

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4633 HJUD OVERVIEW: DEPT. OF CORRECTIONS

8672

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ACKNOWLEDGEMENTS

The Alaska Inmate Classification Task Force includes:

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SUMMARY

The following goals were established in 1983 when the inmate classification system was implemented.

1. An Agency-wide system for classification decision making for adult offenders.
 - a. An empirically-based classification system.
 - b. A classification system consistent with the American Correctional Association standards, Alaska Statutes and Alaska Administrative Code.

2. Assignment of all prisoners to the appropriate classification level, consistent with custody and security guidelines.
 - a. Prisoners of like security classifications in similar security level institutions or levels of community supervision.
 - b. A safe and secure institutional environment through close monitoring of maximum security prisoners.
 - c. Greatest levels of restraint and supervision given to highly violent, high-risk prisoners.
 - d. Systematic review procedures for prisoners' security, custody and program status.

3. Assessment and programming for effective allocation of resources.

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- a. Procedures to identify special needs resources.
 - b. Assessment of individual needs and the provision for programs and services to meet priority needs.
 - c. Targeting the resources needed, based upon prisoner need through effective casework services.
4. Improved management and service delivery by the ~~Agency~~ ^{Department} through the following procedures:
- a. Monitoring the success/failure of classification designations.
 - b. Classifying institutions and establishing the roles of the classification staff.
 - c. Monitoring service delivery to "special needs" groups of prisoners.
 - d. Identification and appropriate handling of dangerous prisoners.
 - e. Monitoring prisoner initiated actions with regard to classification decisions.
5. Routine reporting of classification matters by individual institutions to the appropriate Regional Director.

The Task Force feels that by and large ^{the Department has met & continues to meet these} ~~we have met and are meeting these~~ goals. Alaska's current system is a significant improvement over the previous system because it provides an effective method of decision-making which facilitates consistency based on documented policies. The system is accepted by staff, inmates and the courts.

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I. Movement through the System

- A. There are indications that Alaska is not making maximum use of the inmate classification system to ensure equitable and systematic placement of inmates. Classification should be viewed as the process through which inmates move through the correctional system.
- B. To reduce the possibility of confusion and enhance the understanding of the distinction between security and custody, the institutions should be labeled: Level I - the least secure institutions; Level II - the moderately secure institutions; Level III - the most secure institutions. Inmate security levels should also be labeled I, II and III.

*See p1
attached*

- ~~C. Long-term sentenced inmates generally should be designated to institutions which match their security level, and transferred through the same process.~~

*See p2
attached*

- D. There are a number of legitimate policy and casework concerns which require placement of inmates in institutional levels which do not match with that dictated solely by their classification score. These policy and casework concerns should be formalized to dispel any misconception that they constitute a failure of the system. ~~Facilities which~~ ^{inadequately} ~~house other than like level inmates should be referred to by level as well as Administrative Institutions.~~ ~~See p. 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.~~

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- E. Short-term sentenced inmates and inmates sentenced to less than one year, will normally complete their incarceration in the originating administrative institution.

See Table I.

II. Monitoring the success/failure of classification designations.

A. Inmate Classification Task Force

1. The Inmate Classification Task Force should be a standing group appointed by the Commissioner and composed of the Chief Classification Officer, several administrative level staff, the Research Analyst, a Superintendent, and institutional Probation Officers, from a ^{jail + a prison.} ~~booking facility and a Probation Officer from a facility which houses long-term sentenced prisoners.~~
2. The Inmate Classification Task Force should be responsible for development of all Department policies relating to inmate classification.
3. Periodically, the Inmate Classification Task Force should meet formally to examine the system.
4. Training for institutional staff should be scheduled regularly. The Task Force should be responsible for ensuring training is up-to-date.

B. Annual Monitoring Report

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Custody Level Long term sentenced prisoner

Security Level

LEVEL I
LCCC +
FCC +

LEVEL II
HACC
Pal Med

LEVEL III
KCC +
WCC
Pal Min

Max

Close

Med

Min

Com

* initial only

	Max	Close	Med	Min	Com
LEVEL I LCCC + FCC +	*				
LEVEL II HACC Pal Med			*		
LEVEL III KCC + WCC Pal Min				*	
Classification Review Schedule	10-13 months		6-8 months		6 months

+ Administrative Facility
May have all 5 custody levels

Short term sentenced prisoner will normally be designated to the originating Administrative facility or appropriate CRC.

Long term sentenced prisoner with less than 1 year to serve will normally be designated to the originating Administrative Facility.

RAF

1. The annual monitoring report should include:
 1. An analysis of override rates.
 2. An analysis of the inmate population by security and custody levels.
 3. An analysis of inmate disciplinary actions.
 4. An analysis of furlough results.
 5. An analysis of inmate transfer data.
 6. An analysis of frequency of classification hearings ^{in the budget}
2. The Department should request resources for the Research Unit in order to facilitate timely, accurate data from which informed decision can be made.

III. Task Force recommendations which will require Policy and Procedure Revisions

A. Inmate Needs Assessment

1. Current practice requires the inmate Needs Assessment be completed on all unsentenced prisoners. It is recommended that this requirement be deleted. (705.01 VI.A.2.)
2. A Needs assessment form is required to be completed for all long-term sentenced prisoners, at designation and again at initial classification. The Task Force is recommending a revision of the AACs regarding initial classification, but meanwhile recommends that ~~the requirement to do another needs assessment at initial classification be dropped, and~~ that ~~instead, require that initial classification include a~~ the Needs Assessment be completed at designation only and at initial classification that document be reviewed and a -7- Program Review Form (Attachment 2) be completed.

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~~review of the Needs Assessment completed at designation.~~

(735.03 VI.C.)

3. A new, more detailed Needs Assessment form is recommended to replace the old. See Attachment #1. (20-735.03C.)

B. Security Level

Until new regulations are promulgated, security levels for institutions will be referred to as Level III (Maximum), Level II (Medium), Level I (Minimum)

1. ~~The use of Maximum, Medium, Minimum and Multi-Use as security levels for institutions should be deleted and replaced by Level III (most secure), Level II (intermediate security), Level I (least secure), and Administrative Facility. (803.19 or 703.01) with jail components indicated.~~ *Those institutions will*

2. Table 1 should be included in 803.19.

3. The use of Max, Med and Min as security levels for inmates *accompanied by a reference to* should be ~~deleted and replaced by~~ Level III, Level II and Level I. All policies and forms referencing these should ~~be~~ *include these references,* modified.

- ~~4. In establishing the security level of an institution, it is recommended that the staff ratio reflect only the ratio of prisoners to security staff, not total institutional staff. 803.19.~~

C. Security Scoring

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1. The Task Force felt that existing policy(ies) result(s) in the overclassification of some inmates, particularly those with multiple offenses one or more of which is violent or escape oriented. In order to rectify the situation it is recommended that:
 - A. Severity of current ~~offense~~ ^{crimes} be scored in two parts, A and B.
 - B. The most serious of the multiple offenses be scored in Severity of Current Offense, part A.
 - C. Other multiple offenses be scored in Severity of Current Offense, Part B, which will allow an additional point for each additional offense up to a total of 3.
 - D. Scores for history of violence should not reflect any offense scored in Severity of Current Offense.
 - E. Scores for History of Escape should not reflect any offense scored in Severity of Current Offense.

2. The change suggested above will require that Level III security scoring be extended ^{from 14-33 to} 14-39 points.

3. The Task Force felt that some inmates are precluded from moving out of a certain security level even though their behavior would indicate that a less secure institution would meet the needs of the inmate, and conversely so. Thus it is recommended that a sliding scale for security scoring be incorporated into policy. Such a scale is in use in the

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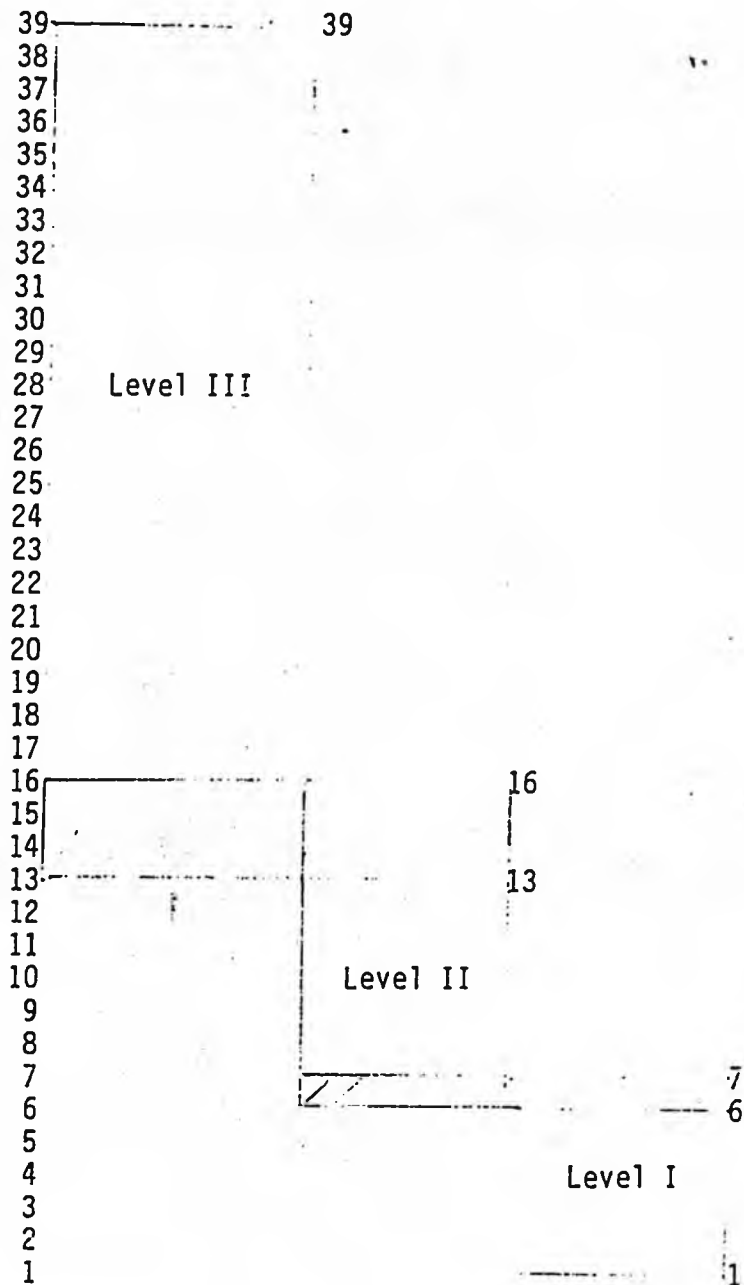
Federal Bureau of Prisons' system, upon which the Alaska system is modeled. See Table 3.

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Table 3

Sliding Scale for Security Scoring



The security level of an inmate scoring 6 or 7 may be established as Level I or II.

The security level of an inmate scoring 13 to 16 may be established as Level II or III.

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D. Custody Scoring

1. In scoring Percent of Time Served, the Task Force felt that the break-off percentiles should be consistent with other time frames. This can be accomplished by:

3 = 0 thru 33-1/3%

4 = 33-^{1/3}~~2/3~~ thru 66-2/3 %

5 = ~~66~~ thru 90%

6 = 91 plus %

2. Currently the Responsibility Prisoner has Demonstrated section is frequently misused. It is intended to reflect a prisoner's program and work involvement, but some reflect disciplinary behavior here as well as in several other places. In order to rectify the situation it is recommended that the heading be changed to Program/Work Involvement.

3. The Family/Community scoring section seems to be the least meaningful category as it exists. The Task force recommends changing this section to ^{Family/Community Support System} ~~Interpersonal Relationships~~ and the scoring ~~to~~ reflect:

0 = poor 2 = average 4 = good
Such will reflect a prisoner's

staff, family and community cc's interaction with inmates,
staff, family and community contacts.

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4. The Custody Change Scale currently contains the word "consider" which is confusing to staff and inmates. The recommendation is to delete the word "consider".
5. The point spread for Level III, Custody Decrease if Points, is 28-30. Indications are that 27-30 is a more realistic points spread and the Task Force recommends that change.
6. In scoring both Type Most Serious Disciplinary Report and Frequency of Disciplinary Reports, all disciplinary convictions now count for one full year. The Task Force felt that there should be a retention scale based on the severity of the offense. Thus it is recommended that a major infraction should be counted for one year; a high moderate for 180 days; a low moderate for 90 days; a minor for 30 days. If the dropping off of a disciplinary should trigger a change in custody score, such does not automatically call for a classification review. That is, the institution for classification reviews still stands.

E. Central Monitoring

1. The Task Force recommends that the categories Assaultive, Sophisticated Criminal Activity and Sex Offender be deleted and that a ^{4th} category ~~Guilty but Mentally III~~ ^{Guilty but Mentally III} be added.

2. The Central Monitoring Action Sheet should be color-coded.

F. Prisoner Classification Review (745.01)

1. Currently it is required that a prisoner with one year or less remain to a firm release date be reviewed at one year,

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six month and three month intervals. This is excessive in most cases and the recommendation is to delete the three month reviews.

G. Miscellaneous

1. The layout of the classification section of the manual is confusing. Each section should be independent of another. Forms and instructions for their completion should precede each relevant policy.
2. The Task Force recommended additions, deletions and changes of wording in many different policies in order to clarify issues.

IV. Task Force recommendations which will require Administrative Code Revision.

deleted
A. The existing procedures state that a short-term sentenced prisoner, at designation, has both a security level and a custody level established. It is recommended that only a custody level be established. A security level is superfluous, as such a prisoner will normally be designated to an administrative facility or CRC (22AAC 05.211).

A B. Existing procedures state that a long-term sentenced prisoner will have an initial classification hearing within 30 days of arrival at the designated facility or within ~~60~~ days after

30

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After the prisoner has received the notice of designation in the CCO.

More

~~sentencing and commitment.~~ Often there is but a very short time from designation to initial classification, and little more if any, is known about the prisoner than at designation. ~~Problems arise if there is an increase at initial classification.~~ It is recommended that a prisoner retain the security level and custody level established at designation until a classification review hearing is held, according to an established schedule. (See Table 1.) The currently mandated initial classification hearing should be replaced by a ~~Program~~ Review Classification ~~hearing.~~ (See Attachment II.) Thus, the receiving institution does not change the inmate's status at this early date, but the committee does have ~~input into~~ ^{establish} the inmate's program assignments. (22AAC 05.22.216 and .221).

delete

~~B X.~~ It is recommended that the term multi-level facility be deleted and replaced by administrative ~~facility~~ ^{facility}. (22AAC 05.22.276).

~~D.~~ Currently, it is mandatory to have a classification hearing for an increase in custody level only. In practice, no custody level is changed without a hearing. Therefore, it is recommended that a hearing be mandated for any change in custody status (22AAC 05.22.241(6)).

~~C X.~~ Currently procedures for classifying unsentenced prisoners are much the same as classifying a sentenced prisoner. This process often involves guess work and distinctions are made that are probably unnecessary. ~~Like,~~ ^{for example} normally the inmate stays at the originating institution, thus security level is superfluous. Further, when a prisoner becomes sentenced the security and custody levels often change which is frustrating to the prisoner

and the staff. It is recommended that an unsentenced prisoner be classified as one of two categories, restricted or unrestricted. See Table 2. Department policy would reflect the criteria upon which this decision is made (22AAC 05.226).

F. The Task Force recommends the deletion of Responsibility Prisoner has Demonstrated as an assessment issue for unsentenced inmates. Often the inmate has been incarcerated for a very short time and this area cannot be assessed fairly. Amount of Bail is a category widely used and the Task Force recommends the following point scale:

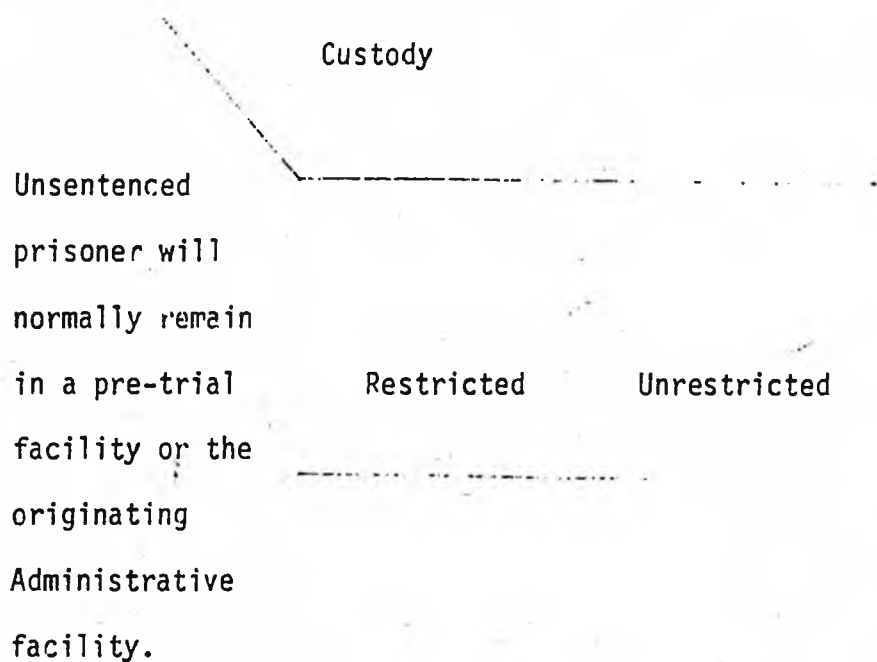
0 - \$1,500	1 point
\$1,500 - \$10,000	3 points
\$10,001- (No Bail)	5 points

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Table 2

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Unsentenced Prisoner Classification



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STATE OF ALASKA

Needs Assessment Survey

Name:
Institution:
Staff member making assessment:

Age:
Date:

(Please check box next to the most appropriate description)

I. Health:

- Sound physical health, seldom ill.
- Handicap or illness which interferes with functioning.
- Serious handicap or chronic illness, needs frequent medical care on a recurring basis.

(Please check source of information)

- a. Observation: _____
- b. Self-report: _____
- c. Verified Medical History: _____
- d. Medical Exam: _____

II. Alcohol Usage:

- No apparent problem.
- Occasional abuse, some disruption of functioning.
- Frequent abuse, serious disruption of functioning, needs assistance.

(Please check source of information)

- a. Observation: _____
- b. PSI: _____
- c. Self-report: _____
- d. Other: _____

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III. Other Substance Usage:

- No apparent problem.
- Occasional abuse, some disruption of functioning.
- Frequent abuse, serious disruption of functioning, needs assistance.

(Please check source of information)

- a. Observation: _____
- b. PSI: _____
- c. Self-report: _____
- d. Other: _____

IV. Intellectual Ability:

- Apparent normal intellectual ability, able to function independently.
- Some need for assistance.
- Independent functioning severely limited.

(Please check source of information)

- a. Self-report: _____
- b. Observation: _____
- c. BETA: _____
- d. WAIS: _____
- e. Other: _____

V. Behavioral/Emotional Problems:

- Exhibits appropriate emotional responses:
- Symptoms limit adequate functioning; requires counseling; may require medication.
- Symptoms prohibit adequate functioning; requires significant intervention; may require medication or separate housing.

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Behavioral/Emotional Problems: (Continued)

(Please check source of information)

- a. Self-report: _____
- b. Observation: _____
- c. PSI: _____
- d. Psychological Evaluation: _____
- e. Psychiatric Evaluation: _____
- f. Other: _____

VI. Sexual Behavior:

- No apparent dysfunction.
- Situational or minor problems.
- Real or perceived chronic or severe problems.

(Please check source of information)

- a. Self-report: _____
- b. Observation: _____
- c. PSI: _____
- d. Psychological Evaluation: _____
- e. Psychiatric Evaluation: _____

VII. Educational Status:

- Has high school diploma or GED.
- Some deficits, but potential for GED.
- Major deficits in math and/or reading; needs remedial program.

(Please check source of information)

- a. Self-report: _____
- b. PSI: _____
- c. Educational Record: _____
- d. TABE: _____, R _____, M _____, L _____

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VIII. Vocational Status:

- Has sufficient skills to obtain satisfactory employment.
- Minimal skill level; needs enhancement.
- Virtually unemployable; needs training.

(Please check source of information)

- a. Self-report: _____
- b. PSI: _____
- c. Employment record: _____
- d. Other: _____

IX. Job-Related Skills:

- Has sufficient positive work habits to maintain employment.
- Some deficits; needs to develop positive work habits.
- Work habits insufficient to maintain employment; needs strong work program.

(Please check source of information)

- a. Self-report: _____
- b. PSI: _____
- c. Employment record: _____
- d. Other: _____

X. Living Skills:

- Presents and expresses self appropriately to social context.
- Has mastered basic survival skills; needs enrichment.
- Lacks skills necessary for social survival.

(Please check source of information)

- a. Self-report: _____
- b. Observation: _____
- c. PSI: _____
- d. Psychological evaluation: _____

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XI. Marital/Family:

- Relatively stable relationships.
- Some disorganization or stress, but potential for improvement.
- Major disorganization or stress.

(Please check source of information) "

- a. Self-report: _____
- b. Observation: _____
- c. PSI: _____
- d. Report from family: _____

XII. Appropriateness for Community Placement:

- Appropriate and qualified for community placement now.
(furlough and/or restitution center - circle one or both if qualified)
- Not currently appropriate and/or qualified for community placement now, but may become so later.
- Should not be placed in the community at any time prior to normal release date due to _____

RECOMMENDATIONS / *Plan*

- 1. Housing: *No* _____

- 2. Work Assignment: *No* _____

- 3. Program Assignments: _____

- 4. Other: _____

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PROGRAM REVIEW

Prisoner Name _____

Date of Review _____

Institution _____

Date of Last Review _____

1. Recommendations at last review

A. Housing _____

B. Work Assignment _____

C. Program Assignment _____

D. Expectations _____

D. Other _____

2. Recommendations this review

A. Housing _____

B. Work Assignment _____

C. Program Assignment _____

D. Other _____

3. Documents reviewed:

A. Needs Assessment _____

D. ~~File~~ _____

B. Work Reports _____

E. Classification _____

C. Program Reports _____

F. Inmate handbook _____

ARTICLE 4.
CLASSIFICATION**DRAFT**

Section

- 200. Prisoner classification
- 205. (Repealed)
- 206. Facility designation process for long-term sentenced prisoners
- 210. (Repealed)
- 211. Facility designation process for short-term sentenced prisoners
- 215. (Repealed)
- 216. Initial classification
- 220. (Repealed)
- 221. Classification review for prisoners incarcerated in Alaska
- 225. (Repealed)
- 226. Classification of unsentenced prisoners
- 230. Agency and procedural opportunities at classification hearing
- 235. (Repealed)
- 236. Composition of classification committee
- 240. (Repealed)
- 241. When a hearing is required
- 245. (Repealed)
- 246. Staff assistance for classification hearing
- 251. Classification of prisoners to facilities operated by the Federal Bureau of Prisons
- 252. Classification of prisoners to non-federal contract facilities outside Alaska
- 253. Classification for transfer to mental health or psychiatric facility
- 254. Classification review for prisoners incarcerated outside Alaska
- 255. (Repealed)
- 256. Standards for return of prisoners incarcerated outside Alaska
- 260. Appeals procedure
- 265. (Repealed)
- 266. Administrative transfer
- 271. Custody classification
- 276. Security level of facilities

22 AAC 05.200 is repealed and readopted to read:

22 AAC 05.200. PRISONER CLASSIFICATION. (a) The commissioner will establish classification procedures for the purpose of making the appropriate assignment of a prisoner with regard to facility placement, custody status, and work and rehabilitative programs.

(b) Except as allowed by 22 AAC 05.485 -- 22 AAC 05.495, assignment to the appropriate security level facility and custody status must be guided by the principles of placement in the least restrictive setting consistent with

maintaining the security and order of the facility, the special needs of the prisoner, and other available resources of the department. (Eff. 9/10/77, Register 63; am 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.206 is repealed and readopted to read:

22 AAC 05.206. FACILITY DESIGNATION PROCESS AND CUSTODY DETERMINATION FOR LONG-TERM SENTENCED PRISONERS. (a) A sentenced prisoner with more than 180 days remaining to a firm release date must, within 15 working days after sentencing and commitment, be initially designated by staff at the holding facility to security and custody levels appropriate for the prisoner in accordance with procedures established by the commissioner.

(b) Central classification shall make the final designation decision as to security and custody levels and facility assignment. The prisoner must be provided a written copy of the final designation decision within three working days after its completion. That decision is not subject to appeal. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.211 is repealed and readopted to read:

22 AAC 05.211. FACILITY DESIGNATION PROCESS AND CUSTODY DETERMINATION FOR SHORT-TERM SENTENCED PRISONERS. (a) A sentenced prisoner with 180 days or less remaining to a firm release date must be designated by staff at the holding facility to a facility, restitution center, or other contract facility appropriate for the prisoner's security and custody needs, within 15 working days after sentencing and commitment, in accordance with procedures established by the commissioner.

(b) The prisoner must be provided a copy of the final designation decision within three working days after its completion. That decision is not subject to appeal. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.216 is repealed and readopted to read:

22 AAC 05.216. INITIAL CLASSIFICATION. (a) Except for a prisoner who is designated to a restitution center or other community placement, within 30 days after a sentenced prisoner's arrival at the designated facility or within 60 days after sentencing and commitment, whichever occurs first, the prisoner must be given a hearing before a classification committee to review and update, if necessary, the prisoner's security and custody status established at designation and to determine the prisoner's program needs. [to determine the prisoner's security and custody status and program needs.] A prisoner who is designated to a restitution center or other community placement may be provided a classification hearing in accordance with procedures established by the commissioner.

(b) The prisoner is entitled to at least 48 hours' advance written notice of a classification hearing. The notice must inform the prisoner

(1) of the time and place of the hearing;

(2) of the purpose of the hearing, and, in the case of a prisoner placed in administrative segregation, the facts that form the basis for segregation under 22 AAC 05.485;

(3) that

(A) if action of the classification committee could result in continued assignment of the prisoner to administrative segregation under 22 AAC 05.485 or in termination of a furlough under 22 AAC 05.335, the prisoner is entitled to choose a staff advocate from an advocate pool, who will meet with the prisoner at least 36 hours before the hearing to actively assist the prisoner and help coordinate the prisoner's presentation at the hearing; or

(B) in all other cases, the prisoner will be informed before the hearing by staff assigned by the superintendent, of the classification process and possible classification action;

(4) that, if the purpose of the hearing is consideration of continued assignment to administrative segregation, termination of a furlough, placement in a psychiatric facility, or transfer to a facility outside of Alaska, the hearing will be tape recorded and kept in transcribable form for

(A) 12 months if the classification action is appealed within the department;

(B) three years if the classification action is appealed to the Superior Court or the classification action resulted in a transfer to a facility outside of Alaska; or

(C) 30 days if the classification action is not appealed;

(5) of the agenda at the hearing and what procedural opportunities are available under 22 AAC 05.230;

(6) of the right to counsel in a classification hearing

(A) if the prisoner has been assigned to administrative segregation under 22 AAC 05.485 and a decision by the district attorney to file felony charges under 22 AAC 05.460 is pending or charges have been filed; or

(B) if transfer to a psychiatric facility is being considered under 22 AAC 05.253;

(7) that before the hearing the prisoner may prepare testimony, solicit statements, or compile other evidence if such action would not create a substantial risk of reprisal or undermine security of the facility;

(8) that the classification committee will make written factual findings, and will indicate the evidence relied upon in sufficient detail so as to provide an adequate basis for review of its decision; and

(9) that the decision of the classification committee may be appealed as set out in 22 AAC 05.260.

(c) The classification committee shall complete the Initial Classification Form for Sentenced Prisoners and issue its decision within three working days after the hearing. The decision as to custody and security status and program participation must be based on the factors contained in the form, and on policies established by the Commissioner to interpret this section. [form.]

(d) A decision of the classification committee that recommends a transfer, a change in security or custody status, a granting or denial of or removal from a furlough, placement or continued placement in a restitution center, contract facility, or administrative segregation, or that relates to an exception case as defined in 22 AAC 05.660, must be forwarded to the superintendent. Absent exigent circumstances, a prisoner who is either facing or appealing disciplinary action may not be assigned to administrative segregation nor have custody status increased in any facility without first being afforded a hearing as provided in 22 AAC 05.485(d) and (e). Except for continued placement of a prisoner in administrative segregation pending disciplinary action, which is governed by 22 AAC 05.495(b), the superintendent has five working days to approve, disapprove, or modify the decision of the committee. If the committee's decision is disapproved or modified, the superintendent shall state the reasons. All other decisions of the committee, not required to be forwarded to the Superintendent, are final unless modified by the superintendent within three working days. The prisoner has the right to appeal the decision under 22 AAC 05.260.

(e) A decision of the Superintendent which grants or denies a furlough, or removes a prisoner from a furlough is not a final decision but rather a recommendation to the Regional Director unless the authority to make that decision has been delegated to the Superintendent pursuant to 22 AAC.321 (b).

(f) [e] If the superintendent approves a recommendation for transfer, the recommendation and the prisoner's classification packet must be forwarded to central classification. If the recommendation is affirmed, central classification will select the receiving facility and coordinate the transfer of the prisoner. If valid reason exists, central classification has the authority to override custody and security determinations made at the facility.

(g) [f] A copy of the final decision must be furnished the prisoner and must include a description of the appeal process set out in 22 AAC 05.260. Forms to facilitate an appeal will be provided upon request. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.221 is amended to read:

22 AAC 05.221. CLASSIFICATION REVIEW FOR PRISONERS INCARCERATED IN ALASKA.

(a) After an initial classification hearing, a prisoner must be given a classification review hearing before a classification committee

(1) at approximate one year intervals, if the prisoner has two or more years remaining to a firm release date; or

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(2) at approximate six-month intervals, if the prisoner has less than two years remaining to a firm release date or is classified community or minimum custody.

(b) The procedures - a classification review hearing are the same as those for a classification hearing as set out in 22 AAC 05.216.

(c) A prisoner may have a classification review hearing at any time at the discretion of the superintendent. (Eff. 9/10/77, Register 63, am 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

Editor's Note: The substance of former 22 AAC 05.210, repealed 11/3/84, Register 92, is contained in 22 AAC 05.221. Therefore, the history note for this section reflects the history of former 22 AAC 05.210.

22 AAC 05.226 is repealed and readopted to read:

22 AAC 05.226. CLASSIFICATION OF UNSENTENCED PRISONERS. (a) A prisoner awaiting trial, sentencing, or probation or parole revocation must be classified by the superintendent within 15 working days after admission into a facility with regard to [security and] custody status [,] and program involvement [,] in accordance with procedures established by the commissioner. An unsentenced prisoner will not be classified with regard to security status because the prisoner will normally be incarcerated in the jail component of the institution in the same locale as the Court in which the prisoner will appeal.

(b) Notwithstanding (a) of this section, a pre-trial detainee incarcerated for 10 days who is not in punitive segregation, is normally eligible to participate in educational programs, religious services and counseling. The pretrial detainee's custody level and housing assignment are relevant in determining the level of participation.

(c) Within 120 days after the superintendent's decision, and every 120 days after that, a prisoner awaiting trial, sentencing, or probation or parole revocation must be given a hearing before a classification committee to review the prisoner's [security and] custody status, and program involvement.

(d) The prisoner is entitled to at least 48 hours' advance written notice of a classification hearing as set out in 22 AAC 05.216(b).

(e) The classification committee shall complete the Classification Form for Unsentenced Prisoners and make its recommendations to the superintendent within three working days after the hearing. The recommendations must be based on the factors contained in the form.

(f) The superintendent has five working days to approve, disapprove, or modify the decision of the classification committee. If the decision is disapproved or modified, the superintendent shall state the reasons.

(g) If the superintendent approves a recommendation for transfer, the recommendation and the prisoner's classification packet must be forwarded to central classification for a final decision. If the recommendation is affirmed, central classification shall select the receiving facility and coordinate the transfer of the prisoner. If valid reasons exist, central classification may override custody [and security] determinations made at the facility. If the recommendation is denied, the superintendent may appeal the denial to the deputy commissioner.

CORRECTION

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(2) at approximate six-month intervals, if the prisoner has less than two years remaining to a firm release date or is classified community or minimum custody.

(b) The procedures for a classification review hearing are the same as those for a classification hearing as set out in 22 AAC 05.216.

(c) A prisoner may have a classification review hearing at any time at the discretion of the superintendent. (Eff. 9/10/77, Register 63, am 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

Editor's Note: The substance of former 22 AAC 05.210, repealed 11/3/84, Register 92, is contained in 22 AAC 05.221. Therefore, the history note for this section reflects the history of former 22 AAC 05.210.

22 AAC 05.226 is repealed and readopted to read:

22 AAC 05.226. CLASSIFICATION OF UNSENTENCED PRISONERS. (a) A prisoner awaiting trial, sentencing, or probation or parole revocation must be classified by the superintendent within 15 working days after admission into a facility with regard to [security and] custody status [,] and program involvement [,] in accordance with procedures established by the commissioner. An unsentenced prisoner will not be classified with regard to security status because the prisoner will normally be incarcerated in the jail component of the institution in the same locale as the Court in which the prisoner will appeal.

(b) Notwithstanding (a) of this section, a pre-trial detainee incarcerated for 10 days who is not in punitive segregation, is normally eligible to participate in educational programs, religious services and counseling. The pretrial detainee's custody level and housing assignment are relevant in determining the level of participation.

(c) Within 120 days after the superintendent's decision, and every 120 days after that, a prisoner awaiting trial, sentencing, or probation or parole revocation must be given a hearing before a classification committee to review the prisoner's [security and] custody status, and program involvement.

(d) The prisoner is entitled to at least 48 hours' advance written notice of a classification hearing as set out in 22 AAC 05.216(b).

(e) The classification committee shall complete the Classification Form for Unsentenced Prisoners and make its recommendations to the superintendent within three working days after the hearing. The recommendations must be based on the factors contained in the form.

(f) The superintendent has five working days to approve, disapprove, or modify the decision of the classification committee. If the decision is disapproved or modified, the superintendent shall state the reasons.

(g) If the superintendent approves a recommendation for transfer, the recommendation and the prisoner's classification packet must be forwarded to central classification for a final decision. If the recommendation is affirmed, central classification shall select the receiving facility and coordinate the transfer of the prisoner. If valid reasons exist, central classification may override custody [and security] determinations made at the facility. If the recommendation is denied, the superintendent may appeal the denial to the deputy commissioner.

(h) A copy of the final decision must be furnished the prisoner and must include a description of the appeal process set out in 22 AAC 05.260. Forms to facilitate an appeal will be provided upon request. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.230 is amended to read:

22 AAC 05.230. AGENDA AND PROCEDURAL OPPORTUNITIES AT CLASSIFICATION HEARING. (a) A hearing before a classification committee must proceed as follows:

(1) the chairperson shall ensure that the prisoner understands the purpose of the hearing and the procedural opportunities afforded under (4) of this subsection;

(2) a member of the committee, the prisoner's facility probation officer, or staff advocate if the prisoner is being assisted by an advocate, may propose classification action and shall describe the aspects of the prisoner's record or other rationale that form the basis of the proposal;

(3) if, before or at the hearing, additional time to gather information, testimony, or evidence relating to the proposed action is required, the chairperson may postpone the hearing for up to 20 working days in a hearing other than one provided for in 22 AAC 05.485;

(4) the prisoner has the following procedural opportunities:

(A) a reasonable opportunity to challenge the factual basis or rationale advanced in support of the proposed classification action;

(B) the right to appear and the opportunity to present evidence and witnesses in the prisoner's own behalf and to confront and cross examine witnesses, subject to limitation by the chairperson based upon repetition, relevancy, risk of reprisal, or security of the facility; if a witness is examined out of the presence of the prisoner, the chairperson shall inform the prisoner of the substance of the testimony and specify on the record the reasons for any exclusion;

(C) the chairperson may require the prisoner to direct questions through the prisoner's staff advocate or facility probation officer if present, or through the chairperson.

(b) Only evidence that is presented at the hearing or that is contained in the prisoner's file may be considered at a classification hearing. Prisoner conduct before and during the hearing and evidence that contains or constitutes hearsay, may be considered if it appears to be reliable and relevant to the issues under consideration. Findings and recommendations of prior disciplinary or classification committees, once all appeals have been exhausted, are conclusive and not subject to review. (Eff. 9/10/77, Register 63; am 11/3/84, Register 92; am 1/9/87, Register 101)

DRAFT

22 AAC 05.236
22 AAC 05.241

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.236 is amended to read:

22 AAC 05.236. COMPOSITION OF CLASSIFICATION COMMITTEE. (a) A classification committee must be composed of three members appointed by the superintendent of the facility. The superintendent shall designate one member as the chairperson.

(b) A person may not serve on a classification committee if the person

(1) requested or recommended the classification action;

(2) served on a disciplinary committee that was convened due to any conduct of the prisoner which is related to the subject of the classification hearing; or

(3) would have been disqualified under 22 AAC 05.450(b) from serving on a disciplinary committee that may have been convened due to any conduct of the prisoner which is related to the subject of the classification hearing. (Eff. 9/10/77, Register 63; am 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

Editor's Note: The substance of former 22 AAC 05.225, repealed 11/3/84, Register 92, is contained in 22 AAC 05.236. Therefore, the history note for this section reflects the history of former 22 AAC 05.225.

22 AAC 05.241 is amended to read:

22 AAC 05.241. WHEN A HEARING IS REQUIRED. (a) In addition to initial classification and classification review hearings required under 22 AAC 05.216 -- ?? AAC 05.226, a hearing before a classification committee, at which the prisoner has a right to be present, is required if the following classification actions are possible:

(1) transfer to a facility outside of Alaska under 22 AAC 05.251 -- .252;

(2) transfer to a mental health or psychiatric facility as set out in 22 AAC 05.253;

(3) administrative transfer as set out in 22 AAC 05.266;

(4) continued placement in administrative segregation under 22 AAC 05.485;

(5) termination of a furlough under 22 AAC 05.335; and

(6) an increase in custody status.

(b) The commissioner will, in his or her discretion, require any other classification action to be the subject of a hearing.

(c) If exigent circumstances exist, nothing in this chapter prohibits a classification action from being implemented before a hearing, except for a transfer to a facility outside of Alaska. (Eff. 9/10/77, Register 63; am 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

Editor's Note: The substance of former 22 AAC 05.215, repealed 11/3/84, Register 92, is contained in 22 AAC 05.241. Therefore, the history note for this section reflects the history of former 22 AAC 05.215.

22 AAC 05.246 is amended to read:

22 AAC 05.246. STAFF ASSISTANCE FOR CLASSIFICATION HEARING. (a) A prisoner is entitled to the active assistance of an advocate in investigating the facts and coordinating the prisoner's presentation at a classification hearing if the purpose of the hearing is consideration of continued assignment to administrative segregation under 22 AAC 05.485, or termination of a furlough under 22 AAC 05.335.

(b) A prisoner who desires to be assisted by a staff advocate may request one from a pool of three or more correctional officers or facility probation officers designated by the superintendent for that purpose. The superintendent may disapprove any request based on administrative reasons such as, for example the staff member would have to be paid overtime for appearing before the classification committee, is on vacation, or is on sick leave. However, the prisoner may select from a minimum of two advocates in the pool.

(c) Once selected, the advocate shall meet with the prisoner at least 36 hours before the scheduled hearing to assist the prisoner. If requested by the prisoner, the advocate shall assist the prisoner in interviewing and preparing examination of witnesses for the hearing, and advise the prisoner how best to proceed on the possible classification actions for which the advocate was selected. If necessary, the advocate must have the assistance of an interpreter.

(d) If the purpose of a classification hearing is consideration of a classification action other than one set out in (a) of this section, the prisoner must be informed of the classification process and possible classification action before the hearing. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.251 is repealed and re-enacted to read:

22 AAC 05.251. CLASSIFICATION OF PRISONERS TO FACILITIES OPERATED BY THE FEDERAL BUREAU OF PRISONS. (a) A prisoner will, in the department's discretion, be transferred outside Alaska to a facility operated by the Federal Bureau of Prisons if the prisoner is provided a classification hearing as set out in 22 AAC 05.216, a determination is made that the prisoner's rehabilitation or treatment would not be substantially impaired by the transfer, and the prisoner meets one or more of the following criteria:

- (1) the prisoner requests out-of-state placement;
- (2) the prisoner has a term of incarceration of seven and one-half years or more remaining to be served;
- (3) the prisoner lacks significant family or community ties or lacks a significant time of residency in Alaska;
- (4) the prisoner requires protective custody, because the prisoner would, in all likelihood, be subjected to a life-threatening situation if housed in any appropriate facility within Alaska;
- (5) the prisoner has been convicted of a violent offense, either the present offense or a prior conviction, and is an escape risk because of one or more documented escapes from a facility or two or more documented escape attempts from a facility;
- (6) the prisoner has a special medical or mental health need that cannot reasonably be met in Alaska.

(b) A prisoner with two years or less remaining to a firm release date will not be transferred to a facility outside Alaska operated by the Federal Bureau of Prisons unless the prisoner meets the criteria set out in (a)(1), (4) or (6) of this section.

(c) Limitations on transfers to a facility operated by the Federal Bureau of Prisons:

(1) Any of the following factors weigh heavily against a decision to transfer a prisoner to a facility operated by the Federal Bureau of Prisons:

- (A) the prisoner has no prior criminal record or no prior incarcerations;
- (B) the prisoner is less than 20 years old;
- (C) the prisoner has maintained a traditional or rural Alaska lifestyle.

(2) A prisoner with a pending criminal appeal will not be transferred to a facility operated by the Federal Bureau of Prisons until at least 30 days after the record on appeal is certified. (Eff. 11/3/84, Register 92; am 11/15/86, Register 100)

Authority: AS 33.30.011
AS 33.30.021
AS 33.30.031
AS 33.30.061
AS 44.28.030

22 AAC 05 is amended by adding a new section to read:

22 AAC 05.252. CLASSIFICATION OF PRISONERS TO NON-FEDERAL CONTRACT FACILITIES OUTSIDE ALASKA. (a) A prisoner will, in the department's discretion, be transferred to a contract facility outside Alaska, except one operated by the Federal Bureau of Prisons, if the prisoner is provided a classification hearing as set out in 22 AAC 05.216 and a determination is made that the prisoner's rehabilitation or treatment would not be substantially impaired by the transfer.

(b) In order to permit adequate communication with counsel, a prisoner with a pending criminal appeal will ordinarily not be transferred to a contract facility outside of Alaska until at least 70 days after sentencing. (Eff. 11/15/86, Register 100)

Authority: AS 33.30.011
AS 33.30.021
AS 33.30.031
AS 33.30.061
AS 44.28.030

22 AAC 05 is amended by adding a new section to read:

22 AAC 05.253. CLASSIFICATION FOR TRANSFER TO MENTAL HEALTH OR PSYCHIATRIC FACILITY. (a) Except as provided in (b) of this section, a prisoner being considered for transfer to a mental health or psychiatric facility for observation or treatment of a mental illness must be provided the following:

- (1) a recorded classification hearing as set out in 22 AAC 05.216(b);
- (2) disclosure, at the time of notice of the hearing, of the evidence being relied upon as the basis for the transfer;
- (3) an opportunity to be heard in person, and to present testimony of witnesses and confront and cross-examine witnesses, except upon findings of good cause for not permitting the presentation, confrontation, or cross-examination;
- (4) an independent decision-maker not involved in the recommended transfer, who shall preside over the hearing;
- (5) a written statement by the decision maker as to the evidence relied upon and reasons for transferring the prisoner;
- (6) availability of legal counsel if the prisoner is financially unable to furnish his or her own, as permitted in accordance with AS 18.85;
- (7) the right to appeal a decision for transfer to the deputy commissioner as set out in 22 AAC 05.260(d), and, in the case of out-of-state transfer under 22 AAC 05.251 -- 22 AAC 05.252, a stay of transfer until the appeal has been decided; and

(8) notice of all rights listed in (1) -- (7) of this subsection at least 10 days before the hearing.

(b) The physician, psychologist, or psychiatrist who previously determined that the prisoner is suffering from a mental illness for which treatment in a mental health or psychiatric facility is appropriate shall testify at the hearing before the independent decision maker. If the mental health professional who made the finding of mental illness is presently unavailable, another physician, psychologist, or psychiatrist designated by the commissioner may be substituted.

(c) If exigent circumstances exist which require a prisoner's immediate transfer into a psychiatric facility for mental health observation or stabilization, the transfer is an interim emergency medical placement and does not require a classification hearing unless

(1) the prisoner is not returned to a correctional [the original] facility within 20 days, in which case the prisoner must be provided a hearing under (a) of this section within 30 days after the transfer; or

(2) a clinical diagnosis indicates the need for treatment in a psychiatric facility for more than 10 days, in which case the prisoner must be provided a hearing under (a) of this section within 15 days after the diagnosis. (Eff. 1/9/87; Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 33.30.061
AS 44.28.030

22 AAC 05 is amended by adding a new section to read:

22 AAC 05.254. CLASSIFICATION REVIEW FOR PRISONERS INCARCERATED OUTSIDE ALASKA. (a) The commissioner will establish procedures for a departmental classification review team for prisoners incarcerated outside Alaska.

(b) A prisoner housed in a facility outside Alaska under 22 AAC 05.251 -- 22 AAC 05.253 is entitled to a hearing before a classification review team, at approximate one year intervals. The prisoner's continued placement outside Alaska will be considered at the hearing.

(c) The hearing under (b) of this section must be tape recorded and kept in transcribable form for three years. After considering the recommendation of the classification review team, central classification will make the final decision. The prisoner must be provided a copy of the decision and may appeal the decision to the deputy commissioner within 10 working days after receiving notice of the decision. (Eff. 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 33.30.061
AS 44.28.030

22 AAC 05.256 is repealed and readopted to read:

22 AAC 05.256. STANDARDS FOR RETURN OF PRISONERS INCARCERATED OUTSIDE ALASKA. (a) A prisoner incarcerated outside Alaska in a facility operated by the Federal Bureau of Prisons must be returned to the state within 60 days after written notification from the prisoner, if any of the following criteria are met:

(1) the prisoner's life is in danger as evidenced by one or more of the following:

(A) a recent verified attempt on the prisoner's life;

(B) a recommendation for return by the holding facility because the prisoner's life is in danger; or

(C) other documentation sufficient to indicate that the prisoner's life is in danger;

(2) the prisoner has two years or less remaining to a firm release date, and does not have an out-of-state sentence consecutive to the prisoner's state sentence; or

(3) the prisoner is incarcerated outside Alaska solely for medical or mental health treatment and either that treatment is completed or facilities or resources have become available in Alaska for an equivalent level of treatment and security.

(b) For every three prisoners transferred outside Alaska to a facility operated by the Federal Bureau of Prisons, at least one prisoner must be returned to the state from the Federal Bureau of Prisons upon notification to central classification in writing, and central classification's concurrence, that any of the following criteria have been met:

(1) a prisoner has a family crisis that could be demonstrably minimized by the prisoner's return;

(2) a prisoner has been incarcerated outside Alaska for five or more years and has maintained a disciplinary-free facility record, excluding minor infractions, for the entire period of time; or

(3) a prisoner has special needs that cannot be met by the Federal Bureau of Prisons.

(c) A prisoner incarcerated in a facility outside of Alaska may be returned to Alaska at the discretion of central classification, if central classification determines that out-of-state placement has substantially impaired the rehabilitation or treatment of the prisoner.

(d) A prisoner returned to Alaska under (a) or (b) of this section must be given a classification hearing as set out in 22 AAC 05.216 within 10 days after the prisoner's return. A prisoner returned to Alaska for a reason other than one set out in (a) or (b) of this section must be given a classification hearing within 30 days after the prisoner's return.

(e) A prisoner whose request to return to Alaska is denied may appeal the decision to the deputy commissioner within 10 working days after receiving notice of the decision. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 33.30.061
AS 44.28.030

22 AAC 05.260 is repealed and readopted to read:

22 AAC 05.260. APPEALS PROCEDURE. (a) A classification committee action that does not require review by the superintendent may be appealed only to the superintendent unless the superintendent has exercised discretionary authority to modify the classification action under 22 AAC 05.216(d).

(b) Except as provided in (c) of this section, a classification action by a superintendent may be appealed only to the regional director, except for a denial of or removal from a furlough, which may be appealed to the deputy commissioner if the regional director denies the appeal. If the regional director makes the decision to deny a furlough, or remove a prisoner from a furlough, any appeal is made directly to the Deputy Commissioner.

(c) Notwithstanding (b) of this section, the result of a classification hearing, the purpose of which was the consideration of a transfer of a prisoner, may be appealed only to the deputy commissioner. The appeal must be made within five working days after the prisoner receives notice of the decision or after the transfer, whichever occurs first.

(d) Except as provided in 22 AAC 05.254(c) and 22 AAC 05.256(e), an appeal must be submitted by a prisoner within five working days after receiving notice of the decision through a facility staff member designated by the superintendent for the purpose. If a valid reason for delay is stated by a prisoner, this time limit may be extended. With the exception of a transfer to a facility outside Alaska, a classification action may be commenced pending an appeal.

(e) Once an appeal has been filed and received, a response must be made as follows:

- (1) appeal to superintendent - response within five working days;
- (2) appeal to regional director - response within 15 working days; and
- (3) appeal to deputy commissioner - response within 15 working days.

(f) The appropriate official's failure to respond within the time limits set out in (e) of this section must be considered a denial of the appeal. However, a late response granting an appeal is valid.

(g) For purposes of appeal, a prisoner may have access to the tape recording of a disciplinary or classification hearing, except that the portion of a tape which contains the testimony of an informant must be summarized in as much detail as possible so as not to place the informant in danger, and the summary must be made available to the prisoner. (Eff. 9/10/77, Register 63; am 11/3/84; Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.266 is repealed and readopted to read:

22 AAC 05.266. ADMINISTRATIVE TRANSFER. (a) A prisoner may be administratively transferred between facilities as follows:

(1) In response to an emergency or potentially hazardous situation

(A) the superintendent of the holding facility must request approval for a transfer from the regional director; if the transfer is from one region to another, the sending and receiving regional directors must both approve;

(B) if the request is denied, the decision may be appealed to the deputy commissioner; and

(C) if the transfer is approved, central classification must be informed, must notify the holding and receiving facilities, and must coordinate the transfer.

(2) In response to an administrative action that can be more efficiently accomplished at another facility

(A) the superintendent of the holding facility must request approval for a transfer from central classification;

(B) if the request is denied, the superintendent may appeal the decision of central classification to the deputy commissioner; and

(C) if the transfer is approved, central classification must notify the holding and receiving facility, and coordinate the transfer.

(b) An administrative transfer may not be imposed in an arbitrary or vindictive fashion, nor may it be used as a pretext for disciplinary action without first providing the prisoner a hearing as set out in 22 AAC 05.216(b).

(c) If the transfer will result in the prisoner being assigned to administrative segregation under 22 AAC 05.485(a), the prisoner must be granted a hearing before a classification committee in accordance with 22 AAC 05.485(d) -- (f).

(d) A prisoner may appeal an administrative transfer as described in 22 AAC 05.260(c) by filing a written appeal, through a facility staff member designated by the superintendent, with the deputy commissioner.

(e) Except as provided in (c) of this section, within 10 working days after arrival at the receiving facility the prisoner must be provided a classification hearing as set out in 22 AAC 05.216.

(f) The prisoner may appeal the decision of the classification committee as provided in 22 AAC 05.260. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.271 is repealed and readopted to read:

22 AAC 05.271. CUSTODY CLASSIFICATION. (a) Staff, at designation or in the case of an unsentenced prisoner at initial classification, [A classification committee] shall assign a custody level to a prisoner based on the degree of staff supervision necessary to monitor and control the prisoner's behavior, in accordance with procedures established by the commissioner. A classification committee may modify and assign a custody consistent with the requirements in 22 AAC 05.216, 22 AAC 05.221 and 22 AAC 05.226.

(b) Levels of custody, and degree of staff supervision appropriate for each level, are as follows:

(1) Community Custody - assignment to community custody indicates that the prisoner must be considered for the least-restrictive housing, program, and supervision available in the department, which may include furlough, contract facility placement in the community, outings with or without escort, work details outside the facility with minimal supervision and, if necessary, hospitalization without a guard.

(2) Minimum Custody - assignment to minimum custody indicates that a prisoner must be considered for the least-restrictive housing, program, and supervision available within the facility's perimeter and activities outside the perimeter. These activities may include supervised contract facility placement, work details outside the facility with periodic staff supervision or work details outside a contract facility with constant staff supervision, trips outside the facility with a single staff escort, and if necessary, hospitalization under guard. A minimum custody prisoner is not eligible for furlough.

(3) Medium Custody - assignment to medium custody indicates that a prisoner must be considered for regular housing, program, and supervision within the facility's perimeter. A medium-custody prisoner is not eligible for furlough. Work assignments or activities outside the facility's perimeter must be approved by the deputy commissioner. The prisoner must be placed in hand restraints and escorted by at least one officer when moved outside the facility's perimeter, and, if necessary, must be hospitalized under guard.

(4) Close Custody - assignment to close custody indicates that a prisoner requires a substantial level of supervision due to being identified as assaultive, predatory, riotous, an escape risk, or seriously disruptive to the orderly administration of the facility. A prisoner is eligible for housing and program activities, within the secure perimeter of the facility, which facilitate close staff supervision. Close-custody prisoners are not eligible for furlough, and movement outside the facility's perimeter requires the superintendent's approval, the presence of at least two officers, one of which must be armed, and the prisoner in hand and leg restraints. If hospitalization is necessary, the prisoner must be under guard.

(5) Maximum Custody - assignment to maximum custody indicates that a prisoner requires the maximum level of supervision available within the facility due to being identified as an escape risk, the most assaultive, predatory, riotous, or seriously disruptive to the orderly administration of the facility. A maximum custody prisoner must be placed in secure housing, with very limited program activities, with maximum supervision within the secure perimeter of the facility. Maximum custody prisoners are not eligible for furlough, and movement within the facility requires two escorting officers using restraints as necessary and appropriate. Movement outside the facility's perimeter, other than for court appearances, requires the superintendent's written approval, the presence of at least two officers, one of which must be armed, and the prisoner in hand and leg restraints. If hospitalization is necessary, the prisoner must be under guard. (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.276 is repealed and readopted to read:

22 AAC 05.276. SECURITY LEVEL OF FACILITIES. (a) The commissioner will establish policies and procedures for determining the appropriate security level of the prison component of a correctional facility. The prison component will normally be utilized for the incarceration of long term sentenced prisoners as defined in 22 AAC 05.206. The security levels will be Levels III, II, and I, based on the security features and staffing ratio of the facility, with Level III being the most secure. The commissioner will establish policies and procedures for determining the appropriate security level of the prison component of a correctional facility. [The security level of a correctional facility will be maximum, medium, minimum or multi-level, based on the security features and staffing ratio of the facility.] (Eff. 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

(b) The Commissioner will, in his or her discretion, establish a jail component in each correctional facility for the purpose of incarcerating persons other than long term sentenced prisoners. The jail component of a correctional facility will, by necessity, hold prisoners of varying custody levels and security needs.

22 AAC 05.320 is repealed:

22 AAC 05.320. WORK FURLOUGHS. Repealed 1/9/87.

22 AAC 05 is amended by adding a new section to read:

22 AAC 05.321. PRERELEASE FURLOUGH. (a) A prerelease furlough is an authorized leave of absence from a correctional facility designed to facilitate the reintegration of a prisoner into society.

(b) The regional director may grant an eligible sentenced prisoner a prerelease furlough in accordance with (c) of this section. If a request for prerelease furlough is denied, the prisoner must be provided a written explanation of the reasons for the denial. The decision of the regional director may be appealed to the deputy commissioner. If the regional director delegates to a Superintendent the authority to grant or deny a prerelease furlough, the decision of the Superintendent must be appealed first to the regional director.

(c) To be eligible for consideration for a prerelease furlough, the prisoner must

(1) be classified at the community custody level;

(2) if the sentence is more than one year, have served at least one-third of the sentence and be within three years or less of the firm release date;

(3) not have a pending disciplinary action, and must not have been found guilty of a major or high-moderate infraction within the past 120 days; and

(4) agree in writing to abide by the conditions established for the prisoner's behavior while on furlough.

(d) In the case of a prisoner convicted of a crime against person, upon request of the victim notice of the regional director's intent to consider the prisoner for a prerelease furlough must be sent to the victim. The victim may comment in writing on the intent of the regional director to release the prisoner on prerelease furlough status. The regional director shall consider the comments of the victim before making a final decision to release a prisoner on a prerelease furlough. If the victim requests notification, the regional director shall make every reasonable effort to notify the victim of an intent to release the prisoner on a prerelease furlough. The notice must contain the expected date of the prisoner's release, the geographic area in which the prisoner will reside and other pertinent information concerning the prisoner's release that may affect the victim.

(e) The restrictions and supervision required for a prerelease furlough must provide safeguards that minimize risk to the public, and include, as a minimum,

(1) frequent contact with the prisoner by the persons supervising the prisoner;

(2) knowledge by supervisory staff of the location of the prisoner;

(3) periodic reports by supervisory staff to the regional director on the performance of the prisoner while on furlough; and

ARTICLE 10.
GENERAL PROVISIONS

Section

- 600. Applicability
- 610. Harmless error
- 660. Definitions

22 AAC 05.600 is amended to read:

22 AAC 05.600. APPLICABILITY. (a) Except as otherwise provided, this chapter applies only to facilities operated and managed by employees of the Department of Corrections.

(b) The commissioner will, in his or her discretion, upon notification that a facility emergency exists which endangers life or property, suspend the operation of this chapter for the facility affected only so long as the emergency exists and as necessary to resolve the emergency. (Eff. 9/10/77, Register 63; am 1/9/87, Register 101)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.610. HARMLESS ERROR. Failure of a staff member to follow the regulations set out in this chapter does not invalidate a decision absent a showing of prejudice by the prisoner. (Eff. 11/3/84, Register 92)

Authority: AS 33.30.011
AS 33.30.021
AS 44.28.030

22 AAC 05.660 is repealed and readopted to read:

22 AAC 05.660. DEFINITIONS. (a) In this chapter, unless the context requires otherwise,

(1) "administrative segregation" means a form of separation from the general facility population in accordance with 22 AAC 05.485, if the continued presence of a prisoner in the general population would be a serious threat to life, property, self, staff, other prisoners, or the security or orderly administration of the facility; "administrative segregation" does not include maximum custody housing under 22 AAC 05.271;

(2) "administrative transfer" means the transfer of a prisoner between facilities for any purpose related to an emergency or potentially hazardous situation or to facilitate an administrative action that can be more efficiently accomplished at another facility, such as parole hearing, court action, medical or mental health treatment, military tribunal, family emergency, or population management;

(3) "admission" means the administrative process of accepting a prisoner into an adult correctional facility;

(4) "assistant superintendent" means the deputy chief administrator of an adult correctional facility or any employee of the department designated by the assistant superintendent, superintendent, regional director, deputy commissioner or the commissioner to carry out an official function of the assistant superintendent;

(5) "body cavity search" means the intrusive manual, mechanical, or instrument examination of a person's body appendages and openings by medical personnel;

(6) "central classification" means the staff in the department responsible for system-wide classification and coordination, or any employee of the department designated by the commissioner or deputy commissioner to carry out any official function relating to system-wide classification and coordination;

(7) "classification form" means one of several forms [the form] used to provide specific guidelines for the review and assessment of a prisoner's security and or custody level and program participation; [level; there is a form] there are forms for sentenced prisoners and [one] for unsentenced prisoners;

(8) "classification packet" means prisoner case record information forwarded to central classification for effecting a classification action, which contains, if applicable, a final Judgment and Commitment, presentence investigation report, recent psychiatric and psychological report, time accounting records, any security designation or classification form, needs assessment survey form, and related information;

(9) "commissioner" means the commissioner of the Alaska Department of Corrections, or any employee of the department designated by the commissioner to carry out any official function of the commissioner;

(10) "contract facility" means a correctional facility provided to the Department of Corrections by agreement under AS 33.30.031;

(11) "custody status" means one of several categories to which a prisoner is assigned and which describes the prisoner's freedom of movement within an adult correctional facility or the community, and the degree of supervision required;

(12) "department" means the Alaska Department of Corrections;

(13) "deputy commissioner" means the deputy commissioner for [operations of] the Department of Corrections, or any employee of the department designated by the commissioner or deputy commissioner [for operations] to carry out an official function of the deputy commissioner;

(14) "designation" means initial determination of placement for a prisoner, based upon security, custody, and or program requirements;

(15) "exception case" means a prisoner whose offense or subsequent conduct involves: a notorious crime, such as one that has attracted substantial

attention in the media, that is particularly violent, or that is a serious sex offense; substantial threats against a person or persons; or an escape risk such as an escape attempt in the last five years or an actual escape in the last 10 years;

(16) "facility" or "correctional facility" means a state prison facility or institution operated and managed by employees of the department designated by the commissioner, for the confinement, care, and discipline of prisoners;

(17) "facility emergency" means a situation in which a prisoner or prisoners, or other circumstances, pose a threat to the security of the facility or any part of the facility and which cannot be managed without extraordinary measures;

(18) "firm release date" means the date on which a prisoner is scheduled to be released, as established by statutory good time calculation, court order, or parole board action;

(19) "frisk search" means a visual and physical pat-down search of a person's clothing and body parts that are visible without the removal of clothing;

(20) "frivolous" means a grievance complaint that addresses information or circumstances that are trivial, lacking in seriousness, irresponsible, self indulgent, or that have already been addressed;

(21) "mail" means correspondence, printed materials, or packages sent to or from prisoners through the U.S. Postal Service; "mail" does not include material enclosed within mail which did not originate with the sending individual or organization;

(22) "obscene" means

(A) words, gestures, language, books, newspapers, periodicals or other written or pictorial materials that the average person, applying contemporary community standards, would find depicts or describes, in a patently offensive way, ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals or sexual sado-masochistic activity;

(B) that the work, taken as a whole, appeals to the prurient interest; and

(C) that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value;

(23) "override" means a classification decision changing security or custody levels to a level different from that which would ordinarily be assigned on the basis of scoring on the classification form, or which has been assigned by a lower level of authority;

(24) "posted" means placed upon a wall or bulletin board, or other form of notice generally available to the prisoner population of a facility such as a prisoner handbook;

(25) "preponderance of the evidence" means the evidence used in a disciplinary proceeding indicating that the prisoner is more likely than not to have committed the acts charged;

(26) "pretrial detainee" means a prisoner held pending adjudication of a criminal charge;

(27) "prisoner" means a person detained or confined for a period of time in a correctional facility, whether by arrest, conviction, order of court, or a person held as a witness, or otherwise; "prisoner" includes municipal prisoners held under contract, but excludes juveniles held under the authority of AS 47.10;

(28) "probable cause" means the level of reliability which arises when the facts and circumstances within the officer's knowledge, including the reasonable inferences that may be drawn from the facts and circumstances, and of which the officer has reasonably trustworthy information, are sufficient to warrant a reasonable person to believe that the suspected item, condition, or circumstance exists and justifies action;

(29) "regional director" or "director" means the chief administrator of the Department of Corrections for the southeast, southcentral, or northern region of the state, or any employee of the department designated by the commissioner, deputy commissioner, or regional director to carry out an official function of the regional director;

(30) "restitution center" means a residential center in the community which provides certain non-violent prisoners the opportunity for rehabilitation through community service and employment while protecting the community through supervision and partial incarceration, and creates a means to provide restitution to victims of crimes, payment of court-ordered fines, dependent support, prisoner cost of care, and other prisoner expenses;

(31) "security" means the interest of the department in preventing assaults, escapes, hazards to health, detriment to reformation or rehabilitation, self-destructive behavior, property damage, and the introduction, transmittal, or possession of contraband;

(32) "special medical needs" means serious and complex medical treatment and care needs of a prisoner that, because of the nature of the medical condition or the extraordinary cost involved in the treatment, cannot be provided in the State of Alaska;

(33) "special mental health needs" means needs of a prisoner who, in the opinion of a physician, psychologist, or psychiatrist, is suffering from a mental illness for which the prisoner cannot secure adequate treatment in prison and who cannot be given adequate mental or psychiatric treatment in a facility owned or operated by the state;

(34) "strip search" means a visual search of a person which requires the complete removal of clothing, and includes a visual body cavity search;

(35) "superintendent" means the chief administrator of an adult correctional facility, or any employee of the department designated by the

superintendent, regional director, deputy commissioner, or the commissioner to carry out an official function of the superintendent;

(36) "traditional or rural Alaska lifestyle" means an individual's way of life as reflected by one or both of the following:

(A) an individual whose entire life has been spent essentially in a village or rural setting with a population of 1,000 or less, which is not connected by roadways or ferries to a metropolitan community of greater than 1,000 population; a person from a setting with a population greater than 1,000, such as Bethel, Nome, Barrow or Kotzebue might fall in this category if the totality of the circumstances indicates a background that is extremely rural or traditional in character such as a rural Alaskan whose social experience is typified by in-village or remote residence with his or her conduct and means of livelihood being of a subsistence nature and lacking in exposure to non-rural life and having negligible commercial work experience for wages; time spent for schooling at Mt. Edgecumbe in Sitka does not in and of itself preclude a person from being classified as having maintained a traditional, subsistence, or rural Alaskan lifestyle; or

(B) a person who is not fluent in the English language and communicates predominantly in an Alaska Native language;

(37) "working day" means a 24-hour period of which no portion includes a Saturday, Sunday, or holiday; in computing a period of time prescribed or allowed by this chapter and pertaining to "working day", the day of the act, event, or default from which the designated period of time begins to run is not to be included; the last day of the period is to be included, unless it is a Saturday, a Sunday or a legal holiday, in which case the period runs until the end of the next working day. A half holiday is considered as other working days and not as a holiday.

(b) In this chapter, and in AS 11.56.390, with respect to a correctional facility as defined in AS 11, "contraband" means any of the following items that have not been specifically approved, authorized, or prescribed by the proper authorities for a prisoner to obtain, make, or possess:

(1) weapons, including firearms, explosives, knives, hacksaw blades, tear gas, dangerous chemical agents, or any tool or other object that may be used as a weapon, from which a weapon may be fashioned, or that is intended to be perceived as a weapon;

(2) controlled substances, the possession of which is punishable by either criminal or civil penalties, and any other type of medication;

(3) alcohol, including wine, distilled spirits, home brew, and any other type of alcoholic substance;

(4) cameras, sound or video recorders, or any electronic or mechanical receiving or transmitting equipment;

(5) any article, including keys, tools, electronic or mechanical devices, and identification information, intended to be used as a means of facilitating an escape; and

(6) any other article, including money, toiletries, books, food, mail and pictures, that is introduced, taken, or conveyed into a facility, or made, obtained, or possessed in a facility in a manner intended to frustrate or evade detection.

(c) In this chapter and in AS 33.30,

(1) "family" means any person or group of persons having the relationship to a prisoner of spouse, father, mother, sister, brother, son, daughter; step-relationship to these relationships; or a person having an immediate-family relationship with the prisoner during formative years;

(2) "furlough" means the authorized absence of a prisoner from a facility for a designated purpose and period of time. (Eff. 9/10/77, Register 63; am 8/30/80, Register 75; am 11/3/84, Register 92; am 1/9/87, Register 101)

Authority: AS 01.10.080
AS 11.56.390
AS 33.30.011
AS 33.30.021
AS 33.30.901
AS 44.28.030

Classification Form for Sentenced Prisoners

(1) _____
Institution

(2) _____
Prisoner Name

(3) _____
Date

(4) _____
Date of Birth

(5) _____
Type of Case: Regular or Exception

(6) _____
OBSCIS Number

SECTION A

SECURITY SCORING

1. Type of Detainer:

0 = None 3 = Class C Felony
1 = Misdemeanor 5 = Class B Felony

7 = Unclassified or
Class A Felony

1

2. Severity of Current Offense:

1 = Misdemeanor 3 = Class C Felony
5 = Class B Felony

7 = Unclassified or
Class A Felony

2

3. Time to Firm Release Date:

0 = 0-12 months 3 = 60-83 months
1 = 13-59 months 5 = 84 + months

Firm Release Date

3

4. Type of Prior Convictions:

0 = None 1 = Misdemeanor

3 = Felony

4

5. History of Escapes or Attempted Escapes:

	None	+15 Years	10-15 Years	5-10 Years	-5 Years
Minor	0	1	1	2	3
Serious	0	4	5	6	7

5

6. History of Violent Behavior:

	None	+15 Years	10-15 Years	5-10 Years	-5 Years
Minor	0	1	1	2	3
Serious	0	4	5	6	7

6

7. SECURITY TOTAL

7

8. Security Level:

Minimum = 0-6 points
Level I

Level II
Medium = 7-13 points

Level III
Maximum = 14-36 points

*Sliding scale - so Level I
Level II =*

SECTION B

CUSTODY SCORING

1. Percent of Time Served:

3 = 0 thru 23% 5 = 76 thru 90 %
4 = 26 thru 75% 6 = 91 plus %

1

2. Involvement with Drugs and/or Alcohol:

2 = Current 3 = Past 4 = Never

2

3. Mental/Psychological Stability:

2 = Unfavorable 4 = No referral or Favorable

3

4. Type Most Serious Disciplinary Report:

1 = Major 3 = Low Moderate 5 = None
2 = High Moderate 4 = Minor

4

EXECUTIVE SUMMARY

(Alaska Felony Sentences: 1984)

EXECUTIVE SUMMARY

This report analyzes sentences imposed for conviction of offenses initially charged as felonies in Alaska Superior Courts during the calendar year of 1984. For analytical purposes, data collected in this study were compared to data in earlier Judicial Council studies. Although the data are for 1984 offenders, they represent the most current analysis of sentencing patterns in Alaska. The 1984 data have been supplemented with 1985 and 1986 data from other sources to provide an up-to-date review of the impact of policy decisions. The study had three purposes:

- A. To describe sentences imposed for serious offenses statewide;
- B. To provide a basis for assessing the impact on sentencing patterns of social and legal policy changes; and
- C. To demonstrate the feasibility of conducting sentencing research utilizing secondary data sources.

(A) The descriptive data provides information of value to judges, attorneys, and the legislature regarding types of sentences and their relationship to different variables. Such information is necessary for practitioners and for persons responsible for development of policy related to criminal justice.

(B) The data on sentences may be useful in assessing the impacts of three important legal and social policy changes:

1. Increased reporting and enforcement of all offenses, especially sex-related offenses since 1980;
2. Adoption by the Legislature of the presumptive sentencing scheme in 1978 and modifications in 1982 and 1983; and
3. Reclassification by the Legislature of sexual and drug offenses during the past four years.

(C) A final purpose of the study was to determine whether new methods of data collection could reduce the cost of sentencing studies and provide adequate data to the criminal justice system. Past Judicial Council studies have relied on

data collected from original case files by trained research assistants. Data for this study were accumulated from three different computerized management systems: PROMIS (Prosecutors' Management Information System, Department of Law), APSIN (Alaska Public Safety Information Network, Department of Public Safety) and OBSCIS (Offender Based State Correctional Information System). The system has allowed the Judicial Council to monitor sentences and to provide data regarding sentencing patterns at a substantially lower cost than would have been possible under its previous methods. Although the system of data collection limits the number of variables which can be included, the resulting data is still of significant value to the criminal justice system.

SUMMARY OF FINDINGS

A. Findings and Conclusions Related to the Impacts of Policy Changes in the Criminal Justice System.

1. Felony dispositions and the number of convicted offenders increased by 100% between 1980 and 1984, despite a state population growth of only 30.6% during the same period and an 11% decrease in overall crime rates (p. 55). In addition, convictions on the most serious charges (Class A and Unclassified) increased by 124% in urban areas (p. 65). The largest increase was in sexual offenses, where prosecutions and convictions grew by 300% (p. 60). Prosecutions and convictions for robberies, homicides and drug offenses also increased (p. 56; App. E). The increased number of convictions was estimated to account for 39.7% of the 100% increase between 1980 and 1984 in total prison time sentenced. The increased seriousness of convictions was estimated to account for 18.7% of the increase in total prison time served (p. 81).

2. Legislative changes in 1982 and 1983 included reclassification of sexual offenses, recodification of drug offenses, and application of presumptive sentencing to all Class A first offenders (pp. 47-53). These changes had the following effects:

- a) The estimated impact of extending presumptive sentencing to Class A first offenders has been to increase by 179% the number of Class A offenders subject to presumptive sentencing (p. 51);

- b) Although more cases became subject to presumptive sentences, mean sentence lengths imposed for most serious offenses in 1984 were shorter than comparable mean sentence lengths in 1976-79, prior to the adoption of presumptive sentencing (Appendix C, Tables C-1 and C-2);
- c) The seriousness of most sexual offenses was increased, thus increasing the likelihood of trial and of imposition of a presumptive sentence. Reclassification resulted in longer mean sentences for every type of sexual offense and in a lower percentage of offenders sentenced to zero active jail time (p. 77, Table 31); and
- d) Combined, these changes accounted for an estimated 41.6% of the 100% increase between 1980 and 1984 in total prison time sentenced (p. 81).

3. Prosecutorial policy determines in part how justice system resources will need to be allocated.

- a) Court felony trial rates first increased in the mid-to-late 1970s following the adoption by the Attorney General of a ban on plea bargaining. This elevated felony trial rate did not change substantially following the adoption of presumptive sentencing (pp. 54-65). The patterns of changes in felony trial rates suggest a strong relationship between the plea bargaining policy and number of trials and a secondary relationship between presumptive sentencing and reclassification of offenses and numbers of trials.
- b) Although the number of forcible rapes reported to police agencies in Alaska increased by 63.7% between 1980 and 1984, the number of convictions for sexual assaults in the first degree and attempts increased by an estimated 279% during the same period (p. 56). The prosecutorial commitment to increase resources for sexual offense cases was related to the greatly increased number of convictions.

- c) Dispositions of felony cases reflected variation in prosecutorial policies in different offices. Thirty-one percent of defendants initially charged with felonies in Anchorage were ultimately convicted of a misdemeanor as their most serious charge, as compared to 4% in Fairbanks and 15% in Juneau. These variations may also reflect local differences in police charging policies (p. 28).

4. Criminal justice agency resources increased by 117% overall between fiscal year '81 and fiscal year '86, with individual agencies receiving increases ranging from 56% (trial courts) to 229% (Department of Corrections) (p. 57, Table 22).

5. Court felony trials increased by 121% between fiscal year '81 and fiscal year '85, while the number of superior court judges increased by only 38% (p. 67).

6. No new evidence of any racial disparity in sentencing appeared in 1984 cases. Since all evidence of racial disparity had disappeared by 1980, it appears that presumptive sentencing did not cause the elimination of disparity. These findings suggest that presumptive sentencing may be unrelated to racial disparity in sentencing (pp. 41, 87).

7. The classification of offenses by the legislature appears to have resulted in consistent sentencing practices for most types of offenders. The exception was Class B drug offenders, whose mean sentence length was about the same as the mean sentence length for Class C drug offenders (p. 90).

8. Available data suggest that presumptive sentencing was responsible for part of the increase in court felony trials and prison population between 1980 and 1984. Other contributing factors were:

- a) Increased reporting and enforcement of certain offenses, especially sexual offenses;
- b) Upward reclassification of sexual and other offenses by the legislature with provisions for presumptive or mandatory minimum sentences, especially for first offenders;

- c) Elimination of discretionary parole for presumptively-sentenced offenders and adoption by the Parole Board of guidelines for release of non-presumptively-sentenced offenders.

9. The data suggest that:

- a) A change in the Attorney General's policy prohibiting plea bargains would have a more pronounced effect on the number of court felony trials than would reducing the number of offenses subject to presumptive sentencing;
- b) The rapid increases in court caseloads and prison population were phenomena that appeared to be more closely related to greatly increasing resources for most criminal justice system agencies during the 1981-1984 period than to increases in state population or in crime rates. The apparent relationship between numbers of convictions and resources suggests that any further change in the resources available to criminal justice agencies may be reflected in changes in the numbers of convictions.

B. Additional Findings from the Data

1. Eighty percent of the cases studied were found in the urban areas of Anchorage, Fairbanks, Juneau and Palmer. The smaller communities of the state accounted for 20.0% of the cases (p. 10).

2. Convictions of drug offenders, as a percentage of all offenders, increased from 7.3% of rural cases in 1976-79 to 14.9% in 1984; and from 12.2% of offenders statewide in 1976-79 to 16.0% in 1984 (Appendix E, p. E.5, Table E-5).

3. Characteristics of the offender were related to the offense of conviction. Sexual offenders were largely Caucasians (54.1%) or Native Americans (35.7%), and aged 30 and over (62.4%). Drug offenders were largely Caucasian (70.3%) or Black (11.5%) and 25 years or older (70.2%) (p. 19).

4. A majority of offenders (56.0%) pled guilty as charged. About one-fifth (19.4%) were convicted of a misdemeanor as the single most serious charge of

conviction. Lesser numbers were convicted after trial (14.3%) or were convicted of lesser felonies or by a guilty plea bargain. These percentages varied greatly by community (Table 10, p. 28).

5. Presumptive sentences were imposed on 15.8% of the 1984 felony offenders studied. Those convicted of sexual offenses were most likely to receive a presumptive sentence (35.0% had presumptive sentences) (p. 33).

6. Defendants charged with unclassified and Class A felonies were more than three times as likely as those charged with Class B and C felonies to go to trial (p. 65).

7. Neither race nor age of the offender were significant factors in determining length of sentence (p. 42, Table 17).

8. Class of offense, a prior record of felony convictions, conviction after a trial and whether the sentence was presumptive were the most important factors affecting the length of the sentence for most types of offenses (p. 42, Table 17).

9. Offenders convicted after trial received longer sentences than those who pled guilty. This finding from the multiple regression analyses (which measured the independent effect of a variable while holding all other factors equal) applied to all offense groups (pp. 43-44).

10. The variables studied explained much of the variation in sentence length for all types of offenses except property offenses. A relatively small amount of the variation in sentence lengths for property offenses was explained by variables such as class of offense, whether the sentence was presumptive and prior felony record (p. 45).

ALASKA'S SENTENCING LAW

TABLE 1
REVISED SENTENCING LAW EFFECTIVE JANUARY 1, 1980*

Type of Offense	Sentence Range in Years		
	First Felony Conviction	Second Felony Conviction	Subsequent Conviction
Murder I	<u>20</u> - 99	<u>20</u> - 99	<u>20</u> - 99
Murder II	<u>5</u> - 99	<u>5</u> - 99	<u>5</u> - 99
Kidnapping	<u>5</u> - 99	<u>5</u> - 99	<u>5</u> - 99
Class A--Firearm, etc.	3 - 20 [6]	5 - 20 [10]	7.5 - 20 [15]
Class A--Other	0 - 20	5 - 20 [10]	7.5 - 20 [20]
Class B	0 - 10	0 - 10 [4]	3 - 10 [6]
Class C	0 - 5	0 - 5 [2]	0 - 5 [3]

*For offenses subject to presumptive sentencing, the presumptive term is shown in brackets. For offenses subject to mandatory minimum sentencing, the minimum sentence is underlined. Note that the minimum sentence is not the minimum time served. As shown in the next section, an offender who gets a five-year sentence could be released after 3.75 years if he or she is awarded all possible good time.

* * * *

Early release. Table 2 compares the discretionary parole and good time allowances under the old code, the subcommission's proposal, and the new code. The new sentencing law limited the prior effect of both discretionary parole release and good time credit on offenders' actual time served.

While the law gave the parole board continued release discretion on first-time Class A, B and C convictions (convicts are eligible for parole after serving at least one-third of the prison term), it eliminated the board's discretion for those convicted of subsequent felonies. In addition, the new code allowed good time credit up to 25 percent of the prison term, an apparent compromise between the subcommission's recommendation (10 percent) and that available under the old code (49 percent).

As Table 2 suggests, the subcommission favored more liberal parole board discretion and less good time credit than that adopted by the legislature. While the old code allowed parole release eligibility in all felonies after an inmate served one-third of the sentence, the

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Kidnapping	<u>5</u> - 99	<u>5</u> - 99	<u>5</u> - 99
Class A--Firearm, etc.	3 - 20 [6]	5 - 20 [10]	7.5 - 20 [15]
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Class C	0 - 5	0 - 5 [2]	0 - 5 [3]

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new code eliminated parole eligibility in presumptive sentencings and limited its use in mandatory minimum sentencing cases.¹²

TABLE 2
COMPARISON OF EARLY RELEASE PROVISIONS

Provision	Original Code	Subcommission Proposal	Adopted Code
Parole Eligibility	After 1/3 of term served	After 1/2 of term served	Indeterminate--1/3 Mandatory--1/3 but not less than mandatory minimum minus good time Presumptive--None
Statutory Good Time Credit	Up to 49 percent of the sentence*	10 percent of term	25 percent of term
Meritorious Good Time		None	None

*The original code allowed statutory, meritorious and extra-meritorious good time. The amount that an inmate could accumulate depended upon the length of the original sentence.

* * * *

AMENDMENTS TO THE REVISED CODE, 1980 - 1985

Table 3 illustrates the sentencing law and early release provisions as of April 1986. The legislature has amended the sentencing code frequently since its implementation in 1980. The amendments have generally resulted in "tougher" sentencing than that enacted in 1980. Under the current law, there is generally more chance of imprisonment, and for a longer term, than under the 1980 law or the old code.¹³

¹²Under the old law, convicts given a "life" sentence were required to serve 15 years before becoming eligible for parole release. Note that good time credit and parole eligibility are not cumulative; i.e., inmates' prison terms are reduced by one or the other, but not both.

¹³The exception to this generalization is the recent amendment of the good time provisions which can reduce time served from 75 percent of the sentence to 67 percent of the sentence.

ALASKA'S SENTENCING LAW

TABLE 3
 FELONY SENTENCING AND EARLY RELEASE STRUCTURE IN ALASKA
 APRIL 1986
 Sentence Length (Years)

Offense	First Felony Conviction	Second Felony Conviction	Subsequent Conviction	Good Time	Discretionary Parole Eligibility
Murder I	<u>20</u> - 99	<u>20</u> - 99	<u>20</u> - 99	.33	Greater of 13.3 yrs. served or 1/3 of term
Murder II, Kidnapping, Misconduct Involving Controlled Substance I	<u>5</u> - 99	<u>5</u> - 99	<u>5</u> - 99	.33	Greater of 3.3 yrs. served or 1/3 of term
Sex. Assault I, Sex. Abuse of a Minor I (S.A.M. I)	5 - 30 [10]	7.5 - 30 [15]	12.5 - 30 [25]	.33	None
Sex. Assault I, S.A.M. I	4 - 30 [8]	7.5 - 30 [15]	12.5 - 30 [25]	.33	None
Class A ^{a, b}	3.5 - 20 [7]	5 - 20 [10]	7.5 - 20 [15]	.33	None
Class A	2.5 - 20 [5]	5 - 20 [10]	7.5 - 20 [15]	.33	None
Class B ^b	0 - 10 [2]	0 - 10 [4]	3 - 10 [6]	.33	None
Class B	0 - 10	0 - 10 [4]	3 - 10 [6]	.33	1st offense only--after 1/4 of term
Class C ^b	0 - 5 [1]	0 - 5 [2]	0 - 5 [3]	.33	None
Class C	0 - 5	0 - 5 [2]	0 - 5 [3]	.33	1st offense only--after 1/4 of term

Note: Mandatory minimum terms are underlined and presumptive terms are in brackets. Indeterminate terms have no underline or bracket.

^aApplies when a defendant possessed a firearm, used a dangerous instrument or caused serious physical injury, except for manslaughter.

^bApplies when a defendant knowingly directed the conduct (crime) at a peace officer, correctional officer, emergency medical technician, or other emergency medical responder who was engaged in the performance of official duties at time of offense.

A 1982 amendment made all first-time class A offenses subject to presumptive sentencing. Previously, most first-time Class A offenders received 20-year indeterminate sentences. In addition, the 1982 legislature made all first degree sexual assaults an unclassified crime subject to an eight-year presumptive sentence. Before 1982, sexual assault was a Class A offense. Moreover, first degree misconduct involving a controlled substance (M.I.C.S. I) became an unclassified offense carrying a maximum ninety-nine year term with a five-year mandatory minimum sentence.

The 1983 legislature added sexual abuse of a minor in the first degree (an unclassified offense) to the list of crimes which are presumptively sentenced on the first conviction. Another 1983 amendment made any Class A, B or C conviction subject to presumptive sentencing when the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance or official duties at the time of the offense...¹⁴ [emphasis added]. Since this amendment, Class B and C felonies committed in circumstances other than the above scenario remain as the only convictions not subject to either mandatory minimum or presumptive sentencing rules.

In 1985, the legislature effectively reduced time served for some felons by amending certain parole release provisions. Effective January 1, 1986, discretionary parole eligibility for inmates subject to indeterminate sentencing changed from one-third to one-fourth of their sentence. However, those subject to mandatory minimum sentences must still serve one-third of their term before becoming eligible for discretionary parole.¹⁵ Another amendment gives the sentencing judge discretion to restrict any offender's discretionary parole eligibility date.¹⁶

In 1986, the legislature increased the amount of good time credit which prisoners can accumulate. The maximum credit increased from 25 percent to 33 percent of the term. This amendment became effective in April 1986 and was applied retroactively.¹⁷

¹⁴Alaska Code Sections 12.55.125(c)(2), (d)(3), and (e)(3) [1985].

¹⁵Id., Sections 33.16.090 and 33.16.100 (1985).

¹⁶Id., Section 12.55.115 (1985).

¹⁷Committee Substitute for House Bill 104.

Two other notable changes occurred in the sentencing scheme since 1980. First, the legislature has frequently amended the number of aggravating and mitigating factors which the court may consider when sentencing a defendant. Currently, there are 26 aggravators and 15 mitigators.

The second change altered the way in which the court at a sentencing determines whether to impose concurrent or consecutive sentencing. The 1980 Criminal Code [AS 12.55.025(e)] provided: "If the defendant is convicted of two or more crimes before judgment on either has been entered, any sentences of imprisonment may run concurrently or consecutively, as the court provides. If the court does not specify, the sentences of imprisonment shall run concurrently." As originally enacted, this statute arguably created a presumption in favor of concurrent sentencing.¹⁸ In 1982, this section was amended to provide that except in limited circumstances, sentences of imprisonment run consecutively when a defendant is convicted of two or more crimes. In a recent sexual assault case, the Alaska Court of Appeals interpreted this limitation broadly.¹⁹

In summary, the current felony sentencing and release structure is considerably different from the pre-1980 law. Clearly, it has diminished judges' and the parole board's discretion, thereby leaving prosecutors with the majority of influence on offenders' time served. Moreover, the new law has given the legislature more control over the sentencing process by restricting decisions on incarceration, sentence length and time served. Furthermore, the probability of incarceration is more certain under the new scheme.

Since the new law was enacted, the prison population has tripled. In Chapter 2, we will address the impact of the new sentencing law on this increase, including the law's effect on incarceration rates and sentence lengths.

¹⁸See discussion of this issue in Griffith v. State, 675 P. 2d 662, 664-665 (1984).

¹⁹The Alaska Court of Appeals recently wrote a lengthy analysis of this statute in State v. Andrews, 707 P. 2d 900 (1985). In its decision, the court apparently gave trial judges additional discretion in determining prison terms for defendants subject to consecutive sentencing.

MEMORANDUM

State of Alaska

DEPARTMENT OF CORRECTIONS

TO: Susan Humphrey-Barnett
Commissioner

DATE: September 23, 1987

FILE NO:

TELEPHONE NO. 276-3363

FROM: Bart Penny *BP*
Chief Probation Officer
Southcentral Region

SUBJECT: ISP Briefing Paper

Per the September 14, 1987 memorandum from Margaret Pugh, please find attached a briefing paper regarding current status of the ISP Project. Additionally, I have attached copies of the Mission Statement, Purpose and Goals and Objectives, along with the ISP activity timetable. If you have any questions regarding this project prior to your October 8th meeting, please let me know.

Thanks.

BP/ngk
Attachments
cc: Charles Moses
Southcentral Director

cc: BILL PARKER

ISP TASK FORCE MEMBERS

Ken Brown
Bart Penny
Margaret Pugh

Lew Reece
Keith Stell

LOCATION OF IS PROJECT

The Intensive Supervision Parole Unit will be located at the Anchorage Adult Probation Office, 411 W. 4th Ave., Suite 1-D, 99501, Phone 276-3363.

STAFF ASSIGNED TO IS PROJECT

The 1987 Legislature created two (2) Probation Officer II positions and one (1) Clerk-Typist III for the Intensive Supervision Project. Under the direction of Chief Probation Officer, Barton Penny, Frank Byerly, Probation Officer IV, will supervise the ISP Unit. Other officers appointed effective September 1st to this project include: Bruce Inks from Palmer Probation and Kurt Polhemus from Fairbanks Probation. The Clerk-Typist has not been hired as of this writing.

IS MODEL TO BE UTILIZED

Alaska IS is modeled after parole projects in New Jersey, Georgia and Arizona. Only parole cases will be considered during the present fiscal year, with consideration for furlough, probation and pretrial clients at a future date, commensurate with the success of the parole pilot project.

WHEN

Sam Trivette, Executive Director of the Alaska Parole Board, advises that the Parole Board shall be prepared to begin making referrals to the ISP Project in early November.

HOW

Parole-eligible prisoners will be referred to the IS Project by the Parole Board. They will release appropriately qualified clients 6 to 18 months earlier than they would have otherwise been released under traditional parole guidelines.

A maximum caseload of 25 parole clients shall be achieved. The IS caseload will be supervised by a team of two probation officers. Emphasis is placed on contact with clients in the community during non-traditional working hours (6 p.m. to 3 a.m.).

WHAT

IS shall be a combination of house arrest and frequent surveillance of the prisoner's place of residence and employment. All participants will be required to be employed, or in school or training, to pay supervision fees, participate in community service and drug screening. All other general conditions of parole shall apply, combined with other special conditions as deemed appropriate.

MISSION

OF THE

PAROLE INTENSIVE SUPERVISION PILOT PROJECT

It is the mission of the Parole Intensive Supervision Pilot Project (PISPP) to establish an additional community-based program as an alternative to imprisonment, which the Alaska Parole Board can use to release selected felony offenders, under close supervision and surveillance, to their homes, yet provide continued safety to the community.

PURPOSE
OF THE
PAROLE INTENSIVE SUPERVISION PILOT PROJECT

The purpose of the PISPP is to help reduce prison overcrowding by identifying offenders to the Parole Board who would not present a risk to the community, but who would normally spend an additional 6 to 18 months in prison before being released on parole. They would be released to the PISPP and be allowed to serve their sentences confined to their home, except when working, or when approval was given to be absent from their employment or domicile.

GOALS AND OBJECTIVES

OF THE

PAROLE INTENSIVE SUPERVISION PILOT PROJECT

It is the goal of the PISPP to place 30 parolees who would normally be in prison, under supervision and surveillance in the community, to determine whether the income they generate, taxes they pay, victim restitution payments they make, prison bed space they free up, and percent of new crimes they commit when compared to a control group of parolees, justify continuance or expansion of the pilot program as a cost-effective alternative to incarceration, while providing protection to the public.

ISP ACTIVITY TIME TABLE

AUGUST 1987

SUN.	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT.
------	--------	---------	-----------	----------	--------	------

8/16	Hire employees (2 PO II's)					
------	----------------------------------	--	--	--	--	--

8/23		PO IV meet w/Exec. Dir. Parole Bd.	Develop Mission, Purpose, Goals & Time lines			
------	--	--	--	--	--	--

8/30	Hire clerical support (CT III)					
------	---	--	--	--	--	--

SEPTEMBER 1987

SUN.	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT.
9/6	Determine state selected for observation				9/11 Commissioner Approval: Mission, Purpose, Goals Time lines	
9/13						
9/20	Employees commence work	Review of literature from other programs			Request TA	
9/27	Travel to state that is determined appropriate to observe ISP in operation					

OCTOBER 1987

SUN.	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT.
10/4	Program design for Alaska (rules, forms, P & P)				Request TA of NIC for this week	
10/11	Issues for AG to review					
10/18	Meet with Exec. Dir. of Parole Bd.		Teleconference w/Instit. PO's to review their responsibilities & send out parole forms			
10/25	Ensure all equip. for IS officers is present and working			Develop work schedules		

NOVEMBER 1987

SUN.	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT.
------	--------	---------	-----------	----------	--------	------

11/1	Meet with Parole Board for training; screen cases at preliminary hearing pending January hearing					
------	---	--	--	--	--	--

11/8	First participants in program received this week!					
------	---	--	--	--	--	--

11/15	Political and public support strategies!			Monitoring program set in place		
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11/22						
-------	--	--	--	--	--	--

11/29	Evaluation, methodology and data collection developed (program selected, data compiled, develop coding forms)					
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FEBRUARY 1988: Reach full strength of 25 program participants!

APRIL 1988: Program evaluation for legislature!

viability of the prison industries program through Alaska Correctional Industries, while rendering an invaluable service to the agricultural community of Alaska providing the only licensed full scale meat packing plant in the state. The facility now employs twenty five inmates, and will increase to thirty in the near future.

KENAI: Wildwood Correctional Center

METAL FABRICATION SHOP: Sales for the metal shop are forecast at \$ 150,000 for FY 88. This level represents only forty-five percent of capacity and the sales forecast will be adjusted as additional contracts are obtained. FY 87 sales were \$ 325,000 which reflected the Spring Creek Correctional Center metal cell furniture. The plant is currently producing many of the security items required in upgrading of several Department facilities, and employs twelve to fifteen inmates. When additional contracts are obtained, the plant will employ up to thirty inmate workers.

FURNITURE PLANT: Sales for the furniture plant are forecast at \$ 350,000 for FY 88, and early indications are that the plant could achieve sales of \$ 500,000 in FY 88. A new production manager has been assigned to the plant, and production has taken off logarithmically. Many assembly parts which were previously purchased in kit form are now being manufactured completely at the Wildwood plant, and as volume increases, sub-contracting may be done with other correctional institutions within the state for certain wooden furniture structures. Inmate employee level is at twenty eight as of this date, and should be at forty prior to the end of this year.

JUNEAU: Lemon Creek Correctional Center

LAUNDRY: The laundry plant in Juneau is forecasting sales of \$ 200,000 for FY 88. The Pioneer Home comes on line in November of this year and will offer an annual increase of \$ 55,000 of which only \$ 20,000 will impact FY 88 sales due to start up, but will push sales for FY 89 to \$ 235,000. The plant and equipment is in excellent condition and additional sales are being looked into to utilize the plant more fully. This facility represents one of the best industries possible due to the high labor factor required. The major customer remains the State of Alaska Marine Highway System. Twenty five to thirty inmates are employed at the present time, and employment will increase to forty inmates by mid-year.

BAKERY: The commercial bakery in Juneau will be closed permanently in December 1987, and the space will be utilized for a new but yet to be determined industries program. The bakery was a stable operation, but fraught with inherent risk of contamination as so many food operations are today. As this industry was neither profitable nor did it employ a sizeable number of inmate workers, it was decided to terminate this operation and opt for greater utilization of the facility.

FUTURE GROWTH:

DATA ENTRY: A data entry operation will be started in the near future beginning with four inmate workers, and expanding as the market is developed into a fifteen to twenty worker facility in Fairbanks.

"FREE VENTURE" The Department of Corrections is continuing to look for a "free venture" partner to operate some form of business venture within a correctional facility.

"CERTIFICATION" The Department of Corrections will complete application forms in October for certification which will allow the industries program to manufacture for or offer service to the federal sector in Alaska, as well as engage in inter-state commerce if so desired. There are only twenty "certification" slots open presently in the United States, and this capability would put Alaska into "state of the art" position for prison industries throughout the world.

SPRING CREEK CORRECTIONAL CENTER: One or more new industries will be started when this new facility comes on line in late FY 88. Industry choices include sewn products manufacturing, pre-stressed concrete railroad tie manufacturing, sand blasting media and others.

PROBATION/PAROLE CASELOAD REPORT

AUGUST 1987

OFFICE	ACTIVE		TOTAL
	PROB.	PAROLE	
Anchorage	1006	228	1234
Kenai	149	25	174
Kodiak	64	12	76
Palmer	156	29	185
Dillingham	26	5	31
Fairbanks	469	61	530
Bethel	149	35	184
Barrow	64	8	72
Nome	55	13	68
Kotzebue	48	5	53
Juneau	140	21	161
Haines	0	1	1
Sitka	30	5	35
Ketchikan	103	12	115
Petersburg	1	0	1
TOTAL	2460	460	2920
OUTS	295	66	361
Less CRC:			
PROB	22		
PAROLE	4		
Total:			
PROB	2438		
PAROLE	456		

DEPARTMENT OF CORRECTIONS

PRINTED
10/03/87

FACT SHEET

FOR SEPTEMBER 1987

PROFILE OF POPULATION:

AS OF SEPTEMBER 1987 ALASKA'S DEPARTMENT OF CORRECTIONS HAD JURISDICTION OVER 5,413 PERSONS. THIS NUMBER INCLUDES:

2081 PERSONS IN ALASKA'S INSTITUTIONS
 179 PERSONS IN THE FEDERAL BUREAU OF PRISONS
 35 PERSONS IN MINNESOTA STATE INSTITUTIONS
 175 PERSONS IN COMMUNITY RESIDENTIAL CENTERS(FURLOUGHEES)
 15 PERSONS IN COMMUNITY RESIDENTIAL CENTERS(PROB-PAROLEES)
 464 PERSONS ON PAROLE
 2444 PERSONS ON PROBATION

SINCE SEPTEMBER 1983, THE FOLLOWING INCREASES HAVE OCCURRED:

PERSONS IN ALASKA'S INSTITUTIONS	UP 43% (1454-2081)
PERSONS IN FEDERAL AND MINNESOTA PRISONS	UP 19% (180-214)
PERSONS IN COMMUNITY RESIDENTIAL CENTERS	UP 150% (84-210)
PERSONS ON PAROLE	UP 164% (176-464)
PERSONS ON PROBATION	UP 59% (1533-2444)

THE MAKEUP OF THE PERSONS INCARCERATED IN ALASKA'S INSTITUTIONS, THE FEDERAL BUREAU OF PRISONS AND MINNESOTA STATE PRISONS HAS CHANGED DURING THESE FOUR YEARS.

	09/83	09/86	09/87	83-87 CHANGE	86-87 CHANGE
FELONS - SENTENCED	1054	1422	1597	+ 52%	+ 12%
MISDEMEANANTS - SENTENCED	184	147	90	- 51%	- 39%
FELONS - UNSENTENCED	308	490	471	+ 53%	- 4%
MISDEMEANANTS - UNSENTENCED	88	121	137	+ 56%	+ 13%
TOTALS	1634	2180	2295	+ 40%	+ 5%

AVERAGE DAILY NUMBER OF PRISONERS
SEPTEMBER 1987

		CAPACITY
+/-LM		
+ 9	220 PERSONS IN FAIRBANKS CORRECTIONAL CENTER	200
- 1	93 PERSONS IN ANVIL MOUNTAIN CORRECTIONAL CENTER	102
- 1	105 PERSONS IN YUKON-KUSKOKWIM CORRECTIONAL CENTER	88
E	399 PERSONS IN COOK INLET PRETRIAL FACILITY	397
+ 15	106 PERSONS IN ANCHORAGE - SIXTH AVENUE	116
- 4	221 PERSONS IN HILAND MOUNTAIN C.C.	229
+ 1	58 PERSONS IN MEADOW CREEK C.C.	56
+ 1	132 PERSONS IN PALMER MINIMUM CORRECTIONAL CENTER	130
+ 17	143 PERSONS IN PALMER MEDIUM CORRECTIONAL CENTER	165
+ 4	71 PERSONS IN MAT-SU PRETRIAL FACILITY	74
+ 1	303 PERSONS IN WILDWOOD C.C. & PRETRIAL	310
+ 3	178 PERSONS IN LEMON CREEK CORRECTIONAL CENTER	174
+ 2	53 PERSONS IN KETCHIKAN CORRECTIONAL CENTER	63
+ 23	195 PERSONS IN COMMUNITY RESIDENTIAL CENTERS(FURLOUGH)	
- 11	15 PERSONS IN COMMUNITY RESIDENTIAL CENTERS(PROB-PAROLE)	
+ 1	179 PERSONS IN FEDERAL BUREAU OF PRISONS	200
E	35 PERSONS IN MINNESOTA STATE PRISONS	35

Overview of Sentences Being Served on November 5, 1986

The average sentence being served for all sentenced inmates incarcerated in Alaska's correctional institutions and the Federal Bureau of Prisons is presented in the following table. Within each crime category, the number of inmates and the average sentence being served is shown. The data is also broked down to show the number of inmates and the average sentence for those sentenced under the previous Criminal Code and those sentenced presumptively or nonpresumptively under the Revised Criminal Code.

Sentenced Inmates
By Most Serious Offense Committed
As of November 5, 1986
Average Sentence Length

Offense	Nonpresumptive		Presumptive		Old Code		Total Number
	Number	Average Sentence	Number	Average Sentence	Number	Average Sentence	
ATTEMPT COMMIT FELONY - LIFE AND SOY+			1				1
ATTEMPT COMMIT FELONY	13	5Y	11	6Y			24
SOLICIT TO COMMIT CRIME	1	10Y					1
MURDER I - LIFE AND SOY+	33		6		21		60
MURDER I	22	30Y	7	32Y	6	35Y	35
MURDER II - LIFE AND SOY+	10				4		14
MURDER II	40	22Y	4	8Y	14	28Y	58
HANSLAUGHTER	21	8Y	24	7Y	1	20Y	46
NEGLIGENT HOMICIDE	2	3Y					2
ASSAULT I - LIFE AND SOY+			1				1
ASSAULT I	11	6Y	35	8Y	8	20Y	54
ASSAULT II	15	3Y	3	6Y			18
ASSAULT III	36	3Y	15	4Y			51
ASSAULT IV	14	9M					14
KIDNAPPING - LIFE AND SOY+	1		1		2		4
KIDNAPPING	14	19Y	6	12Y	4	30Y	24
SEXUAL ASSAULT I - LIFE AND SOY+	3		1				4
SEXUAL ASSAULT I	92	9.5Y	151	11Y	9	21Y	252
SEXUAL ASSAULT II	14	3Y	5	6Y			19
SEXUAL ABUSE OF A MINOR I	29	6Y	70	10Y	1	10Y	100
SEXUAL ABUSE OF A MINOR II	49	3Y	14	7Y			63
SEXUAL ABUSE OF A MINOR III	4	4Y	1	7Y			5
SEXUAL ABUSE AND SEX ABUSE IV	27	6Y	4	5Y			31
INCEST	1	3Y					1
EXPLOITATION OF MINOR	3	5Y					3
ROBBERY I	30	6Y	74	11Y	3	12Y	127
ROBBERY II	10	4Y	8	8Y			18
EXTORTION	1	6Y					1
THEFT I	2	2Y	2	6Y	1	10Y	5
THEFT II	24	2.5Y	24	3.5Y			48
THEFT III	3	7M					3
THEFT IV	1						1
THEFT BY DECEPTION	1	5Y					1
THEFT BY RECEIVING	1	Y	1	2Y			2
CONCEALMENT OF MERCHANDISE	4	6M					4
ISSUING BAD CHECK			2	8Y			2
BURGLARY I	50	4Y	31	6Y	1	15Y	82
BURGLARY II	37	3Y	33	4Y			70
TRESPASS I	3	4M					3
TRESPASS II	1						1
ARSON I	5	7Y	2	4.5Y			7
ARSON II	1	6Y	2	3.5Y			3

CRIMINAL MISCHIEF II	6	2Y	3	2.5Y	9
CRIMINAL MISCHIEF III	3	1Y	3	3Y	6
FORGERY I	1	3Y			1
FORGERY II	9	3Y	6	9Y	15
FORGERY III			1	1.5Y	1
SCHEME TO DEFRAUD	3	2Y			3
ENDANGERING WELFARE OF MINOR	1	1.5Y			1
CONTRIBUTE DELIQ OF MINOR	2	35D			2
ESCAPE I	2	14Y	2	12Y	4
ESCAPE II	5	9Y	8	10Y	13
ESCAPE IV	1	3.5Y			1
PROMOTE CONTRABAND I	1	5Y	1	6.5Y	2
HINDERING PROSECUTION I	2	2Y			2
TERRORISTIC THREATENING	1	3Y			1
DISORDERLY CONDUCT	6	8D			6
HARRASSMENT	3	3M			3
MISCONDUCT WITH WEAPONS I	9	5Y	4	12Y	13
MISCONDUCT WITH WEAPONS II	1	1Y			1
MISCONDUCT WITH WEAPONS III	1	3Y			1
CONTROLLED SUBSTANCES I	2	5.5Y	1	31Y	3
CONTROLLED SUBSTANCES II	5	4Y	14	7Y	19
CONTROLLED SUBSTANCES III	40	2Y	15	4Y	55
CONTROLLED SUBSTANCES IV	7	1Y	3	3Y	10
OVI - ALCOHOL					45
ALCOHOL - OTHER					1
OTHER JURISDICTION CASE					21
PAROLE VIOLATION					37
PROBATION VIOLATION					92
TRAFFIC					24

Total	740		620	75	1655

MEMORANDUM

State of Alaska

DEPARTMENT OF CORRECTIONS

TO: Susan Humphrey-Barnett,
Commissioner


DATE: September 25, 1987

FILE NO:

TELEPHONE NO: 561-4426 ext. 139

THRU:

SUBJECT: Spring Creek Correctional
Center

FROM: 
Tom Laney
Superintendent
Spring Creek Correctional Center

The Cleary Partial Settlement states we will, "return all Alaska prisoners housed in the Federal Bureau of Prisons, who request return to the State." The 1987 annual out-of-state telephonic Classification Review hearings were held between 4-20-87 and 5-18-87. A total of twenty four (24) out-of-state institutions were called with one hundred eighty (180) inmates interviewed. Eleven (11) hearing waivers were received which gives a grand total of 191 inmates contacted.

With regards to inmate preference as to return for placement at Spring Creek Correctional Center, the responses spread across the following categories:

Return:	Yes:	94	(4 are Minnesota inmates, 90 are FBP)
	No:	77	
	Maybe:	5	
	Unknown:	13	(Refused the hearing)
	N/A:	<u>2</u>	(Will return before opening)
		191	

Since the Cleary Partial Settlement only requires the return of prisoners housed in FBP who request return, we are presently liable for the return of 90 prisoners. This 50% return request ratio is consistent with the figures collected in the 1986 Classification Review.

Using these figures as a base, it appears that once we return the required prisoners from FBP, Spring Creek will have space for approximately 230 prisoners housed in other correctional facilities within the State of Alaska.

This should prove to have a significant impact on the Department statewide by permitting the movement of an estimated 80 to 100 prisoners from Cook Inlet Pre-trial Facility, 20 to 30 from the Fairbanks Correctional Center and 20 to 30 from Lemon Creek Correctional Center with approximately 15 to 20 from Wildwood

To the Commissioner
September 25, 1987
Page 2

Pre-trial Facility. The remaining 50 to 60 spaces will allow some movement from the smaller out-lying institutions to Spring Creek and at the same time, allow for regional movement to strive for a better degree of balance within the regions. A ripple effect will be seen throughout the Department with the end result satisfying two needs, one being the much awaited relief from overcrowding and the second being the compliance with the Cleary Partial Settlement.

TL:as L/3

September 9, 1987

SPRING CREEK CHRONOLOGY

- July 1981 Using preliminary planning Public Facilities Planning fund monies; the Department of Health & Social Services gave DOT/PF a Reimbursable Services Agreement (RSA) to plan a long term facility in Southcentral Alaska.
- February 1982 TRA/FARR was selected as the consultant. This was the beginning of the project and consultant started by outlining fundamental issues and proceeded to development of program statement and selection of the site, concluding in August 1982.
- July 1983 The Legislature funded \$3,600,000, Ch. 107/SLA 83/81/9 for Southcentral Maximum Security Correctional Center, and \$4,000,000 Ch. 107/SLA 83/81/15 for Anchorage Area Replacement Facility.
- August 1983 The Division of Adult Corrections contracted with Pacific Management and Engineering (PM&E) for programming and schematic design for the long term facility.
- December 1983 Governor Sheffield announced selection of Seward as location for the long term facility based on logistics, resources, and demonstration of community support. Other sites under consideration were Goose Bay, Fire Island and Sutton.
- May 1984 Department of Corrections RSA'ed \$1,250,000 to DOT/PF to design Spring Creek. PM&E was selected to provide schematic design of Administration Building and prepare construction documents.
- July 1984 Legislature appropriated \$15,000,000 Ch. 171/SLA 84/59/19 for Seward Correctional Center.
- October 1984 Seward quitclaimed the Spring Creek site to the State. Site preparation contract awarded.
- May 1985 The Legislature did not fund DOC's request for additional construction funds required to construct a 320 bed facility, instead the Legislature gave approval for Seward to finance the construction and lease the completed facility back to the State.
- June 1985 DOC increased RSA to DOT to \$19.2 million to cover State's share of construction costs.
- July 1985 The title to the project site reverted back to the City of Seward, as Seward was to finance the project. Project advertised for bids.

September 5, 1985 Bid opening held for construction of 320 bed facility. Samwhan America was low bidder at \$30,845,260 Original Completion Date: July 20, 1987.

September 7, 1985 Site preparation contract completed.

October 1, 1985 The lease agreement between the City and the State was signed.

October 11, 1985 A Transfer of Responsibility Agreement (TORA) between Seward and DOT/PF was signed.

October 17, 1985 A Project Management Agreement between the City and DOT/PF provided for DOT/PF oversight of the construction project. SLA 85

October 17, 1985 Contract awarded and notice to proceed was issued.

October 22, 1985 Pre-construction conference was held.

July 1986 DOC selected Correctional Center Superintendent, assigned him to Anchorage Central Office to work with Facilities Planners.

September 1986 Staffing patterns refined and 221 positions requested to operate the facility

November 1986 Samwhan submitted a claim for a time extension. Time extension was requested due to changed conditions.

February 1987 Federally funded technical assistance visit conducted by Robert Buchanan of Correctional Services Group, Kansas City, Missouri. Consultant Buchanan submitted report confirming accuracy of staffing plan and in fact, recommended more staff.

March 1987 Recruitment for local hire conducted in Seward by DOC and Department of Administration. Of 96 people who attended the 2 hour presentation, 87 registered to be tested for Correctional Officer I, and 67 actually returned over the next 2 days and were administered the test.

April 1987 Began placing orders for major equipment items required for the facility.

May 18, 1987 DOC Maintenance Foreman selected and assigned to Spring Creek. Scheduled to attend Correctional Officer Academy in June.

May 19, 1987 Claim is settled and contract is extended to November 30, 1987.

July 1987

Water utility and waste water treatment facility completed as well as all paving.

September 1987

Potential for 1-2 month additional time extension exists. DOT/PF predicts Samwhan can not meet November 30 completion date.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.