Alaska Felony Sentences: 1984

March 1987

alaska judicial council

ALASKA FELONY SENTENCES: 1984

THE ALASKA JUDICIAL COUNCIL

CHAIRMAN
Jay A. Rabinowitz
Chief Justice

alaska judicial council

1031 W. Fourth Avenue, Suite 301, Anchorage, Alaska 99501   (907) 279-2526

ALASKA FELONY SENTENCES: 1984

MARCH 1987

PROJECT STAFF

Francis L. Bremson, Executive Director
Teresa White Carns, Project Director
Cynthia Felton, Student Intern
Josefa M. Zywna, Secretary

ACKNOWLEDGMENTS

TABLE OF CONTENTS

LISTING OF TABLES

LISTING OF FIGURES

EXECUTIVE SUMMARY

(Alaska Felony Sentences: 1984)

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. 64-65). 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.   <u>Additional Findings from the Data</u>

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).

INTRODUCTION

(Alaska Felony Sentences: 1984)

INTRODUCTION

The present study of sentences imposed for felonies filed in Alaska courts in 1984 is the ninth major study of sentencing patterns prepared by the Judicial Council since 1975. Earlier studies have presented detailed analyses of sentences imposed for various types of offenses. They have also addressed specific issues such as the impact of the 1975 ban on plea bargaining, the incidence of racial disparity in sentencing, and the initial effects of the adoption of presumptive sentencing in 1980. Other Council studies have reviewed specialized sets of data (e.g., 1981 driving while intoxicated sentences, 1980-81 fish and game sentences) or have analyzed sentencing data within the context of particular policy issues (e.g., Alaska Prison Population Impact Analysis, 1982).

The legislature and courts have used Council sentencing studies for various purposes. Legislative uses have included:

- Justification for adoption of presumptive sentencing (1978);

- Establishment of the Minority Sentencing Practices Advisory Committee (1979-1980); and

- Adoption of a bail-forfeiture scheme for minor fish and game offenses (1983).

The courts have relied on data from Council sentencing studies to:

- Develop experimental sentencing guidelines for drug cases;

- Establish bail-forfeit amounts for minor fish and game offenses; and

- Establish typical sentences for some types of offenses (Law v. State, 624 P.2d 284 (1981); Graybill v. State, 672 P.2d 138 (1983)).

In addition, a number of Court of Appeals and Supreme Court opinions since 1976 have cited Judicial Council studies.

Trained research assistants collected data for past studies from court case files, presentence reports, police records, and Department of Public Safety files. This process, although time-consuming and costly, provided the basis for detailed statistical analysis of factors affecting sentences. In general, such data collection efforts have been possible only with special legislative appropriations or grants.

The present study methodology departs significantly from the past practices for data collection. Although the basic purposes of conducting a sentencing study remain, data for 1984 felonies were drawn from computerized information management systems of the Department of Law (PROMIS), the Department of Public Safety (APSIN) and the Department of Corrections (OBSCIS). These systems were not yet operational at the time of the Council's earlier studies. They are still not designed to easily generate statistical data for research purposes. As a result, data from each system were re-entered on the Council's micro-computer for analysis. The resulting analysis was less detailed and significantly less costly than the prior studies. However, the data provide a sound basis for describing sentencing patterns and for assessing the impacts of various policies on the criminal justice system.

The report has been divided into three major sections, each of which addresses one of the primary purposes of the study. These sections are:

   I. Methodology;

  II. Description of 1984 sentencing patterns; and

 III. Policy implications of 1984 sentencing patterns.

I. METHODOLOGY

(Alaska Felony Sentences: 1984)

I. METHODOLOGY

A. DATA COLLECTION

1. Sample

The Judicial Council's sample consisted of 1,128 offenders against whom felony charges were filed in calendar year 1984 and who were convicted of at least one offense. The Department of Law supplied a list from PROMIS of all offenders sentenced as of October, 1985. While the list included offenders from most court sites throughout Alaska, data from the Kenai Peninsula area had not as yet been entered and data were unavailable for most Nome and Kotzebue cases. For purposes of analysis the Nome and Kotzebue case data available were included in the Barrow data set.

These 1,128 convicted and sentenced offenders represent just over half of the defendants charged with felonies in 1984. The court reported an estimated 1,978 felony case filings in district court for the calendar year of 1984 (excluding Kenai, Nome and Kotzebue district court felony filings since those court sites were not included in the PROMIS data). Although there is not exactly one felony case filed per defendant, a rough percentage can be obtained by dividing 1,128 (the number of convicted offenders) by 1,978 (the estimated number of 1984 felony cases filed in district court). The number of convicted offenders studied in this analysis represented 57% of the number of 1984 felony cases filed. Although these offenders represent about three-fifths of the felony cases filed, they represent nearly 100% of all persons convicted in 1984 who had originally been charged with a felony (again, excluding Kenai, Nome and Kotzebue).

2. Data Sources

Data for this study were compiled from the PROMIS System (Prosecutors' Management Information System, Department of Law), the APSIN system (Alaska Public Safety Information Network, Department of Public Safety) and OBSCIS (Offender Based Correctional Information System). APSIN files were used only for the offenders' prior records and for checking birth date. ASPIN provided information on prior record for 85.5% of the offenders. OBSCIS provided data regarding the offenders'

race and whether the sentence imposed was presumptive. OBSCIS provided race data for all but 4.4% of the offenders, and presumptive sentence information for all but 2.4% of the offenders. Presumptive data was possibly incorrectly recorded for as many as 6.0% of the offenders. Data for the remaining twenty-three variables studied came from the PROMIS listing of convicted cases.

The PROMIS system (designed by INSLAW of Washington, D.C.) primarily enables prosecutors to manage the intake and calendaring of criminal cases. It is the first criminal justice data system in the state to provide detailed and generally accurate data regarding the charging and sentencing of individual offenders. Some variables which are essential or useful in an analysis of sentences are not on PROMIS. Among the missing variables are offenders' race and prior record and whether a given sentence is presumptive. Information was requested from the Department of Public Safety, and the Department of Corrections for these three variables.

Data are entered into the PROMIS system terminals only in Anchorage, Fairbanks, and Juneau. The Juneau office also enters data for most of the smaller prosecutors' offices, and had a backlog of data for Kenai, Nome and Kotzebue. As a result, the analysis is broadly representative of 1984 cases but does not include every case for the year.

Past Judicial Council studies drawing on court case files and presentence reports have analyzed from two to three times as many variables as in this study. In addition, the lack of control over the data entry processes used by other agencies resulted in a higher rate of missing and/or inaccurate information than in previous studies. Council staff checked data that seemed incorrect by contacting other sources, including the Prosecutor's office and the Court system. Time did not permit extensive checking of each data entry. Despite the limitations, however, enough variables were analyzed that sentencing patterns for the most frequent offenses were adequately described.

Data regarding cases appealed were not available for this report. Some convictions reported may have been subsequently overturned on appeal or otherwise modified. Likewise, sentences reported in this study are reported as of the date on which judgement was entered. Later modifications by the trial or appellate courts are not reflected in the data.

3.   <u>Data Entry and Variables</u>

Data from other systems were reentered on the Judicial Council's microcomputer by a student intern. Appendix B contains the coding instructions used. The intern was supervised by a senior Council staff member who checked the data entry process periodically. A unique identification number was assigned to protect confidentiality of the offender during the computer analysis.

Twenty-six variables were coded for each case. These included the offender's birth date, race, and prior record; the court case number and location; the defendant's original charges (up to three), and the final charge of conviction (where available); the disposition of the case (whether guilty plea, bargained plea, or trial by judge or jury), and information about the sentence imposed.

B.   <u>DATA DEFINITION</u>

Each statutory offense was assigned a separate code. Problems arose in categorizing those offenses that had been reclassified by the Legislature since the new criminal code became effective in 1980. Sexual assault I, for example, was reclassified three times between 1980 and 1984. Without knowing the actual date of the offense (information that was not available from PROMIS) it was often not possible to determine which type of conduct was alleged in the sexual assault I charge.

No information was available from PROMIS to determine whether offenses such as possession of liquor for sale, importation of liquor and issuing bad checks were felonies or misdemeanors (the offenses may be either, depending on the offender's prior record, or on the amount involved in the offense). If the sentence imposed for one of these offenses was long enough to be a felony sentence, the case was used. If the sentence was less than a year, the case was excluded.

The data were divided into two types of categories. The first set of categories captured the general type of offense. Type of offense categories are shown on Table 1. The second set of categories showed the seriousness of the offense from Unclassified through Class A, Class B, Class C and misdemeanors. The type of offense categories corresponded to categorizations used in prior Judicial Council studies. However, for this study, sexual assaults were moved from the

category of violent offenses where they had previously appeared in Council studies to the category of sexual offenses. The sixth category of "other" offenses included such offenses as perjury, escape, promoting contraband and the like. In prior Council studies, those offenses were grouped with violent, property or fraud offenses.

TABLE 1
(Alaska Felony Sentences: 1984)

OFFENSE CATEGORIES*

	Unclassified	Class A	Class B	Class C	Misdemeanors
Murder & Kidnapping	Murder I Murder II Kidnapping				
Violent		Solicit Murder I Manslaughter Assault I Robbery I Arson I	Robbery II Assault II Extortion	Negligent Homicide Assault III Attempted Robbery II Custodial Interference I Terroristic Threatening	Assault IV Reckless Endangerment
Property			Theft I Burglary I Arson II Crim. Mischief I Forgery I	Theft II Burglary II Criminal Mischief II Forgery II	Theft III Criminal Trespass Criminally Neg; Burning Criminal Mischief III Forgery III Theft IV Criminal Trespass II Criminal Mischief IV Issuing Bad Checks
Drugs	MICS 1st°	MICS 2nd°	MICS 3rd°	MICS 4th°	MICS 5th° MICS 6th°
Sexual	Sex Asslt. I Sex Abuse of Minor I	Att. Sex Asslt. I	Sex Abuse II Sex. Asslt. II	Attempted Sex Abuse II Incest Sex Abuse III Sex Assault III Sex Abuse Before 10/17/83	Contribute to Delinquency of Minor
Other			Perjury Escape II Interfere with Proceedings	Escape III Promote Contraband I Hindering Prosecution Misconduct Involving Weapons I	Escape IV Promote Contraband II Resist Arrest Failure to Appear Misconduct Involving Weapons II Disorderly Conduct
Other Misdemeanors					Selling Liquor w/o License Driving under Influence Reckless Driving

* This list includes only offenses charged in 1984. It is not a complete listing of all offenses in the criminal code.

The primary dependent or outcome variable analyzed in this study was sentence, defined as active jail sentence. "Active" jail time was that amount which the defendant was required to serve as of the date of the original sentencing. The analysis subtracted the number of days suspended from the total sentence imposed, giving the net or "active" jail time. If the entire sentence was suspended or if no jail time was imposed, the analysis treated the active time as zero.

The study captured information about the charge against the offender at two stages: the original charge filed against the offender (which, for purposes of this study, must have been a felony), and the charge of which the offender was convicted. Slightly over half (56.1%) of all offenders convicted pled guilty to one or more of the original charges against them. An additional 11.8% of the offenders studied were convicted of the original charge(s) at trial. The remaining offenders pled guilty to or were convicted of lesser charges. Information about the final charge was not listed on PROMIS for forty-nine offenders (4.3%). Most of these offenders were originally charged with a sexual offense.

C.   ANALYTICAL METHODS

The analysis had two primary objectives: first, to identify factors which most significantly contributed to increases or decreases in sentence length; and second, to estimate the degree to which each of the most significant factors affected sentence outcomes while statistically controlling (or adjusting) for variation among the other factors. Data were analyzed using the SPSS (Statistical Package for the Social Sciences)[1] programs. Cross-tabulations, three-way cross-tabulations, and multiple regression were the primary statistical tools used in the analysis. Statistical significance was set at the 0.05 level (i.e., an inference was made with at least 95% certainty that observed differences were not due to chance variation). Arthur Young and Company conducted the statistical analysis under contract to the Alaska Judicial Council.

D.   PRESUMPTIVE SENTENCING

One purpose of this study was to provide updated information about the impacts of presumptive sentencing on the criminal justice system. Presumptive sentencing is a legislatively-adopted system of sentencing that restricts judicial discretion by

"presuming" that a typical offender convicted of a given offense should receive a certain term of imprisonment. The Judicial Council first reported on the impact of presumptive sentencing in Alaska Felony Sentences: 1980, published in December of 1982. Since that time, the legislature has added a significant number of offenses to the list of offenses to which presumptive sentencing applies. Effective January 1, 1983, a presumptive sentence of five years applied to all first convictions of a Class A felony. The sentence is seven years under certain aggravated circumstances, except for manslaughter where the presumptive sentence is always five years.

Other offenses were recodified after 1980 and brought under presumptive sentencing to a greater extent. The drug laws were rewritten and all drug offenses were reclassified under the presumptive sentencing scheme, effective January 1, 1983. In 1983, laws regarding sexual assault and sexual abuse of a minor were rewritten. In the process, many patterns of conduct were reclassified as significantly more serious offenses. Presumptive sentences of eight years were imposed for first time conviction of sexual assault or sexual abuse of a minor in the first degree. As a result, presumptive sentencing which originally applied primarily to second and subsequent felony offenders now applies primarily to first felony offenders. These changes,together with other significant changes in law enforcement patterns during the years of 1980 through 1984, strongly suggested the need for an updated study of the effects of presumptive sentencing.

A thorough description of Alaska's presumptive sentencing statute is available in a recent law review article "Presumptive Sentencing in Alaska" by Barry J. Stern, published in The Alaska Law Review, December, 1985[2]. Briefly, the Legislature adopted a new criminal code in 1978, effective January 1, 1980. The new code classified offenses as Unclassified or Class A, B or C felonies, and as Class A or B misdemeanors. Uniform penalty provisions apply to the five classes of crime. The code classifies maximum penalties for each level of offense. In addition, presumptive sentences apply to all (including first offense) Class A felonies, some unclassified felonies,[3] and to all repeat felony offenders in Class B and C felonies subject to certain limitations. Figure 1 shows the presumptive sentences for each class of offense.

FIGURE 1
(Alaska Felony Sentences: 1984)

PRESUMPTIVE AND MANDATORY MINIMUM SENTENCING TERMS[1]

ALASKA'S SENTENCING LAW
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	20 - 99	20 - 99	20 - 99	.33	Greater of 13.3 yrs. served or 1/3 of term
Murder II, Kidnapping, Misconduct Involving Controlled Substance I	5 - 99	5 - 99	5 - 99	.33	Greater of 3.3 yrs. served or 1/3 of term
Sex. Assault I, Sexual 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]		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]		1st offense only--after 1/4 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 term

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

[a] Applies when a defendant possessed a firearm, used a dangerous instrument or caused serious physical injury, except for manslaughter.

[b] Applies 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.

1.   Torgerson, The Impact of Presumptive Sentencing on Alaska's Prison Population, Alaska House Research Agency Report 86-D, p. 10 (1986)

The judge may adjust a presumptive sentence by using legislatively-defined aggravating or mitigating factors. Aggravating factors may be used by the judge to lengthen the presumptive term up to the maximum term; mitigating factors may be used to reduce it within certain limits. If a judge believes that imposition of the presumptive sentence, even adjusted by aggravating and mitigating factors, would be "manifestly unjust," the case may be referred to a three-judge panel for sentencing. None of the 1984 cases studied were referred to the three-judge panel for sentencing. Persons receiving presumptive sentences may not be placed on probation unless the presumptive sentence was four years or less and was mitigated. Nor are such offenders eligible for suspended imposition of sentence or parole, except under a few very limited circumstances. However, a presumptively-sentenced offender may receive "good time" credit at the rate of one day of good time for each two days served.

Data were unavailable in this study regarding aggravating and mitigating factors or their effects on sentence lengths. The sentences reported thus reflect the sentence as it was imposed by the judge at the time of the original sentencing; including all adjustments for aggravating and mitigating factors. Data regarding the effects of good time on sentence length were also unavailable for specific cases.

II. DESCRIPTION OF SENTENCING PATTERNS

(Alaska Felony Sentences: 1984)

II. DESCRIPTION OF SENTENCING PATTERNS

This chapter describes the data collected and the results of the analysis. The data include all cases filed in 1984 in which an offender was charged with at least one felony and convicted of at least one charge (either a misdemeanor or a felony) before October 15, 1985.

Subsection A describes relationships among independent variables such as the offenders' characteristics, the offenses charged and the case-processing variables (numbers of charges and type of disposition). It provides an overview of offenders, and offenses in Alaska courts. Subsection B describes the dependent variable, sentence, by category and class of offense. Subsection C analyzes the relationships among the independent variables and the dependent variable.

A.   CHARACTERISTICS OF OFFENDERS AND CASES

1.   **Location of Cases.** Convictions were grouped by court location, judicial district, and by urban-rural. The urban-rural grouping enabled data to be compared to earlier Judicial Council studies. "Urban" included Anchorage, Palmer, Fairbanks and Juneau in 1984. In earlier years, Palmer cases were analyzed as part of the Anchorage court caseload. "Rural" included all other court locations.

About 80% of all convictions occurred in urban courts and 20% in rural courts (Table 2). The Third Judicial District with 64.6% of the state's population (Table 3) accounted for 56.2% of the convictions. (This figure would be somewhat higher if Kenai convictions had been available for analysis.) The Second and Fourth Districts combined had 22.7% of the state's population, but 30.0% of the convictions. (Again, the percentage of convictions would be higher if Nome and Kotzebue cases had been available.) The First District with 12.7% of the population had 13.2% of the 1984 convictions. (If Kenai, Nome, and Kotzebue had been included, the 1st District would have had a lower percentage of convictions.)

TABLE 2
(Alaska Felony Sentences: 1984)
LOCATION OF CONVICTIONS BY JUDICIAL DISTRICT

	1st Judicial District	3rd Judicial District*	2nd/4th Judicial District**	Totals
Urban Location	93 (8.2%)	576 (51.1%)	221 (19.6%)	890 (78.9%)
Rural Location	56 (5.0%)	58 (5.1%)	117 (10.4%)	231 (20.5%)
Unknown Location	0 (0.0%)	7 (0.0%)	0 (0.0%)	7 (0.6%)
	149 (13.2%)	641 (56.2%)	338 (30.0%) =	1128 (100.0%)

*   Does not include Kenai; not available for analysis
**   Includes only three cases from Nome and Kotzebue; remainder not available

TABLE 3
(Alaska Felony Sentences: 1984)
LOCATION OF CONVICTIONS BY COMMUNITY

Location	1984 Felony Convictions (N)	(%)		Population* (N)	(% of Ak. Population 1983)
1st Judicial District				64,658	12.7%
Juneau	93	8.2%		25,964	5.1%
Ketchikan	37	3.3%		12,712	2.5%
Sitka	19	1.7%		8,194	1.6%
	149	13.2%			
2nd Judicial District				18,588	3.6%
Barrow	43	3.8%		5,168	1.0%
Nome, Kotzebue	--	---	(no data available)	10,132	2.0%
	43	3.8%			
3rd Judicial District				329,821	64.6%
Anchorage	480	42.6%		227,070	44.4%
Palmer	96	8.5%		29,849	5.8%
Kodiak	50	4.4%		12,896	2.5%
Valdez	8	0.7%		6,319	1.2%
Kenai	--	---	(no data available)	22,330	4.4%
	634	56.2%			
4th Judicial District				97,487	19.1%
Fairbanks	221	19.6%		64,810	12.7%
Bethel	74	6.6%		13,570	2.6%
	295	26.2%			
Unknown	7	0.6%			
	1128	100.0%			

* Data from Alaska Population Overview, Department of Labor, October, 1984.

The relative frequency of certain types of offenses varied by judicial district (Table 4). The First Judicial District with 13.2% of the convictions had only 6.7% of the murder/kidnapping convictions and 8.4% of the violent convictions. The First District had relatively high percentages of drug convictions (22.5%) and "other" convictions (23.4%). The Second and Fourth Districts combined had 30.0% of the convictions. The combined Districts had high percentages of murder/kidnapping convictions (40.0%), violent convictions (32.3%), sexual offense convictions (34.4%) and "other" convictions (36.2%). Drug convictions (22.0%) and property convictions (28.5%) were relatively low in the Second and Fourth Districts. The Third Judicial District, with 56.8% of the convictions had a lower rate of murder/kidnapping convictions (53.3%) but a higher percentage of violent convictions (59.3%). The Third District also had relatively more property convictions (59.7%), but fewer sexual offense convictions (52.2%) and "other" convictions (40.4%). The variations in conviction distributions may reflect variations in types of crimes committed in the different districts as well as differences in law enforcement and prosecutional charging policies.

TABLE 4
(Alaska Felony Sentences: 1984)

CATEGORY OF CONVICTION BY JUDICIAL DISTRICT

Category	1st Judicial District N	%	3rd Judicial District* N	%	2nd/4th Judicial District N	%	Totals N	%
Murder/Kidnapping	1 (	6.7%)	8 (	53.3%)	6 (	40.0%)	15	(100.0%)
Violent	25 (	8.4%)	176 (	59.3%)	96 (	32.3%)	297	(100.0%)
Property	45 (	11.8%)	228 (	59.7%)	109 (	28.5%)	382	(100.0%)
Drugs	41 (	22.5%)	101 (	55.5%)	40 (	22.0%)	182	(100.0%)
Sexual	21 (	13.4%)	82 (	52.2%)	54 (	34.4%)	157	(100.0%)
Other	11 (	23.4%	19 (	40.4%)	17 (	36.2%)	47	(100.0%)
Unknown Final Offense	5 (	10.4%)	27 (	56.3%)	16 (	33.3%)	48	(100.0%)
	149 (	13.2%)	641 (	56.8%)	338 (	30.0%)	1128	(100.0%)

* The seven convictions for which the court location was unknown were included with the Third Judicial District convictions for this analysis.

Table 4-A shows the number of convictions per 1,000 population in each judicial district. The table indicates that some districts have higher numbers of convictions for a given type of offense than do others. For example, the six murder/kidnapping convictions in the combined Second and Fourth judicial districts represent .052 convictions per 1,000 population. By comparison, the Third judicial district has eight murder/kidnapping convictions, but these represent only .024 convictions per 1,000 population.

Table 4-A indicates that the First judicial district has a relatively large number of drug offense convictions per 1,000 population (.634, as compared to .306 in the Third district and .345 in the Second/Fourth districts). The Second/Fourth districts have relatively high rates of violent, property and sexual offenses, consistent with the finding from Table 4 that those districts have a higher percentage of convictions overall than the First and Third districts.

TABLE 4-A
(Alaska Felony Sentences: 1984)

CONVICTIONS PER 1,000 POPULATION BY JUDICIAL DISTRICT

Category	1st Judicial District N	%	Convictions per 1M Pop.	3rd Judicial District N	%	Convictions per 1M Pop.	2nd/4th Judicial District N	%	Convictions per 1M Pop.	Totals N	%	Convictions per 1M Pop.
Murder/Kidnapping	1	(6.7%)	.015	8	(53.3%)	.024	6	(40.0%)	.052	15	(100.0%)	.029
Violent	25	(8.4%)	.386	176	(59.3%)	.534	96	(32.3%)	.827	297	(100.0%)	.582
Property	45	(11.8%)	.696	228	(59.7%)	.691	109	(28.5%)	.939	382	(100.0%)	.748
Drugs	41	(22.5%)	.634	101	(55.5%)	.306	40	(22.0%)	.345	182	(100.0%)	.356
Sexual	21	(13.4%)	.325	82	(52.2%)	.249	54	(34.4%)	.465	157	(100.0%)	.307
Other	11	(23.4%)	.170	19	(40.4%)	.058	17	(36.2%)	.146	47	(100.0%)	.092
Unknown Final Offense	5	(10.4%)	.077	27	(56.3%)	.082	16	(33.3%)	.138	48	(100.0%)	.094
	149	(13.2%)	2.300	641	(56.8%)	1.944	338	(30.0%)	2.911	1128	(100.0%)	2.209

2. Age, Race and Prior Record of Convicted Defendants

Table 5 gives data for the race and age of convicted defendants in the study. (Appendix F provides information about female offenders.) Blacks were disproportionately represented in the 25-29 year-old group. Natives had a disproportionate share of the 15-19 year-old group, but were under-represented in the 40 and above group.

TABLE 5
(Alaska Felony Sentences: 1984)

AGE AND RACE OF CONVICTED OFFENDERS

Race

Age Group	Black		Native American		Caucasian		Other		Unknown Race		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
15*- 19 years	6	(5.5%)	44	(15.9%)	76	(11.5%)	2	(6.7%)	2	(4.0%)	130	(11.5%)
20 - 24 years	35	(31.8%)	85	(30.7%)	202	(30.6%)	7	(23.3%)	8	(16.0%)	337	(29.9%)
25 - 29 years	36	(32.7%)	66	(23.8%)	136	(20.6%)	8	(26.7%)	13	(26.0%)	259	(23.0%)
30 - 39 years	21	(19.1%)	60	(21.7%)	161	(24.4%)	9	(30.0%)	18	(36.0%)	269	(23.8%)
40 & above	12	(10.9%)	21	(7.6%)	84	(12.7%)	4	(13.3%)	8	(16.0%)	129	(11.4%)
Unknown age	0	(---)	1	(0.4%)	2	(0.3%)	0	(---)	1	(2.0%)	4	(0.4%)
	110	(100.0%)	277	(100.0%)	661	(100.0%)	30	(100.0%)	50	(100.0%)	1128	(100.0%)

* 2 offenders under 18 years old were tried as adults. The other 128 offenders in this age group were 18 or 19 years old at the time of their offense.

Table 6 compares convicted defendant race to composition of the general population. Blacks and Natives constitute far greater proportions of the overall convicted defendant population than of the general population.

TABLE 6
(Alaska Felony Sentences: 1984)

RACE COMPARED TO COMPOSITION OF STATE POPULATION

Race	Convicted Defendants	Composition of Population*
Black	9.8%	3.4%
Native American	24.6%	16.0%
Caucasian	58.6%	77.6%
Other	2.7%	2.9%
Unknown	4.4%	0.0%
	100.1%	99.9%

* Source of data: The Alaska Economic and Statistical Review: 1984, State of Alaska, Department of Commerce and Economic Development.

Table 7 shows the relative incidence of certain types of offenses by offender race. The frequency of drug convictions (see Appendix E for more detailed discussion of drug offenders and sentences) among Caucasians and of sexual offense convictions among Natives exceeded the percentage that these groups constituted among the overall convicted defendant population. Caucasians accounted for 58.6% of the convicted defendants but 70.3% of the drug convictions. Natives accounted for 24.6% of the convicted defendants but 35.7% of the sexual offense convictions.

TABLE 7
(Alaska Felony Sentences: 1984)

RACE BY CATEGORY OF FINAL OFFENSE

Category of offense	Black		Native American		Caucasian		Other Race		Unknown Race		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Murder/ Kidnapping	1	(6.7%)	3	(20.0%)	11	(73.3%)	0	(-)	0	(-)	15	(100.0%)
Violent	39	(13.1%)	76	(25.6%)	156	(52.5%)	11	(3.7%)	15	(5.1%)	297	(100.0%)
Property	39	(10.2%)	99	(25.9%)	228	(59.7%)	6	(1.6%)	10	(2.6%)	382	(100.0%)
Drugs	21	(11.5%)	14	(7.7%)	128	(70.3%)	6	(3.3%)	13	(7.1%)	182	(100.0%)
Sexual	8	(5.1%)	56	(35.7%)	85	(54.1%)	5	(3.2%)	3	(1.9%)	157	(100.0%)
Other Offenses	1	(2.1%)	11	(23.4%)	26	(55.3%)	2	(4.3%)	7	(14.9%)	47	(100.0%)
Unknown Final Offense	1	(2.1%	18	(37.5%	27	(56.3%	0	(-	2	(4.2%	48	(100.0%
	110	9.8%)	277	24.6%)	661	58.6%)	30	2.7%)	50	4.4%)	1128	100.0%)

Certain types of offenses occurred with greater frequency among certain age groups. Table 8 shows that while offenders over 30 accounted for 35.2% of all convictions, they were convicted of 62.4% of all sexual offenses. Offenders aged 30-39 years constituted 23.8% of the offender population, but 35.7% of the convicted drug defendants. Offenders under 25 years old were 41.4% of the convicted defendant population but accounted for 58.8% of all property convictions.

Neither race nor age was significant in the sentencing of offenders. However, these data show clear distinctions among the types of persons convicted, by type of offense. Sexual offenders were largely Native Americans or Caucasians (89.8% combined) and aged 30 and over (62.4%). Drug offenders were largely Caucasian or Black (81.8% combined) and 25 years old or older (70.2%). The majority of violent (66.3%) and property (82.4%) offenses were committed by offenders under the age of 30.

TABLE 8
(Alaska Felony Sentences: 1984)

AGE BY CATEGORY OF FINAL OFFENSE*

Category of Offense	15-19 Years N	%	20-24 Years N	%	25-29 Years N	%	30-39 Years N	%	40 and Above N	%	Unknown Age N	%	Total N	%
Murder/ Kidnapping	1	(6.7%)	6	(40.0%)	3	(20.0%)	2	(13.3%)	2	(13.3%)	1	(6.7%)	15	(100.0%)
Violent	27	(9.1%)	93	(31.3%)	77	(25.9%)	70	(23.6%)	30	(10.1%)	0	(0.0%)	297	(100.0%)
Property	79	(20.6%)	146	(38.2%)	90	(23.6%)	46	(12.0%)	20	(5.2%)	1	(0.3%)	382	(100.0%)
Drugs	7	(3.8%)	47	(25.8%)	43	(23.6%)	65	(35.7%)	19	(10.4%)	1	(0.5%)	182	(100.0%)
Sexual	10	(6.4%)	25	(15.9%)	24	(15.3%)	55	(35.0%)	43	(27.4%)	0	(0.0%)	157	(100.0%)
Other Offenses	4	(8.5%)	10	(21.3%)	12	(25.5%)	14	(29.8%)	7	(14.9%)	0	(0.0%)	47	(100.0%)
Unknown/Final Offense	2	(4.2%)	10	(20.8%)	10	(20.8%)	17	(35.4%)	8	(16.7%)	1	(2.1%)	48	(100.0%)
	130	(11.5%)	337	(29.9%)	259	(23.0%)	269	(23.8%)	129	(11.4%)	4	(0.4%)	1128	(100.0%)

* In 1982, persons aged 15-24 years constituted 20.4% of the general Alaskan population, as compared to 41.4% of the 1984 offender population. Persons aged 25 years and over were 53.8% of the 1982 Alaskan population, as compared to 58.2% of the 1984 offender population.

Source: The Alaska Economic and Statistical Review: 1984, Figure A.4, P.20; State of Alaska, Department of Commerce and Economic Development.

About half of all convicted defendants had prior adult criminal records (juvenile records were not available). An analysis of prior record by age group (Table 9) shows that most youthful offenders (ages 15-19) had no prior records as adults (66.2%) or only 1-3 misdemeanors (21.5%). Offenders between 25 and 29 had the highest percentage of prior felony records (14.7%) and prior records of 4 or more misdemeanor convictions (12.4%). Another quarter (24.3%) had been convicted of 1-3 misdemeanors prior to their 1984 conviction. Only one-third of the defendants between 25 and 29 years old had no prior record. About two-thirds of the older defendants (over the age of 30) had no prior criminal convictions or a record of only 1-3 misdemeanor convictions.

TABLE 9
(Alaska Felony Sentences: 1984)

AGE BY PRIOR RECORD

Prior Record	15-19 Years		20-24 Years		25-29 Years		30-39 Years		40 and Above		Unknown Age		Total	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
No Prior Record	86	(66.2%)	131	(38.9%)	90	(34.7%)	120	(44.6%)	64	(49.6%)	1	(25.0%)	492	(43.6%)
1-3 prior Misdemeanor Convictions	28	(21.5%)	112	(33.2%)	63	(24.3%)	63	(23.4%)	22	(17.1%)	0	(0.0%)	288	(25.5%)
4 or more Misdemeanor Convictions	2	(1.5%)	16	(4.7%)	32	(12.4%)	19	(7.1%)	5	(3.9%)	0	(0.0%)	74	(6.6%)
1 or more Prior Felony Convictions	2	(1.5%)	30	(8.9%)	38	(14.7%)	27	(10.1%)	13	(10.1%)	0	(0.0%)	110	(9.8%)
Unknown Prior Record	12	(9.2%)	48	(14.2%)	36	(13.9%)	40	(14.9%)	25	(19.4%)	3	(75.0%)	164	(14.5%)
	130	(100.0%)	337	(100.0%)	259	(100.0%)	269	(100.0%)	129	(100.0%)	4	(100.0%)	1128	(100.0%)

3. **Case-Processing Variables**

Offenders were classified by the single most serious charge of conviction for purposes of analysis. The "Case-processing" variables, such as number of charges, type of disposition and amendments to the charge, were those associated with the single most serious charge of conviction. Although the original charge must have been a felony, the final charge of conviction may have been a misdemeanor.

a) **Numbers of Charges**

Data were analyzed for each offender regarding the total number of charges originally filed, the number of charges convicted and the number dismissed. As indicated in Figure 2, over half of all convicted defendants (56.4%) were initially charged with more than one offense although only 36.3% were convicted of more than one charge. One or more charges were dismissed in 36.9% of all cases.

FIGURE 2
(Alaska Felony Sentences: 1984)
Number of Charges per Offender

Number of Charges Dismissed

Number of Charges Convicted

Total Number of Charges
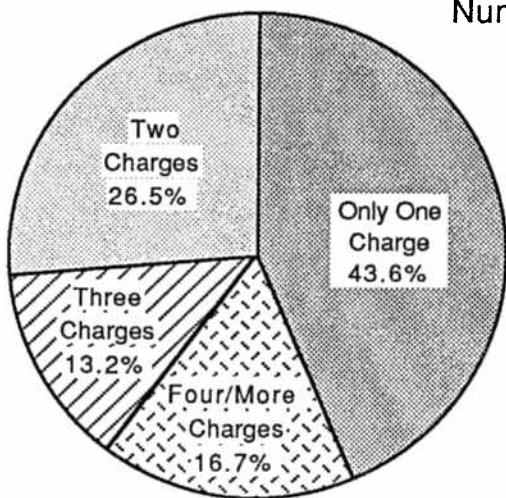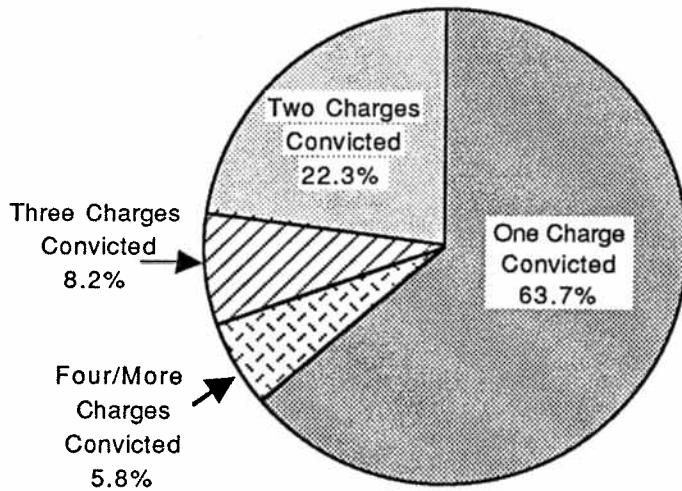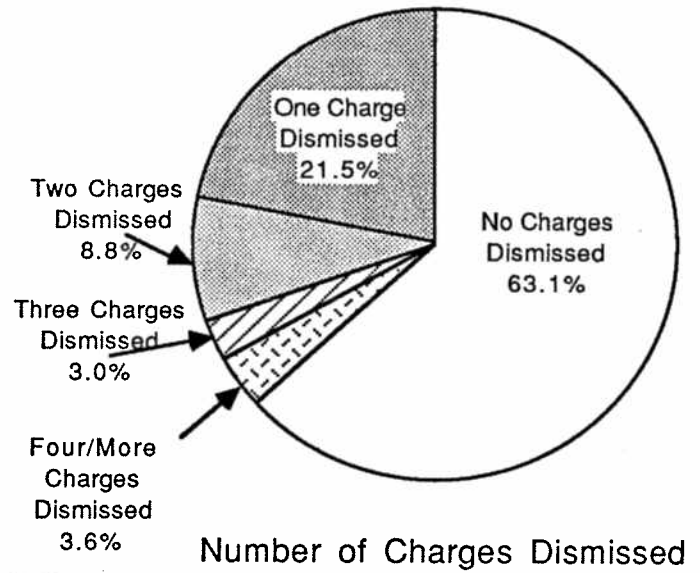
b) <u>Type of Conviction: Pleas vs. Trials, and Original vs. Amended Charge</u>

Eight conviction types were coded: 1) Guilty plea as charged; 2) Guilty, with a plea bargain on the record; 3) Guilty plea to a lesser felony; 4) Guilty plea to a misdemeanor; 5) Guilty after a jury trial of the original charge; 6) Guilty after a jury trial of a lesser charge; 7) Guilty after a non-jury trial of the original charge; 8) Guilty after a non-jury trial of a lesser charge. Figure 3 graphically describes the relative number and percentage of convictions on original and amended charges by plea versus trial.

FIGURE 3
(Alaska Felony Sentences: 1984)
Types of Convictions

Pled Guilty
to a
Misdemeanor
19.4%

Pled Guilty
to a
Lesser Felony
7.5%

Guilty Plea Bargain
2.8%

Jury Trial
Guilty as Charged
11.2%

Pled Guilty to
Original Charge
55.9%

Trials 14.3%

Jury Trial
Guilty of Lesser Offense
2.1%

Judge Trial
Guilty as Charged
0.6%

Judge Trial
Guilty of
Lesser Offense
0.4%

Amended
Charge
32.2%

Original Charge
67.3%
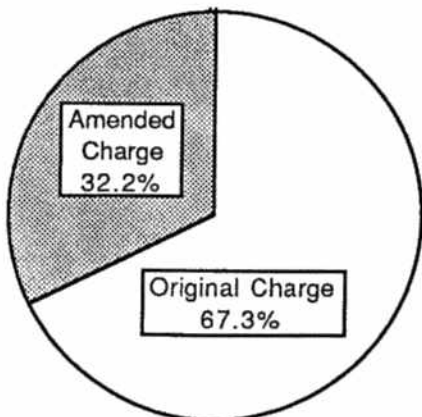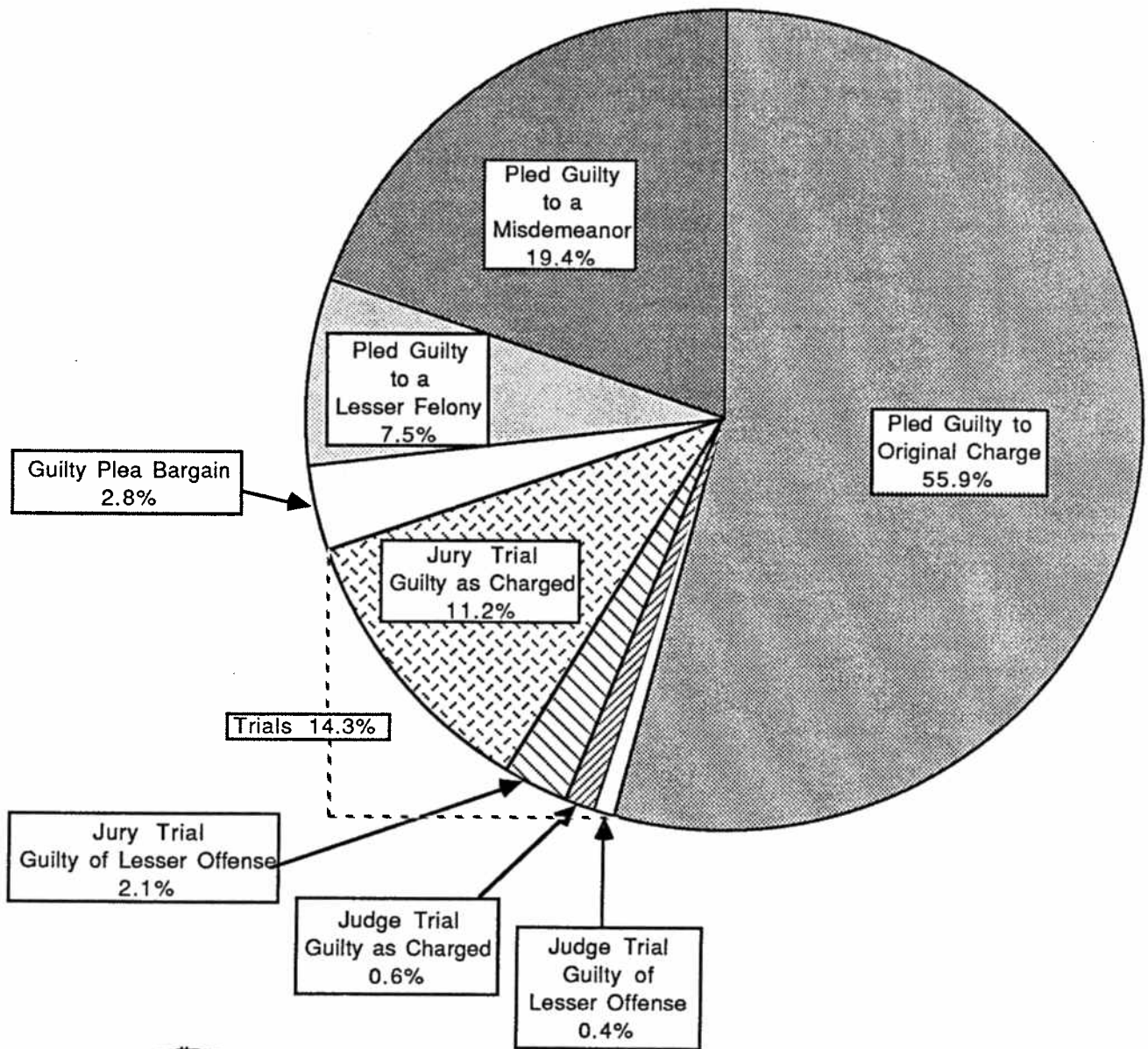
Original vs. Amended Charge

The figure shows that two-thirds (67.8%) of all offenders were convicted of an original charge, including 56.0% by plea and 11.8% by trial. Of the 32.2% convicted of a lesser charge, 19.4% pled to misdemeanors and 7.5% to lesser felonies. A small percentage (2.5%) were convicted of lesser offenses after trial, or were plea bargains (2.8%, including both charge and sentence bargains) on the record. (Plea bargains are generally prohibited by a 1975 Attorney General's policy; however, they may be authorized under exceptional circumstances.)

Trial convictions constituted 14.3% of the total number of convictions studied. The most frequent outcome was conviction on at least one of the original charges (11.2%). Non-jury ("Judge" or "Bench") trials accounted for only 1.0% of all convictions.

Table 10 shows striking variations in case processing patterns from court to court. In Anchorage, Barrow, Bethel and Kodiak, fewer than half the convicted defendants pled guilty as charged. By contrast, in Palmer, Juneau and Fairbanks three-quarters of all convicted defendants pled guilty as charged.

Barrow's conviction after trial rate (44.1%) was three times higher than the statewide average (14.3%). Higher than average rates also occurred in Bethel (21.7%) and Sitka (21.1%). Rates in other rural communities ranged from 12.0% (Kodiak) down to 0.0% (Valdez). Urban communities were: Juneau, 5.3%; Anchorage, 13.4%; and Fairbanks, 15.8%.

Similar rates among communities for one type of conviction did not necessarily carry over to other types. Each court location had its own unique pattern of case processing for 1984 felony convictions. Anchorage had a low rate of convictions on the original charge by plea of guilty (45.0%) and high rate of guilty pleas to misdemeanors (31.0%). Palmer, the court geographically closest to Anchorage, showed the opposite pattern, with a very high percentage of guilty pleas to the original charge (78.4%) and a very low rate of reductions to misdemeanors (7.2%).

TABLE 10
(Alaska Felony Sentences: 1984)

CONVICTIONS BY LOCATIONS

	Pled Guilty As Charged	Pled Guilty to Misdemeanor	Convicted After Trial	Other Convictions*	Totals
Anchorage	45.0%	31.0%	13.4%	10.6%	100.0%
Fairbanks	72.5%	4.1%	15.8%	7.6%	100.0%
Juneau	73.4%	14.9%	5.3%	6.4%	100.0%
Barrow	39.5%	0.0%	44.1%	16.4%	100.0%
Bethel	47.3%	12.2%	21.7%	18.8%	100.0%
Ketchikan	53.8%	28.2%	7.7%	10.3%	100.0%
Kodiak	42.0%	24.0%	12.0%	22.0%	100.0%
Palmer	78.4%	7.2%	8.3%	6.1%	100.0%
Sitka	63.2%	5.3%	21.1%	10.4%	100.0%
Valdez	50.0%	50.0%	0.0%	0.0%	100.0%
Statewide	56.0%	19.4%	14.3%	10.3%	100.0%

* Other convictions were Pled Guilty to Lesser Felony, and Rule 11(e) Guilty, Plea Bargain.

4.   Types of Offenses

Two types of offense data were collected: the most serious charge of which the offender was convicted and the original version of that particular final charge.   The original offense charged was recorded to assist in analysis of case-processing variables (e.g., defendants facing serious charges might be more likely to go to trial than defendants facing less serious charges.   Prosecutors might also handle such charges differently).   The final offense on which the offender was convicted was also recorded, both to determine case-processing changes such as charge reductions and to accurately show sentences imposed for various offenses.

Offenses were grouped by type, class and presumptive or non-presumptive sentence.   Offense types followed groupings used in earlier Judicial Council studies: murder/kidnapping, violent, property, drugs, sexual and other.   Some changes were made to reflect charging and enforcement patterns since 1980.   "Sexual" offenses for the 1984 felony study includes rape (sexual assault I), which in earlier studies was included with violent crimes.   Fraud offenses were too few in 1984 to analyze separately; they are included in the "property" grouping. "Murder/kidnapping" has been maintained as a separate group, due to the lengthy sentences imposed and the distortions caused by these sentences during analysis.

Class of offense followed the classification scheme adopted for all offenses by the legislature.   Felonies were categorized as:

- Unclassified (murders, kidnapping, sexual assault I or MICS 1st°, and sexual abuse of a minor I);

- Class A (robbery I, assault I, manslaughter, MICS 2nd° and some sex-related offenses);

- Class B (robbery II, burglary I, theft I, and a wide variety of other offenses); and

- Class C (theft II, burglary II, negligent homicide, and others).

Misdemeanors were classified as A or B; infractions constituted a small group of offenses not analyzed in this study. Attempted offenses were classified one step lower than the completed offense (e.g., attempted robbery I would be a Class B offense).

Classification of offenses determined the sentence to be imposed to some extent. Unclassified offenses had either mandatory minimums (20 years for murder I; 5 years for murder II, kidnapping and MICS 1st^O) or presumptive sentences for all offenders (sexual assault I; sex abuse of a minor I). All Class A offenses were subject to presumptive sentencing[4]. Class B and C offenses carried presumptive sentences only for repeat felony offenders, with a few rarely-used exceptions[5]. Presumptive sentencing did not apply to misdemeanors.

The third categorization of offenses used in this study was presumptive/not presumptive sentence. Data on whether the sentence imposed was presumptive or not came from the Department of Corrections OBSCIS system rather than from PROMIS. Although the data were not entirely consistent with other data regarding prior records of offenders and offense of conviction, the information was sufficiently accurate to justify its use in conducting a preliminary assessment of the effects of presumptive sentencing.

a)   **Type of Offense**

Table 11 shows the frequencies of types of offenses for both the original charge and the final charge.

TABLE 11
(Alaska Felony Sentences: 1984)

TYPE OF OFFENSE: ORIGINAL CHARGE/FINAL CHARGE

Type	Original Charge N	%	Final Charge N	%	Net Change N
Murder/ Kidnapping	20	(1.8%)	15	(1.3%)	− 5
Violent	308	(27.3%)	297	(26.3%)	−11
Property	380	(33.7%)	382	(33.9%)	+ 2
Drugs	181	(16.0%)	182	(16.1%)	+ 1
Sexual	201	(17.8%)	157	(13.9%)*	−44
Other	38	(3.4%)	47	(4.2%)	+ 9
Unknown	−	−	48	(4.3%)*	+48
	1128	(100.0%)	1128	(100.0%)	0

*   For 44 of the 48 unknown final charges the original charge was a sexual offense. No data were available regarding the final charges for these cases.

Most categories did not change significantly between the original charge and the final charge. Murder/kidnapping charges may have been reduced to manslaughter or assault which were grouped with violent offenses. Violent offenses such as robbery may have been reduced to property offenses such as theft. The largest net changes, a reduction in the number of sexual offenses and addition of 48 unknown final charges, were related to problems in the data sources.

b)   Class of Offense

The class of offense was much more likely to change between the original and final charges than was the type of offense (see Table 12).

TABLE 12
(Alaska Felony Sentences: 1984)

CLASS OF OFFENSE: ORIGINAL CHARGE/FINAL CHARGE

Type	Original Charge N	%	Final Charge N	%	Net Change N
Unclassified	115	(10.2%)	80	(7.1%)	- 35
Class A Felony	114	(10.1%)	78	(6.9%)	- 36
Class B Felony	383	(34.0%)	315	(27.9%)	- 68
Class C Felony	511	(45.3%)	377	(33.4%)	-134
Misdemeanor	0	(0.0%)	225	(19.9%)	+225
Unknown Class*	5	(0.4%)	53	(4.7%)	+ 48
	1128		1128		0

* Unknown original charges included charges such as issuing bad checks and illegal sale of liquor, where the sentence imposed indicated a felony conviction, but where the data did not include the actual class of offense. Unknown final charges included, in addition, 48 charges discussed above at Table 11.

Twenty percent of convicted defendants originally faced serious charges (Unclassified or Class A). Fourteen percent were convicted of the most serious classes of offenses. Nearly 20% of the convicted defendants had only a misdemeanor as their final most serious charge (see Appendix D for further data regarding charge reductions).

TABLE 13
(Alaska Felony Sentences: 1984)

PRESUMPTIVE/NON-PRESUMPTIVE BY TYPE OF OFFENSE

Final Charge: Type Offense	Presumptive		Sentence Non-Presumptive		Unknown	
	N	%	N	%	N	%
Murder/ Kidnapping*	0	(0.0%)	15	(100.0%)	0	(0.0%)
Violent	46	(15.5%)	247	(83.2%)	4	(1.3%)
Property	34	(8.9%)	339	(88.7%)	9	(2.4%)
Drugs	23	(12.6%)	150	(82.4%)	9	(4.9%)
Sexual	55	(35.0%)	101	(64.3%)	1	(0.6%)
Other	13	(27.7%)	33	(70.2%)	1	(2.1%)
Unknown	7	(14.6%)	41	(85.4%)	0	(0.0%)
	178	(15.8%)	926	(82.1%)	24	(2.1%)

* Murder and kidnapping offenders were subject to mandatory minimum sentences rather than to presumptive sentences.

c)   Presumptive vs. Non-presumptive Sentence

Presumptive sentences were imposed on 15.8% of all 1984 convicted defendants. Offenders convicted of sexual offenses were the most likely to receive presumptive sentences (35.0%, Table 13).   Next most likely were those sentenced on "other" charges (the category of "other" included escape, perjury, misconduct involving weapons I, and similar offenses where the offender was likely to have been convicted of a prior felony). Other than murder/kidnapping, property offenders were the least likely to have been convicted of a charge that carried a presumptive sentence. The property group of offenses included only B and C felonies, where the offender was subject to presumptive sentencing only because of a prior record of felony conviction(s).

5. <u>Summary: Descriptive Variables</u>

The preceding sections have described the convicted defendants and charges in 1984 by location, demographic characteristics (age, race and prior record), case-processing variables and types of offenses. The offenders studied consisted largely of persons under 30 (64.4%) who were Caucasian (58.6%) or Native American (24.6%), and who were originally charged with Class B or C felonies (79.7%). Most offenders (78.9%) were convicted in one of the more urban communities (Anchorage, Palmer, Fairbanks, Juneau), of which 51.1% were in the Anchorage/Palmer area.

Most offenders were convicted of one (63.7%) or two (22.3%) offenses. Only 14.3% of the offenders were convicted at a trial. Most offenders pled guilty, either to the original charge (55.9%) or a misdemeanor (19.4%).

The most common type of conviction was for a property offense (33.9%), followed by violent offenses (26.3%). Drug (16.1%) and sexual (13.9%) offenses constituted the other most frequent types of offenses.

These data provide a background for understanding the data on sentencing which follow. Some of the data illustrate patterns in types of offenders, case-processing practices, and offenses. Although such patterns do not necessarily occur as a result of judicial sentencing practices, they may highlight areas in which further research would be helpful.

B. <u>Characteristics of Sentences</u>

The dependent variable in this study was the length of sentence imposed on an offender for the single most serious charge of which the defendant was convicted. Sentences typically have one major component, jail time. They may also include probation, a fine, restitution, community service and other conditions. This study defined sentence length, the dependent variable, as the total amount of jail time to be served by the offender. This sentence, termed "net active time," was derived by subtracting any suspended jail time from the total time imposed. A sentence to probation only was treated as zero active time.

Virtually every offender studied received either a sentence to jail or to probation for a specified length of time. However, only 7.4% were required to pay a

fine in addition to the time imposed. No data were available regarding other sentence conditions.

Sentence lengths were subdivided into six groups for analysis: no time, up to 12 months, 12 to 24 months, 24 to 60 months, 60 to 96 months and over 96 months (Table 14). The sentence lengths shown reflect the net active time only, excluding all suspended time and all probationary periods.

TABLE 14
(Alaska Felony Sentences: 1984)

NET ACTIVE TIME BY CLASS OF OFFENSE

Final Charge Class	0 Months		1 day-12 Months		12-24 Months		24-60 Months		60-96 Months		More Than 96 Months		Totals	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Unclassified	4	(5.0%)*	1	(1.3%)	4	(5.0%)	12	(15.0%)	37	(46.2%)	22	(27.5%)	80	(100.0%)
Class A	1	(1.3%)	1	(1.3%)	3	(3.8%)	46	(59.0%)	13	(16.7%)	14	(17.9%)	78	(100.0%)
Class B	70	(22.2%)	114	(36.2%)	65	(20.6%)	52	(16.5%)	13	(4.1%)	1	(0.3%)	315	(100.0%)
Class C	124	(33.2%)	139	(37.2%)	73	(19.5%)	38	(10.1%)	–		–		374	(100.0%)
Misdemeanor	57	(25.6%)	166	(74.4%)	–		–		–		–		223	(100.0%)
Unknown	7	(13.2%)	20	(37.7%)	5	(9.4%)	20	(37.7%)	–		1	(1.9%)	53	(100.0%)
	263	(23.4%)	441	(39.3%)	150	(13.3%)	168	(15.0%)	63	(5.6%)	38	(3.4%)	1123**	(100.0%)

* Data could not be verified.
** Data missing for 5 cases.

Table 14 displays net active time by the class of final charge. The classification of offenses established by the legislature clearly structured sentencing patterns. Nearly three quarters (73.7%) of those convicted of Unclassified offenses had sentences longer than 5 years. One-third (34.6%) of Class A offenders also had sentences more than 5 years and 59.0% were sentenced to terms between 2 and 5 years in length.

The sentence distribution broke very sharply between A and B felonies, however. Nearly 80% of the Class B offenders and 90% of the Class C offenders were sentenced to terms of two years or less. One-fifth of Class B (22.2%) and one-third of Class C (33.2%) offenders were sentenced to probation only. Three-quarters (74.4%) of the offenders convicted of misdemeanors were sentenced to serve some jail time up to one year. Overall, less than one-quarter (23.4%) of all convicted defendants received a zero active jail time sentence.

Length of sentence imposed is also a function of the type of offense committed. As indicated in Table 15, other than murder/kidnapping, sexual offenders were least likely to be sentenced to zero or up to one year active time. Property and drug offenders were the most likely to receive a probationary (no active time) or up to one year jail term.

TABLE 15
(Alaska Felony Sentences: 1984)

NET ACTIVE TIME BY TYPE OF OFFENSE

Final Charge Type	0 Months N	%	1 day-12 Months N	%	12-24 Months N	%	24-60 Months N	%	60-96 Months N	%	More Than 96 Months N	%	Totals N	%
Murder/ Kidnapping	—	—	—	—	—	—	3	(20.0%)	—	—	12	(80.0%)	15	(100.0%)
Violent	61	(20.5%)	129	(43.4%)	35	(11.8%)	47	(15.8%)	12	(4.0%)	13	(4.4%)	297	(100.0%)
Property	108	(28.4%)	176	(46.3%)	53	(13.9%)	37	(9.7%)	6	(1.6%)	—	(.0%)	380	(100.0%)
Drugs	51	(28.0%)	81	(44.5%)	22	(12.1%)	23	(12.6%)	3	(1.6%)	2	(1.1%)	182	(100.0%)
Sexual	26	(16.9%)	20	(13.0%)	30	(19.5%)	30	(19.5%)	38	(24.7%)	10	(6.5%)	154	(100.0%)
Other	11	(23.4%)	18	(38.3%)	6	(12.8%)	8	(17.0%)	4	(8.5%)	—	(0.0%)	47	(100.0%)
Unknown	6	(12.5%)	17	(35.4%)	4	(8.3%)	20	(41.7%)	—	(0.0%)	1	(2.1%)	48	(100.0%)
	263	(23.4%)	441	(39.3%)	150	(13.3%)	168	(15.0%)	63	(5.6%)	38	(3.4%)	1123*	(100.0%)

* Data missing for 5 cases.

Sentence lengths correlated with presumptive sentences. Nearly three-quarters (73.0%) of offenders sentenced presumptively received sentences of over two years. About the same percentage (72.6%) of offenders sentenced non-presumptively were sentenced to serve one year or less. (The few offenders who were sentenced non-presumptively to jail terms over eight years were primarily those convicted of Unclassified offenses such as murder and kidnapping which carry mandatory minimum terms rather than presumptive sentences.)

Table 16
(Alaska Felony Sentences: 1984)

NET ACTIVE TIME BY PRESUMPTIVE

	0 Months		1 day-12 Months		12-24 Months		24-60 Months		60-96 Months		More than 96 Months		Totals	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Presumptive	6	(3.4%)	14	(7.9%)	28	(15.7%)	61	(34.3%)	52	(29.2%)	17	(9.5%)	178	(100.0%)
Non-Presumptive	251	(27.2%)	419	(45.4%)	117	(12.7%)	102	(11.1%)	11	(1.2%)	21	(2.4%)	921	(100.0%)
Unknown	6	(25.0%)	8	(33.3%)	5	(20.8%)	5	(20.8%)	0	(0.0%)	0	(9.0%)	24	(100.0%)
	263	(23.4%)	441	(39.3%)	150	(13.4%)	168	(15.0%)	63	(5.6%)	38	(3.3%)	1123*	(100.0%)

* Data missing for 5 cases.

C.   <u>Relationship of Sentences to Other Variables</u>.

Multiple regression analysis was conducted to determine the relative effect on sentence length of variables such as class of offense; whether convicted at trial; offender's prior record, age and race; number of charges, etc. Violent, property, drug and sexual offenses were analyzed. Table 17 shows the most significant factors for each of the four offense groups.

Factors that appeared to influence the sentence imposed, regardless of the type of offense, included the class of offense, a prior record of felony convictions, whether the offender had been convicted after trial, and the action taken on charges against the offender. A plea to a lesser charge had a small effect (reducing the sentence by 5 months) only in property offenses. Each of these factors is analyzed in further detail below. Factors that did not appear to influence sentence length significantly included race, age, location of the court, and prior record of misdemeanor convictions.

TABLE 17

(Alaska Felony Sentences: 1984)

ESTIMATED IMPACT OF FACTORS ON SENTENCE LENGTH

	Violent ($N = 297$)* $R^2** = 58$	Property ($N = 382$)* $R^2 = 29$	Drugs ($N = 182$)* $R^2 = 72$	Sexual ($N = 157$)* $R^2 = 64$
1. Class of Offense				
- If Unclassified	no cases	no cases	no effect	+38 mo. ±34
- If Class A	+62 mo. ±6	no cases	+52 mo. ±7	no effect
- If Class B	+19 mo. ±5	+ 6 mo. ±4	no effect	no effect
2. If offender convicted at trial	+11 mo. ±4	+ 9 mo. ±3	+ 8 mo. ±3	+20 mo. ± 7
3. Prior felony record	+13 mo. ±6	+10 mo. ±2	+14 mo. ±3	+49 mo. ±14
4. If sentence presumptive	no effect	+12 mo. ±2	+10 mo. ±3	+49 mo. ± 7
5. If no charges dismissed	+ 4 mo. ±2	+ 2 mo. ±1	no effect	+ 4 mo. ± 2
6. Number of charges convicted	no effect	no effect	+ 5 mo. ±1	no effect
7. Guilty of lesser charge	no effect	- 5 mo. ±3	no effect	no effect
8. Race of offender***	no effect	no effect	no effect	no effect
9. Age	no effect	no effect	no effect	no effect
10. Location of court	no effect	no effect	no effect	no effect
11. Prior misdemeanor record	no effect	no effect	no effect	no effect

* N = Number of cases used in multiple regression. Only cases for which all variables were known were used.

** R^2 is a statistical formula for determining the likelihood that the factors (independent variables) explain the variations in sentence length (the dependent variable). R^2 can range from 0 to 100. The higher the R^2, the more variation in sentence length has been accounted for by the independent variables.

*** Race of the offender was obtained from OBSCIS (Department of Corrections) records. Categories were Black, Native American, Caucasian, Other and Unknown.

1.   Class of Offense

The class of the offense played the most significant role in determining sentence length.   Conviction of a Class A offense increased sentence length by 62 months for violent offenses and 52 months for drug offenses.   Conviction of a Class B felony had a lesser effect: an increase of 19 months for violent offenses and 6 months for property offenses.   In sexual offenses, conviction on an Unclassified felony increased sentence length by 38 months.

TABLE 18
(Alaska Felony Sentences: 1984)

CLASS OF OFFENSE BY TYPE OF CHARGE

Final Offense Class	Violent		Property		Drugs		Sexual	
	N	%	N	%	N	%	N	%
Unclassified	–	(0.0%)	–	–	1	(0.5%)	64	(40.8%)
Class A	58	(19.5%)	–	–	18	(9.9%)	2	(1.3%)
Class B	48	(16.2%)	83	(21.7%)	110	(60.4%)	58	(36.9%)
Class C	89	(30.0%)	194	(50.8%)	44	(24.2%)	32	(20.4%)
Misdemeanor	102	(34.3%)	102	(26.7%)	9	(4.9%)	1	(0.6%)
Unknown	–	–	3	(0.8%)	–	–	–	–
	297	(100.0%)	382	(100.0%)	182	(100.0%)	157	(100.0%)

Table 18 provides the breakdown of offense classes by type of offense.   The most serious classes of offenses (Unclassified and Class A; except property offenses where the most serious class of offense is Class B) had the most significant effects on sentence length (Table 17).   Table 18 shows that the most serious offenses constitute about 10% to 20% of each type of offense, except in sexual offenses where they constitute about 40% of the convictions.   Thus, although class of offense was the most important factor in determining sentence length, Table 18 indicates that it was a factor affecting a relatively low percentage of all offenses.

2.   Trial

Offenders convicted after trial received longer sentences than those who pled guilty.   The effect was most noticeable in sexual offenses, with an increase of 20

months. For the other offense groups, the increase ranged between 8 months (drugs) and 11 months (violent). The effect was independent of other important variables such as prior record and type of offense. Similar findings have been made in other Judicial Council studies since 1974. However, this is the only study in which the finding applied to all major classes of offenses. The change may be due to two factors: 1) Past studies had fewer drug and sexual offense cases, and fewer trials for those cases. The past data may not have been sufficient for analysis of plea/trial sentence differentials. 2) The present study does not include variables such as presentence report recommendations that had been found to significantly affect sentence length in earlier studies. Thus, trial may have been more important as a variable in the 1984 data analysis only because other variables were not analyzed.

3. Felony Prior Record

Prior felony record played a role independent of presumptive sentencing, increasing the offender's sentence in every category of offense. The largest impact of prior felony record on sentence length was 49 months for sexual offenses. For other categories of offenses, the effect of a prior felony record was to increase sentence length by 10 to 14 months.

4. Presumptive

Offenders sentenced presumptively received longer sentences than those sentenced non-presumptively. This effect appeared in 3 of the 4 categories of offenses. Presumptive sentences may not have contributed independently to sentence lengths for violent offenses because of the strong correlation between Class A (which was a major contributor to sentence length for violent offenses) and presumptive sentencing. For the other three categories of offense, having a presumptive sentence increased sentence length by about the same amount as a prior felony record increased sentence length.

5. Charges

Offenders convicted of all of the charges filed against them (whether one or more) received slightly longer sentences than offenders who had had some charges dismissed. This effect was found among all groups of offenses except drugs. For

offenders convicted of multiple drug offenses, there was an increase in sentence length of 5 months on each charge.

6. Summary

The R^2 result produced by multiple regression gauges the ability of the independent variables to explain the variations in sentence length (the dependent variable). R^2 values range from a low of 0 to a high of 100. For three of the four groups (violent, R^2 = 58; drugs, R^2 = 72, sexual, R^2 = 64) the R^2 was high, an indication that many of the most important factors for determining sentence length were included in the analysis. This suggests that class of offense and presumptive sentence were more important in determining sentence than any characteristics of the offender. Only one offender characteristic--prior felony record--directly affected sentence length for 1984 felonies. Two case-processing variables--trial and number of charges--had a limited impact on sentence length for all types of offenses.

The exception to this pattern was the property offense group, where the R^2 reached only 29. A low R^2 can be interpreted as an analysis that omitted some important variables. This suggests that while property sentence lengths were affected by most of the variables that affected sentence length for other offenses, the effects were not as important. Other variables not studied may have more significant consequences for property offenders.

This outcome may be explained in part by the fact that the offenses included in the property group were not serious enough to have a mandatory sentence or a presumptive sentence for first offenders. Thus, factors about the offender may play a larger role in sentences imposed on property offenders, in contrast to other types of offenses in which the classification of the offense may be more important than any characteristic of the offender. This hypothesis is supported by the findings from multiple regression analysis of 1980 felonies. Many of the important variables contributing to sentence length for property offenders in 1980, such as harm to the victim, employment history, and offender's pretrial custodial status were not available for the 1984 analysis. The R^2 for 1980 property offenses was around 70%, supporting the hypothesis that offender characteristics play a major part in explaining property offense sentences.

III. IMPACTS OF PRESUMPTIVE SENTENCING

(Alaska Felony Sentences: 1984)

III. IMPACTS OF PRESUMPTIVE SENTENCING

A.   Introduction

Alaska's presumptive sentencing scheme has been the subject of both criticism and praise since its adoption by the legislature in 1978. On one hand, it has been credited with eliminating earlier racial and other disparities in sentencing.[4] On the other hand, it has been accused of creating problems for the courts[5] and of causing overcrowding in the prisons.[6] One of the primary purposes of this study was to provide data to enable justice system leaders to accurately evaluate the actual effects of adoption of presumptive sentencing on the criminal justice system.

This analysis could not have been undertaken without comparable data from earlier years. The Judicial Council has conducted studies of sentencing patterns for most years between 1973 and 1984. Its most recent study of felony sentences, Alaska Felony Sentences: 1980, reviewed sentences imposed during the first year of operation of the presumptive sentencing scheme. Although none of the data in earlier studies are precisely comparable to the 1984 data, they do provide a general idea of prior sentencing practices.[7]

In order to understand for what presumptive sentencing is and is not responsible, it must first be placed in its proper context. Other developments that occurred during the period following the adoption of presumptive sentencing that have also had impacts upon the operation of the criminal justice system must be identified. These developments included: statutory reclassification of certain offenses; statutory changes in sentences; case law established by the Alaska appellate courts regarding permissible sentences; changing policies regarding enforcement and prosecution of some types of offenses; and changes in agency budgets for all criminal justice system agencies. The following subsections discuss the independent effects of these factors on the justice system in Alaska.

B.   **Changes in the Criminal Justice System**

1.   **Reclassification of Offenses**

Two major groups of offenses, drugs and sexual offenses, were statutorily reclassified between 1980 and 1984. In general, sexual offenses were reclassified upwards. Conduct which was considered minor was categorized as more serious and conduct which had been considered serious was reclassified upward with more severe penalties. For drug offenses, behavior previously treated as a serious offense under Title 17 remained serious under the reclassification, and minor offenses remained minor. Finally, several amendments were made to assault offenses.

Drug offenses were transferred from Title 17 of the Alaska Statutes to Chapter 71, Title 11 of the Alaska Statutes, effective January 1, 1983. In the process, the offenses were re-characterized as "misconduct involving a controlled substance in the first (second, third, etc.) degree" to correspond with the classifications adopted for most other offenses in 1978. The classifications ranged from misconduct involving a controlled substance in the first degree (hereafter referred to as MICS 1st°), an unclassified offense, down to MICS 7th°, a violation. Prohibited controlled substances are described on schedules incorporated into Title 11, Chapter 71.

Sexual offenses were reclassified in 1983 (effective October 17, 1983). The reclassification accomplished three objectives:

a)   Created a separation between sexual assaults on adults and sexual abuse of children;

b)   Provided clearer definitions of prohibited behavior; and

c)   Increased the penalties for some types of behavior.

Specifically, the reclassification:

a)   Moved some behaviors related to sexual penetration of minors from sexual assault I to sexual abuse of a minor I;

b)   Reclassified the behavior previously included under sexual abuse of a minor (a Class C felony) to sexual abuse of a minor II (a Class B felony);

c)   Added language to sexual abuse of a minor II which classifies sexual contact with children in the offender's family under 18 as a Class B felony (see AS 11.41.436(3) for exact wording). Such behavior had not been specifically classified previously as an offense but could have been prosecuted as contributing to the delinquency of a minor, a Class A misdemeanor;

d)   Reclassified sexual contact by an offender aged 16 or older with a person 13-15 years old and at least 3 years younger than the offender as sexual abuse of a minor III, (a Class C felony), up from contributing to the delinquency of a minor (Class A misdemeanor);

e)   Defined any sexual contact or penetration by a person under 16 with a person under 13 and at least 3 years younger than the offender as sexual abuse of a minor IV (a Class A misdemeanor); and

f)   Reclassified the behavior formerly described under sexual assault III (Class C) to sexual assault II (Class B).

The 1982 legislature upgraded some types of assaultive behavior to more serious offenses. The most important change was reclassifying the former AS 11.41.210(a)(3) behavior (recklessly causing serious physical injury to another person by means of a dangerous instrument, a Class B offense) to the present AS 11.41.200(a)(1), a Class A offense. Assault II was further modified by eliminating the requirement for intent in AS 11.41.210(a)(2) and substituting "recklessly causes" (serious physical injury to another person). Assault III, AS 11.41.220, was changed by adding a new subparagraph (2) which made "...recklessly...(2) causes physical injury to another person by means of a dangerous instrument" a Class C felony. The primary effect of these changes was to eliminate the defense of intoxication by removing the requirement of intent.

The definition of "serious physical injury" was also changed in 1982. The 1980 version (AS 11.81.900(b)(49)) had read in part: "'serious physical injury'

means physical injury which creates a substantial risk of death...." The amended version (AS 11.81.900(b)(50)(A)) defined serious physical injury as meaning "physical injury caused by an act performed under circumstances that create a substantial risk of death." The amendment meant that the injury itself no longer had to be serious enough to create a substantial risk of death. Only the circumstances under which the act was committed that caused an injury had to create a substantial risk of death.

2.   Changes in Sentencing Provisions

Three major changes in sentencing provisions were made by the legislature between 1980 and 1984. Two were related to the reclassifications of drugs and sexual offenses. The third covered all Class A felonies.[8]

a)   Changes in Drug Sentences

Drug offenses were reclassified into classes of offenses corresponding to those used for most other offenses. Sentencing for drug offenses was also structured under the existing sentence scheme. An offender convicted of the unclassified offense, MICS 1st°, is now subject to a mandatory 5-year minimum sentence (AS 12.55.125(b); the maximum is 99 years). One convicted of the Class A offense, MICS 2nd°, is subject to a 5-year presumptive sentence on the first offense (see section c, below for more detailed discussion). Otherwise, presumptive sentencing applies according to the same terms prescribed for other offenders.

b)   Changes in Sexual Sentences

The 1982 legislature reclassified sexual assault I (as it was then defined) from a Class A felony with no presumptive sentence for most first felony offenders to an Unclassified felony with an eight-year presumptive sentence for first felony offenders (if the offender possessed a firearm, used a dangerous instrument or caused serious physical injury, the presumptive sentence was ten years). For second felony offenders the presumptive sentence was 15 years; for third felony offenders, it was 25 years.

The 1983 reclassification of sexual offenses categorized the new offense of sexual abuse of a minor I as unclassified, subject to the same penalties as sexual

assault I. The reclassifications left no major sex-related offenses as Class A, other than attempted sexual assault I and attempted sexual abuse of a minor I which carried the same sentences as other Class A felonies. The next steps down from the two Unclassified felonies were the Class B felonies of sexual assault II and sex abuse of a minor II. Neither offense provided for presumptive sentencing of first felony offenders. The net effect of the reclassification of sexual offenses was to subject many types of behavior to more severe sentences than had been imposed in the past.

c)   Changes in Class A Sentences

The presumptive sentencing scheme originally passed by the legislature in 1978 limited the primary impact of presumptive sentences to situations in which a convicted felon had one or more prior felony convictions. Presumptive sentences did not apply to most first felony offenders except those convicted of Class A felonies, other than manslaughter, where the offender had possessed or used a firearm or had caused serious physical injury during commission of the crime.[9] The presumptive sentence for those first felony offenders was 6 years. No other first felony offenders could be sentenced presumptively.

The legislature in 1982 extended presumptive sentencing to all first felony offenders convicted of Class A felonies (effective January 1, 1983). Presumptive terms were set at 5 years for manslaughter and for all first felony offenders who had not possessed a firearm, used a dangerous weapon, caused serious physical injury or knowingly directed the conduct at an identified peace or correctional officer or other emergency responder engaged in the performance of official duties. The presumptive term for those whose offense included a weapon or serious injury or involved a peace officer was set at 7 years.

The effect of these changes was to apply presumptive sentencing to a larger group of offenders (Figure 4). The figure shows that of 78 offenders convicted of Class A felonies in 1984, only 7.7% were known to have had prior felony records that would have subjected them to presumptive sentencing prior to the legislative changes. In addition, it was assumed that as many as 50% of the offenders convicted of other Class A violent offenses would have been subject to presumptive sentencing as first felony offenders because they had used a firearm or caused injury. Many of the other offenders (especially those convicted of manslaughter and MICS 2nd°)

would not have been subject to presumptive sentences. Using these data and assumptions, it is estimated that 64.1% of the 1984 Class A offenders would not have been subject to presumptive sentencing prior to 1983. Thus, the estimated impact of the new law has been to increase by 179% the number of Class A offenders who are subject to presumptive sentencing.

FIGURE 4
(ALASKA FELONY SENTENCES: 1984)
IMPACT OF PRESUMPTIVE SENTENCING FOR FIRST FELONY OFFENDERS, CLASS A OFFENSES

NEWLY SUBJECT TO PRESUMPTIVE SENTENCE, CLASS A

64.1%

CAUSED INJURY,ETC.
28.2%

PRIOR FELONY RECORD 7.7%
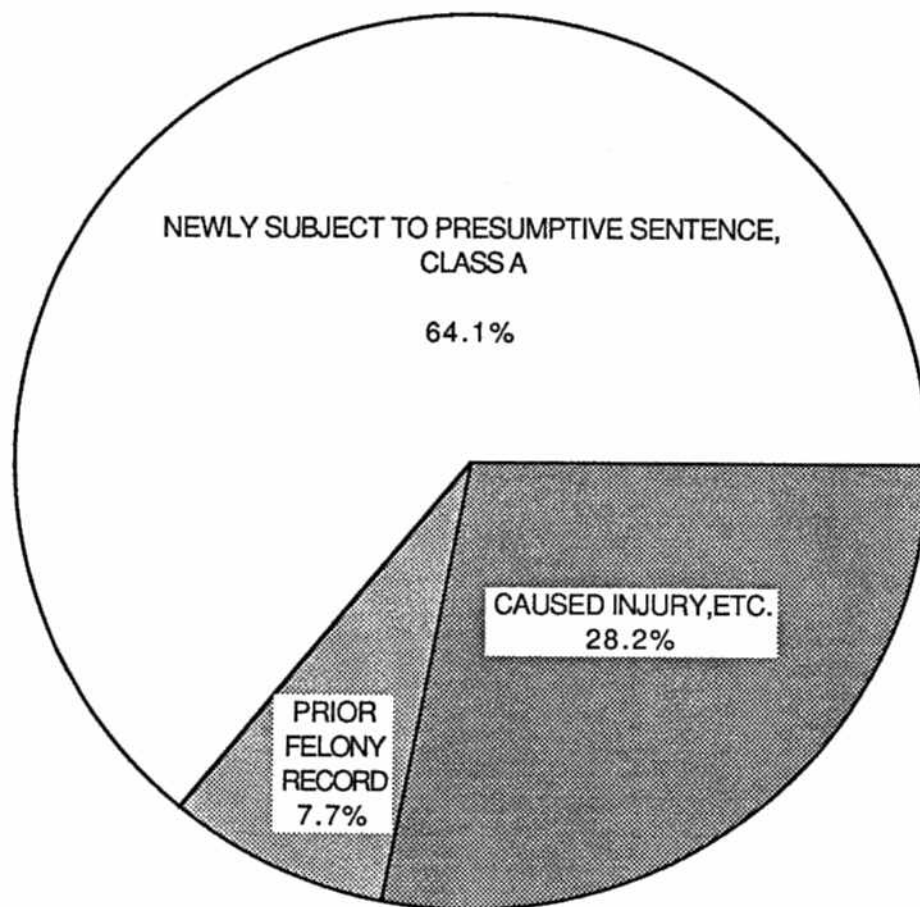
TABLE 19

(Alaska Felony Sentences: 1984)

COMPARATIVE MEAN SENTENCES, SELECTED CLASS A OFFENSES

| | Mean Sentence 1980 (Months) | | Mean Sentence 1984 (Months) | | Net Change | |
	Mean	N Offenses	Mean	N Offenses	Mean	N Offenses
Manslaughter[1]	72.0	4	64.2	10	- 7.8	+ 6
Assault I[2]	36.1	5	82.3	12	+46.2	+ 7
Robbery I[3]	65.5	13	63.2	33	- 2.3	+20
		22		55		+33

1 Manslaughter: 1980 - 0 to 20 years, no presumptive for first felony offense; 1984 - 0 to 20 years, 5 year presumptive for first felony offense.

2 Assault I: 1980 - 0 to 20 years; 6 year presumptive for first felony offense involving possession or use of firearm or serious physical injury (assault I by definition always involves serious physical injury); 1984 - 0 to 20 years, 5 year presumptive for first felony offense, except 7 year presumptive if offense involved possession or use of firearm or serious physical injury.

3 Robbery I: Same penalties as assault I in both 1980 and 1984.

Table 19 indicates that the imposition of presumptive sentencing on Class A offenders changed some sentences. Sentence lengths for robbery I convicted defendants remained about the same. Manslaughter sentences dropped to approximately five years, the level of the presumptive sentence. Assault I sentences rose to about 7 years, the presumptive sentence for first felony offenders, who caused serious physical injury.

3.   Appellate Court Decisions

The court of appeals, established by the legislature in 1980 to review criminal matters, has established a significant body of case law related to the use of presumptive sentencing. Since the court was not actually formed until mid-1980,

most 1980 sentences were not affected by its decisions. 1984 sentences, however, have been significantly shaped by guidelines set by the court of appeals. Most of these decisions are treated in depth in the Alaska Law Review article "Presumptive Sentencing in Alaska" (December, 1985).[10]

In Austin v. State, 627 P.2d 657, (Alaska Ct. App. 1981) the court stated: "[n]ormally a first offender should receive a more favorable sentence than the presumptive sentence for a second offender. It is clear that this rule should be violated only in an exceptional case." A second important guideline was established in Leuch v. State, 633 P.2d 1006, (Alaska Ct. App. 1981) where the court held that first felony offenders convicted of nonviolent crimes (except those related to sexual offenses and those covered by presumptive sentencing) should receive probation with restitution in the absence of aggravating factors. Since only 9.8% of the 1984 offenders studied had prior felony convictions, and since most were not subject to presumptive sentencing for other reasons, these two guidelines affected a large proportion of the sentences imposed.

Other court of appeals opinions have established "bench mark" sentences for various offenses,[11] guidelines for the use of aggravating and mitigating factors,[12] and guidelines for consecutive/concurrent sentencing.[13] The Alaska court of appeals has also emphasized the need to compare the sentence for an offender to sentences imposed on other, similarly-situated offenders.[14] The court of appeals has attempted both to clarify the laws regarding presumptive sentencing and to use those laws and other appellate decisions to establish guidelines for sentencing in non-presumptive cases. The net effect of this body of case law combined with the reclassifications of offenses and extension of presumptive sentencing to many first felony offenders has been a sentencing structure significantly different than that last studied by the Judicial Council in 1980.

4.   Changes in Enforcement Patterns and Numbers of Defendants

a)   Numbers of Offenders

The number of convicted defendants in the Council's 1984 felony study (1128) was nearly double the number studied in 1980 (671). Since data from Nome, Kotzebue and Kenai were unavailable in 1984, an estimated 120 additional convicted defendants

were not included. Including these offenders would mean a total increase of over 100% in the number of convictions. The reasons for the increase in the number of convicted defendants could not be determined from the data available for analysis. Possible reasons might have included increases in state population, increases in crime rates, or increases in the numbers of serious crimes. Other data sources were reviewed in an effort to account for the increase in numbers of offenders.

An Alaska House Research Agency memo cited figures showing that the state's population had increased by 30.6% (from 400,331 to 523,000) between 1980 and 1984.[15] Crime in Alaska: 1984, prepared by the Department of Public Safety, indicated that the total number of reported crimes increased by 16.4% during the same period, from 25,055 to 29,157 offenses.[16] However, the rate of reported crimes per 100,000 population decreased overall during the same period by 11%.[17] Apparently, neither the increase in state population nor an increase in crime can adequately account for the estimated 100% increase in convictions between 1980 and 1984.

An analysis of increases in specific reported crimes also suggested that the increases in convictions were unrelated to crime rates. Tables 20 and 21 show that although the number of reported homicides increased by 38.5% between 1980 and 1984, the convictions for homicides increased by 94%. With the exception of aggravated assault and burglary, other serious offenses followed a similar pattern. Convictions for most serious offenses increased at a rate nearly double the rate of increase for comparable reported crimes. Thus, an increase in specific serious crimes also could not adequately explain the increase in convictions between 1980 and 1984.

TABLE 20
(Alaska Felony Sentences: 1984)

CHANGE IN NUMBERS OF REPORTED CRIMES, 1980-1984*

	Homicide	Forcible Rape	Robbery	Aggravated Assault	Burglary	All Offenses
1980	39	267	360	1,319	5,605	25,055
1984	54	437	538	1,934	6,065	29,157
% Change	38.5%	+ 63.7%	+ 49.4%	+ 46.6%	+ 8.2%	+ 16.4%

* Data from Crime in Alaska: 1984, Department of Public Safety, p.4.

TABLE 21
(Alaska Felony Sentences: 1984)

CHANGES IN NUMBERS OF CONVICTIONS, 1980-1984*

	Homicides (Murder, Manslaughter, Negligent Homicide)	Sexual Assault I Attempted Sexual Assault I	Robbery I & II	Felony Assaults (I, II, III)	Burglary I & II
1980	16	29	26	92	153
1984	31	66**	55	117	146
% Change	+94%	+128%**	+112%	+ 27%	- 4.6%

* 1980 Data from Alaska Felony Sentences: 1980, Alaska Judicial Council.

** The number of sexual assault convictions has increased more than the data indicate. Final offense could not be determined for 48 of the 1984 offenders. In 44 of those cases, the original charge was a sexual offense. Addition of 44 charges to this category would indicate a net increase of 279%.

Another factor that could have been related to the increase in convictions was the increase in criminal justice agency budgets between 1980 and 1984. Arguably, as the resources of the system increase, the system's capacity to process more cases should increase correspondingly. A review of funds appropriated to major agencies in the criminal justice system for the years FY'80 through FY'86 (Table 22) shows that budgets for these agencies increased at varying rates, from a low of 56% increase for the trial courts to a high of 229% increase for corrections.

TABLE 22
(Alaska Felony Sentences: 1984)

CRIMINAL JUSTICE AGENCY OPERATING BUDGETS, FY'81-FY'86[1]

AGENCY	FY'81[2]	FY'86	% CHANGE
Public Defender	$ 2,743,600	$ 6,037,900	+ 120%
Department of Law	$ 6,731,900	$11,914,800	+ 77%
Department of Corrections[3]	$23,639,600	$77,692,200	+ 229%
Department of Public Safety (Troopers and VPSO)	$28,651,100	$50,548,000	+ 76%
Courts (Trial)	$19,897,600	$31,045,500	+ 56%
State Agencies, combined:	$81,663,800	$177,238,400	+ 117%
Anchorage Police Department[4]	$18,688,200	$ 34,925,000	87%

1 Source: Office of Management and Budget, State of Alaska, Feb. 1986, except Courts data provided by Alaska Court System, December, 1986.

2 Fiscal years run from July 1 to June 30. FY'81 is July 1, 1980 through June 30, 1981.

3 In FY'81, the Department of Corrections was the Division of Corrections under the Department of Health and Social Services. It became a separate department in 1983.

4 The Anchorage Police Department figures are not by fiscal year. The figures are for calendar year 1980 and calendar year 1985. Source: Anchorage Police Department, Feb. 1986. Figures for other local police departments are not included on the table.

Alaska experienced only moderate increases in the rates of some types of crime and a decrease in other types, while convictions increased at more than twice the

rate of the population increase. The one quantifiable factor which matches this rate of increase is the increase in agency fiscal resources. Our tentative conclusion is that one important factor in jail overcrowding[11] and increased court caseloads may be the application of increased resources to the reporting of offenses and enforcement of existing laws.

b)   Changes in Enforcement Patterns

The most significant change in enforcement patterns has been the 256% increase in the number of child sexual assault cases accepted for prosecution between 1980 and 1984.

TABLE 23
(Alaska Felony Sentences: 1984)

PROSECUTION OF CHILD SEXUAL ASSAULT CASES[18]

Fiscal Year*	Number of Child Sexual Assault Cases Accepted for Prosecution	Conviction Rate in Child Sexual Assault Cases
1980	34	69 percent
1981	55 (62 percent annual increase)	69 "
1982	76 (38 " " ")	79 "
1983	121 (59 " " ")	76 "

Source: Chief Prosecutor's Office, Alaska Department of Law.

* Fiscal Year is July 1 through June 30. FY'1980 is July 1, 1979 through June 30, 1980.

The Judicial Council's study of 1980 felony sentences included 18 convictions that could be clearly identified as child sexual abuse offenses. The Council's figure was conservative because the most serious cases may have been charged as sexual assault I and data were not available to distinguish between adult and child victims of sexual assault I.

A House Research Agency memo of June, 1985[19] suggested that incidence of child sexual abuse was likely to have been about the same in 1985 as in the past. The memo suggested that increased awareness of the problem and greater willingness to report occurrences of sexual abuse probably accounted for the increasing numbers of cases. At the same time, increased resources were made available to criminal justice agencies for enforcement and prosecution of child sexual abuse cases. Child sexual abuse cases constituted 2% of the 1980 convictions studied by the Judicial Council, but 11.3% of 1984 convictions.

Other sexual assault convictions also increased slightly during the same period. Those were sexual assault convictions in which the age of the victim could not be discerned. There were 37 such cases in 1980 out of 853 total charges (4.3%), as compared to 71 cases in 1984 (6.3%; primarily sexual assault I and II). Again, increased public awareness and willingness to report sexual assault offenses, combined with increased resources for enforcement, may account for the increases.

Other types of offenses showed changed enforcement patterns between 1980 and 1984 also (see Figure 5). Drug convictions increased from 14.0% to 16.0% of the total number of cases. Violent offenses dropped slightly, from 29.7% to 26.3%.

Property offenses dropped sharply, from 46.5% of the 1980 convictions down to 33.9% of the 1984 convictions. Data from the Department of Public Safety indicated that the rate of property crime per 100,000 population dropped by 13.7%, from 5,802 per 100,000 in 1980 to 5,008 per 100,000 in 1984.[13] The relative decline in property convictions also may have been partially related to the Department of Law's pretrial diversion program that focused on nonviolent first offenders, many of whom had been charged with property offenses.

FIGURE 5
(Alaska Felony Sentences: 1984)
Distribution of Convictions, 1980 and 1984

1980
N=853

1984
N=1128

Drugs 14.0% (N=119)
Violent 29.7% (N=253)
Property (& Fraud) 46.5% (N=397)
Murder 2.1% (N=18)
Other 0.8% (N=7)
Sexual* 6.9% (N=59)

Drugs 16.1% (N=182)
Property 33.9% (N=382)
Violent 26.3% (N=297)
Sexual 13.9% (N=157)
Murder 1.3% (N=15)
Other 4.2% (N=47)
Unknown** 4.3% (N=48)
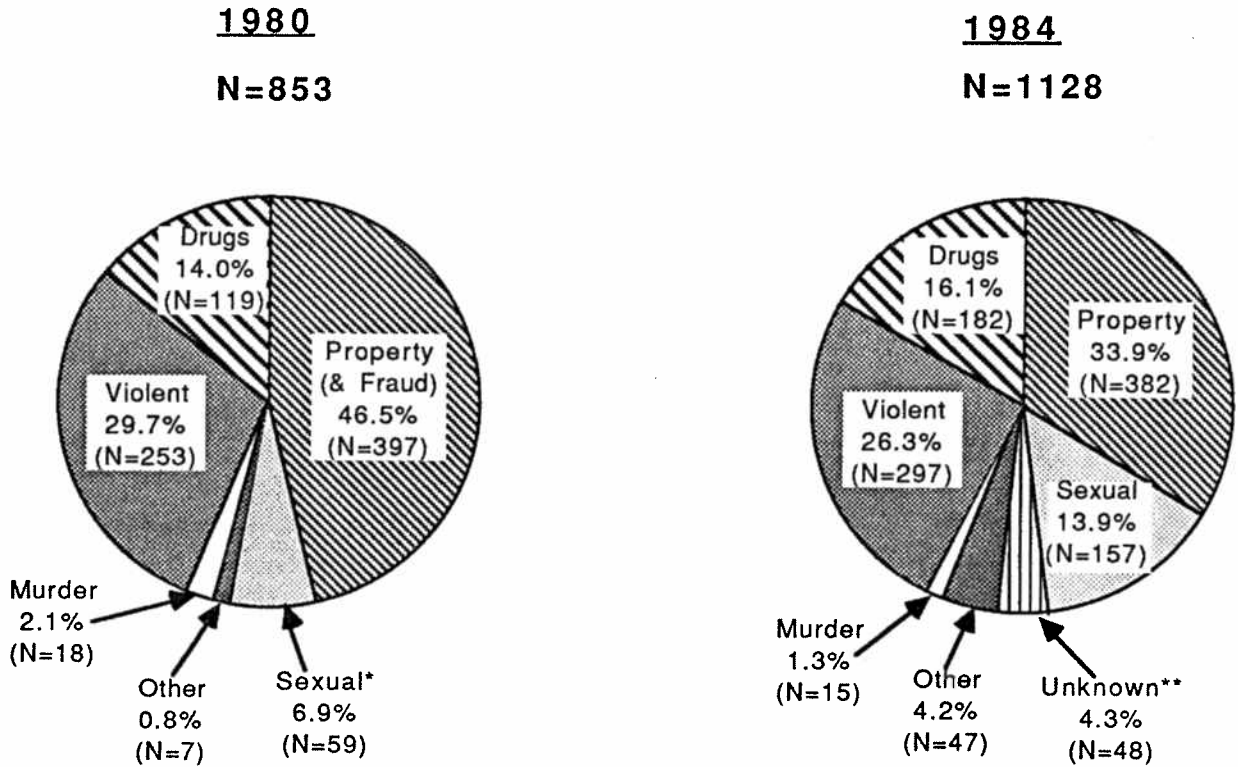
*See Table 31 for distribution
 of offenses.

** Unknown: for 44 of 48 unknown
   final charges, the original charge was a
   sexual offense. See Table 11.

5. Summary of Major Changes

The population of convicted defendants grew by nearly 100% between 1980 and 1984, despite a statewide population growth of only 30.6% and only moderate increases or actual decreases in rates of reported crime. Criminal justice agency budgets increased by as little as 56% (Trial Courts) and as much as 229% (Department of Corrections) during the same four years. The types of offenses resulting in conviction changed noticeably, with a 300% increase in sexual offense convictions and a marked decline in property offense convictions.

Changes in statutes and case law also had an impact on the criminal justice system. Reclassification of child sexual abuse conduct resulted in more severe treatment of offenders. Imposition of presumptive sentences for most first felony offenders in the more serious crimes (sexual assault I, sexual abuse of a minor I and all Class A felony convictions) also affected the criminal justice system (see Section C below). Finally, a significant body of caselaw developed between 1981 and 1984 helped structure judicial discretion in sentencing of offenders not subject to presumptive sentencing, and established guidelines for application of the presumptive sentencing laws.

C. Possible Effects of Presumptive Sentencing on Courts

Concern about the increasing numbers of felony trials after 1980 led to the hypothesis that much of the problem might be related to the adoption of presumptive sentencing. To test this hypothesis, Alaska's trial rates were compared to national trial rates. Alaska data for FY'85 (fiscal year 1985, July 1, 1984 - June 30, 1985) is shown on Table 24. States compared to Alaska were similar in size and in method of counting felony cases and trials.

The data on civil dispositions and civil trials indicate the overall work load for each state's trial court of general jurisdiction. The civil dispositions shown are the more serious civil cases such as personal injury, torts and contracts. Courts of limited jurisdiction, comparable to Alaska's district courts, are not shown.

Alaska's rate of felony trials in FY'85 was 17.0% of felony dispositions (Table 24). Although Wyoming had a trial rate of 21%, other states tried felonies at a lesser rate than Alaska. The overall average trial rate for the states shown was 9.9%; for all states that provided data, the felony trial rate was 9.8%.[20]

TABLE 24
(Alaska Felony Sentences: 1984)
COMPARISON OF TRIAL RATES BY VARIOUS STATES*

(Civil and Felony Data)	Civil Disposit./ Felony Disposit.	Civil Trials/ Felony Trials	Civil Trial Rate/ Felony Trial Rate	Number of General Jurisd. Judges	Felony Trials per Judge per year	Total Trials per Judge per year
Alaska	5,387	165	3.0%	–	–	–
	1,629	278	17.0%	29	9.6	21.0**
South Dakota	9,770	565	6.0%			
	2,463	123	5.0%	35	3.5	19.7
Utah	24,076	1,034	4.0%			
	2,811	328	12.0%	29	11.3	47.0
Vermont	5,085	703	14.0%			
	1,817	32	2.0%	24	1.3	30.6
Washington	29,034	1,814	6.0%			
	14,594	1,980	13.0%	128	15.5	29.6
(Felony Data Only)						
Montana	—	—				
	2,628	131	5.0%	32	4.1	—
Oklahoma	—	—	—			
	21,026	1,638	8.0%	71	23.1	—
Wyoming	—	—				
	1,432	296	21.0%	17	17.4	—
Felony:	48,400	4,806	9.9%			

* This table is intended for general comparisons only. All of the states listed count felony cases in a manner similar to Alaska's system. However, not all count trials similarly to each other or Alaska. Vermont counts a trial as a verdict rendered. Alaska apparently counts a trial as a procedure at which a jury was empaneled. Most other states count a trial once a jury has been empaneled. Alaska data is FY'85; all other states are calendar year 1984. The data on this table are taken from the National Center for State Courts publication, State Court Caseload Statistics, Annual Report, 1984, Table 23, 144-148.

** Total Alaska trials per judge include the 165 civil trials and 278 felony trials shown, plus an additional 165 Domestic Relations trials.

Can this high felony trial rate be attributed to presumptive sentencing? Table 25 suggests that other factors may be equally important. Alaska's trial rates have been well above the national average since 1975, when the Attorney General prohibited plea bargaining by District Attorneys.[21] Trial rates peaked at 22.0% in 1977, but have not dropped back to 1975 levels at any time since then.

TABLE 25
(Alaska Felony Sentences: 1984)

SUPERIOR COURT FELONY TRIAL RATES, 1975 – 1985

	Year	Felony Dispositions*	Felony Trials	Trial Rate	% Increase/ Decrease in Number of Trials	Trial Convictions as % of all Convictions**
Plea Bargaining Ban, Aug./1975	1975	643	65	10.1%	N/A	8.5%
	1976	859	136	15.8%	+ 109.2%	15.3%
	1977	713	157	22.0%	+ 15.4%	22.4%
	1978	805	166	20.6%	+ 5.7%	21.8%
	1979	697	127	18.2%	– 23.5%	21.2%
Presumptive Sentencing Jan. 1, 1980	FY'80	761	126	16.6%	– 0.8%	15.8%
	FY'81	802	132 (est.)***	16.5%	+ 3.9%	N/A
	FY'82	1,254	235 (est.)	18.7%	+ 78.0%	N/A
	FY'83	1,529	222 (est.)	14.5%	– 5.5%	N/A
Presumpt. for Class A 1st offenders & all Drugs, Jan. 1, 1983	FY'84	1,588	207 (est.)	13.0%	– 6.8%	14.3%
Reclassification Sexual, Oct. 17, 1983	FY'85	1,629	278	17.0%	+ 34.3%	N/A

* Net Dispositions, in Superior Court, Alaska Court System Reports.

** Data from sentencing studies by Alaska Judicial Council. This column shows trial convictions as a per cent of all convictions. Data years for these data do not match Court System data years precisely.

*** Estimates based on number of felony trials handled by the Public Defender agency statewide. Since the Public Defender agency is assigned to about 60% of felony cases, and since this percentage has not changed substantially, the number of their trials has been used to estimate the number of total felony trials. The number of trials, actual or estimated has been divided by the number of felony dispositions reported by the Court System for each year.

Table 25 shows that Alaska first experienced an increase in trial rates following adoption of the plea bargaining ban in 1975. Trial rates stayed high over the next five years. The implementation of presumptive sentencing in 1980 did not change trial rates noticeably. They continued a slight decline until FY'85. The events most closely associated with changes in trial rates in recent years appear to have been the plea bargaining ban and the 1982-83 statutory changes in various offenses and sentences.

Removing the prohibition on plea bargaining would allow serious offenses carrying presumptive sentences to be reduced to lesser offenses without presumptive sentences or with shorter sentences. Removing presumptive sentencing without eliminating the plea bargaining ban would still leave defendants facing serious charges with little perceived opportunity for a lesser sentence if convicted. Although many attorneys now cite presumptive sentencing as the primary reason for high trial rates, the data in Table 25 suggest that the continuation of the plea bargaining ban is also associated with high trial rates.

Table 25 indicates that new presumptive sentencing provisions may be independently associated with trial rates. Between FY'84 (July 1, 1983 and June 30, 1984) and FY'85 (July 1, 1984 and June 30, 1985) the trial rate increased from 13.0% to 17.0%. This jump in trial rate may have been related to the statutory sentence increases described in Section III.B.2. of this report (presumptive sentences for drug offenses and first offenders, Class A offenses; reclassification of and presumptive sentences for serious sex-related offenses).

Table 26 shows an 85% increase in the total number of cases included in Judicial Council studies in urban areas between 1980 and 1984. Convictions for the most serious offenses (Unclassified and Class A charges) increased by 124% as compared to a 78% increase in Class B and C convictions. Table 27 shows that 14.4% of all convictions were obtained at trial, including 9.7% of Class B and C offenses and 32.8% of Unclassified and Class A offenses. Those charged with the most serious offenses were more than three times as likely as Class B and C offenders to go to trial. The disproportionate increase in the percentage of offenders originally charged with Unclassified and Class A offenses was associated with an increase in the number of cases proceeding to trial. It should be noted that the increase in serious charges came in the context of dropping crime rates for serious offenses.

Increased enforcement efforts and reclassification of sex-related offenses, not an increased occurrence of crimes, were associated with the greater numbers of cases tried in 1984.

TABLE 26
(Alaska Felony Sentences: 1984)

DISTRIBUTION OF CLASS OF OFFENSE BY STUDY PERIOD AND AREA

Offense Originally Classified as:	1980 Urban* N	1980 Urban* %	1984 Urban N	1984 Urban %	1984 Rural N	1984 Rural %	Drugs, 1984 N-Urban	Drugs, 1984 N-Rural
Unclassified	13	(2.7%)	76	(8.5%)	37	(15.7%)	2	—
Class A	59	(12.3%)	85	(9.5%)	10	(4.2%)	19	—
Class B	117	(24.3%)	216	(24.2%)	49	(20.7%)	95	23
Class C	210	(43.7%)	365	(40.9%)	104	(44.1%)	29	13
Unknown	-	-	5	(0.6%)	-	-	-	—
Drugs	82	(17.0%)	145	(16.3%)	36	(15.3%)	-	—
	481	(100.0%)	892	(100.0%)	236	(100.0%)	145	36

* No comparable data available for 1980 Rural cases.

TABLE 27
(Alaska Felony Sentences: 1984)

CONVICTIONS BY TRIAL VS. PLEA

Original Offense Class	Plea		Trial		Total
	N	%	N	%	
Unclassified	79	(68.7%)	36	(31.3%)	115
Class A	75	(65.8%)	39	(34.2%)	114
Class B	337	(88.0%)	46	(12.0%)	383
Class C	470	(92.0%)	41	(8.0%)	511
Unknown	5	(100.0%)	0	(0.0%)	5
	966	(85.6%)	162	(14.4%)	1128

Trial rates alone do not provide a complete picture of the effects of changes in the courts in the 1980s. Despite a 56% increase in resources between FY'81 and FY'86 (Table 22), the Court System faced a 121% increase in the number of trials between FY'81 and FY'85 (Table 25) with only a 38% increase in the number of judges. The 21 superior court judges in FY'81 averaged six felony trials per judge, while in FY'85, 29 Superior Court judges heard an average of 9.6 trials per judge, a 60% increase in felony trials per judge. In addition, FY'81 judges disposed of an average of 38.2 felony cases each; by FY'85, this figure had increased to 56.2 cases. (These figures represent average case loads only, since some Superior Court judges hear only civil cases, and trial rates for felonies vary markedly by community.) Thus the demand for trial court resources increased at a rate greater than the rate at which resources could be applied. Despite the judges' increased productivity, the demand for judicial resources increased every year.

The increase in the number of felony trial demands appeared to be closely related to:

1) the increased number of offenses, especially serious offenses, on which defendants were arrested and charged;

2)   the reclassification upward of some sexual offenses to Class A and
        Unclassified levels where presumptive terms reduced the likelihood of
        guilty pleas; and

3)   subjecting all Class A first offenders to presumptive sentences.

Thus, it was not the presumptive sentencing structure adopted in 1978 that caused
the trial resource demand to increase. The increased number of offenses combined
with the extension in 1982 and 1983 of the presumptive sentencing scheme beyond the
limits set in 1978 appear to have been the major factors in increased trial resource
demand.

D.   Possible Impacts of Presumptive Sentencing on Prison Population

Sentencing structures may affect prison populations by changing the percentage
of offenders required to serve time in jail, by changing the sentence lengths for
individual offenders, or by implementing procedures such as good time and
discretionary parole that affect the amount of a time an offender actually serves.
The sentencing structure adopted by the legislature in 1978 and modified during the
intervening years affected 1984 offenders in all three ways. Other factors,
including those described earlier (new case law, reclassification of various
offenses and an estimated 100% increase in the numbers of convicted defendants),
interacted with the statutory changes in sentencing to structure a 1984 prison
population of sentenced felons very different in size and composition from the
prison population of 1980 or earlier years.

1.   Increase in Number of Felony Convictions

The Alaska Prison Population Impact Analysis published in 1982 by the Judicial
Council projected the possible effects of presumptive sentencing on the sentenced
felon prison population.[22] The report found that the presumptive sentencing laws
in effect in 1980 would not, of themselves, increase prison population over the
5-year period between 1982 and 1986. However, the report suggested that applying
presumptive sentencing to first offenders and drug offenses would increase prison
populations. In addition, the Council's analysis tested the effects of increases in
the number of court convictions on the prison population. The report found that

growth in the numbers of court convictions at the rate of 20%/year for several years would produce higher prison populations than any of the statutory changes that were hypothesized and analyzed.

Table 28 compares the actual growth in prison populations (sentenced felons) between 1977 and 1986 with the Council's predicted prison populations. Court felony dispositions are provided for the same periods to show that growth in felony dispositions for the years of 1982 and 1983 exceeded the Council's projected growth rates of 20% per year by 50% or more. The numbers of court felony dispositions is not the same as the number of court felony convictions (dispositions include dismissed cases). However, if the conviction rate is unchanged over a period of time, then convictions and dispositions should maintain the same ratio to each other. Thus, if court felony dispositions increased at a rate of 35% (as they did in 1982), court felony convictions probably increased at the 35% rate also.

The Judicial Council's study projected a growth rate of 20% in court convictions between 1982 and 1983, which would have resulted in a 10% net increase in prison population. However, the actual increase was comparable to the 35% increase in felony dispositions. The study projected a net increase of 27% in prison population between 1983 and 1984, the combined effects of an additional 20% increase in convictions and the addition of drug offenses to the presumptive sentencing structure. Actual growth in convictions was closer to 12% (the increase in felony dispositions). The real actual growth in prison population was a 57% increase in sentenced felon population between 1982 and 1984.

The table shows that court felony dispositions grew at lower rates in 1985 and 1986 (3% and 1% respectively) than did sentenced felon prison population (9%, 1985 and 18%, 1986). The continued growth of sentenced felon populations despite the levelling out of court felony dispositions suggests that factors other than an increase in the numbers of convictions played a part in increasing prison populations. The next three sections discuss the major factors contributing to increased prison population.

TABLE 28

(Alaska Felony Sentences: 1984)

PRISON POPULATION COMPARED TO COURT DISPOSITIONS

Actual Prison Population Sentenced Felons[1]			Predicted, AJC[2]			Court Felony Dispositions[3]		
Year	N	% Change	Year	N	% Change	Year	N	% Change
Jan. 1978	458	---				Dec. 1977	713	---
Feb. 1980	541	+18%				Dec. 1979	697	- 2%
Mar. 1981	608	+12%				Jan. 1981	782	+12%
Feb. 1982	725	+19%	Feb. 1982	695	---	Jan. 1982	1,028	+31%
Feb. 1983	No Data	---	Feb. 1983	763	+10%	Jan. 1983	1,392	+35%
Feb. 1984	1,141	+57%	Feb. 1984	967	+27%	Jan. 1984	1,559	+12%
Feb. 1985	1,245	+ 9%	Feb. 1985	1,065	+10%	Jan. 1985	1,609	+ 3%
Feb. 1986	1,467	+18%	Feb. 1986	1,238	+16%	Jan. 1986	1,631	+ 1%
						(est.)		

1 Sentenced felon prison populations taken from Department of Corrections fact sheets, published between 1984 and 1986.

2 Alaska Prison Population Impact Analysis, Alaska Judicial Council, June, 1982.

3 Alaska Court System Annual Reports, 1975-1985. (1986 data estimated by Alaska Court System staff.)

2. Probation Rates, Sentence Lengths, Time Served

The increase in the number of persons convicted as well as the increase in the percentage of convictions on more serious charges accounts in part for the increase in sentenced felon prison population. In addition, a decrease in the rate at which defendants were sentenced to only probation (rather than active jail time); an increase in the amount of net jail time imposed; and an increase in the amount of actual time to be served ("good time" and parole) all combined to increase prison population. These factors and their relationship to presumptive sentencing are discussed in further detail below.

a) Decrease in Probation Rates

A drop in probation rates (the percentage of offenders sentenced to zero active time) will increase prison populations unless sentence lengths are reduced. This section analyzes the changes in probation rates since 1974-76, independently of consideration of length of sentence. The following sections consider changes in sentence length, and changes in amount of time actually served.

TABLE 29
(Alaska Felony Sentences: 1984)

PROBATION RATES BY TYPE OF OFFENSE, 1974-1984

	1974-76[1]		1976-79[2]		1980[3]		1984	
	N/no Jail	% of all Convictions	N/no Jail	% of all Convictions	N/no Jail	% of all Convictions	N/no Jail	% of all Convictions
Violent[4]	40	(25.1%)	113	(23.2%)	52	(20.6%)	61	(20.5%)
Property and Fraud	136	(42.1%)	405	(40.8%)	107	(31.5%)	108	(28.4%)
Drugs	104	(51.2%)	107	(46.5%)	34	(28.6%)	51	(28.0%)
Sexual	7	(13.2%)	32	(26.0%)	13	(22.0%)	26	(16.6%)
Other	41	(48.2%)	—	—	—	—	11	(23.4%)
Unknown	—	—	—	—	—	—	6	(12.5%)
	328	(39.0%)	657	(34.9%)	206	(24.2%)	263	(23.7%)

1 Alaska Felony Sentencing Patterns: A Multivariate Analysis, Alaska Judicial Council, April, 1977. The data include only felony sentences; data for all other years includes misdemeanor sentences where the original charge was a felony.

2 Alaska Felony Sentences: 1976-79, Alaska Judicial Council, November, 1980.

3 Alaska Felony Sentences: 1980, Alaska Judicial Council, December, 1982.

4 The categories of violent, sexual and "other" offenses have been recalculated for this table, to include offenses most comparable to the same categories in 1984. However, "other" offenses in 1974-76 were defined differently that it was not possible to make the category truly comparable to 1984. In 1976-79 and 1980 studies, "other" offenses were distributed among violent, property and sexual offense categories.

Overall probation rates have declined steadily since 1974-76, when 39.0% of offenders were not required to serve active time. In 1976-79, probation rates overall stood at 34.9%, but in 1980, only 24.2% of all offenders were sentenced to zero active time. The net result was that in 1980, 30.7% more offenders were serving some jail time (or 92 offenders). Between 1980 and 1984, the overall probation rate dropped by only .5% (Table 29).

The three types of offenses covered by the new sentencing structure in 1980 (violent, property and sexual) all showed declining probation rates between 1976-79 and 1980. Probation rate drops for violent offenses (23.2% down to 20.6%) and sexual offenses (26.0% down to 22.0%) were relatively small, 11.2% and 15.4% respectively. Property offenders were affected more noticeably, with a net drop of 22.8% in probation rate between 1976-79 and 1980. (Appendix C provides further comparative detail on probation rates and sentence lengths for some specific offenses in all three study periods.)

Table 30 shows the percentages of offenders with prior felony records for each study period. The table indicates that one-quarter (24.7%) of the 1980 offenders were subject by statute to presumptive sentencing because of prior felony records. The drop in probation rates in 1980 was partially related to presumptive sentences including jail time imposed on defendants with prior felony records, some of whom had been sentenced to probation during the 1976-79 period.

TABLE 30
(Alaska Felony Sentences: 1984)

PRIOR RECORD BY STUDY PERIOD

	1976-79 N	1976-79 %	1980 N	1980 %	1984 N	1984 %
No Prior Record	515	(27.4%)	255	(29.9%)	492	(43.6%)
Misdemeanors Only	592	(31.4%)	279	(32.7%)	362	(32.1%)
Prior Felonies	444	(23.6%)	211	(24.7%)	110	(9.8%)
Unknown	332	(17.6%)	108	(12.7%)	164	(14.5%)
	1,883	(100.0%)	853	(100.0%)	1,128	(100.0%)

Probation rates for drug offenses also dropped between 1976-79 (46.5%) and 1980 (28.6%). The net decline was 38.5%, a much more substantial drop than for the other groups of offenses. Since drug offenses were not sentenced under presumptive sentencing until their 1983 reclassification the drop in probation rates was not a result of presumptive sentencing. The 1984 probation rate for drug offenses (28.0%), after reclassification, was virtually unchanged from the 1980 rate of 28.6%.

One method for estimating the impact of policy changes on probation rates is to multiply the number of actual offenders in one year by the percentage of offenders on probation in a different year. The difference between the actual number of offenders on probation and the estimated number equals the estimated impact of presumptive sentencing on probation rates, all other things being equal.

For example, Table 29 shows that the probation rate for drug offenders in 1976-79 was 46.5%. The actual number of drug offenders in 1980 was 119 (Figure 5). If 46.5% of 1980 drug offenders had been sentenced to probation, 44 drug offenders would have been on probation. However, only 28.6% of the 119 1980 drug offenders actually received probationary sentences. The difference between the estimated number of drug offenders on probation (55) and the actual number (34) is 21 offenders. Stated slightly differently, 21 more drug offenders received jail sentences in 1980 than would have if the 1976-79 trends had persisted into 1980 without change.

The analysis measures the amount of change in number of drug offenders sentenced to probation between 1976-79 and 1980. It does not suggest any reasons for the change. Other available data also do not suggest possible explanations for the greater number of drug offenders sent to jail in 1980.

A similar analysis can be applied to probation rate changes between 1980 and 1984. Only two groups of offenses showed some change in probation rates between 1980 and 1984. Property probation rates dropped from 31.5% in 1980 to 28.4% in 1984. The net effect on prison population was an additional 10 offenders in 1984 who would not have been sentenced to serve a jail term in 1980.

Sexual offense probation rates also declined, from 22.0% in 1980 to 16.6% in 1984. Table 31 shows specific offenses, probation rates and mean sentence lengths

for sexual offenses in both years. If the 1980 probation rate had applied to 1984 sexual offenses, all other things being equal, an additional 9 offenders would have been sentenced to probation only.

TABLE 31
(Alaska Felony Sentences: 1984)

COMPARISON OF PENALTIES FOR SEXUAL OFFENSES, 1980-1984*

	1980				1984			
	N, Prob.	% Prob.	Mean Sent. (mo.)	Number of Offenders	N, Prob.	% Prob.	Mean Sent. (mo.)	Number of Offenders
Sexual Assault I	1	(4.5%)	72.6	22	4	(6.3%)	94.1	64
Attmp. Sexual Asslt. I	0	(0.0%)	20.6	7	0	(0.0%)	45.0	2
Sexual Assault II + Sexual Assault III	0	(0.0%)	27.8	8	1	(10.0%)	28.4	11
Sexual Abuse of Minor	7	(43.8%)	13.6	16	11 / 7	{ 23.0% / 46.7% }	26.1 / 24.4	48 / 15
Incest	1	(100.0%)	—	1	0	(0.0%)	36.7	3
Contribute to Delinquency of Minor	3	(75.0%)	2.0	4	3	(42.8%)	10.3	7
Attempted Sexual Abuse of Minor	1	(100.0%)	—	1	1	(25.0%)	10.7	4
Other Misdemeanors	—	—	—	—	0	(0.0%)	4.3	3
	13	(22.0%)		59	26	(16.6%)		157

* Offenses are compared as follows:

Specific Offense, 1980		Specific Offense, 1984
Sexual Assault I (Class A)	=	Sexual Assault I (Unclassified) or Sexual Abuse Minor I (Unclassified)
Attempted Sexual Assault I (Class B)	=	Attempted Sexual Assault I (Class A)
Sexual Assault II (Class B) Sexual Assault III (Class C)	=	Sexual Assault II (Class B)
Sexual Abuse of Minor (Class C)	=	Sexual Abuse Minor II (Class B)
Incest (Class C)	=	Incest (Class C)
Contribute to Delinquency (Misd.)	=	Sexual Abuse Minor III (Class C)
Attempted Sexual Abuse Minor (Misd.)	=	Attempted Sexual Abuse Minor II (Class C)

Table 31 also shows the effects of reclassification of sexual offenses on probation rates by comparing the specific 1980 offense with the 1984 offense that prohibited the same behavior (the 1980 offenses and comparable 1984 offenses are described at the bottom of the table). For example, sexual abuse of a minor, a Class C offense in 1980, was reclassified as a Class B offense. The probation rate in 1980 was 43.8%, but had dropped to 34.0% in 1984. The difference of 9.8 percentage points represents a net decline of 22.4% in the number of offenders sentenced to probation only.

The degree to which presumptive sentencing and other major policy changes within the criminal justice system affected prison population by reducing the percentage of defendants sentenced to zero active time can be estimated by applying 1976-79 probation rates for offenders convicted of felonies to the group of 1984 defendants convicted of felonies. The percentage of 1976-79 defendants convicted of felonies (excluding murder/kidnapping offenses and those convicted of misdemeanors) was 33.1%. The number of 1984 defendants convicted of felonies (again excluding murder/kidnapping and misdemeanor convictions) was 838. Multiplying the 838 defendants by .331 (the 1976-79 probation percentage) gives a total of 277, the number of offenders who would have been on probation if the 1976-79 trends had persisted into 1984, and if all other factors had been equal. The actual probation rate for 1984 felons, however, was .241. The difference between the two numbers is 75 offenders. These 75 offenders who were sentenced to jail terms in 1984 would have received a sentence of zero active time in 1976-79, all other things being equal.

b)   Increased Length of Sentence

Increased sentence lengths will increase prison populations, if probation rates and time to serve (i.e., as determined by "good time" and parole) remain unchanged. This section analyzes the independent effects of increased sentence lengths on prison populations.

Table 32 shows the numbers of felony sentences for 1980 and 1984 (for this analysis, persons originally charged with a felony but sentenced on a misdemeanor were excluded), the mean sentence in months for each type of offense, and the total months to be served for each group of sentences. The table shows that mean sentence

lengths increased for each category of offense between 1980 and 1984. The smallest increase was for property offenses (17.0 months in 1980 vs. 19.2 months in 1984), a net increase of 2.2 months or 12.9%. Sexual and violent offense mean sentences increased by about the same amount, 29.8% and 29.2% respectively. Drug offenses showed the largest net increase, 39.7%.

Property offenses were largely unaffected by the statutory changes to the 1980 sentencing structure that were legislated in 1982 and 1983. The increase in mean sentence length for this group was due to factors outside the scope of this study. However, violent, drug and sexual offenses were all affected by the legislative changes, and for each type of offense, the mean sentence length increased by 30% to 40%.

TABLE 32
(Alaska Felony Sentences: 1984)

COMPARISON OF TOTAL MONTHS SENTENCED, 1980 AND 1984[1]

	1980			1984			Diff. Between 1980 and 1984 Mean Sent. Lgth.	% Increase in Mean Sent. Lgth.
	Number of Sentences	Mean Sentence	Sum of Sentences	Number of Sentences	Mean Sentence	Sum of Sentences		
Violent[2]	115	28.8	3,310.8	179	37.2	6,653.1	8.4 mo.	+ 29.2%
Property/Fraud	205	17.0	3,475.0	206	19.2	3,948.0	2.2 mo.	+ 12.9%
Drugs	84	14.6	1,230.5	124	20.4	2,525.0	5.8 mo.	+ 39.7%
Sexual	45	44.7	2,012.0	127	58.0	7,367.0	13.3 mo.	+ 29.8%
	449	22.3	10,028.3	636	32.2	20,493.1	9.9 mo.	+ 44.4%

1 Only felony sentences with active time to serve were used in this table. Misdemeanor sentences (where the original charge was a felony) and sentences of zero active time were excluded.

2 For purposes of this table, 1984 "other" offenses were categorized in the same group they fell into in 1980; e.g., misconduct involving weapons I was categorized as a violent felony in 1984 on this table.

Table 32 enables analysis of the amount of increase in prison time due to each of three major factors: 1) increased number of convictions; 2) change in seriousness of charges convicted; and 3) other factors, primarily reclassification of offenses and imposition of presumptive sentences for first felony offenders convicted of Class A offenses.

The overall net increase in prison time was 10,464.8 months (1984 sum of sentences, Table 32, minus 1980 sum of sentences). Multiplying the number of 1984 offenders in each group by the mean sentence for the comparable 1980 group gives a weighted estimated sum of sentences for 1984 of 16,144.5 months. This estimated sum takes into account the changed proportions of each group between 1980 and 1984 (e.g., persons convicted of sexual offenses constituted a larger proportion of the 636 sentences in 1984 than did the comparable group in 1980). The difference between this estimated sum and the actual 1984 sum of sentences (4,438.6 months) is the amount of the increase (41.6%) that can be attributed to reclassification, new presumptive sentences and other factors.

A second, non-weighted, estimated sum of 1984 sentences can be obtained by multiplying the total number of 1984 offenders (636) by the overall mean sentence for 1980 offenders (22.3 months). The result is a 1984 estimated sum of sentences of 14,182.8 months. This estimated sum is lower because it does not take into account the fact that a larger percentage of 1984 offenders were convicted of serious charges than in 1980. The difference between the two estimated sums (1,961.7 months) is the amount of the prison time increase (18.7%) that can be attributed to a change in the seriousness of charges convicted.

Finally, the difference between the weighted estimated sum (16,144.5 months) and the 1980 sum of sentences (10,028.3 months) is 6,116.2 months. Subtracting the amount due to increased seriousness of charges (1,961.7 months) gives a net change of 4,154.5 months, or 39.7% of the increase in prison time due to increased convictions. Figure 5 shows the distribution of the increases in prison time graphically.

FIGURE 6
(ALASKA FELONY SENTENCES: 1984)
Increase in Total Prison Time: Percent of Increase Due to Specific Factors
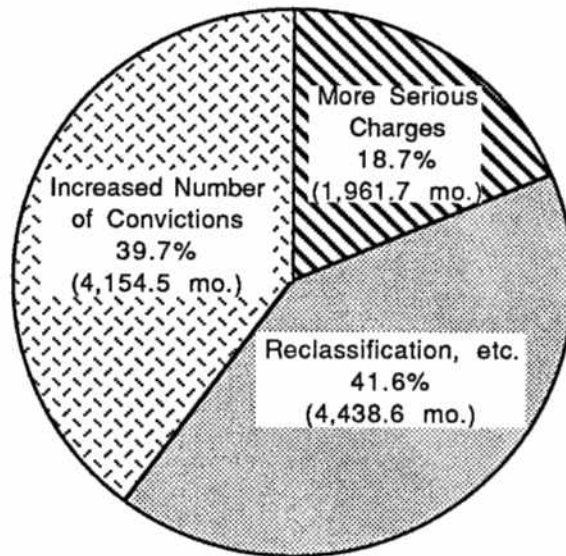
Table 33 allows analysis of each type of offense to determine what role each of the three major factors played in increasing prison time for that type of offense. For sexual offenses, only 36.8% of the increase in prison time was due to reclassification of offenses. The estimated 180% increase in the number of defendants sentenced to prison terms accounted for 58.1%, and increased seriousness of convictions accounted for 5.1% of the total increase in prison time.

Table 33 indicates that the effects of the major factors affecting prison population between 1980 and 1984 (increased numbers of convictions and statutory changes) did not affect every group of offenders equally. For example, imposition of presumptive sentences for all Class A first felony offenders increased sentences for violent Class A offenders as a group by 29% (assuming that all of the increase was due to this one factor) but increased sentences for Class A drug offenders by 410%. Sentences for sexual offenders increased for all levels of offenders, but the largest percentage change was for Class C offenders.

Sentences also increased for Class B and C violent offenders and Class C property offenders. These groups were generally unaffected by the statutory changes. Similarly, Class B property offenders were not affected by statutory changes, yet sentences decreased slightly.

Increases in drug and violent sentences (primarily Class A offenders) accounted for nearly half of the increased prison time. Sexual offenses (again, primarily the Unclassified and Class A sentences) also accounted for nearly half of the impact. Property offenders' sentences added very little to the total increase in prison time.

TABLE 33
(Alaska Felony Sentences: 1984)

ESTIMATED CONTRIBUTION TO TOTAL PRISON TIME, SELECTED OFFENSES[1]

Offenses	Number of 1984 Sentences	1980 Mean	Weighted Estimated 1984 Sum of Sentences[3]	Actual 1984 Sum of Sentences	Difference	% Change
Violent, Class A	57	55.3	3,152.1	4,075.2	+ 923.1	+ 29%
Violent, Class B	53	27.8	1,473.4	1,619.0	+ 145.6	+ 10%
Violent, Class C	69	18.8	952.2	958.8	+ 6.6	+ 1%
Violent Subtotal	179	28.8[4]	5,577.7	6,653.0	+1,075.3	+ 19%
Property, Class B	67	25.9	1,735.3	1,672.0	- 63.3	- 4%
Property, Class C	139	14.1	1,959.9	2,275.8	+ 315.9	+ 16%
Property Subtotal	206	17.0[4]	3,695.2	3,947.8	+ 252.6	+ 7%
Drugs, Class A	18	12.9	232.2	1,184.4	+ 952.2	+410%
Drugs, Class B	79	14.9	1,177.1	987.5	- 189.6	- 16%
Drugs, Class C	26	6.6	171.6	317.2	+ 145.6	+ 85%
Drugs Subtotal	124	14.6[4]	1,580.9	2,489.1	+ 908.2	+ 57%
Sexual,[2] "Class A"	60	72.6	4,356.0	5,648.4	+1,292.4	+ 30%
Sexual, "Class B"	12	24.4	292.8	374.3	+ 81.5	+ 28%
Sexual, "Class C"	55	13.6	748.0	1,344.3	+ 596.3	+ 80%
Sexual Subtotal	127	44.7[4]	5,396.8	7,367.0	+1,970.2	+ 37%

1 "Other" 1984 offenses are categorized as either violent or property on this table to allow more accurate comparisons with 1980 data.
2 Sexual offenses are categorized as on Table 31. For 1984, "Class A" therefore includes all Unclassified offenses as well as Class A.
3 All sentence sums and differences are reported in months. The estimated sum of sentences was obtained by multiplying the number of 1984 offenders sentenced to jail terms in each offense group by the mean sentence for the comparable group in 1980.
4 The 1980 mean sentences are the actual mean sentences for each group of offenders. The 1980 overall mean sentence for each type of offense (e.g., 28.8 months for violent offenses) is the unweighted mean from Table 32.

c)   Increased Actual Time Served

A third factor in determining whether the 1980 and subsequent statutory changes affected prison populations was the amount of actual time to be served by each offender. The legislature made good time and parole[23] provisions more restrictive at the same time that it adopted presumptive sentencing. Presumptive sentencing was intended primarily to limit judicial discretion, but limitations on the discretion of the parole board were considered to be part of the presumptive sentencing theory.[24] In addition, good time credit was restructured as part of the revisions to the criminal code.

The 1986 legislature made several statutory changes that increased the amount of good time credit available to offenders and that enabled non-presumptively sentenced offenders to be paroled after serving a smaller portion of their sentences. In general, good time credit was increased from 1 day of credit for each 3 days served to 1 day of credit for each 2 days served. Parole eligibility for most non-presumptively sentenced offenders now occurs after one-quarter of the sentence has been served rather than after one-third of the sentence served. The estimated effect of changing good time credit, according to an Alaska House Research Agency report, was a reduction of 8.2% in total time to be served by the 1986 population of sentenced offenders.[25]

A second method of structuring the actual time to be served by offenders is parole. The Parole Board, a division of the Department of Corrections, consists of five persons appointed by the governor. It is responsible for granting discretionary parole to eligible persons, for supervising all persons released on parole and for discharging persons from parole subject to certain statutory restrictions. The Board meets periodically to review applications for parole and status of parolees.

Discretionary parole, presently available by statute after a non-presumptively sentenced offender has served one-quarter of the sentence term imposed, is affected by Parole Board guidelines adopted in 1980. The stated purpose of the guidelines was "...to structure its [the Parole Board's] discretion."[26] Offense severity and offender characteristics were used as parts of a formula to determine the time to be served before release. Mitigating and aggravating factors were allowed. The

guidelines suggest, for example, that the typical offender sentenced to jail for negligent homicide (a Class C offense; mean sentence in 1984 was 14.3 months) should serve between 12 and 20 months, with a midpoint sentence of 16 months.[27] Since the majority of sentenced felony offenders were not subject to presumptive sentencing, these guidelines affected a substantial number of incarcerated offenders.

Offenders with presumptive sentences (and some with mandatory minimum sentences, depending on the length of the sentence) are subject to mandatory parole. They must be released on parole after serving the presumptive sentence, less accumulated good time. The Alaska House Research Agency estimated the effect of providing discretionary parole instead of mandatory parole for presumptively-sentenced offenders and concluded that:

> • When the major early release mechanism under prior law—parole—is substituted for the current mechanism—good time credit—for crimes subject to presumptive and mandatory sentencing, total prisoner time drops by over 40 percent. The elimination of discretionary parole for crimes now subject to presumptive and mandatory sentencing has a large impact on total prisoner years[28] (emphasis in the original).

The House Research Agency report analysis and the Parole Board's guidelines both appear to indicate that time actually served (rather than the original sentence length or structure under which the sentence was imposed) had an independent effect on prison populations, increasing total prisoner time by as much as 40%.

3. Summary

A one hundred percent increase in felony case filings between 1981 and 1984 created tremendous demands on the criminal justice system. Despite the increase in funds to respond to the larger number of cases and despite increased productivity by the courts, problems of crowded court dockets and prison overcrowding got worse. The types of cases involved more serious charges and resulted in greater numbers of offenders sentenced to jail. The substantial increase in numbers of felony convictions probably accounted for about half of the growth in prison population between 1981 and 1984. Because the felony dispositions included a higher percentage of serious charges, a higher percentage of the sentenced felons were likely to have

been incarcerated after conviction. Although presumptive sentencing did not cause either of these changes, both phenomena combined to increase the numbers of presumptively sentenced offenders.

Legislative changes to the criminal code between 1978 and 1984 also resulted in increases in prison populations. The most important legislative changes were:

a) Reclassification of Sexual offenses. The reclassification contributed to increased sentences in two ways: first, by defining some types of conduct as more serious and thus subject to greater penalties, and second, by increasing the likelihood that an offender would have been convicted after trial, a factor that independently increased sentence length;

b) Presumptive sentencing for Class A first offenders, which appears to have had its primary impact on assault I, robbery I and MICS 2nd° offenders (but which may have reduced manslaughter sentences); and

c) Reclassification of drug offenses, which increased sentence lengths for some offenses.

In addition, the adoption of release guidelines by the Parole Board may have had a significant effect on time served by non-presumptively sentenced offenders; no data were available regarding the effects of the guidelines.

E.   Impact of Presumptive Sentencing on Disparity

The legislature's purposes in adopting new sentencing provisions were stated in AS 12.55.005 as "...the elimination of unjustified disparity in sentences and the attainment of reasonable uniformity in sentences..." As noted in "Presumptive Sentencing in Alaska",[29] the legislature cited two Judicial Council sentencing studies as the basis of the perceived need to eliminate unjustified disparities. The disparities found in 1973 and 1974-76 sentences were related to both the defendant's race and the sentencing judge.

A follow-up study by the Judicial Council of sentences imposed between mid-1976 and mid-1979 found that racial disparity persisted during those years only for urban blacks convicted of drug offenses, and rural natives convicted of property offenses. Both disparities had disappeared in the Council's study of 1980 felonies. Since presumptive sentencing did not apply to drug offenses until 1983, it could not have been the factor responsible for the disappearance of disparity for drug offenses.

Presumptive sentencing did apply to property offenders in 1980. However, because of the very small number of Native rural property offenders likely to have been subject to presumptive sentencing,[30] it is unlikely that presumptive sentencing caused the disappearance of the rural native property offense disparity. Multiple regression analysis of 1984 sentences did not disclose any new racial disparities in sentencing (p. 42, Table 17). The data suggest that presumptive sentencing may be unrelated to racial disparity.

The second disparity of concern to the legislature was the role played by "strict" or "lenient" judges in influencing sentence lengths. Judges were characterized as "strict" or "lenient" based on their sentencing practices for similarly-situated defendants as compared to the average sentence length for the offense class.[31] This analysis was used in several Council studies of felony sentences in the 1970s. The 1976-79 study found small "strict/lenient" effects for urban violent and fraud offenses only. In 1980, the same analysis of judicial sentencing practices showed no differences in sentence lengths related to the characterization of judges as strict or lenient except for a small reduction (-7.5 months) in urban drug sentences if the judge was characterized as "lenient." (Drug offenses were not reclassified under the presumptive sentencing scheme until 1983.) A similar analysis was not undertaken for 1984 felony sentences, due to differences in the data structure and distribution of offenses.

The data indicate that, as with racial disparities, factors other than presumptive sentencing may have been related to the disappearance of judicial differences in sentencing patterns. Data on sentencing patterns statewide have been available to judges only since 1977; judges may have begun to rely on sentencing data and on an increasing body of caselaw regarding sentence appeals in fashioning sentences. Others have suggested that banning plea bargaining may have reduced or eliminated disparities.[32]

The study of 1980 felony sentences found that presentence report characterizations of the offender and the presentence reporter's recommendation accounted for more variation in sentence length than any other single variable. The presentence report recommendation was more important in 1980 sentences than it had been in 1976-79 sentences. The increasing importance of presentence reports in 1980 combined with the decreasing importance of judge identity might suggest that judges were relying more and more on presentence reports in determining sentence. Since data were not available on presentence reports for 1984 felony sentences, this hypothesis could not be tested further.

Differences in 1984 Sentences

One purpose of classifying offenses in the criminal code revision of 1980 was to group together offenses of comparable seriousness. To determine whether this classification appears to be working consistently, mean sentence lengths were compared for specific offenses (Figure 7).

Unclassified offenses were those offenses considered the most serious by the legislature. In 1984, murder I and II, kidnapping, MICS 1st°, and sexual assault I and sexual abuse of a minor I were the only unclassified offenses of which offenders were convicted. The two sexual offenses had presumptive sentences of eight years for first offenders, 15 years for second offenders and 25 years for third offenders. The other unclassified offenses were subject to mandatory minimum sentences of five years, except murder I which has a 20-year minimum. The mean sentence length for murder I was 33.4 years, and for murder II, it was 26.1 years. Kidnapping sentences were about 8.5 years, similar to sexual assault I which was 8.3 years. Sexual abuse of a minor I was 7.3 years.

Class A offenses include other serious offenses such as manslaughter, assault I and robbery. The presumptive sentence is 5 years for first felony offenders, increased to 7 years if the offender possessed a firearm, used a dangerous instrument or caused serious physical injury. The exception is manslaughter, where the first-offender presumptive is always five years. In 1984, the mean sentence for assault I was 6.9 years, very close to the 7-year presumptive (by definition, assault I involves serious physical injury). The mean sentences for manslaughter, robbery I and MICS 2nd° were all just a few months above the 5-year

FIGURE 7
Alaska Felony Sentences: 1984
Comparison of Mean Sentence Length For Selected Offenses
by Class of Offense*

UNCLASSIFIED

MURDER I 401.3 (6)
MURDER II 313.1 (7)
KIDNAPPING 101.8 (2)
SEXUAL ASSAULT I 99.6 (32)
SEX ABUSE OF MINOR I 87.9 (28)

CLASS A

ASSAULT I 82.3 (12)**
MANSLAUGHTER 64.2 (10)
ROBBERY I 63.2 (33)
MICS 2ND 62.8 (18)
ATT. SEX ASSAULT I 45 (2)

CLASS B

ASSAULT II 27.8 (24)
ROBBERY II 27.1 (18)
THEFT I 28.8 (5)
BURGLARY I 24.0 (49)
FORGERY I 24.0 (1)
SEX ASSAULT II 28.7 (9)
SEX ABUSE II 26.1 (37)
ARSON II 15.5 (6)
MICS 3RD 12.5 (79)

CLASS C

ASSAULT III 11.9 (55)
NEGLIGENT HOMICIDE 14.3 (4)
BURGLARY II 17.1 (57)
THEFT II 16.2 (55)
FORGERY II 17.2 (9)
CRIM MISCHIEF II 14.3 (11)
MICS 4TH 12.2 (26)
ATT. SEX ABUSE MINOR II 10.7 (3)
SEX ABUSE MINOR III 10.3 (4)
INCEST 36.7 (3)
SEX ASSAULT III 26.0 (1)
SEX ABUSE MINOR BEFORE 10/17/83 24.4 (8)
PROMOTE CONTRABAND I 14.0 (4)

*Number of sentences is shown in parentheses.
All sentence lengths are in months.
**Includes one sentence of 20 years (240 months)

presumptive term for first offenders. The mean sentence lengths were consistent with the fact that only 5 of the 75 Class A offenders shown in Figure 7 had prior felony records.

Class B offenses all had similar mean sentence lengths with the exceptions of arson II and MICS 3rd°. Most Class B offenders sentenced to jail received sentences averaging between 24 and 29 months in length. Class B sentences were substantially shorter than Class A mean sentences and longer than Class C mean sentences (which averaged between 10 and 17 months for most offenses).

Class C mean sentence lengths showed more variation by specific offense than did Class A or Class B sentences. In general, Class C property offense sentences ranged between 14 and 17 months. Class C violent offenses were a little lower, between 12 and 14 months. Sexual offenses ranged between about 10 months and 36 months. The majority of the Class C Sexual offenses had sentences in the "Class B" range of 24-29 months.

The most noticeable anomaly in Class B and Class C offenses was the mean sentence length for Class B drug offenses. Class B drug (MICS 3rd°) sentences (12.5 month mean) were virtually indistinguishable from Class C drug (MICS 4th°) sentences (12.2 month mean). Although the mean sentence length for Class C drug offenses was within the range of other Class C offenses, the mean sentence length for Class B drug offenses was only about one-half the length of sentences for other Class B offenses.

Summary

Racial disparities in sentencing had disappeared by 1980 and did not recur in 1984 sentences. Sentence disparities by judge were not found in any 1980 sentences except drug sentences (where presumptive sentencing did not apply until 1983). The data do not provide a clear picture of the relationships between disparities in sentencing and the presumptive sentencing structure.

The classification of offenses and sentencing structure established by the legislature appeared to result in consistent sentencing by class of offense. With few exceptions, offenses in Classes A, B and C received sentences similar in length

to other offenses in the same class. Sentence lengths for Class C offenses were substantially shorter than those for Class B offenses, and Class B sentence lengths were substantially shorter than those for Class A offenses. The most notable exceptions were sentences for Class B drug offenses which were nearly the same as Class C drug offense sentences.

The mean sentence length for each class of offense was substantially less than the presumptive sentence for an offender with a prior felony record convicted of that class of offense. This was an appropriate finding because most offenders in 1984 were not repeat felony offenders. Although the mean sentence lengths mask individual variations,[33] the sentencing structure appeared to result in greater uniformity of sentencing, as intended by the legislature.

FOOTNOTES

<u>(Alaska Felony Sentences: 1984)</u>

1. SPSS is a registered trademark of SPSS, Inc.

2. Stern, B., "Presumptive Sentencing in Alaska", Alaska Law Review, Vol. II, No. II (Dec. 1985).

3. The Unclassified felonies of murder I, murder II, kidnapping and MICS 1st° do not carry presumptive sentences. Instead they are subject to mandatory minimum sentences of 20 years for murder I and 5 years for the other offenses.

4. "Presumptive Sentencing in Alaska", supra n. 2 at 267.

5. D. Clocksin, Letter to Representative Mike Miller re: HB 554; remarks regarding effects of presumptive sentencing and proposed changes to existing law (February 7, 1986) (available from Alaska Judicial Council).

6. Alaska Correctional Requirements: A Forecast of Prison Population through the year 2000, Justice Center, University of Alaska Anchorage, 1985, 15-17.

7. The primary difference is that past Council studies have reported the sentence for each convicted charge. The 1984 study reports the sentence on the single most serious charge for each offender. Thus, earlier studies show more charges than offenders.

8. A fourth, rarely-used provision, established presumptive sentences for first offenders in Class A, B and C felonies who knowingly directed the conduct described at peace officers or other defined persons who were engaged in official duties [AS 12.55.125(d)(3) and (e)(3)].

9. "Presumptive Sentencing in Alaska", supra n. 2 at 256.

10. Id.

11. E.g., for sexual offenses, Langton v. State, 662 P.2d 954 (Alaska Ct. App. 1983) and State v. Brinkley, 681 P.2d 351 (Alaska Ct. App. 1984); for murder II, Page v. State, 657 P.2d 850 (Alaska Ct. App. 1983) and Pears v. State, 698 P.2d 1198 (Alaska Ct. App. 1985).

12. Juneby v. State, 641 P.2d 823 (Alaska Ct. App. 1982); modified, 665 P.2d 30 (Alaska Ct. App. 1983).

13. Lacquement v. State, 644 P.2d 856 (Alaska Ct. App. 1982): State v. Andrews, 707 P.2d 900 (Alaska Ct. App. 1985).

14. Page v. State, 657 P.2d 850 (Alaska Ct. App. 1983); Wood v. State, 712 P.2d 420 (Alaska Ct. App. 1986).

15. Alaska House Research Agency Memo #86-078.

16. Crime in Alaska: 1984, Department of Public Safety at 6.

17. Id. at 6.

18. Reproduced from Alaska House Research Agency Memo #85-339.

19. Id.

20. National Center for State Courts, State Court Caseload Statistics. Annual Report, 1984, Table 23, 144-148. Other estimates for felony trial rates nationally vary from 4% to 8%. However, these rates may be calculated on a different basis, e.g., as a percentage of all felony cases filed rather than of felony dispositions, etc.

21. Two Alaska Supreme Court cases, State v. Carlson, 555 P.2d 269 (Alaska 1976) and State v. Buckalew, 561 P.2d 289 (Alaska 1977) also prohibited judges from participating in plea negotiations.

22. The analysis took into account good-time reductions, and parole for non-presumptively sentenced offenders. Because of lack of data on probation

and parole revocations, these were not considered. The Annual Report 1985 of the Department of Corrections, pp. 29-32, indicates that probation and parole violators constitute 176 offenders, or 11.4% of all sentenced offenders (including sentenced misdemeanants).

23. "Good time" is system of reducing the amount of the offender's sentence that must be served by a set number of days per month if the offender exhibits good behavior for that month (or other period of time). As of 1986, every offender sentenced to more than three days imprisonment is entitled to 1 day of good time for every two days served (or one-third of the total sentence), AS 33.20.010. Most offenders with a non-presumptive sentence are also eligible for discretionary parole. Parole eligibility is shown on Figure 1.

24. Supra, n. 2 at 227, note 2: "other features of a presumptive sentencing scheme include...significant restrictions on the authority of a parole board or other administrative agency to release a prisoner before the expiration of his sentence."

25. Torgerson, M., The Impact of Presumptive Sentencing on Alaska's Prison Population, House Research Agency Report 86-D, May, 1986.

26. Parole Guidelines: A Handbook for Parole Applicants, Alaska Board of Parole, revised May, 1985.

27. Id.

28. Supra, n. 24

29. Supra, n. 2.

30. Appendix II, Table III-6, Alaska Felony Sentences: 1980, Alaska Judicial Council, 1982. Only 19 of the 155 rural property sentences were presumptive. No data were available as to what percentage of these sentences were imposed on Native offenders.

31. See <u>Alaska Felony Sentencing Patterns: A Multivariate Statistical Analysis (1974-1976)</u>, Alaska Judicial Council, 1977, 20-22 for a detailed discussion of the analysis.

32. Clocksin letter, <u>supra</u>, n. 5.

33. See Langton v. State, 662 P.2d 954 (Alaska Ct. App. 1983) for a discussion of sentencing disparities among first offenders convicted of sexual assaults.

APPENDIX A

(Alaska Felony Sentences: 1984)

OFFENSE AND SENTENCE DISTRIBUTION TABLES

TABLE A-1
(Alaska Felony Sentences: 1984)

OFFENSE AND SENTENCE DISTRIBUTIONS
— MURDER AND KIDNAPPING OFFENSES —

Offense	Number of Offenders	Mean Active Sentence X	N	SD*	Probation %	N	1 day – 12 Months	12 – 24 Months	24 – 60 Months	60 – 96 Months	Over 96 Months
Murder I	6	840.0	6	401.3	—	—	—	—	—	—	6
Murder II	7	342.9	7	313.1	—	—	—	—	2	—	5
Kidnapping	2	108.0	2	101.8	—	—	—	—	1	—	1
	15	510.4	15	429.0	—	0	0	0	3	0	12

* SD = Standard deviation

Offense	Number of Offenders	Mean Active Sentence X	Mean Active Sentence N	SD	Probation %	Probation N	1 day - 12 Months	12 - 24 Months	24 - 60 Months	60 - 96 Months	Over 96 Months
Class A											
Solicit Murder I	1	180.0	(1)	0.0	—	—	—	—	—	—	1
Manslaughter	10	64.2	(10)	32.6	—	—	—	—	8	1	1
Assault I	12	82.3	(12)	65.9	—	—	—	2	4	4	2
Robbery I	34	63.2	(33)	33.3	2.9%	(1)	1	1	19	5	7
Arson I	1	180.0	(1)	0.0	—	—	—	—	—	—	1
Class B											
Assault II	27	27.8	(24)	29.7	11.1%	(3)	12	3	6	2	1
Robbery II	20	27.1	(18)	15.7	10.0%	(2)	3	9	6	—	—
Extortion	1	60.0	(1)	0.0	—	—	—	—	1	—	—
Class C											
Att. Robbery II	1	12.0	(1)	0.0	—	—	1	—	—	—	—
Assault III	78	11.9	(55)	9.1	29.5%	(23)	36	17	2	—	—
Negligent Homicide	8	14.3	(4)	7.5	50.0%	(4)	1	3	—	—	—
Terroristic Threatening	1	36.0	(1)	0.0	—	—	—	—	1	—	—
Misdemeanors											
Assault IV	90	1.9	(68)	2.1	24.4%	(22)	68	—	—	—	—
Reckless Endangerment	12	1.0	(7)	0.0	41.7%	(5)	7	—	—	—	—
	296	26.2	(236)	37.2	20.3%	(60)	129	35	47	12	13

TABLE A-3
(Alaska Felony Sentences: 1984)

OFFENSE AND SENTENCE DISTRIBUTIONS
- PROPERTY OFFENSES -

Offense	Number of Offenders	Mean Active Sentence X	N	SD	Probation %	N	1 day - 12 Months	12 - 24 Months	24 - 60 Months	60 - 96 Months	Over 96 Months
Class B											
Theft I	6	28.8	5	7.8	16.7%	1	—	3	2	—	—
Burglary I	68	24.0	49	22.6	27.9%	19	23	11	9	6	—
Arson II	6	15.5	6	11.4	—	—	3	2	1	—	—
Crim. Mischief I	1	1.0	1	0.0	—	—	1	—	—	—	—
Forgery I	2	24.0	1	0.0	50.0%	1	—	1	—	—	—
Class C											
Theft II	80	16.2	55	12.9	31.3%	25	29	16	10	—	—
Burglary II	78	17.1	57	13.3	26.9%	21	31	14	12	—	—
Crim. Mischief II	18	14.3	11	11.6	38.9%	7	7	3	1	—	—
Forgery II	18	17.2	9	14.6	50.0%	9	4	3	2	—	—
Bad Checks	3	12.0	2	0.0	33.3%	1	2	—	—	—	—
Misdemeanors											
Theft III	49	1.7	40	1.3	18.4%	9	40	—	—	—	—
Trespass I	18	2.8	13	N/A	27.8%	5	13	—	—	—	—
Crim. Mischief III	11	1.3	4	0.5	63.6%	7	4	—	—	—	—
Forgery III	2	1.0	2	0.0	—	—	2	—	—	—	—
Criminally Negligent Burning	1	6.0	1	N/A	—	—	1	—	—	—	—
Theft IV	2	2.5	2	2.1	—	—	2	—	—	—	—
Trespass II	10	1.9	7	1.1	30.0%	3	7	—	—	—	—
Crim. Mischief IV	1	1.0	1	0.0	—	—	1	—	—	—	—
	374	14.2	266	N/A	28.9%	108	170	53	37	6	—

A.3

TABLE A-4
(Alaska Felony Sentences: 1984)

OFFENSE AND SENTENCE DISTRIBUTIONS
- DRUG OFFENSES -

Offense	Number of Offenders	Mean Active Sentence X	N	SD	Probation %	N	1 day - 12 Months	12 - 24 Months	24 - 60 Months	60 - 96 Months	Over 96 Months
Unclassified MICS 1st°	1	36.0	1	0.0	—	—	—	—	1	—	—
Class A MICS 2nd°	18	65.8	18	24.1	—	—	—	—	13	3	2
Class B MICS 3rd°	110	12.5	79	13.7	28.2%	31	56	16	7	—	—
Class C MICS 4th°	44	12.2	26	15.0	40.9%	18	18	6	2	—	—
Misdemeanors MICS 5th°	7	2.7	6	2.7	14.3%	1	6	—	—	—	—
MICS 6th°	2	1.0	1	0.0	50.0%	1	1	—	—	—	—
	182	19.4	131	24.2	28.0%	51	81	22	23	3	2

A.4

TABLE A-5
(Alaska Felony Sentences: 1984)

- OFFENSE AND SENTENCE DISTRIBUTIONS -
- SEXUAL OFFENSES -

Offense	Number of Offenders	Mean Active Sentence X̄	N	SD	Probation %	Probation N	1 day - 12 Months	12 - 24 Months	24 - 60 Months	60 - 96 Months	Over 96 Months
Unclassified											
Sexual Assault I	36	99.6	32	58.6	11.1%	4	—	2	5	19	6
Sexual Abuse of Minor I	28	87.9	28	35.2	—	—	1	2	3	18	4
Class A											
Attempted Sexual Assault I	2	45.0	2	21.2	—	—	—	—	2	—	—
Class B											
Sexual Assault II	10	28.7	9	14.6	10.0%	1	2	3	4	—	—
Sexual Abuse of Minor II	48	26.1	37	19.3	22.9%	11	9	16	11	1	—
Class C											
Attempted Sexual Abuse of Minor II	4	10.7	3	11.7	25.0%	1	2	1	—	—	—
Sexual Abuse of Minor III	7	10.3	4	N/A	42.8%	3	3	1	—	—	—
Incest	3	36.7	3	23.0	—	—	—	1	2	—	—
Sexual Assault II	1	26.0	1	0.0	—	—	—	—	1	—	—
Sexual Abuse of Minor Before 10/17/83	15	24.4	8	N/A	46.7%	7	2	4	2	—	—
Misdemeanors											
Attempted Sexual Abuse III	1	6.0	1	0.0	—	—	1	—	—	—	—
Sexual Abuse IV	1	6.0	1	0.0	—	—	1	—	—	—	—
Contribute to Delinquency of Minor	1	1.0	1	0.0	—	—	1	—	—	—	—
	157	56.8	130	N/A	17.2%	27	22	30	30	38	10

TABLE A-6
(Alaska Felony Sentences: 1984)

OFFENSE AND SENTENCE DISTRIBUTIONS - OTHER OFFENSES -

Offense	Number of Offenders	Mean Active Sentence X	N	SD	Probation %	N	1 day - 12 Months	12 - 24 Months	24 - 60 Months	60 - 96 Months	Over 96 Months
Class B											
Perjury	5	49.5	4	36.8	20.0%	1	1	—	2	1	—
Escape II	10	40.4	10	33.2	—	—	4	1	2	3	—
Interfere with Proceedings	1	36.0	1	0.0	—	—	—	—	1	—	—
Class C											
Escape III	2	1.0	1	0.0	50.0%	1	1	—	—	—	—
Hindering Prosecution	1	—	—	—	100.0%	1	—	—	—	—	—
Promote Contraband I	7	14.0	4	14.7	42.9%	3	3	—	1	—	—
Failure to Appear	1	18.0	1	0.0	—	—	—	1	—	—	—
Misconduct re:											
Weapons I	9	28.3	7	15.7	22.2%	2	1	4	2	—	—
Custodial Interference	1	—	—	—	100.0%	1	—	—	—	—	—
Misdemeanors											
Escape IV	1	1.0	1	0.0	—	—	1	—	—	—	—
Promote Contraband II	2	1.5	2	0.7	—	—	2	—	—	—	—
Misconduct re:											
Weapons II	1	1.0	1	0.0	—	—	1	—	—	—	—
Sell Liquor without License	1	12.0	1	0.0	—	—	1	—	—	—	—
Resist Arrest	1	1.0	1	0.0	—	—	1	—	—	—	—
Driving While Intoxicated	1	1.0	1	0.0	—	—	1	—	—	—	—
Disorderly Conduct	3	1.0	1	0.0	66.7%	2	1	—	—	—	—
Reckless Driving	1	—	—	—	100.0%	1	—	—	—	—	—
	48	25.9	36	N/A	25.0%	12	18	6	8	4	—

APPENDIX B

(Alaska Felony Sentences: 1984)

SENTENCE MONITORING CODING SHEETS

APPENDIX B

(Alaska Felony Sentences: 1984)

SENTENCE MONITORING CODING SHEETS

1.   **Serial-Number:**   This is the offender's identification number.

   a)   Draw brackets on the printout to separate this offender from those on either side. At the end of a page, check the top of the next page to make sure you have all of that offender's charges accounted for.

   b)   Once you have isolated this offender and his/her charges, assign the serial number. Check to be certain that you have not duplicated the preceding number, and that you are using the next number in sequence.

   c)   Be absolutely certain that you have written the ID number on the printout. This is critical because it is our only means of finding the offender in order to enter further information about him/her.

2.   a)   **M-O-B:** Month of Birth (you must enter 2 digits)

   b)   **D-O-B:** Day of Birth   (you must enter 2 digits)

   c)   **Y-O-B:** Year of Birth (you must enter 2 digits)
              Unknown birthdate is coded 99-99-99.

3.   **Race:**   This information will come from Department of Corrections. For now, enter 9.

              1 = BLACK
              2 = NATIVE/INDIAN
              3 = CAUCASIAN
              4 = OTHER MINORITY
              9 = UNKNOWN

4.   **Prior-Record:**   This information will come from Public Safety. Enter 9, if unknown.

              1 = NO PRIOR CONVICTIONS
              2 = 1 FELONY
              3 = 2 FELONIES
              4 = 3 OR MORE FELONIES
              5 = 1 TO 3 MISDEMEANORS
              6 = 4 OR MORE MISDEMEANORS
              7 = PRIORS; UNKNOWN WHETHER FELONIES OR
                  MISDEMEANORS
              9 = UNKNOWN PRIOR RECORD

June 1, 1985

5. **Court-Case-Numb1:**

   First look at all of the offender's charges to see which were convicted and which were dismissed. Then see which one had the longest sentence. This is the first charge that we are interested in. Use the case number for that charge as "Court-Case-Numb1".

   Enter all 10 letters and numbers that make up the case number. Use zeros (left-justified) if necessary, to complete the 4 digits to the furthest right.

6. **Court-Case-Numb2:** Usually, all of the offender's convicted charges will have the same case number. If so, enter the same case number for the 2nd convicted charge in the case (the second most serious charge). If there is a different case number, enter it. If the offender was only convicted of one charge, hit the space bar once, then return.

7. **Court-Case-Numb3:** Follow the instructions given for Court-Case-Numb2.

8. **Number-Charges-Dism:** Count the number of charges for which the offender was <u>not</u> convicted, including:

   a)   Pros(ecution) decl(ined)
   b)   J(ury) T(rial) - Not Guilty
   c)   C(ourt) T(rial) - Not Guilty
   d)   Dism(issed) by prosecutor
   e)   Dismissal by court
   f)   No true bill
   g)   Trans(ferred) to Oth(er) Off(ice)--first, look to see whether the offender's name is on any of the other lists. If not, code this as a dismissed charge.

9. **Number-Charges-Conv:** Count all charges that were not dismissed. You should have at least one convicted charge for every offender. If not, ask the supervisor.

10. **Charge-of Conviction1:** Enter the code number for the most serious charge of which the offender was convicted. This should be the charge with the longest sentence. If two or more sentences are the same length, use the more serious charge (see supervisor for more detail). If the sentences and charges are all the same, use the first one in the series.

11. **Charge-of-Conviction2:** Enter the 2nd most serious charge. If there is only one convicted charge, enter 00000.

12. **Charge-of-Conviction3:** Enter the 3rd most serious charge, or 00000 if there are only 2 charges. If there are more than 3 convicted charges, data for the others will not be entered.

13.   **Disp-Charge1:**   Enter the code for the type of disposition of the first charge that you coded.

> 0 = GUILTY, BUT MENTALLY ILL
> 1 = NOLO OR GUILTY AS CHARGED
> 2 = NOLO OR GUILTY, BARGAIN
> 3 = NOLO OR GUILTY, AMENDED OR REDUCED FELONY CHARGE
> 4 = NOLO OR GUILTY, REDUCED TO MISDEMEANOR
> 5 = JURY TRIAL, GUILTY AS CHARGED
> 6 = JURY TRIAL, GUILTY OF LESSER CHARGE
> 7 = JUDGE TRIAL, GUILTY AS CHARGED
> 8 = JUDGE TRIAL, GUILTY OF LESSER CHARGE
> 9 = NO 2ND OR 3RD CHARGE

14.   **Disp-Charge2:**   Enter the code for the disposition of the 2nd charge (see above Disp-Charge1 codes).   If there was no 2nd charge, enter 9.

15.   **Disp-Charge3:**   Follow instructions for Disp-Charge2.

16.   **Judge:**   Use the code for the judges shown.   If the judge's name does not appear on the following list, determine whether the person was a judge or a magistrate, and code as "Other Judge" or "Other Magistrate", as appropriate.   If there is no name, use "Unknown".

001 = Anderson, Glen	034 = Kauvar, Jane
002 = Andrews, Elaine	035 = Keene, Henry
003 = Asper, Linn	036 = Lewis, Eben
004 = Beckwith, Martha	037 = Madsen, Roy
005 = Blair, James	038 = Mason, John
006 = Bosshard III, John	039 = McFarlane, Barbara
007 = Buckalew Jr., S. J.	040 = McMahon, Craig
008 = Carlson, Victor	041 = Michalski, Peter
009 = Carpeneti, Walter	042 = Moody, Ralph
010 = Cline, Stephen	043 = Nelson, Dennis
011 = Comfort, Geoffrey	044 = Occhipinti, C.J.
012 = Connelly, Hugh	045 = Pegues, Rodger
013 = Cooke, Christopher	046 = Ripley, Justin
014 = Cranston, Charles	047 = Rowland, Mark
015 = Craske, Duane	048 = Schulz, Thomas
016 = Crutchfield, Hershel	049 = Serdahely, Douglas
017 = Curda, D.	050 = Shortell, Brian
018 = Cutler, Beverly	051 = Siangco, Richard
019 = Farr, James	052 = Souter, Milton
020 = Finn, Natalie	053 = Stemp, Ralph
021 = Fuld, William	054 = Stewart, David
022 = Gonzalez, Rene	055 = Taylor R.
023 = Greene, Mary	056 = Taylor, Warren W.
024 = Gucker, George	057 = Tunley, Charles
025 = Hanson, James	058 = Van Hoomissen, Gerald
026 = Hodges, Jay	059 = Williams, Gerald
027 = Hornaday, James	060 = White, Michael
028 = Hunt, Karen	061 = Wolverton (Magistrate)
029 = Jahnke, Thomas	062 = Zimmerman, Christopher
030 = Jeffery, Michael	063 = Other Judge
031 - Johnstone, Karl	064 = Other Magistrate
032 = Jones, Paul	999 = Unknown
033 = Katz, Joan	

17. <u>Month-of-Sentencing</u>: Must enter 2 digits.

    <u>Day-of-Sentencing</u>:   Must enter 2 digits.

    <u>Year-of-Sentencing</u>:   Must enter 2 digits.

    Use the date shown on the judge list.

18. <u>Time-Imposed</u>:   Use the sentence imposed for the 1st charge you listed. This is a six-digit code:

        1st 2 digits (far left)   = Years
        2nd 2 digits (middle)   = Months
        3rd 2 digits (far right) = Days

    You may use any combination of years/months/days, but there must be 6 digits. A sentence of 5-12 years would be either 00 (years) 66 (months) 00 (days) <u>or</u> 05 (years) 06 (months) 00 (days).

19. <u>Time-Suspended</u>: This is a six-digit code, following the same rules as time-imposed.

20. <u>Net-Active-Time</u>:   <u>Subtract</u> the time-suspended from the time-imposed. This is the amount of time that the offender must spend in jail.

    (Please be careful with these numbers. They are the basis of the entire study, and one of the easiest places to make mistakes.)

21. <u>Duration-of Suspension</u>: This is a 2-digit code for the length of suspension (i.e. probation) in <u>months</u>. Since it is usually shown as years on the printout, you will need to multiply by 12 to get the number of months. It should never exceed 60 months (5 years). If it does, please ask the supervisor for assistance.

22. <u>Type-of-Sentence</u>: Enter the appropriate code from the table below. Note that the offender can have <u>both</u> concurrent and consecutive sentences, if he has 3 or more convicted charges.

    1 = THIS IS OFFENDER'S ONLY SENTENCE
    2 = OFFENDER HAS MORE THAN ONE SENTENCE, ALL CONCURRENT
    3 = OFFENDER HAS MORE THAN ONE SENTENCE, ALL CONSECUTIVE
    4 = OFFENDER HAS MORE THAN ONE SENTENCE, SOME CONCURRENT
        SOME CONSECUTIVE
    9 = OFFENDER HAS MORE THAN ONE SENTENCE,
        CONSECUTIVE/CONCURRENT UNKNOWN

23. <u>Presumptive-Sentence</u>: This data will come from Department of Corrections. For now, code "9".

    1 = THIS SENTENCE IS PRESUMPTIVE
    2 = THIS SENTENCE IS NOT PRESUMPTIVE
    3 = THREE-JUDGE PANEL SENTENCE
    9 = PRESUMPTIVE STATUS UNKNOWN

B.4

24.   **Net-fine-Imposed**:   Subtract the fine-suspended amount on the printout from the fine-imposed amount. Enter the code for the correct category.

0 = None
1 = $ 001 - $ 999
2 = $ 1,000 - $ 1,999
3 = $ 2,000 - $ 4,999
4 = $ 5,000 - $ 9,999
5 = $10,000 - $19,999
6 = EQUAL/GREATER THAN $20,000

25.   **Child-Victim**:   Use the 3rd printout to determine whether the victim was a child.

1 = CHILD
2 = NOT CHILD
3 = UNKNOWN

26.   **Final-Charge1**:   Enter the code for the actual offense of conviction corresponding to the original charge coded "Charge-of-Conviction1".

APPENDIX C

(Alaska Felony Sentences: 1984)

COMPARATIVE MEAN SENTENCES,
SELECTED OFFENSES, 1976-79, 1980, AND 1984

TABLE C-1

(Alaska Felony Sentences: 1984)

COMPARATIVE MEAN SENTENCES, SELECTED OFFENSES, 1976-79[1]

Offense	Probation Only %	Probation Only N	Mean Sentence (Months)[2]	Total Number of Sentences
Violent				
Manslaughter	7%	1	76.0	15
Shoot or Assault w/Intent to Kill, etc.	14%	4	93.3	28
Robbery	22%	22	48.8	98
Assault w/ Dangerous Weapon	30%	44	37.6	149
Property				
Burglary in a Dwelling	34%	34	24.2	99
Burglary Not in a Dwelling	38%	85	15.5	222
Drugs				
Possession, Narcotic	51%	30	34.2	59
Sale, Narcotic	39%	32	28.1	83
Sale, HDS	54%	21	16.3	39
Morals				
Rape	3%	1	141.3	30
Statutory Rape	17%	2	69.6	12
Lewd & Lascivious Acts	31%	17	32.1	54

1 Data from Alaska Felony Sentences, 1976-1979, Appendices A and B. (Ak. Judicial Council, 1980)

2 Mean sentences are calculated only for offenders who served some time in jail. Offenders who did not serve time are shown in the column "Probation Only".

APPENDIX C
TABLE C-2
COMPARATIVE MEAN SENTENCES, SELECTED OFFENSES, 1980[1]-84
(Alaska Felony Sentences: 1984)

Offense	1980 Probation Only %	1980 Probation Only N	1980 Mean Sentence (Months)	1980 Total Number of Sentences	1984 Probation Only %	1984 Probation Only N	1984 Mean Sentence (Months)	1984 Total Number of Sentences
VIOLENT, CLASS A								
Manslaughter	0%	—	71.8	4	0%	—	64.2	10
Assault I	16%	1	36.1	6	0%	—	82.3	12
Robbery I	7%	1	65.5	14	3%	1	63.2	34
VIOLENT, CLASS B								
Assault II	25%	10	27.3	40	11%	3	27.8	27
Robbery II	18%	2	30.0	11	10%	2	27.1	20
VIOLENT, CLASS C								
Assault III	19%	8	13.6	43	30%	23	11.9	78
PROPERTY, CLASS B								
Burglary I	27%	17	26.8	63	28%	19	24.0	68
PROPERTY, CLASS C								
Burglary II	25%	22	13.9	89	27%	21	17.1	78
Theft II	30%	20	13.0	67	31%	25	16.2	80
Forgery II	17%	4	16.8	23	50%	9	17.2	18
DRUGS								
Possession, Narc.	46%	13	6.6	28				
Sale, Narcotic	14%	7	12.9	49				
Sale, HDS	22%	4	14.1	18				
DRUGS, 1984								
MICS 2nd° (Class A)					0%	—	65.8	18
MICS 3rd° (Class B)					28%	31	12.5	110
MICS 4th° (Class C)					41%	18	12.2	44
MORALS, UNCLASSIFIED								
Sexual Asslt. I[2]	5%	1	72.6	22	11%	4[3]	99.6	36
Sexual Abuse Minor I (after 10/17/83)	—	—	—	—	0%	—	87.9	28
MORALS, CLASS B								
Sexual Asslt. II	0%	—	35.0	6	10%	1	28.7	10
Sexual Abuse Minor II	—	—	—	—	23%	11	26.1	48
MORALS, CLASS C								
Sexual Abuse of a Minor (before 10/17/83)	44%	7	13.6	16	47%	7	24.4	15

1 Data from Alaska Felony Sentences: 1980, Appendices A and B. (Alaska Judicial Council, 1982)
2 In 1980, sexual assault I was a Class A offense, with no presumptive sentence for most first offenders. In 1984, sexual assault I was an unclassified offense with a presumptive sentence of 8 years for first offenders.
3 It is presumed that probation was imposed in cases where the offender was charged with a sexual assault I that occurred prior to October 1, 1982 when sexual assault I became an unclassified felony with a 8 year presumptive sentence for first offenders.

APPENDIX D

(Alaska Felony Sentences: 1984)

CHARGE REDUCTION TABLES

NOTES ON CHARGE REDUCTION TABLES

(Alaska Felony Sentences: 1984)

The first table, Charge Reductions, shows all of the major 1984 felony offenses studied. Together, these offenses constituted 81.6% of the 1128 offenses. The table shows the original charge and final charges. For some of the more serious offenses, there were no reductions to misdemeanors. These included manslaughter, MICS 2nd° and the most serious sexual offenses.

Other offenses were often reduced, but were reduced to misdemeanors at a fairly low rate. Offenses in this category included robbery I, robbery II and burglary I. The sexual offenses typically had a fairly high percentage of unknown final charges (due to problems in the data sources), but were unlikely to be reduced to misdemeanors.

A third group of offenses were those that were frequently reduced, often to misdemeanors. All of the levels of assault fall into this category, with assault III charges actually reduced to misdemeanors for more than half of the offenders. Theft II and burglary II also had high rates of reduction to misdemeanors.

The second table shows the most frequent misdemeanors and the original charges from which they were derived. Most (73.0%) of the original charges had been Class C, the least serious level of felony. Few of the original charges had been Class A or Unclassified offenses (the most serious levels of felonies).

<div align="center">

CHARGE REDUCTIONS*
(Alaska Felony Sentences: 1984)

</div>

Original Charge	N	Final Charge	N	% Convict. Original	% Convict. of Misd.
Sexual Assault I	56	Sexual Assault I	36	64.3%	0.0%
		Sexual Assault II	2		
		Sexual Abuse/Minor II	1		
		Sexual Abuse/Minor (Before 10/17/83)	1		
		Unknown Final Charge	16		
Sexual Abuse/Minor I	37	Sexual Abuse/Minor I	28	75.7%	0.0%
		Assault II	1		
		Sexual Abuse/Minor II	2		
		Unknown Final Charge	6		
Manslaughter	12	Manslaughter	8	66.7%	0.0%
		Negligent Homicide	4		
Assault I	23	Assault I	12	52.2%	21.7%
		Assault II	5		
		Assault III	1		
		Assault IV (misd.)	4		
		Trespass I (misd.)	1		
Robbery I	54	Robbery I	32	59.3%	14.8%
		Robbery II	11		
		Assault IV (misd.)	1		
		Theft II	1		
		Theft III (misd.)	6		
		Hindering Prosecution	1		
		Resisting Arrest (misd.)	1		
		Unknown Final Charge	1		
Robbery II	16	Robbery II	8	50.0%	18.8%
		Attempted Robbery II	1		
		Assault IV (misd.)	2		
		Theft II	1		
		Theft III (misd.)	1		
		Theft IV (misd.)	2		
		Unknown Final Charge	1		
Assault II	48	Assault II	21	43.8%	35.4%
		Assault III	10		
		Assault IV	17		
Assault III	146	Assault III	66	45.2%	54.8%
		Reckless Endangerment (misd.)	12		
		Assault IV (misd.)	61		
		Trespass I (misd.)	2		
		Misconduct Involving Weapons II (misd.)	1		
		Disorderly Conduct (misd.)	3		
		Drunk Driving (misd.)	1		

* To study 1984 sentences, we used all the felony offenders available from the prosecutor's PROMIS database. The study included 1128 offenders throughout Alaska. Each offender was characterized by the single most-serious charge of which he/she was convicted. For 225 offenders, the single most-serious charge of conviction was a misdemeanor, although in each case the original charge had been a felony.

Original Charge	N	Final Charge	N	% Convict. Original	% Convict. of Misd.
Sex Abuse II	58	Sex Abuse II	44	75.9%	1.7%
		Attempted Sex Abuse II	1		
		Sex Abuse III	1		
		Contribute to Delinquency (misd.)	1		
		Unknown Final Charge	11		
Burglary I	95	Burglary I	67	70.5%	18.9%
		Robbery I	2		
		Sex Assault II	1		
		Robbery II	1		
		Burglary II	1		
		Theft II	1		
		Criminal Mischief II	2		
		Assault IV (misd.)	3		
		Theft III (misd.)	1		
		Trespass I (misd.)	13		
		Trespass II (misd.)	1		
		Escape II	1		
		Unknown Final Charge	1		
Theft II	115	Theft II	74	64.3%	33.0%
		Theft III (misd.)	35		
		Criminal Mischief III (misd.)	3		
		MICS 4th°	2		
		Unknown Final Charge	1		
Burglary II	104	Burglary II	77	74.0%	23.1%
		Burglary I	1		
		Theft II	2		
		Theft III (misd.)	6		
		Trespass I (misd.)	9		
		Trespass II (misd.)	9		
Forgery II	20	Forgery II	18	90.0%	5.0%
		Forgery I	1		
		Forgery III (misd.)	1		
MICS 2nd°	19	MICS 2nd°	18	94.7%	0.0%
		MICS 4th°	1		
MICS 3rd°	118	MICS 3rd°	109	92.4%	2.5%
		MICS 4th°	6		
		MICS 5th° (misd.)	3		

921 (81.6% of 1128 total charges)

CHARGES REDUCED TO MISDEMEANORS
(Alaska Felony Sentences: 1984)

Final Misdemeanor	N	Original Charge	N
Reckless Endangerment	12	Assault III (Class C)	12
Assault IV	90	Assault I (Class A)	4
		Robbery I (Class A)	1
		Assault II (Class B)	17
		Sexual Assault II (Class B)	1
		Robbery II (Class B)	2
		Assault III (Class C)	61
		Burglary I (Class B)	3
		MICS 4th° (Class C)	1
Theft III	49	Robbery I (Class A)	6
		Robbery II (Class B)	1
		Burglary I (Class B)	1
		Theft II (Class C)	35
		Burglary II (Class C)	6
Trespass I	25	Assault I (Class A)	1
		Assault III (Class C)	2
		Burglary I (Class B)	13
		Burglary II (Class C)	9
Criminal Mischief III	11	Theft I (Class B)	1
		Theft II (Class C)	3
		Crim. Mischief II (Class C)	7
Trespass II	10	Burglary I (Class B)	1
		Burglary II (class C)	9
MICS 5th°	7	MICS 3rd° (Class B)	3
		MICS 4th° (Class C)	4

204 (90.7% of 225 misdemeanor final
     charges)

Original Charge	%
Class A	5.9%
Class B	21.1%
Class C	73.0%
	100.0%

APPENDIX E

(Alaska Felony Sentences: 1984)

CHANGES IN SENTENCING PATTERNS, DRUG OFFENSES

APPENDIX E

CHANGES IN SENTENCING PATTERNS, DRUG OFFENSES

Drug offenses were recodified in 1982,* several years after most other crimes in Alaska had been recodified. The recodification, effective on January 1, 1983, substantially altered the ways in which drug offenses were defined and subjected drug offenses to the same sentencing structure that applied to other offenses. This study of 1984 felony sentences has provided the first opportunity for a description of sentencing of these offenses under the new classifications.

The methods used in analysis of drug sentences are those described in Part I of this report. Drug offenses are described in this report either by their statutory designations of Misconduct Involving a Controlled Substance in the 1st, 2nd, 3rd, etc. Degree (abbreviated as MICS 1st°, MICS 2nd°, etc.) or by class of offense (e.g., "Class A drug offense," Class B drug offense," etc.). However, the comparison of 1984 drug sentences to earlier years requires great caution. An entirely accurate comparison would require detailed information about the actual offense and type of drug. This information was not available from PROMIS for most 1984 offenders, nor was it available for most offenders in earlier Council studies.

A.   Drug Offenders

Three demographic variables were available for 1984 offenders: age, race and prior criminal record. These are shown in Tables E-1, E-2, and E-3. Overall, drug offenders had prior records similar to the general 1984 felony data base (see Table 9). About 9.3% of drug offenders had prior felony records as compared to 9.8% of all 1984 offenders. They tended to be older than most other offenders: only 53.2% were under 30, as compared to 64.4% of all 1984 defendants. Blacks were convicted of two-thirds of all Class A (Misconduct Involving a Controlled Substance 2nd°; hereafter MICS 2nd°) drug offenses; Caucasians were convicted of two-thirds of all other, essentially lesser, drug offenses.

* The legislature transferred controlled substances offenses from Title 17 of the Alaska Statutes into the criminal code in 1983. See AS 11.71.010-070 (1983).

E.1

TABLE E-1
(Alaska Felony Sentences: 1984)

PRIOR RECORD OF CONVICTIONS BY CLASS OF OFFENSE OF CONVICTION FOR DRUG OFFENDERS

Class	No Priors	Prior Felony(s)	1-3 Misdemeanor	4 or more Misdemeanor	Unknown Record	Total
Unclassified	1 (100.0%)	--	--	--	--	1 (100.0%)
Class A	7 (38.9%)	2 (11.1%)	4 (22.2%)	-0- (0.0%)	5 (27.8%)	18 (100.0%)
Class B	53 (48.2%)	10 (9.1%)	24 (21.8%)	5 (4.5%)	18 (16.4%)	110 (100.0%)
Class C	14 (31.8%)	4 (9.1%)	13 (29.5%)	2 (4.5%)	11 (25.0%)	44 (100.0%)
Misdemeanor	1 (11.1%)	1 (11.1%)	2 (22.2%)	1 (11.1%)	4 (44.4%)	9 (100.0%)
	76 (41.8%)	17 (9.3%)	43 (23.6%)	8 (4.4%)	38 (20.9%)	= 182 (100.0%)

TABLE E-2
(Alaska Felony Sentences: 1984)

AGE BY OFFENSE CLASS OF CONVICTION FOR DRUG OFFENDERS

Class	15-19 Years	20-24 Years	25-29 Years	30-39 Years	40 & Above	Unknown Age	Total
Unclassified	--	1 (100.0%)	--	--	--	--	1 (100.0%)
Class A	--	1 (5.6%)	5 (27.8%)	9 (50.0%)	3 (16.7%)	--	18 (100.0%)
Class B	4 (3.6%)	33 (30.0%)	21 (19.1%)	40 (36.4%)	11 (10.0%)	1 (0.9%)	110 (100.0%)
Class C	2 (4.5%)	10 (22.7%)	15 (34.1%)	13 (29.5%)	4 (9.1%)	--	44 (100.0%)
Misdemeanor	1 (11.1%)	2 (22.2%)	2 (22.2%)	3 (33.3%)	1 (11.1%)	--	9 (100.0%)
	7 (3.9%)	47 (25.8%)	43 (23.6%)	65 (35.7%)	19 (10.4%)	1 (0.6%)	182 (100.0%)

TABLE E-3
(Alaska Felony Sentences: 1984)

RACE BY OFFENSE CLASS OF CONVICTION FOR DRUG OFFENDERS

Class	Black	Native American	Caucasian	Other	Unknown	Total
Unclassified	—	—	1 (100.0%)	—	—	1 (100.0%)
Class A	12 (66.7%)	1 (5.6%)	4 (22.2%)	—	1 (5.6%)	18 (100.0%)
Class B	5 (4.5%)	6 (5.5%)	85 (77.3%)	5 (4.5%)	9 (8.2%)	110 (100.0%)
Class C	4 (9.1%)	4 (9.1%)	32 (72.7%)	1 (2.3%)	3 (6.8%)	44 (100.0%)
Misdemeanor	—	3 (33.3%)	6 (66.7%)	—	—	9 (100.0%)
	21 (11.5%)	14 (7.7%)	128 (70.3%)	6 (3.3%)	13 (7.2%)	182 (100.0%)

E.3

B.   Case Characteristics

Table E-4 shows the court location of drug offenses.   94% of all MICS 2nd°
offenses occurred in the Third Judicial District (primarily Anchorage).   Less than
5% of all felony drug charges were reduced to misdemeanors (including 5 in the Third
Judicial District and 4 in the Second and Fourth Districts).

The number of drug cases as a percentage of total felony convictions has risen
steadily since 1976 in both urban and rural areas.   Table E-5 indicates that drug
convictions constituted 12.2% of the 1976-79 convictions, 14.0% of the 1980
convictions and 16.0% of the 1984 convictions.   The increase was most noticeable in
rural areas.   Drug convictions rose from 7.3% of all rural convictions in 1976-79 to
14.9% of all rural convictions in 1984.

TABLE E-4
(Alaska Felony Sentences: 1984)

LOCATION OF CASE BY OFFENSE CLASS OF CONVICTION FOR DRUG OFFENDERS

	1st Jud. Dist Southeast		3rd Jud. Dist. Southcentral		2nd & 4th Judicial Districts		Total	
Unclassified	--	--	--	--	1	(100.0%)	1	(100.0%)
Class A	--	--	17	(94.4%)	1	(5.6%)	18	(100.0%)
Class B	29	(26.4%)	56	(50.9%)	25	(22.7%)	110	(100.0%)
Class C	12	(27.3%)	23	(52.3%)	9	(20.5%)	44	(100.0%)
Misdemeanor	--	--	5	(55.6%)	4	(44.4%)	9	(100.0%)
	41	(22.5%)	101	(55.5%)	40	(22.0%)	182	(100.0%)

TABLE E-5
(Alaska Felony Sentences: 1984)

LOCATION OF DRUG CASES BY STUDY PERIOD

	Urban*		Rural		Total	
	No. of Drug Cases	% of all Urban Cases	No. of Drug Cases	% of all Rural Cases	No. of Drug Cases	% all cases in Study Period
1976-79	192	(14.0%)	39	(7.3%)	231	(12.2%)
1980	82	(17.1%)	37	(10.0%)	119	(14.0%)
1984	146	(16.3%)	36	(14.9%)	182	(16.0%)

* Includes Anchorage, Fairbanks and Juneau; 1984 Urban data also includes Palmer. All other court locations were defined as "rural" for purposes of this analysis.

Table E-6 shows the original charges and final charges for offenders charged with drug offenses. One of the two offenders charged with MICS 1st° was convicted of a reduced charge. In the other three classes of offenses, 5.3% of offenders originally charged with the Class A offense, MICS 2nd°, were convicted of lesser offenses; 7.6% of Class B offenders were convicted of lesser offenses; and 16.7% of Class C offenders were convicted of lesser offenses. The table shows that the lower the class of the original charge, the greater the likelihood that the charge will be reduced to a still lesser charge before conviction.

TABLE E-6
(Alaska Felony Sentences: 1984)

ORIGINAL CHARGE BY FINAL CHARGE FOR DRUG OFFENDERS

Final

Original	Unclassified MICS 1st°	Class A MICS 2nd°	Class B MICS 3rd°	Class C MICS 4th°	Class A Misd. MICS 5th°	Class B Misd. MICS 6th°	
MICS 1st° (2) (Unclassified)	1	--	1	--	--	--	= 2
MICS 2nd° (19) (Class A)	--	18	--	--	--	--	= 19
MICS 3rd° (118) (Class B)	--	--	109	6	3	0	= 118
MICS 4th° (42) (Class C)	--	--	--	35	4	2	= 41
181*	1	18	110	44	7	2	= 180**

* The original group of drug cases (N = 181) included one offender who was originally charged with MICS 4th°, but whose final charge was assault IV. The final group of drug cases included two offenders who had originally been charged with theft II, but who were convicted of MICS 4th°. The net effect of the changes was a final group of 182 offenders convicted of drug offenses.

** One count of MICS 4th° was amended to a final charge of assault IV.

Data for the convicted drug offenders included in this report were analyzed to determine the percentages of various dispositions. No data regarding dismissed or acquitted cases were compiled from PROMIS because the purpose of this study was to review sentenced offenders. Most offenders convicted of drug offenses were convicted on the original charge (87.8%) rather than on a reduced charge (Table E-7). By comparison, the overall percentage of conviction on the original charge for all convicted felonies was 67.8% (Figure 3). Although only 11.6% of convicted drug offenders overall had been convicted after trial, 47.4% of convicted Class A (MICS 2nd°) drug offenders had been convicted after trial. Only convicted murder/kidnapping offenders had a higher conviction at trial percentage (60.0%). By comparison, only 25.8% of offenders convicted of Unclassified sexual offenses had been convicted after trial, and only 31.5% of offenders convicted of Class A violent offenses.

TABLE E-7
(Alaska Felony Sentences: 1984)

CONVICTION OF CASE BY ORIGINAL OFFENSE CLASS FOR DRUG OFFENDERS

Type of Disposition	Unclassified	Class A	Class B	Class C	Total
Guilty to Original Charge	1 (50.0%)	18 (94.7%)	107 (90.7%)	33 (78.6%)	159 (87.8%)
Guilty to Amended Charge	1 (50.0%)	1 (5.3%)	11 (9.3%)	9 (21.4%)	22 (12.2%)
Subtotal	2 (100.0%)	19 (100.0%)	118 (100.0%)	42 (100.0%)	181 (100.0%)

TRIAL/NO TRIAL

	Unclassified	Class A	Class B	Class C	Total
Convicted After Trial	-- ---	9 (47.4%)	8 (6.8%)	4 (9.5%)	21 (11.6%)
Pled Guilty	2 (100.0%)	10 (52.6%)	110 (93.2%)	38 (90.5%)	160 (88.4%)
	2 (100.0%)	19 (100.0%)	118 (100.0%)	42 (100.0%)	181 (100.0%)

C.   Sentence Types

Overall, 61.5% of the drug offenders were convicted of only one offense. However, only one-third of the Class A (MICS 2nd°) drug offenders were convicted of a single offense; two-thirds were convicted of multiple offenses. Of the 40% of all drug offenders who were sentenced for multiple offenses about one-third were sentenced to concurrent terms. Twenty-five percent of all felony drug offenders were sentenced to consecutive terms or to an unknown combination of consecutive and concurrent terms. PROMIS data did not permit a more detailed analysis of consecutive and concurrent sentences.

TABLE E-8
(Alaska Felony Sentences: 1984)

TYPE OF SENTENCE BY OFFENSE CLASS OF CONVICTION

Class	Single Offense		Multiple Offenses All Concurrent		Multiple Offenses Unknown Whether Consecutive or Concurrent*		Total	
Unclassified	1	(100.0%)	--	--	--	--	1	(100.0%)
Class A	6	(33.3%)	5	(27.8%)	7	(38.9%)	18	(100.0%)
Class B	69	(62.7%)	15	(13.6%)	26	(23.6%)	110	(100.0%)
Class C	30	(68.2%)	3	(6.8%)	11	(25.1%)	44	(100.0%)
Misdemeanor	6	(66.7%)	1	(11.1%)	2	(22.2%)	9	(100.0%)
	112	(61.5%)	24	(13.2%)	46	(25.3%)	182	(100.0%)

* Includes all offenders who were known to have multiple sentences. However, in 40 of the 46 cases the available data did not indicate whether the sentences were concurrent or consecutive.

Table E-9 shows the distribution of sentences for drug offenses. All Unclassified and Class A felony drug offenders were sentenced to at least two years in prison. In addition, 9 more offenders (a total of 15.4% of all drug offenders) received at least 2 years in jail. By contrast, 51 drug offenders (28.0%) convicted of Class B or lesser felonies were sentenced to probation only (zero prison time).

The mean sentence length for Class A drug offenders was 65.8 months, about 10% above the 60-month presumptive sentence for Class A first offenders (see Table A-4, Appendix A). Mean sentences for Class B and C drug felonies were similar to each other (12.5 months and 12.1 months, respectively) and were about 20% of the Class A mean sentence length. The similarity of Class B and C drug sentences to each other despite the presumed difference in level of offense seriousness is the most interesting finding of the analysis of drug sentences.

TABLE E-9
(Alaska Felony Sentences: 1984)

NET ACTIVE TIME BY OFFENSE CLASS OF CONVICTION FOR DRUG OFFENDERS

Class	-0- Months	1 day-12 Months	12-24 Months	24-60 Months	60-96 Months	96 Months & Over	Total
Unclassified	—	—	—	1 (100.0%)*	—	—	1 (100.0%)
Class A	—	—	—	13 (72.2%)	3 (16.7%)	2 (11.1%)	18 (100.0%)
Class B	31 (28.2%)	56 (50.9%)	16 (14.5%)	7 (6.4%)	—	—	110 (100.0%)
Class C	18 (40.9%)	18 (40.9%)	6 (13.6%)	2 (4.5%)	—	—	44 (100.0%)
Misdemeanor	2 (22.2%)	7 (77.8%)	—	—	—	—	9 (100.0%)
	51 (28.0%)	81 (44.5%)	22 (12.1%)	23 (12.6%)	3 (1.6%)	2 (1.2%)	182 (100.0%)

* This defendant was convicted of the Unclassified offense of furnishing cocaine to a minor (AS 11.71.010(a)(2)) and sentenced to 5 years with 2 years suspended. On petition for review by the state (State v. Price, 715 P.2d 1183 (Alaska Ct. App. 1986)) the sentence was held to be "illegal" by the Alaska Court of Appeals because AS 12.55.125(6) requires a minimum sentence of 5 years for this offense. The case is presently under advisement by the Alaska Supreme Court.

Although fines were used infrequently as part of a felony offender's sentence, they were imposed nearly twice as often for drug offenders as for other offenders. Fines were imposed on 13.2% of drug offenders, as compared to about 8% of all offenders (see Table E-10). Only 2.6% of all felony Class C offenders were fined $1,000 or more, as compared to 9.1% of Class C drug offenders; 5.0% of Class B felony offenders were fined $1,000 or more as compared to 10.0% of Class B drug offenders. No Unclassified or Class A drug offenders were required to pay fines as part of their sentences. Data about other conditions of sentence, such as restitution, were not available.

TABLE E-10

(Alaska Felony Sentences: 1984)

NET FINE BY OFFENSE CLASS OF CONVICTION FOR DRUG OFFENDERS

Class	No Fine	$1-$999	$1,000-$1,999	$2,000-$4,999	$5,000-$9,999	Total
Unclassified	1 (100.0%)	—	—	—	—	1 (100.0%)
Class A	18 (100.0%)	—	—	—	—	18 (100.0%)
Class B	95 (86.4%)	4 (3.6%)	6 (5.5%)	4 (3.6%)	1 (0.9%)	110 (100.0%)
Class C	38 (86.4%)	2 (4.5%)	2 (4.5%)	1 (2.3%)	1 (2.3%)	44 (100.0%)
Misdemeanor	6 (66.7%)	1 (11.1%)	2 (22.2%)	—	—	9 (100.0%)
	158 (86.8%)	7 (3.9%)	10 (5.5%)	5 (2.7%)	2 (1.1%)	182 (100.0%)

E.12

D.   Comparison of 1984 Drug Sentences to Other Study Periods

Tables E-11 and E-12 compare mean sentence lengths and probation rates for drug offenses for three study periods: 1976-79, 1980 and 1984. The data should be viewed very cautiously because the 1982 recodification of drug offenses greatly altered the definitions of drug offenses. Table E-11 is most useful for general comparisons of the three study periods, and for comparison of percentages of offenders receiving probation. Table E-12 allows slightly more accurate comparisons of mean sentence lengths by type of drug in 1976-79 and 1984.

Table E-11 shows that the percentages of drug offenders sentenced to zero jail time (probation only) have declined steadily since 1976-79. The table also indicates that mean sentence length for all drug offenses combined dropped from 25.1 months in 1976-79 to 14.3 months in 1980. In 1984, the comparable mean sentence length was 20.4 months.

Table E-12 makes a more detailed comparison of mean sentence lengths taking into account type of drug involved in 1976-79 offenses. The most accurate comparison (because the offenses are most similar in definition) is that between sale of heroin, 1976-79 and MICS 2nd°, 1984. The mean sentence length for sale of heroin, 1976-79, was 37.1 months. In 1984, the mean sentence length for MICS 2nd° was 65.8 months, or 77% higher.

TABLE E-11
(Alaska Felony Sentences: 1984)

COMPARISON OF DRUG SENTENCES BY THREE STUDY PERIODS

Offense	1976 – 1979			1980			1984		
	N	% Prob.	Mean Sentence $\bar{x}$ (Mo.)	N	% Prob.	Mean Sentence $\bar{x}$ (Mo.)	N	% Prob.	Mean Sentence $\bar{x}$ (Mo.)
Sale Narcotic*/MICS 2nd°	83	38.6%	28.1	49	14.3%	12.9	18	0.0%	65.8
Sale HDS**/MICS 3rd°	39	53.8%	16.3	18	22.2%	14.1	110	28.2%	12.5
Possession for Sale, HDS/MICS 3rd°	21	47.6%	15.1	9	33.3%	16.9	(Same as MICS 3rd°, above)		
Possession Narcotic/MICS 4th°	59	50.8%	34.2	28	46.4%	6.6	44	40.9%	12.2
Mean Sentence, Combined Drug Felony Sentences:			25.1			14.3			20.4

* Narcotic drugs included heroin, morphine and most opiates, as well as cocaine.

** HDS (hallucinogenic, depressant, stimulant) drugs included, LSD, PCP, amphetamines, barbiturates, and marijuana.

TABLE E-12
(Alaska Felony Sentences: 1984)

COMPARISON OF MEAN SENTENCE LENGTHS FOR SELECTED DRUG OFFENSES

	1976 – 79*		1984
Sale of Heroin or Opiates	37.1 mo.	MICS 2nd°	65.8 mo.
Possession of Heroin or Opiates	67.8 mo.	MICS 4th°**	12.2 mo.
Sale of Cocaine	26.0 mo.	MICS 3rd°	12.5 mo.
Possession of Cocaine	10.8 mo.	MICS 4th°	12.2 mo.
Sale of HDS or Marijuana***	16.3 mo.		
		} MICS 3rd°	} 12.5 mo.
		MICS 4th°	12.2 mo.
Possession for Sale, HDS of Marijuana***	15.1 mo.		

*   Data taken from <u>Final Report to the Alaska Supreme Court on Felony Drug Offense Guideline Sentences</u>, p. 19, prepared by Sentencing Guidelines Committee, September, 1981. Available from Alaska Judicial Council.

**   MICS 4th° included a variety of offenses other than possession of heroin or opiates. However, the available data did not permit possession of heroin to be isolated from other MICS 4th° offenses for purposes of analysis.

***   Some marijuana sales involving small amounts may be charged as misdemeanors under the new classification of drug offenses. Since data are not available to distinguish among these offenses, only the Class B and C mean sentences are shown.

In contrast, the mean sentence length for possession of heroin was 67.8 months in 1976-79, compared to the mean sentence length of 12.2 months for all MICS 4th° offenses. Although two of the 1984 MICS 4th° offenders were sentenced to serve between 2 and 5 years, there is no indication that either of those offenders had been convicted of possession of heroin. In any case, in 1984 the statutory maximum sentence for Class C felonies was 60 months (5 years; see Figure 1), 7.8 months less than the average sentence imposed for possession of heroin in 1976-79.

Table E-12 also compares 1976-79 sale of cocaine to 1984 MICS 3rd° cases and 1976-79 possession of cocaine cases to 1984 MICS 4th° cases. Sale of cocaine cases had a mean sentence length of 26.0 months in 1976-79, while possession of cocaine cases had a mean sentence length of only 10.8 months. By contrast, mean sentence lengths for 1984 MICS 3rd° and MICS 4th° cases are virtually identical, 12.5 months and 12.2 months respectively. As noted above, in the comparison of 1984 MICS 4th° to 1976-79 possession of heroin cases, 1984 MICS 4th° cases included a broad range of prohibited behavior including possession of heroin, opiates, cocaine and other drugs, as well as less serious sale of drug offenses.

The sentence distribution table (Table E-9) indicates that Class C drug offenders were most typically sentenced to probation (40.9%) or a jail term of one-day to twelve months (40.9%). Only 13.6% of the Class C drug defendants were sentenced to serve between 12 and 24 months, and only 4.5% (2 offenders) were sentenced to terms between 24 and 60 months. Table E-12 shows that 1984 drug sentences, with the exception of heroin sales and cocaine possession were uniformly lower than drug sentences in 1976-79. The 1984 sentence for MICS 4th° was 13% higher than that for possession of cocaine in 1976-79; the sentence for sale of heroin was 77% higher in 1984 than in 1976-79.

E.   Summary

Recodification

Recodification of drug offenses was correlated with greatly increased sentence lengths for Class A offenders and shorter sentence lengths for Class B and C drug offenses.   Recodification was also associated with a decline in the percentage of offenders sentenced to serve zero active time, especially for Class A offenders.

A second noteworthy feature of the recodification of drug offenses was that it appeared to result in only two gradations of seriousness rather than the four gradations established by the legislature. Although felony drug offenses range from Unclassified to Classes A, B and C, sentences fall into only two groups: the mean sentence of 65.8 months for Class A offenders and the mean sentences of 12.5 months and 12.2 months for Class B and C offenders, respectively. By contrast, sentences for Class B and C offenders convicted of violent and property crimes were clearly graduated in seriousness, with Class B offenders receiving mean sentences slightly over two years in length and Class C offenders receiving sentences of 12-17 months.

Demographic Changes

The distribution of drug convictions varied in two ways from prior years. First, drug convictions continued to gain importance both as a percentage of all convictions and especially as a percentage of rural convictions.   Drug convictions in rural areas increased from 7.3% of all convictions in 1976-79 to 14.9% in 1984. Second, the incidence of sale of narcotics convictions (MICS 2nd°) is limited to urban areas.   Whereas 14.3% of 1980 convictions for sale of narcotics were in rural areas, all 1984 convictions of MICS 2nd° were in urban areas (17 in Anchorage/Palmer and 1 in Fairbanks).

Class A offenders were demographically distinct from Class B and C offenders. Two-thirds of the Class A drug offenders were Black and two-thirds were 30 years of age or older.   Class B and C offenders were much more likely to be Caucasian, and tended to be somewhat younger as a group.   Prior record, to the extent known, was similar for all three groups. The majority of drug offenders had no prior record or only 1-3 misdemeanor convictions.

APPENDIX F

(Alaska Felony Sentences: 1984)

DESCRIPTION OF 1984 FEMALE OFFENDERS

APPENDIX F

FEMALE OFFENDERS: 1984 FELONIES

The 1984 felony offender population described in this report included a small number (estimated at 92; 8.2% of the total offender population) of women. Gender was not isolated as a variable for analysis because all past Council studies have found no statistically significant differences in sentences imposed on female and male offenders. However, because gender may be a potential source of differences in treatment of offenders, a hand-tally of women offenders was done from the data lists provided by PROMIS. The methodology for this tally is described below.

Methodology

Gender of the offender was not a variable requested for this study. Women offenders were identified by judging whether the offender's name was likely to be a woman's name. As a result, some female offenders may have been omitted because their names were names also frequently used for men.

Data tallied about each female offender for purposes of this sub-analysis included race, location of case, most serious offense of which the offender was convicted, and sentence. The data reported in this Appendix have not been tested for statistical significance. They should be used cautiously.

Description of Data

A total of 92 female offenders (8.2% of the total) were included in the 1128 convicted defendants studied in _Alaska Felony Sentences: 1984_. Over half of the women (52, or 56.5%) were convicted in Anchorage, although Anchorage had only 42.6% of all 1984 convicted offenders (Table 3). Statewide, 88.0% of the female offenders were found in urban areas, as compared to 78.9% of all offenders (see Table 2).

About half of all female offenders were Caucasian (48%) and about half of other racial backgrounds (42%), with race unknown for 10%. Blacks constituted 15% of the female offenders as compared to 9.8% of all 1984 offenders (see Table 6).

Twenty-five percent of the female offenders were Native, compared to 24.6% of all 1984 offenders.

Women were convicted of a somewhat different combination of offenses than were offenders as a group in 1984. Table F-1 shows the distribution of types of offenses by female offenders and by all offenders. The most noticeable differences are that women were convicted of proportionately more drug offenses than were all offenders (29.3%, compared to 16.1%), and women were convicted of many fewer sexual offenses than were all offenders (3.3%, compared to 13.9%).

TABLE F-1
(Alaska Felony Sentences: 1984)

TYPE OF OFFENSE BY GENDER

Offense of Conviction	Female Offenders, 1984		All 1984 Offenders*	
	N	%	N	%
Murder/Kidnapping	3	(3.3%)	15	(1.3%)
Violent	20	(21.7%)	297	(26.3%)
Property	34	(37.0%)	382	(33.9%)
Drugs	27	(29.3%)	182	(16.1%)
Sexual	3	(3.3%)	157	(13.9%)
Other	5	(5.4%)	47	(4.2%)
Unknown Final Offense	0	(0.0%)	48	(4.3%)
	92	(100.0%)	1128	(100.0%)

* Data from Table 4, this report.

Table F-2 shows the types of convictions for female offenders as compared to all 1984 offenders. The table indicates that a slightly higher percentage of female offenders pled guilty to misdemeanors as their single most serious charge of conviction than did 1984 offenders as a group. The percentages of female offenders (13.0%) and all offenders (14.3%) convicted after trial were very similar. Fewer female offenders pled guilty as charged (53.3%) or had other types of convictions (6.5%) than did 1984 offenders overall (56.0% and 10.3% respectively).

F.2

CONVICTIONS BY GENDER OF OFFENDER

Type of Offender	Pled Guilty As Charged	Pled Guilty To Misdemeanor	Convicted After Trial	Other Convictions*	Total
Female Offender	53.3%	27.2%	13.0%	6.5%	100.0%
All 1984 Offenders**	56.0%	19.4%	14.3%	10.3%	100.0%

* Other Convictions were: pled guilty to lesser felony and Rule 11(e) plea bargain.

** Data from Table 10, this report.

Female offenders had about the same proportion of serious (unclassified and Class A) offenses as did all 1984 offenders (16.3% and 14.0%, respectively; see Table F-3). A relatively high percentage of these serious offenses among female offenders were Class A drug offenses. Half (50.0%) of the Class A convictions of females were for MICS 2nd°, as compared to only 23.1% (18 of 78) of the Class A convictions for the overall group of 1984 offenders. Female offenders had fewer Class B and C offenses (56.5% as compared to 61.3%) than did the overall group of 1984 offenders, but more misdemeanors (27.2%, as compared to 19.9%).

TABLE F-3
(Alaska Felony Sentences: 1984)

CLASS OF OFFENSE: FINAL CHARGE

Offense, Class of Conviction	Female Offenders		All 1984 Offenders*	
	N	%	N	%
Unclassified	5	(5.4%)	80	(7.1%)
Class A	10	(10.9%)	78	(6.9%)
Class B	22	(23.9%)	315	(27.9%)
Class C	30	(32.6%)	377	(33.4%)
Misdemeanor	25	(27.2%)	225	(19.9%)
Unknown Class	0	(0.0%)	53	(4.7%)
	92	(100.0%)	1128	(100.0%)

* Data from Table 12, this report.

Table F-4 gives the mean sentence lengths and probation rates for the specific offenses of which 1984 female offenders were convicted. For purposes of comparison, data were taken from Tables A-1 through A-6 of this report and reported on Table F-4.   Because of the relatively small number of female offenders and the diversity of the offenses of which they were convicted, adequate comparisons were difficult for most offenses. The only offense that had at least ten sentences (an adequate number for comparison) was MICS 3rd° (drug offense, Class B). For that offense, the female offenders had a mean sentence of 5.7 months, about half as long as the 12.5 month mean sentence for all comparable 1984 offenders.

Summary

A higher percentage of the female offenders were urban (88.0%) and black (15.0%) compared to all offenders. Proportionately more were convicted of drug offenses (29.3%). About the same percentage of women were convicted of serious offenses (16.3%), but a higher percentage were convicted of misdemeanors (27.2%). Adequate comparisons of sentence lengths were not possible because of the small number of offenders convicted of each specific offense.

F.4

(Alaska Felony Sentences: 1984)

MEAN SENTENCE LENGTH AND PROBATION RATES BY SPECIFIC OFFENSE FOR 1984 FEMALE OFFENDERS

Offense and Class	Mean Sentence	No. of Sentences	Comparable* Mean Sentence	No. of Probation	% Probation	Comparable* % Probation
Unclassified, Murder						
Murder I	1188.0 mo.	1	840.0 mo.	0	0.0%	0.0%
Murder II	60.0 mo.	2	342.9 mo.	0	0.0%	0.0%
Class A, Violent						
Assault I	127.5 mo.	2	82.3 mo.	0	0.0%	0.0%
Robbery I	60.0 mo.	2	63.2 mo.	0	0.0%	2.9%
Class B, Violent						
Assault II	9.0 mo.	1	27.8 mo.	0	0.0%	11.1%
Class C, Violent						
Assault III	1.0 mo.	1	11.9 mo.	1	50.0%	29.5%
Negligent Homicide	---	---	14.3 mo.	1	100.0%	50.0%
Misdemeanors, Violent						
Assault IV	1.8 mo.	7	1.9 mo.	3	30.0%	24.4%
Reckless Endangerment	---	---	1.0 mo.	2	100.0%	41.7%
Class B, Property						
Theft I	42.0 mo.	1	28.8 mo.	0	0.0%	16.7%
Burglary I	2.9 mo.	1	24.0 mo.	0	0.0%	27.9%
Arson II	6.0 mo.	1	15.5 mo.	0	0.0%	0.0%
Forgery I	24.0 mo.	1	24.0 mo.	0	0.0%	50.0%
Class C, Property						
Theft II	17.9 mo.	8	16.2 mo.	3	27.3%	31.3%
Forgery II	10.7 mo.	3	17.2 mo.	2	40.0%	50.0%
Issue Bad Checks	12.0 mo.	1	12.0 mo.	0	0.0%	33.3%

(continued)

TABLE F-4 (continued)
(Alaska Felony Sentences: 1984)

MEAN SENTENCE LENGTH AND PROBATION RATES BY SPECIFIC OFFENSE FOR 1984 FEMALE OFFENDERS

Offense and Class	Mean Sentence	No. of Sentences	Comparable* Mean Sentence	No. of Probation	% Probation	Comparable* % Probation
Misdemeanors, Property						
Theft III	0.8 mo.	7	1.7 mo.	1	12.5%	18.4%
Trespass I	4.7 mo.	3	2.8 mo.	0	0.0%	27.8%
Criminal Mischief III	----	---	1.3 mo.	2	100.0%	63.6%
Class A, Drugs	47.4 mo.	5	65.8 mo.	0	0.0%	0.0%
Class B, Drugs	5.7 mo.	10	12.5 mo.	5	33.3%	28.2%
Class C, Drugs	5.8 mo.	4	12.2 mo.	3	42.9%	40.9%
Unclassified, Sexual						
Sexual Abuse, Minor I	72.0 mo.	2	87.9 mo.	0	0.0%	0.0%
Class A, Sexual						
Attempted Sexual Assault I	6.0 mo.	1	45.0 mo.	0	0.0%	0.0%
Class B, Other						
Perjury	48.0 mo.	1	49.5 mo.	0	0.0%	20.0%
Escape II	12.0 mo.	1	40.4 mo.	0	0.0%	0.0%
Class C, Other						
Hinder Prosecution	----	---	----	1	100.0%	100.0%
Promote Contraband I	----	---	14.0 mo.	2	100.0%	42.9%

*   Comparable data taken from Tables A-1 through A-6, Appendix A of this report.

F.6