1609 HJ HB 225 - PAROLE BOARD

A. Section .010, Members

Included in this section are funds to cover cost of two additional Board members at the quarterly Board hearings. Because of their presence at hearings, hearings are lengthened by twelve minutes/hearings adding up to twelve additional days of hearings per year. Some additional xeroxing and more long distance phone calls for new members. Funds are also included for per diem and compensation for the other five members for the 12 additional days.

Travel and Per Diem-New	23.3
Contractual	1.9
Compensation-New & Old	24.0
Per Diem Increas-Old Members	5.0
Total	54.1

B. Sections .020 & .030, Nomination/Selection of Members

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

Travel & Per Diem	3.9

C. Section .050, Compensation

The bill would provide payment to the Board members for any day they are conducting business, including the reading of files, handling Board business by phone, as well as hearings.

a) Reading reports-assume 225 cases/year x 3/4 hours per file = 23 "member days". Guess 23 days x 7 members = 16.1

b) Phone log shows average of 30 calls/quarter to the office x 4 quarters/year = 120 calls for handling appeals, requests for special hearings, mandatory release conditions, etc. = 12.0

c) Pay full days compensation for those days signing warrants, holding preliminary hearings, 1/2 day parole hearings, etc. Guess 70 member days x $50 = 3.5

Total 31.6

D. Section .080, Responsibilities

Cost to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in Alaska Administrative Code (other costs in FY-82 budget).

4.4

Contract with criminal justice research firm to validate and keep parole guidelines research current in order to avoid lawsuits.

7.2

Total 11.6

E. Section .150, Release Hearings

Current statute allows the Board to conduct interviews of prisoners in the Federal Prison System by one member and then conduct a full hearing in Alaska with all members, with the interviewer presenting all information from the Federal Bureau of Prisons interview. This section requires the Prisoner's presence at the hearing and these figures reflect the cost of sending two more members on the twice annual trek to the contract facilities to hold hearings on applicants.

Travel	24.4
Compensation	6.0

This section also requires that all information be made available to parole applicants a minimum of 30 days in advance. Information is frequently not received until the week of the hearings, and therefore some hearings will have to be rescheduled again. Guess that 20% of cases (approximately 300) will be reheard, or 60 hearings/year.

Transportation	3.2
Compensation	3.5
Total	6.7

Total Transportation	27.6
Total Compensation	9.5
Total	37.1

F. Section .170, Good Time

This section mandates the awarding of good time while on parole. Money is included to contract with someone to draft regulations and policy to implement this section, since standards in this area are novel to correctional agencies and no definitions or formats are available to follow. Since parolees generally have more rights than do prisoners, we anticipate establishing the same minimum due process safeguard set forth under current Division of Corrections institutional good time policies. Current Board hearings are taxed to their maximum capacity in terms of time and additional hearing times would be established between quarterly meetings to handle all good time matters (including forfeitures), and any overflow of revocations. This would require the Board to be available at all Division of Corrections Parole offices twice yearly to handle cases in the outlying areas. Assuming only five members and one staff person, the costs would be:

Transportation and Per Diem	17.5
Compensation	1.6
Contractual (regulations)	3.6

One Administrative Assistant would be hired to keep up with the complex record keeping system, handle increased flow of reports from parole officers, and oversee the operation of the office in the absense of professional staff (due to their quarterly-increased traveling). This position is necessitated by this section as well as the additional workload brought about by Sections .010, .020, .080, .190, and .290.

Personnel	35.0
Equipment	2.1
Commodities	1.0
Total	60.8

G. Section .190, Change in Conditions

Due to the very cumbersome nature of this section and since there is often the need for the parole officer to intervene in a case on short notice to enable the parolee to remain in the community and to protect the public, it is anticipated that in approximately 15 cases/year a parole officer will have a parolee arrested to expedite the condition change process. This will of course require an additional 15 preliminary revocation hearings.

Transportation	1.6
Per Diem	1.3
Compensation	1.5
Total	4.4

H. Section .290, Revocation Hearings

The "clear and convincing evidence" test will result in a representative from the District Attorney's office presenting most of the cases for the Division of Corrections, as is done in probation revocation cases now. Assume District Attorneys will be present in 3/4 cases (27) which will result in a doubling in the length of the hearing time in those cases resulting in 14 additional "board days per year".

Per Diem	8.1
Compensation	9.8

Due to the 30 day requirement for information to be dispursed to parolees before preliminary hearings, anticipate rescheduling eight hearings because of requests for continuances at the original hearings.

Per Diem	.9
Compensation	.8
Total Per Diem & Transportation	9.0
Total Compensation	10.6
Total	19.6

I. Overall Costs

This bill will greatly increase the record-keeping responsibilities of the Board. It will be necessary to collect and maintain various kinds of data on all corrections clients that is not currently being kept. Because of the volume and variety of information to be kept, automation appears reasonable. We will contract with a computer firm to write the appropriation programs, set up and maintain the necessary reports for the Board. A criminal justice researcher familiar with the requirements of this bill and with the Board, advises that $33,000 would minimally be required to handle the tasks. The Department has been unable to meet the Board's current data needs and this is why we would propose to contract for services

Contractual	33.0

J. Assumption for FY-84 Through FY-87

a) Personnel = 9% in FY-84 and FY-85; 7% thereafter.
b) Travel = 15% in FY-84 and FY-85; 10% thereafter.
c) Compensation = Consumer Price Index will increase by 9% in FY-84; 8% in FY-85; 7% in FY-86 and FY-87.
d) Contractual = 8%
e) Commodities = 8%

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

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

a) Sets five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.

b) Statutorily sets the compensation of Board members at $100 per day for each day they are involved in carrying out Parole Board business.

c) Requires the Board to maintain standards for the release of offenders.

d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessable to the public.

e) Defines statutorily the bases for the appeal of Board decisions.

f) Sets standards for the imposition of any condition of release and allows the offender to appeal any condition imposed.

g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officer's workloads and limiting the intrusion of the State into the lives of the offenders. It requires the offender be discharged after 5 years unless good cause is shown.

h) Provides clarification of definitions and of the mandatory release statutes.

i) Establishes statutorily the bases for the removal of Parole Board members.

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

Approved by: Helen D. Beirne Date 2-5-82

Helen D. Beirne, Commissioner
Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 225
Title "An Act relating to parole of offenders & continuing existence of the * Board of Parole."
Requested by House HESS Committee Date February 4, 1982

II. FISCAL DETAIL
Agency Affected Department of Health & Social Services
Program Category Affected Offender Confinement, Reformation, and Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement; Probation & Com. Prog.
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

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

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

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

IV. DATE February 4, 1982 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections
PHONE 465-3376

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

cc

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 225
Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board
Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE March 5, 1981 PREPARED BY Samuel H. Trivette
AGENCY Parole Board
PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/9/81

33-001 (Rev. 12/80)

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

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

Travel	3.8

B. Section .050, Compsensation

a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"
Guess 23 X 5 members X $100 = 11.5

b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.
120 calls X $120 = 12.0

Compensation Total	23.5

C. Section .080, Responsibilities

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

Contractual	2.4

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

Travel	1.7

c) Compensation for Chairman 3 days at $100.

	.3
Section .080 Total	4.4

Assumptions

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

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 293
Title An Act Establishing a Parole System and Relating to Correctional Facilities, etc...
Requested by Rules Committee by Request of the Governor Date 3/9/81

II. FISCAL DETAIL
Agency Affected Health & Social Services
Program Category Affected Offender Confinement, Reformation & Supervision
BRU, Program, or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		126.0	152.9	62.6	68.2	303.1
200 TRAVEL		1.6	1.8	-0-	-0-	14.0
300 CONTRACTUAL		148.5	463.6	825.0	1,254.9	220.6
400 COMMODITIES		2.6	4.3	4.2	6.0	233.1
500 EQUIPMENT		1.4	-0-	1.7	-0-	20.0
600 LAND & STRUCTURES		5,520.0	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.						42.8
TOTAL	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	4	4	2	2	19
PART TIME						
TEMPORARY						

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

A. Four specific areas within the Division of Adult Corrections will be impacted as a result of passage of House Bill #293. These are Adult Confinement, Major Medical, Director's Office and, for two-year period, Institutional Counseling. Individual analysis of each area follows:

1. Adult Confinement

As a result of presumptive sentencing, it is anticipated that the prison population will increase by 80 persons. This increase is assumed to occur at a uniform rate of 16 persons per year for five years.

In order to accomodate this increase in the prison population, construction of 80 beds would be requested in FY 1982. These beds would be added to a request for a 200 bed facility already anticipated. The capital funds identified represent the cost of the dormatory space for 80 beds. With funds

IV. DATE 4/9/81 PREPARED BY Roger C. Lange Roger C. Lange
AGENCY Health & Social Services Div. of Corrections
PHONE 465-3376

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval Date

33-001 (Rev. 12/80)

appropriated in FY 1982, an opening date of July 1985 for the new beds would be anticipated. At that time, 17 staff positions would be needed to provide for security and program supervision of the 80 bed wing.

Contractual costs for housing the additional prisoners out-of-state would be necessary until July 1, 1935. Computation of these costs are, as follows:

Fiscal Year	Full-Year Equivalents	Average Cost Per Day	Days	Total Cost
1982	8	$45.53	365	$132,948
1983	24	49.63	365	434,759
1984	40	54.09	366	791,878
1985	56	58.96	365	1,205,142

2. Major Medical

With the increase in prisoner population, medical expenses related to these prisoners will result in a budgetary need. Costs were developed using an average of 8 prisoners for FY 1982, with an increase of 16 in each of the subsequent fiscal years. The FY 1982 budget figure of $573.47 per prisoner year cost of medical care was used to compute estimated need.

Inflation for medical costs were estimated to be 14% per year for each of the successive fiscal years. The yearly cost of medical care per prisoner was multiplied by the estimated average prisoner population resulting from this legislation. The yearly costs were computed, as follows:

Fiscal Year	Full-Year Equivalents	Average Cost Per Year	Total Cost
1982	8	$573.47	$4,588
1983	24	653.76	15,690
1984	40	745.28	29,811
1985	56	849.62	47,579
1986	72	968.57	69,737

3. Director's Office

Section 33.30.131 - Furlough Involving Employment - stipulates that "when a prisoner is employed outside a correctional facility as a part of a furlough program, his earnings shall be sent by his employer to the commissioner." It is assumed the administrative responsibilities regarding these earnings will be delegated by the Commissioner to the Division of Adult Corrections.

With a large number of offenders in the furlough program, a sizable accounting responsibility for the earnings will result. To accomplish the accountability and disbursement of earnings as specified, an Accountant I position is identified to be hired January 1, 1982 and an Accounting Clerk II to be hired July 1, 1983.

The cost of this activity, by fiscal year, is estimated to be:

Fiscal Year	Amount
1982	$18,100
1983	36,400
1984	71,800
1985	76,400
1986	83,400

4. Institutional Counselors

It will be necessary to provide additional staff to prepare all pre-parole hearing reports. It is assumed that all inmate cases must be reviewed so that the inmate could be seen within a two-year period. In order to accomplish this additional increment of activity, it is estimated that 3 new Institutional Counselor positions (Probation Officer II classification) will be needed. The location and costs are, as follows:

Position	Location	Cost - FY 1982
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons inmates)	$39,664
1 P.O. II	Eagle River/Palmer	39,664
1 P.O. II	Fairbanks	45,202
	Total position cost (includes equipment, office space, etc)	124,530

These positions are requested for FY 1982 and FY 1983. During this period, the Institutional Counselors identified will prepare the pre-parole hearing reports for all individuals who committed a crime before July 1, 1981. Upon completion of this task, the specific function will no longer be needed.

It is noted, however, that additional staff is anticipated after June 30, 1983 as a result of several systems of good time calculations being in place. It will be extremely important that these calculations be kept current so that inmates are released at the appropriate time. No costs are included in this fiscal note for this activity increment.

B. Inflation of 9% per year was used to carry forward all expenditure categories with the exception of medical costs at 14%, as noted above.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. #293

Title An Act establishing a parole system, etc.

Requested by Governor Date March 19, 1981

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender confinement, reformation, and supervision

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

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		220.2	240.0	(168.4)	(183.6)	(200.1)
200	TRAVEL		72.8	17.2	(53.2)	(58.0)	(63.2)
300	CONTRACTUAL		32.1	35.0	(16.6)	(18.1)	(19.7)
400	COMMODITIES				(2.5)	(2.7)	(3.0)
500	EQUIPMENT		4.0				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	OTHER (COMPENSATION)		(23.7)	(23.7)	(23.7)	(23.7)	(23.7)
	TOTAL		305.4	268.5	(264.4)	(286.1)	(309.7)

FUNDING (Thousands of Dollars)

		(1)		(2)		
GENERAL FUND		305.4	268.5	(264.4)	(286.1)	(309.7)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	(7)	(7)	(7)
PART TIME						
TEMPORARY						

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

(1) Impact of new commission over and above current Parole Board

(2) Negative impact of no commission or Parole Board

IV. DATE March 19, 1981 PREPARED BY Samuel H. Trivetto

AGENCY Parole Board

PHONE 465-3385

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/23/81

33-001 (Rev. 12/80)

ASSUMPTIONS

Base in Anchorage

Anchorage - Must be able to secure space in Court House for hearings every other month.

Fairbanks
and Juneau- Same as above.

A. PERSONAL SERVICES

a) Members - Range 26 = 4,819 x 3 = $ 14,457
x 12
173,325
x 1.27
$220,325

b) Executive Director
c) Parole Board Officer
d) Two (2) Clerk Typist III's

Salaries from FY-82 Budget = $141,660
Total Salary and Benefits: $361.925

B. TRAVEL

Five trips to Juneau for three members lasting five days
266 x 5 = 1,330
67 x 25 = 1,675
Misc. = 150
3,155 x 5 = $15,775

Five trips to Fairbanks for three members lasting five days
152 x 5 = 760
67 x 25 = 1,675
Misc. = 150
2,585 x 5 = $12,925

Four trips to F.B.P. for three members lasting 5 days
800 x 5 - 4,000
65 x 25 = 1,625
Misc. = 200
5,825 x 4 = $23,300

Member Travel Total: $52,000 x 1.15 - $59,800

Miscellaneous travel for Executive Director, P.O. II, meet with Executive Clemency Advisory Committee, etc., for training and assistance to institutions:

Two 2 day trips to Fairbanks and Juneau
1 x 152 = 152
1 x 266 = 266
67 x 4 = 268 603
Misc.= 270
686 x 1.15 = $789

Sub-Total Travel: $60,589

Assume two Board members will be employed from areas of the State other than Anchorage and will have to move to Anchorage.
2 x $10,000 = $20,000

Office moving expenses:
a) move files, cabinets, desks etc. to Anchorage $ 5,000

Staff moving expenses:
a) Two professional staff 2 x $10,000 $ 20,000
b) Two clerical staff 2 x $ 6,000 $ 12,000

Total staff and office moving expenses	$ 37,000
Total Moving and Travel	$117,589

C. CONTRACTUAL

a) FY-82 Request = $14,000

b) Office Space = $22,050

The Board will need to contract for office space. Current Board office has about 380 sq. ft. in Alaska Office Building. Assume 150 sq. ft. per employee.

Anchorage - 7 x 150 sq. ft. = 1,050 sq. ft.

c) "Time served" data update = $10,000
Reassess data already collected to identify most recent information on time served by offenders in specific crime categories.

Total Contractual $46,050

D. COMODITIES

FY-82 Request	$ 2,100

E. EQUIPMENT

Three Double pedestal desks (plain) @ $534.56	= $1,603.68
Three Executive Swivel Chairs w/arms @ $235.54	= $ 706.62
Two Printing Calculators @ $273.97	= $ 547.94
One Lanier Dictatin, Machine	= $ 582.93
One Lanier Transcribing Machine	= $ 582.93
	$4,024.10

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

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

March 9, 1981

Pebr
re: Parole
Board

Honorable Fred Brown
Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Brown:

Because of the serious medical condition of my father, I am unable to return to Alaska to attend the Judiciary Committee hearing scheduled for tomorrow. I have directed that Mr. Trivette provide you and the other members with the most recent research material on the Parole Board including a short summary of the data.

Please advise me when your next hearing will take place and I will make every attempt to attend. In the meantime, Mr. Trivette has been directed to provide you with any information you request or answer any questions you might have. We hope you will take advantage of our hospitality.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

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

March 4, 1981

Honorable Fred Brown, Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Chairman Brown:

Although I have been out of the State due to a family emergency and therefore unable to attend recent hearings regarding the Parole Board, I wish these comments to be made available to each of the Committee members to perhaps clarify some of the testimony regarding the Parole Board presented at the hearing on February 26, 1981. I also would like the opportunity to come to Juneau and personally speak to the Committee about Parole Board legislation. If you will give me some notice when the Committee will be holding additional hearings, I will arrange to travel to Juneau. You can contact me through the Board staff office in Juneau at 465-3385.

Much of the testimony of the Department of Law stated conclusions about the Board and other segments of the criminal justice system that need very careful scrutiny. Accepting them as fact without supportive information could result in you drastically altering the system based upon "one liners", inuendo, or misinformation. Comments made by the Law representative stated or implied the following:

(1) Presumptive sentencing greatly restricts all discretion.

(2) Presumptive sentencing eliminates most unjustified disparity at sentencing.

(3) Presumptive sentencing mandates certain sentences in specific cases no matter what the judge, district attorney or defense attorney does.

(4) The system knows what impact presumptive sentencing has had on the system and that effect has been positive.

(5) Disparity in sentencing would be minimized by the elimination of the Parole Board.

(6) The Department of Law's bill would eliminate unjustified disparity in the system.

(7) "Split sentences" (a period of jail time with probation to follow) don't make sense and therefore the potential for parole release should be eliminated to "solve the problem".

(8) Elimination of the Parole Board would necessarily give more "finality" at the time of sentencing than if the Board remained (with its policy of seeing inmates within six months after the date of sentencing).

(9) "Gameplaying" by offenders is unique to Parole Board hearings and all gameplaying would be eliminated in all other segments of the criminal justice decision making points (bail, pre-trial diversion, trials, sentencings, sentence modification hearings, all Corrections disciplinary hearings, all contacts with defense and prosecuting attorneys, etc.).

(10) Sentencing is based primarily upon what the offender did and that most Parole Board decisions are based on predicting what the offender will do when he is released (and that risk <u>should not</u> be considered by the Board).

(11) Offenders sentenced presumptively know their actual date of release once they are sentenced.

(12) Under Department of Law's bill, offender's would know shortly after sentencing when they would be released on furloughs by the Division of Corrections.

(13) A system of replacing parole release with good time and furloughs would result in more just and equitable treatment of offenders.

(14) Three or four other states have abolished parole boards and all related parole board functions without causing problems in the criminal justice system and without just changing the name of the board or without giving other responsibilities to the Board.

(15) The court handles probation revocations very differently than does the Board and the court conditions of probation are significantly different and less restrictive than the Board's.

(16) The Division of Corrections standards for the handling of good time and furloughs are more specific, fair and just than the Boards' for the parole of offenders.

(17) The current law makes most offenders ineligible for furloughs now and that is why only a few people are on furloughs and why a new furlough law is necessary.

(18) Parole Board hearings are not open to the public because it doesn't want the public to see what it is doing.

(19) The Board does not allow attorneys at either parole release or parole revocation hearings.

(20) The State had been moving toward abolishing the Parole Board for many years and the Department of Law's bill is the next logical step in this goal supported by everyone in the system after fully understanding all current information about the Board.

(21) The Parole Board is the only segment of the system that allows offender programing or offender non-involvement in program to be a consideration, and this factor would disappear as a consideration at pre-trial diversion hearings, classification hearings (at which furloughs are considered), disiplinary (good time) hearings, and probation violation hearings.

I would suggest that most of these statements--not facts--are incorrect, very incomplete, or at best, misleading. I would strongly urge you to get the facts and require data to support the "conclusions" or supposed "facts" before arriving at your own conclusions. Permit me to give you an example how you could be easily misled by incomplete information. You heard testimony at the Feb. 26 hearing that the State had essentially been moving toward abolishing parole for a decade. Mr. Stern cited the fact that the Legislature had given the judges authority to limit or even deny parole eligibility to specific offenders when they were sentenced. The presumptive sentencing scheme was given as yet another example of the Criminal Code Commission's and the Legislature's intent to phase out the Parole Board in Alaska. I disagree with Mr. Stern's perception and let me explain by giving some additional background on the Criminal Code Commission's handling of the parole issue.

The Criminal Code Commission did originally recommend the abolition of parole in Alaska in January 1976. The record does not clearly reflect what led the members of the Commission to this conclusion, but one or more reference books discussing parole appear to have been the primary basis for the decision. It is known no data on the operation of the Alaska Parole Board was requested by the Commission members and no one from Corrections nor the Parole Board was contacted for input. (The primary staff person for the Commission was on record as saying he felt parole decisions should be made by judges.) That preliminary report was not to stand and the parole issues continued to be discussed by Commission members along with sentencing and related issues.

One of the Commission members requested the Parole Board present input on parole and sentencing issues, the Board and the visiting Chairman of the Oregon Parole Board did testify before the Commission in November 1977. Although the staff of the Commission (including Mr. Stern and the other staff person I mentioned in the above paragraph) had drafted a proposal abolishing parole, the Commission rejected this approach. Instead they approved a concept that would tightly structure the judicial sentencing discretion, but would allow for parole release withing certain specified guidelines. This approach was supported by a great majority of the Commission members after developing a thorough understanding over the years as Commission members of the importance of how DISCRETION works in the criminal justice system. Without thorough understanding of how discretion works, rational decisions about effective changes in the system will not follow. Let me explain the concept of discretion in the criminal justice system that is supported by experienced and well-respected criminal justice professionals around the country, such as Professors Andrew Von Hirsch and Vincent O'Leary.

There is a given amount of discretion in any criminal justice system. All components of the system have some, but there is only so much no matter who has it. You can move around the discretion, you can increase or decrease the amount any segment has, but discretion is not eliminated, only transferred from one component to another. Here are some examples of some discretion various segments of the system have now.

WHO		WHAT
POLICE:	(a)	Charge as crime or handle informally.
	(b)	Arrest or not arrest - issue summons.
	(c)	Initially charge as most serious to least serious crime.
	(d)	Initially charge all possible crimes, a few, or only one.
	(e)	Initially recommend high bail, low bail, O.R. release.

DISTRICT ATTORNEY:

(a) Dismiss one or all charges.

(b) Allow to handle as deferred prosecution.

(c) Charge most serious to least serious charge (this will determine the possible range of sentences the judge will have available at sentencing).

(d) Charge all possible crimes, a few, or only one (this also will determine whether or not the judge may sentence to consecutive terms, concurrent, and also the sentencing range).

(e) Change all counts of an offense, a few, or one (same effect as above).

(f) Recommend bail to court.

(g) Charge no aggravating factors, charge one, charge many factors (judge cannot sentence above presumptive term, if applicable, unless D.A. charges an aggravating factor and judge rules the factor exists).

(h) Charge or not charge a prior felony (presumptive sentencing is triggered only if the D.A. charges and substantiates a prior felony in the required seven year period. If not charged, defendant not sentenced presumptively).

(i) Charge or not charge the use of a gun during the commission of the crime (same effect as above - if D.A. doesn't charge the use of the gun, not subject to presumptive sentencing).

(j) Charge or not charge the fact defendant caused serious physical injury during the commission of the crime (same effect as previous example).

(k) The D.A. can make any recommendation he wishes to the sentencing court about disposition, including sending the case to the three-judge panel but none of these recommendations have the effect of changing the judge's discretion.

JUDGE:

(a) Sentence a "first A felony" offender to a jail term of 0-20 years, a fine of $50,000, restitution, community work, probation etc.

(b) Sentence a "first A felony" offender to a term of 3-20 years if D.A. charges and judge finds gun used or serious physical injury.

(c) Sentence a "first B felony" offender to a jail term of 0-10 years, or other sentences listed in (a).

(d) Sentence a "first C felony to a jail term of 0-5 years.

(e) Sentence a "second A felony" to a jail term of 5-20 years if the D.A. charges and the Judge any aggravating or mittigating factors, and other sentences listed in (a).

(f) Sentence a "second B felony" to a jail term of 0-10 years and other sentences listed in (a).

(g) Sentence a "second C felony" to a jail term of 0-5 years and other sentences listed in (a).

(h) Sentence a "third A felony" to a jail term of 7-1/2 years to 20 years and other sentences listed in (a).

(i) Sentence a "third B felony" to a jail term of 3-10 years and other sentences listed in (a).

(j) Sentence a "third C felony" to a jail term of 0-5 years and other sentences listed in (a).

(k) Sentence an offender convicted of 1st degree murder to a jail term of 20-99 years and other sentences listed under (a) and a fine up to $75,000.

(l) Sentence an offender convicted of second degree murder or kidnapping to a jail term of 5-99 years, and other sentences listed in (a) and a fine up to $75,000.

(m) Send the case of any "presumptive offender" to a three-judge panel for sentencing if the first judge thinks the term of imprisonment would result in "manifest injustice".

	(n)	Place most offenders on probation under any reasonable condition for up to five years.
	(o)	Revoke all or part of an offender's probation for violation of any condition of probation or a violation of a law, at any time during the sentence.
	(p)	Terminate or extend probation at any time in the sentence.
	(q)	Make any offender serve more time than one-third up to the maximum sentence before becoming eligible for parole.
CORRECTIONS:	(a)	Make recommendation for sentencing in the presentence report.
	(b)	File petitions to have the judge consider probation revocations or request the D.A. file such petitions, depending upon the judicial district.
	(c)	Grant good time credits amounting to 25% of an offender's sentence for good institutional adjustment. Take away part or all good time for one or more infractions of jail rules, requiring prisoner to serve up to 25% more time.
	(d)	Make recommendations on Parole Board release decisions.
	(e)	File Petitions to revoke parole with Parole Board and make recommendations to Board.
	(f)	Grant various kinds of furloughs to almost any sentenced offender serving a jail sentence.
PAROLE BOARD:	(a)	Consider offenders for parole once they have served one-third of their sentences, and make a decision to parole or not parole the offender before he is released from jail after serving 66%-75% of his sentence with good time (the Board has control over 33%-42% of the offender's sentence). This assumes the judge has not made the offender ineligible for parole or more than 1/3 of his sentence or for all of his sentence.

(b)	Set conditions of release on all those paroled and on those subject to "mandatory release" or "legislative parole", based upon guidelines set in regulation and in current case law.
(c)	Revoke the release of offenders that parole officers bring to the Board's attention if the Board determines the offender cannot follow the laws.
(d)	Change a parolee's conditions of parole when good cause justifies it.
(e)	Carry out executive clemency investigations and make recommendations to the Governor's Executive Clemency Advisory Committee.

DISCUSSION OF DISCRETION

As you can see from the tables above, there is a lot of discretion in the system. Let's examine this discretion in light of the comments made at the recent House Judiciary Committee, understanding that only a few areas I mentioned earlier in my letter will be discussed here but that the committee members should be aware generally of the magnitude of discretion available to various segments.

Statements made at the hearing implied that presumptive sentencing has taken most or all discretion out of sentencing and that it will get rid of disparity in sentencing. The new criminal code did classify most crimes into categories and set maximum lengths of jail terms but did not do away with discretion. It in fact sharply increased the influence of the prosecutor while limiting somewhat the power of the judiciary. Except in a small percentage of cases, the new sentencing law <u>does not</u> mandate specific or mandatory sentences. But the prosecutor is the person that frequently holds the key to whether most of these presumptive or mandatory sentences will apply to a given case. (Examples are difficult to follow without having the chart of the presumptive sentences handy to refer to, and I or my staff would be more than happy to give you some additional examples before the entire Committee with the aid of the chart.)

Example: Mr. Smith has been arrested on an assault charge. He had a prior felony conviction five years ago which you would assume would automatically make Smith subject to presumptive sentencing. Not so. If the prosecutor does not charge the prior felony and prove it in court, Smith is considered a "first felony offender".

The facts of his case indicate he could be charged as either a first degree assault or a second degree assault. Assuming the prosecutor charged the prior felony, he knows Smith would have a presumptive term of 10 years if charged as first degree assault and if any mitigating and aggravating factors were charged, the judge could sentence Smith to 5-20 years. Smith would have to be sentenced to the presumptive sentence of 10 years only if the prosecuting and defense attorneys did not charge any mitigating or aggravating factors to the court (both tell us it will be unusual not to charge at least some mitigating and aggravating factors). The prosecutor knows if Smith is charged with assault in the second degree, the presumptive term would be 4 years, but could be mittigated down to 0 years or aggravated up to 10 years. Thus he can effectively decide what range the judge will have available a sentencing (5 to 20 years or 0 to 10 years) by what Smith is charged with. Of course if the prosecutor doesn't charge the prior felony, the judge discretion is 0-20 years for the assault one and 0-10 years for the assault two charge. Obviously the prosecutor isn't lacking discretion under the new code.

We are told judicial discretion is removed or severely limited by presumptive sentencing. It is limited somewhat but certainly not removed entirely. For example two different judges with Mr. Smith's case could sentence him to widely varying sentences on the same circumstances of the crime and background, (asuming an assault II conviction) as long as at least one factor in mittigation and one factor in aggravation was proven, by giving different weights to those factors. For example, Judge A could give strong weight to the mittigating factors and sentence Smith to no jail time or certainly less than four years. Then Judge B could sentence Smith to ten years by giving primary weight to the aggravating factor. The point is either judge could sentence Smith to 0-10 years, with Judge A usually handing out a sentence of one year to most offenders while Judge B usually sentences offenders to six years for similar crimes and backgrounds, and still be within the constraints of the presumptive sentencing scheme.

These or other examples are not meant to impugn the integrity of either prosecutors or judges around the State of Alaska, but only show that even with presumptive sentencing, disparity in the handling of cases by the criminal justice system is far from being eliminated. Obviously there is a need to develop some specific guidelines about who should go to jail and who should not, before we can seriously tackle the problem how long should offenders stay in jail if we decide they should go to jail. (At least the Parole Board does have specific, concrete, written guidelines for determining how long offenders serve if they are sent to jail but those guidelines don't help with the more basic decision of who should or should not go to jail at all.)

Before placing stock on what anyone says the new presumptive sentencing has had on the criminal justice system, I would urge you to get a hold of specific data about the impact of the code. My guess is you will find not much information is yet available unless things have changed a lot since the Parole Board tried to get some information on the impact of the system late last summer. The best information we have now is that approximately 18 offenders have actually been sentenced to presumptive terms since January 1, 1980 out of over 600 sentenced felons in jail now. Even if we has sufficient data on all these presumptive cases it would probably be difficult to identify any trends, or positive or negative influences on the system. Possibly the Judiciary Committee can insure that careful attention is given to keeping a close watch on the system and providing some indepth information to the public and the Legislature so we can assess the impact of presumptive sentencing down the line.

Let me concentrate on some of the misconceptions that may have been alluded to about the Parole Board. First it was implied that there is no "certainty" when an offender would, if ever be granted parole. That is not true. The Board has adopted regulations (available to judges, D.A.'s offenders, the public, etc.) that outlines the specific time ranges an offender can expect to serve if the criminal justice decides to send him to jail. These ranges are fairly narrowly drawn (16 to 21 months for a class B felony with little or no prior record, etc.; 21 to 28 months for a more extensive prior record, abuse of alcohol/drugs, etc.). The work was completed on these parole guidelines last summer, they were given a trial run for six months last fall and they were put into use beginning January 1, 1981. Any offender can sit down with his institutional counselor when he is sentenced, have a score sheet filled out based upon his case file information, and he will know with about 85% certainty when he is going to be released--without ever appearing before the Board.

The Board has been working on the development of these guidelines since 1978. During the time the Board was working on the guidelines, the members also felt it would be to everyone's benefit to begin seeing offenders (who did not have real long sentences) within the first six months of their sentences. There would be many good reasons for this change in policy. The Board currently sees offenders when they are within three months of being eligible for parole release. Some of the goals of this policy change would be:

(a) Set presumptive release dates on most offenders with shorter sentences so everyone would know when offenders could expect to be released and the whole system could plan accordingly.

(b) Allow the Board members to discuss problem areas/goals with offenders so the offender could make the best use of time before they are due to be released.

(c) Board would review the offender shortly before his presumptive release date to discuss his release plan and conditions of parole with him and see that he had conducted himself in a reasonable manner in the institution.

(d) Insure that the offender's release plan provided him with sufficient support to optimize his chances of a successful parole adjustment.

Why hasn't the Board implemented this policy change? This change would necessitate the Board receiving specific information in a timely manner from the Department of Health and Social Services about all sentenced offenders who might be eligible for parole. This information was not available to the Board so the Parole Board staff began requesting it informally through Departmental channels in 1978. These requests were made to both the Commissioner's office and the Department's office of information services. After approximately one year had passed with no information, I requested the information from the Commissioner in February, 1979. In the summer of 1980 the information began to trickle in and with considerable effort by the Board staff and the staff of the Division of Corrections, we have recently developed a fairly accurate list of offenders. The problem is that the institutional population has increased so rapidly since our initial request the Board would probably need some additional time to see every offender, say with sentences of 5 years or less, immediately. (The Board will not be able to even see those that are currently eligible for parole between now and July 1981 unless supplemental funding is made available to the Board for the upcoming Board hearing.) However, the Board did adopt this policy of hearing offenders early in their sentences and the members reiterated their desire to begin the process as soon as possible for everyone's benefit. So as you can see, the Board members themselves have been working on eliminating the "uncertainties" of parole release dates long before the Department of Law testified before your committee last week. Given sufficient resources, we expect we can probably achieve our goal with the offenders with shorter sentences before the end of the year.

The Board was chastised by the Department of Law for considering an offender's "risk" when making parole decisions. The Board does consider the risk factor when making parole decisions because it is required to by Alaska Statute (AS 33.15.080). We believe this law clearly mandates the Board's consideration of risk at the present time. However, I should point out that most of the "risk factors"

utilized by the Board in its guidelines are what Mr. Stern referred to as "what the offender did" items, such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record, etc. They are used more precisely and consistently in parole hearings. So even if the Legislature were to change the statute listed above, it probably would have little effect on the guidelines because most of the risk factors are related to "what the offender did". Of course, the most important factor in any case considered by the Board are the facts of the present offense(s), or "what the offender did" (see our 1979 study for documentation).

Mr. Stern told you Parole Board hearings are not open to the public. He is correct. They are closed pursuant to Alaska Statute 44.62.310. This means that the door to hearings are not open for anyone to walk in. However, he failed to inform you the Board has <u>always</u>, to the best of my knowledge, since I have been a member of the Board, allowed any responsible person to sit in on Board hearings once they received a short briefing on how hearings were conducted, the purpose of the information and procedures, and that information presented at hearings was confidential by <u>law</u> (AS 33.15.140) and must not be communicated to anyone outside the hearing. The Parole Board has had State legislators, prosecutors, defense attorneys, staff of all various State governmental agencies, newspaper reporters, T.V. staff, university students, and ordinary citizens from the community sit in on hearings. All hearings are taped and you are welcome to listen to the tapes of any hearing if the offender signs the appropriate waiver. Furthermore, in spite of what Mr. Stern said, attorneys are allowed at <u>any</u> Parole Board hearing and we strongly encourage their attendance at <u>all</u> parole revocation hearings where there might be a dispute of facts. Come over and listen to our tapes or sit in on some hearings if you have any questions.

The Department of Law has suggested the Parole Board be eliminated and be replaced with more furloughs and more good time. I know that almost all sentenced prisoners <u>are not prohibited by law</u> from being placed on furloughs now - it is the regulations and practices of the Division of Corrections that have severely limited the use of furloughs. It might be beneficial to consolidate and update these laws but the low utilization of furloughs cannot be blamed on the Legislature. I know these furlough policies are changing but I am not sure furloughs would be appropriate for the extended periods of time we have offenders on parole. All the experts have told us that six months maximum is all the time you want an offender on most community based programs, except probation or parole supervision in an offender's own home. I would strongly urge you very carefully and skeptically review this as an alternative to parole release and certainly not do so when all the various kinds of potential furloughs are just in the "talking stage". I would strongly urge you discuss this with Mr. Trivette and Mr. Campbell, both whom have a lot of experience with halfway houses and community based programs. You should also carefully consider whether or not this might introduce more disparity in the handling of offenders. Instead of the Parole

Board releasing offenders subject to the specific guidelines adopted, you would have nine classification committees and superintendents in Alaska and another 25-30 classification committees and wardens in contract facilities making furlough decisions based upon few standards. Disparity in the handling of offenders is almost certain to be increased with the large number of persons involved in the process and institution concerns will prevail as an overiding factor in many cases. Again, this is no reflection on the staff of Corrections - just a byproduct of spreading decision making out to 156 persons with all their individual personalities.

Good time in Alaska has been a "can of worms" for a decade. I would respectfully defer to Mr. Trivette on this subject who is very knowledgeable on this topic. From my limited knowledge on the subject, I would strongly urge you not consider changing the good time laws without Mr. Trivette explaining some of the numerous problems with good time previously and currently providing you with some background on the purposes of good time.

Let me take a moment of your time to tell you something of Mr. Trivette's background, experience and standing in the criminal justice community in Alaska and around the country. He is considered knowledgeable and an expert in many of the specialized areas of corrections work, such as classification committees, good time, parole laws, report-writing, systems operations, parole guidelines and other "risk assessment scales", community-based corrections, etc. He is frequently called upon by various corrections personnel, attorneys, judges and other criminal justice employees to serve in a problem solving capacity. He has been a leader in some national corrections groups and is currently in the Commission on Accreditation for Corrections "pool" to serve on committees to review parole boards for possible accreditation based upon strict national standards. He has been a very active participant and sometimes chairman of various groups working on improving the criminal justice system in Alaska. He has conducted training sessons, seminars and presented papers at various state and national correctional meetings. Because of the deep respect he has gained from the wide spectrum of criminal justice employees, I would hope you would carefully question him about any proposed changes you expect to make in the system and specifically about the statements made by the Department of Law. You will get nothing but "straight talk" from him.

Although I have been supportive in the past of the concept of the abolition of parole and replacing it with "presumptive", "flat-time", or "determinate" sentencing, I have become more skeptical each year about the ability of a system to really deal more consistently, more equitably and more fairly deal with offenders without a parole board. I am beginning to believe that a small collegial body, operating under specific guidelines, hearing all cases around the state, using the same interpretation of the guidelines, will be almost impossible to improve upon if given the tools to do the job.

Let me suggest you carefully consider Professor Von Hirsch's study, "Abolish Parole". The Alaska Parole Board has never been given those tools nor the support it needs to properly carry out its responsibilities - why don't you give us a chance for a couple of years with this support and see what materializes. I don't think you will be disappointed. After all, we are relatively cheap!!

Thank you for taking the time to consider the contents of this letter.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

WBL

P.S. Why should the Board be given the opportunity to "prove" itself over the next few years? Recent Parole Board research indicates the Board is doing an outstanding job of fairly and equitably dealing with those offenders that apply for parole, even though those applicants come from various racial backgrounds. The fact that 3/5ths of the Board members come from minority or "protected classes" probably is a factor - the Board is one of the few segments of the criminal justice system that has much minority representation and certainly few if any have this high percentage of minority representation.

Again, I would defer to Mr. Trivette's expertise in explaining why I feel the Board has done such an exceptional job in fairly and equitably dealing with those offenders sentenced to jail, even before we had our parole guidelines to reply upon. Once you have seen the supportive documentation, I think you will be pleasantly surprised what a segment of the system can do with very little money.

Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

DATE: March 11, 1981

TO: House Judiciary and HESS Committees

FROM: Peter B. Froehlich, Counsel
House Judiciary Committee

RE: Summary of Parole Board Bills
HB 261 by H. Judiciary
HB 225 by Martin

* * * * * * * * * * * * * * * * * * *

The attached chart reflects a comparative summary of two House bills now before the legislature concerning the Parole Board (HB 261 and HB 225). It also includes the final version of last year's bill CSHB 983 (Fin), which includes three House Finance Committee amendments adopted at the request of the House Judiciary Committee. These amendments are noted because they were omitted from HB 261, and the committees may desire to re-insert them.

HB 261, by the House Judiciary Committee is identical to the version of last year's bill, CSHB 983 which was passed out of the House Judiciary Committee. It would make approximately fourteen substantial changes in existing statutes most of which either recognize existing non-statutory rights of prisoners and parolees (E.g. the right to access to law books in prisons) or in some cases grant new rights (E.g. the right to accumulation of good time while on parole). The bill would also make a half dozen or so less substantial changes (E.g. increasing the number of board members from five to seven). These changes to existing statutory law are briefly described in the first or left hand column of the chart.

CSHB 983 (Fin) is the final version of the 11th Legislature's 1980 Parole Board bill. It is identical to this year's HB 261 except for three somewhat technical amendments concerning certificates of discharge and release for good time. These amendments are shown in the second or center column of the table.

HB 225 and SB 217, by Martin and Fischer respectively, include many differences from the House Judiciary bills (HB 261 and last year's HB 983) both technical (E.g. insertion of single words) and substantial (E.g. eliminating good time while on parole). Nearly all of these differences follow two general themes, less recognition of the rights of

prisoners and parolees and more discretion for the Parole Board. The differences between HB 225 (SB 217) and HB 261 (last year's CSHB 983) are described in the third or right hand column of the table.

In the table "same" means the bill version referred to includes the same provision as does another, and "_____" means it does not.

I hope this material is helpful to your consideration of these bills.

Attachment

COMPARISON OF PAROLE BILLS

1980 CSHB 983 (Jud) and 1981 HB 261	1980 CSHB 983 (Fin)	1981 HB 225 and 1981 SB 217
p.1, line 13: changes bd. from 5 to 7 members	-same-	p.1, line 13: keeps bd. at 5 members
-----	-----	p.1, lines 20-22: requires presiding officer to have experience in corrections
p.2, lines 9-10: sets grounds for removal of bd. members accdg to Model Act	-same-	-same-
p.3, line 1: sets daily compensation for bd. member at $100.	-same-	-same-
p.3, line 10: sets quorum at 4	-same-	keeps quorum at 3
p.3, lines 23-29: adds 3 duties of board (discharge parolee, keep records, and set standards)	-same-	-same-
-----	-----	p.4, lines 11-12: adds duty of bd. to submit budget
p.4, lines 6-12: adds duties of bd. to adopt specific regs.	-same-	-same-
-----	-----	p.4, lines 21-23: adds general authority for regs.
p.4, line 17: adds that exec.director serves at pleasure of bd.	-same-	-same-
-----	p.5, lines 4-5: adds "less 180 days" at end of 33.16.100(c)	-----

-----	-----	p.5, line 8: adds "discretionary" before "parole"
-----	-----	p.5, line 12: adds "mandatory" before "parole"
-----	-----	P.5, lines 24-29: adds "discretionary" (p.6, lines 1-9:) before "parole"
-----	-----	p.6, lines: 6-7: adds requirement that minimum sentence be served before parole
p.6, lines 14-19: adds that parole cannot be denied because necessary treatment was unavailable	-same-	-----
-----	-----	p.6, lines 27-29: totally different (p.7, lines 1-9:) section on parole hearings less beneficial to prisoners
p.6, lines 24-28: adds requirement that prisoners get copy of all evidence 30 days before parole hearing	-same-	-----
-----	-----	p.7, line 15: adds requirement of approved parole plan before parole
p. [illegible] lines 12-17: provides for good time deduction while on parole	-same-	-----
p. [illegible] lines 18-29: sets out 13 possible conditions (p.7, lines 1-20:) of parole	-same-	, lines 20-23: provides for cancellations of parole to be set aside [illegible] grants, and ad[illegible]

		the prisoners background as a factor
p.8, lines 27-29: establishes right to notice (p.9, lines 1-13) and hearing on any change in parole conditions	-same-	p.7, lines 24-26: allows request for reconsideration of parole conditions under regs.
-----	-----	p.7, line 28: substitute revocation hearings for change in condition hearing in waiver of hearing section
-----	----	p.8, line 4: deletes defense attorney, prisoners, and prisoners attorney from those with access to pre-parole reports
p.9, lines 23-25: adds statutory right to appeal	-same-	-same-
-----	-----	p.8, line 8: substitutes "capriciousness" for abuse of discretion in grounds for appeal
-----	-----	p.3, lines 18-20: adds duty of commissioner to provide timely [illegible] to bd.
p.10, line 3-7: states prisoner's right to access to law	-same-	-----
-----	p.10, lines 15-20: adds 180 day sentence reduction to prisoners released by certificate of discharge	-----

-----	-----	p.8, line 29: editorial language changes in middle of line
p.10, lines 23-29: makes discharge of 5 yr. parolee mandatory if no felony charge or conviction	-same-	p.9, lines 8-11: make discharge of 5 yr parolee discretionary
p.11, lines 1-4: allows discretionary discharge of 2 yr parolee	-same-	-same- and p.9, lines 15-18 require 2 yr review of parolee
-----	-----	p.9, lines 22-26: editorial improvements to language of subsections (a) and (b)
-----	-----	p.10, line 15: omits reference to good time on parole and omits requirement of release if hearing results in nonrevocation
p.12, lines 7-12: provides that on revocation, bd. has discretion to set time to serve and must give credit for good time on parole	-same-	p.10, lines 16-22: provides that on parole revocation prisoner serves out original sentence with no reduction
p.12, lines 12-18: provides that on revocation for any reason besides violation of law, 6 mos. is maximum confinement	-same-	-----
p.12, line 19: provides that only a judicial officer can issue warrant for arrest for parole violation	-same-	p.10, line 1 [illegible] vides that the bd. or reader may for arrest parole viol
-----	-----	p.11, lines 13 adds [illegible]

		that when parolee is arrested without warrant the reason for no warrant must be reported with the manner of violation of parole
-----	-----	p.11, line 24: adds "discretionary" before "parole" in definition
-----	-----	p.11, lines 28-29: (p.12, lines 1-2:) adds definition of mandatory parole--by operation of law
p.14, lines 2-8: amends AS 33.20.040(a) to provide that prisoner released for good time with more than 180 days of sentence shall be released as provided in the bill	p.14, lines 3-9: same except deletes reference to maximum term minus 180 days	p.12, lines 9-12: rewrites AS 33.20.040(a) to reflect optional nature of good time parole

WHAT HB 293 DOES

I. Establishes New Parole System.

II. Sets Release Dates for Offenders Who Committed a Crime before July 1, 1981.

WHY CHANGE CURRENT SYSTEM

I. Certainty in length of sentence served.

II. "Just Desserts" theory of punishment.

III. Rehabilitative programs are more effective.

IV. Public's "right to know."

HIGHLIGHTS OF HB 293

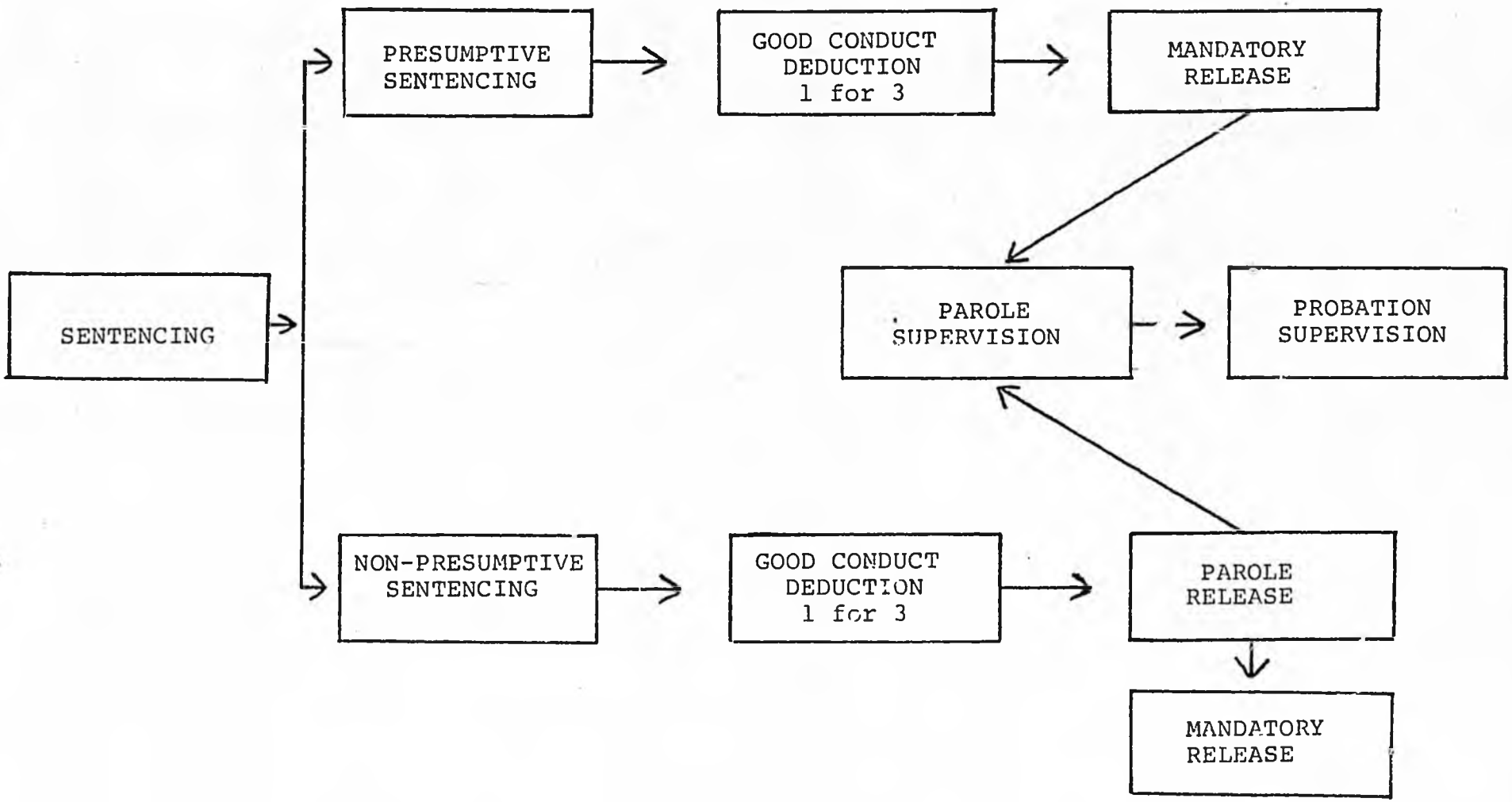
I. Parole Board Sunsets July 1, 1981.

II. Interim Sentence Review and Parole Commission For Offenders Who Committed a Crime Before July 1, 1981.

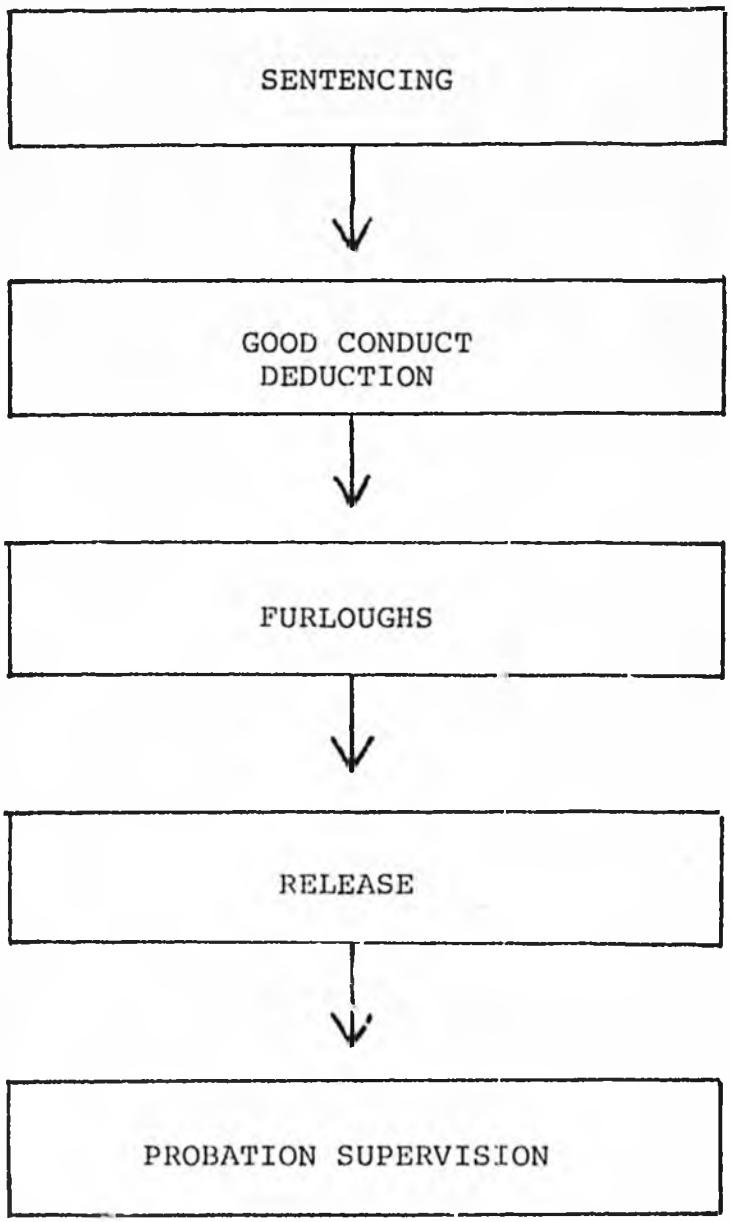
III. New Parole System -- Good Conduct Deductions Plus Furlough Programs.

IV. Presumptive Sentencing for First Felony Offenders.

CURRENT PAROLE SYSTEM



PAROLE SYSTEM - HB 293



SUMMARY OF HB 293

I. AS 33.15. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

A. Interim Sentence Review and Parole Commission.

B. Parole of persons who commit crimes after 7/1/81.

C. Supervision of prisoners released = probation.

1. Length
2. Conditions
3. Formal/Open

D. Defendant informed of release date at sentencing.

II. AS 33.30. CORRECTIONAL FACILITIES AND PROGRAMS.

A. Establishment, Control and Management.

1. Duties of Commissioner
2. Custody of offenders

B. Programs and Furloughs.

1. Designation of facilities
2. Designation of programs
3. Furloughs

a. Types

i. Pre-release
ii. Short-durational

b. Eligibility

C. General Provisions - Permanent fund dividend eligibility.

III. AS 12.55. SENTENCING.

A. Probation amendments.

B. Presumptive sentencing.

INTERIM SENTENCE REVIEW AND

PAROLE COMMISSION

A. Three member commission lasts two years.

B. Sets parole release dates for prisoners who are or will be eligible for parole; and

1. committed a crime before 7/1/81; and
2. sentenced before 1/1/83.

C. Hearing required where prisoner has a right to present evidence and cross-examine witnesses.

D. Considerations in setting parole release date include:

1. Whether there was unjustified disparity in sentence imposed; and

2. Whether sentence deviated substantially from sentence under revised criminal code.

GOOD CONDUCT DEDUCTION

I. Computation

A. One-quarter of sentence if

1. Presumptive sentence for repeat felony; or
2. Murder I, II, or Kidnapping;
3. Life Sentence = 99 years.

B. One-third of sentence for all other crimes.

II. Forfeiture of Deduction

A. 90 days maximum for major incidents of bad conduct.

B. 30 days maximum for minor incidents of bad conduct.

C. Vesting of 90 days per year for incident-free conduct.

PRE-RELEASE FURLOUGH ELIGIBILITY

I. If sentence of 5 years or less, eligible after serving one-third of sentence.

II. If sentence of more than 5 years, eligible after serving one-third of sentence, or within 3 years of release, whichever is later.

TYPES OF FURLOUGHS

1. Obtain drug or alcohol treatment or counselling.

2. Vocational training.

3. Secure or engage in employment.

4. Attend school.

5. Prepare for release.

6. Other rehabilitative programs.

PRESUMPTIVE SENTENCING

	FIRST	SECOND	THIRD
A	2-1/2 - (5) - 20 4 - (8) - 20	5 - (10) - 20	7-1/2 - (15) - 20
B	0 - (2) - 10	0 - (4) - 10	3 - (6) - 10
C	0 - (1) - 5	0 - (2) - 5	0 - (3) - 5

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

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

a) Five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.

b) Statutorily sets the compensation of Board members at $100 per day for each day they are involved in carrying out Parole Board business.

c) Requires the Board to maintain standards for the release of offenders.

d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessable to the public.

e) Defines statutorily the bases for the appeal of Board decisions.

f) Sets standards for the imposition of any condition of release and allows the offender to appeal of any condition imposed.

g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officers' workloads and limiting the intrusion of the State into the lives of offenders. It requires the offender be discharged after 5 years unless good cause is shown.

h) Provides clarification of definitions and of the mandatory release statutes.

i) Establishes statutorily the bases for the removal of Parole Board members.

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

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

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

Recommended by _____ Date 3/12/81
Samuel H. Trivette
Executive Director

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

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

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 225
Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board
Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE March 5, 1981 PREPARED BY Samuel H. Trivette
AGENCY Parole Board
PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/5/81

33-001 (Rev. 12/80)

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

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

Travel	3.8

B. Section .050, Compsensation

a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"
Guess 23 X 5 members X $100 = 11.5

b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.
120 calls X $120 = 12.0

Compensation Total	23.5

C. Section .080, Responsibilities

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

Contractual	2.4

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

Travel	1.7

c) Compensation for Chairman 3 days at $100.

	.3
Section .080 Total	1.4

Assumptions

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

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 225

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

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender Confinement, Reformation and Supervision

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

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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

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

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

IV. DATE March 5, 1981 PREPARED BY Roger C. Lunge Roger C. Lunge

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

PHONE 465-3376

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval _____ Date _____

33-001 (Rev. 12/80)

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

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

March 4, 1981

Honorable Fred Brown, Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Chairman Brown:

Although I have been out of the State due to a family emergency and therefore unable to attend recent hearings regarding the Parole Board, I wish these comments to be made available to each of the Committee members to perhaps clarify some of the testimony regarding the Parole Board presented at the hearing on February 26, 1981. I also would like the opportunity to come to Juneau and personally speak to the Committee about Parole Board legislation. If you will give me some notice when the Committee will be holding additional hearings, I will arrange to travel to Juneau. You can contact me through the Board staff office in Juneau at 465-3385.

Much of the testimony of the Department of Law stated conclusions about the Board and other segments of the criminal justice system that need very careful scrutiny. Accepting them as fact without supportive information could result in you drastically altering the system based upon "one liners", inuendo, or misinformation. Comments made by the Law representative stated or implied the following:

(1) Presumptive sentencing greatly restricts all discretion.

(2) Presumptive sentencing eliminates most unjustified disparity at sentencing.

(3) Presumptive sentencing mandates certain sentences in specific cases no matter what the judge, district attorney or defense attorney does.

(4) The system knows what impact presumptive sentencing has had on the system and that effect has been positive.

(5) Disparity in sentencing would be minimized by the elimination of the Parole Board.

(6) The Department of Law's bill would eliminate unjustified disparity in the system.

(7) "Split sentences" (a period of jail time with probation to follow) don't make sense and therefore the potential for parole release should be eliminated to "solve the problem".

(8) Elimination of the Parole Board would necessarily give more "finality" at the time of sentencing than if the Board remained (with its policy of seeing inmates within six months after the date of sentencing).

(9) "Gameplaying" by offenders is unique to Parole Board hearings and all gameplaying would be eliminated in all other segments of the criminal justice decision making points (bail, pre-trial diversion, trials, sentencings, sentence modification hearings, all Corrections disciplinary hearings, all contacts with defense and prosecuting attorneys, etc.).

(10) Sentencing is based primarily upon what the offender did and that most Parole Board decisions are based on predicting what the offender will do when he is released (and that risk <u>should not</u> be considered by the Board).

(11) Offenders sentenced presumptively know their actual date of release once they are sentenced.

(12) Under Department of Law's bill, offender's would know shortly after sentencing when they would be released on furloughs by the Division of Corrections.

(13) A system of replacing parole release with good time and furloughs would result in more just and equitable treatment of offenders.

(14) Three or four other states have abolished parole boards and all related parole board functions without causing problems in the criminal justice system and without just changing the name of the board or without giving other responsibilities to the Board.

(15) The court handles probation revocations very differently than does the Board and the court conditions of probation are significantly different and less restrictive than the Board's.

(16) The Division of Corrections standards for the handling of good time and furloughs are more specific, fair and just than the Boards' for the parole of offenders.

(17) The current law makes most offenders ineligible for furloughs now and that is why only a few people are on furloughs and why a new furlough law is necessary.

(18) Parole Board hearings are not open to the public because it doesn't want the public to see what it is doing.

(19) The Board does not allow attorneys at either parole release or parole revocation hearings.

(20) The State had been moving toward abolishing the Parole Board for many years and the Department of Law bill is the next logical step in this goal supported by everyone in the system after fully understanding all current information about the Board.

(21) The Parole Board is the only segment of the system that allows offender programing or offender non-involvement in program to be a consideration, and this factor would disappear as a consideration at pre-trial diversion hearings, classification hearings (at which furloughs are considered), disiplinary (good time) hearings, and probation violation hearings.

I would suggest that most of these statements--not facts--are incorrect, very incomplete, or at best, misleading. I would strongly urge you to get the facts and require data to support the "conclusions" or supposed "facts" before arriving at your own conclusions. Permit me to give you an example how you could be easily misled by incomplete information. You heard testimony at the Feb. 26 hearing that the State had essentially been moving toward abolishing parole for a decade. Mr. Stern cited the fact that the Legislature had given the judges authority to limit or even deny parole eligibility to specific offenders when they were sentenced. The presumptive sentencing scheme was given as yet another example of the Criminal Code Commission's and the Legislature's intent to phase out the Parole Board in Alaska. I disagree with Mr. Stern's perception and let me explain by giving some additional background on the Criminal Code Commission's handling of the parole issue.

The Criminal Code Commission did originally recommend the abolition of parole in Alaska in January 1976. The record does not clearly reflect what led the members of the Commission to this conclusion, but one or more reference books discussing parole appear to have been the primary basis for the decision. It is known no data on the operation of the Alaska Parole Board was requested by the Commission members and no one from Corrections nor the Parole Board was contacted for input. (The primary staff person for the Commission was on record as saying he felt parole decisions should be made by judges.) That preliminary report was not to stand and the parole issues continued to be discussed by Commission members along with sentencing and related issues.

One of the Commission members requested the Parole Board present input on parole and sentencing issues, the Board and the visiting Chairman of the Oregon Parole Board did testify before the Commission in November 1977. Although the staff of the Commission (including Mr. Stern and the other staff person I mentioned in the above paragraph) had drafted a proposal abolishing parole, the Commission rejected this approach. Instead they approved a concept that would tightly structure the judicial sentencing discretion, but would allow for parole release withing certain specified guidelines. This approach was supported by a great majority of the Commission members after developing a thorough understanding over the years as Commission members of the importance of how DISCRETION works in the criminal justice system. Without thorough understanding of how discretion works, rational decisions about effective changes in the system will not follow. Let me explain the concept of discretion in the criminal justice system that is supported by experienced and well-respected criminal justice professionals around the country, such as Professors Andrew Von Hirsch and Vincent O'Leary.

There is a given amount of discretion in any criminal justice system. All components of the system have some, but there is only so much no matter who has it. You can move around the discretion, you can increase or decrease the amount any segment has, but discretion is not eliminated, only transferred from one component to another. Here are some examples of some discretion various segments of the system have now.

	WHO	WHAT
POLICE:	(a)	Charge as crime or handle informally.
	(b)	Arrest or not arrest - issue summons.
	(c)	Initially charge as most serious to least serious crime.
	(d)	Initially charge all possible crimes, a few, or only one.
	(e)	Initially recommend high bail, low bail, O.R. release.

DISTRICT ATTORNEY:

(a) Dismiss one or all charges.

(b) Allow to handle as deferred prosecution.

(c) Charge most serious to least serious charge (this will determine the possible range of sentences the judge will have available at sentencing).

(d) Charge all possible crimes, a few, or only one (this also will determine whether or not the judge may sentence to consecutive terms, concurrent, and also the sentencing range).

(e) Change all counts of an offense, a few, or one (same effect as above).

(f) Recommend bail to court.

(g) Charge no aggravating factors, charge one, charge many factors (judge cannot sentence above presumptive term, if applicable, unless D.A. charges an aggravating factor and judge rules the factor exists).

(h) Charge or not charge a prior felony (presumptive sentencing is triggered only if the D.A. charges and substantiates a prior felony in the required seven year period. If not charged, defendant not sentenced presumptively).

(i) Charge or not charge the use of a gun during the commission of the crime (same effect as above - if D.A. doesn't charge the use of the gun, not subject to presumptive sentencing).

(j) Charge or not charge the fact defendent caused serious physical injury during the commission of the crime (same effect as previous example).

(k) The D.A. can make any recommendation he wishes to the sentencing court about disposition, including sending the case to the three-judge panel but none of these recommendations have the effect of changing the judge's discretion.

JUDGE:	(a)	Sentence a "first A felony" offender to a jail term of 0-20 years, a fine of $50,000, restitution, community work, probation etc.
	(b)	Sentence a "first A felony" offender to a term of 3-20 years if D.A. charges and judge finds gun used or serious physical injury.
	(c)	Sentence a "first B felony" offender to a jail term of 0-10 years, or other sentences listed in (a).
	(d)	Sentence a "first C felony to a jail term of 0-5 years.
	(e)	Sentence a "second A felony" to a jail term of 5-20 years if the D.A. charges and the Judge any aggravating or mittigating factors, and other sentences listed in (a).
	(f)	Sentence a "second B felony" to a jail term of 0-10 years and other sentences listed in (a).
	(g)	Sentence a "second C felony" to a jail term of 0-5 years and other sentences listed in (a).
	(h)	Sentence a "third A felony" to a jail term of 7-1/2 years to 20 years and other sentences listed in (a).
	(i)	Sentence a "third B felony" to a jail term of 3-10 years and other sentences listed in (a).
	(j)	Sentence a "third C felony" to a jail term of 0-5 years and other sentences listed in (a).
	(k)	Sentence an offender convicted of 1st degree murder to a jail term of 20-99 years and other sentences listed under (a) and a fine up to $75,000.
	(l)	Sentence an offender convicted of second degree murder or kidnapping to a jail term of 5-99 years, and other sentences listed in (a) and a fine up to $75,000.
	(m)	Send the case of any "presumptive offender" to a three-judge panel for sentencing if the first judge thinks the term of imprisonment would result in "manifest injustice".

	(n)	Place most offenders on probation under any reasonable condition for up to five years.
	(o)	Revoke all or part of an offender's probation for violation of any condition of probation or a violation of a law, at any time during the sentence.
	(p)	Terminate or extend probation at any time in the sentence.
	(q)	Make any offender serve more time than one-third up to the maximum sentence before becoming eligible for parole.
CORRECTIONS:	(a)	Make recommendation for sentencing in the presentence report.
	(b)	File petitions to have the judge consider probation revocations or request the D.A. file such petitions, depending upon the judicial district.
	(c)	Grant good time credits amounting to 25% of an offender's sentence for good institutional adjustment. Take away part or all good time for one or more infractions of jail rules, requiring prisoner to serve up to 25% more time.
	(d)	Make recommendations on Parole Board release decisions.
	(e)	File Petitions to revoke parole with Parole Board and make recommendations to Board.
	(f)	Grant various kinds of furloughs to almost any sentenced offender serving a jail sentence.
PAROLE BOARD:	(a)	Consider offenders for parole once they have served one-third of their sentences, and make a decision to parole or not parole the offender before he is released from jail after serving 66%-75% of his sentence with good time (the Board has control over 33%-42% of the offender's sentence). This assumes the judge has not made the offender ineligible for parole or more than 1/3 of his sentence or for all of his sentence.

(b)	Set conditions of release on all those paroled and on those subject to "mandatory release" or "legislative parole", based upon guidelines set in regulation and in current case law.
(c)	Revoke the release of offenders that parole officers bring to the Board's attention if the Board determines the offender cannot follow the laws.
(d)	Change a parolee's conditions of parole when good cause justifies it.
(e)	Carry out executive clemency investigations and make recommendations to the Governor's Executive Clemency Advisory Committee.

DISCUSSION OF DISCRETION

As you can see from the tables above, there is a lot of discretion in the system. Let's examine this discretion in light of the comments made at the recent House Judiciary Committee, understanding that only a few areas I mentioned earlier in my letter will be discussed here but that the committee members should be aware generally of the magnitude of discretion available to various segments.

Statements made at the hearing implied that presumptive sentencing has taken most or all discretion out of sentencing and that it will get rid of disparity in sentencing. The new criminal code did classify most crimes into categories and set maximum lengths of jail terms but did not do away with discretion. It in fact sharply increased the influence of the prosecutor while limiting somewhat the power of the judiciary. Except in a small percentage of cases, the new sentencing law does not mandate specific or mandatory sentences. But the prosecutor is the person that frequently holds the key to whether most of these presumptive or mandatory sentences will apply to a given case. (Examples are difficult to follow without having the chart of the presumptive sentences handy to refer to, and I or my staff would be more than happy to give you some additional examples before the entire Committee with the aid of the chart.)

Example: Mr. Smith has been arrested on an assault charge. He had a prior felony conviction five years ago which you would assume would automatically make Smith subject to presumptive sentencing. Not so. If the prosecutor does not charge the prior felony and prove it in court, Smith is considered a "first felony offender".

The facts of his case indicate he could be charged as either a first degree assault or a second degree assault. Assuming the prosecutor charged the prior felony, he knows Smith would have a presumptive term of 10 years if charged as first degree assault and if any mitigating and aggravating factors were charged, the judge could sentence Smith to 5-20 years. Smith would have to be sentenced to the presumptive sentence of 10 years only if the prosecuting and defense attorneys did not charge any mitigating or aggravating factors to the court (both tell us it will be unusual not to charge at least some mitigating and aggravating factors). The prosecutor knows if Smith is charged with assault in the second degree, the presumptive term would be 4 years, but could be mittigated down to 0 years or aggravated up to 10 years. Thus he can effectively decide what range the judge will have available a sentencing (5 to 20 years or 0 to 10 years) by what Smith is charged with. Of course if the prosecutor doesn't charge the prior felony, the judge discretion is 0-20 years for the assault one and 0-10 years for the assault two charge. Obviously the prosecutor isn't lacking discretion under the new code.

We are told judicial discretion is removed or severely limited by presumptive sentencing. It is limited somewhat but certainly not removed entirely. For example two different judges with Mr. Smith's case could sentence him to widely varying sentences on the same circumstances of the crime and background, (asuming an assault II conviction) as long as at least one factor in mittigation and one factor in aggravation was proven, by giving different weights to those factors. For example, Judge A could give strong weight to the mittigating factors and sentence Smith to no jail time or certainly less than four years. Then Judge B could sentence Smith to ten years by giving primary weight to the aggravating factor. The point is either judge could sentence Smith to 0-10 years, with Judge A usually handing out a sentence of one year to most offenders while Judge B usually sentences offenders to six years for similar crimes and backgrounds, and still be within the constraints of the presumptive sentencing scheme.

These or other examples are not meant to impugn the integrity of either prosecutors or judges around the State of Alaska, but only show that even with presumptive sentencing, disparity in the handling of cases by the criminal justice system is far from being eliminated. Obviously there is a need to develop some specific guidelines about who should go to jail and who should not, before we can seriously tackle the problem how long should offenders stay in jail if we decide they should go to jail. (At least the Parole Board does have specific, concrete, written guidelines for determining how long offenders serve if they are sent to jail but those guidelines don't help with the more basic decision of who should or should not go to jail at all.)

Before placing stock on what anyone says the new presumptive sentencing has had on the criminal justice system, I would urge you to get a hold of specific data about the impact of the code. My guess is you will find not much information is yet available unless things have changed a lot since the Parole Board tried to get some information on the impact of the system late last summer. The best information we have now is that approximately 18 offenders have actually been sentenced to presumptive terms since January 1, 1980 out of over 600 sentenced felons in jail now. Even if we has sufficient data on all these presumptive cases it would probably be difficult to identify any trends, or positive or negative influences on the system. Possibly the Judiciary Committee can insure that careful attention is given to keeping a close watch on the system and providing some indepth information to the public and the Legislature so we can assess the impact of presumptive sentencing down the line.

Let me concentrate on some of the misconceptions that may have been alluded to about the Parole Board. First it was implied that there is no "certainty" when an offender would, if ever be granted parole. That is not true. The Board has adopted regulations (available to judges, D.A.'s offenders, the public, etc.) that outlines the specific time ranges an offender can expect to serve if the criminal justice decides to send him to jail. These ranges are fairly narrowly drawn (16 to 21 months for a class B felony with little or no prior record, etc.; 21 to 28 months for a more extensive prior record, abuse of alcohol/drugs, etc.). The work was completed on these parole guidelines last summer, they were given a trial run for six months last fall and they were put into use beginning January 1, 1981. Any offender can sit down with his institutional counselor when he is sentenced, have a score sheet filled out based upon his case file information, and he will know with about 85% certainty when he is going to be released--without ever appearing before the Board.

The Board has been working on the development of these guidelines since 1978. During the time the Board was working on the guidelines, the members also felt it would be to everyone's benefit to begin seeing offenders (who did not have real long sentences) within the first six months of their sentences. There would be many good reasons for this change in policy. The Board currently sees offenders when they are within three months of being eligible for parole release. Some of the goals of this policy change would be:

(a) Set presumptive release dates on most offenders with shorter sentences so everyone would know when offenders could expect to be released and the whole system could plan accordingly.

(b) Allow the Board members to discuss problem areas/goals with offenders so the offender could make the best use of time before they are due to be released.

(c) Board would review the offender shortly before his presumptive release date to discuss his release plan and conditions of parole with him and see that he had conducted himself in a reasonable manner in the institution.

(d) Insure that the offender's release plan provided him with sufficient support to optimize his chances of a successful parole adjustment.

Why hasn't the Board implemented this policy change? This change would necessitate the Board receiving specific information in a timely manner from the Department of Health and Social Services about all sentenced offenders who might be eligible for parole. This information was not available to the Board so the Parole Board staff began requesting it informally through Departmental channels in 1978. These requests were made to both the Commissioner's office and the Department's office of information services. After approximately one year had passed with no information, I requested the information from the Commissioner in February, 1979. In the summer of 1980 the information began to trickle in and with considerable effort by the Board staff and the staff of the Division of Corrections, we have recently developed a fairly accurate list of offenders. The problem is that the institutional population has increased so rapidly since our initial request the Board would probably need some additional time to see every offender, say with sentences of 5 years or less, immediately. (The Board will not be able to even see those that are currently eligible for parole between now and July 1981 unless supplemental funding is made available to the Board for the upcoming Board hearing.) However, the Board did adopt this policy of hearing offenders early in their sentences and the members reiterated their desire to begin the process as soon as possible for everyone's benefit. So as you can see, the Board members themselves have been working on eliminating the "uncertainties" of parole release dates long before the Department of Law testified before your committee last week. Given sufficient resources, we expect we can probably achieve our goal with the offenders with shorter sentences before the end of the year.

The Board was chastised by the Department of Law for considering an offender's "risk" when making parole decisions. The Board does consider the risk factor when making parole decisions because it is required to by Alaska Statute (AS 33.15.080). We believe this law clearly mandates the Board's consideration of risk at the present time. However, I should point out that most of the "risk factors"

utilized by the Board in its guidelines are what Mr. Stern referred to as "what the offender did" items, such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record, etc. They are used more precisely and consistently in parole hearings. So even if the Legislature were to change the statute listed above, it probably would have little effect on the guidelines because most of the risk factors are related to "what the offender did". Of course, the most important factor in any case considered by the Board are the facts of the present offense(s), or "what the offender did" (see our 1979 study for documentation).

Mr. Stern told you Parole Board hearings are not open to the public. He is correct. They are closed pursuant to Alaska Statute 44.62.310. This means that the door to hearings are not open for anyone to walk in. However, he failed to inform you the Board has always, to the best of my knowledge, since I have been a member of the Board, allowed any responsible person to sit in on Board hearings once they received a short briefing on how hearings were conducted, the purpose of the information and procedures, and that information presented at hearings was confidential by law (AS 33.15.140) and must not be communicated to anyone outside the hearing. The Parole Board has had State legislators, prosecutors, defense attorneys, staff of all various State governmental agencies, newpaper reporter , T.V. staff, university students, and ordinary citizens from the community sit in on hearings. All hearings are taped and you are welcome to listen to the tapes of any hearing if the offender signs the appropriate waiver. Furthermore, in spite of what Mr. Stern said, attorneys are allowed at any Parole Board hearing and we strongly encourage their attendance at all parole revocation hearings where there might be a dispute of facts. Come over and listen to our tapes or sit in on some hearings if you have any questions.

The Department of Law has suggested the Parole Board be eliminated and be replaced with more furloughs and more good time. I know that almost all sentenced prisoners are not prohibited by law from being placed on furloughs now - it is the regulations and practices of the Division of Corrections that have severely limited the use of furloughs. It might be beneficial to consolidate and update these laws but the low utilization of furloughs cannot be blamed on the Legislature. I know these furlough policies are changing but I am not sure furloughs would be appropriate for the extended periods of time we have offenders on parole. All the experts have told us that six months maximum is all the time you want an offender on most community based programs, except probation or parole supervision in an offender's own home. I would strongly urge you very carefully and skeptically review this as an alternative to parole release and certainly not do so when all the various kinds of potential furloughs are just in the "talking stage". I would strongly urge you discuss this with Mr. Trivette and Mr. Campbell, both whom have a lot of experience with halfway houses and community based programs. You should also carefully consider whether or not this might introduce more disparity in the handling of offenders. Instead of the Parole

Board releasing offenders subject to the specific guidelines adopted, you would have nine classification committees and superintendents in Alaska and another 25-30 classification committees and wardens in contract facilities making furlough decisions based upon few standards. Disparity in the handling of offenders is almost certain to be increased with the large number of persons involved in the process and institution concerns will prevail as an overiding factor in many cases. Again, this is no reflection on the staff of Corrections - just a byproduct of spreading decision making out to 156 persons with all their individual personalities.

Good time in Alaska has been a "can of worms" for a decade. I would respectfully defer to Mr. Trivette on this subject who is very knowledgeable on this topic. From my limited knowledge on the subject, I would strongly urge you not consider changing the good time laws without Mr. Trivette explaining some of the numerous problems with good time previously and currently providing you with some background on the purposes of good time.

Let me take a moment of your time to tell you something of Mr. Trivette's background, experience and standing in the criminal justice community in Alaska and around the country. He is considered knowledgeable and an expert in many of the specialized areas of corrections work, such as classification committees, good time, parole laws, report-writing, systems operations, parole guidelines and other "risk assessment scales", community-based corrections, etc. He is frequently called upon by various corrections personnel, attorneys, judges and other criminal justice employees to serve in a problem solving capacity. He has been a leader in some national corrections groups and is currently in the Commission on Accreditation for Corrections "pool" to serve on committees to review parole boards for possible accreditation based upon strict national standards. He has been a very active participant and sometimes chairman of various groups working on improving the criminal justice system in Alaska. He has conducted training sessons, seminars and presented papers at various state and national correctional meetings. Because of the deep respect he has gained from the wide spectrum of criminal justice employees, I would hope you would carefully question him about any proposed changes you expect to make in the system and specifically about the statements made by the Department of Law. You will get nothing but "straight talk" from him.

Although I have been supportive in the past of the concept of the abolition of parole and replacing it with "presumptive", "flat-time", or "determinate" sentencing, I have become more skeptical each year about the ability of a system to really deal more consistently, more equitably and more fairly deal with offenders without a parole board. I am beginning to believe that a small collegial body, operating under specific guidelines, hearing all cases around the state, using the same interpretation of the guidelines, will be almost impossible to improve upon if given the tools to do the job.

Let me suggest you carefully consider Professor Von Hirsch's study, "Abolish Parole". The Alaska Parole Board has never been given those tools nor the support it needs to properly carry out its responsibilities - why don't you give us a chance for a couple of years with this support and see what materializes. I don't think you will be disappointed. After all, we are relatively cheap!!

Thank you for taking the time to consider the contents of this letter.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

WBL

P.S. Why should the Board be given the opportunity to "prove" itself over the next few years? Recent Parole Board research indicates the Board is doing an outstanding job of fairly and equitably dealing with those offenders that apply for parole, even though those applicants come from various racial backgrounds. The fact that 3/5ths of the Board members come from minority or "protected classes" probably is a factor - the Board is one of the few segments of the criminal justice system that has much minority representation and certainly few if any have this high percentage of minority representation.

Again, I would defer to Mr. Trivette's expertise in explaining why I feel the Board has done such an exceptional job in fairly and equitably dealing with those offenders sentenced to jail, even before we had our parole guidelines to reply upon. Once you have seen the supportive documentation, I think you will be pleasantly surprised what a segment of the system can do with very little money.

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

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

MAXIMUM FINES - PERSONS

Murder or kidnapping	- $75,000
A, B, or C Felony	- $50,000
A misdemeanor	- $ 5,000
B misdemeanor	- $ 1,000
Violation	- $ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - $100,000 or
3 X pecuniary gain
- whichever is greater

KEY

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

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

MAXIMUM TERMS OF IMPRISONMENT FOR MISDEMEANORS

A misdemeanor - 1 year

B misdemeanor - 90 days

2-1

2-09-81

PAROLE BOARD OUTLINE

1. The Parole Board is extremely inexpensive to operate in relationship to other sectors of the Alaska Criminal Justice system. The overall costs of the operation of the Board just exceeds $225,000 for the upcoming fiscal year. Most of the money spent goes for salaries of staff, some compensation for Board members, and travel funds to allow the members to hold hearings throughout the state and in contract facilities housing Alaskan inmates. Although we do not have the actual cost of operating the court system or other segments of the criminal justice system in Alaska, they certainly exceed the cost of operation of the Board by far.

2. The Parole Board has very specific written guidelines for making its decisions, which make it available for very close public scrutiny. Any time a prisoner is not granted parole, he is sent an individual letter advising him of the reasons for the decision. Whenever a parolee has his parole revoked, he receives an individualized letter explaining the specific reasons why he has been returned to custody. Any time the Board deviates from their written guidelines in any given case, they must document the specific reasons in the file why such a decision was made. These letters are available for public scrunity. (Refer to articles on guidelines for more specific examples).

3. The new parole guidelines research has allowed the Board to develop very concrete guidelines with numerical weights given to statistically vaild factors that allows the Board to closely compare similar cases and will result in equal treatment of similarly-situated inmates.

4. The Board members are representative of the major ethnic and minority groups of the state. The Board has had Alaskan natives and black membership since 1971, and a women on the Board since early 1976. Each of these members have a wide variety of experience in dealing with and relating to minority persons. They are familiar with the diverge cultures of the citizens of the State of Alaska. No other segment of the system has or is likely to have in the near future, this broad representation.

5. In spite of the problems with the disparity in sentencing in Alaska, the inmates handled by the Board are treated very similarly, no matter what their ethnic background is. Current Parole Board research indicates that within the parameters with the law which requires all inmates to serve one-third of their sentence to which they are sentenced before being eligible for parole, the Parole Board does treat individuals similarly as much as is reasonable.

6. The Board members are not employees of the State, but are citizens from various communities around the state that retain their ties there and are familiar with the wishes of the communities from which they come. They are concerned with the community foremost rather than the needs of any department of the state government, and their decisions reflect their community and individual person orientation. The Legislature established a separate Parole Board office in 1972 specifically for the purpose of allowing the Board members to not be controlled or too heavily influenced by the other full time employees of the criminal justice system. This appears to be working very effectively.

7. The Board members make consistent decisions statewide. Although there is known to be wide disparity in sentencing between different areas of the state, this small group of Parole Board members maintains consistency in its decision-making throughout the State of Alaska. No matter how closely regulations and guidelines are written, such consistency is unlikely to occur throughout the state with the number of judges, district attorneys, and defense attorneys involved in the other segments of the criminal justice system.

8. Social science research has shown that group decisions in making parole and related kinds of decisions produce more consistent and equitable than those made by individuals.

9. The State constitution requires a parole system. Although the parole function could be handled by the courts or another agency of the State, or by other state employees, or some other group, the current make-up of the Board is the most cost effective while offering fair, consistent and reviewable decisions. Unless and until the citizens of the state wish to amend the state constitution, or a more cost effective and equitable system can be shown to be available, the current procedure should be maintained.

10. In the mid to late 70's, many criminal justice professionals, college professors, attorneys, and others, were recommending the abolition of parole throughout the country. A great majority of those making that recommendation have since changed direction and many are now supportive of the parole process. The concept of a "community release board" separate from the courts to determine the length of prison terms was supportive by the American Bar Association in a position paper in the fall of 1977. This was a reversal of the Association's previous recommendation that parole be abolished.

11. A "community release board" concept is now being supported by many criminal justice professionals that had previously supported the concepts of "determinate", 'flat-time", or "presumptive" sentencing schemes where the prison terms were set in statute with little judicial discretion and no parole discretion.

12. Some persons would argue that all relevant factors are known at the time of sentencing and therefore there is no need for any other determination about a release date later on after the date of sentencing. The proponents of this kind of system and the "nothing works" idea have lost most of their support in recent years.

    (a) Research in other jurisdictions shows that institutional behavior does have a significant relationship to the success or failure of parolees and therefore should be considered at a parole release hearing some time after sentencing.

    (b) Research in other jurisdications shows that institutional programming and programming after release have a significant relationship to the success or failure of parolees and therefore should be considered at parole release hearings. (One such program that enchances the change of success is T.A.S.C.).

    (c) Research in Alaska shows that certain aspects of an inmate's release plan do have a significant relationship to the success or failure of the parolee and therefore should be considered at the parole release hearing some time after sentencing.

    Although we certainly do not have all of the research necessary to prove all relationships that exist, it is very clear that relationships do exist that are relevant after a person is sentenced and incarcerated and are appropriate to consider at a hearing by a parole board or similar body.

PAROLE BOARD RESEARCH FINDINGS

1. 70% of the "mandatory releasees" had served two years or less in jail when released on mandatory release supervision. Only 1% of the mandatory releasees had sentences exceeding five years.

   It is apparent that the Parole Board frequently does not parole people with relatively short sentences (two years of less), but does parole most inmates with longer sentences.

   A casual check of files several years showed that only one inmate out of 13 with six month sentences that applied for parole was paroled in a given year. It appears that the Board is following its stated of purpose in dealing with inmates with longer sentences and paroling those with short sentences only when unusual circumstances warrant.

2. Percentage of Inmates Paroled v M.R.'d by Race.

Race	M.R.	Parole
White	35%	65%
Black	21%	79%
Native	44%	56%
Other	35%	65%

   Blacks get paroled at the highest rate with others and whites next. Natives get paroled at the lowest rate. At first glance, it would appear that there is a great disparity in who gets paroled and who mandatory releasees if you do not look at the following tables. As it turns out, some of the other tables give us a much better picture of the habits of the Parole Board, and provide us with the background on the differing parole rates.

3. Mean Months Sentenced by Race of M.R.'s and Parolees.

Race	M.R.	Parole
White	26.6	54.2
Black	34.6	79.2
Native	30.3	59.6
Other	61.5	127.6

   This table gives us the length of sentence of people that the Board paroled and those that were released on mandatory supervision by operation of law without parole. This figure tells us more about the sentencing patterns of the court system rather than the Parole Board's, except that the Board does not parole inmates as frequently with shorter sentences as those with longer sentences. This especially true with the longer sentences as inmates are required to serve at least one-third and sometimes more of their sentence before being eligible to apply for parole.

4. Mean Months Served by Race of M.R.'s and Parolees.

Race	M.R.	Parole
White	20.2	19.4
Black	23.0	25.7
Native	22.9	21.4
Other	43.8	24.1

   This table gives us a good comparison of how much time the Parole Board actually has inmates serve before they are released from custody either by parole or mandatory releases. Please note that the parole time on whites and natives is only two months different. The parole time on blacks and others is somewhat higher, but realizing that amount of time served before an inmate is eligible for parole is a function of the length of sentence, and thus these differences are somewhat dependent on the length of the inmate's sentence.

The time served for whites, blacks, and natives who are mandatory releasees are very close, being less than three months difference. Although the "other" mandatory releasees time is quite high, there are only a few people in that category which artificially inflates the time served number.

Very interesting are the close similarities between the amount of time the Board requires a person to serve by each race category whether or not they are paroled or released on mandatory supe vision. There is less than one month's difference between the white parolees and white madatory releasees, less than three months time served between the black parolees and black mandatory releasees and one month difference between the native parolees and native mandatory releasees.

Remembering that "others" had the longest sentences, followed by blacks, and then whites, this table shows that there is a very close relationship to the amount of time served by parolees and mandatory releasees within each race category.

5. Mean Months Served as Proportion of Mean Sentence, by Race.

Race	M.R.	Parole
White	76%	36%
Black	66%	32%
Native	76%	36%
Other	71%	19%

Interestingly, the Board required white and native parolees to serve an identical amount of their sentences before being released on parole. Blacks were required to serve four percent less of their sentences before being paroled, recalling that their sentences were somewhat longer than whites or natives. "Others" were required only to serve 19% of their sentences, but their sentences were extremely long in comparison to the other groups, and again there was a very small sample in this category which unduly influences the figures. It appears the Board is treating all races as similarly as is possible within the current statutory scheme.

Let's take a look at those released on mandatory supervision. Again, whites and native served an identical portion of their sentences before being released on mandatory release. Blacks served a little less time than whites or natives, proportionally which is probably a function of their longer sentences and the Board's attempt to treat all prisoners similarly. "Others" released on mandatory release served a little more time proportionally than did blacks, but less than whites or natives.

6. For a summary of release characteristics by race, please refer to the table on page 9 of the Supplemental Report Time Served Component of the Alaska Parole Guidelines Study (September, 1980). This sheet provides a quick overview of the release patterns of the Parole Board, the relative length of sentences imposed by the courts on those persons seen by the Parole Board, etc.

7. Only six percent of parolees released by the Board from 1970-1979 were convicted of a new felony at any time while on parole. This figure is less than half the national figure with a two year follow up. This figure alone does not necessarily mean anything by itself, but probably indicates the Board is fairly careful about its release decisions, and also would suggest that parolees are being adequately supervised by parole officers. We know for certain that only about two or three parolees a year on the average are convicted of new felonies, so they are not a strong factor in the increased crime rate in Alaska.

SHT/vh

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS BEEN FILMED.

PAROLE GUIDELINES FOR ALASKA

SUPPLEMENTAL REPORT
TIME SERVED COMPONENT

ALASKA BOARD OF PAROLE

SEPTEMBER 1980

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

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

September 11, 1980

Dear Colleagues:

The basic PAROLE GUIDELINES FOR ALASKA report was completed, printed, and distributed in December 1979. It explained the progress made at that time on developing parole guidelines in Alaska. The report also outlined the additional research necessary before the "time served" portion of the parole guidelines could be established.

We are very pleased to announce the National Institute of Corrections did award the Parole Board a supplemental grant allowing us to complete the necessary research for the "time served" component. The results are contained in the consultant's attached report. We believe you will find much of this data very interesting and informative. Many of the basic questions about the release patterns of the Board are answered in this report.

The Board members met with the consultants on June 27, 1980 and adopted the parole guidelines matrix as outlined in table M8 on page 20 of the attached report. The members also voted to delete the race data item from the risk score after receiving an opinion from the Attorney General's office and after further discussion regarding that item. The revised risk score sheet is included with this report.

The Board's staff is drafting the coding manual to accompany the risk score sheet and the Board expects to initiate the "dry runs" soon as recommended on page 21 of the report. If no major problems arise, we expect to be using the guidelines for our decisions by Spring 1981.

We are happy to share the results of our research with you. Your comments are always welcome.

Sincerely Yours,

William B. Lyons
Chairman

Sincerely Yours,

Samuel H. Trivette
Executive Director

Attachments: PAROLE GUIDELINES FOR ALASKA REPORT--SUPPLEMENTAL REPORT

SHT/clr

This report was prepared by Bay Area Research Design Associates under contract with the Alaska Board of Parole. The research was supported by supplemental funding from the National Institute of Corrections under grant number A18. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the National Institute of Corrections or the Alaska Board of Parole.

BAY AREA
Research Design
ASSOCIATES

ALASKA PRISON RELEASE

MATRIX DECISION MAKING

M. G. Neithercutt

June 1980

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ABSTRACT

This document is a technical supplement to the materials provided the Alaska Board of Parole in November 1979 and published by them in December 1979. The major task left undone in that report was recommendation of a release decision matrix to be tested and then implemented as an information resource.

The suggested matrix appears as Table M8 herein. Also included are analyses of mandatory releasee data and demonstration responses to queries typical of those received/generated by the Board in its usual operations.

This report closes with observations about some possible next steps.

ALASKA PRISON RELEASE

MATRIX DECISION MAKING

Mandatory Releasees

New cases augmented the set from which decisions can be make in the time elapsing since the last report.[1] These took three forms: 1) existing parolee cases were edited to some extent, 2) new parole cases were added, both in instances of earlier omissions of cases and paroles since mid-1979, and 3) data on mandatory releasees exiting prison from 1970 - 1979 were added. These last cases are not as extensive as the parolee files, however; we have only identifiers race, year of release, offense, sentence, time served, and release status for each of those 362 files.

Race

For this report[2] the mandatory releasees have been classified into four ethnic categories: white, black, native, and other.

Table R1

Racial Composition of Mandatory Releasees

Race	#	%
White	202	56%
Black	30	8%
Native	120	33%
Other	8	2%
Unknown	2	1%
Total	362	100%

Most mandatory releasees are white (56%) and a third are native.

Release Year

Persons in this file were released over a ten year period--from 1970 - 1979. (The first year, 1970, and the last, 1979, are incomplete.)

Table R2

Mandatory Release Years

Year	#	%
1970	1	-
1971	12	3%
1972	30	8%
1973	19	5%
1974	34	9%
1975	38	10%
1976	66	18%
1977	48	13%
1978	65	18%
1979	46	13%
Unknown	3	1%
Total	362	100%

As Table R2 demonstrates, peak mandatory release years were 1976 - 1979 with 1976 and 1978 having the heaviest concentrations of cases (18% each).

Sentences

Sentence lengths also are of interest. Table R3 presents the picture. Almost 2/3 of the mandatory releasees had sentences of 2 years or less. Only 3 persons (1%) had sentences exceeding 5 years. None of these are life sentences as lifers do not mandatorily release under Alaska law. Mean mandatory release sentence length was 29.2 months.

Similarly, Table R4 shows mandatory releasee time served. Seventy percent of these persons served 2 years or less; only 1 stayed in prison over 5 years. Mean time served was 21.8 months, 75% of the sentence mean (see Table R3). Thus, although Alaska good time credit laws as applied to these persons

Table R3

Mandatory Release Sentences

(in Months)

Months Sentenced	#	%
Under 7	27	7%
7 - 12	103	28%
13 - 24	103	28%
25 - 36	68	19%
37 - 60	40	11%
61 - 120	18	5%
Over 120	3	1%
Mean	29.2	100%

Table R4

Mandatory Releasee Time Served

(in Months)

Months Served	#	%
Under 7	29	8%
7 - 12	107	30%
13 - 24	117	32%
25 - 36	60	17%
37 - 60	34	9%
61 - 120	14	4%
Over 120	1	-
Mean	21.8	100%

are tedious to understand and explain, they worked out to about a 25% credit on sentences up to 5 years on which parole was not granted.

Offense

These mandatory releasees were imprisoned for a great variety of offenses. In no case were more than 30 persons mandatorily released for the same offense. Table R5 shows the 10 most frequent crimes represented and the percent of the 362 total population included in each crime grouping. The table accounts for 54% of the cases.

Table R5

Mandatory Releasees' Most Frequent Imprisonment Offenses

Offense	#	%
BNIAD	30	8%
ADW	26	7%
BIAD	24	7%
GL	22	6%
Forgery	20	6%
Robbery	17	5%
L&L	17	5%
R&C	15	4%
Manslaughter	13	4%
Sale of Drugs	12	3%
Total	196	54%

Race & Release

Though there are a multitude of excursions possible through these data, their full exploration awaits questions for which answers are needed from them. To give an idea of the potential here we can use a couple of questions about race.

During the formulation of these data sets a question arose as to whether one racial group or another receives parole

Table R6

Release Type by Race

Race	Mode of Release: Mandatory Release #	Mandatory Release %	Parole #	Parole %	Combined #	Combined %	% Paroled
White	202	56%	381	57%	583	57%	65%
Black	30	8%	110	17%	140	14%	79%
Native	120	33%	152	23%	272	26%	56%
Other	8	2%	15	2%	23	2%	65%
Unknown	2	1%	7	1%	9	1%	-
Total	362	100%	665	100%	1,027	100%	-

$x^2 = 21.15$ df= 3 P= L .001

more frequently. The last column in Table R6 indicates blacks are most likely to be paroled (79%), whites and "others" are next most likely (65% each), and natives are least likely (56%). The main differences are among the whites, blacks, and natives. Whites are about equally represented in both the mandatory release and the parole groups, with blacks overrepresented among parolees and natives overrepresented among mandatory releasees.

Whether or not these differences can be accounted for in terms of the applicable sentence lengths is a reasonable question. Table R7 shows mean sentences for mandatory releasees and for parolees by race. The parolees have sentences roughly twice as long as do the MR's. This is true of each racial group, except that paroled blacks' mean sentences are well over twice as long as are their MR counterparts'.

Table R8 gives comparable findings for mean terms served by race. Each racial group serves much closer to the same mean months whether MR'd or paroled.

Table R7

Mean Months Sentenced by Race
Mandatory Releasees and Parolees

Race	Release Type: Mandatory Release	Release Type: Parole*
White	26.6	54.2
Black	34.6	79.2
Native	30.3	59.6
Other	61.5	127.6
Overall Mean	29.3	61.3
Total Cases (Missing Cases)	360 (2)	576 (89)

Table R8

Mean Months Served by Race
Mandatory Releasees and Parolees

Race	Release Type: Mandatory Release	Release Type: Parole
White	20.2	19.4
Black	23.0	25.7
Native	22.9	21.4
Other	43.8	24.1
Overall Mean	21.9	21.1
Total Cases (Missing Cases)	360 (2)	576 (89)

* Note that these tables are based on a slightly different population than data cited in previous reports. This base is used to make MR and parolee codings comparable.

Table R9 tells that only "other" races serve a substantially different portion of their sentences than the balance of the ethnic groups. Thus, it appears that sentence length does impact proportions paroled. Natives tend to have shorter sentences and, thus, to be paroled somewhat less than other minority racial groups. They serve the same portions of their sentences as whites, though, whether MR'd or paroled. Blacks serve shorter terms, proportionally, reflecting the longer sentences with which they enter prison. This is even more true for those in the "other" racial group. Blacks are paroled at the greatest rate of any racial group though they serve slightly more time than whites and natives.

Table R9

Mean Months Served as a Proportion of Mean Sentence, by Race Mandatory Releasees and Parolees

	Release Type	
Race	Mandatory Release	Parole
White	76%	36%
Black	66%	32%
Native	76%	36%
Other	71%	19%

Another way to formulate these data, to assure mean sentence data are not distorting, is to look at sentence lengths by time categories. Table R10 lends this perspective.

Another important consideration here touches parole performance by various racial groups. How one evaluates the appropriateness of times served by racial groups is impacted by effectiveness considerations. One index to effectiveness is the proportions of each group who sustain new felonies while on parole. Table R11 shows blacks have the highest portion of new