

(b) The Executive Director or Parole Board Officer of the Alaska Board of Parole.

Authority: 33.15.015
33.15.100
33.15.110
33.15.220
33.15.230

655. WHO MAY REQUEST SUBPOENAS. Either party or legal representative for either party to a preliminary or final revocation hearing may apply to the Board for a subpoena. It is the responsibility of the requesting party to make the request in sufficient time before the scheduled hearing to allow for the issuance and service of the subpoena.

Authority: 33.15.100
33.15.220
33.15.230

660. RESPONSIBILITY FOR SERVICE AND EXPENSES. Responsibility for the service of the subpoena, costs of transportation for a witness or for obtaining records, and any other expenses associated with the issuance or service of the subpoena rests with the requesting party and not with the Board.

Authority: 33.15.100
33.15.220
33.15.230

665. SERVICE OF SUBPOENAS. (a) Subpoenas may be served by a parole officer or other appropriate division of corrections staff.

(b) Subpoenas may be served in accordance with civil rule 45(c), subject to the financial responsibility clause of Section 660.

Authority: 33.15.100
33.15.220
33.15.230

670. FAILURE TO COMPLY WITH SUBPOENAS. The Parole Board may, at its discretion, apply to the Superior Court to enforce compliance by any individual, agency, corporation, etc., that willfully refuses to appear as directed at a hearing or to produce records requested by a Parole Board subpoena.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 22. PRELIMINARY REVOCATION HEARINGS GENERALLY

Section

- 675. Purpose
- 680. How Hearings are Conducted
- 685. Hearing Officer in Charge
- 690. Information Considered
- 695. Hearsay Evidence Rule Inapplicable
- 700. Exclusionary Rule Inapplicable
- 705. Standard of Proof for Probable Cause
- 710. Decisions Available to Hearing Officer
- 715. Hearing Officer's Finding and Order
- 720. Request for Reconsideration of Ruling or Decision
- 725. Violations Outside Alaska

675. PURPOSE. The purpose of the preliminary revocation hearing is to determine whether or not there is probable cause to believe the parolee has committed a new crime or has violated any of the conditions of his parole; and if probable cause is found, determine whether or not he should remain in custody pending a final revocation hearing. A preliminary revocation hearing is not required if the violator is not arrested pending a final revocation hearing.

Authority: 33.15.220

680. HOW HEARINGS ARE CONDUCTED. Preliminary hearings are conducted by a hearing officer designated by the Board and are run as informally as possible. However, the hearing officer may terminate testimony or questioning of witnesses if it becomes irrelevant, repetitious or argumentative. The hearing is not a criminal proceeding nor a criminal prosecution. The criminal rules of evidence do not apply at preliminary revocation hearings and hearsay evidence is admissible. Procedural challenges must be presented to the hearing officer in advance of the hearing so the commencement of the hearing is not delayed.

Authority: 33.15.100
33.15.220
33.15.230

685. HEARING OFFICER IN CHARGE. The hearing officer designated by the Board will be in charge of the preliminary hearing. He will be responsible for ruling on any matters considered at the hearing.

Authority: 33.15.100
33.15.220
33.15.230

690. INFORMATION CONSIDERED. (a) The determination by the hearing officer of whether or not probable cause exists will be made based upon all information presented at the hearing, including affidavits, reports, tapes, other written documents, and individual testimony.

(b) If probable cause is established, the decision of whether or not to release the parolee pending the final revocation hearing will be based upon all information presented at the initial phase of the hearing, any information presented at the second phase of the hearing and upon all other information and records previously available to the Board regarding the parolee.

Authority: 33.15.100
33.15.220
33.15.230

695. HEARSAY EVIDENCE RULE INAPPLICABLE. Rules regarding admissibility of evidence in use in the Alaska Court System do not apply at a parole hearing. Hearsay evidence is admissible at a parole hearing, and the hearing officer and the Board members must determine the weight to give the evidence and the reliability of the witnesses appearing.

Authority: 33.15.100
33.15.200
33.15.230

700. EXCLUSIONARY RULE INAPPLICABLE. A statement, testimony, or physical information obtained in a manner that would render it inadmissible in a criminal proceeding may be submitted and considered at a revocation hearing.

Authority: 33.15.100
33.15.220
33.15.230

705. STANDARD OF PROOF FOR PROBABLE CAUSE. Probable cause is established when sufficient evidence is presented and reasonable grounds exist to believe the parolee has committed any act which would constitute a violation of a law or his conditions of parole.

Authority: 33.15.100
33.15.220
33.15.230

710. DECISIONS AVAILABLE TO HEARING OFFICER. The following decisions are available to a hearing officer: (a) The hearing officer may determine that probable cause has not been established to believe the parolee has violated a law or condition of his parole, and the parolee may be returned to parole supervision to an approved plan;

(b) The hearing officer may find that probable cause has been established that the parolee has violated a law or a condition of his parole but may return the parolee to supervision pending the final revocation hearing, subject to any reasonable conditions of supervision.

(c) The hearing officer may find that probable cause has been established to believe the parolee has committed a violation of a law or a condition of his parole, and order him incarcerated or to remain in custody pending the final revocation hearing;

(d) The hearing officer may continue the hearing if he feels additional information needs to be presented before a finding is made. If this option is chosen, reasonable attempts will be made to complete the hearing within ten working days after the continuance of the hearing. A continuance will be granted only when it is supported by evidence showing good and sufficient cause. A continuance will be for such time as is required in the interest of justice.

Authority: 33.15.100
33.15.220
33.15.230

715. HEARING OFFICER'S FINDING AND ORDER. (a) Except in unusual circumstances, the hearing officer will issue a verbal finding and order at the completion of the hearing.

(b) The hearing officer will complete the written order pursuant to Section 595.

(c) In some cases, the hearing officer may continue the hearing to a later date without making a finding, and his reason for this decision will be stated at the time the hearing is continued.

Authority: 33.15.100
33.15.220
33.15.230

720. REQUEST FOR RECONSIDERATION OF A RULING OR DECISION. A request for reconsideration of a ruling or decision at a preliminary revocation hearing may be made only in the manner set forth and for the reasons outlined in Sections 150, 165, and 170, subject to the exception of Section 835.

Authority: 33.15.100
33.15.220
33.15.230

725. VIOLATIONS OUTSIDE ALASKA. When a parole violation allegedly occurred outside the State of Alaska, affidavits, depositions, reports, letters, and other documentary evidence may be used as bases for determining whether or not a violation has taken place. The final revocation hearing may be held at a location at or near the alleged violation rather than in Alaska, at the discretion of the Board.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 23. RIGHTS AND RESPONSIBILITIES OF THE
PAROLEE AT THE PRELIMINARY REVOCATION
HEARING.

Section

- 730. Those Eligible for a Preliminary Hearing
- 735. When Hearing is Necessary
- 740. Time Frame of Hearing
- 745. Location of Hearing
- 750. Notification of Hearing
- 755. Notification of Alleged Violations
- 760. Supplemental Allegations
- 765. Amendment/Correction of Allegations
- 770. Testimony
- 775. Opportunity to Contact Witnesses
- 780. Witnesses
- 785. Confrontation of Adverse Witnesses
- 790. Access to Adverse Material Regarding Allegations
- 795. Right to Remain Silent
- 800. Waiver of Hearing
- 805. Responsibility for Expenses

730. THOSE ELIGIBLE FOR A PRELIMINARY HEARING. (a) The following persons have a right to a preliminary revocation hearing if incarcerated pending a final revocation hearing:

(1) Those sentenced prisoners released pursuant to AS 33.15.080;

(2) Those sentenced prisoners released pursuant to AS 33.15.180(c);

(3) Those sentenced prisoners released pursuant to AS 33.20.040;

(4) Those adult parolees being supervised in Alaska under the Interstate Compact pursuant to AS 33.10.010 and 33.25.010;

(5) Any other parolee in the State of Alaska not being supervised under the interstate compact pursuant to AS 33.10.010 or 33.25.010 but when by the state having parole jurisdiction over the prisoner has requested a hearing be held in Alaska;

(b) An Alaska prisoner released pursuant to subsections (1), (2) and (3) and being supervised in any other state other than Alaska has a right to a preliminary revocation hearing if arrested in the state where he is being supervised. If arrested anywhere other than in the receiving state, his preliminary hearing may be conducted in Alaska, at the discretion of the Board.

(c) An Alaska parolee who absconds supervision from the office area where he is being supervised does not have a right to a preliminary revocation hearing in any other area than the office area where he is being supervised, or at any other location designated by the Board.

Authority: 33.15.100
33.15.220
33.15.230

735. WHEN HEARING IS NECESSARY. A preliminary revocation hearing is necessary when a violator is arrested and incarcerated in a correctional facility. However, if a final revocation hearing is scheduled to take place within ten working days after the date of the violator's arrest, a preliminary hearing is not required, and the violator has no right to a preliminary revocation hearing.

Authority: 33.15.100
33.15.220
33.15.230

740. TIME FRAME OF HEARING. Preliminary hearings shall be held within ten working days after the date of the arrest of the violator. Exceptions to this schedule will be granted by the Board only for good and sufficient cause.

Authority: 33.15.100
33.15.220
33.15.230

745. LOCATION OF HEARING. A preliminary hearing will be held reasonably near the place of the alleged violations, subject to the exceptions outlined in Section 730. The Board shall determine the location of the hearing.

Authority: 33.15.100
33.15.220
33.15.230

750. NOTIFICATION OF HEARING. The parole officer shall provide the parolee with notification of the preliminary hearing at least 72 hours in advance of the hearing. The date, location and approximate time of the hearing will be provided to the parolee. Notification may be provided the violator's attorney in lieu of notification of the parolee if the parolee is represented by an attorney.

Authority: 33.15.100
33.15.220
33.15.230

755. NOTIFICATION OF ALLEGED VIOLATIONS. The parole officer shall provide the violator with written notification of alleged parole violations within 72 hours of his scheduled hearing. Notification of alleged violations may be provided the violator's attorney in lieu of notification of the parolee.

Authority: 33.15.100
33.15.220
33.15.230

760. SUPPLEMENTAL ALLEGATIONS. Supplemental charges alleging additional parole violations may be made at any time preceeding a final revocation hearing by the Parole Board, but must be served on the parolee or his attorney as set forth in Section 755.

Authority: 33.15.100
33.15.220
33.15.230

765. AMENDMENT/CORRECTION OF ALLEGATIONS. Charges as set forth in Sections 755 and 760 may be amended at any time by the parole officer before a hearing begins, or during the hearing with the permission of the Board or Board representative conducting the hearing.

Authority: 33.15.100
33.15.220
33.15.230

770. TESTIMONY. The violator has the right to present testimony, documents, and other evidence relating to the violation.

Authority: 33.15.100
33.15.220
33.15.230

775. OPPORTUNITY TO CONTACT WITNESSES. If the parolee is represented by an attorney, it is the responsibility of the attorney to arrange for the appearance of witnesses. If the parolee is not represented by an attorney, institutional officials shall give him reasonable opportunity to make such contacts as may be necessary to assure the appearance of witnesses at the hearing.

Authority: 33.15.100
33.15.220
33.15.230

780. WITNESSES. The violator has the right to present witnesses who may have relevant information concerning the alleged violations. These persons cannot be merely character witnesses. The violator assumes the responsibility for the appearance of any witness at his request. The Board or the State may also call witnesses. All witnesses shall be sworn and will testify under oath. Any witness is subject to questioning by the Board members or staff regarding anything that might be relevant to the parolee's case.

Authority: 33.15.100
33.15.220
33.15.230

785. CONFRONTATION OF ADVERSE WITNESSES. The violator may confront or cross examine adverse witnesses testifying at the hearing unless the hearing officer determines that a witness may be subject to risk or harm if his identity is disclosed. This determination will be made by the hearing officer. A witness determined to be subject to risk or harm will be interviewed by the hearing officer in camera. The Board and the division of corrections staff may cross examine any witness appearing on behalf of the parolee.

Authority: 33.15.100
33.15.220
33.15.230

790. ACCESS TO ADVERSE MATERIAL REGARDING ALLEGATIONS. The violator may be allowed access to material included in the violation report regarding alleged violations, pursuant to Sections 535 and 540 of these regulations. He may also be allowed access to other adverse information presented at the hearing regarding alleged violations, except that the hearing officer may deny him access to material if in the hearing officer's opinion a party might be subject to risk or harm if the disclosure was made. A copy of the material outlined in this section will be made available to the violator if he so requests, subject to the stipulations of this section.

Authority: 33.15.100
33.15.220
33.15.230

795. RIGHT TO REMAIN SILENT. The violator has the right to remain silent only regarding those questions or allegations relating to pending new criminal charges. The violator's refusal to answer questions about any other allegation or about anything other than pending criminal charges may be used against him by the Board. Any testimony by the violator may be used against him at any Board hearing.

Authority: 33.15.100
33.15.220
33.15.230

800. WAIVER OF HEARING. The parolee may waive his right to a preliminary revocation hearing, and waiver of this hearing in no way affects his right to a final revocation hearing before the Board.

Authority: 33.15.100
33.15.220
33.15.230

805. RESPONSIBILITY FOR EXPENSES. The parolee is responsible for any expenses incurred by him or on his behalf in preparation for the hearing. The division of corrections is responsible for any expenses incurred by its employees or on its behalf in preparation for the hearing. The Board is responsible only for the expenses of having a hearing officer present to conduct the hearing.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 24. REPRESENTATION BY ATTORNEY AT BOARD HEARINGS.

Section

- 810. Right To Attorney At Certain Board Hearings
- 815. Representation by Attorney at Other Board Hearings
- 820. Implementation of Section 810

810. RIGHT TO ATTORNEY AT CERTAIN BOARD HEARINGS. Sentenced prisoners appearing before the Board for specified hearings have a right to representation by an attorney. No person other than an attorney licensed to practice law in the State of Alaska or law clerk employed by said attorney may represent a sentenced prisoner at Board hearings. A right to representation by an attorney shall be only for the following hearings:

- (a) Parole rescission hearings;
- (b) Preliminary parole violation hearings;
- (c) Final parole violation hearing.

Authority: 33.15.100
33.15.220
33.15.230

815. REPRESENTATION BY ATTORNEY AT OTHER BOARD HEARINGS. A prisoner appearing before the Board as a parole applicant may utilize the services of an attorney. Also, the prisoner may also utilize the services of an attorney to assist him with Board matters in accordance with a request for reconsideration at a release hearing, modification of parole conditions, request for a special review, and discharge from supervision. There is no right to an attorney regarding these parole-related matters, and the responsibility lies specifically and totally with the prisoner to obtain and pay for legal representation.

Authority: 33.15.100
33.15.220
33.15.230

820. IMPLEMENTATION OF SECTION 810. (a) A prisoner appearing before the Board for those hearings listed in Section 810 will be advised of his right to representation by an attorney at the hearing. A prisoner will be given the opportunity to request or waive the assistance of an attorney at these hearings.

(b) A sentenced prisoner requesting the assistance of counsel will be referred to the appropriate Alaska State Court to determine whether or not he is eligible for representation by the Alaska Public Defender Agency. Persons found eligible for representation will be referred to that Agency for legal services.

(c) A prisoner found not eligible for the services of the Public Defender Agency, has the sole responsibility for arranging, providing for and financing his legal representation.

(d) A prisoner requesting the assistance of counsel under Section 810 will be given a reasonable period of time to seek and obtain the assistance of an attorney. The Board or a representative of the Board may on its own motion continue any hearing to allow the prisoner reasonable time to obtain the assistance of an attorney.

(e) An Alaska prisoner on supervision in another state will be provided legal assistance according to the rules of that jurisdiction.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 25. RELEASE OR INCARCERATION PENDING
FINAL REVOCATION HEARING.

Section

825. No Bail Established--Release Determined at Preliminary Hearing
830. Factors Considered
835. Decision of Hearing Officer not Appealable

825. NO BAIL ESTABLISHED--RELEASE DETERMINED AT PRELIMINARY HEARING. The Board does not establish bail for the release of a parolee after arrest on a parole warrant. There is no right to the establishment of bail on a parole violation warrant as a revocation hearing is not a criminal proceeding. Instead, a determination is made by the hearing officer at the preliminary hearing whether or not to release the parolee from custody pending the final hearing.

Authority: 33.15.100
33.15.220
33.15.230

830. FACTORS CONSIDERED. In making this decision whether or not to release a parolee, the following factors shall be taken into consideration:

- (a) Whether in the opinion of the hearing officer the parolee will or will not appear at the final revocation hearing as directed if released;
- (b) Whether in the opinion of the hearing officer the parolee will or will not remain in the community under parole supervision without again violating any of his conditions of parole if released, and whether or not he is perceived to be a threat or danger to the community;
- (c) Whether in the opinion of the hearing officer the parolee has or does not have a complete, verified, reliable, plan if released;
- (d) Whether in the opinion of the hearing officer the parolee should or should not be incarcerated pending the final hearing because of the seriousness or the nature of the alleged violations;

(e) In the opinion of the hearing officer, any other factors of particular importance that should be considered based upon the parolee's prior record, present offense, and all other information known about the parolee.

Authority: 33.15.100
33.15.220
33.15.230

835. DECISION OF HEARING OFFICERS NOT APPEALABLE. The decision in accordance with Section 710 will be made by the hearing officer at the completion of the preliminary revocation hearing or as soon thereafter as possible. The decision of the hearing officer to release or incarcerate the violator pending the final hearing is final and not appealable.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 26. FINAL REVOCATION HEARINGS GENERALLY

Section

- 840. Purpose of Hearing
- 845. Other Sections Applicable
- 850. Location of Hearing
- 855. Time Frame of Hearing
- 860. Standard of Proof
- 865. Parole Board is the Trier of Fact
- 870. Parolee May Not Relitigate Issues
- 875. Decisions Available to the Board
- 880. Notification of Decision.

840. PURPOSE OF HEARING. The purpose of a final revocation hearing is for the members of the Board to determine whether or not a violation of parole conditions has been committed, and if so whether or not the prisoner should be returned to custody to resume the service of his sentence and for how long.

Authority: 33.15.100
33.15.220
33.15.230

845. OTHER SECTIONS APPLICABLE. The following Sections also apply to final revocation hearings:

- (a) Sections 680, 685, 690(a), 695, 700, 720, and 725;
- (b) Sections 730(a)(1), (a)(2), (a)(3), 750, 755, 760, 765, 770, 775, 780, 785, 790, 795, and 805;
- (c) Section 800 also applies, allowing the parolee to waive his appearance at the final revocation hearing.
- (d) Sections 160, 165, and 170 also apply to the final revocation hearing.

Authority: 33 15.100
33.15.220
33.15.230

850. LOCATION OF HEARING. Final revocation hearings will be conducted in the most easily accessible Alaska correctional institution where the Board conducts its quarterly hearings. Exceptions may be approved by the Board for good cause.

Authority: 33.15.100
33.15.220
33.15.230

855. TIME FRAME OF HEARING. Final revocation hearings will take place at the next regularly-scheduled quarterly Board hearings after the preliminary revocation hearing. Exceptions may be approved by the Board for good cause. If the only allegation is a pending criminal charge the Board may, at its discretion, allow the continuance of the final revocation hearing until the new charge is disposed of.

Authority: 33.15.100
33.15.220
33.15.230

860. STANDARD OF PROOF. The standard of proof at the final revocation hearing in determining whether or not the parolee has violated a condition of parole shall be the preponderance of the evidence as presented to the Board. The Board's decision shall be based upon information presented at the preliminary and final revocation hearings.

Authority: 33.15.100
33.15.220
33.15.230

865. PAROLE BOARD IS THE TRIER OF FACT. The Board shall be the trier of facts at revocation hearings and the members shall judge the creditability and determine the weight and reliability of the testimony of witnesses, and the weight and reliability of other evidence presented to them.

Authority: 33.15.100
33.15.220
33.15.230

870. PAROLEE MAY NOT RELITIGATE ISSUES. (a) A parolee may not relitigate issues determined against him in other forums, including disciplinary committees, adjustment committees, and in other administrative hearings. He may not relitigate a conviction of a crime in a court of law.

(b) A finding of not guilty in a criminal prosecution does not bar the use of the same or related evidence to revoke parole.

(c) The Board may find a parolee guilty of a violation of parole that could constitute a violation of a law, without a separate new conviction. The Board may consider behavior which could constitute a crime even though the parolee is being charged with that crime separate from the parole revocation. Acquittal on a pending criminal charge does not bar the Board revoking the parolee for the behavior for which the criminal charges were brought against him.

Authority: 33.15.100
33.15.220
33.15.230

875. DECISIONS AVAILABLE TO THE BOARD. (a) The Board may make any of the following decisions at a final revocation hearing:

(1) No violation of parole conditions is established, and the parolee may be returned to supervision to an acceptable release plan;

(2) The Board may determine the parolee has violated conditions of his release, but he may be returned to supervision without revoking his parole;

(3) The Board may determine that the parolee has violated conditions of his release, and parole may be revoked and his case continued for review to any future Board meeting;

(4) The Board may determine that the parolee has violated conditions of his release, and the Board may revoke his parole and deny him further parole consideration during the remainder of his sentence;

(5) The Board may determine the parolee has violated conditions of his parole, and the Board may revoke his parole and reparole him with any suitable conditions;

(6) The Board may continue the revocation hearing to a future meeting for additional information, to await the resolution of pending criminal charges, or for other good causes;

(b) The deliberations of the Board members arriving at the decision outlined in Section 875 are confidential and only the members of the Board and Board staff are permitted to be in attendance. The vote of the individual Board member shall not be disclosed to any person and the hearing decision "vote sheet" is also confidential and shall not be disclosed to any person.

(c) If parole is revoked, the time the parolee was at liberty on parole does not count toward the sentence, but the time spent in custody for the parole violation will be credited to his sentence.

Authority: 33.15.100
33.15.220
33.15.230
44.62.310

880. NOTIFICATION OF DECISION. (a) If parole is revoked at the final revocation hearing, the Board will provide the parolee with a copy of the order revoking parole within ten working days after the date of the decision.

(b) The Board will advise the parolee in writing within 21 calendar days after the date of the hearing of the violation(s) for which he was found guilty, the evidence used as the bases for the determination of the violation, and the reasons for returning him to custody, if that was the decision of the Board.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 27. DISQUALIFICATION OF BOARD MEMBERS

Section

- 885. Who May Disqualify a Member
- 890. Reasons for Disqualification
- 895. Which Hearings Applies to

885. WHO MAY DISQUALIFY A MEMBER. A Board member may be disqualified from voting on a specific case being considered by the Board as follows:

- (a) The member may disqualify himself;
- (b) The member may be disqualified by a majority vote of the other Board members present at the hearing for any of the reasons set forth in Section 890.

Authority: 33.15.100
33.15.220
33.15.230

890. REASONS FOR DISQUALIFICATION. (a) A Board member may be disqualified whenever it is determined that he has had recent personal involvement with the prisoner that would prejudice his vote. This does not refer to any involvement with the prisoner in the member's capacity as a voting Board member.

(b) A Board member may be disqualified whenever it is determined that he has been the victim of a crime committed by the prisoner in the recent past, or took an active part in the prosecution, defense, or sentencing of the prisoner regarding his present offense.

(c) A Board member may be disqualified whenever it is determined that he has had some previous contact with the prisoner as a result of the Board member's regular profession, that this contact made information available to the Board member that would not have been available to the Board, and that this information would unduly prejudice the member in his vote.

(d) A Board member may be disqualified whenever it is determined that he has had a recent business relationship for pecuniary gain with the prisoner that might prejudice his vote.

(e) A Board member shall be disqualified whenever the prisoner is a member of his immediate family.

(f) A Board member may be disqualified whenever it is determined that any other circumstances exist that would prevent him from objectively considering the case.

Authority: 33.15.100
33.15.220
33.15.230
39.50.090

895. WHICH HEARING APPLIES TO. Section 890 applies to the disqualification of Board members at all parole release, revocation and rescission hearings.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 28. TIME LIMITATIONS IN REGULATIONS

Sections

- 900. Purpose Generally
- 905. Intent of Board to Adhere
- 910. Consequence of Failure to Adhere
- 915. Remedies Available

900. PURPOSE GENERALLY. The various time frames and time limitations in these regulations have been established by the Board to promote the efficient operation of the Board while insuring that all parties to hearings are given adequate consideration. Any time limitation set forth in the regulations may be relaxed when strict adherence to it would bring about an injustice in the opinion of the hearing officer or the Board.

Authority: 33.15.100
33.15.220
33.15.230

905. INTENT OF BOARD TO ADHERE. It is the intent of the Board to adhere to the time limitations established in these regulations and see that the time limitations established for others involved in the parole process are also followed whenever possible.

Authority: 33.15.100
33.15.220
33.15.230

910. CONSEQUENCES OF FAILURE TO ADHERE. Failure of the Board or a division of corrections employee to strictly adhere to any time frame or time limitation will not invalidate any action by the Board unless demonstrable prejudice to a prisoner is shown to the satisfaction of the Board. Serving additional time in custody does not itself constitute demonstrable prejudice.

Authority: 33.15.100
33.15.220
33.15.230

915. REMEDIES AVAILABLE. If the Board or any other employee acting on behalf of the Board fails to adhere to a time frame or time limitations as set forth in these regulations, and the prisoner can show demonstrable prejudice to himself because of the failure to adhere, he may request a special review of his case in accordance with Section 305. The Board may, in its discretion, grant a special review if it determines the prisoner suffered demonstrable prejudice, when considering the record as a whole.

Authority: 33.15.100
33.15.220
33.15.230

ARTICLE 29. AVAILIBILTY OF PAROLE BOARD REGULATIONS
AND CHANGES OF REGULATIONS

Section

- 920. Distribution
- 925. Other Copies
- 930. List of Manuals
- 935. Amendments Provided
- 940. Delegation of Authority

920. DISTRIBUTION. The Board will make a copy of its regulations available to the following:

- (a) All state correctional institutions housing sentenced adult prisoners;
- (b) All other contract facilities holding sentenced adult Alaska State prisoners, when the location of these facilities and the presence of sentenced inmates eligible for parole is known to the Board;
- (c) Each division of corrections probation/parole office;
- (d) District attorney's offices in Ketchikan, Juneau, Fairbanks, Anchorage, Bethel, and Nome;
- (e) Public defender agency offices located in the same cities noted in subsection (d);
- (f) Each Alaska superior court judge, Alaska court of appeals judge, and Alaska supreme court justice of record;
- (g) Commissioner and Deputy Commissioners of the Department of Health and Social Services;
- (h) Each institutional parole officer of record in state correctional facilities;
- (i) State law libraries where present in the locations noted in subsection (d);
- (j) State ombudsman offices located in Juneau, Fairbanks, and Anchorage;

(k) Chairman of the judiciary committee of both Houses of the Alaska Legislature, and the Speaker of the House and the President of the Senate;

(l) The Governor, Lieutenant Governor, and Attorney General of the State of Alaska;

(m) Division of corrections central offices in Juneau and Anchorage;

(n) Criminal Justice Planning Agency;

(o) Public libraries throughout the State as designated by the Alaska State Library.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

925. OTHER COPIES. Upon written request from individuals or agencies not listed in Section 920, one copy of the regulations will be made available at a reasonable cost to the individual or agency at an amount to be determined by the Board, if printed copies are available to the Board, subject to funding and availability of staff to complete this process.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

930. LIST OF MANUALS. The Board will maintain a master list of persons or agencies having possession of the regulations, and changes or amendments will be mailed to the holder of each manual, subject to funding and the availability of staff to complete this process.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

935. AMENDMENTS PROVIDED. Changes or amendments to regulations will be provided to all known holders of manuals as soon as possible after a modification is adopted by the Board subject to funding and availability of staff.

Authority: 33.15.015
33.15.100
33.15.160
33.15.220
33.15.230

940. DELEGATION OF AUTHORITY. The Board may delegate the authority to develop and establish regulations to the Executive Director of the Board.

(a) Any regulation established by the Executive Director must be reviewed by the Board at the next general meeting of the Board after the regulation is established.

(b) At that time the Board members will approve the regulation as written, approve the regulation with modifications, or rescind the regulation.

Authority: 33.15.100
33.15.160
33.15.220
33.15.230

ARTICLE 30. PAROLE BOARD GENERAL MEETINGS.

Section

- 945. Frequency
- 950. Meetings Open to Public
- 955. Executive Session
- 960. Public Notice
- 965. Agenda
- 970. Records of Meetings

945. FREQUENCY. The Board will meet in general session at least once each calendar year subject to the availability of funds.

Authority: 33.15.015
33.15.100
33.15.160

950. MEETINGS OPEN TO PUBLIC. General Board meetings are open to the public, and time will be set aside at designated meetings to take oral and written public comment, subject to the availability of funds.

Authority: 33.15.015
33.15.100
33.15.160
42.62.310

955. EXECUTIVE SESSION. The Board may, in its discretion, move into executive session as provided for in AS 44.62.310(b)(c), during a general meeting.

Authority: 33.15.015
33.15.100
33.15.160
42.62.310

960. PUBLIC NOTICE. Reasonable public notice for general Board meetings designated for public comment will be given, subject to the availability of funds.

Authority: 33.15.015
33.15.100
33.15.160
42.62.310

965. AGENDA. An agenda will be prepared by the Board for each meeting. The agenda may be amended at the meeting by the Board.

Authority: 33.15.015
33.15.100
33.15.160

970. RECORDS OF MEETINGS. Board staff will take notes at the general Board meetings, and these notes will be made available to the members of the public upon written request, subject to the availability of funding and staff to complete this process. Voice votes are authorized at all non-adjudicatory meetings.

Authority: 33.15.015
33.15.100
33.15.160
44.62.310

ARTICLE 31. BOARD'S DISCRETION

975. BOARD'S DISCRETION. The Board reserves all discretion created by common law, by the United States and Alaska Constitutions, and by statutes.

Authority: 33.15.100

ARTICLE 32. DEFINITIONS IN THESE REGULATIONS
UNLESS THE CONTEXT OTHERWISE
REQUIRES

- (1) "board" means the Alaska Parole Board.
- (2) "discretionary parolee" means a prisoner released on parole under supervision of the Board pursuant to AS 33.15.080.
- (3) "hearing decision vote sheet" means the document signed by each Board member present at a hearing regarding a case being considered, and includes the members' comments reflecting important aspects of the case he wishes to retain for future case hearings.
- (4) "immediate family" means father, mother, sister, brother, son, daughter, step-relationship to the previously mentioned relations, of the prisoner.
- (5) "interstate parolee" means an adult parolee released by or subject to the authority of the paroling authority in another state and being supervised in Alaska under the interstate compact on parolees.
- (6) "mandatory parolee" means a prisoner released under supervision pursuant to AS 33.15.180(c) or AS 33.20.040.
- (7) "parole board representative" means any member or staff of the Alaska Board of Parole.
- (8) "preponderance of the evidence" means having more evidence supporting a finding than not supporting the finding.
- (9) "prisoner" means the same as is defined in 7 AAC 60.660(15).
- (10) "quorum" means at least three Board members being present at a meeting or hearing.
- (11) "staff of the board" refers to any employee of the Alaska Parole Board.
- (12) "violation" means a prisoner subject to the jurisdiction of the Board pursuant to Alaska Statutes 33.10.010, 33.15.080, 33.15.180, 33.20.040, or 33.25.010 who has been charged with a violation of a condition of his release.

Authority: 33.15.100

A PERFORMANCE REVIEW
OF THE
ALASKA STATE BOARD OF PAROLE

May 9, 1979

Commissioner of the Department of
Health and Social Services
Deputy Commissioner of the Department
of Health and Social Services
Deputy Commissioner of the Department
of Health and Social Services
Deputy Commissioner of the Department
of Health and Social Services

Dr. Heien D. Beirne

Allen Korhonen

Frederick McGinnis

Catherine M. Lloyd

Members of the
Alaska State Board of Parole

Chairman
Vice-Chairman
Member
Member
Member

William Lyons
Beverly Dunham
Dan Kosoff
Conrad Miller
Al Widmark

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

June 19, 1979

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the
Alaska Statutes, the attached report is submitted for your
review.

A PERFORMANCE REVIEW
OF THE
ALASKA STATE BOARD OF PAROLE

May 9, 1979



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20.271 (1) and 44.66.050 (sunset legislation), an audit of the Alaska State Board of Parole was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Alaska State Board of Parole will be reestablished. The law currently specifies that this Board will terminate on June 30, 1980, but will continue until June 30, 1981, for the purpose of concluding its affairs.

Scope

The functions reviewed include the Board's general operations and administration. Our review consisted of the following:

1. Evaluation of applicable statutes and regulations.
2. Questionnaires sent to current and past Board members.
3. Questionnaires sent to Parole/Probation Officers.
4. Interviews with employees in the criminal justice system associated with the parole system.
5. Review of other states' parole boards.
6. Analyses and tests of the board's records.
7. Complaints filed with the Ombudsman's Office.

Scope Constraints

This review was hampered by the following constraint:

1. The Board has not developed and reported performance information regarding its effectiveness and accomplishments as required by AS 37.07.090 and AS 33.15.130.

ORGANIZATION AND FUNCTION

Article III, Section 21, of the Alaska Constitution states that a parole system shall be established by law. AS 33.15, or the Parole Administration Act, is the law that establishes the Alaska State Board of Parole and its authority. The Board consists of five part-time members who meet quarterly to hear parole-related matters. The members are appointed by the Governor, with confirmation by the legislature, and serve without salary although travel costs and per diem is provided. The Board has an administrative staff which currently consists of an Executive Parole Board Officer and two clerical personnel.

The Board basically conducts two types of hearings: release hearings and revocation hearings. By statute, an inmate may not be considered for parole release until a statutory minimum time in prison has been satisfied (AS 33.15.080 requires that at least one-third of the sentence be served in confinement before parole eligibility). Upon application, an eligible inmate will be considered for parole and will appear before the Board. The Board will consider the case in view of certain criteria (e.g., institutional behavior, release plans, past record, recommendations, etc.). A parole decision will either release an inmate on parole, continue the case for future consideration or deny parole. Since FY'74, the Board has averaged 225 release hearings per year of which an average of 80 per year were released on parole.

When it has been determined that a parolee has violated a law or condition of parole, the Board will hold a revocation hearing to decide upon the course of action to take in the case. The Board may choose to revoke the violator's parole and return the parolee to prison, whereby, no credit is allowed against the sentence for time served on parole; parole may be revoked and the parolee re-paroled without time credited against the sentence for prior time on parole; or no action may be taken. The Board has the authority to establish terms and conditions of parole, and their enforcement, which is accomplished through revocation proceedings. Since FY'74 the Board has averaged 27 revocation hearings per year.

AS 33.15.080 gives the Board the authority to release prisoners from confinement. Accompanying the Board's authority is the responsibility for public welfare. In each parole release case, the Board weighs the benefits of granting parole release against the inherent risks involved. The benefits of parole embrace opportunities for successful community life and reduced monetary and social costs which follow successful parole release cases. The risks involve additional social and monetary costs that will result from parole violations.

The Board receives General Fund appropriations to support its operations. The Board's primary expenditures are for personal services relating to the administrative staff and travel associated with the various Board meetings and hearings.