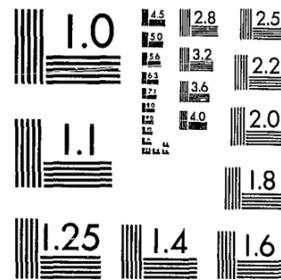


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DATE FILMED

JULY 21, 1981

ANNUAL REPORT OF THE NEBRASKA BOARD OF PAROLE

ELEVENTH ANNUAL STATISTICAL REPORT



77456

July 1, 1979
to
June 30, 1980

CHARLES THONE
GOVERNOR



STATE of NEBRASKA

BOARD OF PAROLE
P.O. BOX 94754, STATE HOUSE STATION
LINCOLN, NEBRASKA 68509
(402) 471-2156

August 1, 1980

The Honorable Charles Thone
Governor, State of Nebraska
State Capitol
Lincoln, Nebraska 68509

Dear Governor Thone:

The Eleventh Annual Report of the Nebraska Board of Parole covering the period from July 1, 1979 through June 30, 1980 is hereby submitted pursuant to Section 83-192 (12), Nebraska Revised Statutes, 1943.

Respectfully submitted,

BOARD OF PAROLE

John B. Greenholtz
John B. Greenholtz
Chairman

Enclosure

U.S. Department of Justice
National Institute of Justice

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CHAIRMAN
EUGENE E. NEAL
MEMBER
WAYNE L. SCHREURS
MEMBER
DORIS D. COLLINS
MEMBER
LINDA BABBITT JAECKEL
MEMBER

STATE OF NEBRASKA

CHARLES THONE
GOVERNOR

BOARD OF PAROLE

CHAIRMAN:
John B. Greenholtz

FULL TIME MEMBERS:

Eugene E. Neal

Wayne L. Schreurs

PART TIME MEMBERS:

Doris D. Collins

Linda Babbitt Jaeckel

STAFF

Rose Marie Johnston
Administrative Assistant

Dale M. Johnson
Accountant

SECRETARIES:

Jeannene Douglas - Reviews
Kim Dunham - Hearings
Trudy Madsen - Hearing Transcriber
Joann Ludvik - Furloughs & Clemency

STAFF ASSISTANT
Nikki Reisen - Records
and Training

CLERK TYPISTS:
Nancy DeRyke
Patricia Block

NCJRS

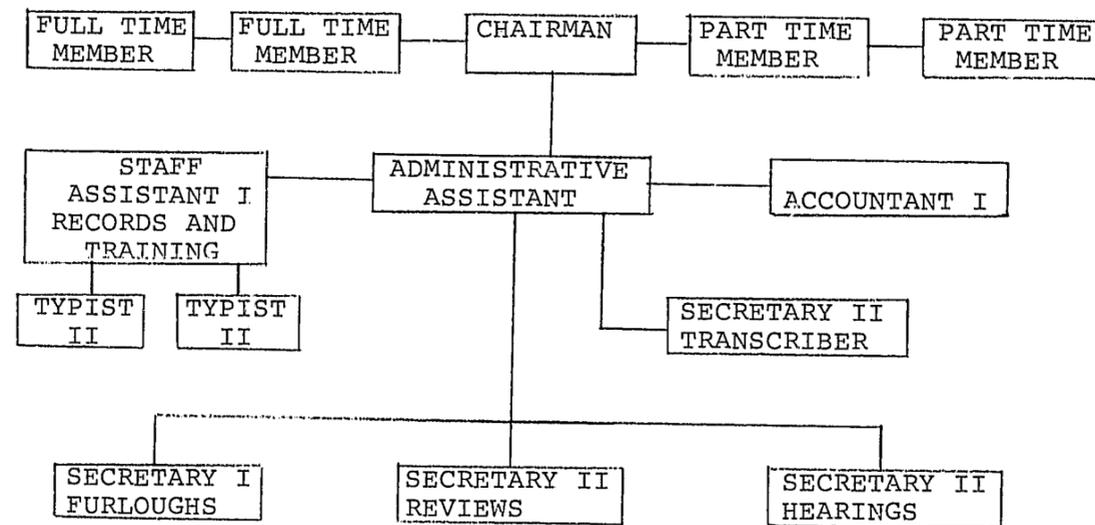
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ACQUISITIONS

History of Parole in Nebraska

STATE OF NEBRASKA

BOARD OF PAROLE
ORGANIZATION CHART



Parole was first established in Nebraska in 1893. Under the first law the governor was granted the power to parole any prisoner in the state penitentiary who had served the minimum time for the crime of which he was convicted. Persons convicted of either first or second degree murder could not be granted parole until 25 years had been served. Parolees under this law were in the control of, and in the legal custody of, the governor; they could at any time be taken back to the penitentiary. The governor had full powers to retake and imprison any parolee without notice or hearing for any reason deemed sufficient.

In the year 1909 the statutes were amended to provide that notice of hearing should not be a prerequisite to the exercise by the governor of his power to parole a convict when he was satisfied from his personal knowledge or the report of the prison physician that the prisoner was suffering from a disease of a kind to endanger his life or permanently injure his own health or that of the other inmates.

The Legislature of 1911 created the state Prison Board consisting of three members appointed by the governor for three years. One of these was required to be a practicing physician and one a practicing attorney. The Prison Board was also the advisory Board of Pardons. The chief clerk of the state Board of Charities and Corrections was secretary of these boards and served also as State Parole Officer. The functions of these boards were merged in the Department of Public Welfare in 1919.

The constitution of 1920, which became effective generally on January 1, 1921, created a Board of Pardons and designated the Governor, Secretary of State and Attorney General as its members. Said board, or a majority thereof, was given the power to remit fines and forfeitures and to grant commutations, pardons and paroles after conviction and judgment, under such conditions as may be prescribed by law, for any offenses committed against the criminal laws of the state except treason and cases of impeachment.

The Legislature of 1937 passed the uniform act for the supervision of Nebraska prisoners paroled in other states and providing for compacts with other states on the subject of parole.

The Eightieth Session of the Nebraska Legislature on August 25, 1969 passed LB 1307, creating a Division of Corrections, Board of Parole, Office of Parole Administration and Board of Pardons.

The exercise of pardon authority remains with the Board of Pardons; however, they may consult with the Board of Parole regarding applications for the exercise of pardon authority.

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PREFACE

Parole is an opportunity for the offender to serve a portion of his sentence under less restricted custody, usually in a community setting. Hopefully, parole is the last prerequisite as the offender prepares for acceptable and desirable conduct, independent and ideal citizenship.

A successful parole represents a salvaged human life who is capable of gainful employment, and support of his family; an individual meeting his financial obligations and being a productive and useful citizen.

The use of parole in lieu of incarceration is an astronomical savings in terms of tax dollars. Whereas, it costs in excess of \$16, 724 annually to incarcerate an offender, the expense to supervise a parolee is only slightly over \$1,229 per year. Parole not only can be an effective rehabilitative tool but also a fiscally sound policy.

Parole has been a part of Nebraska's correctional system since 1893. Initially, this power was solely in the hands of the Governor. In the year 1911 the power of parole was lodged in a state prison board which consisted of three members appointed by the Governor. Thereafter, with the revision of the State Constitution, which subsequently came into effect in 1921, the paroling authority became vested in the Board of Pardons. This ex-officio body comprised of the Governor, Attorney General and Secretary of State was the paroling authority for nearly five decades.

During the 1960s most state officials and correctional experts became advocates for the establishment of a separate, full-time and professional paroling authority. Excerpts from the "Report of the Nebraska Legislative Council Committee on Penal Systems," prepared by said committee, Senator David D. Tews, Chairman, indicated the unequivocal need for the establishment of a Board of Parole.

....Most of the other states have abandoned an ex-officio board to perform the important duties in the area of pardons and paroles. This Committee, therefore, considered at length the present system in Nebraska and the desirability of changing it.

The Committee discussed the present Board of Pardons system at some length with several state officials. These included the Warden of the Penitentiary (sic), the Attorney General, the Governor of Nebraska, the Superintendent of the Men's Reformatory, the State Parole Officer, and the Secretary of

State. All of these officials, . . . agreed that the present system was inadequate and that a permanent Board of Pardons should be established. . . .

The Committee also gave consideration to the method now used at the Penitentiary in presenting cases to the Board of Pardons for their consideration. . . .

Several weaknesses in the present method of reviewing inmates were explained to the Committee by those testifying. First, it was explained that the Warden . . . of the Penitentiary know these men well. They may recommend a particular inmate for parole . . . strictly on the basis of his institutional adjustment and behaviour. While this is an important factor in determining a man's eligibility for release from the institution, it is recognized that other important factors should be considered also. The basic question is "will this man be a good parole risk?" A full time Board of Pardons would give careful consideration to the additional factors which are important. Such factors would be the likelihood of the inmate to be able to support himself, his possible acceptance in a community, and his personality characteristics.

All of the facts should be present. Whoever makes these decisions should not only know the record of the man in the institution to date but should have information on his background, his family situation, his position in his community prior to his sentence, and such other pertinent information as would assist in making a proper decision. A full-time Board of Pardons would have this information before it at all times. This is not the case under the present system. In addition, heads of penal institutions feel that those who have charge of the inmates while they are under sentence should have little or nothing to say about when they should be eligible to leave the institution. Like all other human beings they will be influenced by their likes and dislikes. . . .

Furthermore, under the present system it is highly possible that some inmates are overlooked who should be brought before the Board of Pardons for consideration.

The research and conclusions of such reports became the impetus of a movement which culminated with the approval of a constitutional amendment in 1968 permitting the establishment of the present professional, objective and autonomous Board of Parole.

The Nebraska State Constitution, Article IV, Section 13, states: "[The] Board of Parole . . . shall have power to grant paroles after conviction and judgment, . . . for any offenses committed against the criminal laws of this State. . . ." The Board's

statutory authority is vested in Sections 83-270, 83-184, 83-188 through 83-1,101, and 83-1,108 through 83-1,125, Revised Statutes of Nebraska 1943.

An historical consensus of past and present Attorneys' General opinions have clearly indicated that furlough, work release, educational release and other community-based programs are forms of parole and directly fall under the auspices of the Board of Parole as stated by Article IV, Section 13 of the Nebraska State Constitution. Attorney General Clarence Meyer, as late as August 23, 1974, reiterated this legal interpretation: "It is our opinion that anyone released . . . under the work release statute after recommendation of the Board of Parole is a form of parole. . . ." Also, Judge Blue, District Court of Lancaster County, issued an order, August, 1974, that noted that release programs are tantamount to parole when he stated ". . . the principles set forth in Morrissey vs Brewer, supra, for parole revocation hearing are also applicable to educational release. . . ."

The role of the Board of Parole is unique as it counsels the offender and assists him in formulating objectives and goals which will serve as building blocks as he prepares for his eventual release on parole.

The Board of Parole is a preserver of the checks and balance concept: Whereas, the offender was tried and convicted within the framework of the judicial branch, he is now under the jurisdiction of the executive branch where rehabilitation and eventual release are paramount responsibilities of both the offender and of the State. The Board reviews the offender periodically to see that he is receiving equal protection under the law.

The Board also serves as an "equalizer." Within the framework of the law, it attempts to produce equity and uniformity in the sentencing structure caused by the inherent disparity which understandably results from having ninety-three prosecutorial offices and multiple judicial districts.

The following is an account of the State of Nebraska Board of Parole and the people who carry the awesome responsibility of determining whether liberty or continuous imprisonment awaits the offender.

CHAPTER I

MEMBERS OF THE STATE OF NEBRASKA BOARD OF PAROLE:
APPOINTMENT OF; QUALIFICATIONS OF; REMOVAL PROCEDURE
OF; AND ACTIVITY LIMITATIONS OF:

The State of Nebraska Board of Parole consists of five members who are appointed by the Governor subject to confirmation by the Legislature. The members of the Board must be of good character and judicious temperament. One of the five members of the Board is designated as chairman by the Governor. At least one member of the Board must be of a minority group and one member must have a professional background in Corrections.

The chairman and two members of the Board of Parole devote full time to their duties and do not engage in any other business or profession or hold any other public office. Two members serve on a part-time basis. No member, at the time of his appointment or during his tenure, is permitted to serve as the representative of any political party, or of any executive committee or governing body, thereof, or as any executive officer or employee of any political party, organization, association, or committee. Each member of the Board receives an annual salary that is fixed by the Governor.

Notwithstanding any other provision of law to the contrary, part-time members of the Board of Parole are eligible to be employed by any state agency or department other than the Department of Correctional Services.

The members of the Board of Parole have a term of office of six years and until their successors are appointed and have qualified. A vacancy occurring before expiration of a term of office is similarly filled for the unexpired term. A member of the Board may be reappointed. The members of the Board may be removed only for disability, neglect of duty, or malfeasance in office by the Board of Pardons after a hearing. The Board of Pardons is required to promptly file in the office of the Secretary of State a complete statement of the charges, its findings and disposition, and a complete record of the proceedings.

Chapter II

CONSTITUTIONAL AND STATUTORY RESPONSIBILITIES, DUTIES AND POWER OF THE STATE OF NEBRASKA BOARD OF PAROLE

The Nebraska State Constitution, Article IV, Section 13, succinctly explains that ". . . [The] Board of Parole . . . , shall have power to grant paroles after conviction and judgment, . . . for any offenses committed against the criminal laws of this State. . . ."

Revised Statutes of Nebraska 1943, Cumulative Supplement 1969, Chapter 83-1, 121 states: "A committed offender while on parole shall remain in the legal custody and control of the Board of Parole."

The State of Nebraska Board of Parole reviews and evaluates furlough, work release and educational release requests and thereafter makes a determination as to whether said request will be recommended for approval.

The Board of Parole determines the time of release on parole of committed offenders eligible for such release, fixes the conditions of parole, revokes parole, issues or authorizes the issuance of warrants for the arrest of parole violators, and imposes other sanctions short of revocation for violation of conditions of parole, and determines the time of discharge from parole.

The Board of Parole visits and inspects any facility, state or local, for the detention of persons charged with or convicted of an offense, and for the safekeeping of such other persons as may be remanded thereto in accordance with law; serves in an advisory capacity to the Director of Corrections in administering parole services within any facility and in the community; interprets the parole program to the public with a view toward developing a broad base of public support; conducts research for the purpose of evaluating and improving the effectiveness of the parole system; and, recommends parole legislation to the Governor.

The Board of Parole makes rules and regulations for its own administration and operation; appoints and removes all employees of the Board and delegates appropriate powers and duties to them; transmits annually to the Governor a report

of its work for the preceding calendar year, which report is transmitted by the Governor to the Legislature; and EXERCISES ALL POWERS AND PERFORMS ALL DUTIES NECESSARY AND PROPER IN CARRYING OUT ITS RESPONSIBILITIES UNDER THE PROVISIONS OF THE LAW.

The Board reviews the record of every committed offender, whether or not eligible for parole, not less than once each year and meets with the offender and counsels him concerning his progress and his prospects for future parole.

The Board of Parole and the Director of Correctional Services are responsible for the selection, approval and appointment of the Parole Administrator. Furthermore, the Board of Parole, when requested by the Board of Pardons, advises it concerning applications requesting the exercise of pardon authority and makes such investigation and collects such records as may bear on such applications.

The Board of Parole and its employees have access at all reasonable times to any offender over whom the Board may have jurisdiction, and have means provided them for communication with and observing the offender.

The Board is furnished such reports as it may require concerning the conduct and character of any offender committed to the Division of Corrections and any other information deemed pertinent by the Board in determining whether an offender should be paroled. The Board of Parole has the power to instruct the Director of Corrections to keep records concerning committed offenders which the Board deems pertinent to its functions.

In the performance of its duties, the Board of Parole, or any member thereof, has the power to issue subpoenas, compel the attendance of witnesses, and the production of books, papers and other documents pertinent to the subject of an inquiry, and to administer oaths and to take the testimony of persons under oath. Subpoenas so issued may be served by any sheriff, constable, police officer, parole officer, or peace officer, in the same manner and similar process as for the District Court. (Refer to Appendix A.)

Chapter III

THE PAROLING PROCESS

Institutional Good-Time and its Effect Upon Eligibility For Parole

The chief executive officer of a facility, with the approval of the director, shall reduce for good behavior the term of a committed offender as follows: Two months on the first year, two months on the second year, three months on the third year, four months for each succeeding year of his term and pro rata for any part thereof which is less than a year. The total of all such reductions shall be credited from the date of sentence, which shall include any term of confinement prior to sentence and commitment, and shall be deducted from his minimum term, to determine the date of his eligibility for release on parole; and from his maximum term, to determine the date when his discharge from the state becomes mandatory.

While the offender is in the custody of the Department of Correctional Services, reductions of such terms may be forfeited, withheld and restored by the chief executive officer of the facility, with the approval of the director after the offender has been consulted regarding the charges of misconduct.

While the offender is in the custody of the Board of Parole, reductions of such terms may be forfeited, withheld, and restored by the Parole Administrator with the approval of the Director after the offender has been consulted regarding the charges of misconduct or breach of the conditions of his parole. In addition, the Board of Parole may recommend such forfeitures of good time to the Director.

Every committed offender is eligible for release on parole upon completion of his minimum term less reductions, and shall be eligible for parole prior to the expiration of the minimum term whenever the sentencing judge or his successor in office gives approval for the parole of such offender.

Every committed offender sentenced to consecutive terms, whether received at the same time or at any time during the original sentence, is eligible for release on parole when he has served the total of the minimum terms less reductions.

The maximum terms are added to compute the new maximum term which, less reductions granted, determines the date when his discharge from the custody of the state becomes mandatory.

Criteria Used in Determining Parole Release

In making its determination regarding a committed offender's release on parole, the Board of Parole takes into account multiple factors. The Board reviews the offender's past record, makes an assessment of his total personality, evaluates his achievements during his incarceration, and judges his proposed parole plan and rates the probability of the offender completing a successful parole period and not repeating his criminal activities.

The Board of Parole reviews the pre-sentence investigation report, all official reports of the offender's prior criminal record, with emphasis on the NATURE and CIRCUMSTANCES, recency and frequency of previous offenses, and the offender's behavior and attitude during any previous experience. Also reviewed are records of the offender's past use of narcotics or past habitual and excessive use of alcohol, the offender's employment history, his occupational skills, and the stability of his past employment, and furthermore, any recommendations made at the time of sentencing by the sentencing judge regarding the offender's eventual parole.

The Board of Parole assesses the offender's personality, viewing each dimension as it determines the likelihood of a successful parole for said offender. Taken into account is the offender's maturity and stability, his ability and readiness to assume obligations and undertake responsibilities. Also, any apparent development in his personality and mental and physical make-up which might affect his conformity to law are considered.

After reviewing the offender's background and assessing his personality, the Board of Parole evaluates the offender's actions during his incarceration to see if said offender has let "time serve him." Emphasis is placed on the offender's conduct in the facility, including particularly whether he has taken advantage of the opportunity for self-improvement in the vocational, skilled or academic training programs, and whether he has been punished for misconduct within six months prior to his hearing.

Another area of consideration is the adequacy of the offender's parole plan including the type of residence, neighborhood or community in which the offender plans to live and the offender's family status and whether he has relatives who display an interest in him or whether he has other close and constructive associations in the community.

Along with the foregoing are updated progress reports prepared by the institutional counselor and any relevant information submitted by the offender, his attorney, the victim of his crime, or by other persons. A composite of all this pertinent and empirical data is collected, a review completed, and a thorough evaluation made. The next step is the hearing where the offender and the Board of Parole meet and have a discussion of the aforesaid and determine the future prospects of the incarcerate.

Hearings

Each hearing before the Board of Parole affords the offender an opportunity to discuss his status, specific prerequisites that need to be accomplished, the general direction that the incarcerate should take if he is desirous of modifying his past behavioral pattern and developing the needed skills and values for reintegration into society as a productive citizen.

The offender is aware that his early release is predicated upon the Parole Board's decision and for this particular reason the voice of the Board with its counseling and recommendations to an offender can and often does serve as the impetus toward making his incarceration rehabilitative, productive and meaningful. During this review and the upcoming hearings the Board of Parole emphasizes to each offender that "making time serve you" is of utmost importance.

The Board of Parole has a policy which allows the majority of offenders to have an initial review hearing during their third month of incarceration. (Only in cases where the statutory minimum or court-imposed minimum for the offense to which the offender was sentenced is of considerable length is the initial review set either during the sixth or eleventh month of incarceration.)

Every committed offender has a hearing before a majority of the members of the Board of Parole within sixty days before the expiration of his minimum term less any reductions. Every committed offender is interviewed within sixty days prior to his final parole hearing by a member(s) of the Board of Parole. The hearing is conducted in an informal manner but a complete record of the proceedings is made and preserved.

The Board renders its decision regarding the committed offender's release on parole within a reasonable time after the hearing. The decision is made by majority vote of the Board. The decision is based on the entire record before the Board, which includes the opinion of the member who presided at the hearing.

If the Board denies parole, written notification listing the reasons for such denial and the recommendations for correcting deficiencies which caused the denial are given to the committed offender within thirty days following the hearing.

If the Board fixes the release date, such date cannot be more than six months from the date of the committed offender's parole hearing, or from the date of last reconsideration of his case, unless there are special reasons for fixing a later release date.

If the Board defers the case for later reconsideration, the committed offender is afforded a parole hearing at least once a year until a release date is fixed. The Board may order a reconsideration or a rehearing of the case at any time.

Parole Plan Development

Each committed offender eligible for parole in advance of his parole hearing should have a parole plan in accordance with the rules of the Board of Parole.

An offender is permitted to advise with any person whose assistance he desires, including his own legal counsel, in preparing for a final Board hearing before the Board of Parole.

Decision-making Process

Whenever the Board of Parole considers the release of a committed offender who is eligible for release on parole, it orders his release unless it is of the opinion that his release should be deferred because there is a substantial risk that he will not conform to the conditions of parole; his release would depreciate from the seriousness of his crime or promote disrespect for law; his release would have a substantially adverse effect on institutional discipline; or his continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his capacity to lead a law-abiding life when released at a later date.

The decisions of the Board of Parole are made by majority vote. The Board keeps a record of its acts and each month the Director of Corrections is notified, in writing, of the Board's decisions relating to committed offenders.

To help insure that each decision is made objectively and judiciously, the Legislature has passed a statute which states:

A person shall be guilty of a felony if he threatens or attempts to threaten harm to a member of the Board of Parole with the purpose to influence his decision, opinion, recommendation, vote, or other exercise of discretion as member of the board or if he privately addresses to any member of the board any representation, entreaty, argument or other communication designed to influence the outcome of any matter which is or may come before the board on the basis of considerations other than those authorized by law and shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars, or by commitment to the Division of Corrections for not more than two years, or by both such fine and commitment. (Section 83-198, R.S.)

Conditions of Parole

When a committed offender is released on parole, the Board of Parole requires as a condition of his parole that he refrain from engaging in criminal conduct. The Board may also require, either at the time of his release on parole or at any time while he remains on parole, that he conform to any of the following conditions of parole.

- a. Meet his specified family responsibilities;
- b. Devote himself to an approved employment;
- c. Remain in the geographic limits fixed in his certificate of parole, unless granted written permission to leave such limits;
- d. Report, as directed, to his district parole officer;
- e. Reside at the place fixed in his certificate of parole and notify his district parole officer of any change in his address or employment;
- f. Submit himself to available medical, psychological, psychiatric or other treatment;
- g. Refrain from associating with persons known to him to be engaged in criminal activities or, without permission of his district parole officer, with persons known to him to have been convicted of a crime; and
- h. Satisfy any other conditions specially related to the cause of his offense and not unduly restrictive of his liberty or conscience.

**STATE OF NEBRASKA
BOARD OF PAROLE**



CERTIFICATE OF PAROLE

WHEREAS, the Nebraska Board of Parole acknowledges that,

_____ No. _____ presently
confined at the _____
is eligible for parole.

WHEREAS, the Board of Parole, after careful consideration, believes that there is a reasonable probability said individual will lead a law abiding life and further believes that the release of said individual on parole is compatible with the welfare of society;

NOW, THEREFORE be it known that the Nebraska Board of Parole, under the authority vested in it by law, does grant said subject's release on parole from said institution at such time as a satisfactory parole program has been established by the Parole Administration. Upon being paroled and released, said parolee shall be in the legal custody and under the control of the Nebraska Board of Parole, subject to the rules, regulations and conditions of parole as set forth on the reverse side of this document.

Signed in quadruplicate this _____ day of _____ 19____

CHAIRMAN

(Over)

CONDITIONS OF PAROLE

ABSCONDING: I will keep my parole officer advised of my whereabouts at all times, and failure to do so will be considered absconding parole supervision.

ASSOCIATES: I will refrain from associating with persons known to me to be engaged in criminal activities or, without written permission from my parole officer, with persons known to me to have been convicted of a crime.

WEAPONS, NARCOTICS, ALCOHOL: I will not own, possess, use or sell any dangerous weapon, illegal narcotic or controlled substance, nor will I be found under the influence of alcohol during this period of parole.

LAWS: I will obey all laws, ordinances and orders. If arrested and/or questioned by law enforcement authorities for any reason, I will advise my parole officer and/or other personnel of Parole Administration at the earliest allowable opportunity.

TRAVEL: I will receive verbal permission from my parole officer or her/his supervisor before leaving the county to which I am paroled. I will receive a written travel permit approved by the Board of Parole before leaving the State of Nebraska, and will return to the State of Nebraska prior to or on the date of expiration of the travel permit. (IT IS A FELONY FOR A PAROLEE TO LEAVE THE STATE WITHOUT WRITTEN PERMISSION. IT IS PUNISHABLE BY UP TO FIVE YEARS IMPRISONMENT.)

FINANCIAL OBLIGATIONS: I will provide for the financial needs of my dependents and will satisfy any and all financial obligations I undertake.

SEARCH AND SEIZURE: I will permit my parole officer to search my residence, person, vehicle or any property under my control at her/his request.

PAROLE PROGRAM: I will maintain an approved employment and/or education program. I will advise my parole officer and obtain his/her permission prior to changing either my employment or education program. I will maintain an approved residence and will advise my parole officer and obtain his/her permission prior to changing my residence. My immediate placement to which I am being paroled is: _____ (employment/education)

_____ (residence)

DIRECTIVES: I will contact my parole officer on the day I am released on parole. I will submit a written report to my parole officer on or before the fifth day of each month and report in person to my parole officer at such times and places as she/he directs. I will obey all directives of my parole officer and/or other personnel of Parole Administration. My parole officer is: _____ She/He can be reached at: _____ Phone: _____

SPECIAL CONDITIONS: _____

I, SAM RILEY, an inmate of the Nebraska _____ hereby declare that I have carefully read, or heard read, and do clearly understand the contents and conditions of the above parole agreement. I hereby accept the aforesaid conditions and agree to faithfully comply with same. I understand that if it is alleged that I have violated a condition or conditions of my parole agreement, I am entitled to a preliminary hearing to determine whether probable cause exists to believe that the said violation has occurred. Further, I understand that if probable cause to believe a violation has occurred is found, the Board of Parole may order my return to the institution to appear before the Board for a Review Hearing. I also understand that, if the Board determines that I have violated one or more conditions of the parole agreement, said parole may be revoked. I understand that revocation of parole would result in my recommitment for the remainder of my maximum prison term, deducting the period that I served on parole prior to the date of violation. I further understand that if the Board of Parole finds that I did violate a condition of my parole but is of the opinion that revocation of parole is not appropriate, the Board may order that: (1) I receive a reprimand and warning; (2) Parole supervision and reporting be intensified; (3) Any reductions for good behavior which I have earned while on parole be forfeited or withheld; or (4) I be required to conform to one or more additional conditions of parole in accordance with applicable provisions of law. I also understand that if I was sentenced under LB567, or LB567 has been applied retroactively to my sentence, the Board may recommend, to the Director of Correctional Services, the forfeiture of any or all good time which I have earned. Further, I hereby freely waive all formality of legal proceedings and shall willingly return to the appropriate correctional facility, without the Governor's requisition when such return is ordered by the Board of Parole.

WITNESS _____ DATE _____ PAROLEE'S SIGNATURE _____ DATE _____

Also, the Board of Parole may in appropriate cases require a parolee, as a condition of his parole, either at the time of his release on parole or at any time while he remains under parole supervision, to reside in a community guidance center, boarding facility, half-way house, hospital, or other special residence facility, for such period and under such supervision or treatment as the Board may deem appropriate.

Before release on parole, a parolee is provided with a certificate of parole setting forth the conditions of his parole. A sample copy of this two-sided document is found on the preceding page.

Reduction of Parole Term for Good Behavior

The Board of Parole reduces, for good conduct in conformity with the conditions of his parole, and in accordance with present law, a parolee's parole term by two days for each month of such term. The total of such reductions is deducted from his parole term to determine the date when his discharge from parole becomes mandatory.

Reductions of the parole term for good behavior may be forfeited, withheld and restored by the Board of Parole. The forfeiting and withholding of such reductions are made only if the Board finds a violation of parole conditions.

Discharge from Parole

If, in the opinion of the Board of Parole, a parolee does not require guidance or supervision, the Board may dispense with and terminate such supervision.

The Board of Parole may discharge a parolee from parole at any time if such discharge is compatible with the protection of the public and is in the best interest of the parolee.

The Board of Parole automatically discharges a parolee from parole when the time served in the custody of the Department of Correctional Services and the time spent on parole equals the maximum term diminished by good time earned in the facility as well as parole good time.

Whenever a parolee has completed the lawful requirements of his parole, the Board of Parole orders a certificate of discharge be granted the parolee, and this certificate restores the civil rights of the parolee as though a pardon had been issued. (Refer to Appendix C.)

Chapter IV

VIOLATION OF PAROLE PROCESS

Alleged Violation of Parole--Non-arrest/Arrest Procedures--and Subsequent Options of the Board of Parole

Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of his parole but that he will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer submits a written report to the Board of Parole. On the basis of such report and such further investigation as it may deem appropriate, the Board may dismiss the charge or violation; determine whether the parolee violated the conditions of his parole; revoke his parole in accordance with the provisions of the law; or issue a warrant for the arrest of the parolee.

Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of his parole and that he will attempt to leave the jurisdiction or will place lives or property in danger, the parole officer arrests the parolee without a warrant and calls on any peace officer to assist him in doing so.

Whenever a parolee is arrested with or without a warrant, he is detained in a local jail or other detention facility. Immediately after such arrest and detention, the parole officer notifies the Board of Parole and submits a written report of the reason for such arrest. A complete investigation is then made by the Parole Administration and submitted to the Board of Parole. After prompt consideration of such written report, the Board orders the parolee's release from detention or his continued confinement. If continued confinement is ordered, an immediate probable cause hearing is held by an impartial hearing officer.

Probable Cause Hearing

A preliminary hearing procedure was implemented in 1972 to adhere to the United States Supreme Court Mandate, Morrissey vs Brewer (June 29, 1972). (Refer to Preface, iii.)

The preliminary hearing is conducted by preliminary hearing officers after the Board of Parole has been advised of alleged parole violation(s) and has ordered the probable cause hearing to be conducted.

The parolee, within a reasonable period prior to said hearing, is notified in writing of the nature and content of the allegations including notice that the purpose of the hearing is to determine whether there is probable cause to believe that he has committed a violation of parole. The parolee is permitted to advise with any person whose assistance he reasonably desires prior to the hearing and has the right to confront and examine any persons who have made allegations against him unless the preliminary hearing officer determines that such confrontation would present danger or subsequent harm to such person or persons. The parolee is afforded the opportunity to admit, deny, or explain the violation alleged and may present proof, including affidavit and other evidence in support of his contentions.

Upon completion of the hearing, the preliminary hearing officer presents to the Board of Parole his findings regarding probable cause and the evidence relied on and his reasons for his determination.

Upon review of the preliminary hearing officer's written report, the Board of Parole either orders the parolee's return to the institution for a review of parole hearing or his return to parole status.

Review of Parole Hearing and Subsequent Options of the Board of Parole

Whenever a parolee is charged with a violation of his parole, he is entitled to a prompt hearing on such charge by the Board of Parole which, in no event, shall occur more than thirty days after receipt of the parole officer's written report. At such hearing, the parolee is permitted to be present, to testify, to produce witnesses, to cross-examine adverse witnesses, and to introduce such other evidence as may be pertinent. The parolee is informed of his right to request counsel at such hearing and if he thereafter makes such request based on a timely and colorable claim (1) that he has not committed the alleged violation of the conditions upon which he is at liberty, or (2) that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present, and upon consideration of whether or not the parolee appears to be capable of speaking effectively for himself, the Board, in the exercise of a sound discretion, may provide counsel unless retained counsel is available to the parolee. In every case when a request for counsel is refused, the grounds for refusal are stated in the record.

If the Board of Parole finds that the parolee did violate a condition of his parole but is of the opinion that revocation of parole is not appropriate, the Board may order that the parolee receive a reprimand and warning; that parole supervision and reporting be intensified; that reductions for good behavior while on parole be forfeited or withheld; or that the parolee be required to conform to one or more additional condition(s) of parole which may be imposed in accordance with the provisions of this act.

A parolee whose parole is revoked is recommitted for the remainder of his maximum prison term deducting the period served on parole prior to the violation. (Refer to Appendix C.)

Reparole

A parolee whose parole has been revoked is considered by the Board of Parole for reparole at any time in the same manner as any other committed offender eligible for parole.

The Board of Parole in its endeavors to assist the offender with his reintegration into society has instituted what is referred to as the "reparole concept." This process affords the parolees who have had their paroles previously revoked to be reinstated on parole status. The reparole concept is predicated upon two reasons: (1) Parole supervision is an invaluable asset as the offender adapts to community living, and (2) It serves as an incentive to the offender to keep his institutional record clean and make time serve him.

Chapter V

OBJECTIVES AND GOALS OF THE STATE OF NEBRASKA BOARD OF PAROLE

The State of Nebraska Board of Parole continually strives to insure the daily advancement of the parole and correctional systems in Nebraska and to carry out the duties and responsibilities as directed by the United States Constitution, the Nebraska State Constitution, the Statutes of Nebraska and orders of the Judiciary.

The Parole Board's most awesome responsibility is to carefully evaluate and determine when an offender is both statutorily eligible for parole and individually prepared to return to the community as a productive citizen. To accomplish this, the Board attempts to improve the criteria used in the selection process for parole so that more effective decisions that will better protect and benefit society can be made. The Board tries to guarantee that this criteria is always equitable, reasonable, reliable, and understandable. By judiciously following this process, the Board of Parole attempts to ascertain the most appropriate time to release the offender. This leads to more successful paroles and decreases the spiraling recidivism rate.

The Board of Parole continues to make recommendations for the enactment of more adequate supervision for the offender on parole status; and, also, recommendations for legislation that is needed for the improvement of parole services.

The foremost aim of the Board of Parole is to clearly reflect that parole service, applied and used appropriately, is an aid to the committed offender, a protective device to the community and, above all, an opportunity for the offender and the community to work together towards making society a better place in which to live.

The Board of Parole has published a rules and regulations manual. This manual is informative and serves to bridge a better understanding between the Board and the offender--his family, other correctional officials and the public at large.

APPENDIX B

TYPES OF CRIME ON WHICH PAROLES WERE GRANTED
July 1, 1979 through June 30, 1980

| | Penal Complex | Center for Women | TOTAL |
|---|------------------|---------------------|-------|
| Burglary; Att Burg; Poss Burg Tools; B&E | 105 | 1 | 106 |
| Robbery | 20 | 2 | 22 |
| Larceny or Theft; Stealing | 17 | 4 | 21 |
| Motor Vehicle Theft; Concealing Vehicle | 10 | 0 | 10 |
| Cattle or Hog Stealing; Killing Animal | 1 | 0 | 1 |
| Forgery; Fraud; Utter or Poss Forg Instr | 43 | 17 | 60 |
| Receive Stolen Goods or Property | 12 | 1 | 13 |
| Malicious Destruction Property | 1 | 0 | 1 |
| Obtain Money or Goods by False Pretense | 3 | 2 | 5 |
| Embezzlement | 0 | 1 | 1 |
| Kidnapping; Child Stealing | 2 | 0 | 2 |
| Assault | 13 | 1 | 14 |
| Stab/Shoot with intent to Kill, Wound or Maim | 5 | 1 | 6 |
| Manslaughter | 8 | 4 | 12 |
| Willful Homicide | 8 | 0 | 8 |
| Motor Vehicle Homicide | 1 | 0 | 1 |
| Sexual Assault; Rape | 9 | 0 | 9 |
| Sex Crimes (Other than Rape) | 5 | 0 | 5 |
| Drugs | 13 | 4 | 17 |
| Alcohol; 3rd Offense Drunk Driving | 15 | 0 | 15 |
| Arson | 3 | 0 | 3 |
| Escape | 9 | 0 | 9 |
| Possession Firearm by Felon | 3 | 0 | 3 |
| Carry Concealed Weapon | 2 | 0 | 2 |
| Failure to Appear | 3 | 0 | 3 |
| Leave State as Parolee | 1 | 0 | 1 |
| Use of Firearm in Committing Felony | 2 | 0 | 2 |
| Criminal Mischief | 1 | 0 | 1 |
| Conveying Firearm to Inmate | 0 | 2 | 2 |
| Unlawful Disposition of Dead Body | 0 | 1 | 1 |
| Conspiracy to Commit Felony | 0 | 2 | 2 |
| | 315 | 43 | 358 |

APPENDIX C

THE PAROLING PROCESS

| | July 1, 1979 through June 30, 1980 | Nebraska Penal Complex | Nebraska Center for Women | TOTAL |
|-------------------------------------|--|------------------------------|---------------------------------|-------|
| Reviews Held | 1,978 | | 120 | 2,098 |
| Hearings Granted | 408 | | 48 | 456 |
| Paroles Granted | 315 | | 43 | 358 |
| Paroles Denied | 45 | | 3 | 48 |
| Consideration Deferred | 48 | | 1 | 49 |
| Referrals to Pardon Board | 2 | | 0 | 2 |
| Discharges from Parole | 259 | | 26 | 285 |

VIOLATION OF PAROLE PROCESS

| | July 1, 1979 through June 30, 1980 | Nebraska Penal Complex | Nebraska Center for Women | TOTAL |
|--|--|------------------------------|---------------------------------|-------|
| Paroles Revoked on Technical Grounds | 37 | | 2 | 39 |
| Paroles Revoked on Misdemeanor Grounds | 21 | | 2 | 23 |
| Paroles Revoked on Felony Grounds | 31 | | 0 | 31 |
| Continued on Parole | 14 | | 1 | 15 |
| Action Deferred | 11 | | 0 | 11 |
| TOTAL PAROLE VIOLATION HEARINGS | 114 | | 5 | 119 |

APPENDIX D

PRE-RELEASE AND POST-CARE PROGRAM PROCESS

See Preface at page iii, paragraph 1 of this report outlining the Parole Board's authority and role of the pre-release and post-care program.

The date below indicates the Board's activities relative to recommendations and decisions concerning release from the institution on travel orders, furloughs and participation in the community-based programs for offenders at the Nebraska Penal and Correctional Complex and the Nebraska Center for Women for the period of July 1, 1979 through June 30, 1980.

INSTITUTIONAL REQUESTS FOR OFFENDERS
TO PARTICIPATE IN POST-CARE PROGRAMS

Total Institution Requests 583

Approved by the Board of Parole 410
Denied by the Board of Parole 173

Reasons for Denial:

- 1. Must enroll in C.D.P. before consideration 27
- 2. Denied by sub-classification committee 26
- 3. Not eligible 24
- 4. Deferred to scheduled review 20
- 5. Poor institutional adjustment; Not in best interest of program 12
- 6. Disciplinary reports 11
- 7. Skill-training more beneficial than Work-Release 8
- 8. History of chemical abuse & nature of offense 7
- 9. Escape Record 4
- 10. Multiple offenses or nature of crimes 4
- 11. Insufficient time before release 4
- 12. Resubmit at a later date 4
- 13. Poor community adjustments on prior placements 4
- 14. Defer to completion of institutional program 3
- 15. Poor risk due to age and instability record 3
- 16. Previously removed from program 2
- 17. Prior parole violation 2
- 18. Deferred 60 days for work progress improvement 2
- 19. Re-submit after attitude improves 1
- 20. Sponsor not approved 1
- 21. Location of Work-release (Paroling out of state) 1
- 22. Medical reasons 1
- 23. Deferred pending receipt of psychiatric evaluation. 1
- 24. Poor risk due to severe alcohol related problems. 1

TOTAL DENIALS. 173

POST-CARE VIOLATION HEARINGS

The Board of Parole considers applications for participation in the Post-Care Program (Work and Educational Release). Therefore, anyone removed from the program by institution officials should be granted the opportunity to have a hearing before the Board of Parole to determine if such removal was warranted in compliance with the principles as set forth in Morrissey vs. Brewer. The following figures represent the actions of the Board for those hearings from July 1, 1979 through June 30, 1980:

TOTAL POST-CARE VIOLATION HEARINGS 262129

Board upheld decision by Institution for removal. 211 95
Cases deferred or continued for various reasons 28 19
Number returned to the Post-Care Program 23 15

FOR PARTICIPATION IN WORK AND/OR EDUCATIONAL RELEASE

Total Board recommendations to Institutions 79

Total applications submitted by Institutions 583
Number approved 410
Number denied 173

Placed on Work or Educational Release by Institution 426
Not placed on Work or Educational Release 10
Not placed due to disciplinary reasons 3
Refused to participate 0
Medical reasons 2
Other reasons 5

INSTITUTIONAL REQUESTS FOR TRAVEL ORDERS

Medical travel orders approved 39
Medical travel orders filed not requiring Board approval 792

Miscellaneous travel orders approved 826
Miscellaneous travel orders filed not requiring Board approval 2,212

TOTAL TRAVEL ORDERS FILED 3,873

INSTITUTIONAL REQUESTS FOR FURLOUGHS

Medical furloughs approved 133
Medical furloughs denied 0

Miscellaneous furloughs approved 3,415
Miscellaneous furloughs denied 153

TOTAL INSTITUTIONAL REQUESTS 3,701

APPENDIX E

INTERSTATE CORRECTIONS COMPACT TRANSFERS

| | |
|--|----|
| Offenders transferred from Nebraska Department of Correctional Services to facility in another state | 14 |
| Offenders returned to Nebraska Department of Correctional Services . | 11 |
| Offenders transferred from other states to the Nebraska Department of Correctional Services for housing | 26 |
| Offenders returned to their home facility | 14 |

APPENDIX F

RECORDS DEPARTMENT PREPARATION AND MAINTENANCE OF OFFENDER FILES

| | |
|---|-------|
| Files prepared on new felony commitments | 644 |
| Files closed due to discharge | 591 |
| Files prepared for microfilming | 4,442 |
| Files pulled for release of information | 45 |
| Average number of files maintained each month on active status in addition to new files prepared | 1,459 |

END