

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1349 HHESS HIB 225 (#1, #2) 399

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decisions.

### Report Conclusion

Article III, Section 21, of the Alaska Constitution requires the establishment of a parole system. The current system comprises a parole release program administered by the Alaska State Board of Parole. We found no viable alternative to the present system at this time; therefore, in our opinion, the Board should continue to administer the parole release program.

The parole decision process requires a great deal of dedication of time and effort on the part of each Board member. We commend the members for their service in what is often-times a complex and difficult job. However, there are some areas where the Board can improve in efficiently and effectively serving the public interest.

In Recommendation No. 1 we recommend that the Board be more specific in formulating objectives so that performance can be gauged. Without specific objectives, strengths and weaknesses of Board activities cannot be readily identified. We also have recommended that the Board maintain necessary information which would contribute to evaluating performance as well as planning and controlling current activities. (see Recommendation No. 2).

Other areas that need to be addressed comprise making parole matters clear to interested parties and the public. The Board should codify its regulations and make it available to all interested persons (see Recommendation No. 5). In addition, periodical reports as required by law should be prepared and distributed to the governor and legislature (see Recommendation No. 3). The adoption of these recommendations will serve to clarify Board activities for individuals either directly or indirectly involved with parole matters.

Some Board members have expressed that the public is often confused about parole. Holding public meetings will serve to enlighten those with questions on Board activities and could be a means through which public input is recorded (see

Recommendation No. 4). Support for parole policy changes is one use of formal public input. Both clarifying parole issues and recording public input will contribute to public interest.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's FY 1979 budget documents state that its objective is to maintain a less than 8% rate of felonies committed by parolees within one year after parole release. Measurement of this objective alone, however, is not sufficient to determine the degree of effectiveness experienced by the Board in serving the public. The Board has not established any other specific program objectives through which its performance can be evaluated.

Specific objectives should describe what the Board intends to accomplish during the current period and should be consistent with long range goals. To be capable of measurement, objectives should be well-defined including a description of methods of measurement. When specific objectives are not identified, both the Governor's office and the Legislature cannot adequately evaluate the Board's performance.

### Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board keeps case files on parolees and some statistics on types of cases heard. However, the information has not been adequately summarized for purposes of analyzing the parole program.

The Board needs information for purposes of measuring performance and analyzing decisions. It is essential for any decision-making body to review the significance and effects of past decisions to adequately plan for future decisions.

Maintaining complete information will benefit the Board in several ways. Some uses of such information may entail:

- 1) Scheduling workloads;
- 2) analyzing trends - similar decisions when viewed overtime may reveal positive or negative results and support policy changes;
- 3) assisting planning efforts and research of other agencies; and

- 4) controlling risk in parole decisions - valid statistics may support parole release or revocation decisions and show the degree of risk based upon historical evidence.

With sufficient information, any alternatives to the parole release system or parole procedures can be better analyzed. Procedures should be developed which address what and how information is to be maintained as well as reported.

Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board has not followed statutory reporting requirements, per AS 37.07.30 and AS 33.15.130. AS 37.07.090 requires each State agency to submit a performance report to the Division of Budget and Management no later than September 1, for the preceding fiscal year. AS 33.15.130 requires that annual reports containing various statistical data and a computation and analysis of dispositions in criminal matters by State courts be submitted to the Governor, the Commissioner of the Department of Health and Social Services and the Attorney General.

To contribute to governmental effectiveness, the Board should disseminate the results of its operations to appropriate parties. The report required by AS 33.15.130 is essential for planning and analyzing matters relating to parole. In the 1977 legislative session, the Legislature, in conjunction with sunset legislation, amended the performance reporting statute (AS 37.07.090) to require agencies to specifically address eight criteria. This report would provide a useful tool for evaluating the Board in relation to performance reviews and other matters.

Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

It is the Board's policy in the conduct of its meetings to allow the presence of only those individuals who are considered necessary under the circumstances. For parole hearings, this is required to secure the confidential nature of the hearings as well as protect the objectivity of hearing decisions. Administrative meetings, however, do not share the same characteristics as case hearings. Administrative meetings are held at irregular times during the year for the purposes of transacting general business of the Board.

We were informed by Board members that the public is sometimes confused about parole and may misconstrue the Board decisions. This has happened despite the Board's efforts to be in contact with various community groups and governmental organizations.

As another avenue in seeking public input the Board should hold public administrative meetings. Public meetings will provide broad public representation in the development of parole regulations and be a means to formally record public input, which would assist the Board in determining how much "risk" the public is willing to bear regarding parole release.

Further, procedures should be developed to cover the agendas of public meetings and notification of the public as to time, place and nature of each meeting. A formal record should be kept of each meeting which delineates matters acted upon and any changes in Board policy or procedures.

Recommendation No. 5

The Board should codify its regulations in a clear form readily available to the public, inmates and all others requiring information about the Board's operations.

AS 33.15.100 states: "The board shall adopt rules which it considers necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees".

Rules governing the Board's operations should be a clear statement of its procedures and requirements in parole matters. However, the Board's rules are currently contained in two manuals, and an assortment of updating memos and various forms. This creates a situation in which the rules cannot be immediately or clearly identified and may be subject to arbitrary change.

Although the Board members and staff may personally know the rules, it is also important for the rules to be available for anyone requiring them; the present form does not adequately allow for this. A codification of the rules would not only make them readily available to others but also would facilitate making refinements and improvements in the Board's rules and procedures.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis of Board activities relates to the public need factors defined in the "Sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission or program has operated in the public interest.

1. The Board is working toward a "parole guidelines" approach to parole decisions which should, when implemented, provide additional support for parole decisions. Also, the guidelines should allow for more efficient Board operations.
2. The Board is currently addressing its informational needs through drawing upon resources available to other agencies. For example, the Criminal Justice Planning Agency is in the process of developing an information system through federal funding wherein the needs of the parole system will be considered.
3. We determined from our analysis of parole revocations for FY'74 - FY'77 that less than 8% of the paroles were revoked within one year after parole release as a result of new felonies. This compares favorably with available national statistics as well as other States on an individual basis.

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

1. The Board has not codified its rules and procedures (see Recommendation No. 5).
2. The Board has not fully identified specific program objectives nor maintained proper information for performance evaluation (see Recommendation No. 1 and 2).
3. The Board has revised its filing system which will result in added efficiency in extracting case information.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. The Board has recommended the clarification of some areas of the Parole Administration Act. In addition, the Board attempts to monitor and provide input for legislation affecting the parole process.

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

1. No formal record has been kept from which a determination can be made on how feedback from interested persons is used by the Board in evaluating its effectiveness. However, we were able to determine that the Board has been active in soliciting input from various public and private organizations.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. Public participation has not been allowed at administrative meetings, thus no formal public input has been recorded in developing procedures and regulations (see Recommendation No. 4).
2. Since regulations cannot be readily made available, interested parties cannot be confident of having all information for purposes of making observations or suggestions for improvements (see Recommendation No. 5).

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

1. Seven complaints have been processed by the Ombudsman. Of the seven, five were determined to be unsupported and two were discontinued or rectified. As of February, 1979, one case was in process which related to improper parole consideration.

2. We found no record of complaints filed with the Department of Health and Social Services concerning the Parole Board.

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

1. The Alaska State Board of Parole does not regulate entry into an occupation or profession.

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

1. We found no evidence of hiring practices or Board appointments that are contrary to State personnel practices.

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

Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

ALASKA STATE BOARD OF PAROLE  
SCHEDULE OF AUTHORIZATION, EXPENDITURES AND ENCUMBRANCES  
 For the Year Ended June 30, 1978  
 (UNAUDITED)

	<u>Authorizations</u>	<u>Expenditures</u>	<u>Encumbrances</u>	<u>Lapsed</u>
Personal Services <sup>1</sup>	\$ 83,400	\$ 81,021	\$ 4,937	\$ (2,558)
Travel and Per Diem <sup>2</sup>	40,100	32,710	3,383	4,007
Contractual Services	24,189	7,268	421	16,500
Commodities	2,090	1,213	114	763
Equipment	<u>3,020</u>	<u>4,236</u>	<u>15</u>	<u>(1,231)</u>
<u>Totals</u>	<u>\$ 152,799</u>	<u>\$ 126,448</u>	<u>\$ 8,870</u>	<u>\$ 17,481</u>

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1. Personal services expenditures primarily relate to the Board's three permanent administrative staff.
  2. The Board members reside in different areas of the State and parole hearings are held on location at the correctional institutions.

APPENDIX B  
SUMMARY OF PAROLE REVOCATIONS  
 For the Period July 1, 1973 - June 30, 1977

Parole Revocations, July 1, 1973 - June 30, 1977<sup>1</sup>

	<u>New Felonies</u>		<u>Technical Violations</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
Revoked within one year after parole release	23	7%	28	9%
Revoked after more than one year after parole release <sup>2</sup>	12	11%	18	6%
<u>Totals</u>	<u>35</u>	<u>11%</u>	<u>46</u>	<u>15%</u>

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1. This summary is based on data obtained from Board records and percentages are based upon a total of 319 parole releases over the four year period. The Board's objective is to maintain less than a 8% new felony rate by parolees within a year of parole release.
  2. This information is not complete since post-FY'77 data has not been considered for this summary. For example, there may be FY'78 or '79 parole revocations which relate to a pre-FY'78 parole release.

APPENDIX C  
SUMMARY OF PAROLE RELEASE HEARING DISPOSITIONS  
 For the Period July 1, 1973 - June 30, 1978

<u>Fiscal Year</u>	<u>Total Cases Heard</u>	<u>Disposition of Parole Release Hearings</u>		
		<u>Paroled</u>	<u>Continued</u>	<u>Denied</u>
1974	220	81	115	24
1975	247	98	130	19
1976	223	69	110	44
1977	207	71	77	59
1978	228	79	80	69
<u>Total of all Fiscal years</u>	<u>1125</u>	<u>398</u>	<u>512</u>	<u>215</u>
Five year average	<u>225</u>	<u>80</u>	<u>102</u>	<u>43</u>

APPENDIX D

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. (A) What do you believe to be the goals and objectives of the Board of Parole?

<u>Description</u>	<u>Number of Responses (See Note 1)</u>
<i>To return people to society when ready.</i>	2
<i>To save taxpayers' money.</i>	1
<i>To help the parolee in making social adjustment.</i>	3
<i>To have less than 8% new felonies by parolees.</i>	1
<i>Return parolees to custody to prevent future crime.</i>	1

- (B) What goals and objectives do you feel the Board has succeeded in meeting? Has not succeeded in meeting?

*No response.*

2. (A) How does the Board measure its progress in meeting its goals and objectives?

<u>Description</u>	<u>Number of Responses</u>
<i>By research.</i>	1
<i>Parolees' success or failure is a standard of measure.</i>	2

- (B) Is there anything additional that you would consider valuable in evaluating the performance of the Board?

<u>Description</u>	<u>Number of Responses</u>
<i>Need more research.</i>	1
<i>Need better case history and time to study cases.</i>	2

3. (A) Is the staff from the Department of Health and Social Services and/or other departments adequate to perform and enforce all laws and regulations relating to the Board of Parole?

<u>Description</u>	<u>Number of Responses</u>
<i>Attorney General's staff is adequate.</i>	1
<i>Administrative staff is inadequate.</i>	3

- (B) What staff support services are provided adequately? Inadequately?

<u>Description</u>	<u>Number of Responses</u>
<i>Attorney General's staff is adequate.</i>	1
<i>Policy, planning and support staff is inadequate.</i>	3

4. What evidence exists demonstrating that the Board has operated in the public's best interest?

<u>Description</u>	<u>Number of Responses</u>
<i>Some people never will be paroled.</i>	1
<i>We listen to the public.</i>	1
<i>Quality of the performance of the Board is high.</i>	2

5. What evidence exists demonstrating that the absence of Parole regulations and/or the Board would be detrimental to the public's best interest?

<u>Description</u>	<u>Number of Responses</u>
<i>The requirement of each regulation is intended to assist the parolee as well as protect the public.</i>	1

6. Has the Board recommended any statutory changes which are generally in the public's best interest?

<u>Description</u>	<u>Number of Responses</u>
<i>Yes.</i>	1

6. (cont'd)

<u>Description</u>	<u>Number of Responses</u>
No.	1
Not sure.	1

7. Are there any statutes or regulations that you believe to be obsolete, vague, unduly restrictive and/or inadequate to provide the Board with the responsibility and power to properly govern the purpose and activities of the Board? Please list and explain.

<u>Description</u>	<u>Number of Responses</u>
Yes.	2

8. What changes could be made to the Board which would improve its service to the public?

<u>Description</u>	<u>Number of Responses</u>
Need more personnel support.	1
Need more office space.	1
The Board is effective as it is.	1
There should be an alternate member in the Board.	2
There needs to be some younger Board members.	1
Compensation should be adjusted to meet expenses.	1
Board needs to have written guidelines.	1

9. Is the current five-person, part-time Board structure adequate to efficiently and effectively process parole cases?

<u>Description</u>	<u>Number of Responses</u>
The current structure is adequate.	3
Because of workload, a full-time board may be necessary.	1

10. Do you feel a "parole guidelines model" will be beneficial to the Board in deciding on Parole cases? Why?

<u>Description</u>	<u>Number of Responses</u>
<i>Yes.</i>	3

11. Additional comments.

<u>Description</u>	<u>Number of responses</u>
<i>If the Board is dissolved parolees would have to finish parole time under some system.</i>	1
<i>Many people do not understand or know the functions of the Board.</i>	2
<i>People don't know the difference between probation or parole.</i>	1

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Note 1

We sent the above questionnaire to five current Board members as of December 12, 1978 and seven previous members. Of the twelve questionnaires sent, we received three responses, representing current members. There may be more than three responses to each question since a member may have answered with more than one response.

APPENDIX E

QUESTIONNAIRE SENT TO PROBATION-PAROLE OFFICERS

		<u>Responses (Note 1)</u>		
		<u>Yes</u>	<u>No</u>	<u>No Opini</u>
1.	<u>What can be done to contribute to the parole system's effectiveness? Are there any services now provided by the Parole Board that need improvement? Should any additional services be rendered?</u>			
	<i>Typical response (Note 2).</i>			
	a. <i>Organize Parole Board to include professional members.</i>			
	b. <i>The Board is doing a good job.</i>			
2.	<u>Do you feel that your recommendations concerning parole cases are given adequate consideration (to pre-release plan responses; revocation petitions)?</u>	11	2	1
3.	<u>Do you believe the Board has operated in the public's best interest, why or why not?</u>	10	3	1
	<i>Typical response if Yes.</i>			
	a. <i>The Board is mostly successful and mindful of its responsibilities.</i>			
	<i>Typical response if No.</i>			
	a. <i>Sometimes decisions are not well thought out.</i>			
4.	<u>Do you ever have any problems in contacting a Board member for parole related business? Please specify.</u>	5	9	-0-
	<i>Typical response if Yes.</i>			
	a. <i>It has sometimes been difficult to contact a Board member to obtain an arrest warrant for a parole violator.</i>			
	<i>Typical response if No.</i>			
	a. <i>Parole Board staff are readily available.</i>			

- |    |   |   |   |     |
|----|---|---|---|-----|
| 5. | <u>Do you feel that parolees have had more or less success than probationers in readjusting to society?</u>         | 4 | 5 | 5   |
| 6. | <u>Do you feel the Board is overly lenient or restrictive in reviewing applications for parole, why or why not?</u> | 1 | 9 | 4   |
|    | <u>Typical response if No.</u>  |   |   |     |
|    | a. <i>The Board is fair in granting parole and neither too lenient or restrictive.</i>                              |   |   |     |
| 7. | <u>Do you feel that those parolees you have been in contact with in the past have represented "good risks"?</u>     | 8 | 2 | 4   |
| 8. | <u>Should the Board be allowed to terminate parole at a date earlier than presently required by law?</u>            | 8 | 5 | -0- |

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Note 1

Total responses	<u>14</u>
Number of questionnaires mailed to State employed field probation-parole officers.	<u>40</u>
Questionnaire response rate	<u>35%</u>

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH W 01 - JUNEAU 99811

AUGUST 6, 1979

RECEIVED

AUG 6 1979

LEGISLATIVE  
AUDIT

Gerald L. Wilkerson, CPA  
Division of Legislative Audit  
Legislative Affairs Agency  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Members of my staff have reviewed your audit report entitled "A Performance Review of the Alaska State Board of Parole". Generally, we find your recommendations helpful. There appears to be two areas where clarification is necessary.


The first is \$14,200 of the funds identified in Appendix A as lapsing where part of a LEAA Grant that was carried forward into Fiscal Year 1979.

The second item and more difficult is that of the information contained in Appendix B and C. There has been two methods of tabulating the information. Members of the Parole Board and your staff presented two differing opinions.

It would be greatly appreciated if your staff could provide the criteria used in compiling the grouping. This would allow myself and others in the Department to compare the two methods. Another response will be provided after the methods have been reviewed.

Thank you for the opportunity to respond to the audit report.

Sincerely,

  
Helen D. Eairne  
Commissioner

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE  
POUCH H-01E  
JUNEAU, ALASKA 99811  
PHONE: (907) 485-3384

August 2, 1979

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LEGISLATIVE  
AUDIT

Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Response to Audit  
Report - Parole Board

Dear Mr. Wilkerson:

The statement on page three under the section entitled "Scope Constraints" is erroneous. All reports required pursuant to AS 33.15.130 have been completed and filed with the Commissioner's office. Copies of these annual reports have been copied for your Division on at least two occasions. Reports required pursuant to AS 33.15.130 have been submitted since at least 1975. Because of limited staff, these reports are cursory in nature and are of little value to non-criminal justice administrators or the Legislature. Additional funding should be provided if more comprehensive reports are desired. The Governor's Budget and Audit staff should provide the necessary forms to all State agencies so that they can comply with AS 37.07.090. Neither of the reports outlined in AS 33.15.130 or AS 37.07.090 will be of much value in evaluating the performance of the Board without much more comprehensive data such as that being collected under the current "parole guidelines" grant on a limited number of cases and the information expected to be collected under the "OBSCIS" grant.

The statement in paragraph one, page five, is incorrect, regarding the Board having two clerical personnel. The Board has never had two clerical positions authorized in my eight years with the Board. We did have a temporary CETA for several months this past year.

Mr. Gerald L. Wilkerson  
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August 2, 1979

Paragraph number three of page five does not correctly outline the options available to the Board at revocation hearings. The first two options in the second sentence are correct, the third is not. Besides the first two options, the Board may also:

1. Find the parolee in violation but allow him to remain on parole with any other conditions it deems appropriate.
2. Revoke parole and require the parolee to serve the remainder of his sentence minus good time earned.
3. Continue the case to the next hearing for additional information.

The last sentence in paragraph three of page five is also incorrect. The Board has averaged 27 revocations per year, not 27. This includes a substantial number of mandatory release revocations of those offenders placed on supervision by operation of law without any control by the Parole Board (AS 33.20.040). Five of the revocations in 1978 were in this category. Actual number of revocations of offenders released by a discretionary decision of the Board would probably be closer to 18 per year.

We agree the Board should be more specific in formulating one other objective, the only one suggested by the staff of Legislative Audit, relating to an acceptable level of technical revocations by the Board. This objective has been specified in the preliminary FY-81 budget. Other specific measureable objectives have been established previously, are a part of the Board's records, and copies have previously been sent to Legislative Audit. After discussing this topic again with Legislative Audit staff on July 18 and 20, no other recommendation was made other than the technical violation rate objective.

The Board strongly disagrees with the "Report Conclusion" in paragraph four of page seven that the Board should "maintain necessary information which would contribute to evaluating performance as well as planning and controlling current activities". Elaboration is provided later in this response.

Mr. Gerald L. Wilkerson  
Page 3  
August 2, 1979

The Board agrees with the recommendation that it codify its regulations (elaboration provided later in this response). Current regulations have already been made available to all known interested parties and we will continue this practice. A comprehensive set of regulations was presented to the Board members on July 5, 1979, and they were approved with several minor changes by the Board members present on July 20, 1979. The Board awaits the comments of the Attorney General's Office before formally sending them out to interested parties for comment and then adoption.

Codifying Board regulations as suggested in paragraph five on page seven will benefit a small number of employees that frequently work with or within the criminal justice system. However, only a comprehensive education and information effort will have any impact on helping the general public understand and be able to offer realistic suggestions about the Parole Board. Public meetings attended by staff or Board members in the past have been of limited value in enlightening the public but we agree the public should have the opportunity for the input. Again, only a concerted public information effort will be of much value in educating the public. These comments are based upon many years of experience with the public in handling Corrections-related matters.

#### FINDINGS AND RECOMMENDATIONS

The findings under recommendation number one on page nine are erroneous as written. The Board does have other specific and articulated objectives than the one referred to in your report. Legislative Audit staff have refused to acknowledge the presence of others not contained in the FY-79 budget even though contained in other related documents and in Board rules and regulations. All of these have been copied for Legislative Audit. (See memo of January 16, 1979 for a brief summary). The Board certainly wishes to establish long range goals but finds this impossible without adequate staff to compile data for the members to provide them with bases for future planning.

The first sentence (underlined) under recommendation number two on page nine is not true and has no basis in fact. The Board staff is quite familiar with "necessary information" from many other jurisdictions and we know the information we maintain will very favorably compare with these other systems.

Mr. Gerald L. Wilkerson

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Our case files are comprehensive and would take a person well acquainted with them at least 1 to 1 1/2 hours to digest the material contained in each case file for the initial hearing. What is true is that most of this information is not coded, compiled, or analyzed and made available to the members in a usable fashion. A quick comparison of current case files with older files will show that the quality of the files has been significantly upgraded in recent years. The Boards' attempts to get someone else to analyze the data or to allow the Board to hire staff that could assist with this task have been well documented. Again your staff have already been provided with copies of information to support this. We heartily agree that there is an urgent need to compile and analyze case information and management information that is already available in the Board office. The need to collect and analyze other information will become apparent once this first step is taken. Establishing procedures for maintaining and reporting data will be established once the staff is available to complete the work.

The Board has complied with the reporting requirements of AS 33.15.130 as noted earlier in this response. Comments have already been made about the lack of compliance with AS 37.07.090. We would gladly comply with this statute if provided the forms and instructions for completing them. AS 33.15.130 requires the Board to submit data regarding its decisions to the administration. This has been done. The statute does not require that the Board include "a computation and analysis of dispositions in criminal matters by State courts . . .", as stated in your report. The statutory language is clearly discretionary and the Board certainly does not anticipate taking on this mammoth task without specific legislative direction and the necessary staff.

Again, the Board wishes to comply with AS 37.07.090 if given the forms and instructions to accomplish the task. We would welcome the resources to enable us to complete a comprehensive rather than a perfunctory annual report pursuant to AS 33.15.130.

The Board agrees with recommendation number four as set forth on page ten. We feel we have complied with this to the greatest extent possible with the funds appropriated. Your staff was supplied with a documented list of numerous meetings attended by Board representatives with citizen groups, individuals, and of course other governmental agencies. The only suggestion your staff made to augment current

Mr. Gerald L. Wilkerson  
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practice, is to make administrative meetings open to the public. In fact, these meetings are not nor have they ever been "closed" to the public. But they have been held in conjunction with Board hearings as time permits in recent years simply because no funds were available for them. You cannot advertise an administrative meeting you do not know if you are going to be able to hold. Case decisions are the primary responsibility and we have not had the funds to hold specific meetings to obtain public comment. We will gladly do this if funds are supplied. We agree with notification of public meetings, agenda, etc. as recommended and they would obviously be complied with if the money is forthcoming. Funding for such meetings have been requested in the Board's preliminary budgets in the past and we have again requested funds for this activity in the preliminary FY-81 budget submission. A record of all administrative Board meetings is already being kept.

The Board concurs in recommendation number five on page 11. Your report does not reflect that this has been a priority of the Board. The annotated regulations have been prepared by staff and reviewed by the members. The Board is awaiting the comments of its attorney before sending the proposed regulations out to the affected agencies and the public for comment. The final step is making final changes, adopting the regulations, and training affected Corrections staff regarding the changes. If we are supplied with funds and staff, this task will be completed before the full Legislature holds hearings regarding this report.

#### ANALYSIS OF PUBLIC NEED

The Board concurs in the comments in Section I, page 12. Subsection three should point out that the documented figures show the parolees released by the Board were convicted of far fewer felonies than any other Board in the country, even with 1 1/2 to 4 1/2 year follow-up from release. This is very significant. This data was reviewed with your staff on July 18, 1979.

Regarding Section II, page 12, subsection 2 is incorrect for the reasons stated previously about recommendation number two, page nine. It is significant that your report made absolutely no reference to "budgetary, resource, and personnel matters" in your analysis as called for in the sunset statute.

Mr. Gerald L. Wilkerson

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August 2, 1979

Nor was any explanation given for failure to address this most important issue. A recent group of corrections professionals hired to help analyze the corrections system in Alaska and plan for the future of the system did discuss some of these issues.

First of all, they indicated the Alaska Parole Board exceeded the national standards developed for adult paroling agencies in most respects. In the areas where the Board fell short, most of the suggestions made to bring us in compliance with national standards were either changes in the statutes or increased funding by the Legislature. Of great significance is the fact that the Corrections Masterplan Legislative Subcommittee adopted most, if not all, of the recommendations of these corrections consultants regarding the operation of the Parole Board, at a meeting on July 16, 1979. Although there are some inaccuracies in the consultant's report, it is essentially accurate as provided to your staff earlier this year.

Although you have ignored our suggestions that changes are needed in the statutes, we strongly encourage the Legislators to review the recommendations of the corrections specialists contained in their report. I would also suggest a copy of the national standards be provided any legislator who is interested in what statutory changes would be necessary to allow the Alaska Board to become accredited. (Money was budgeted to allow the Board to apply for accreditation in 1978, but we did not pursue this, in great part because of the need for these statutory changes). Finally, the Masterplan report strongly recommended increased staff for the Board to allow us to comply in the few areas we do not at the present time. We believe that this is one case in which a small amount of additional funding will allow the Board to operate more efficiently and comprehensively and provide everyone with information that they all want about the Board's operation.

The Board agrees with Section III, page 13. Interestingly, much of the legislation we have recommended in recent years is also included in the national standards and in the recommendations in the Corrections Masterplan consultant report already referred to.

Mr. Gerald L. Wilkerson  
Page 7  
August 2, 1979

We agree with Section IV, page 13. Inasmuch as much of the feedback the Board gets is in the form of telephone calls, comments made at meetings attended by Board representatives, etc., this information will never be available for analysis. All of our old correspondence files were available for the legislative audit staff to review for comments if they had wished. The partial list of Board contacts with citizen and government groups is extensive. A survey of these contacts would take minimal time and would show the attitude of these people about the operation of the Board.

The comments listed under Section V, page 13 are not true. We have never barred anyone from attending an administrative Board meeting. These meetings are not advertised and public input has not been solicited in the past for the reasons enumerated in the comments regarding recommendation number four. Regulations of the Board have been made available to anyone that has requested them in the past and copies have been widely circulated in the Alaska criminal justice system. Where a change was made in the policy, the change was provided the party requesting the information. The Board has complied with this section to the greatest possible extent with the funds and staff available, even though we have been working to codify the regulations. See previous comments about the status of implementation of recommendation number five.

We have no problems with Section VI, pages 13 and 14. However, our correspondence files do contain many letters addressed to the Board that we answer, answer for the Commissioner, and for the Governor's office, that are available for analysis regarding the operation of the Board.

We concur with Section VII, page 4.

We concur with Section VIII, page 14. Of significance is that the Governor and the Board have made a concerted effort to insure a broad cross section of the Alaska community is represented on the Board. The current makeup of the Board includes 1 Alaska Native male, 1 white female, 1 black male, and 2 caucasian males.

Legislative Audit has chosen to not deal with Section IX, page 14. I strongly suggest that the recommendations of the

Mr. Gerald L. Wilkerson  
Page 8  
August 2, 1979

Corrections Masterplan consultants and the legislative subcommittee on Corrections recommendations be made available to the members of the Legislature that receive this report so that they will have some idea of what is recommended to allow the Board to operate more effectively and efficiently.

A footnote to Appendix A needs to be added to clarify that most of the \$17,481 "lapsed" money was money from a federal grant that was moved over to be used during calendar year 1979. It did not lapse.

Legislative Audit figures in Appendix B are grossly inaccurate. Legislative Audit was notified of this on July 18, and on July 20, 1979. We have carefully rechecked our figures and they are accurate. Since our figures as given to Mr. LaVine from Legislative Audit have not been disputed, I assume they have no quarrel with them. Although LaVine does not think the difference is significant, the total number of new felony convictions is only 12, rather than the 35 reported in the report. I think the citizens of the State would be concerned if the figure was as high as 35. The report figures for new felonies is almost three times the actual figures; and the technical violation figures reported are much lower than the parolee files reflect. With the corrected figures, the Board's return to jail for a new felony conviction is much lower than the average, and the technical violation rate is a little higher than the national average. The corrected summary data are enclosed as Attachment A to this response.

The figures for Appendix C are somewhat inaccurate, but no gross errors exist. For the record, the corrected figures in the same format are attached to the letter as Attachment B.

The response to the questionnaire sent to probation/parole officers was low because many of the employees receiving the questionnaire were assigned to handle juvenile cases only. Also, questionnaires were not sent to the 11 institutional probation/parole officers who work extensively with the Board. Interest among these employees is high regarding Parole Board matters. Legislative Audit was notified of this oversight on their part in December, 1978, but questionnaires were never sent to these employees. I suggest they be included in any future questionnaires.

Overall, the Board agrees with most of the comments made under each of the five "recommendations", even though the

Mr. Gerald L. Wilkerson  
Page 9  
August 2, 1979

recommendations themselves are mostly very inaccurate. These recommendations should be corrected so the public and the Legislators are not misled or misinformed. The inaccuracies we have pointed out are mostly substantive rather than technical. The Board is very concerned by the reticence on the part of your staff to correct obvious inaccuracies in the report such as the data compiled in Appendix B regarding new felonies. We stand ready at any time to support our statements contained in this response and the figures we have supplied to correct the data included in the Appendixes.

Sincerely,



William B. Lyons  
Chairman

WBL/vh

cc: Helen D. Beirne  
Commissioner

P.S. Although your staff agreed to provide us with a copy of the audit report and receive our comments before making it available to the Legislative Budget and Audit Committee, I understand it has already been made available and discussed with the Committee members. I trust you will advise them of the errors in the data in your draft report. Of course, the errors we have pointed out in the audit report also apply to the summary report of June 19, 1979, and because of the abbreviated nature of it, the inaccuracies in that summary unfortunately are maximized. This summary certainly should be corrected. Since the other members of the Board have requested I reply in their behalf to the audit report, please accept this letter as representative of the comments of the entire Board.

CORRECTED

APPENDIX B  
SUMMARY OF PAROLE REVOCATIONS

For the Period July 1, 1973 - June 30, 1977

Parole Revocations, July 1, 1973 - June 30, 1977<sup>1</sup>

	<u>New Felonies</u>		<u>Technical Violations</u>	
Revoke within one year after parole release	8	2.6%	56	18.5%
Revoked after more than one year after parole release <sup>2</sup>	4	1.3%	19	6.3%
<u>Totals</u>	<u>12</u>	<u>4%</u>	<u>75</u>	<u>24.8%</u>

- 
1. This summary is based on data obtained from Board records and percentages are based upon a total of 319 parole releases over the four year period. The Board's objective is to maintain less than a 8% new felony rate by parolees within a year of parole releases.
  2. This information is not complete since post-FY'77 data has not been considered for this summary. For example, there may be FY'78 or '79 parole revocations which relate to a pre FY'78 parole release.

\* Research verified and rechecked in June, 1979 By Alaska Board of Parole.

Attachment B

CORRECTED

APPENDIX C  
SUMMARY OF PAROLE RELEASE HEARING DISPOSITIONS  
For the Period of July 1, 1973 - June 30, 1978

<u>Fiscal Year</u>	<u>Total Cases Heard</u>	<u>Dispositions of Parole Release Hearings</u>		<u>Denied</u>	<u>Other</u>
		<u>Paroled</u>	<u>Continued</u>		
1975	252	93	133	22	4
1976	214	53	92	61	8
1977	212	75	78	52	7
1978	226	64	72	78	12
<u>Total of all Fiscal Years</u>	<u>1132</u>	<u>362</u>	<u>496</u>	<u>241</u>	<u>33</u>
Five year average	<u>236</u>	<u>72</u>	<u>99</u>	<u>48</u>	<u>7</u>

\* Research verified and rechecked in June, 1979, By Alaska Board of Parole.

**THE LEGISLATURE**

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION  
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

August 7, 1979

Members of the  
Legislative Budget and Audit Committee:

We have reviewed the responses of the Parole Board and the Department of Health and Social Services and the auditor's comments are listed below.

Recommendation No. 1

The Board should establish specific objectives and related measurement criteria so that its performance can be evaluated.

The Board's response to Recommendation No. 1 states in part:

"...We agree the Board should be more specific in formulating one other objective, the only one suggested by the staff of Legislative Audit, relating to an acceptable level of technical revocations by the Board. This objective has been specified in the preliminary FY-81 budget. Other specific measureable objectives have been established previously, are a part of the Board's records, and copies have previously been sent to Legislative Audit. After discussing this topic again with Legislative Audit staff on July 18 and 20, no other recommendation was made other than the technical violation rate objective."

Auditor's Comment:

It is the position of Legislative Audit that it is the responsibility of the Board and its Executive Director to prepare and establish specific objectives to manage and evaluate the parole program of the State of Alaska. It is not appropriate for Legislative Audit to establish specific objectives necessary to manage and evaluate the activities of the Board. The other specific objectives mentioned in the Board's response are not program objectives but are administrative in nature.

Recommendation No. 2

The Board should maintain necessary information to ensure the effective management of Board activities.

The Board's response in part states:

"...The first sentence (underlined) under recommendation number two on page nine is not true and has no basis in fact. The Board staff is quite familiar with "necessary information" from many other jurisdictions and we know the information we maintain will very favorably compare with these other systems.

Our case files are comprehensive and would take a person well acquainted with them at least 1 to 1 1/2 hours to digest the material contained in each case file for the initial hearing. What is true is that most of this information is not coded, compiled, or analyzed and made available to the members in a usable fashion. A quick comparison of current case files with older files will show that the quality of the files has been significantly upgraded in recent years. The Board's attempts to get someone else to analyze the data or to allow the Board to hire staff that could assist with this task have been well documented. Again your staff have already been provided with copies of information to support this. We heartily agree that there is an urgent need to compile and analyze case information and management information that is already available in the Board office. The need to collect and analyze other information will become apparent once this first step is taken. Establishing procedures for maintaining and reporting data will be established, once the staff is available to complete the work."

Auditor's Comment:

The Board in their response above states that most of their information has not been coded, compiled, or analyzed and made available in a usable fashion. It is the position of Legislative Audit that information must be usable in order to ensure the Board has the necessary information to manage its activities. For example, the Board as of the date of the audit (May 19, 1979) did not have statistical information on parole revocations (Appendix 1). Information of this type is essential to evaluate the effectiveness of the parole program.

Recommendation No. 3

The Board should prepare and submit reports as required by law.

The Board agrees that they have not complied with AS 37.07.090. However, the Board states that they have complied with AS 33.15.130. The Board's response states in part:

"... all reports required pursuant to AS 33.15.130 have been completed and filed with the commissioner's office. Copies of these annual reports have been copied for your Division on at least two occasions. Reports required pursuant to AS 33.15.130 have been submitted since at least 1975. Because of limited staff, these reports are cursory in nature and are of little value to non-criminal justice administrators or the Legislature."

**Auditor's Comment:**

We have not received a copy of the annual report as stated in the Board's response. We requested a copy of the annual report again on July 18, 1979 from the Executive Director and of this date have not received a copy.

Recommendation No. 4

The Board should encourage public participation for consideration in parole related matters.

**The Board's response to Recommendation No. 4:**

"...The Board agrees with recommendation number four as set forth on page ten. We feel we have complied with this to the greatest extent possible with the funds appropriated. Your staff was supplied with a documented list of numerous meetings attended by Board representatives with citizen groups, individuals, and of course other governmental agencies. The only suggestion your staff made to augment current practice, is to make administrative meetings open to the public. In fact, these meetings are not nor have they ever been "closed" to the public. But they have been held in conjunction with Board hearings as time permits in recent years; simply because no funds were available for them. You cannot advertise an administrative meeting you do not know if you are going to be able to hold. Case decisions are the primary responsibility and we have not had the funds to hold specific meetings to obtain public comment. We will gladly do this if funds are supplied. We agree with notification of public meetings, agenda, etc. as recommended and they would obviously be complied with if the money is forthcoming. Funding for such meetings have been requested in the Board's preliminary budgets in the past and we have again requested funds for this activity in the preliminary FY-81 budget submission. A record of all administrative Board meetings is already being kept.

**Auditor's Comment:**

The thrust of this recommendation is to encourage more public participation in the parole process.

We affirm our recommendation as written.

Appendix A

**Board's Comment:**

The Board states that \$17,481 of funds identified in Appendix A as lapsing did not lapse.

**Auditor's Comment:**

The figures contained in Appendix A are per the State Annual Report. If the figures contained in the Annual Report are incorrect, we suggest that personnel of the Board contact the Division of Finance.

Appendix B

**Board Comment:**

"...Legislative Audit figures in Appendix B are grossly inaccurate. Legislative Audit was notified of this on July 18, and on July 20, 1979. We have carefully rechecked our figures and they are accurate. Since our figures as given to Mr. LaVine from Legislative Audit have not been disputed, I assume they have no quarrel with them. Although LaVine does not think the difference is significant, the total number of new felony convictions is only 12, rather than the 35 reported in the report. I think the citizens of the State would be concerned if the figure was as high as 35. The report figures for new felonies is almost three times the actual figures; and the technical violation figures reported are much lower than the parolee files reflect. With the corrected figures, the Board's return to jail for a new felony conviction is much lower than the average, and the technical violation rate is a little higher than the national average. The corrected summary data are enclosed as Attachment A to this response."

**Auditor's Comment:**

We do not agree with the Board's statement that our figures are inaccurate or that the difference is insignificant.

Our figures in Appendix B for new felonies and technical violations are based on Board records as of the date the Parole Board revoked parole and does not include subsequent

1<sup>st</sup>

2<sup>nd</sup>

3<sup>rd</sup>

A ← GUN  
NO GUN

6 → 8

NONE → 5

10

15

B

NONE → 2

4

6

C

NONE → 1

2

3  
75%

1 FOR 3

↓

1 FOR 2 67%

Parole Board etc.  
Monday - Feb. 8, 1982

William Lyons - OK 225 or 261

---

Roger Enchel - VAA - Dept. of Justice

Passed Prison & Industry Bill -

Economic efforts = parole -  
cost benefit loss

---

Fritz Fettigjohn - # 293 May be unconstitutional  
as our AK Const. said there will be  
a system of parole -

---

Barry Stewart

Dept. of Law - very aggressive since 1976

Total control of system -

Parole Board is last element of public participation  
in system.

Overactivity? Superintendents many pressures  
per institution - local pressures per  
geographical areas - closer to relatives  
and friends who live in  
same community...

Judges have worst recidivism record than  
parole board.  
press in impact.

---

# 293 - increases 60 beds.

give 2 yrs - life at least - but need much more evaluation  
 delay tactics - 261 + 225 are going along with that parole  
 Bill has been out  
 Justice Dept. Judicizing Fisher.  
 HB 225 AB 261 SB 217

1. Draft Force rate of prisoners 1/3 more
2. Broader Disc. for Board 1/3

↓  
 Peoples  
 1) Library book  
 add this to 225 2) good times to add  
 whole on parole.  
 225 is discretionary - 261 is mandatory

5 member  
 2 yrs for president office  
 broad discretion

7 member

15 possible conditions is 261 listed  
 for parole.

Arrest for parole  
 violator - Parole board  
 can subpoena.

(261) preliminary hearing before  
 revoking parole  
 → (261) only a person of Judicizing can  
 order arrest.

Comm Bureau - need time to evaluate 293  
 Presumptive sentences  
 HB 225 or 261 - good time

He on  
 elements

- is there is it, that "peers" will have involvement?  
 Parole Board has women, black + native →  
 → Abrogating 293 is lower but perturbation of  
 public <sup>the</sup> consideration
- 1) Only 6% of persons on parole from 1971-79  
 were convicted of a new felony while on parole.
  - 2) compare to judges release 25% - pretend

Dana Fabe - Public Defender

Presumptive sentencing 1/3 parole board.  
 ↓ of first offenders  
 The former will virtually abolish the  
 need of the latter.  
 new state 1st time sentences - Youth are now mandatory

H B

225

2 1/2



## Sectional Analysis of HB 225

Sec.1: The composition of the parole board is set at five members who serve for five-year, staggered terms. Eliminates members who have conflicts through state employment or political office. Changes the minimum meetings per year from two to four. Establishes a removal procedure for definite conduct and with time limits.

The parole board is assigned the responsibility for making recommendations to the legislature and Commissioner. They are also responsible for maintaining records, making operating rules and standards, reports, etc. Invokes the Administrative Procedure Act (44.62).

The scope of the parole board is extended to include that period of time designated in the certificate of deduction for good conduct. Criteria for assessing suitability for parole are delineated. Designates written reports and testimony to be used in determination of eligibility. Makes confidentiality of pre-parole report more stringent and excludes parolee from seeing evaluations made by mental health or corrections personnel.

States that the parole order specify that violations of state or federal laws constitute grounds for revocation. Provides that the parolee accept conditions imposed by the board and establishes parolee's right to a hearing on reconsideration of a condition.

The duties of Commissioner of DHSS remain the same except for the provision that information pertinent to eligibility determination must be provided in a timely manner.

In Sec. 16.220, limited access to civil process is restored to parolees in conjunction with Bush v. Reid, Sup. Ct. No. 973, and the due process clauses in Alaska and United States constitutions.

A significant change from existing statute is the provision for interviews with a single member of the parole board for the purpose of determining either eligibility for parole or probable cause for revocation. A preliminary hearing before a single member of the board to determine probable cause must be held within 14 days of arrest. The revocation must be taken up at the next meeting of the parole board. Unless otherwise specified, time spent on parole may not be credited against a prisoner's sentence.

Sec.2 Changes termination date from 6/30/80 to 6/30/84.

Sec.3 Changes AS 33.30.030 to reflect that time specified in the certificate of deduction is considered a release on parole and subject to imposition of conditions by the parole board. Suggested language change on page 12, line 11, would change "period" to "certificate".

Sec. 4-7 Repeals old law replaced by chapter 16, allows for its application on effective date of this Act., which is 7/1/81.

Sec.6 Provides that the Governor shall appoint a new board to an initial staggered term schedule of 5,4,3,2,1 years.

POSITION PAPER  
HOUSE BILL 225

House Bill 225 presents many changes to the current Parole Board statute including:

- a) Sets five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.
- b) Statutorily sets the compensation of Board members at \$100 per day for each day they are involved in carrying out Parole Board business.
- c) Requires the Board to maintain standards for the release of offenders.
- d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessible to the public.
- e) Defines statutorily the bases for the appeal of Board decisions.
- f) Sets standards for the imposition of any condition of release and allows the offender to appeal any condition imposed.
- g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officer's workloads and limiting the intrusion of the State into the lives of the offenders. It requires the offender be discharged after 5 years unless good cause is shown.
- h) Provides clarification of definitions and of the mandatory release statutes.
- i) Establishes statutorily the bases for the removal of Parole Board members.

The department believes that the proposed changes in this bill would add to the effectiveness of the present parole system.

Approved by: Helen D. Beirne Date 2-5-82  
Helen D. Beirne, Commissioner  
Department of Health and Social  
Services

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 225

Title "An Act relating to parole of offenders & continuing existence of the \*

Requested by House HESS Committee Date February 4, 1982

II. FISCAL DETAILS <sup>\*</sup>Board of Parole."

Agency Affected Department of Health & Social Services

Program Category Affected Offender Confinement, Reformation, and Supervision

BRU, Program, Or Subprogram(s) Affected Adult Confinement; Probation & Com. Prog.

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This bill essentially enables the Board of Parole to continue their existence and carry out their responsibilities in the same general manner as in the past. Therefore, there would be no fiscal impact on the Division of Adult Corrections.

IV. DATE February 4, 1982

PREPARED BY Roger C. Lange  
AGENCY Division of Adult Corrections

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (first Legislator Named)

PHONE 465-3376

33-001 (Rev. 12/81)

*gcc*

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 225

Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board

Requested by Representative Martin

Date February 25, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Justice

BRU, Program, or Subprogram(s) Affected Parole Board

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	5.5	5.9	6.4	6.9	7.5
300 CONTRACTUAL	-0-	2.4	-0-	2.8	-0-	3.2
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 COMPENSATION	-0-	23.8	23.8	23.8	23.8	23.8
<b>TOTAL</b>	<b>-0-</b>	<b>31.7</b>	<b>29.7</b>	<b>33.0</b>	<b>30.7</b>	<b>34.5</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	31.7	29.7	33.0	30.7	34.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

IV. DATE March 5, 1981

PREPARED BY Samuel H. Trivette

AGENCY Parole Board

PHONE 465-3384

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval

Date 3/5/81

A. Section .020 & .030, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan, and Sitka to meet with organizations to recruit for Board members and to administer member assessment. One additional day trip to one location to do final interviews and train on member responsibilities.

Travel 3.8

B. Section .050, Compensation

- a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"  
Guess 23 X 5 members X \$100 = 11.5
- b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.  
120 calls X \$120 = 12.0

Compensation Total 23.5

C. Section .080, Responsibilities

- a) Costs to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in the Alaska Administrative Code.

Contractual 2.4

- b) Travel costs for Executive Director and Chairman to conduct 1 day hearings in Anchorage, Fairbanks, and Juneau.

Travel 1.7

- c) Compensation for Chairman 3 days at \$100.

.3

Section .080 Total 4.4

Assumptions

1. Travel will increase at a rate of 8% per year.
2. Contractual will increase at a rate of 8% per year, but hearings to modify regulations will be held only once every two years.

# *New Hope Baptist Church*

333 North Price  
Anchorage, Alaska 99504

*Doctor William B. Lyons, Pastor*  
272-9315-277-9222

March 12, 1982

Honorable Mike Beirne  
Chairman, House Health, Education  
and Social Services Committee  
Alaska House of Representatives  
Pouch V  
Juneau Alaska 99811

Dear Representative Beirne:

There are a number of primary issues your committee needs to address in choosing between the two basic approaches to parole in Alaska as set forth in HB 225 and HB 293. Some of them are:

1. Are you concerned about increasing the chances of convicted felons not committing new crimes after they are released from jail?
2. Are you concerned about decision-makers taking into consideration certain factors present after sentencing significantly increasing a person's chances of success in the community, thereby supporting the constitutional mandates of reformation of the offender and protection of the public?
3. Are you willing to adopt a system of releasing prisoners back into the community that has shown to statistically produce a higher recidivism rate (HB 293) than discretionary parole does (HB 225)?
4. Is it more important that a prisoner know his release date from jail the date he is sentenced or that he be told this information in the first 6 months of incarceration and he be required to complete certain programs that will lower his risk in the community when he is released?
5. Are you concerned that persons convicted of similar crimes and having similar backgrounds serve a similar amount of time if they are sent to jail, irrespective of who the sentencing judge was, the city in which the

prisoner was sentenced, or which institution the prisoner is assigned to?

6. Are you concerned that decisions regarding the release of prisoners after sentencing be consistent?
7. Are you concerned that most sentenced prisoners be told early in their sentences when they can expect to be released and what their conditions of release will be?
8. Are you concerned that non-governmental citizen with different backgrounds including minority members having a role in the criminal justice system in determining who and when prisoners will be released from jail back to the community?
9. Are you concerned about keeping down the costs of operating our corrections system by allowing the somewhat early release of those prisoners who are a demonstrated low risk to commit new crimes in the community?
10. Are you concerned about establishing a public policy that would presume all felony offenders would be sentenced to a year or more of jail, when preliminary data shows judges more frequently increase sentences rather than decrease them when sentencing under the new criminal code?

National research and Alaska data shows that prisoners released by discretionary parole do significantly better than those released at sentence expiration minus good time (mandatory release), even when you control for differing risk of the two groups. If risk is allowed to be considered (as it is at current parole board hearings) parolees do even better. This data is based upon review of many studies by the criminal justice researchers at the National Council on Crime and Delinquency. Furthermore, the new felony conviction rate of Alaska parolees is about half the national average.

Risk is considered by the Alaska Parole Board now as it is required by AS 33.15.080. However, most of the risk factors utilized by the Board in its guidelines refer to "what the prisoner did" such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record. Specific numerical scores are assigned to each factor so the guidelines are applied precisely and consistently to each parole applicant. It has been said we are notoriously poor predictor's of the future behavior of our fellow human beings. If we define our terms specifically, we find this statement is not necessarily correct. In compiling parole guidelines research our parolees fell into 4 distinct risk categories. Only 16% of the parolees in the best risk category had any problems (even minor violations) while on parole while over 57% of the parolees in the worst category had problems. This 41% difference certainly is significant. Realize a prisoner's risk is not cast in concrete - it is simply a numerical tool in helping to set a reasonable prison term. Similar risk profiles are utilized throughout

3

the country as a tool in the same manner psychological tests help us understand some things about human behavior. Furthermore, the Division of Adult Corrections will soon begin using a slightly modified version of the Parole Board's guidelines risk scale in making furlough decisions. The Division feels risk is an appropriate factor to consider when placing prisoners in the community. Besides the factors known at sentencing, other factors become known to correctional authorities later on that significantly increase or decrease a prisoner's chances of success or failure on parole such as:

- a) Institutional behavior.
- b) Involvement in some institutional programs or programing after release.
- c) Certain aspects of a prisoner's release plan have been statistically significant.

In order to insure the lowest possible offender recidivism and the protection of the public, these and similar factors would be considered by the Board. Even if the Legislature should decide as a policy matter that it does not wish to have risk used as a factor, the Parole Board is in an excellent position to apply its guidelines fairly and equitably to all prisoners using its numerical tables, considering only those "prior behavior" items. Prisoners would serve very similar time for basically similar crimes and backgrounds. Under current law, offenders committing similar crimes with similar backgrounds sometimes receive widely divergent sentences because a number of factors:

1. Individual personalities and philosophies of the prosecutor, defense attorney and judge.
2. The bargaining of prior felony convictions(s), bargaining of whether to charge the use of a handgun during the commission of the crime, the bargaining of which charges of multiple count indictments to dismiss, and the bargaining of mitigating and aggravating factors.
3. Pressure of the local community or the judge and prosecutor.

Since all parole decisions are made by the same five peoples, utilizing the same policies, procedures and guidelines, consistency is maintained throughout the state. This consistency is documented by parole guidelines research and would be difficult if not almost impossible to duplicate in any other forum not involving a team of persons making all of the decisions statewide. As you know from the guidelines research data, the Board has dealt equitably with prisoners of different racial and ethnic backgrounds. Certainly in sentencing is a laudable goal of the criminal justice system. Many prisoners can sit down now and complete their own parole guidelines risk score I know with a 90% certainty when they will be released on parole. The Parole Board members have had a goal for almost three

years the receipt of funding so they could see offenders in the first four to six months of their sentences so most of the parole applicants could be advised of their release dates at that time rather than waiting to see the Board until they were eligible for parole release. The parole guidelines introduced a high degree of certainty into the system that could be improved upon by supplemental funding allowing the Board to see parole applicants earlier in their sentences. The parole guidelines not only establish certainty into the system, but they introduce statewide consistency into the decision-making process. The Board is the only component of the system likely to maintain this consistent certainty. Although gameplaying is certainly present in all segments of the criminal justice system it is less likely to be a primary factor when a prisoner would have to con two staff and a majority of the five Board members. The experience of the current Board members and staff in handling well over 8,000 hearings probably has been a factor in the Board's very low recidivism rate.

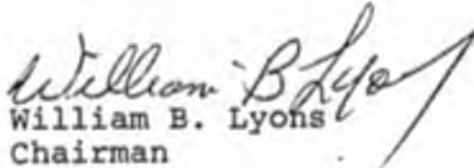
Parole release can help deal with the overcrowding of institutions if given the proper tools and if properly administered (see Michigan law). Competent research shows most prisoners can be released from jail before they earn all of their good time, at little risk to the community and at a substantial savings. This fact alone would support the retention of the Parole Board. The Board granted parole to 165 prisoners in the last two years - you can expect a major impact on Corrections if you decide to abolish discretionary parole.

The Parole Board members are not regular state employees that are required to follow the wishes of a particular administrator or appointee. They come from various communities around the state and their concern is with their constituents. Research shows they can do an excellent job of releasing those prisoners not likely to commit new crimes and still help reduce prison populations.

Parole in Alaska is working well--given small additional funding, its certainty could be increased so most offenders would know their release dates shortly after sentencing. The sunset audit report shows the Board has overcome the problems identified in the 1979 report. Give the Board a chance to work. The Board members and staff have spent a significant amount of time working on legislation over the last four years. We would hope the issue of continuation of a parole board could be resolved this spring without just another one year continuation so we can get on with the business of improving our operation if we are to remain in existence.

The Parole Board members support the continuation of a discretionary parole system in Alaska and would specifically support HS 225 or CSSB 327, both with a small number of amendments. Specific amendment information will be forwarded to you in the next few days.

Sincerely yours,

  
William B. Lyons  
Chairman

WBL/ab

cc: Senate H.E.S.S.  
Board Members  
Commissioner Beirne

POSITION PAPER/Department of Health & Social Services

*Human Factor  
Board Rep our peers or state of society - its probably the only means of  
voluntary by participating*

POSITION PAPER  
HOUSE BILL 225

*Y.S.M.*

*personally expressed  
There has been mistake - had overload*

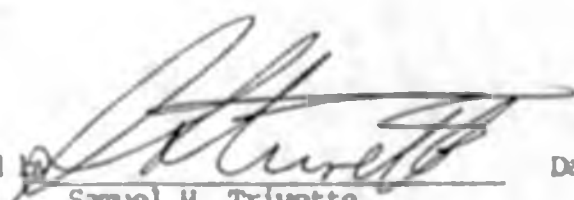
House Bill 225 presents many positive changes to the current Parole Board statute including: *minimum cost increase -*

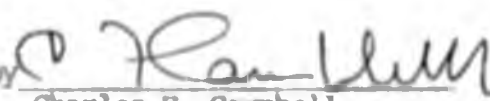
- a) Five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.
- b) Statutorily sets the compensation of Board members at \$100 per day for each day they are involved in carrying out Parole Board business.
- c) Requires the Board to maintain standards for the release of offenders.
- d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessible to the public.
- e) Defines statutorily the bases for the appeal of Board decisions.
- f) Sets standards for the imposition of any condition of release and allows the offender to appeal of any condition imposed.
- g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officers' workloads and limiting the intrusion of the State into the lives of offenders. It requires the offender be discharged after 5 years unless good cause is shown.
- h) Provides clarification of definitions and of the mandatory release statutes.
- i) Establishes statutorily the bases for the removal of Parole Board members.

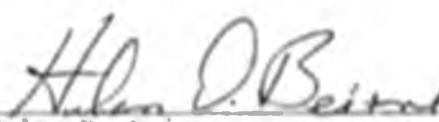
The changes listed in sections a) through g) above are supported by the Commission on Accreditation for Corrections, the Alaska Corrections Masterplan consultants and other professional corrections organizations. These are the same provisions that were included in HB 983 passed by the Alaska House of Representatives in 1980. This bill does an excellent job of balancing the interests of the offenders and of the public. The costs of implementing this bill are negligible. It allows the Parole Board to continue out its functions in a manner that current research shows has been very equitable and just.

POSITION PAPER  
HOUSE BILL 225

The Department of Law is currently drafting a bill that would abolish the Parole Board. We are taking no position on this bill.

Recommended by  Date 3/10/81  
Samuel H. Trivette  
Executive Director

Recommended by  Date 3/10/81  
Charles F. Carroll  
Director  
Division of Corrections

Approved by  Date 3/10/81  
Helen D. Beirne  
Commissioner  
Department of Health  
and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 225

Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board

Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Justice

BRU, Program, or Subprogram(s) Affected Parole Board

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	5.5	5.9	6.4	6.9	7.5
300 CONTRACTUAL	-0-	2.4	-0-	2.8	-0-	3.2
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 COMPENSATION	-0-	23.9	23.8	23.8	23.8	23.8
TOTAL	-0-	31.7	29.7	33.0	30.7	34.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	31.7	29.7	33.0	30.7	34.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

IV. DATE March 5, 1981

PREPARED BY Samuel H. Trivetto

AGENCY Parole Board

PHONE 465-3384

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval William L. ...

Date 3/5/81

A. Section .020 & .030, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan, and Sitka to meet with organizations to recruit for Board members and to administer member assessment. One additional day trip to one location to do final interviews and train on member responsibilities.

Travel 3.8

B. Section .050, Compensation

- a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "mentar days"  
 Guess 23 X 5 members X \$100 = 11.5
- b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.  
 120 calls X \$120 = 12.0

Compensation Total 23.5

C. Section .080, Responsibilities

- a) Costs to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in the Alaska Administrative Code.

Contractual 2.4

- b) Travel costs for Executive Director and Chairman to conduct 1 day hearings in Anchorage, Fairbanks, and Juneau.

Travel 1.7

- c) Compensation for Chairman 3 days at \$100.  
.3

Section .080 Total 4.4

Assumptions

1. Travel will increase at a rate of 8% per year.
2. Contractual will increase at a rate of 8% per year, but hearings to modify regulations will be held only once every two years.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 225

Title An Act relating to parole of offenders & continuing existence of the Board of Parole

Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender Confinement, Reformation and Supervision

BRU, Program, or Subprogram(s) Affected Adult Confinement; Probation & Community Programs

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
PART TIME						
TEMPORARY						

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

This bill essentially enables the Board of Parole to continue their existence and carry out their responsibilities in the same general manner as in the past. Therefore, there would be no fiscal impact on the Division of Adult Corrections.

IV. DATE March 5, 1981

PREPARED BY Roger C. Lange

AGENCY Division of Corrections, Dept. of H. & S.

PHONE 465-3370

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval \_\_\_\_\_

Date \_\_\_\_\_

INTRODUCTION OF BILLS (House)(cont'd)

HB 223 (cont'd)

New provisions are added to AS 47.25 under new sections 103 & 108, "Contractual Agreements," and "Eligibility." Effective July 1, 1981.

Introduced February 25 and referred to Health, Education & Social Services, then to Finance.

Delta/Greely  
REAA  
(adjusting  
FY 81 appro-  
priations)

HOUSE BILL NO. 224, by Rep. Moss. Repeals and reappropriates certain appropriations made to the Delta/Greely Regional Educational Attendance Area for FY 81. Reappropriates \$2.1 million to the Dept. of Transportation & Public Facilities for construction projects for the Delta/Greely REAA including: (1) a vocational education facility; (2) library expansion at Fort Greely; (3) sprinkler system at Delta; (4) administrative offices at Delta; and (5) classrooms at Fort Greely. No amounts specified for each.

Repeals Sec. 286, Ch. 50, SLA 1980, lines 22-25, page 42 and lines 4-5, page 43. Included: (23) Delta sprinkler system-- (\$200,000); (24) Library expansion, Fort Greely (\$300,000); (25) Vocational Education Fac. (\$1,000,000); (4) Delta Admin. Offices (\$200,000); and (5) Fort Greely classrooms (\$400,000).

States that the amount reappropriated is for capital projects and is subject to AS 37.25.020 (does not lapse). Effective immediately.

Introduced February 25 and referred to Health, Education & Social Services, then to Finance.

Parole of  
Offenders

HOUSE BILL NO. 225, by Rep. Martin. Extends the existence of the State Board of Parole (which expired on June 30, 1980) until June 30, 1984. Rewrites the Parole Administration Act (AS 33.15), adding new language to AS 33 under Chapter 16, "Parole Administration." Makes the following changes regarding the Board:

- Increases the term of board members from four to five years.
- Directs the Governor to designate the chairman, and stipulates that chairman must have a minimum two year's experience in the field.
- Adds prohibition that member of board may not seek or hold a statewide or national elective public office during his term.
- Requires the Governor to seek nominations for board members and outlines selection criteria for members.
- Add procedure for the removal of board members for "disability, nonfeasance, neglect of duty, malfeasance in office, or conviction of a crime."
- Allows board member to receive compensation of \$100 per day "for each day he is concerned with the business of the board."
- Requires board to meet at least four times a year (currently must meet at least twice a year).
- Requires a vote of at least three members on all decisions and orders.
- Deletes provision which currently allows board members to issue warrants to retake a parole violator.
- Expands on section which outlines the responsibilities of the board.

HB 225 (cont'd)

Changes regarding the board (cont'd):

--States that Exec. Director serves at the pleasure of the board (currently serves at the pleasure of the Governor) and directs Exec. Director to employ the staff of the board.

New Chapter includes the following provisions regarding the parole process:

--Makes a distinction between "discretionary parole" (granted by the board) and "mandatory parole" (release "by operation of law" such as for good conduct).

--States that a prisoner other than a juvenile delinquent who is serving a definite term of over 180 days and who is not imprisoned for a committing a felony may, in the discretion of the board, be released on discretionary parole. Convicted felon may not be released until he has served at least the prescribed minimum term. A convicted felon who is released under AS 33.20-.030 (early release for good conduct) "shall be placed on mandatory parole for the period specified in the certificate of deduction subject to written conditions imposed by the board."

--Allows sentencing court to designate in the sentence of imprisonment a term at the expiration of which the prisoner is eligible for parole. Term shall be at least one-third of the period of confinement or the minimum term prescribed in AS 12.55-.125 for felonies, whichever is greater.

--Outlines conditions for granting of discretionary parole. States that prisoner may not be released until he has served either one-third of sentence or the minimum term required by law for felony convictions (currently parole may not be granted until prisoner has served either one-third of sentence or 15 years of a life sentence).

--Outlines information to be taken into consideration by the board when determining the suitability of a prisoner for discretionary parole. Includes: the presentence report; recommendations made by sentencing court, by prosecuting attorney & defense attorney, and any statement made by the prisoner at sentencing; the prisoner's history at the jail to which he was sent; a recommendation made by an officer at the jail; official reports of earlier crimes and earlier probation and parole experiences; physical, mental, and psychiatric exams of the prisoner; and information submitted by the prisoner, the prisoner's attorney, a victim of the crime, or other persons.

--Grants a prisoner the right to an interview with a member of the board to review the suitability of the prisoner for discretionary parole. Prisoner may waive such right.

--Requires the board to furnish to each person released under its supervision an order for parole. The order shall contain the conditions of parole and the date parole supervision expires. Order does not take effect until it is accepted and signed by the parolee and his parole plan is approved.

HB 225 (cont'd)

--Outlines mandatory conditions of parole: prisoner must refrain from violating state or federal laws. Board may require as a condition of parole that parolee accept any condition established by board under regulations adopted by it. Allow parolee to request reconsideration by the board of a condition of parole at any time.

--States that pre-parole reports submitted to the board are confidential.

--Allows a prisoner or a parolee to appeal a decision or order of the board to the superior court on the ground of arbitrariness or capriciousness.

--Outlines the duties of the Commissioner of Health & Social Services with regard to granting of parole. Only change over existing section is that Commissioner must "provide the board in a timely manner with information requested on sentenced prisoners who may be eligible for parole release or parole supervision." Also allows Commissioner to assign the duties of probation officers to parole officers appointed by him (no change over existing law).

--States that board retains legal custody of a discretionary parolee until the expiration of the maximum term or terms to which the parolee is sentenced less good time allowance. Board retains custody of a mandatory parolee until the expiration of the maximum term or terms to which he was sentenced. States that disability imposed by AS 33.30.320 (person sentenced to life imprisonment is considered "civilly dead") applies to a parolee as long as he is in the legal custody of the board, but the disability "does not deny a parolee access to the courts to protect the rights he may have." Parolee who has been on parole for five years shall be discharged from parole and from custody of board "unless the board finds after a hearing that continued supervision is necessary for the protection of society."

--Section on discretionary discharge states that board may discharge a parolee from supervision and custody and from further liability under his sentence after parolee has completed two years of parole. Requires annual review of a parolee's record after he has completed two years of parole.

--Allows board to release prisoner to answer a warrant issued by another court in Alaska, another state, the U.S., or by another authority, charging the prisoner with a crime (no change from existing law).

--Board may revoke parole for violation of state or federal law. Grants parolee arrested on charge of violation of state or federal law the right to a preliminary hearing before a single member of the board or before an authorized hearing officer to determine whether probable cause exists to revoke parole.

--Section dealing with arrest of parole violators states that parolee may be arrested without a warrant "only under exigent conditions which require immediate arrest" (more stringent than existing law which allows arrest without warrants).

HB 225 (cont'd)

--States that chapter applies to all persons convicted and sentenced in the Superior Courts and the District Courts of Alaska (no change).

Bill repeals and re-enacts 33.20.040(a) which relates to the release of prisoners who are released earlier than their term of confinement because of deductions for good conduct. New subsection reads: "A prisoner released under AS 33.20.030 [Discharge for Good Conduct] who is not granted parole under AS 33.16.100 and 33.16.120 [Eligibility for and granting of discretionary parole, under new provisions of bill] shall be released on parole for the period specified in the period of deduction subject to conditions imposed by the board and subject to its supervision."

Bill repeals AS 33.13 (Parole Administration Act).

New provisions apply to persons on parole or being considered for parole on the effective date of bill. States that terms of the members of the Board of Parole terminate on effective date of bill. Outlines initial terms of new members to be appointed by the Governor. Provides Act effective July 1, 1981.

Introduced February 25 and referred Health, Education & Social Services, then to Judiciary.

Marijuana  
(legalizing  
use for cancer  
patients)

HOUSE BILL NO. 226, by Reps. Randolph, Bairne, Bettisworth, Brown and Rogers. Legalizes the use of marijuana by persons who have been diagnosed by a physician to be ill with cancer. (Bill adds new subsection to AS 17.12.020, authorized possession of depressant, hallucinogenic & stimulant drugs.) Does not provide for effective date.

Introduced February 26 and referred to Health, Education & Social Services, then to Judiciary.

Disputed Tax  
Payments

HOUSE BILL NO. 227, by Reps. Randolph, Abood, Barnes, Bairne, Bettisworth, Bylsma, Fanning and Metcalfe. Adds new section to AS 43.05 (Administration of Revenue Laws) which allows a person who prevails on a question of tax liability to recover from the state the expenses of preparing and presenting arguments and evidence relative to the tax or penalty in dispute. Person must present a certified statement of expenses to Dept. of Revenue in order to be reimbursed. States that bill has the effect of changing Rule 79 of the Alaska Rules of Civil Procedure by altering the manner of recovery of costs by a plaintiff entitled to recovery of expenses in an appeal of a disputed tax or penalty. Also changes Rule 82 of the Rules of Civil Procedure by mandating recovery of the entire amount of a plaintiff's attorney fees in the successful appeal of a disputed tax or penalty. Does not provide for effective date.

Introduced February 26 and referred to Judiciary and Finance.

General Obligation Bonds  
(retirement)

HOUSE BILL NO. 228, by Reps. Randolph, Abood, Anderson, Barnes, Bairne, Bettisworth, Bylsma, Fanning, Halford and Phillips. Amends AS 37.10.070 which outlines allowable investments for

INTRODUCTION OF BILLS (House)(cont'd)

HB 228 (cont'd)

state surplus funds, by adding primary requirement stating the surplus funds be used "in accordance with appropriations for that purpose, to purchase and retire state general obligation bonds issued under the provisions of the State Bonding Act." If Commissioner determines that there is a surplus in excess of the amount necessary to purchase and retire outstanding state g. o. bonds, that surplus may be invested in the other allowable investments currently contained in the section. Does not provide for effective date.

Introduced February 26 and referred to State Affairs and Finance.

Overtime  
Compensation

HOUSE BILL NO. 229, by Reps. Randolph, Anderson, Beirne, Bettisworth, Fanning and Metcalfe. Exempts from statute governing the payment of overtime compensation "an employee who is in sole charge of an independent establishment or a physically separated branch establishment." (Adds new paragraph to list of those currently exempted in AS 23.10.060.) Provides Act effective immediately.

Introduced February 26 and referred to State Affairs and Finance.

Permit &  
License  
Holders

HOUSE BILL NO. 230, by Reps. Randolph, Beirne, Bettisworth, Bylsma, Fanning and Metcalfe. Entitles permit or license holder to be reimbursed for the cost of their permit or license if the requirement for the permit or license is eliminated by law while person owns it. Amount of reimbursement shall be the sum last paid for the purchase of the permit or license by the present owner. Does not provide for effective date.

Introduced February 26 and referred to Labor & Commerce, then to Finance.

Fish & Game  
Violations  
(seizure of  
property)

HOUSE BILL NO. 231, by Reps. Randolph, Abood, Barnes, Beirne, Bettisworth, Bylsma, Fanning, Metcalfe and Montgomery. Amends section of the Fish and Game Code (AS 16.05) which relates to the seizure and confiscation by the court of items used in or in aid of a violation of AS 16.05. Allows seizure of guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of AS 16.05 or a regulation of the Dept. of Fish & Game (currently items may also be seized for violation of a rule of the department). Bill amends section to allow seizure only "if the person making the seizure determines that the seizure is necessary to preserve the items as evidence of a violation." Also amends section to require items to be returned to owner "within seven days after the seizure unless an extension is approved by court order for cause shown (currently items shall be returned "after completion of the case and payment of the fine, if any"). Section amended by bill is AS 16.05.190, "Seizure Without Warrant and Confiscation by Court." Does not provide for effective date.

Introduced February 26 and referred to Resources and Judiciary.

Acquitted  
Defendants  
(costs & atty.  
fees)

HOUSE BILL NO. 232, by Reps. Randolph, Beirne, Bettisworth, Fanning and Metcalfe. Adds new section to AS 12.45 (Trial) which provides for an award of costs and attorney fees to a defendant acquitted of

INTRODUCTION OF BILLS (House)(cont'd)

Appropriation  
(special)  
(auto repair  
abuse study)

HOUSE BILL NO. 292, by Reps. Hayes, Abood, Anderson, Beirne, Bettisworth, Brown, Martin and Metcalfe. Appropriates \$65,000 from the general fund to the Dept. of Law, Consumer Protection Section, for investigation of abuses related to automobile repairs. Appropriation lapses June 30, 1982. Provides Act effective July 1, 1981.

Introduced March 9 and referred to Labor & Commerce and Finance.

Parole of  
Offenders/  
Executive  
Clemency

HOUSE BILL NO. 293, by the Rules Committee by request of the Governor. Governor's bill revamping the parole system in the state. Outline of bill is as follows:

--Sec. 1 adds new chapter to AS 33, Ch. 16 "PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY."

--Sec. 2 repeals AS 33.30.010 - 090 (Prison Facilities: Establishment, Control & Management) and AS 33.30.250 - 320 (portion of General Provisions). Sections of AS 33.30 which remain intact are Secs. 100 - 190, and Sec. 225.

--Sec. 3 adds new sections to AS 33.30 relating to the establishment, control and management of correctional facilities and programs; to the procedure for commitment; to programs and furloughs; and to miscellaneous provisions.

--Sec. 3 (misnumbered in bill--should be 4) repeals and reenacts AS 33.30.200, the definitions for AS 33.30.

--Secs. 4 & 5 repeal and reenact AS 11.56.340 & 350 (unlawful evasion in the first degree; unlawful evasion in the second degree).

--Sec. 6 repeals and reenacts 12.55.080 (Suspension of Sentence and Probation).

--Sec. 7 amends 12.55.090(b)(Grant of Probation); Sec. 8 amends 12.55.100 (Conditions of Probation); and Sec. 9 amends 12.55.110 (Notice and Grounds for Revocation of Suspension).

--Secs. 10 - 13 amend subsections of 12.55.125 (Sentences of Imprisonment for Felonies).

--Sec. 14 amends 12.55.155(a) (Factors in aggravation and mitigation--of presumptive sentencing).

--Sec. 15 amends 12.55.165 (Extraordinary Circumstances--in sentencing).

--Sec. 16 repeals AS 33.15 and AS 33.20 (Parole Administration Act and Pardons and Paroles).

--Sec. 17 terminates the Interim Sentence Review and Parole Commission established in Sec. 1 of bill on July 1, 1983.

--Sec. 18 states that Secs. 10 - 15 do not apply to or govern the punishment for any offense committed before July 1, 1981. Offenses committed before that date shall be punished according to the law existing at the time the offense was committed.

--Sec. 19 provides effective date of July 1, 1981.

INTRODUCTION OF BILLS (House) (cont'd)

HB 293 (cont'd)

Introduced March 9 and referred to Health, Education and Social Services, then to Finance.

In his message transmitting the bill to the House for consideration, Governor Hammond stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill pertaining to the treatment of prisoners. It allows the Alaska Board of Parole to "sunset" as provided by law on July 1, 1981, and establishes a parole system whereby a prisoner's release date is set at the time of sentencing. The bill also sets presumptive sentences for first time felony offenders and constitutes a complete revision of AS 33.30 pertaining to correctional facilities. It clarifies ambiguous provisions in existing law pertaining to the custody of prisoners, and provides for the establishment of comprehensive furlough programs by the Department of Health and Social Services designed to facilitate an offender's reintegration into society before his final release after serving a term of imprisonment.

This bill should be viewed as the next logical step in the revision and modernization of Alaska's statutes pertaining to crimes and sentencing that began with passage of the revised criminal code in 1978. That legislation, in part, established presumptive sentences for repeat felony offenders and eliminated those offenders from consideration for early release by the parole board. This bill sets presumptive sentences for first-time felony offenders and makes that class of offenders ineligible for early release by the parole board.

To satisfy the requirements of art. III, sec. 21, of the Alaska Constitution, the bill establishes a parole system that allows for release of offenders before the expiration of their terms of imprisonment through the earning of a deduction from their sentences for good conduct while in prison and by permitting their participation in furlough programs established by the Department of Health and Social Services. The furlough programs are intended to foster successful reintegration of the offender into society by encouraging him to obtain employable skills, education, and appropriate counselling or treatment while serving the last part of his term of imprisonment.

This legislation also establishes a two-year interim sentence review and parole commission to set release dates for prisoners who commit crimes before July 1, 1981, the date the new parole system established by this bill takes effect. In setting a parole release date, the commission is specifically authorized to consider whether there was unjustified disparity in the sentence imposed when compared to other sentences imposed under similar circumstances. This provision of the bill will provide an appropriate mechanism to remedy any unjustified disparity in sentencing that may have occurred in the past that can be attributed to the race of the defendant or to any other reason. It is also responsive to the findings and recommendations of the Advisory Committee on Minority Sentencing Practices and the Anchorage Native Caucus arising out of the studies by the Alaska Judicial Council that first highlighted the problem of sentencing disparity in the state.

The central premise of this bill is that certainty in punishment, and certainty regarding the term of imprisonment a prisoner is required to serve, should be the central considerations applicable in establishing penalties for criminal conduct. This legislation insures certainty in sentencing of offenders by providing presumptive sentences for all felonies. Additionally, it also insures certainty in the correctional process by putting all offenders on an equal footing in terms of early release and participation in rehabilitative programs.

INTRODUCTION OF BILLS (House) (cont'd)

Community Work HOUSE BILL NO. 255, by the Judiciary Committee by Request.  
(damages) Adds a new subsection to AS 12.55.055 (Code of Criminal Procedure. Sentencing and Probation. Community Work) which reads:  
"(c) The state is liable for damages to other persons caused by an intentional or negligent act of a person while he is performing community work by order of a court under this section." Provides Act takes effect immediately.

Introduced March 4 and referred to Judiciary.

Housing HOUSE BILL NO. 256, by the Rules Committee by Request of the  
Authorities Legislative Budget and Audit Committee. (See Senate Bill No. 231, page 367, identical).

Introduced March 4 and referred to State Affairs, then to Finance.

ASHA HOUSE BILL NO. 257, by the Rules Committee by Request of the  
(family & Legislative Budget and Augit Committee. (See Senate Bill No. 234, page 368, identical).  
handicapped  
housing fund)

Introduced March 4 and referred to Labor & Commerce, then to Finance.

Appropriation HOUSE BILL NO. 258, by the Rules Committee by Request of the  
(special) Legislative Budget and Audit Committee. (See Senate Bill No. 235, page 369, identical).  
(family &  
handicapped

housing fund) Introduced March 4 and referred to Labor & Commerce, then to Finance.

ASHA HOUSE BILL NO. 259, by the Rules Committee by Request of the  
(sr. citizen Legislative Budget and Audit Committee. (See Senate Bill No. 233, page 368, identical).  
housing fund)

Introduced March 4 and referred to Community & Regional Affairs, then to Finance.

Appropriation HOUSE BILL NO. 260, by the Rules Committee by Request of the  
(special) Legislative Budget and Audit Committee. (See Senate Bill No. 232, page 368, identical).  
(ASHA-Sr. Cit.  
Housing)

Introduced March 4 and referred to Community & Regional Affairs, then to Finance.

Parole of HOUSE BILL NO. 261, by the Judiciary Committee by Request.  
Offenders (See House Bill No. 225, page 352, similar). Continues the existence of the State Board of Parole until June 30, 1985 (expired June 30, 1980). Repeals the Parole Administration Act (AS 33.15) and adds a new chapter to AS 33 (ch. 16) re-writing that section.

Section relating to the Board of Parole states that the board consists of seven members appointed by the governor subject to confirmation by a majority of the members of the legislature in joint session. Provides members serve staggered terms of

Jurors &  
Jury Panels

HOUSE BILL NO. 254, by the Judiciary Committee by Request.  
(See SB 171, page 216, similar). Makes several changes relating to jurors under the Code of Civil Procedure (AS 09.20):

- Changes age qualification of juror to 18 (presently 19).
- Amends section relating to limitation on jury service (025) stating that no person may be required to serve more than "a total of" three months during any consecutive two-year period. Also states that a person is serving as a juror whenever he is in attendance in court as a member of a jury or a jury panel.
- Amends section relating to the jury list (050) by including a list of persons who filed for a distribution of the Alaska permanent fund income, and deleting a list of persons who filed for a state income tax return, and if considered necessary by the administrative director of courts, a list of all persons who hold a valid Alaska drivers' license. Deletes all reference to the Lt. Governor and replaces with "director of elections."
- states that a copy of the appropriate portion of the jury list shall be transmitted "to the presiding judge of each judicial district", deleting "only to each district judge and each superior court judge" and states that it shall only be used to summon jurors and for other "purposes of judicial administration." (deleting "for state governmental purposes".) Also states that duplicate names and names of deceased persons and persons permanently excused shall be eliminated before transmitting it to the presiding judge).
- Amends sec. 060, "Use of Jury Box" to include the use of a computer list: "A randomly generated computer list of prospective jurors may be used in place of the jury box."
- Amends sec. 070 "Public drawing for jurors for panel" to allow a random selection of the jury panel by computer in place of the public drawing of names.
- Repeals and reenacts section 080 "Jury panel" by stating that the panel for trial or civil cases consists of at least twice the number of jurors needed to serve on a trial jury (presently "24"), including any needed alternate jurors. Adds new subsection (b) which states "If the list of prospective jurors for a court location does not produce sufficient names for a jury panel of minimum size, the administrative director of courts may authorize that additional names of prospective jurors be randomly selected from sources other than those listed in AS 09.20.050."
- Provides the Dept. of Revenue shall furnish the Dept. of Administration with a list of all persons who filed for the Alaska permanent fund within 30 days of the effective date of this Act.

Provides Act takes effect immediately.

Introduced March 4 and referred to Judiciary.

HB 261, (cont'd)

five years and until their successors are appointed and qualified. Vacancy to be filled for the unexpired term and governor to designate the presiding officer of the board.

--States that the governor shall seek nominations for board members and outlines selection criteria for members.

--Provides for removal of members for disability, inefficiency, neglect of duty or malfeasance in office.

--Allows member no compensation of \$100 per day for each day of board business and entitles him to per diem and travel allowances. Provides for a cost-of-living adjustment.

--Provides board may meet as often as it considers necessary, not less than four times a year. States that decisions and orders of the board require the votes of a majority of members present and in no case less than votes of three members.

--States the board or a member of the board may issue subpoenas and subpoenas duces tecum.

--Outlines responsibilities of the board, stating that the board shall serve as the state parole authority; consider the suitability of parole for eligible prisoners; discharge person from parole when supervision is no longer necessary; maintain records of the board; adopt fair standards for prisoners for determining parole; recommend changes relating to legislation and within state departments and the executive branch; execute other responsibilities prescribed and adopt regulations under the Administrative Procedure Act.

--Provides for hiring of an executive director who has training and experience in the field of parole.

--Section relating to parole eligibility (100) states that a prisoner, other than a juvenile delinquent, who is serving a term of over 180 days who is not imprisoned under a Class A, B, or C felony whose record shows that he has observed the institutional rules may be released on parole at the discretion of the board. States that a prisoner imprisoned for murder in the 1st or 2nd degree may not be released until he has served at least the prescribed minimum term of imprisonment. States that any prisoner imprisoned under a Class A, B, or C felony who is released at the expiration of his term (AS 33.20.030, Discharge) shall be placed on parole for the period specified in the certificate of deduction, subject to written conditions imposed by the board.

--allows court to fix eligibility for parole at the time of sentencing. States that the term of imprisonment shall be at least one-third of the period of confinement imposed by the court or the minimum term prescribed in sentences of imprisonment for felonies (AS 12.55.125).

--provides for the granting of parole if the board determines that the prisoner will live and remain at liberty without violating the laws or without violating the conditions imposed by the board; the prisoners release is not incompatible with the welfare of society. States a prisoner may not be released until he has served at least one-third of the period of confinement.

--Outlines considerations of the board in determination of suitability of parole including pertinent reports, recommenda-

HB 261, (cont'd)

tions, examinations, information and the prisoner's history.

--states that the board may not deny parole on the grounds that the prisoner did not obtain necessary or desirable treatment if it was not available at the correctional facility to which the prisoner was assigned.

--provides department shall hold a hearing to review suitability of a prisoner for parole or for the setting, posting of parole dates. Provides prisoner shall have reasonable notice, shall be permitted to have a copy of all information and records being considered 30 days before the hearing; prisoner has the right to enter written responses; right to be present at hearing, present evidence on his behalf and to cross-examine witnesses who testify against him. Decision of board shall be issued in writing and reasons for decision shall be provided.

--board shall provide each person released an order for parole which shall contain the conditions imposed and the date that the parole supervision expires. Order does not take effect until it is accepted and signed by the parolee.

--entitles person released a deduction from the term of parole for good time, one day for every three days of good conduct while on parole. Good time earned on parole is subject to forfeiture if a violation of a condition of parole occurs during parole.

--Outlines conditions of parole: parolee required to refrain from violation of state or federal law; board may require person to accept one or more of listed conditions depending on the nature and circumstances of the crime. Conditions range from meeting family obligations to refraining from consuming alcoholic beverages, submission to searches and seizures conducted reasonably by a parole or peace officer acting under direction of a parole officer, submission to necessary medical treatment, to refraining from entering into contracts without permission.

--provides for a hearing on application for a change in parole conditions, waiver of hearing, confidentiality of records and information, appeals, outlines duties of the commissioner in relation to parolees, access to law by prisoners, and parole officers.

--provides for discharge of parolee, providing that the board retains legal custody of a parolee until the expiration of the maximum term to which parolee is sentenced less good time allowance. States parolee who has been on parole for five years and who has not been charged with a felony shall be discharged from parole and the custody of the board. Provides for discretionary discharge of a parolee after completion of two years of parole. Provides for release of prisoner to answer process.

--Provides for revocation of parole by board for violation of a state or federal law or a condition imposed by the board. Entitles parolee right to hearings. Provides for arrest of parole violator only on a warrant issued based on probable cause. Provides for execution of the warrant for arrest of parolee by parole officer or peace officer.

HB 261. (cont'd)

Provides Act takes effect July 1, 1981.

Introduced March 4 and referred to Health, Education and Social Services, then to Judiciary.

Fishery Industrial Tech. Center

HOUSE BILL NO. 262. by Rep. Zharoff. Establishes a Fishery Industrial Technology Center as a part of the University of Alaska. States that the center shall create employment opportunities in the state's fishing industry and other benefits to the state by providing training opportunities to citizens of the state on the most efficient and appropriate technologies for the harvesting, processing and conservation of the fishery resources of the state; by providing information and technical assistance on the adaptation of existing and new technologies to the users of the fishery resources of the state; by providing research and development activities to adapt existing technologies to enhance the economic viability of the industry; by providing research and development activities to create new technologies which will enhance the effectiveness of the industry, and provide economic benefits to state citizens; and by encouraging joint projects between industry and government in order to use industrial experience and government programs to enhance the productivity of the industry.

Establishes the Fishery Industrial Council to provide program and planning guidance to the center. Council to consist of 11 members appointed by the U of A president. Members to serve two year term. States that the principal activities of the center shall be located in Kodiak, Alaska. Provides for the issuance of an annual report and states that the center shall cooperate with other agencies in the development of its programs. Provides Act takes effect immediately.

Introduced March 4 and referred to Health, Education and Social Services, then to Finance.

Appropriation  
(special)  
(Fishery Industrial Tech Center)

HOUSE BILL NO. 263. by Rep. Zharoff. Appropriates \$200,000 to the University of Alaska for the Fishery Industrial Technology Center. Provides unexpended and unobligated portion of the appropriation lapses into the general fund 6/30/82. Provides Act takes effect on effective date of a version of HB 262.

Introduced March 4 and referred to Health, Education and Social Services, then to Finance.

Appropriation  
(special)  
(Iliamna dock)

HOUSE BILL NO. 264. by Rep. Chuckwuk. Makes a special appropriation in the amount of \$175,000 to the Department of Community and Regional Affairs for payment as a grant to the village of Iliamna for design and construction of a dock. Provides Act takes effect immediately.

Introduced March 5 and referred to Transportation, then to Finance.



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### A PRELIMINARY DESCRIPTIVE STATISTICAL REPORT OF 1980 FELONY SENTENCES

Nicholas Maroules  
Executive Director

### Acknowledgement

Judicial Council staff, whose assistance was invaluable in the data collection, analysis and administrative aspects of the 1980 Felony Sentencing study includes:

Martha Bender	Administrative Assistant
Sheila Vonesh	Administrative Assistant
Kevin Newland	Research Associate
Larry Pederson	Computer Specialist
Julia Coster	Research Assistant
Cindy Sparyers	Research Assistant
Michael Rikard	Research Assistant
Phyllis Ruemler	Research Assistant
Kate Dougherty	Research Assistant
Janet Graser	Research Assistant

In addition, the staff wishes to express its appreciation of the contribution of the Judicial Council's previous Executive Director, Teresa J. White.

The tables and figures discussed in this report are merely descriptive of the types of offenses, dispositions and sentence outcomes rendered in 1980. A complete multivariate analysis is not expected to be completed until February, 1982. Accordingly, a thorough discussion of the data collection methodology, coding, study design and statistical methodology will not be presented here, but will be included in the Council's final report. Nevertheless, a few comments regarding the parameters of the data base used in this study are discussed below.

#### A. Data Base

The data base and design of this study are comparable to the Judicial Council's earlier sentencing studies. The data includes all cases originally charged as a felony that were committed between January 1, 1980 and December 31, 1981, that resulted in a conviction.

Due to the typical two month time period between acceptance of a guilty plea or conviction and sentencing, we continued to code cases until August, 1981 in an effort to include the universe of 1980 offenses. Nevertheless, a few cases were "lost" due to appeals or extended delays in trials and/or sentencing.

## I. INTRODUCTION

In 1978 the Alaska Judicial Council announced that its felony statistical study of the effects of the elimination of plea bargaining revealed apparent racial disparities among sentences for many classes of offenses. As a result, the Supreme Court and legislature asked the Council to conduct a follow-up study and to thereafter periodically monitor felony sentencing patterns. The follow-up study, covering felony sentences imposed between July, 1976 and July, 1979 indicated that racially disproportionate sentences had been largely eliminated. However, this research revealed other findings suggesting problematical outcomes in sentencing, including significant differences in sentence outcomes according to whether a defendant plead guilty or was convicted at trial, by the type of attorney representing a defendant as well as the impact of pre-sentence report factors.

The purpose of this report is to outline felony sentencing patterns discerned from the Judicial Council's most recent study, covering Anchorage, Fairbanks and Juneau felony offenses committed in 1980 that resulted in conviction. This study is particularly significant since, in addition to providing a basis to check the disparate and other outcomes discerned in the earlier studies, it provides the first statistically comprehensive view of sentencing patterns under the state's new criminal code.

## II. Preliminary Urban Sentencing Patterns:

### Comparison of 1980 Data with Past Studies

#### A. Introduction

This section of the report compares felony offenses and sentencing patterns rendered from 1980 offenses with those studied by the Judicial Council in its two major previous studies, the plea bargaining study covering 1974-76 offenses and the follow-up 1976-79 study.

Utilizing the same broad analytical classification scheme developed in the earlier studies, offenses were grouped into six broad classes. These classes reflect the felony offenses that were originally charged. The subsequent analysis of sentence outcomes focuses on the offense at conviction.

#### B. Offense Classes

Table I represents a comparison of the distribution of 1980 offense classes with those discerned from the Judicial Council's two earlier studies.

TABLE I

Distribution of Convicted Offenses  
By Six Classes of Offense  
For Three Study Periods

<u>Class of Offense:</u>	<u>1974-76 Period</u>		<u>1976-79 Period</u>		<u>1980 Study</u>	
	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>
Murder/Kidnapping Class 1	1.7%	( 25)	3.6%	( 49)	2.9%	( 14)
Violent Felonies Class 2	29.4%	(420)	27.1%	(365)	31.4%	(151)
Property Offenses Class 3	34.8%	(499)	35.7%	(481)	41.4%	(199)
Fraud Offenses Class 4	13.6%	(195)	15.2%	(204)	5.4%	( 26)
Drug Offenses Class 5	17.8%	(255)	14.3%	(192)	17.0%	( 82)
"Moral" Offenses Class 6	2.7%	( 39)	4.1%	( 55)	1.9%	( 9)
Totals	100.0%	(1433)	100.0%	(1366)	100.0%	(488)

The most notable changes in the distribution of offenses over the three study periods concerns property offenses (Class 3) and fraud offenses (Class 4). Property offenses increased proportionately from approximately 35% in the first two studies to 41% in 1980. Conversely, fraud offenses decreased from approximately 14% for the first two periods to only 5.4% in 1980. One likely explanation for the significant proportionate decrease in fraud offenses concerns the impact of the Pre-Trial Intervention Project instituted by the Department of Law. This program allows the District Attorney to screen "appropriate" cases into a diversionary system that functions as an

alternative to traditional disposition. Fraud offenses-- particularly bad check and forgery offenses--are typical examples of diverted offenses. This hypothesis will be tested in our final report by analyzing or profiling data we collected on diverted offenses.

#### C. Classification of Felonies In New Criminal Code

The new criminal code that became effective January 1, 1980 classified most felony offenses, including unclassified, "A", "B" and "C" felonies. In addition, as will be discussed, infra, a presumptive sentencing scheme was implemented for repeat felony offenders.

Table II, below, represents the distributions of both offenses charged and offenses at conviction according to this new classification scheme.

TABLE II

Distribution of New Criminal  
Code Classified Offenses  
Comparing Offenses Charged and  
Offenses at Conviction

Classification Offense:	Offenses Charged %	(n)	Offenses Convicted %	(n)
Unclassified Felonies	2.7%	( 13)	1.9%	( 9)
"A" Felonies	12.3%	( 59)	6.9%	( 35)
"B" Felonies	24.5%	(118)	17.0%	( 82)
"C" Felonies	43.0%	(207)	35.1%	(169)
Drug Felonies	17.0%	( 82)	16.6%	( 80)
Felonies Not Classified	0.4%	( 2)	---	---
Misdemeanors	---	---	22.4%	(108)
	100%=n=481		100%=n=481	

#### D. Trials

The Council's study of 1976-79 cases indicated that the proportion of (convicted) cases that went to trial rose substantially over the 1974-76 study period. The overall proportion of cases that went to trial in 1974-76 was 11.8% compared to 21.9% for the later period. As Table III, below, indicates, the overall proportion of trials has decreased significantly among 1980 new criminal code offenses to 15.8%. In fact, the proportion of 1980 offenses that went to trial nearly approximates the trial rate for the 1974-76 study. However, any explanation for this overall change in trial rates cannot be determined until we have completed our multivariate analysis.

TABLE III

Proportion of Convicted Cases  
That Went to Trial By Class  
Of Offense\* For Three  
Study Periods

<u>Class of Offense:</u>	<u>1974-76 Period %</u>	<u>1976-79 Period %</u>	<u>1980 Study %</u>
Violent Felonies Class 2	20.7%	33.7%	22.5%
Property Offenses Class 3	6.8%	13.5%	7.5%
Fraud Offenses Class 4	5.7%	16.2%	7.7%
Drug Offenses Class 5	11.8%	26.6%	15.8%
All Cases	11.8%	21.9%	15.8%

\*Classes 1 and 6 excluded due to small number of cases.

#### E. Sentencing

##### (1) Comparison With Past Studies

Our 1976-79 sentencing study revealed that sentences increased in length substantially for most classes of offense while a defendant's chance of receiving a probationary sentence decreased in comparison with the plea bargaining study. In fact, typical violent felony and property offenses sentences nearly doubled in length (82% and 92% increases,

respectively). Tables IV and V represent a comparison of mean active sentences and the proportion of cases receiving probation with past studies.

TABLE IV  
 MEAN ACTIVE SENTENCES FOR  
 SIX OFFENSE CLASSES FOR THREE  
 STUDY PERIODS  
 (IN MONTHS)

<u>Class of Offense:</u>	<u>1974-76 Period</u>	<u>1976-79 Period</u>	<u>1980 Study</u>
Murder/Kidnapping	231.4 ( 22)	356.1 ( 49)	434.7 ( 14)
Violent Felonies	36.5 (274)	66.3 (293)	29.2 (119)
Property Offenses	10.4 (257)	20.0 (283)	14.8 (144)
Fraud Offenses	16.4 ( 99)	19.9 (136)	17.6 ( 18)
Drug Offenses	33.1 (120)	27.3 (110)	16.3 ( 65)
"Morals" Offenses	38.4 ( 22)	44.0 ( 37)	16.7 ( 3)

TABLE V

Proportion of Cases Receiving  
 Probation for Six Offense Classes  
 For Three Study Periods  
 (In Percent)\*

<u>Class of Offense:</u>	<u>1974-76 Period</u> %	<u>1976-79 Period</u> %	<u>1980 Study</u> %
Murder/Kidnapping	12%	0%	0%
Violent Felonies	35%	20%	21%
Property Offenses	48%	41%	28%
Fraud Offenses	49%	33%	31%
Drug Offenses	53%	43%	21%
"Morals" Offenses	44%	33%	67%

\*Percentages rounded to nearest whole number

Table IV reveals that mean average sentence lengths have decreased substantially since the 1976-79 study. The decrease is greatest for violent felonies (-56%) and drug offenses (-40%) in comparison with the 1976-79 period. In fact, the average sentences for many 1980 offense classes are actually lower than those for the 1974-76 period. A multivariate "modeling" of sentence outcomes for each class of offense should provide an index to the factors associated with this overall decrease. Conversely, the proportionate of cases

receiving a straight probationary sentence has decreased for most 1980 offense classes. A clear pattern emerges in comparing the figures for the three study periods: proportionately fewer defendants have received straight probation over the past six years. Thus, more defendants are being sentenced to periods of incarceration while the average period of incarceration has decreased substantially.

#### F. Presumptively Sentenced Cases

The new criminal code established presumptive sentencing for repeat felony offenders whose prior conviction is less than seven years old, excluding periods of incarceration. Sentencing for first offenders, including defendants with prior misdemeanors or felonies older than seven years, follows the previous criminal code's sentencing scheme within statutorily established ranges. Figure 1, below, outlines the terms of imprisonment under the new criminal code.

TERMS OF IMPRISONMENT IN NEW CRIMINAL CODE

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

Key

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

- Six year presumptive term applies if first A felony conviction, other than manslaughter, and defendant used or possessed a firearm during the offense or caused serious physical injury.

Note: In addition to Class "A", "B" and "C" felonies, there are three unclassified felonies with corresponding statutory sentence ranges: Murder in First Degree - 20-99 years  
Murder in Second Degree and Kidnapping - 5-99 years.

Our analysis indicates that there were fewer 1980 convictions that resulted in presumptive sentencing than was originally anticipated. (Data on prior criminal histories of offenders would suggest that thirty to forty percent would be subject to presumptive sentencing.) Table VI reflects the proportion of presumptive and traditional sentences rendered in 1980 for each of the six classes of offense.

TABLE VI

Type of Sentence for  
Six Classes of Offense  
(In Percent)

Class of Offense:	Presumptively Sentenced		Traditionally Sentenced	
	%	(n)	%	(n)
(1) Murder/Kidnapping	7.0%	( 1)	93.0%	( 13)
(2) Violent Felonies	19.9%	(30)	79.1%	(121)
(3) Property Offenses	12.6%	(25)	87.3%	(174)
(4) Fraud Offenses	34.6%	( 9)	65.4%	( 17)
(5) Drug Offenses	0%	( 0)	100.0%	( 82)
(6) "Morals" Offenses	0%	( 0)	100.0%	( 9)

According to this distribution, fraud offense convictions are most likely to have resulted in presumptive sentencing, presumably due to the nature of the defendant's prior record. Drug offenses were not reclassified under the new criminal code and are thus not subject to presumptive sentencing.

In an effort to identify differences in patterns between defendants sentenced presumptively and those traditionally sentenced, Table VII compares the proportion of cases receiving straight probation and the mean active sentence for three of the six classes of offense. (Classes 1, 5 and 6 were excluded; class 1 had only one case sentenced presumptively, while classes 5 and 6 had none.)

TABLE VII

Comparison of Sentence  
Outcomes For Presumptive  
And Traditional Sentences  
For Three Classes of Offense

<u>Class of Offense</u>	<u>Presumptive</u>		<u>Traditional</u>	
	<u>% prob</u>	<u>X Active</u>	<u>% prob</u>	<u>X Active</u>
Violent Felonies Class 2	3.3%	67.7	25.6%	16.8
Property Offenses Class 3	0%	41.3	31.6%	8.9
Fraud Offenses	0%	33.3	47.1%	1.9

As the above table indicates, the sentence outcomes between presumptive and traditional sentences is striking. Presumptive sentencing results in an extremely low probability of receiving probation as well as considerably longer average sentences than traditionally sentenced cases. The forthcoming multivariate analysis will facilitate a better comparison of these differences by controlling for such factors as the specific offense (as opposed to class of offense) at conviction.

G. Offense and Sentence Distributions for Six Classes of Offense

Tables A-I through A-VI, appendix, provide summaries of specific offenses at conviction and corresponding sentence distributions for each of the six major classes of offense. These distributions reflect the conviction outcomes for cases

that began as a class 1 through 6 offense. Our final analysis will cross-classify new criminal code offenses with those of the old code to facilitate a more direct comparison of sentencing patterns for the specific offenses represented in these tables.

### III. Conclusion

As has been stated repeatedly throughout this preliminary report, these results provide a descriptive statistical analysis of 1980 new criminal code offenses and sentences. A more definitive analysis considering the impact of race, type of attorney and other factors associated with increases or decreases in typical sentence length will be completed in late winter, 1982. Nevertheless, the analysis and findings presented in this report provide a sound statistical summary of 1980 offense and sentencing patterns, especially as they compare with the results of prior studies.

The findings of this report suggest many implications for the criminal justice system. Foremost among these concerns the impact of increased numbers of incarcerations on the Division of Corrections. Although sentence lengths have decreased since the last study (1976-79), proportionately more defendants are going to jail. In addition, the number of 1980 Anchorage, Fairbanks and Juneau cases (n=481) reveals that the number of convictions is increasing. (Our 1976-79 study revealed that

the number of convictions had steadily decreased from the 1974-75 period to the 1976-79 period.) Accordingly, we plan to include a prison population impact analysis in our final report that projects the anticipated effects of these sentencing patterns on our jail populations.

In addition, we hope to identify, in the context of multivariate analysis, the factors associated with the overall decrease in sentence lengths and straight probationary sentences identified in this report.