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IN THE GRAY SHADOW: PAROLE IN NEVADA

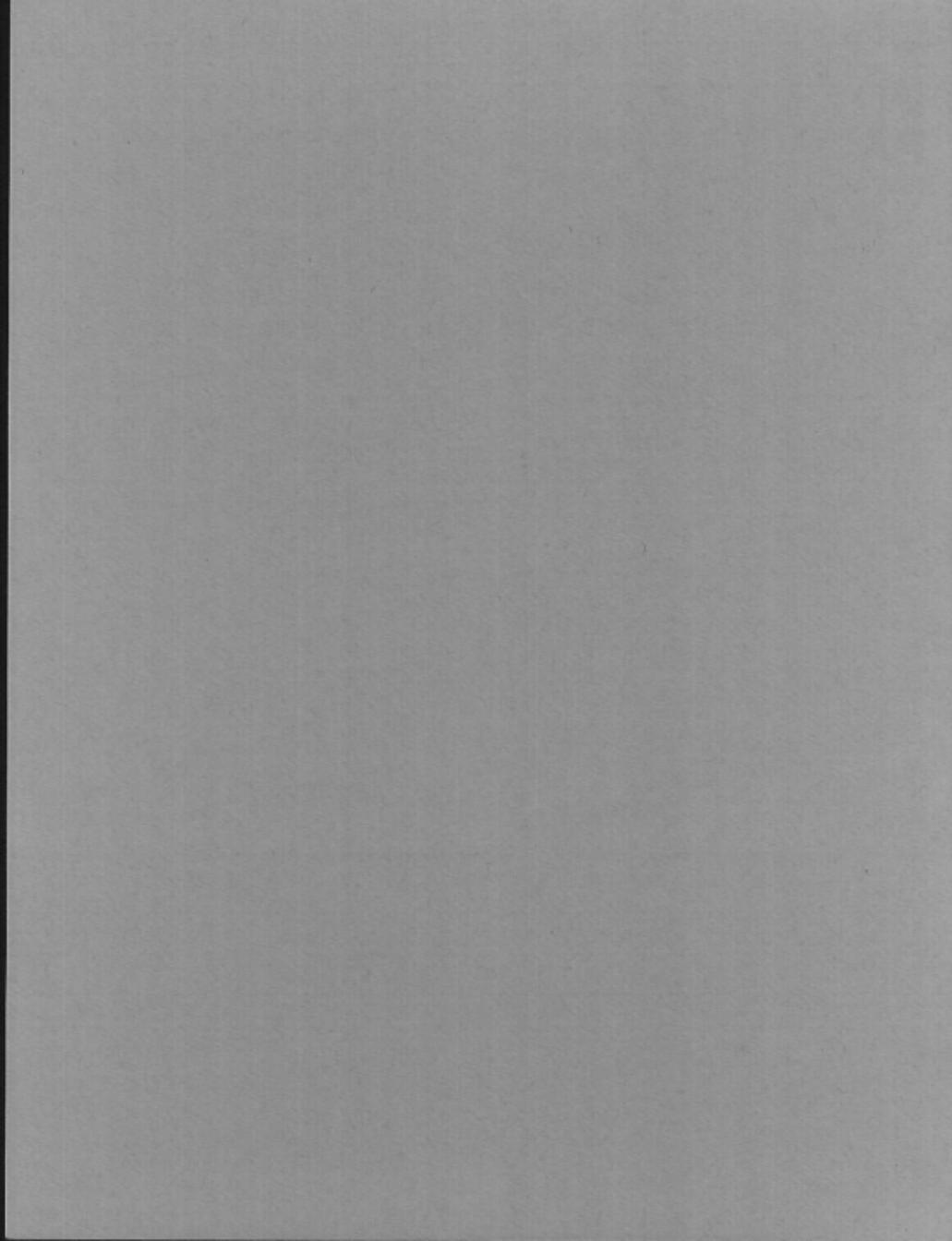
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November 1976

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--A report prepared by the Nevada Advisory Committee to the U.S. Commission on Civil Rights

ATTRIBUTION:

The recommendations contained in this report are those of the Nevada Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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Las Vegas

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Sparks

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Las Vegas

Steven T. Walther
Reno

Marlene Coffey
Reno

Donny L. Johnson
Sparks

Patricia A. Lynch*
Reno

*No longer a member.

LETTER OF TRANSMITTAL

NEVADA ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS
November 1976

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John A. Buggs, Staff Director

Sirs and Madam:

The Nevada Advisory Committee submits this report of its study of the parole process in the State of Nevada as part of its responsibility to advise the Commission on civil rights issues within this State.

Parole is a system which provides supervision to individuals who, having served a period of incarceration, have been returned to society. The Nevada Advisory Committee first became aware of concerns in the area of parole in 1973 when it---in response to Commission programming---proposed a study on penal reform.

During the spring of 1974 staff of the Commission's Western Regional Office in Los Angeles and members of the Advisory Committee interviewed State prison administrators, parole board commissioners, prison staff, parole office administrators, parole officers, inmates, parolees, and others concerned with penal reform.

On July 19 and 20, 1974, the Advisory Committee held an informal public hearing in Carson City, Nevada, on the parole system in the State. Eighteen witnesses appeared before the Committee. This report is the result of that activity.

Inmates alleged that there is no apparent correlation between the constructive use of prison time and improved chances for release. Once released, however, the parolee's readjustment to life in society and community reintegration are the first real tests of the extent of rehabilitation and

the deterrent effect of incarceration. The entire process demands critical appraisal.

The administration of the parole system in Nevada is overseen by the Nevada State Board of Parole Commissioners. It is not a full-time board and comprises five members appointed by the Governor to 4-year terms. The board has considerable discretion in determining the suitability of a prisoner for parole.

The actual day-to-day supervision of the parolee is the function of the Nevada State Parole and Probation Department staff. One of the goals of the department is to assist the inmate in the initial stages of the reintegration process.

The interrelationship and interdependency of these three major elements---in-prison procedures, parole board, and parole supervision---provided the Advisory Committee with data for a comprehensive study of the parole system.

The Advisory Committee is making recommendations to the Governor, State prisons, board of parole commissioners, and department of parole and probation regarding progress and problems identified in the system. We urge the Commission to support our recommendations.

Respectfully,

/s/

WOODROW WILSON
Chairperson

ACKNOWLEDGMENTS

The Advisory Committee wishes to thank the staff of the Commission's Western Regional Office, Los Angeles, California, for its help in the preparation of this report. The study was the principal staff assignment of Michael Ishikawa, Jr. The report was written by Roberta Jones-Booker with writing and editing assistance provided by Thomas V. Pilla. Legal review was provided by Ramona L. Godoy, staff attorney, and support from Grace Diaz and Irene B. Garcia. All staff worked under the guidance of Philip Montez, regional director, and Joseph T. Brooks, acting regional director.

Final production of the report was the responsibility of Deborah A. Harrison, supervised by Bobby Wortman, in the Commission's Publication Support Center, Office of Management.

Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Director for Field Operations.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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IN THE GRAY SHADOW: PAROLE IN NEVADA

Around the nation, protection and rehabilitation are becoming the primary goals of any human correctional system. But here, [in Nevada] the parole board is contributing nothing towards either one. Rehabilitation becomes an empty slogan when we cannot be paroled at the right time.

We have a cynical epithet that we pass around amongst ourselves at the prison, and we say that the parole board business is nothing but a farce. The time to stop laughing has finally gotten here.¹

Alden Kelly, Inmate
July 19, 1974

I. INTRODUCTION

Late 1960s and early 1970s news coverage of prisoner demonstrations and prison riots helped to focus public attention on the Nation's penal system. The demonstrations and riots raised issues of inmate concern behind the gray walls. The issue of parole has been overshadowed by the public focus on in-prison concerns.

According to A. A. Campos, chief, Nevada State Department of Parole and Probation: "Parole is an extremely complex system within an even more complex [one], that being the criminal justice system. [Parole] is one small part of it. It's very difficult to dissect parole as an entity."

Parole is a system which provides supervision to individuals who, having served a period of incarceration, have been returned to society. Robert Carter and Leslie Wilkins in their book, Probation and Parole, define parole as "a procedure by which prisoners are selected for release and a service by which they are provided with necessary controls, assistance and guidance as they serve the remainder of their sentences within the free community."²

The parole system has three major elements: the prerelease process, involving in-prison procedures; the

parole hearing; and the postrelease process, including parolee supervision by a parole officer.

In 1974 interviews with Commission staff, inmates of the Nevada State prison system alleged that there is a lack of consistency in the handling of parole cases by the Nevada State Board of Parole Commissioners. It was further alleged that reasons for denials of parole were not provided. Inmates stated that there is no apparent correlation between the constructive use of prison time and improved chances for release.

Inmates interviewed were uncertain of the criteria expected and accepted by the parole board in their hearings. Many inmates believe time served is the only criteria used by the parole board to justify parole. According to inmate Alden Kelly: "The secretiveness and arbitrary treatment [inmates] receive from the board only accentuates the punitive aspects of imprisonment, which surely was not the intent of the legislation that originally authorized paroles."

Once released on parole, the inmate becomes the parolee. A new set of problems and concerns plagues the parolee. According to parolees interviewed by Commission staff, major problems include the need for financial assistance to cover living expenses until employment salaries or school support is forthcoming, and access to their parole officers during business hours.

Conditions of parole,³ according to parolees, occasionally handicap daily activity. It was alleged, for example, that prior to entering a debt situation, a parolee needs permission from his or her parole officer. Clyde Ibsen, a parolee noted:

...my own personal parole officer told me that if I wanted to buy a car, I would have to get permission...on the parole report that I have to submit each month, there is a place [asking] did I enter into any contracts.

At the open meeting, Department Chief Campos said:

That particular rule [parole officer permission to engage in business or enter debt] hasn't really

been a problem. We have it there for the protection of the individual.

...he gets out and doesn't know the value of used cars and this type of thing. He's really a walking target for some salesmen. We like to talk to him if he wants to buy a car and make sure he understands his insurance obligation, make sure he has a license, and these kinds of things.

If he wants to go into debt for business purposes...we want to make sure he isn't getting over his head. The purpose of that particular rule is not to restrict people from getting ahead, it's just to try and keep them out of trouble.

It was alleged that the parole condition that prohibits associating with ex-felons prevents normal social relations and stifles a valuable resource for parolees.

Annette Duframe, paroled in June 1974, said: "There is a rule that we are not supposed to associate [with other parolees]. I feel we are getting together out of just needing someone to talk to, someone to be with....It's a good thing."

Rule number 10 on probation and parole form number 9 (Rev. 12-72) states: "Former inmates of penal institutions and individuals of bad reputation shall be avoided. You shall not correspond with persons confined in penal institutions, unless specific written permission has previously been granted."

Ms. Duframe continued: "...some people come out of there [prison] and they know no one except the people there, and you get very lonely. You feel disoriented when you get out...."

Commission staff discussions with Nevada State Parole and Probation Department Chief Campos established three major goals that parole seeks to accomplish: (1) The early release of the inmate into the community, under supervision, to ensure that rehabilitative gains that appear to have been made while incarcerated have in fact been made and that the individual does not pose a threat to society; (2) assistance to the inmate in the reintegration process, at least in the

initial stages of parole; and (3) assurance that his or her basic needs are met.*

The parolee's readjustment to life in society and community reintegration are the first real tests of the extent of rehabilitation and the deterrent effect of incarceration. The temporary shelter of the institution is removed and most of the problems that were suspended must be faced again.

Carter and Wilkins estimate that, of all releases from prison in the Nation, more than 60 percent of adult felons are released on parole prior to the expiration of the maximum term of their sentences.⁵ In 1974, 329 persons were released from the Nevada State Prison. Of this number, 211 were released on parole, 99 via expiration of sentence, and 19 by court order.⁶

Parole procedures available to Nevada State inmates are a subject deserving and demanding critical appraisal. A delicate balance must be struck between the rights of inmates and the welfare of the community to ensure that the system is working efficiently.

STATE ADVISORY COMMITTEE INVOLVEMENT

In response to concerns raised about the Nevada State prison system, a subcommittee of the Nevada Advisory Committee to the U.S. Commission on Civil Rights was formed in 1973 to study penal reform.

State Advisory Committee members had received complaints alleging that parole decisions were discriminatory. The level of concern dictated that the focus of the investigation would be on the parole system as part of the penal system in Nevada.

In April 1974 the prison reform subcommittee met to review preliminary research data. The subcommittee agreed to recommend that the Advisory Committee hold a public hearing on the parole system July 19 and 20, 1974, in Carson City, Nevada. The site selection was based on the location of the State prison facilities and the residence of State parole officials in Carson City.

During the spring of 1974, staff of the Commission's Western Regional Office in Los Angeles and members of the

Nevada Advisory Committee interviewed State prison administrators, parole board commissioners, prison staff, parole office administrators, parole officers, inmates, parolees, and others concerned with penal reform in Nevada. Eighteen witnesses appeared before the Advisory Committee during the 2-day open meeting. This report is based on the investigation and factfinding sessions.

Notes to Chapter I

1. Nevada Advisory Committee open meeting transcript, July 19-20, 1974. Unless otherwise noted, all direct quotations in this report are derived from this transcript.
2. Robert M. Carter and Leslie T. Wilkins, eds., Probation and Parole (New York: J. Wiley, 1970), p. 180.
3. The February 4, 1976, draft of this report was submitted to the State department of parole and probation; the Nevada State Prisons; and Clayton D. Phillips, former chairperson of the State board of parole commissioners for review and comments. A. A. Campos, chief, Nevada State Department of Parole and Probation, wrote: "Enclosed please find Nevada's written interpretation of [parole] conditions...currently available to all parolees. While these were not in written form at the time of the Commission hearings, they were the interpretations in use and have always been verbally explained to parolees." State of Nevada, Department of Parole and Probation, comments on the Nevada Advisory Committee report to the U.S. Commission on Civil Rights, In the Gray Shadow: Parole in Nevada (Feb. 4, 1976 draft), Feb. 19, 1976. Hereafter referred to as "Department Comments."
4. Chief Campos, telephone interview, July 1974.
5. Carter and Wilkins, Probation and Parole (1970), p. 183.
6. "Department Comments."

II. THE NEVADA STATE BOARD OF PAROLE COMMISSIONERS

The administration of the parole system in Nevada is overseen by the Nevada State Board of Parole Commissioners (hereafter referred to as the board) created by Section 213.108 (1973) of the Nevada Revised Statutes (hereafter cited as Nev. Rev. Stat.).

In interviews with board members, Commission staff compiled the following information: The board is composed of five members appointed by the Governor¹ to 4-year terms²; board members can be reappointed at the pleasure of the Governor; at present, the board is composed of four men and one woman, a Mexican American, who is also the only minority representative; the board is a diversified group whose work experience has been in the fields of labor, insurance, police work, civil service, education, and banking; the board is bipartisan and currently has three Democrats and two Republicans; the chairperson is elected by the board members; compensation to all members is paid at the rate of \$40 per day for days served, with per diem expense allowance and travel expenses³; the board currently meets six times a year.

No academic or specific experience qualifications are stated in the enacting legislation as requirements for membership on the board and no ratification of the Governor's appointments is necessary. Ideally, the board is meant to represent a cross section of ordinary citizens. The board is organized to evaluate the inmates' readiness to reenter the mainstream of society. Governor Michael O'Callaghan, in a 1974 letter to Advisory Committee. Chairperson Woodrow Wilson, wrote:

I have always based my selections on what I felt to be most important, and that is the ability and willingness to compassionately but fairly evaluate the requests for parole which are submitted to the parole board.⁴

The salaried executive secretary of the board of parole commissioners is appointed by the board and, according to Nev. Rev. Stat. §213.1085 (1973), is selected on the basis of training, experience, capacity, and interest in correctional services. The executive secretary of the board of parole commissioners provides staff support for the board. Prior to 1973, the Nevada State Department of Parole

and Probation provided staff support for the board. In 1973 the Nevada Legislature created the position of executive secretary to provide staff support for both the State board of parole commissioners and the State board of pardons commissioners. In a July 1974 interview with Commission staff, A. A. Campos, chief of the Nevada State Department of Parole and Probation, said that the creation of the executive secretary position was necessary to meet the request for added administrative support caused by an increasing caseload for the parole board.

Carl Hocker, current executive secretary, was appointed by the board in April 1973. Prior to this appointment, he had served for 4 years as warden of the Nevada State Prison. Mr. Hocker's major role as executive secretary is to provide administrative staff support to the board. This support includes the compilation and submission of referral reports from the prison staff to the board members, and liaison between the parole and probation department and the board.

A referral report is a compilation of data on an individual inmate used by the board to assess inmate progress for the purpose of determining eligibility for parole.⁵ The central file or "C" file is maintained by prison staff and includes the inmate's complete personal and criminal record. The referral report includes some of this information. A. A. Campos told Commission staff in June 1976 that inmates do not see their central files.

William Lattin, associate warden, said:

I think the parole board referral report is probably the main and basic thing connected with their [board] decisionmaking process. The parole board referral report is quite detailed and quite comprehensive. It is supposed to include a summary of an individual's past as it's related to his connection with corrections anywhere along the line.

It includes specifically...the inmate's behavior from the time he's incarcerated in the system until he appears before the board.

We try to document and present everything that would have any relationship to whether or not he's

paroled, whether or not he's a good risk in the community.⁶

Board Chairman Clayton D. Phillips⁷ noted at the open meeting that the referral reports contained: "A synopsis of the events, then various segments that refer to the case itself. And the various categories, criminal record, you name it."

Board Vice Chairman Dennis Wright added:

It tells you in that report the nature of the crime, what happened, briefly, not the details. Then about the man's family, his prior convictions, his prison counselor's opinion of the man. Which way he should go or how he's progressing. There's a lot of information in there.

The Nevada parole board has the power to delegate its authority to hear, consider, and act upon parole applications to designated referees or panels. On the basis of qualification requirements it deems pertinent and essential, the board may establish and maintain a list of persons considered eligible to serve as case hearing representatives, either as referees or panel members. Any decision of such referee or panel is subject to final approval by the affirmative action of a majority of the board members.⁸

It is conceivable that an inmate up for parole would appear before one of these panels or a board whose membership has changed through new appointment or attrition. An unfortunate byproduct of this system is an inconsistent audience for the inmate. Inmate Alden Kelly stated:

The board, over the years, has shown a startling lack of consistency in the handling of the same case over several sessions....Short denials [of parole] have been unexpectedly followed by long ones....Decisions made in the morning are changed in the afternoon....Political considerations are not an unknown factor in the final outcome.

Although the board has final approval over hearing panel decisions, there is a lack of board guidelines and

procedures to deal with the effect of changing composition on subsequent appearances of inmates denied parole.

Referring to an earlier appearance before the board, Mr. Kelly added:

On this occasion [the appearance] I was told that I was more than ready for a parole, and a prime prospect for release. But I needed to serve an extra 18 months to lessen the sting of possible adverse publicity. Fine.

A year and a half later, after continued good conduct, more recommendations and presentation of two parole programs, I reapplied, confident I had finally earned my freedom. However, at that hearing new members were sitting in judgment and after a surprisingly brief interview, they completely rejected the previous idea about a parole and handed out a maximum denial.

The Advisory Committee asked Mr. Phillips about this:

Q. ...next time [the inmate] comes before the board it may not have the same members, and it's quite unfair to work toward one thing and then come before a new group of people [board] and find out that [you are denied again].

A. (By Mr. Phillips)

He [she] usually gets the message from the length of the period of the denial....

This response did not take into account the fact that new hearing members may not react the same way to the facts presented to them as the members who heard them initially.

Newly appointed board members do not receive formal training. According to Parole Board Chairman Phillips: "The new members are taught the ropes by the experienced members at the business meeting the evening before their first day of parole hearings."

Carl Hocker, executive secretary to the board, told the Advisory Committee that budgetary funds were made available

for inservice training for board members but up to the time of the Advisory Committee's meeting, none of the members had elected to participate in any State-sponsored training programs.

Board member Jerry Berry, appointed in 1971, stated in a July 1974 interview with Commission staff that horsesense and good judgment are the only things needed for membership on the board. The newest appointee to the board, Gloria Martinez Castleberry, told staff in July 1974 that "as you go along, you learn." She added that knowing prison terminology beforehand would be helpful.

Board member Jake Lawler recalled his first parole hearing after being appointed. In a 1974 interview with Commission staff he said: "I kept quiet and just watched the other board members. Training or a good briefing would have helped me."

Notes to Chapter II

1. Nev. Rev. Stat. §213.108 (1973).
2. Nev. Rev. Stat. §213.109 (1973).
3. Nev. Rev. Stat. §213.109, subsection 6 (1975).
4. Governor Michael O'Callaghan, letter to Woodrow Wilson, chairperson, Nevada Advisory Committee to the U.S. Commission on Civil Rights, Sept. 9, 1974. See appendix A.
5. Definition for referral report derived from interviews with State prison officials and parole administrative staff in May-June 1974. Additionally, Nevada law specifies certain inmate data to be maintained. Nev. Rev. Stat. §209.140 (1973), reads:

The warden shall: 1. Keep, or cause to be kept, records of all prisoners whereon shall be recorded:...(a) The name, age, date of birth, race, sex, height, weight, complexion, color of eyes and hair, peculiarities of build or features. (b) Nativity (state, county or city or country, province or city). (c) Occupation, and whether the prisoner can read and write. (d) Date of sentence, name of the judge passing sentence, county from whence committed, the crime charged, date of incarceration, term of imprisonment, expiration date of minimum and maximum terms of imprisonment. (e) Such other desirable or pertinent information as may be necessary.

2. Make out a correct monthly report of the same and file it with the secretary of the board.

3. Securely and carefully file in his office all commitments of prisoners that may be sent to the State prison. 4. Furnish a like statement regarding each individual prisoner, promptly after the receipt of such prisoner at the State prison, to the secretary of the State Board of Parole Commissioners for recording and filing in such office.

Nev. Rev. Stat. §209.271 (1975), reads:

The warden may: 1. Establish a system of classification and evaluation to insure the individualized custody, care and training of the prisoners under the prison's jurisdiction.
2. Maintain a comprehensive record of the behavior of each inmate reflecting his accomplishments and progress as well as charges of infractions of regulations, punishments imposed and medical services rendered.

6. Nevada Advisory Committee open meeting transcript, July 19-20, 1974. Unless otherwise noted, all direct quotations in this report are derived from this transcript.

7. Clayton D. Phillips is no longer chairman of the Nevada Board of Parole Commissioners. The current chairman is Dennis Wright. Clayton D. Phillips, comments on the Nevada Advisory Committee report to the U.S. Commission on Civil Rights, In the Gray Shadow: Parole in Nevada (Feb. 4, 1976 draft), Feb. 18, 1976.

8. Nev. Rev. Stat. §213.133, Subsections 1 & 3; §213.135 (1973).

III. PAROLE ORGANIZATION

Nevada Revised Statutes §213.130 (1973) requires the parole board to hold two meetings per year. Additional meetings to consider applications for parole from the State prison or from any of the county jails were left to the board's discretion. According to Parole Board Chairman Phillips: "As the caseload increased we finally arrived at the point where we're meeting six times a year...about 6 years ago we went to six [present number of] meetings..."¹

The board meets once every 2 months and each meeting is 2-1/2 days long. Chairman Phillips noted: "The executive session is held at the Reno office on a Monday night. We spend one day at [the] maximum [security prison] and one day in [the] minimum [security prison]."

The board has considerable discretion in determining the suitability of a prisoner for parole. The only limitations of this discretion appear in Section 213.1099 of the Nev. Rev. Stat.² This section states in part:

...the board may release on parole a prisoner otherwise eligible for parole under Nev. Rev. Stat. 213.107 to 213.160, inclusive, only if, from all the information known to the board, it appears to the board: (a) that there is a reasonable probability that such prisoner will live and remain at liberty without violating the laws; and (b) that such release is not incompatible with the welfare of society...

The limitations are not highly specific and suggest the broad discretion alleged by the inmates. Mr. Phillips noted: "The board has very broad powers. And sometimes maybe too broad, I don't know."

All of the board members stated that this broad discretionary power is necessary to judge each inmate individually. Chairman Phillips informed the Advisory Committee that written criteria for parole are almost impossible to set because each case is judged on its own merits, including prison behavior, record, and program for parole. Mr. Phillips also stated that the nature of the crime and protection of society are the determining factors.

In a July 10, 1974, interview with Commission staff, A. A. Campos agreed with the board that it must retain broad discretionary powers to determine if an individual poses a threat to society. Mr. Campos added that an alternative to broad discretionary board powers would be to have judges, at the time of sentencing, establish written criteria for parole eligibility.

The amount of time served as a condition precedent to parole is one factor considered by the board. Nevada law states plainly:

Except as otherwise limited by statute for certain specified offenses, a prisoner may be paroled when he has served: 1. One-fourth of the definite period of time for which he has been sentenced...less good time credits; or 2. One year, whichever is longer.³

At the opening meeting Mr. Phillips responded to questioning on the issue of time served.

Q. Does the board feel that as a matter of policy for a certain period of time [following the first potential parole application] parole should be denied?

A. As a matter of policy, no.

Q. As a matter of practice, is that the case?

A. It's a very difficult thing, I'll tell you, and there's no---I don't know what the answer is to that. There is no policy, however.

A. A. Campos wrote:

Nevada statutes determine parole eligibility, the parole board has no function regarding this matter.

...no inmate appears before the board for parole consideration until he or she has fulfilled the requirement of the parole eligibility statute.⁴

Alden Kelly, an inmate at the Nevada State Prison for the past 19 years, stated that the board uses very specific

criteria for determining parole eligibility. Mr. Kelly alleges that the board, based on its past actions, will determine parole eligibility on the basis of the amount of time served and the inmate's past record. After nine unsuccessful appearances before the board, he believes that any consistent effort by the inmate to demonstrate rehabilitation is not considered as important as an inmate's past record and the amount of time spent in prison.

Joe Whitaker, an inmate, told the Advisory Committee that the board wants time out of an inmate and that no matter what kind of prison record or parole program he brings to the hearing, if he has not served enough time, he will not receive a parole.

A prisoner in Nevada may be paroled after having served a minimum statutory period and satisfying the board that he or she will not behave antisocially in the future.⁵ According to the statutes, after a prisoner has served statutory time and technically qualifies for parole, the board must be convinced that such release is not incompatible with the welfare of society. The board is aware of this burden. Dennis Wright, vice chairman of the board, said:

You can't ignore the fact that time is to be served, and dependent upon the type of crime and so forth, we [the board] think about it, it isn't a big discussion item.

But you tell me, what is a man's life worth? How many years should he serve for killing somebody? How many years should he serve for having six or seven past felonies? Tell me when he's going to be rehabilitated and saved and everything else? We don't know. Nobody knows and you tell me, I don't know.

Yes, I do consider time...in the back of [the] mind, but it isn't the factor in voting whether he goes or doesn't.

Mr. Phillips added, "It's an awesome [responsibility], I assure you."

An analysis of data supplied by Nevada parole officials indicates that in 1971, 25 percent of those who applied for

parole (60 of 241) were approved the first time. In 1972 this number dropped to 14 percent (33 of 228); in 1973 the figure had increased slightly to 16 percent (38 of 235)⁶; and in 1974, 17 percent (54 of 321) were approved the first time.⁷

In a July 1974 interview, A. A. Campos stated that one of the reasons a small number of persons are granted parole at the initial board hearing in Nevada is that parole eligibility is the same for all sentences regardless of the individual's background.

Aspects of the in-prison parole process are viewed by inmates as obstacles to their freedom. Mary Grant, released on parole in May 1974, noted concerns inmates have about parole procedures. Ms. Grant said:

It is very difficult for an inmate to obtain a job commitment and to find housing while still in prison. Put yourself in the position of an inmate, if, right this moment, these doors were locked and no one was allowed to leave before you could obtain a job, a definite place to live, and you were not given the opportunity or the privilege of contacting any friend or anybody that you know except to write one letter.

Warden Pogue wrote:

In regard to assisting inmates with their release planning, it is not our policy to restrict mail privileges to only one letter as indicated. Inmates have the right of virtual unlimited correspondence to and from potential employers. Inmates without funds are allowed additional free postage to write prospective employers and friends about employment.⁸

Mr. Pogue added:

In September of 1975 we opened a 30-bed prerelease center in Las Vegas. Now, 90 days prior to inmates' release on parole they can be transitioned into this center for employment placement and counseling, family counseling, reorientation to community living, and a variety of other services not available to the inmate

while confined in prison. When funds and staff are available, we hope to open a similar program in northern Nevada.⁹

Inmate Whitaker told the Advisory Committee that no information on how to prepare for the parole board hearing was given. He noted:

In the time that I had to prepare for the board I kind of watched how other individuals went about preparing themselves, and looked at those individuals that had been there for some time, and accepted recommendations from them.

My only contact was with my counselor¹⁰ at the time and we talked for about an hour getting all sorts of data together.

The only guidance an inmate receives about what the law requires is found in Section 213.130 of the Nev. Rev. Stat. (1973). This section states in part:

1. A prisoner in the State prison or a county jail may apply to the board for parole. Such applications shall be made on forms prescribed by the board from time to time and shall contain such data as will assist the board in determining whether parole should be granted...

A. A. Campos told staff in 1974 that he is aware of only one form required by the board, and that is the referral report. No application, per se, is required to be submitted by the inmate.

Howard Pyle, supervisory counselor noted:

In the beginning [of incarceration] the inmate is made aware of your functions as a counselor, he's told that you'll be his counselor and that at the time [he goes] to the board, depending on his sentence, the board [referral] reports [are] written by the counselors.

We show them the board [referral] report format when they get there.

The board [referral] report interview will last maybe an hour.

An inmate who is otherwise eligible may be paroled without application to the board for such parole.

Section 213.140 of Nev. Rev. Stat. (1973) makes this possible by providing that: "...If the prisoner has not made such application before any regular meeting of the board, the secretary of the board shall prepare the application and present the same to the board." The application is the referral report, which includes correctional staff recommendations on whether or not to parole an eligible inmate.

Eugene Coughlin, the supervising correctional classification counselor, informed Western Regional Office staff in a June 1974 interview that most of his counselors orally inform inmates of recommendations in the referral report. This procedure is at the discretion of the counselor, who has maintained periodic liaison with the inmate, including vocational, emotional, and progress-evaluative counseling sessions. He was not sure whether some of the counselors permitted the inmate to see the referral report. In a 1974 interview with Commission staff, Chad Came, correctional classification counselor, pointed out that he tells the inmate after the preparole interview what he is writing in the custodial summary. The custodial summary, included in the referral report, provides a synopsis of data on the inmate's programming and progress while incarcerated. Written by correctional staff, the summary provides a parole grant or denial recommendation. Correctional Classification Counselor Howard Pyle informed Western Regional Office staff that when asked by inmates he tells them what he intends to recommend in the custodial summary; otherwise he will not volunteer this information. Chairman Phillips said: "The recommendation of the counselor...doesn't sway the board either way...I would say that we agree with them more times than we don't agree with them."

Board Vice-Chairman Dennis Wright told the Advisory Committee that the referral reports should not be shown because the inmate might react adversely to this information. Mr. Wright hypothesized that if an inmate who is considered neurotic were shown his psychiatric

evaluations, that action might cause the inmate to react negatively to any statements about his emotional state.

Chairman Phillips said that the information in the referral report might disillusion the inmate.

Carl Hocker told the Advisory Committee:

[The inmates are] not entitled to those things [the referral reports] by statute. Anyone who is not involved with the institution or the parole board may not have possession of those things without an order issued by the court.

...there is an attorney general's opinion to the effect that they are not entitled to those things.

Philip Montez, regional director of the Commission's Western Regional Office, in a letter dated December 11, 1975, addressed to Attorney General Robert List of the State of Nevada, requested a copy of the attorney general's opinion. The response, dated December 16 and signed by D. G. Menchetti, chief counsel, criminal division, read:

In reply to your letter of December 11, we have found no written opinion by the Nevada Attorney General in regard to the right of prisoners to receive copies of the prison referral reports to the Board of Parole Commissioners.

However, I am informed that since the Spring of 1975, the prison, with the acquiescence of the Board of Parole Commissioners, furnishes inmates with copies of their referral reports.

In a March 11, 1975, memorandum to William Lattin and Norman Snellgrave, associate wardens, Warden Pogue wrote:

Effective immediately inmates are to be allowed to read their material which is presented to the Board of Parole Commissioners. They should do this while it is in draft form so that if they can point out any verifiable inconsistencies or incorrect statements it can be modified. They are not to be given a copy of the report, however, they are to be allowed to read the full report of

everything that is presented to the Parole Board prior to your recommendations.

Warden Pogue, in his review, noted: "Now, in order to insure that the inmate has been informed of its contents, he/she is requested to sign a form attesting to the fact that the report has been read and discussed with the counselor."¹¹

THE PAROLE HEARING

At the open meeting, Mr. Phillips maintained that the hearing interview carries more weight than the referral report in determining parole. Each interview is scheduled for 15 minutes, but Mr. Phillips pointed out that some take 20 minutes or more and others only 3 minutes. The content of the inmate's answers to any questions posed by the board is weighed in the board's exercise of discretion in granting or denying parole.

According to Carl Hocker, at the conclusion of the interview the applicant is asked if he would like to add anything for the board's consideration. Prior to March 11, 1975, the inmate had no access to the reports written before the hearing interview. At the open meeting Mr. Phillips confirmed that the inmate does not have the right to present evidence, to conduct cross-examination, or have an attorney present during the parole proceedings. Mr. Phillips stated:

No, he [the inmate] does not have the right to counsel.

At one time we did allow representation at the hearings, the pastor or an attorney or some good friend or some such thing, but we found and learned later that it was more or less discriminatory against those who couldn't afford an attorney...those being represented by attorneys especially were taking maybe three or four times the amount of time...we just had to discontinue allowing counsel representation at the parole hearings...about 4 years ago [1970].

When the interview is concluded and the inmate excused, the board votes on his application for parole. This is done after each case is presented. Mr. Hocker noted:

The institution representative [who can be a counselor or associate warden], as the proceedings develop, makes notes of what the board is saying to the man and after he has departed, what they're saying about him, and at that time, the reasons for the denial are delineated and recorded.

After the board dismisses, but on the same day, the inmate is orally informed of its decision by the captain of the guard, correctional officer, or counselor at the institution.

This procedure for informing inmates of parole board decisions is not well-liked by those serving time. Inmates allege that personally hearing the reasons for denial offered by the board at the time of their appearance would help them prepare for the next appearance. Mr. Phillips doubted this would assist denied inmates. He stated:

We don't do that [delineate specific program recommendations to inmates] because in a way you're promising something that you might not be able to fulfill.

We simply state the board would like to see more of this, the board would like to see more of that. It's left pretty much up to the man himself if he wants to perform.

One inmate interviewed by Commission staff said:

The board doesn't have the guts to tell you to your face what its decision is. If the inmate was flatly told what was expected, even if it were just time, there would be less frustration and anxiety. At least the inmate would not build up his hopes.

Board Chairman Phillips stated: "We have been sending word back as to why they were denied since the first of the year, since January [1974]. It's [the decision] sent back to their counselors."

Inmates alleged this system does not work. Inmate testimony at the open meeting suggested that prisoners who have received institutional recommendations and who have been through all the vocational programs are still denied.

They contend the reasons sent back do not assist those inmates who believe they had programmed successfully. Mr. Phillips said:

I think if it [mandating the board to delineate specific parole criteria and suggest programming to achieve parole] could be done, you hit the nail on the head. I don't know whether it could be done or not.

Many times you don't like to guarantee somebody something, you like to give them an incentive to do something on his own.

Mr. Lattin, associate warden, told the Committee:

I would say that in most instances, they [inmates] are becoming more and more aware of this decision making process. Specifically in the last 2 years both the parole board and the staff at the prison has made a much more concentrated effort on counseling the inmate as to exactly what went on in the decisionmaking process.

Mary Grant, a parolee, told the staff that she appeared before the board twice. Her first appearance was unsuccessful; she recalled questions about her past arrest record and very little interest in her parole program or prison record. Ms. Grant's second appearance before the board after a year's denial was successful. She did not know why she was denied parole at her first hearing, and she admits that she does not know why she was granted parole the second time, except that she had spent another year in prison. She claims that her parole program was the same for both appearances.

Melody Meoli, an inmate, told the Advisory Committee:

Many parole board applicants question what is expected of them in relation to prison programs and behavior. Up until a few months ago, applicants weren't given any reason for their denials of parole....Many were denied not once but sometimes two or three times. A denial by the parole board, in effect, is a statement that satisfactory rehabilitation has not occurred. What the board members fail to define is if we are

given denials on a disapproved program or inadequate education, what then can we pursue in order to earn our parole?

I have witnessed many women who have had no disciplinary writeups, have maintained a satisfactory work record, accomplished many credits in the area of education and have done the required length of time and still receive a denial.

One inmate interviewed by Commission staff simply said, "The parole board doesn't grant parole the first time you go before it." Department statistics show that in 1974, 17 percent of those who applied for parole were approved the first time.¹²

Inmates expressed a sense of hopelessness when not informed of specific reasons for denial, despite their alleged attempts at successful prison programming and good behavior. Rehabilitation becomes a meaningless term to these inmates. One inmate noted that the experience of being denied had taught him that trying to work hard will not get a prisoner out any earlier.

POST BOARD CLASSIFICATION

If an inmate is denied parole, there is no appeal apparatus. The parole board has discretionary power to reschedule the inmate for a new hearing. There is no minimum period, but in 1973 the Nevada State Legislature amended the law to provide that the elapsed time between hearings shall not exceed 3 years.¹³

Within 2 days of the board's decision an automatic proceeding called a post board classification meeting is held. Warden Pogue wrote in February 1976 that:

The policy followed by staff since July 1975 [after the Advisory Committee's open meeting] is that the classification counselor will record on a special form specific reasons enumerated by the board for denying parole. The specific reasons for denial along with other remarks are provided the inmate no later than 2 days following an appearance before the board.¹⁴

Mr. Lattin noted at the Advisory Committee's hearing that:

At medium security,...we get everyone that has made an appearance within 2 days.

We call this post board classification, and we try to go over in detail just exactly what happened.

Mr. Pyle described the post board classification as:

Very, very emotional appearances. The inmates are many times very discouraged and it's a pretty serious moment for them to try and understand the reason why. Maybe when they've been doing their best.

The inmate, whether parole was granted or denied, personally attends this meeting.

Since no transcript of the parole hearing is made and only minutes are taken, the inmate is not given a verbatim copy of the parole interview, according to Mary Grant, parolee. Board Secretary Hocker noted: "...the institution representative is present in the board room when the hearing is being held...."

The classification committee---composed of a correctional counselor, correctional officer, and a member of the education staff---gives the inmate oral and, since July 1975, written accounts of the board's action and reasons.

If parole is granted, the inmate-parolee is given an oral account of parole conditions and a briefing on prerelease procedures. If the inmate's application for parole is denied, Howard Pyle added, the inmate is allowed to counter the information brought to his attention at this meeting. This rebuttal is not treated as an opportunity to appeal the decision. The rebuttal is not incorporated into any written records on the inmate.

Inmates interviewed in 1974 alleged that specific reasons for the board's decisions are not given, and inmates must rely on broad categories of reasons for the denial such as nature of the crime, previous history, evaluation of progress, factors involved in the crime, prison behavior and

attitude, and protection of society. The Advisory Committee questioned why specific written reasons for denial were not provided inmates. Mr. Lattin said: "I think it's a matter of mechanics, it all takes time, we've got limited help, that sort of thing. I think it's just purely and simply a matter of economics and staff."

Inmate Joe Whitaker told the Advisory Committee: "Once denied, I would like the board to explain [to one] exactly why and what they want from one in the next year in preparation for [the] next appearance."

Chairman Phillips pointed out to the Advisory Committee that:

The inmate usually gets the message from the length of the period of the denials. If the board denies parole for 6 months, the person should know that he is doing something right. We like to encourage the inmates without making any guarantees we can't keep.

He added that in some cases if an inmate is lucky enough to come through with a favorable vote, he is released.

Warden Pogue stated at the Advisory Committee's hearing in July 1974 that to provide an objective for the inmate, specific reasons for denial of parole should be given after each decision. He doubted that the inmates lacked information about the conditions for parole eligibility, but felt this specific information would help. Mr. Pogue said: "I think that we're telling people more about what's expected of them and certainly hope we are, and I think the parole board also needs to do that."

He did not provide information about or examples of these expectations. The policy since July 1975 is to provide inmates with specific reasons for denial in writing.

In addition to informing the inmate of the board's action, the classification committee performs the critical task of classifying the inmate after his parole has been denied. This classification is extremely important. In fact, this procedure directly affects the inmate's chances for parole the next time around.

The post board classification committee determines the degree of custody from maximum to minimum and the program to which the inmate will be assigned in the institution.

In an interview with Commission staff, Howard Pyle, corrections classifications counselor, said as a result of the findings made by the parole board in its denial of parole, the classification committee seeks to write a prescription for the inmate designed to improve chances of success at the next hearing. This prescription is intended to strengthen the areas of weakness and difficulty the inmate has not been able to master and to develop a specific program to aid him in doing so. Therefore, these meetings involve a certain amount of counseling, which as a practical matter is done by the correctional counselor, the captain or lieutenant in the institution, and perhaps a member of the department of education.

Mr. Pyle stated:

One of the best ways for us to conduct post board classification is to take the Correctional Counselor III, who is at maximum prison and the Correctional Counselor II, and one of them would be clerking [in attendance at] one board [panel] and one of them will be clerking the other board [panel] and then there's somebody in post board [classification] that has been with each inmate that walks in the room. When we can do this, when it's feasible to do that it's a lot smoother.

One inmate told Commission staff that long-term prisoners advised him against programming and education as a prelude to obtaining parole on his first try. Discounting this advice, he did everything conceivable---vocational and educational programs---to get a parole on his first try. He was denied parole. Following reclassification and another board appearance, he was denied again. Now he believes there is a negative correlation between inmate rehabilitation efforts and potential parole.

Another inmate denied twice said, "They don't give a damn about whether you try to rehabilitate."

Western Regional Office staff were permitted to sit in on 12 post board classification sessions following the May 28 and 29, 1974, parole hearings held at the maximum

security facility.¹⁵ Categorical reasons for denial of parole such as nature of crime were offered as verbal accounts of the board's action by correctional staff in 9 out of the 12 sessions observed.

The correctional classification counselor added his personal opinion regarding the reasons for denial. The counselor in those cases observed told the inmate that the board wanted him to continue the good record and needed more time to see whether he was putting on a show.

Inmates who received parole demonstrated excitement at the post board classification sessions observed by Commission staff. Inmates granted parole become gregarious and joking. Their voices were louder and comments they made expressed overall happiness and relief.

Alden Kelly, an inmate, stated that he really fears the post board classification meeting because the prison staff is expected to make some program changes without knowing what the board wants. Oftentimes the changes, Mr. Kelly added, are detrimental to the inmate. For instance, when inadequate programming is presented as the reason for denial, inmates might be forced to switch from employment they enjoy to other jobs they dislike. The absence of a specific reason for denial forces the institution to assume that the reason is inadequate programming. As a result of the board's policy, Mr. Kelly stated, the probability that the inmate will violate a regulation from frustration is increased. He added that, without specifics, the prison staff can only second-guess the board's reasons for denial.

Inmates note that they suffer needlessly owing to poor communication between the parole board and the prison staff. The prison policy since July 1975 of providing written reasons for denial should alleviate this frustration. Inmates should be reinterviewed to ascertain the success of this policy change. The Advisory Committee has not been apprised of any efforts to evaluate the effectiveness of this new procedure.

Notes to Chapter III

1. Nevada Advisory Committee open meeting transcript, July 19--20, 1974. Unless otherwise noted, all direct quotations in this report are derived from this transcript.
2. Nev. Rev. Stat. §213.1099 (1973).
3. Nev. Rev. Stat. §213.120 (1973).
4. "Department Comments."
5. Nev. Rev. Stats. §§213.1099 and 213.120 (1973).
6. State of Nevada, Department of Parole and Probation, "Persons Granted Parole at Their Initial Parole Board Hearing" (Mimeograph, Feb. 6, 1974).
7. A. A. Campos, chief, Nevada State Parole and Probation Department, 1974.
8. State of Nevada, State Prisons, comments on the Nevada Advisory Committee report to the U.S. Commission on Civil Rights, In the Gray Shadow: Parole in Nevada (Feb. 4, 1976, draft), Feb. 11, 1976. Hereafter referred to as "State Prisons Comments."
9. Ibid.
10. A counselor assists the inmate during incarceration. The counselor maintains periodic liaison with the inmate, including vocational, emotional, and progress evaluative counseling sessions.
11. Warden Pogue, memorandum to William Lattin, associate warden, and Norman Snellgrave, associate warden, Mar. 11, 1975.
12. Chief Campos, 1974.
13. Nev. Rev. Stat. §213.142 (1973).
14. "State Prisons Comments."
15. A total of 122 hearings of all types were heard by the parole board at the May 1974 session. Results were: statutory hearings--3; parole revoked--8; parole

reinstated--1; parole granted--42; parole denied--53; work
release approved--6; work release disapproved--8; and work
release deferred--1.

IV. PAROLE SUPERVISION

Once released from prison on parole, the inmate becomes the parolee. In a July 1974 interview with Commission staff, A.A. Campos, chief, department of parole and probation, noted that parole supervision in Nevada is based on an individual approach. Procedures established by the department of parole and probation require that each parolee sign a parole agreement¹ which sets the conditions for his or her release from prison. Supervision of the parolee is maintained through office and field contacts made by the parole officer assigned to the case. Periodic progress reports are submitted to the parole officer by the parolee. The parole officer submits parolee progress reports to his unit supervisor. District supervisors submit all progress reports, as a group, to the department's central office in Reno three times a year. If the individual is making a satisfactory readjustment, supervision will be reduced and reports will be less frequent. If the reverse is true, supervision and reports will be increased.

At the open meeting Mr. Campos stated:

It's the responsibility of the [parole] officer to enforce the conditions of parole and probation.

He's [the parole officer] responsible really for seeing to it that the individual has every opportunity to succeed.²

Parolees complained to the Advisory Committee that one of the circumstances which contributes to parole violations is that parolees cannot contact their parole officers to obtain prior permission for certain proscribed activities after regular office hours. Mr. Campos was asked about this and responded: "...I have been informed that officers do advise their clients that they can be reached in an emergency through the police department, that all the police dispatchers have our numbers and they do have my number." Mr. Campos added that he could not guarantee that every officer told his clients of this procedure. Karren Smith, a parole-probation officer stationed in Reno, said:

In Reno every police agency has a list of not only the [parole] officers but the supervisors. My people [parolees] have the number of the Washoe County dispatcher and she calls me at home if they call in.

I have received calls from parolees or probationers belonging to other officers when they could not find their officer, so I really don't think it is that big of a problem.

Karren Smith sees her job principally as one of supervision with counseling and referral responsibilities. When asked what problems inhibit her effectiveness as a parole officer, Ms. Smith replied:

Time is always a problem because when you're working with an 80-person caseload, if you want to do any counseling at all, I mean you break it down into hours, there's no way you can do justice to your people. Another one is simply money, particularly for parolees coming out with [only] \$50, that's a big problem, and I would say the largest problem that my parolees face is we have to spend time going to other agencies to try to get them money for housing, money for groceries until they get the first paycheck.

Timothy Smith, a parole-probation officer in the intensive supervision unit in Las Vegas, told Commission staff in a June 1974 interview: "A parole officer must wear two hats. He is a rehabilitating counselor and a peace or law enforcement officer. It's a difficult line to walk because you are dealing in human lives."

Robert DeClaybrook, a parolee, saw a negative aspect of this two-hat dilemma. He said:

Generally, the people on parole, men and women, are actually afraid to go to the parole officer. For instance, the parole officer might lock you up if you're having a little trouble, a little difficulty, and he might say, well, I'm going to put you in jail for a few days or a week until we get this straightened out.

But you don't want that. You don't want to go to jail. Because if you got a job you're going to lose your job. If you got an apartment... you're going to lose that, maybe your car, something like that.

Mr. Campos said: "The police never quite trust us because we help people and the helping agencies don't quite

trust us because we arrest people, so it gets kind of lonesome out their sometimes."

Parolee Annette Duframe told the Advisory Committee of the difficulties parolees face upon release from prison. Ms. Duframe said:

The parolee is generally given \$50 to support himself [herself] until the first employment pay check. If he [she] doesn't have close friends or relatives to offer...housing and support, there is a good chance that the parolee will again resort to crime for survival.

Mr. Campos wrote:

We do have parolee loans specifically for this purpose [adequate living expenses] and, to my recollection, no parolee has ever been denied a loan in spite of the fact that our recovery rate on loans is probably less than 25 percent.³

Ms. Duframe added that parolees believe conditions of parole are unfair and unreasonable. For example, she noted, a parolee can not associate with ex-convicts, and has to receive permission to drive a car, to change residence, and even to get married. The Nevada Board of Parole Commissioners' form specifying conditions of parole establishes parameters for the parolee (see appendix B.) These conditions include:

Residence: You shall not change your place of residence nor leave the community to which you have been paroled without first obtaining written permission from your parole officer, in each instance.

Associates: Former inmates of penal institutions and individuals of bad reputation shall be avoided. You shall not correspond with persons confined in penal institutions, unless specific written permission has previously been granted.

Motor Vehicles: You shall not purchase or operate a motor vehicle without first obtaining prior written permission from the parole officer.

The Advisory Committee questioned parole staff regarding parolee associations. Mr. Campos noted:

We do try to keep people from associating if we know one of them to be active in criminal activities. But it isn't something that you throw people in jail for.

In a 1-year period in Las Vegas, July 1972 to June 1973, no warrant was issued for association. We issued one warrant for abscond [ing], two warrants for violation of special conditions, one warrant for out of state travel, two for intoxicants, one for weapons, two for conviction of a misdemeanor, two for assaults, four for narcotics, and one for conviction of a new crime.

Ms. Smith said that parole officers have a great deal of discretion in performing their duties. Ms. Smith said:

We can be fairly flexible as far as associates and things like this, it's more or less left up to me to make decisions on those things.

And I think [that] as long as you do have that flexibility and as long as you can go to your supervisor, which we can, and have some input into the program, we've pretty well taken care of things on a department level.

Robert DeClaybrook, who had his parole revoked in 1970, told of the power the parole officer has over the parolee's life. Mr. DeClaybrook is convinced that parole can be revoked at any time because of the alleged present conditions of parole. He offered an example of how parole conditions adversely affect the lives of parolees: Parolees understand that they must at all times carry ex-felon cards for identification purposes---Is it necessary for parolees who register with local law enforcement agencies as required to also carry cards that identify them as ex-convicts?

Chairperson Phillips stated that ex-felons are required by statute to register with law enforcement. After questioning by Commission staff, Nevada State parole officials determined that parolees are not legally required to carry ex-felon cards as long as they have registered as ex-felons with the local law enforcement agencies.

A.A. Campos, chief of the parole and probation department, advised the Advisory Committee that:

There's no State law that requires them [parolees] to carry it [an ex-felon card] and I know of no local law that requires it.

I think it might be to the advantage of an individual in the event he is stopped by a policeman who knows him and knows of his background and says, have you registered and the guy can show him his card. If he doesn't have the card, he may be detained for 15 minutes while it's being checked out.

According to Mr. Campos no parolee has ever been found in violation of parole for not carrying the card.

In Nevada the termination of parole must coincide with the remaining time to be served for the original offense no matter how well the parolee functions at liberty. In other words, parole goes to the end of the sentence. According to Mr. Campos, only the pardons board has the power to reduce the sentence. He noted that legislation to change termination for parolees who are making a satisfactory readjustment should be implemented. Mr. Campos added: "The average [time served on parole in Nevada] is 22 months. I would say for most people it's a lot less than that. Probably more like 15 months."

Ideally, a parolee is expected to conform to his or her parole program and to make a successful readjustment to life in a free society. To assist the parolee who has drug- or alcohol-related problems, there are two drug- and two alcohol-restrictive live-in facilities in Reno, and one halfway house for drug users and one live-in facility in Las Vegas.

Mr. Campos said:

The extent to which we help people on a one-to-one basis, I don't know. We have an average of about 80-man caseloads. We continually try things with people. For example, one gentleman indicated [a hearing witness] that he saw his parole officer about every 3 months. That would be right. But there are people that we see everyday. It depends on how much we feel the client needs at any given time and for that very

TABLE 1

Nevada Parole Status Statistics--1967-75

<u>Fiscal Year</u>	<u>Total Parole Hearings</u>	<u>Paroled</u>	<u>Parole Revoked</u>	<u>Parole Reinstated</u>
1967-68	560	207 (37%)	47	8
1968-69	389	128 (33%)	47	9
1969-70	346	143 (41%)	34	12
1970-71	415	179 (43%)	40	6
1971-72	442	175 (40%)	42	15
1972-73	446	177 (40%)	35	13
1973-74	493	177 (36%)	43	5
1974-75	684	322 (47%)	30	16

Source: A. A. Campos, Nevada State Parole and Probation Department, 1974-75.

reason we're not going to spend a lot of time on people who don't need us that much.

You probably spend 80 percent of your time with 20 percent of your caseload. That's what it amounts to.

Mr. Campos concluded:

We are not experts in anything. We are not expert job-finders; we are not all psychologists; we are not all marriage counselors or ministers or these types of things. We are primarily a user, rather than a supplier of the resources. But we are not simply a referral agency. We follow up, work with the other agencies as we make referrals.

Mr. Des Armier, district 4 supervisor for the department of parole and probation, said:

There are people that I have supervised that I have had to send to prison or recommend their being sent to prison. I always tried to treat someone as an equal, help them if I was able, refer them in some way, and to treat someone the way I would have hoped to have been treated. I have had a good degree of luck or success, I don't know which.

Table 1 shows statistics on the total parole hearings, and on paroles granted, revoked, or reinstated for the period 1967-75. During this period there were 3,775 parole hearings, and approximately 40 percent or 1,510 individuals were granted parole. Twenty-one percent or 317 of the 1,510 parolees had their parole revoked due to a violation of the parole agreement or a new criminal charge.

PAROLE REVOCATION

The revocation process generally begins when parole field supervision staff learn of an alleged parole violation through their own investigative work or when the parolee is arrested by the police. A parole violation that results in the parolee's being retained in custody in a local jail or detention center is considered serious, and may lead to parole revocation.

Mr. Earl Des Armier told the Committee:

If a parolee in your care is arrested and the violation is sufficient to perhaps cause his return to prison, he is placed in custody and given a Morrissey [hearing]⁴ ...to ascertain whether or not he committed a crime or violated a condition of his parole. And whether or not this is sufficient to go back before the parole board.

This decision is not made by the parolee's parole officer. Mr. Des Armier continued:

[The supervising parole officer] presents it to a disinterested parole officer, the client at that time has a right to counsel, he may cross examine witnesses,... we have no subpoena powers, we don't swear witnesses or things of that nature.

And if the parole officer that [chairs] the hearing rules that there is not cause, this man does not go back, even if a retake warrant had been issued. His decision cannot be over-ridden, not by Mr. Campos or the board.

Departmental policy in 1974 permitted issuance of an arrest warrant for a parolee only if a substantial possibility of proving the charge existed. The decision to issue a warrant was made on an individual case basis and included a thorough review of the parolee's entire record, not just the incidence of alleged violation.

Mr. Des Armier reported that in June 1974 his office in Las Vegas supervised 103 parolees. Mr. Campos reported a warrant rate of about 2 per month from the intensive supervision unit of district 4 in Las Vegas despite an average of 20 positive urine drug tests. Campos noted that only 16 warrants were issued for all types of parole violations in the Las Vegas district during the 1973 fiscal year.

Mr. Campos stated:

About 2 percent of parolees are convicted of new crimes...our ratio of, let's say, revocations or violations versus problems that people have certainly indicates that we are not trying to put people in jail.

As we find people who are having problems, we try to get them into something which will help them or give them more direct assistance hours.

As of April 7, 1975, Nevada laws outline revised and new procedures leading to parole revocation.⁵ Nev. Rev. Stat. §213.150 (1975) states:

The board [State board of parole commissioners] may:

1. Make and enforce regulations covering the conduct of paroled prisoners.
2. Retake or cause to be retaken and imprisoned any prisoner so upon parole, subject to the procedures prescribed in Nev. Rev. Stat. 213.151 to 213.1519, inclusive.

A written order by the board, certified by the chief parole and probation officer, is sufficient warrant for any parole and probation officer or any other peace officer to arrest any paroled prisoner.⁶

The practice in Nevada of holding a preliminary hearing at or reasonably near the site of the alleged violation, within a reasonable time, is in conformance with current law establishing this right.⁷ In Morrissey the Supreme Court specified minimum procedures the State must observe in the revocation of parole. The Court distinguished between the arrest and preliminary hearing and the revocation hearing at which time final decisions are made.

The first phase which occurs after the parolee's arrest requires that a determination be made by someone not directly involved in the case, that "reasonable grounds" exist for parole revocation.⁸ Nevada follows this pattern. A hearing similar to a preliminary hearing is required at or near the site of the arrest or alleged violation.

The parolee is to be presented with notice of this hearing together with a statement of the alleged violations. He is entitled to appear and to present documentary evidence or witnesses on his behalf. Persons who have given adverse information on which the revocation is to be based are to be made available to the parolee for questioning unless the hearing officer determines that an informant would be subjected to risk

TABLE 2

Nevada State Male and Female
Inmates by Ethnicity--1974

	<u>Number</u>	<u>Percentage</u>
White	589	73.30%
Black	167	20.70%
Indian [Native American]	24	2.87%
Mexican American	20	2.48%
Asian American	3	0.37%
TOTAL	803	

Source: A. A. Campos, Nevada State Parole and Probation Department,
1974.

of harm if his identity were disclosed. The hearing officer is required to make a summary of what happened at the hearing to determine whether there is probable cause to hold the parolee for the parole board's final decision on revocation, and to state his reasons and the specific evidence he relied upon in reaching his conclusions.⁹

If the preliminary hearing officer determines that probable cause exists for parole revocation, the parolee must then go before the parole board. This second phase process of parole revocation is subject to the due process guarantees established in Morrissey.

Board Chairperson Phillips stated:

Parole revocation entitles a man to counsel, he can face adverse witnesses against him, he can bring in his own witnesses if he so desires. He's entitled to something in writing as to the actual proceedings and the results.

ETHNIC INFLUENCES

Neither the board of parole commissioners nor the department of parole and probation has kept ongoing statistics that would reflect racial or sexual discrimination in the granting of parole. As the result of a direct request by Commission staff, statistics were compiled by ethnic group by Nevada State parole officials in 1974. These statistics tend to show that no large disparity exists in the average time served prior to parole for whites, blacks, and Native Americans. The same conclusion is reached about parole revocations.¹⁰ The cumulative data provided by the department do not include a breakdown for Spanish-surnamed or Asian-American inmates and parolees. In 1974 these two ethnic groups represented approximately 2.85 percent of the total inmate population (23 of 803 inmates). Commission staff interviews with Spanish-surnamed inmates did not uncover any concerns about time served before parole or parole revocation injustice.

Tables 2, 3, 4, and 5 provide information on Nevada State inmates, parole hearings, parolees, and revocations by ethnicity.

TABLE 3

Nevada State Parole Hearings by Ethnicity--1974

	<u>Heard</u>	<u>Denied</u>	<u>Granted</u>	<u>Percentage Granted</u>
White	551	271	180	40%
Black	127	72	55	43%
Indian [Native American]	21	14	7	33%
Mexican American	26*	14	12	46%
Oriental [Asian American]	1	0	1	100%
Other	2	2	0	0%
TOTALS	728	373	255	

Source: A. A. Campos, Nevada State Parole and Probation Department, 1975. Figures include male and female inmates.

* Some inmates were heard more than once during 1974.

TABLE 4

Nevada State Parolees by Sex and Ethnicity--1974

	<u>Male</u>	<u>Female</u>
White	54	14
Black	26	1
Indian [Native American]	5	0
Mexican American	3	0
Other	0	0
TOTAL	88	15

Source: A. A. Campos, Nevada State Parole and Probation Department, 1974.

TABLE 5

Nevada State Parole Revocations by Ethnicity--1974

White	26
Black	11
Mexican American	1
Indian [Native American]	0
TOTAL	38

Source: A. A. Campos, Nevada State Parole and Probation Department, 1974.

Nevada parole authorities stated that each inmate who is technically eligible for parole is treated the same whatever his ethnic or cultural background. Mr. Hocker and Mr. Campos informed Commission staff that the board makes a particular effort to be fair. Chairperson Phillips agreed that the board was sensitive to cultural differences to a degree.

Mr. Des Armier, responding to an Advisory Committee member's question about racial complaints, stated that he had not received any such complaints. Mr. Campos added:

We know what the strengths and what weaknesses individual [parole] officers have and we try to utilize the strengths rather than try to magically correct all their weaknesses.

I think we have 1 [staff] in Reno and 1 in Las Vegas that we try to avoid giving young blacks to...

We have 1 class action suit going that's been filed against us but that was a black filing against a black [parole] officer.

Parole officials alleged that the board takes special note of individual inadequacies such as poor communication skills and attempts to support the inmate during parole hearings.

The Commission staff did not interview any inmates who claimed parole revocation due to ethnic or sex discrimination. Further investigation in this area is recommended to ensure that Commission staff impressions are accurate.

Notes to Chapter IV

1. See Appendix B: Sample Parole Agreement.
2. Nevada Advisory Committtee open meeting transcript, July 19-20, 1974. Unless otherwise noted, all direct quotations in this report are derived from this transcript.
3. "Department Comments."
4. *Morrissey v. Brewer*, 408 U.S. 471 (1972). Landmark case providing due process protection at the parole revocation hearing. The Supreme Court of the United States rules that a hearing and other related rights were constitutionally required at the parole revocation stage.
5. Nev. Rev. Stat. §§213.150-213.1519 (1975).
6. Nev. Rev. Stat. §213.151 (1975).
7. *Hyser v. Reed*, 318 F.2d. 225 (1963). Nevada law requires that the inquiry, unless the parolee is a fugitive, must be held at or reasonably near the place of the alleged violation or the arrest and as promptly as convenient after the arrest. Nev. Rev. Stat. §213.1511 (1975).
8. Vincent O' Leary and Joan Nuffield. "A National Survey of Parole Decision Making," Crime and Delinquency, vol. 19, July 1973. See Nev. Rev. Stat. §123.1511 (1975).
9. O'Leary and Nuffield, "A National Survey." The parolee must be notified in advance about the place and time of the inquiry, the purpose of the inquiry, and the specific charges alleging parole violations. See Nev. Rev. Stat. §§213.1513-213.1515 (1975).
10. Department of Parole and Probation. "Parole Grants-- January 1971 through November 1973." Includes 1971 through 1973 statistics on overall average time served on parole by criminal offense; revocations; and reinstatements. Mimeograph. On file in the Commission's Western Regional Office, Los Angeles.

V. CONCLUSIONS AND RECOMMENDATIONS

Nevada's parole board operates independently of institutional staff, though relying upon this staff for certain support, such as the compilation of the referral report. Allegations have been made that too often persons who have little experience or training in the corrections field receive parole board appointments. In Nevada, the parole board comprises five members who are involved in other occupations. Long-term members admit that time required for board functions has increased significantly. Chairperson Phillips told the Advisory Committee:

I think eventually, you're going to have that [a full-time board], the way this caseload is increasing you're going to have to come up with a full time parole board. You can't expect busy citizenry, busy in their own occupations to come over here much, put in much more time than we're putting in now.

There are no specific statutory qualifications for parole board membership in Nevada.

The mechanics of parole decisionmaking in the State of Nevada is largely a matter of policy and not statutory directive. The only statewide study on parole done in Nevada prior to this report is 22 years old. Much has happened since it was written.

To construct an accurate picture of how the system really works, the Nevada Advisory Committee found it necessary to bring together pertinent information from parole board reports, applicable statutory law, and the testimony and interviews of administrative personnel, parolees, inmates, and others.

Nevada has made some progress in modernizing its parole decisionmaking process, but archaic vestiges remain. The purpose of parole is to assist and support offenders' readjustment to life in a free society prior to the expiration of the maximum term of their sentences. If this purpose is to be realized, parole decisionmaking must be designed to ensure that the rights of those who seek parole are protected. Parole has remained in the gray shadow too long.

RECOMMENDATIONS

1. The Advisory Committee recommends that the Nevada Department of Parole and Probation prepare a procedures manual for current and future board members and provide required training courses for new appointees that orient them to the parole decisionmaking process.

Members of the Nevada State Board of Parole Commissioners receive no training or orientation after appointment. They begin to make complex decisions about parole eligibility without appropriate knowledge about how these decisions should be made. Since there are no minimum qualifications for appointment to the board, some training and guidance must be provided by the State.

2. The Advisory Committee recommends that the board of parole commissioners orally apprise the inmate of the reasons for denial of parole immediately upon the conclusion of his or her parole hearing. The board and department of corrections have moved in a progressive direction by supplying written reasons for denial to the inmate. The inmate needs to know what the board found deficient in order to adequately prepare for the next parole hearing. The Advisory Committee believes that hearing the reasons directly from the board will assist the inmates with this preparation.

3. The Advisory Committee recommends that inmates of the Nevada State Prison be allowed to comment on inconsistencies in their referral reports and that these comments be incorporated into the referral report. The Advisory Committee also recommends that the inmates be provided copies of this revised material. Until 1975 Nevada prison administrative policy prohibited inmates from seeing their own referral reports. The referral report is the only written document that the parole board considers in determining parole eligibility. As of March 11, 1975, the prison administration allows inmates to read the draft referral report and comment on any inconsistencies. The inmates still do not receive copies of the final reports and therefore are unable to determine if modifications have been made as requested.

4. The Advisory Committee recommends that the assistance of legal counsel at the parole grant hearing

be allowed by the Nevada State Board of Parole Commissioners and that inmates be permitted to present witnesses on their behalf. These basic yet crucial due process guarantees are essential to a parole grant hearing for an atmosphere of fairness and for protection of inmates' rights.

5. The Advisory Committee recommends that the State Legislature enact a bill establishing a full-time parole board whose membership would include at least one representative with expertise in the area of corrections. The caseload for the part-time board has appreciably increased. Though it has done a commendable job in a formidable task, the realities suggest the creation of a full-time board of parole that includes a member who has worked in the area of corrections and its diverse subfields, such as parole and probation.



MIKE O'CALLAGHAN
GOVERNOR

APPENDIX A
THE STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701
September 9, 1974

Mr. Woodrow Wilson
Chairman
Nevada Advisory Committee
United States Commission
on Civil Rights
312 North Spring Street, Room 1015
Los Angeles, California 90012

Dear Mr. Wilson:

This will reply to your recent letter in which you asked for the criteria I use in selecting members of the Nevada Board of Parole Commissioners.

There is no statutory criteria in the State of Nevada governing qualifications of individuals who are appointed to the Board of Parole Commissioners. Accordingly, I have always based my selections on what I felt to be most important, and that is the ability and willingness to compassionately but fairly evaluate the requests for parole which are submitted to the Parole Board.

Since taking office, I have reappointed two members of the Parole Board to new terms because of their dedication and willingness to spend the time necessary to carefully review all cases that come before them. These members are Mr. Clayton Phillips and Mr. Dennis Wright. I feel that the experience and continuity provided by their reappointments are very helpful to the Board.

I have appointed five Parole Board members, two of whom resigned and were replaced. One of my initial appointments was Mr. Francis Edwards, who for many years has demonstrated a continuing interest in finding jobs for parolees. Mr. Edwards, a member of the Las Vegas Black community, resigned from the Parole Board to more actively pursue this interest in finding jobs for Nevadans by joining the Nevada Department of Employment Security.

Another appointment was Mr. Jerry Berry who has been very active in finding jobs for parolees through his position as a union official. Mr. Berry has had a great deal of success in his efforts and I feel his presence on the Board

complements the rehabilitative efforts of the Parole and Probation Department.

Another one of my original appointments was Mr. Don Manoukian, a former professional football player with the San Francisco 49'ers and an individual who has always been quite involved in youth activities. Mr. Manoukian related well to the younger individuals who found themselves incarcerated in the Nevada State Prison and applied for parole. When Mr. Manoukian resigned for business reasons, I appointed in his place Mr. Glenn J. "Jake" Lawlor, former athletic director at the University of Nevada, Reno. Mr. Lawlor has the time and interest to devote to serving on this Board and has indicated that he wants to continue in public service in this capacity. As a matter of fact, our athletic program at the Nevada State Prison has developed rapidly during recent years and I feel that Mr. Lawlor well understands the youthful offenders with athletic abilities.

Mrs. Gloria Martinez Castleberry was appointed to the Board upon the resignation of Mr. Francis Edwards. Mrs. Castleberry is of Spanish descent and has a real interest in the rehabilitative aspects of parole and probation. This interest stems from her experience as a legal secretary as well as from the 2½ years she spent as secretary to one of our district court judges in Las Vegas. In addition, she is a past president and secretary of her Parent-Teachers Association and has served as a member of the Youth Advisory Board to the Community Church in Henderson, Nevada.

I certainly hope the foregoing information will answer the questions posed in your letter.

Best wishes.

Sincerely,


Mike O'Callaghan
Governor of Nevada

APPENDIX B
ORIGINAL

N.S.P. Number.....

P&P Form No. 9 (Rev. 12-72)

NEVADA BOARD OF PAROLE COMMISSIONERS

Carson City, Nevada....., 19.....

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, On the..... day of....., 19....., District Judge of the..... Judicial District Court was sentenced by..... State of Nevada, to imprisonment in the Nevada State Prison, for the crime of..... and in and for the county of..... for a term of.....

WHEREAS, The Board of Parole Commissioners has informed itself as to the facts of such convicted person's crime and has also informed itself as thoroughly as possible as to such convict as a personality:

NOW, THEREFORE, The Board of Parole Commissioners, by virtue of the authority vested in it by the laws of the State of Nevada, hereby authorizes the Warden of the Nevada State Prison to allow said..... on the..... day of....., 19....., or as soon thereafter as a satisfactory program can be arranged and approved by the Parole Department, to go upon parole outside the prison buildings and enclosure, subject to the following conditions:

1. **RELEASE:** Upon release from the institution you are to go directly to the program approved by the Department of Parole and shall report to the Parole Officer or other person designated by the Department.
2. **RESIDENCE:** You shall not change your place of residence nor leave the community to which you have been paroled without first obtaining written permission from your Parole Officer, in each instance.
3. **EMPLOYMENT:** You shall seek and maintain employment, or maintain a program approved by the Parole Department and not change such employment or program without first obtaining written permission.
4. **REPORTS:** You are required to submit a written monthly report to your supervising Parole Officer on the first of each month on forms supplied by the Parole Department. This report shall be true and correct in all respects; in addition, you shall report as directed by your Parole Officer.
5. **INTOXICANTS:** You shall not drink or partake of any alcoholic beverages (whatsoever) (to excess) .10 blood alcohol, or above, as determined by any medically recognized valid test, shall be sufficient proof of excess.
6. **SEARCH:** You shall submit to a search of your person, automobile, or place of residence, by a Parole Officer, at any time of the day or night with or without a warrant, upon reasonable cause as ascertained by the Parole Officer.
7. **NARCOTICS:** You shall not use, purchase, possess, give, sell or administer any narcotic drugs, nor any dangerous drugs, unless first prescribed by a licensed physician; you shall submit to narcotic or drug testing as required by your Parole Officer.
8. **WEAPONS:** You shall not possess, own, carry, or have under your control any type of weapon.
9. **RIGHT TO VOTE:** While on parole and until the right of franchise has been restored, after discharge, you shall not register as a voter and shall not vote in any primary, special or general election inasmuch as your right to vote was revoked when you were sentenced to the State Prison. The act of registering or voting is punishable by law.
10. **ASSOCIATES:** Former inmates of penal institutions and individuals of bad reputation shall be avoided. You shall not correspond with persons confined in penal institutions, unless specific written permission has previously been granted.

(continued)

APPENDIX B (continued)

- 11. MOTOR VEHICLES:** You shall not purchase or operate a motor vehicle without first obtaining prior written permission from the Parole Officer.
- 12. COOPERATION:** You shall, at all times, cooperate with your Parole Officer and the Board of Parole Commissioners, and your behavior and attitude shall justify the opportunity granted to you by this parole. You shall always consult your Parole Officer and obtain his written permission before going into debt, engaging in business, purchase property or entering into a contract of marriage.
- 13. PROBLEMS:** Whenever problems arise or you do not understand what is expected of you, consult with your Parole Officer as it is his responsibility to help you in the interpretation of the conditions of this parole, which can only be changed by the written consent of the Board of Parole Commissioners.
- 14. LAWS AND CONDUCT:** You shall comply with all municipal, county, state and federal laws, ordinances; and conduct yourself as a good citizen.
- 15. OUT-OF-STATE TRAVEL:** You shall not leave the State without first obtaining written permission, in each instance, from the Parole Officer.
- 16. SPECIAL CONDITIONS OF YOUR PAROLE**.....

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17. Your parole term is for..... **You are to remain under parole supervision until**..... **Date**

Your current expiration of sentence is..... **Date**

This parole is granted to and accepted by you, subject to the conditions stated herein, and with the knowledge that the Board of Parole Commissioners have the power, at any time, in case of violation of the conditions of parole to cause your detention and/or return to prison.

APPROVED BY THE
BOARD OF PAROLE COMMISSIONERS

.....
Chief Parole Officer

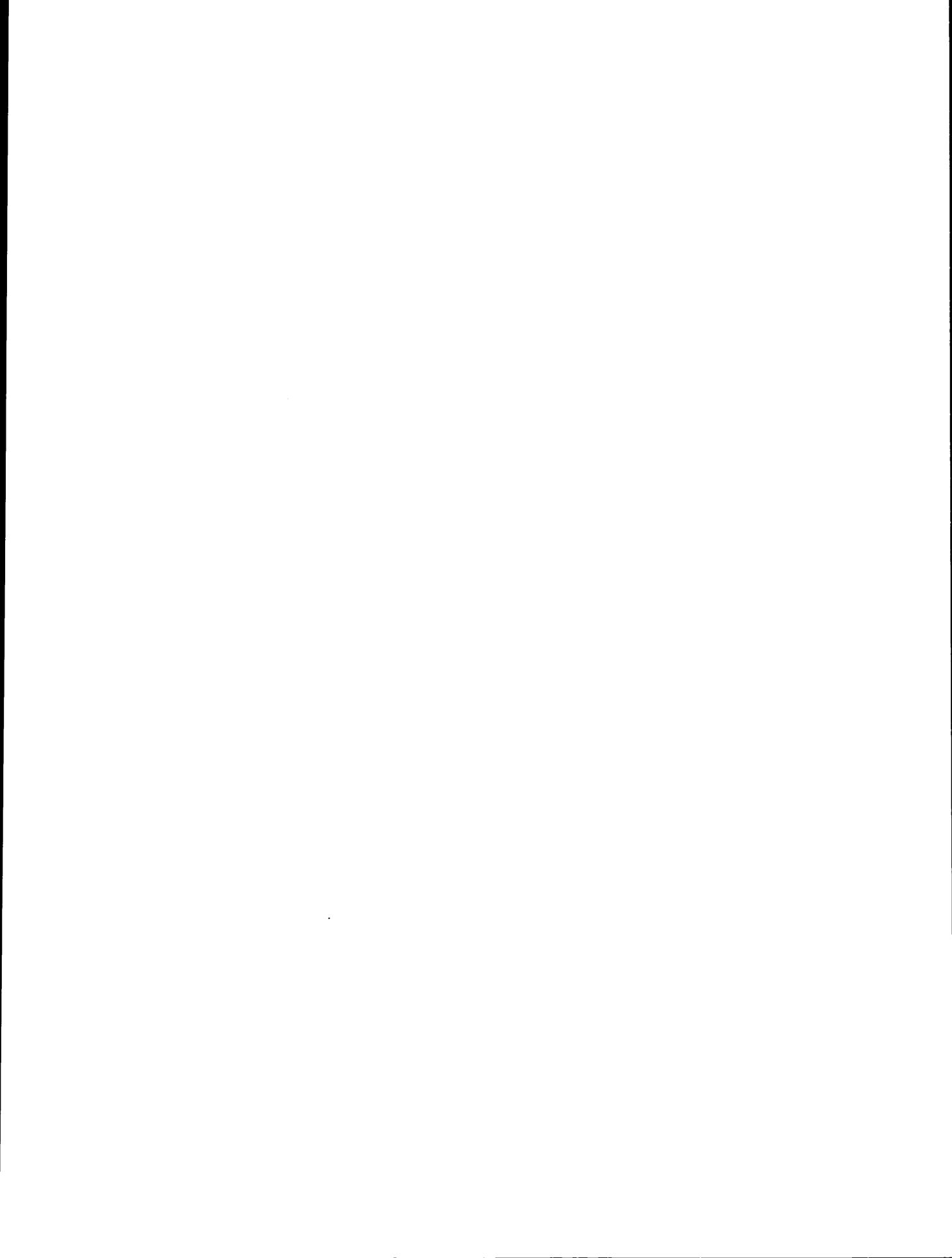
Dated.....

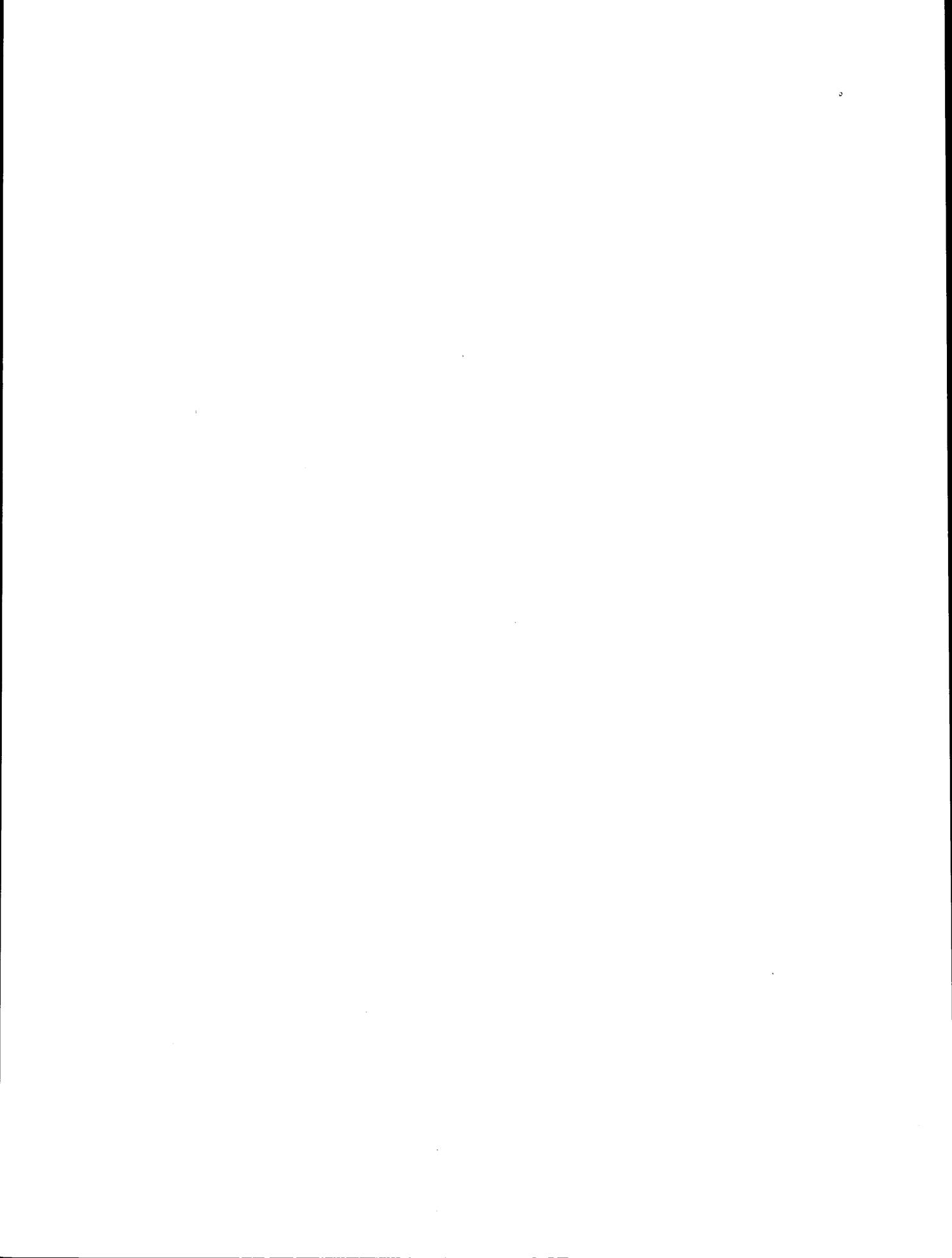
AGREEMENT BY PAROLEE

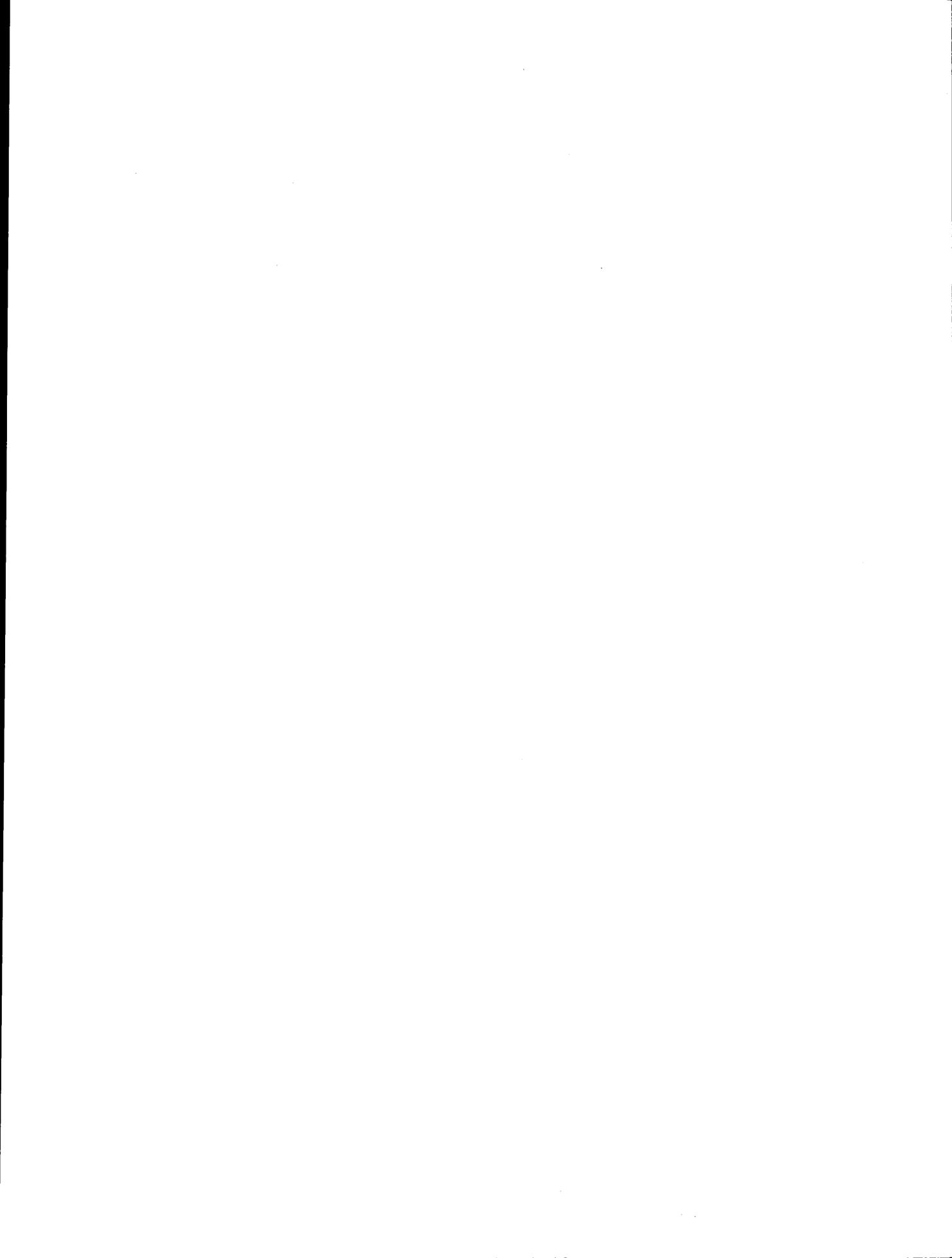
I do hereby waive extradition to the State of Nevada from any State in the Union, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or to the State of Nevada. I have read, or have had read to me, the foregoing conditions of my parole, and I fully understand them and I agree to abide by and strictly follow them, and I fully understand the penalties involved should I in any manner violate the foregoing conditions.

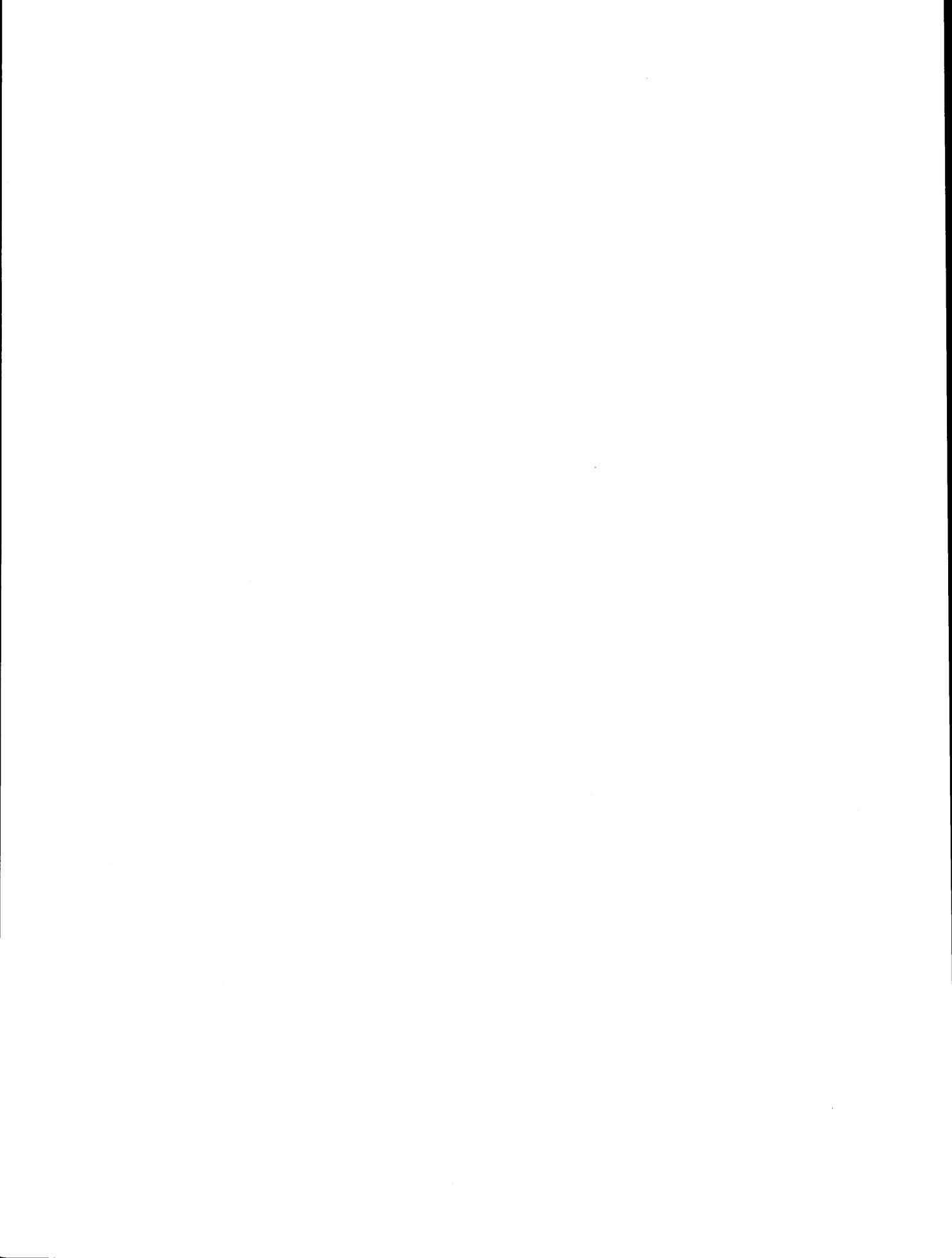
Witness..... **PAROLEE**.....
Prison Representative

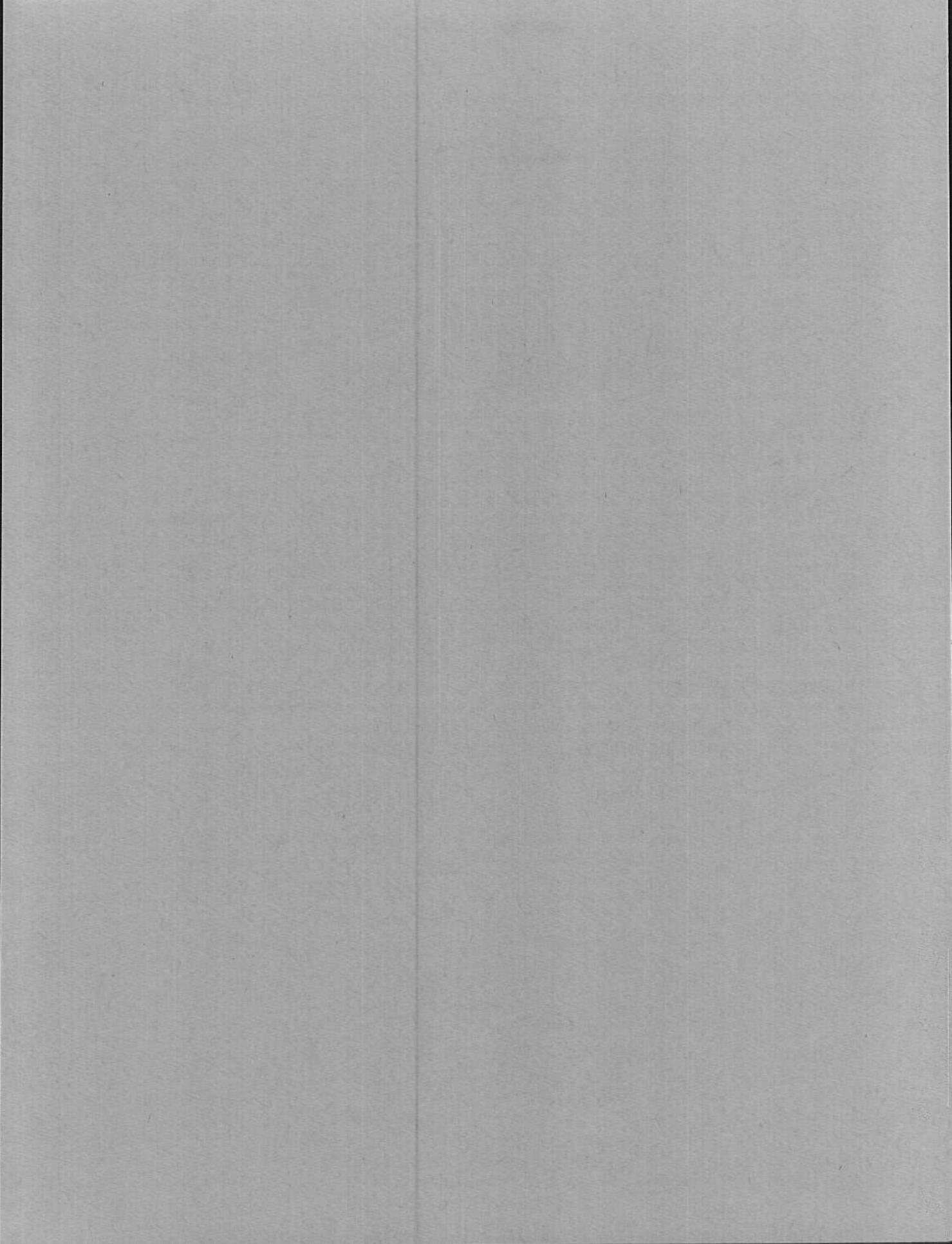
Dated.....











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