

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1356 HESS HB 293 132

16 new employees

This bill prohibits the public from participation, et. system can easily cover up its own mistakes. All new State employees would be involved - on the job training etc. Parole Board related membership.

Introduced: 3/9/81
Referred: Health, Education & Social Services and Finance

1 IN THE HOUSE
2 quite confusing

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 293

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act establishing a parole system and relating to
7 correctional facilities, furlough programs, and sen-
8 tencing; and providing for an effective date."

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

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

11 CHAPTER 16. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

12 Sec. 33.16.005. DECLARATION OF LEGISLATIVE PURPOSE. The purpose
13 of this chapter is to create a parole system as required by art. III,
14 sec. 21 of the Alaska Constitution, by establishing programs for the
15 reintegration of offenders into society and by providing for the early
16 release of offenders subject to varying levels of supervision outside
17 prison.

18 Sec. 33.16.010. INTERIM SENTENCE REVIEW AND PAROLE COMMISSION.

19 (a) There is established in the Department of Health and Social Ser-
20 vices the interim sentence review and parole commission consisting of
21 three members appointed by the governor. The governor shall appoint
22 commission members on the basis of their qualifications to make deci-
23 sions that are compatible with the welfare of the community and of
24 individual offenders and their ability to consider the character and
25 background of offenders and the circumstances of offenses. The governor
26 shall designate the presiding officer of the commission.

27 (b) The governor shall seek nominations for commission members
28 from civic, professional, and ethnic organizations in the state and
29 shall make appointments to the commission with due regard for repre-

1 sentation of the racial, ethnic, sexual, and cultural populations of
2 the state.

3 (c) Members of the commission are in the exempt service and are
4 entitled to a monthly salary equal to Step A, Range 26 of the salary
5 schedule in AS 39.27.011(a) for Juneau, Alaska. Members of the commis-
6 sion are entitled to travel and per diem authorized by law for members
7 of state boards and commissions under AS 39.20.180.

8 Sec. 33.16.020. QUORUM. Two members of the commission constitute
9 a quorum for the conduct of business. Decisions and orders of the
10 commission require the votes of a majority of the members present. The
11 commission or a member of the commission may issue subpoenas and sub-
12 poenas duces tecum enforceable in the superior court.

13 Sec. 33.16.030. EXECUTIVE DIRECTOR. The commission may hire an
14 executive director who has training and experience in the field of
15 probation and parole. The executive director shall serve as the admin-
16 istrative officer of the commission at the pleasure of the governor.
17 The executive director may employ a staff for the commission

18 Sec. 33.16.035. RESPONSIBILITIES OF THE COMMISSION. The commis-
19 sion shall determine parole eligibility of prisoners, set parole release
20 dates, and establish conditions of parole.

21 Sec. 33.16.040. PAROLE ELIGIBILITY OF PRISONERS WHO COMMITTED A
22 CRIME BEFORE JULY 1, 1981. (a) Except as provided in (f) and (g) of
23 this section, a state prisoner, other than a juvenile delinquent, who
24 committed a crime before July 1, 1981, and who is serving a definite
25 term of imprisonment of more than 180 days, is eligible for parole once
26 he has served at least one-third of the period of confinement to which
27 he was sentenced, unless at the time of sentencing the court designated
28 a longer minimum term of imprisonment before he would be eligible for
29 parole. If the prisoner was sentenced to a life sentence, he is eligi-

We have just gotten into the new criminal code law and presumptive sentencing. Let the current parole board continue to work with these. They have had time to adjust.

However with this new proposal coming right with the heel of ~~these~~ two new programs we have much confusion and risk to the public,

1 ble for parole once he has served 15 years.

2 (b) By June 30, 1983, the commission shall set a parole release ^{the prisoner and need}
3 date for each prisoner sentenced before January 1, 1983, who is or will ^{too much leniency to give fair, human}
4 be eligible for parole under (a) of this section. ^{hearings.}

5 (c) Commencing July 1, 1983, the executive clemency advisory
6 board shall set a parole release date for each prisoner who is or will
7 be eligible for parole under (a) of this section who is sentenced on or
8 after January 1, 1983. ^{By Parol board under complete control}

9 (d) The parole release date required to be set under (b) and (c)
10 of this section shall be fixed at a date not earlier than the date the ^{of the adm. they can have dictatory}
11 prisoner will be eligible for parole under (a) of this section and not ^{control over prisoners for exaggerated}
12 later than the prisoner's earliest possible release date. ^{not following correction Div. rules etc.}

13 (e) For purposes of (d) of this section, "earliest possible re-
14 lease date" means the earliest date that the prisoner would be released
15 through an application of former AS 33.20.010 enacted in ch. 107 SLA
16 1960, or former AS 33.20.010 enacted in ch. 166 SLA 1978, as appli-
17 cable.

18 (f) A state prisoner whose release under (b) or (c) of this sec-
19 tion is revoked under AS 33.16.090 or who is imprisoned under a pre-
20 sumptive sentence, whether or not adjusted for aggravating or mitigat-
21 ing factors, for a second or third felony conviction under AS 12.55.125
22 or for a first felony conviction under AS 12.55.125(c)(1), is not
23 eligible for parole consideration. The prisoner shall be released on
24 parole at the expiration of his sentence less the good conduct deduc-
25 tion provided for in AS 33.16.080 under the terms and conditions set
26 out in AS 33.16.090 and 33.16.100.

27 (g) A state prisoner imprisoned in accordance with AS 12.55.125(a)
28 or (b) is not eligible for and may not be released on parole until he
29 has served at least the prescribed minimum term of imprisonment.

1 Sec. 33.16.050. PAROLE ELIGIBILITY OF PRISONERS WHO COMMIT A
2 CRIME AFTER JUNE 30, 1981. A state prisoner, other than a juvenile
3 delinquent, who commits a crime after June 30, 1981, and who has been
4 sentenced to serve a definite term of imprisonment in excess of three
5 days

6 (1) shall be released at the expiration of his sentence less
7 the time deducted for good conduct provided for in AS 33.16.080 under
8 the terms and conditions set out in AS 33.16.090 and 33.16.100; and

9 (2) is eligible for participation in furlough programs in
10 accordance with AS 33.30.091 -- 33.30.131.

11 Sec. 33.16.060. HEARING ON PAROLE RELEASE DATE. (a) The com-
12 mission or the board, as applicable, shall hold a hearing to set a
13 parole release date under AS 33.16.040.

14 (b) In setting a parole release date, the commission or board, as
15 applicable, shall consider

16 (1) whether there was unjustified disparity in the sentence
17 imposed in relation to other sentences imposed under similar circum-
18 stances;

19 (2) whether the sentence imposed deviated substantially from
20 the sentence that would have been imposed under the revised criminal
21 code;

22 (3) information submitted by the prisoner, his attorney, the
23 prosecuting attorney, the victim of the crime, and other interested
24 persons;

25 (4) reports of physical, mental, and psychiatric examinations
26 of the prisoner;

27 (5) the pre-sentence report including the prior record of
28 convictions;

29 (6) the recommendations made by the sentencing court, and by

1 the parties at sentencing;

2 (7) the prisoner's conduct while in prison;

3 (8) the prisoner's parole release plan; and

4 (9) the pre-parole report specified in (c) of this section.

5 (c) The commissioner shall have a pre-parole report completed for
6 each prisoner and shall furnish it to the commission or board with any
7 recommendations which would be helpful in setting a parole release
8 date.

9 (d) The prisoner shall be provided reasonable notice of the hear-
10 ing, which shall be open to the public. The prisoner shall be permit-
11 ted to have access to all information and records which will be consid-
12 ered at the hearing no less than 30 days before the hearing and has a
13 right to enter written responses to the information and records.

14 (e) The prisoner has a right to be present at the hearing, to be
15 represented by an attorney, to present evidence on his behalf, and to
16 cross-examine witnesses who testify against him. If the prisoner
17 qualifies for a representation by the public defender agency under
18 AS 18.85, the agency shall be notified and shall undertake his repre-
19 sentation.

20 (f) The reasons for the parole release decision shall be stated
21 in writing and provided to the prisoner.

22 Sec. 33.16.070. ADJUSTMENT OF RELEASE DATE. After a release date
23 has been set or provided for under AS 33.16.040 or 33.16.050, a pris-
24 oner who

25 (1) forfeits any amount of the good conduct deduction under
26 AS 33.16.080 has his release date automatically extended by that amount;

27 (2) has any amount of good conduct deduction reinstated
28 under AS 33.16.080 has his release date automatically accelerated by
29 that amount;

1 (3) was convicted of a crime before January 1, 1980, and
2 earns any amount of additional good conduct deduction under former
3 AS 33.20.020, as enacted in ch. 107 SLA 1960, has his release date
4 automatically accelerated by that amount.

5 Sec. 33.16.080. COMPUTATION OF GOOD CONDUCT DEDUCTION. (a) Ex-
6 cept as limited by (b) of this section, a state prisoner, other than a
7 juvenile delinquent, convicted of an offense against the state and
8 sentenced to a term of imprisonment in excess of three days, who has
9 observed the rules of the institution in which he is confined and the
10 rules and conditions pertaining to a furlough program in which he
11 participates, is entitled to a good conduct deduction of

12 (1) one-quarter of any term or portion of a term of impris-
13 onment served on or after July 1, 1981, if he was sentenced

14 (A) to a presumptive sentence, whether or not adjusted
15 for aggravating or mitigating factors for a second or third
16 felony conviction under AS 12.55.125 or for a first felony convic-
17 tion under AS 12.55.125(c)(1);

18 (B) under AS 12.55.125(a) or (b); or

19 (C) to a life sentence, in which case the good conduct
20 deduction shall be computed as if the sentence were 99 years;

21 (2) one-third of any term or portion of a term of imprison-
22 ment served on or after July 1, 1981, if he was sentenced for a crime
23 not subject to the sentencing provisions set out in (1) of this subsec-
24 tion.

25 (b) A prisoner who has been sentenced for a crime that requires
26 imposition of a mandatory minimum term of imprisonment is entitled to
27 the deduction set out in (a) of this section, except that the deduction
28 only applies to the term of imprisonment that is in excess of the
29 mandatory minimum term of imprisonment. As used in this section,

1 "mandatory minimum term of imprisonment" means that

2 (1) imprisonment for the prescribed minimum term may not be
3 suspended under AS 12.55.080;

4 (2) imposition of sentence may not be suspended under AS 12.
5 55.085;

6 (3) imprisonment for the prescribed minimum term may not be
7 otherwise reduced.

8 (c) If the good conduct deduction applicable at the time the
9 defendant committed his crime would result in a greater deduction than
10 authorized under (a) or (b) of this section, the prior deduction
11 applies.

12 (d) The deductions granted under this section may be forfeited in
13 increments of up to 90 days for each major incident of bad conduct and
14 in increments of up to 30 days for each minor incident of bad conduct
15 as defined in regulations adopted by the commissioner. For each full
16 year of incident-free conduct, 90 days of good conduct deduction vests
17 and may not subsequently be forfeited. Good conduct deductions that
18 have been forfeited may be reinstated under regulations adopted by the
19 commissioner.

20 Sec. 33.16.090. PAROLE SUPERVISION. (a) A prisoner released on
21 parole is subject to the jurisdiction of the sentencing court and the
22 supervision of the commissioner and is on probation. The period of
23 supervision consists of any period of the term of imprisonment not
24 served plus any period of probation imposed by the court under AS 12.-
25 55.080 or 12.55.085, except that

26 (1) if the prisoner was released by the board of parole, the
27 commission, or the executive clemency advisory board, his period of
28 supervision is reduced by the amount of good conduct deduction;

29 (2) if the prisoner was released under former AS 33.20.030 --

1 33.20.040 his period of supervision is reduced by 180 days.

2 (b) The conditions of release include any condition

3 (1) required by AS 33.16.100;

4 (2) set by the court as a condition of a suspended sentence
5 or suspended imposition of sentence, or as a condition of release under
6 AS 33.16.050 if no portion of the sentence is suspended;

7 (3) imposed by the board of parole, or by the commission or
8 the executive clemency advisory board.

9 (c) The conditions set under (b)(2) and (3) of this section may
10 be imposed if reasonably related to

11 (1) the nature and circumstances of the offense; or

12 (2) the prior criminal history of the prisoner.

13 (d) During the first half of the period set out in (a) of this
14 section, the prisoner is subject to formal probation supervision,
15 unless the period of formal supervision is extended by the sentencing
16 court, for good cause shown, upon application of the prosecuting attor-
17 ney. During the remainder of the period set out in (a) of this section
18 the prisoner is subject to open probation supervision.

19 (e) At any time during the period set out in (a) of this section,
20 the release of a prisoner who violates any of the conditions of his
21 release is, upon application of the prosecuting attorney, subject to
22 revocation by the sentencing court as provided in AS 12.55.110. The
23 prisoner may be required to serve the sentence imposed, or any lesser
24 sentence, including an extension of the period of probation up to the
25 period that may have originally been imposed under AS 12.55.080(b),
26 and, if imposition of sentence was suspended, any sentence which might
27 originally have been imposed.

28 (f) As used in (a) of this section, "prisoner released on parole"
29 includes a prisoner released

- 1 (1) by the board of parole under former AS 33.15;
2 (2) as if on parole under former AS 33.20.030 -- 33.20.040;
3 (3) by the commission, the executive clemency advisory
4 board, or otherwise under AS 33.16.040; or
5 (4) under AS 33.16.050.

6 Sec. 33.16.100. MANDATORY CONDITIONS OF PAROLE. The following
7 conditions apply to prisoners released under AS 33.16.040 or 33.16.050,
8 during the period set out in AS 33.16.090(a):

9 (1) that the person not violate a state or federal law or
10 local ordinance;

11 (2) that during any period of formal probation supervision
12 the person follow the reasonable instructions of his supervising proba-
13 tion officer; and

14 (3) that, if the person was convicted of a felony, he not
15 possess a firearm.

16 Sec. 33.16.110. NOTIFICATION TO PROSECUTING ATTORNEY. (a) The
17 commissioner shall notify the prosecuting attorney at least 60 days
18 before a release date that is set under or provided by AS 33.16.040 or
19 33.16.050.

20 (b) The commissioner shall notify the prosecuting attorney at
21 least 30 days before the expiration of a period of formal probation
22 supervision under AS 33.16.090.

23 Sec. 33.16.120. NOTIFICATION TO PRISONER OF RELEASE DATE. At the
24 time of sentencing, the court shall inform the defendant of his release
25 date calculated on the assumption that he will earn the maximum good
26 conduct deduction under AS 33.16.080.

27 Sec. 33.16.130. GOVERNOR'S EXECUTIVE CLEMENCY. The governor may
28 grant executive clemency in the form of pardons, commutations or re-
29 prieves of sentences, and suspension or remission of fines and forfeit-

1 ures, in whole or in part, for offenses against the laws of the State
2 of Alaska or the Territory of Alaska.

3 Sec. 33.16.140. EXECUTIVE CLEMENCY ADVISORY BOARD; DUTIES. (a)
4 There is created in the office of the governor the executive clemency
5 advisory board. The board shall

6 (1) review applications for executive clemency at the re-
7 quest of the governor; and

8 (2) set parole release dates under AS 33.16.040(c), within
9 one year after a prisoner is sentenced.

10 (b) The board consists of three members: the lieutenant gover-
11 nor, the attorney general, and one person selected by the governor who
12 shall serve at the pleasure of the governor.

13 (c) The board shall investigate each case referred to it by the
14 governor under (a)(1) of this section and submit to the governor a
15 report of the investigation and its recommendation.

16 (d) In reviewing an application for executive clemency under
17 (a)(1) of this section, the board may require the assistance of the
18 commissioner.

19 Sec. 33.16.150. EFFECT OF PARDON. (a) Unless otherwise speci-
20 fied on the face of the document granting a pardon by the governor, a
21 pardon sets aside the conviction and prevents the fact of conviction
22 from subsequently being used for any purpose. However, the facts
23 giving rise to that conviction may be considered in any context in
24 which the person's character is in issue.

25 (b) A pardon automatically restores civil rights under AS 33.30.-
26 181.

27 Sec. 33.16.155. ADMINISTRATIVE PROCEDURE ACT INAPPLICABLE. The
28 Administrative Procedure Act (AS 44.62) does not apply to this chapter.

29 Sec. 33.16.160. DEFINITIONS. As used in this chapter, unless the

1 context requires otherwise,

2 (1) "board" means the executive clemency advisory board;

3 (2) "commission" means the interim sentence review and
4 parole commission;

5 (3) "commissioner" means the commissioner of the Department
6 of Health and Social Services or his designee;

7 (4) "formal probation supervision" means conditional re-
8 strictions on an offender's liberty that include efforts designed to
9 closely monitor his conduct so as to assure a smooth transition into
10 the community and to prevent recidivism, and it may include mandatory
11 contacts with a probation officer;

12 (5) "open probation supervision" means conditional restric-
13 tions on an offender's liberty and includes rehabilitative counselling,
14 advice, and aid, upon the request of an offender, to assure his con-
15 tinued successful reintegration into society, but does not include
16 mandatory contacts with a probation officer.

17 * Sec. 2. AS 33.30.010 -- 33.30.090 and AS 33.30.250 -- 33.30.320 are
18 repealed.

19 * Sec. 3. AS 33.30 is amended by adding new sections to read:

20 CHAPTER 30. CORRECTIONAL FACILITIES AND PROGRAMS.

21 ARTICLE 1. ESTABLISHMENT, CONTROL AND MANAGEMENT.

22 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall:

23 (1) establish, operate, and control correctional facilities
24 suitable for the custody, care, and discipline of persons charged or
25 convicted of offenses against the state or otherwise held under author-
26 ity of state law;

27 (2) classify prisoners and establish programs for persons
28 committed to his custody in a manner which is reasonably calculated to:

29 (A) protect the public;

1 (B) maintain health;
2 (C) create or improve occupational skills;
3 (D) enhance educational qualifications;
4 (E) support court ordered restitution; and
5 (F) otherwise provide for the rehabilitation and re-
6 formation of prisoners, facilitating their reintegration into
7 society; and

8 (3) provide necessary medical services for prisoners in cor-
9 rectional facilities or who are committed by a court to his custody
10 including examinations for communicable and infectious diseases;
11 psychological or psychiatric treatment shall be provided if a physician
12 or other health care provider, exercising ordinary skill and care at
13 the time of observation, concludes with reasonable medical certainty
14 that a prisoner exhibits symptoms of a serious disease or injury, which
15 is curable or may be substantially alleviated, and that the potential
16 for harm to the prisoner by reason of delay or denial of care would be
17 substantial.

18 Sec. 33.30.021. COMMISSIONER TO ADOPT REGULATIONS. The commis-
19 sioner shall adopt regulations necessary to implement this chapter.

20 Sec. 33.30.031. COMMISSIONER MAY CONTRACT FOR CONFINEMENT AND
21 CARE OF PRISONERS. (a) The commissioner shall determine the availa-
22 bility of state correctional facilities suitable for the detention and
23 confinement of persons held under authority of state law. If the
24 commissioner determines that suitable state correctional facilities are
25 not available he may enter into an agreement with an appropriate
26 public or private agency to provide necessary facilities. Correctional
27 facilities provided through agreement may be in this state or in any
28 other state. The commissioner may not enter into an agreement with an
29 agency unable to provide a similar degree of custody, care, and disci-

1 pline required by the laws of this state.

2 (b) Privately operated correctional facilities may be provided
3 under (a) of this section only when necessary to involve prisoners in
4 programs established under AS 33.30.091 -- 33.30.131, and not primarily
5 for confinement.

6 (c) The commissioner may contract with the United States, another
7 state, or a political subdivision of this state to provide correctional
8 facilities for the custody, care, and discipline of persons held under
9 authority of the law of that jurisdiction.

10 Sec. 33.30.041. LEASE OF STATE CORRECTIONAL FACILITY TO POLITICAL
11 SUBDIVISION. (a) The commissioner may permit a political subdivision
12 of this state to lease a state correctional facility or to use and
13 operate a state correctional facility for the joint benefit of the
14 political subdivision and the state, if he determines that it would be
15 in the best interests of the state.

16 (b) The agreement executed by the commissioner shall provide that

17 (1) the state has the right to detain or confine persons
18 held under authority of law in the correctional facility;

19 (2) the administrator of the correctional facility is amen-
20 able to any order concerning a prisoner of any court of this state
21 having jurisdiction over that prisoner;

22 (3) the administrator shall observe all statutes and all
23 regulations adopted by the commissioner relating to the custody, care,
24 and discipline of persons detained or confined in the correctional
25 facility; and

26 (4) the commissioner may inspect the premises at reasonable
27 times to determine the conditions under which prisoners are housed.

28 (c) In addition to the conditions specified in (b) of this sec-
29 tion, the commissioner may require conditions which he considers neces-

1 sary for the protection of the public and to provide prisoners with the
2 quality of care and programs required by this chapter and regulations
3 adopted under this chapter.

4 ARTICLE 2. COMMITMENTS, PROGRAMS AND FURLOUGHS.

5 Sec. 33.30.051. COMMITMENT TO COMMISSIONER. A person convicted
6 of an offense against the state shall be committed to the custody of
7 the commissioner for the term of imprisonment which the court directs.

8 Sec. 33.30.061. COMMISSIONER TO DESIGNATE FACILITY. (a) The
9 commissioner shall designate the correctional facility to which a
10 prisoner is to be committed to serve a term of imprisonment or period
11 of temporary commitment. The commissioner may designate any facility,
12 whether or not it is maintained by the state, or is within the judicial
13 district where the prisoner was convicted, or is within the state.

14 (b) Factors to be considered in designating a facility include:

- 15 (1) the prisoner's security classification;
16 (2) the availability of program and facility space;
17 (3) the location of family or other supportive relationships
18 including cultural affiliations;
19 (4) the length of the prisoner's sentence;
20 (5) the preferences of the prisoner; and
21 (6) any recommendations made by the sentencing court.

22 (c) The commissioner's decision to designate a facility for a
23 prisoner pending appeal is not subject to review absent a clear and
24 convincing showing by the prisoner that he would be denied his consti-
25 tutional right to counsel. No other decision designating a facility is
26 subject to review absent a clear and convincing showing by the prisoner
27 of an abuse of discretion.

28 Sec. 33.30.071. PROVISIONS FOR PRISONERS PENDING COMMITMENT. (a)
29 Notwithstanding AS 33.30.011(1) and (2), the commissioner of public

1 safety shall provide for the custody, care, and discipline of prisoners
2 pending transfer to the custody of the commissioner of health and
3 social services at a state correctional facility. However, except as
4 provided in (c) of this section, the responsibility for providing
5 necessary medical services for prisoners remains with the commissioner
6 of health and social services under AS 33.30.011(3). Neither the
7 commissioner of health and social services nor the commissioner of
8 public safety is responsible for providing custody, care, and discipline
9 for persons detained under AS 47.37.170, except when they are admitted
10 into a state correctional facility.

11 (b) The responsibility of the commissioner of public safety under
12 (a) of this section does not begin until a prisoner is accepted into
13 his custody or admitted into a correctional facility or other facility
14 designed for holding prisoners and the commissioner is so notified.

15 (c) Medical services for prisoners who are unconscious or in im-
16 mediate need of medical attention before they are admitted into a
17 correctional facility or committed by a court to the custody of the
18 commissioner of health and social services must be provided by the law
19 enforcement agency having custody of the prisoners.

20 Sec. 33.30.081. TRANSPORTATION OF PRISONERS. (a) The commis-
21 sioner of public safety is responsible for transporting prisoners to
22 and from the court having jurisdiction over them and for delivering
23 prisoners to a correctional facility upon temporary or final commitment
24 by a court or upon transfer of a prisoner from one correctional facil-
25 ity to another whether inside or outside the state.

26 (b) The commissioner of health and social services is responsible
27 for furnishing return transportation to the place of arrest for pris-
28 oners held in a state correctional facility, upon their release from
29 custody.

1 (c) The commissioner of public safety is responsible for furnish-
2 ing return transportation to the place of arrest for prisoners who are
3 released from custody before admission to a state correctional facil-
4 ity.

5 (d) The commissioner of health and social services shall adopt
6 regulations governing the furnishing of transportation, discharge
7 payments, and clothing to prisoners upon release at any stage of crim-
8 inal proceedings.

9 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in
10 AS 33.30.111, the commissioner may assign a prisoner committed to his
11 custody to any program established under AS 33.30.011(2) considering

- 12 (1) safeguards to the public;
- 13 (2) the prospects for the prisoner's rehabilitation;
- 14 (3) the availability of program and facility space;
- 15 (4) the prospect of future judicial proceedings requiring
16 the prisoner's presence;
- 17 (5) the nature and circumstances of the offense for which
18 the prisoner was sentenced;
- 19 (6) the needs of the prisoner as determined by a classifica-
20 tion committee and any recommendations made by the sentencing court;
- 21 (7) the prisoner's record of convictions with particular em-
22 phasis on crimes specified in AS 11.41;
- 23 (8) the prisoner's use of drugs or alcohol;
- 24 (9) the length of the prisoner's sentence; and
- 25 (10) other criteria as appear appropriate, including experi-
26 mental evaluation of correctional programs, with particular regard to
27 protection of the public.

28 Sec. 33.30.101. FURLOUGHS. (a) Programs established under
29 AS 33.30.011(2) must include furloughs. The commissioner shall adopt

1 regulations governing the granting of furloughs to prisoners for the
2 following purposes:

3 (1) to obtain counselling and treatment for alcohol or drug
4 abuse;

5 (2) to secure or attend vocational training;

6 (3) to obtain medical or psychiatric treatment;

7 (4) to secure or engage in employment;

8 (5) to attend educational institutions;

9 (6) to secure a residence or make any other preparation for
10 release;

11 (7) to appear before any group whose purpose is to obtain a
12 better understanding of crime or corrections; and

13 (8) any other rehabilitative purpose the commissioner deter-
14 mines to be in the interests of the prisoner and the public.

15 (b) If the commissioner determines that a prisoner can live under
16 reduced supervision without violating the law or the conditions estab-
17 lished for his conduct, the commissioner may grant a furlough after
18 considering

19 (1) the factors set out in AS 33.30.091;

20 (2) whether the prisoner has violated a condition of a prior
21 furlough;

22 (3) whether the prisoner has a history of inst'tution.
23 misconduct; and

24 (4) whether granting a furlough would be in the best in-
25 terests of the prisoner and the public.

26 Sec. 33.30.111. PRE-RELEASE FURLOUGHS. (a) Furlough programs
27 established under AS 33.30.101 must include pre-release furloughs
28 designed to facilitate the reintegration of prisoners into society.

29 (b) Facilities may be used for prisoners on pre-release furloughs

Parolement? at E.R. - ?
5 sep. 19
cost to prisoners?
cost to prisoners? process
cost to prisoners? process
What about family first?
staffing of each
facilities? and cost per
mini-jails
breakaway from jail
get look into society

1 which are specifically adapted to provide a residence outside prison,
2 including halfway houses, group homes, or other placements which pro-
3 vide varying levels of restriction and supervision.

4 (c) The levels of restriction and supervision required for pre-
5 release furloughs must provide safeguards which minimize risk to the
6 public and include, as a minimum,

7 (1) frequent contact with the prisoner by supervisory staff;
8 (2) knowledge by supervisory staff of the location of the
9 prisoner;

10 (3) periodic reports to the commissioner on the prisoner's
11 performance while on furlough; and

12 (4) a residential setting where there are persons supervis-
13 ing a prisoner who are obligated to immediately report to the commis-
14 sioner any violation of a condition set for the prisoner's conduct.

15 (d) The levels of restriction and supervision required to be
16 placed on a prisoner on a pre-release furlough under this section must
17 be more extensive than those to which he will be subject when he is
18 released on formal probation supervision under AS 33.16.090.

19 (e) Notwithstanding AS 33.30.101(b),

20 (1) a prisoner sentenced to a definite term of imprisonment
21 of five years or less is eligible for a pre-release furlough only after
22 he has served at least one-third of his sentence; *after 20 months or 1 3/4 yrs.*

23 (2) a prisoner sentenced to a definite term of imprisonment
24 of more than five years is eligible for a pre-release furlough only
25 after he has served at least one-third of his sentence or is within
26 three years of his release date, whichever is later.

27 (f) A prisoner may request a pre-release furlough under proce-
28 dures adopted by the commissioner. If the commissioner denies a re-
29 quest, he shall provide the prisoner with a written explanation of the

Sounds like much new area for conflicts

1 reasons. *Weekend liberty - too much added risk to*
2 *public.*

3 Sec. 33.30.121. SHORT-DURATIONAL FURLONGHS. (2) A short-dura-
4 tional furlough is an authorized leave of absence from a correctional
5 facility for a limited purpose which may not exceed 12 hours at any one
6 time, except for

7 (1) family visitation purposes, which may not exceed one
8 week nor occur more frequently than once each six months; or

9 (2) medical purposes, which shall last only as long as
10 necessary for treatment.

11 *A* (b) A short-durational furlough may be granted to a prisoner at
12 any time under regulations adopted by the commissioner.

13 Sec. 33.30.131. FURLOUGH INVOLVING EMPLOYMENT. (a) When a
14 prisoner is employed outside a correctional facility as part of a
15 furlough program, his earnings shall be sent by his employer to the
16 commissioner. When an employer transmits the earnings to the commis-
17 sioner, the employer has no liability to the prisoner for the earnings.
18 The commissioner shall disburse the earnings of the prisoner under
19 procedures adopted by the commissioner, for the following purposes:

20 (1) to pay for the prisoner's room, board, and personal
21 expenses;

22 (2) to pay any restitution or fine ordered by the sentencing
23 court;

24 (3) to reimburse the state for an award made for violent
25 crimes compensation under AS 18.67 arising out of the prisoner's cri-
26 minal conduct;

27 (4) to pay a civil judgment arising out of the prisoner's
28 criminal conduct; and

29 (5) to support the prisoner's dependents.

(b) After making the disbursements provided for in (a) of this

1 section, any balance remaining in the prisoner's account shall be
2 retained by the commissioner for the primary purpose of being available
3 to the prisoner at the time of his release. The commissioner may
4 permit the prisoner to draw upon a portion of these funds for other
5 purposes which the commissioner considers appropriate.

6 (c) Only the earnings retained by the commissioner under (b) of
7 this section are subject to lien, attachment, garnishment, execution,
8 or similar proceedings to encumber funds or property.

9 Sec. 33.30.141. EFFECT OF VIOLATION OF FURLOUGH CONDITIONS OR
10 FAILURE TO RETURN. If a prisoner on a furlough violates the conditions
11 established for his conduct, the commissioner may immediately require
12 the prisoner's return to actual confinement for a period up to the
13 balance of his term of imprisonment and may initiate disciplinary pro-
14 ceedings authorized by regulations adopted by the commissioner. In
15 addition, the failure of a prisoner on a furlough to return to his
16 place of confinement or residence within the time authorized by those
17 having direct supervision over him is an unlawful evasion and is punish-
18 able as provided in AS 11.56.340 -- 11.56.350.

19 Sec. 33.30.151. TRANSMISSION OF DOCUMENTS. (a) When a prisoner
20 is admitted to a correctional facility, copies of any form of commitment
21 shall be delivered with the prisoner and serve as the authority to hold
22 him. When a judgment of conviction has been entered, the court shall
23 promptly deliver to the commissioner of public safety a certified copy
24 of the judgment for transmission to the correctional facility where the
25 prisoner is being held. The superintendent of the correctional facility
26 shall require the prisoner's fingerprints to be placed on an appropriate
27 space on the judgment. When the prisoner has been fingerprinted, the
28 certified copy of the judgment shall promptly be returned to the court
29 with the endorsement of the superintendent of the facility.

1 (b) When a person is sentenced to a term of imprisonment, copies
2 of the pre-sentence report, sentencing report prepared under AS 12.55.-
3 025, and any other relevant data shall be transmitted to the superin-
4 tendent of the correctional facility in which the prisoner is confined.

5 (c) The commissioner shall adopt regulations providing for the
6 security, confidentiality, and use of documents transmitted under (b)
7 of this section.

8 Sec. 33.30.161. SUPERINTENDENT OF CORRECTIONAL FACILITY MAY
9 ADMINISTER OATHS AND ACKNOWLEDGEMENTS. The superintendent of a cor-
10 rectional facility or his assistant may administer oaths to and take
11 acknowledgements from a prisoner, but may not demand or accept compen-
12 sation.

13 ARTICLE 3. GENERAL PROVISIONS.

14 Sec. 33.30.171. EFFECT OF JUDGMENT OF CONVICTION ON STATE RESOURCE
15 DISTRIBUTION ENTITLEMENT. (a) A person convicted of a crime against
16 the State of Alaska may not receive any distribution of state revenue
17 based on the development of state resources for which he is eligible
18 until he has otherwise paid, or the total amount of the distributions
19 exceeds, any:

20 (1) restitution ordered by the sentencing court to the
21 victims of the crime;

22 (2) child support ordered by any court with jurisdiction
23 over the matter, whether or not located in this state;

24 (3) civil judgment arising out of his criminal conduct;

25 (4) civil judgment to reimburse the state for an award made
26 for violent crimes compensation under AS 18.67.140;

27 (5) fine imposed by the sentencing court; and

28 (6) cost of his custody and care while incarcerated, as
29 determined by the commissioner; the commissioner shall determine that

1 cost based on the statewide average daily cost of incarceration for the
2 fiscal year in which the person is incarcerated, including administra-
3 tive and capital expenses.

4 (b) Whether or not the convicted person submits formal applica-
5 tion under AS 43.23 or other relevant statutes, the distribution for
6 which he would have been eligible had he not been convicted shall be
7 directly disbursed by the commissioner of revenue for the purposes set
8 out in (a)(1), (a)(2), and (a)(3) of this section. The order of
9 priority of payments is the same order as appears in (a) of this sec-
10 tion, and may not be diminished by levy, execution, garnishment, attach-
11 ment, or any other remedy for the collection of a debt of the person
12 convicted.

13 (c) The commissioner of revenue shall adopt regulations to imple-
14 ment this section.

15 Sec. 33.30.181. EFFECT OF JUDGMENT OF CONVICTION ON CIVIL RIGHTS.

16 (a) A person who is convicted of a felony involving moral turpitude as
17 defined in AS 15.60.010 is disqualified from voting in a state or muni-
18 cipal election until his unconditional discharge.

19 (b) A person who is convicted of a crime is disqualified from
20 serving as a juror until his unconditional discharge.

21 (c) A person holding a public office who is convicted of a crime
22 forfeits the office if

23 (1) he is convicted under the laws of this state of a felony
24 or under the laws of another jurisdiction of a crime which, if committ-
25 ed in this state, would be a felony; or

26 (2) he is convicted of a crime involving malfeasance in
27 office; or

28 (3) the Alaska Constitution or a statute so provides.

29 (d) In this section, "unconditional discharge" has the meaning

1 ascribed to it in AS 12.55.185.

2 * Sec. 3. AS 33.30.200 is repealed and reenacted to read:

3 Sec. 33.30.200. DEFINITIONS. In this chapter, unless the context
4 otherwise requires,

5 (1) "commissioner" means the commissioner of the Department
6 of Health and Social Services or his designee;

7 (2) "correctional facility" or "facility" means a prison,
8 jail, camp, farm, half-way house, group home, or other placement desig-
9 nated by the commissioner for the custody, care, and discipline of
10 prisoners; a "state correctional facility" means any correctional
11 facility owned or run by the state;

12 (3) "court" means the supreme court, the court of appeals,
13 the superior court, the district court, or a justice, judge, or magis-
14 trate of a court;

15 (4) "department" means the Department of Health and Social
16 Services;

17 (5) "furlough" means an authorized leave of absence from
18 actual confinement for a designated purpose and period of time;

19 (6) "political subdivision" means a borough, city, town,
20 village, or other area of local government in the state permitted by
21 law to establish correctional facilities;

22 (7) "prisoner" means a person, other than a juvenile, held
23 under authority of state law in "official detention" as defined in
24 AS 11.81.900(b);

25 (8) "temporary commitment" means detention of a person for
26 any period under authority of state law, but does not include confine-
27 ment upon conviction and judgment of a court of this state.

28 * Sec. 4. AS 11.56.340 is repealed and reenacted to read:

29 Sec. 11.56.340. UNLAWFUL EVASION IN THE FIRST DEGREE. (a) A

1 person commits the crime of unlawful evasion in the first degree if,
2 while charged with or convicted of a felony,

3 (1) he fails to return to official detention within the time
4 authorized following temporary leave granted for a specific purpose or
5 limited period;

6 (2) while on furlough under AS 33.30.101 -- 33.30.131, he
7 fails to return to his place of confinement or residence within the
8 time authorized by those having direct supervision over him.

9 (b) Unlawful evasion in the first degree is a class A misdemeanor.

10 * Sec. 5. AS 11.56.350 is repealed and reenacted to read:

11 Sec. 11.56.350. UNLAWFUL EVASION IN THE SECOND DEGREE. (a) A
12 person commits the crime of unlawful evasion in the second degree if,
13 while charged with or convicted of a misdemeanor,

14 (1) he fails to return to official detention within the time
15 authorized following temporary leave granted for a specific purpose or
16 limited period; or

17 (2) while on furlough under AS 33.30.101 -- 33.30.131, he
18 fails to return to his place of confinement or residence within the
19 time authorized by those having direct supervision over him.

20 (b) Unlawful evasion in the second degree is a class B misdemean-
21 or.

22 * Sec. 6. AS 12.55.090 is repealed and reenacted to read:

23 Sec. 12.55.080. SUSPENSION OF SENTENCE AND PROBATION. (a) Upon
24 entering a judgment of conviction of a crime, or at any time within 60
25 days after the date of entry of that judgment of conviction, a court,
26 when satisfied that the ends of justice and the best interest of the
27 public as well as the defendant will be served by this action, may
28 suspend the imposition or execution or balance of the sentence or a
29 portion of it, and place the defendant on probation for a period and

1 upon the terms and conditions the court considers best.

2 (b) The period of probation must be specified in the judgment.
3 If the crime is a felony, the period of probation may not exceed five
4 years or the maximum term of imprisonment authorized for the crime less
5 any term of imprisonment that is imposed, whichever is less. If the
6 crime is a misdemeanor, the period of probation may not exceed two
7 years. Upon revocation of probation as provided in AS 12.55.110, the
8 prisoner may be required to serve the sentence imposed, or any lesser
9 sentence, including any extension of the period of probation up to the
10 period that may have originally been imposed under this subsection.

11 * Sec. 7. AS 12.55.090(b) is amended to read:

12 (b) Upon application of the prosecuting attorney, the [THE] court
13 may revoke or modify any condition of probation, or may change the
14 period of probation, including any period or condition provided under
15 AS 33.16.090.

16 * Sec. 8. AS 12.55.100 is amended by adding new subsections to read:

17 (c) When a court imposes only a term of imprisonment, it may
18 impose conditions under which the prisoner will be released under
19 AS 33.16.090.

20 (d) If the court imposes a period of probation under AS 12.55.080
21 or 12.55.085 without any period of imprisonment, the defendant is
22 subject to formal probation supervision during the first half of his
23 period of probation, unless the formal supervision period is extended
24 by the sentencing court, for good cause shown, upon application of the
25 prosecuting attorney. During the remainder of the period of probation,
26 the defendant is subject to open probation supervision. As used in
27 this subsection "formal probation supervision" and "open probation
28 supervision" have the meaning set out in AS 33.16.160.

29 * Sec. 9. AS 12.55.110 is amended to read:

1 Sec. 12.55.110. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.

2 When probation has been granted under AS 12.55.080 or 12.55.085, or pro-
3 vided under AS 33.16.090 [SENTENCE HAS BEEN SUSPENDED], it shall not be
4 revoked except for good cause shown, upon application of the prosecuting
5 attorney. In all proceedings for the revocation of probation [A SUS-
6 PENDED SENTENCE], the defendant is entitled to reasonable notice and
7 the right to be represented by counsel.

8 * Sec. 10. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced to
10 a definite term of imprisonment of not more than 20 years, and shall be
11 sentenced to the following presumptive terms, subject to adjustment as
12 provided in AS 12.55.155 -- 12.55.175:

13 (1) if the offense is a first felony conviction, other than
14 for manslaughter, and the defendant possessed [OR USED] a firearm,
15 used a deadly weapon, or caused serious physical injury during the
16 commission of the offense, eight [SIX] years;

17 (2) if the offense is a first felony conviction, other than
18 one specified in (1) of this subsection, five years;

19 (3)[(2)] if the offense is a second felony conviction, 10
20 years;

21 (4)[(3)] if the offense is a third felony conviction, 15
22 years.

23 * Sec. 11. AS 12.55.125(d) is amended to read:

24 (d) A defendant convicted of a class B felony may be sentenced to
25 a definite term of imprisonment of not more than 10 years, and shall be
26 sentenced to the following presumptive terms, subject to adjustment as
27 provided in AS 12.55.155 -- 12.55.175:

28 (1) if the offense is a first felony conviction, two years;

29 (2)[(1)] if the offense is a second felony conviction, four

1 years;

2 (3)[(2)] if the offense is a third felony conviction, six
3 years.

4 * Sec. 12. AS 12.55.125(e) is amended to read:

5 (e) A defendant convicted of a class C felony may be sentenced to
6 a definite term of imprisonment of not more than five years, and shall
7 be sentenced to the following presumptive terms, subject to adjustment
8 as provided in AS 12.55.155 -- 12.55.175:

9 (1) if the offense is a first felony conviction, one year;

10 (2)[(1)] if the offense is a second felony conviction, two
11 years;

12 (3)[(2)] if the offense is a third felony conviction, three
13 years.

14 * Sec. 13. AS 12.55.125(g) is amended to read:

15 (g) If a defendant is sentenced under (c), (d), or (e) [(c)(1),
16 (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2)] of this section,
17 except to the extent permitted under AS 12.55.155 -- 12.55.175,

18 (1) imprisonment may not be suspended under AS 12.55.080;

19 (2) imposition of sentence may not be suspended under AS 12.-
20 55.085;

21 (3) terms of imprisonment may not be otherwise reduced.

22 * Sec. 14. AS 12.55.155(a) is amended to read:

23 (a) If a defendant is convicted of an offense and is subject to
24 sentencing under AS 12.55.125 (c), (d), or (e) [SEC. 125(c)(1), (c)(2),
25 (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2) OF THIS CHAPTER] and

26 (1) the presumptive term is four years or less, the court
27 may decrease the presumptive term by an amount as great as the presump-
28 tive term for factors in mitigation or may increase the presumptive
29 term up to the maximum term of imprisonment for factors in aggravation;

1 (2) the presumptive term of imprisonment is more than four
2 years, the court may decrease the presumptive term by an amount as
3 great as 50 percent of the presumptive term for factors in mitigation
4 or may increase the presumptive term up to the maximum term of im-
5 prisonment for factors in aggravation.

6 * Sec. 15. AS 12.55.165 is amended to read:

7 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is
8 subject to sentencing under AS 12.55.125(c), (d), or (e) [SEC.
9 125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), OR (e)(2) OF THIS
10 CHAPTER] and the court finds by clear and convincing evidence that
11 manifest injustice would result from failure to consider relevant
12 aggravating or mitigating factors not specifically included in AS 12.-
13 55.155 or from imposition of the presumptive term, whether or not
14 adjusted for aggravating or mitigating factors, the court shall enter
15 findings and conclusions and cause a record of the proceedings to be
16 transmitted to a three-judge panel for sentencing under AS 12.55.175.

17 * Sec. 16. AS 33.15 and 33.20 are repealed.

18 * Sec. 17. AS 33.16.010 -- 33.16.035, enacted in sec. 1 of this Act, are
19 repealed effective July 1, 1983.

20 * Sec. 18. Sections 10 -- 15 of this Act do not apply to or govern the
21 punishment for any offense committed before July 1, 1981. An offense commit-
22 ted before that date shall be punished according to the law existing at the
23 time of the commission of the offense in the same manner as if this Act had
24 not become law.

25 * Sec. 19. This Act takes effect July 1, 1981.
26
27
28
29

*Proposal for
for eliminating parole
board*

*Mr. Marouba
of Judicial Council.*

TABLE I

STATISTICAL DESCRIPTION OF
PRESUMPTIVELY SENTENCED
CLASS B AND C
FELONIES

HB 293

(1980 URBAN COURTS)

I. Class C Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 24 Mos.	2	6.2%	18.0
24 Mos. (Presump)	18	56.3%	24.0
Over 24 Mos.	12	37.5%	40.5
	<u>N=32</u>	= <u>100.0%</u>	

II. Class B Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 48 Mos.	4	20.0%	27.0
48 Mos. (Presump)	6	30.0%	48.0
Over 48 Mos.	10	50.0%	72.0
	<u>N=20</u>	= <u>100.0%</u>	

*Has more previous
for longer time.*

HB-273

TABLE II

STATISTICAL DESCRIPTION
OF NON-PRESUMPTIVELY SENTENCED
CLASS B AND C FELONIES
FOR OFFENDERS WITH A
PRIOR FELONY CONVICTION

(1980 URBAN COURTS)

I. Class C Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 24 Mos.	23	51.1%	9.0
24 Months	14	31.1%	24.0
Over 24 Mos.	8	17.8%	36.0
	<u>N=45</u>	= <u>100.0%</u>	

II. Class B Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 48 Mos.	20	83.3%	21.7
48 Months	1	4.2%	48.0
Over 48 Mos.	3	12.5%	72.0
	<u>N=24</u>	= <u>100.0%</u>	

STATISTICAL DESCRIPTION
OF PRESUMPTIVE
CLASS A
FELONY SENTENCES

(1980 URBAN COURTS)

I. First Felony Offenders:*

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 72 Mos.	4	50.0%	58.5
72 Mos. (Presump)	4	50.0%	72.0
Over 72 Mos.	0	0.0%	----
	<u>N=8</u>	= <u>100.0%</u>	

II. Repeat Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 120 Mos.	0	0.0%	----
120 Mos. (Presump)	1	25.0%	120.0
Over 120 Mos.	3	75.0%	200.0
	<u>N=4</u>	= <u>100.0%</u>	

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

STATISTICAL DESCRIPTION
OF NON-PRESUMPTIVE
CLASS A FELONY
SENTENCES

(1980 URBAN COURTS)

I. First Felony Offenders:

	<u>N of Cases</u>	<u>% of N</u>	<u>Mean Active Sentence (In Months)</u>
Under 72 Mos.	17	85.0%	22.8
72 Mos.	0	0.0%	----
Over 72 Mos.	<u>3</u>	<u>15.0%</u>	100.0
	<u>N=20</u>	= <u>100.0%</u>	

II. Repeat Felonies:

1 case at 240.0 months to serve.

Sec. 1 adds chapter 6 to AS 33.

Sec. 33.16.005. States purpose of chapter.

Sec. 33.16.010 Establishes a professional interim sentence review and parole commission in DHSS appointed by the Governor.

Sec. 33.16.020. Establishes quorum of commission and powers of subpoena.

Sec. 33.16.030. Establishes Executive Director.

Sec. 33.16.035 Responsibilities of Commission.

Sec. 33.16.040 Establishes parole eligibility for prisoners committing crimes prior to 7/1/81. Sets up schedules for determining parole release dates and assigns responsibilities between interim commission and clemency board and sets deadlines.

Sec. 33.16.050. Establishes parole eligibility, release computation, and furlough eligibility of persons who committed a crime after 6/30/81.

Sec. 33.16.060. Establishes hearings on parole release dates and sets out criteria: Directs Commission to prepare a pre-parole report. Establishes prisoner's rights to notice, response, representations, cross-examination, and a written copy of the reasons for the decision.

Sec. 33.16.070. Establishes automatic adjustment of release date due to computations of good time deductions.

Sec. 33.16.080. (a) For prisoners serving sentences on or after 7/1/81; $\frac{1}{2}$ of sentence = good time if he was presumptively sentenced under AS 12.55.125. or $\frac{1}{3}$ of sentence for those not presumptively sentenced.

(b) Mandatory Minimum

good time will only be computed on portions of sentence that exceed the minimum prescribed imprisonment.

(b)(1)-(3) Defines "mandatory minimum term of imprisonment".

(c) Allows the computation formula for good time which prevailed at time of sentencing, if more time would have been credited.

(d) Vests 90 days of good time per year and sets maximum forfeitures.

Sec. 33.16.090. Assigns responsibility for parole supervision, defines supervision period, sets out parameters for conditions of release and revocation. (d) designates that the first half of supervision period for "formal" type of supervision and remainder under "open" type.

- Sec. 33.16.100. Sets 3 mandatory conditions of release.
- Sec. 33.16.110. Provides that prosecutor be notified before release and expiration of probation dates.
- Sec. 33.16.120. Provides prisoner receive calculation of release date from court at time of sentencing which assumes maximum amount of good time computation.
- Sec. 33.16.130. Defines Governor's powers of clemency.
- Sec. 33.16.140. Establishes Executive Clemency Advisory Board and provides for its caseload as those prisoners who committed crime before 7/1/81 for which he was sentenced in excess of 180 days. They are eligible for parole after serving 1/3 of the term (AS 33.16.040). Includes prisoners applying for clemency.
- Sec. 33.16.150. Defines effect of Governor's pardon as setting aside conviction and restoring civil rights.
- Sec. 33.16.155. Administrative Act (AS 44.62) does not apply.
- Sec. 33.16.160. Provides definitions for:
1. "Board", 2. "Commission",
3. "commissioner", 4. "formal probation supervision", 5. "open probation supervision".

SEC. 2 Repeals AS 33.30.010-090 and AS 33.30.250-320.

SEC. 3 Correctional Facilities & Programs

- Sec. 33.30.011. Sets out responsibility of commissioner regarding facilities, classification of prisoners and criteria, and prisoner's physical care.
- Sec. 33.30.021. Provides for regulations to be promulgated.
- Sec. 33.30.021. (a) Gives the commissioner the authority to determine availability of suitable facilities, enter into agreements with appropriate public or private agencies for the provision of facilities in Alaska or another state. Privately operated facilities may be used only to involve prisoners in programs and not primarily for confinement. Confinement facilities may be provided by the U.S., another state, or a political subdivision of this state.
- Sec. 33.30.041. Provides for the leasing of correctional facilities by political subdivisions of this state, specifies conditions to be included in the agreement along with other conditions deemed necessary by the commissioner.

- Sec. 33.30.051. Establishes that convicted persons are committed to commissioner's custody for the term of imprisonment.
- Sec. 33.30.061. Determines the authority of the commissioner to designate location of facility, factors to consider in facility designation, and allows prisoners pending appeal to petition their location.
- Sec. 33.30.071. Designates Commissioner of Public Safety as responsible for prisoners pending transfer if they are in custody in a facility. Responsibility for medical care is designated as either the responsibility of DHSS or law enforcement agencies.
- Sec. 33.30.081. Assigns DPS responsibility for transporting persons committed to custody. DHSS is responsible for returning released persons to place of arrest. Assigns Commissioner of DHSS responsibility for promulgation of regulations.
- Sec. 33.30.091. Makes furloughs under 30.011(2) compulsory.
(a) Delineates purposes for furloughs: 1) employment, 2) training, 3) treatment, 4) employment, 5) education, 6) release preparation, 7) group appearances, 8) rehabilitation.
(b) delineates criteria for furlough for living under reduced supervision.
- Sec. 33.30.111. (a)-(d). Pre-release furloughs are established to facilitate reintegration of persons into society. Provides minimum guidelines for supervision and restriction levels which must be more extensive than those of "formal" probation. Establishes eligibility standards for pre-release furloughs and procedures for granting them.
- Sec. 33.30.121. Establishes short-duration furloughs of 12 hours or less for family or medical purposes which may be granted anytime.
- Sec. 33.30.131. Establishes furlough for work and procedures for the commissioner's management of prisoner's earnings.
- Sec. 33.30.141. Establishes authority for dealing with furlough violations.
- Sec. 33.30.161. Delineates authority of superintendent regarding oaths.
- Sec. 33.30.171. Establishes priorities, categories to be paid before prisoner's account may be credited with any revenue from state resource distribution entitlement and requires commissioner adopt regulations to implement this.
- Sec. 33.30.181. Defines those rights forfeited by (a) persons convicted of a felony involving moral turpitude; (b) convicted of any crime; (c) a public office holder convicted of the equivalent of a felony, a malfeasance of office, or if the Alaska Constitution or statute so provides. "Unconditional discharge" is defined as in AS 12.55.185.

Sec. 3 Repealed and Reenacted

Sec. 33.30.200. Defines: 1. "commissioner", 2. "correctional facility", "facility", or "state correctional facility", 3. "court", 4. "department", 5. "furlough", 6. "political subdivision", 7. "prisoner", 8. "temporary commitment".

Sec. 4 Repealed and Reenacted

Sec. 11.56.340. *Defines "unlawful evasion" and classifies it as a Class A misdemeanor.

Sec. 5 Repealed and reenacted

Sec. 11 56.350. *Defines "evasion in 2nd degree and classifies it as Class B misdemeanor.

(* changes in statute include furloughs)

Sec. 6 Repealed and Reenacted

Sec. 12.55.080. Establishes authority to suspend sentences, or portions thereof and sets maximum limits for probationary periods. Changes the existing law to allow full discretion to change length or conditions upon the prosecutor's request.

Sec. 8 AS 12.55.100 (c) Amended by adding the court's rights to impose conditions of release on flat time sentences.

(d) probation only sentences require "formal" supervision for at least the first half of the period and "open" suspension the second half unless the prosecutor applies for an extension to the court.

Sec. 9 AS 12.55.110. Amended to include specified types of probation and puts the burden of revocation on the prosecutor. Changes the term "suspended sentence" to "probation".

Sec. 10 Changes proposed here would increase presumptive sentence from 6 to 8 years, and creates new class of 5 year presumptive sentences for 1st felony offenders.

Sec. 11 Changes^{to this} proposed in this section would establish 2 year presumptive sentences for first felony Class B convictions.

Sec. 12 This would establish presumptive sentences of 1 year for first felony- Class C offenses.

Sec. 13 Changes the reference to subsections.

Sec. 14 Also changes reference to subsections.

Sec. 15 " " " " "

Sec. 16 Repeals AS 33.15 and 33.20.

Sec. 17. Sunsets AS 33.16.010-035 as of 7/1/83.

Sec. 18. States that 10-15 of this act do not apply to offenses committed prior to 7/1/81.

*

Sec. 19. Effective date 7/1/81.

A PERFORMANCE REVIEW
OF THE
ALASKA STATE BOARD OF PAROLE

May 9, 1979

Handwritten: (initials) 7-8-82

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

Dr. Heien D. Beirne
Allen Korhonen
Frederick McGinnis
Catherine M. Lloyd

Members of the
Alaska State Board of Parole

Chairman
Vice-Chairman
Member
Member
Member

William Lyons
Beverly Dunham
Dan Kosoff
Conrad Miller
Al Widmark

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

June 19, 1979

Members of the
Legislative Budget and Audit Committee:

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

A PERFORMANCE REVIEW OF THE ALASKA STATE BOARD OF PAROLE

May 9, 1979



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

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

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

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

Scope

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

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

Scope Constraints

This review was hampered by the following constraint:

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

ORGANIZATION AND FUNCTION

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

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

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

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

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

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 37.07.090 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 notices 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 from 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 AUTHORIZATIONS, 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 ¹	\$ 83,400	\$ 81,021	\$ 4,937	\$ (2,558)
Travel and Per Diem ²	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>

-
1. Personal service.. expenditures primarily relate to the Board's three permanent administrative staff.

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, 1977¹

	<u>New Felonies</u>		<u>Technical Violations</u>	
	<u>f</u>	<u>%</u>	<u>f</u>	<u>%</u>
Revoked within one year after parole release	23	7%	28	9%
Revoked after more than one year after parole release ²	12	11%	18	6%
<u>Totals</u>	<u>35</u>	<u>11%</u>	<u>46</u>	<u>15%</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 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 parolees 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>
Yes.	3

11. Additional comments.

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

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 Opinion</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>			
<u>Typical response (Note 2).</u>			
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
<u>Typical response if Yes.</u>			
a. <i>The Board is mostly successful and mindful of its responsibilities.</i>			
<u>Typical response if No.</u>			
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	8	-0-
<u>Typical response if Yes.</u>			
a. <i>It has sometimes been difficult to contact a Board member to obtain an arrest warrant for a parole violator.</i>			
<u>Typical response if No.</u>			
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 responses 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> | 9 | 5 | -0- |

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 H 01 - JUNEAU 1979

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. Beirne
Commissioner

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

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

August 2, 1979

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AUG 3 1979

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
Page 2
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 22 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
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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 10, 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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August 2, 1979

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
Page 5
August 2, 1979

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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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 the 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
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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
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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 1) 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
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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.

COLLECTED

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

Parole Revocations, July 1, 1973 - June 30, 1977¹

	<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 ²	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 5% 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.

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	70	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

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

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 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 B). 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 17, 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

Auditor's Comment Continued:

changes which may have reduced a felony to a technical violation. It should be noted that at the time of the audit the Board did not have any statistical information on parole revocations.

It is our position that a new felony should be measured at the time the Board revokes his or hers parole, because this is a clearer indication of the parolee's behavior while on parole rather than when the charges against a parolee for a new felony is finally resolved due to action by the Prosecuting Attorney or the courts.



Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit

O V E R V I E W
OF EFFECT OF DECISIONS IN C. J. SYSTEM

1975: Ban on Plea Bargaining |

Takes away informal bargaining outside of court for changes of plea to guilty in return for a specific sentence.

Makes District Attorney screen cases for trialability so that no frivolous cases are continued.

Gives judge almost total discretion in sentencing by banning recommendations from lawyers as a result of a bargain. Parole board retains power when not limited by judge's sentences.

1978/80: Presumptive Sentencing

Allows for more certainty as to what sentence defendants will get if they are convicted. Takes discretion away from judge except with respect to aggravating and mitigating circumstances that are introduced by lawyers. Gives the D.A.'s more power through their charging capacity. Takes away discretion from judges. Gives Corrections personnel power over the 1/4 of a sentence that is forgiven by good time provisions. They also have the power to furlough certain persons. Takes away power from parole board since the range of cases over which they have any discretion is limited.

Trends: Legislature has taken control of sentencing guidelines. Direction seems to be toward more certain sentencing and limitation of judges' power which was given back to them alone as a result of the 1975 policy decision.



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

February 24, 1982

Pouch V
State Capitol
Juneau, Alaska 99811

Agenda

- | | |
|------------------|--|
| SSHB 500 | Relating to state funding of abortions |
| CSHB 210 | Relating to child custody |
| HB 225, 261, 293 | Relating to parole board |

POSITION PAPER

PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. ~~25235~~ ^{es}

In February of 1981, the Governor submitted H.B. #293 as the second and concluding phase of the effort begun by the Administration and the Legislature in 1975 to devise a more determinative approach to sentencing. The effort was designed to reduce unjustified disparity and thus bring about greater uniformity in the sentencing process. The bill established presumptive sentences for all felonies, effectively removing the element of uncertainty many offenders now experience, both with respect to sentencing and parole board consideration. As originally drafted, the bill would have allowed the Parole Board to sunset, establishing in its place an interim sentencing review commission which, over a period of three years, would have given hearings to all prisoners with future eligibility for parole. The bill also included provisions aimed toward clarifying ambiguities in the present statutes with respect to sentencing and also with respect to furlough authority.

There were some unresolved issues in the original bill. The proposed committee substitute reflects resolution of these concerns as worked out in discussions between the Department of Law and the Department of Health and Social Services. The points which were at issue are enumerated below.

- (1) By eliminating the Parole Board and having an interim commission make parole decisions on all offenders with remaining parole eligibility, the decisions could, in many cases, be premature, depriving the offender of the time he or she normally would have had to prepare himself or herself for parole consideration.

This perceived problem has been addressed in the proposed committee substitute by providing for continuance of the Parole Board for as long as necessary to assure giving all offenders parole hearings at the appropriate time, or until an acceptable alternate procedure for making future parole decisions can be established.

- (2) It was also noted that while provisions of H.B. #293, as initially drafted, provided much needed clarification with respect to furlough authority, the Division of Adult Corrections would not have had, under the proposed provisions, the flexibility needed to develop a strong furlough program of the kind needed to assist in offsetting the effect of the loss of discretionary parole.

In the proposed committee substitute, several minor but significant changes have been made which would provide clear authority for establishment of a strong furlough program. Although greater flexibility is provided, better controls are also written into the bill, clearing up the ambiguities which have been troublesome in past attempts to find ways of moving ahead with responsible expansion of community based corrections.

- (3) The provision which calls for a one-year prison sentence for Class C offenders except where mitigation can be shown could have had the effect, on occasion, of requiring the courts to send first time property offenders to jail even though probation might be clearly more appropriate.

This concern has been addressed in the committee substitute by the addition of two mitigating factors: (a) The offense is mitigated if the offender is 21 years of age or younger at the time of the offense. (b) The offense is mitigated if the offender has not been previously convicted of a misdemeanor. It becomes virtually certain, with the addition of these factors, that sentencing courts will not be prevented from placing offenders on probation when probation is indicated.

- (4) There have been concerns about the effect of H.B. #293 on the prisoner population. An analysis jointly prepared by the Department of Law and the Division of Adult Corrections staff indicated that the bill would have necessitated building approximately 66 additional prison beds over the next five years.

By modifying the provisions relating to furlough authority and presumptive sentencing for Class C offenders, this concern has been alleviated to some extent. Of particular significance are provisions in the proposed committee substitute relating to good time allowances. Article 5 provides for a prisoner who conducts himself responsibly while imprisoned to have a good conduct deduction of one-third of his sentence. The effect of this provision is a good time formula of one day in good time for every two days served. Article 5 of the proposed committee substitute also provides for an additional good conduct deduction of one sixth of the term for those in pre-release furlough status. The effect would be a one-for-one good time formula for offenders who are finishing up their sentences in halfway houses or in other types of furlough programs. This provision has much merit as it would encourage inmates in community-based programs to perform well and would reward them for functioning responsibly in the community, reducing the State's costs, paying taxes and perhaps contributing to the support of their families.

Rather than requiring the addition of not less than 66 new prison beds, the bill, as revised, would have a negative impact of perhaps 46 beds and thus result in a modest but welcome alleviation of our need for additional prison bed spaces. In view of the phasing out of discretionary parole and the toughening up of the sentencing statutes with respect to serious offenders, the Department of Health and Social Services sees this proposal as entirely appropriate. Serious and dangerous offenders will be imprisoned for terms of appropriate length, while programs for providing responsible community-based alternatives can be developed for non-dangerous offenders as well as for those who need reintegration into the community after imprisonment. A one-for-two good time formula would, in fact, be somewhat conservative by comparison with a number of other states. Indiana, for example, is one of the states that is attempting to function without a parole board, has an across-the-board one-for-one formula. The State of Texas provides a three-state formula. Only those inmates in marginal behavior status are under the one-for-three formula in the Texas system, many inmates there earn one-day good time for every day served.

POSITION PAPER/Department of Health & Social Services

Our belief is that by making the improvements reflected in the proposed committee substitute for H.B. #293, a viable approach has been devised to the establishment of a determinative approach to sentencing under which the public would be protected and a greater measure of fairness and consistency will be achieved.

Recommended by:

Walter B. Jones, Jr.

Walter B. Jones, Jr.
Acting Director
Division of Adult Corrections

Date:

3/15/82

Approved by:

Helen D. Beirne

Helen D. Beirne
Commissioner

Date:

3/15/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed Committee Substitute for HB 293
 Title "An Act establishing a parole system"
 Requested by House HESS Date March 1, 1982

CS 225

II. FISCAL DETAIL

Agency Affected Health and Social Services
 Program Category Affected Offender Confinement Reformation & Supervision
 BRU, Program, Or Subprogram(s) Affected Adult Confinement, Probation/Comm. 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			108.8	160.5	218.9	234.2
200 TRAVEL			8.6	14.0	20.3	22.2
300 CONTRACTUAL			(13.3)	(10.1)	(6.5)	(7.1)
400 COMMODITIES			(113.6)	(123.0)	(133.2)	(145.2)
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	(5.9)	42.7	100.9	104.1

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	-0-	(5.9)	42.7	100.9	104.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	3	4	5	5
PART TIME						
TEMPORARY						

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

House Bill 293 restructures Alaska's parole system, continues the existence of the Board of Parole, provide for the establishment of comprehensive furlough programs by the Division of Adult Corrections, and establishes presumptive sentences for first time felony offenders.

A. Adult Confinement

In April 1981, the Department of Health and Social Services and Department of Law projected an eventual impact of 66 additional offenders in Alaska's prisons within seven years if HB 293 was enacted without amendment. In arriving at this figure, the departments relied on the most recent available statistical data developed by the Alaska Judicial Council, the Court System and the Division of Adult Corrections. A copy of that analysis is attached to this fiscal note.

IV. DATE March 14, 1982 PREPARED BY Roger C. Lange
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The increase in prison population projected in April 1981 was attributable to two factors having virtually identical impact: 34 additional offenders would be in Alaska's prisons seven years after the bill was enacted as a consequence of the elimination of discretionary parole release and an additional increase of 32 offenders would be attributable to amendments to the presumptive sentencing statutes.

At the time this analysis was completed, four amendments to HB 293 were identified. The enactment of any of these amendments would have the effect of significantly decreasing the projected increase in prison population attributable to the bill.

Three of the amendments identified in April 1981 have been included in the proposed committee substitute for HB 293. The three amendments will have the combined effect of reducing Alaska's existing prison population by approximately 64 within seven years after HB 293 is enacted. The decrease in prison population attributable to HB 293 could begin soon after the legislation is enacted. Since this bill does not mandate implementation of the furlough provisions, the Department is not requesting funding over the current budget projection level.

The three amendments that have been made to the proposed committee substitute for HB 293 that pertain to prison population forecasts and the effect of each amendment is summarized below. The total bed decrease attributable to the amendments is 112, but since HB 293 as originally drafted was projected to increase the prison population by 66, the net decrease in population resulting from enactment of HB 293 is 46.

1. Setting the presumptive sentence at seven years in the committee substitute for first offense class A felonies when a firearm is possessed or a dangerous instrument used results in a decrease of approximately 24 prisoners. Under the original version of the bill, the presumptive sentence was set at eight years. (Proposed CSHB 293, P. 31, line 2.)
2. Providing for a good conduct deduction of one-third for all offenses under the committee substitute results in an additional decrease of approximately 58 prisoners over the period of this fiscal note. Under existing law, offenders receive good conduct deductions at a rate equivalent to one-quarter of their sentences. (Proposed CSHB 293, p. 24, lines 10-13.)
3. Providing for a good conduct deduction of one-half for prisoners on furlough in the committee substitute results in an additional decrease of approximately 30 prisoners. Under current law, prisoners on furlough programs are only entitled to the good conduct deductions applicable to other offenders. (Proposed CSHB 293, p. 24, lines 14-18.)