



ARCH A. MOORE, JR.
GOVERNOR

WEST VIRGINIA
BOARD OF PROBATION AND PAROLE
CHARLESTON 25305

July 1, 1971

His Excellency
The Honorable Arch A. Moore, Jr.
Governor
State Capitol
Charleston, West Virginia

*obsolete.
no record of filing
as required by
29A-2-5.*

Dear Governor Moore:

We are herewith submitting a revision in the Policy, Organization, Procedure, Rules and Regulations Governing the Parole Process in the State of West Virginia.

This revision must have your approval before it may be submitted to the Secretary of State under the provisions of Chapter 29A, Article 2, Section 1, of the Code of West Virginia, as Amended, which filing is required by that Section.

This is the fourth revision established by the Board of Probation and Parole under the provisions of Chapter 62, Article 12, Section 13, of the West Virginia Code, as Amended.

These rules, subject to your approval, will become effective August 1, 1971.

Respectfully,

Laurence M. Evans
Chairman

LME:1wb

FILED IN THE OFFICE
JEN. D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 7/23/71



ARCH A. MOORE, JR.
GOVERNOR

WEST VIRGINIA
BOARD OF PROBATION AND PAROLE
CHARLESTON 25305

July 23, 1971

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 7/23/71

State of West Virginia
County of Kanawha

To: The Secretary of State

This is to certify that the attached is a true copy of the Policy, Organization, Procedure, Rules and Regulations governing the parole process in this state made pursuant to law.

This document has been duly approved by the Governor of the State of West Virginia as required by law on the 23rd day of July, 1971.

These rules become operative August 1, 1971 and we herewith certify them to you as provided under the provision of Chapter 29A, Article 2, Section 1, of the Code of West Virginia, as Amended.

WEST VIRGINIA BOARD OF PROBATION AND PAROLE

Laurence M. Evans
Chairman

LME:1wb

Enclosures



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

ARCH A. MOORE, JR.
GOVERNOR

July 23, 1971

The Honorable Laurence M. Evans
Chairman
Board of Probation and Parole
State Capitol
Charleston

Dear Mr. Evans:

After carefully reviewing the revised Policy, Organization, Procedure, Rules and Regulations Governing the Parole Process presented to me for approval by the West Virginia Board of Probation and Parole as required by law, I concur with the proposed revisions and approve the rules to become effective August 1, 1971.

Sincerely yours,

Arch A. Moore, Jr.
Arch A. Moore, Jr.
Governor

AAMJR:act

RECEIVED IN THE OFFICE
JULY 27, 1971
SECRETARY OF STATE
THIS DATE 7/23/71

WEST VIRGINIA
BOARD OF PROBATION
AND PAROLE

Policy, Organization, Procedure, Rules and
Regulations Governing the Parole Process

Effective August 1, 1971

Revised

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 7/23/71

HONORABLE ARCH A. MOORE, JR.
Twenty-Eighth Governor of West Virginia

BOARD OF PROBATION AND PAROLE
Laurence M. Evans, Chairman
J. Kenneth Shaver, Member-Secretary
Francis P. Warder, Member

WEST VIRGINIA PENAL INSTITUTIONS
The West Virginia Penitentiary, Moundsville
Huttonsville Correctional Center, Huttonsville
West Virginia State Prison for Women, Pence Springs

WEST VIRGINIA JUVENILE INSTITUTIONS
Industrial School for Boys, Pruntytown, Grafton
Industrial Home for Girls, Salem
Forestry Camp for Boys, Davis
Forestry Camp for Boys, Leckie
Anthony Correctional Center, Neola

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FOREWORD

The authority of the West Virginia Board of Probation and Parole is exclusive in paroling and re-paroling from prison or any county or city jail, and in revoking parole when parole has been violated.

The Parole Board has no authority or jurisdiction over persons committed to any of the juvenile institutions and camps. Parole or release from such institutions come under the jurisdiction of the Commissioner of Public Institutions or his designated agent. The Board has no power of probation as that is solely the province of the courts.

Parole, as a method of release from prison, county or city jail, is a privilege and not a matter of right accruing to any person through confinement. Therefore, no person serving a lawful imposed sentence in prison, city or county jail, has a right to be released on parole.

The policy, organization, procedure, rules and regulations governing the parole process in West Virginia, are for the information of the general public. They are of specific interest to prisoners of the state penal institutions and those sentenced to a county or city jail. They show the requirements for the privilege of parole.

Since enactment of Chapter Forty-two, 1965 Acts of the Legislature, the Board of Probation and Parole has no jurisdiction of parolees, or of those released under conditional clemency after release. Supervision in such cases is under the jurisdiction of the Director of the Division of Correction. Nor does the Board, although a separate statutory entity, have the power to employ or supervise probation and parole officers upon whom it relies for reports, nor indeed of its own clerical staff. These are also under the Director of the Division of Correction. The Board of Probation and Parole only again acquires jurisdiction of parolees, when they have violated the conditions of their parole, when if referred to the Board by the Director of the Division of Correction, a Summary Parole Violation Hearing is held by the Board to determine if parole should or should not be revoked.

POLICY, ORGANIZATION, PROCEDURE, RULES AND REGULATIONS
GOVERNING THE PAROLE PROCESS IN WEST VIRGINIA

Authority for the policy, organization, procedure, rules and regulations governing parole and probation is found in Chapter Sixty-two, Article Twelve, of the Code of West Virginia, as Amended.

The Code of West Virginia, in Chapter Five, Article Two, Section Three, provides for the filing of rules with the Secretary of State. In describing the word "Rule", the statute says: "The word 'rule' includes every regulation, standard, or statement of policy or interpretation of general application and future effect, including the amendment or repeal thereof adopted by any agency, as herein defined, to implement or make specific the law enforced by or administered by it, or to govern its organization or procedure..."

The policy, organization, procedure, rules and regulations, hereinafter set forth, are in compliance with the statute and are amendments to, revisions and modifications of those rules and regulations heretofore filed and of record in the office of the Secretary of State of West Virginia.

Any part or all of those rules and regulations, policy, organization and procedure governing the parole process or granting parole, heretofore so filed, which are inconsistent with the provisions herein set forth are repealed.

The procedure, rules and regulations were first made, under the Board operation of the Department of Probation and Parole, on August 30, 1953. The first revision was made and became effective July 12, 1955; the second revision was made and became effective September 6, 1959; and the third revision was made effective on May 1, 1963. All these revisions were necessary because of changes in the parole law of West Virginia.

Chapter Sixty-two, Article Twelve, Section Thirteen, the Code of West Virginia, as Amended, provides that: "The Board shall, with the approval of the Governor, adopt rules and regulations governing the procedure in the granting of parole." These rules and regulations have the effect of law.

POLICY STATEMENT

I--Authority and Jurisdiction

The authority and jurisdiction of the Board of Probation and Parole extends to all persons committed to the State's penal institutions and those sentenced to any county or city jail. Persons sentenced to a penitentiary, in West Virginia, for terms are sentenced for the maximum of such sentences imposed. Those sentenced to any county or city jail are likewise sentenced for the maximum time. This is true except where, by some intervening legal force, persons may complete their sentences in a period shorter than the maximum term.

II--Some Intervening Legal Forces

The legal forces which may interrupt a prisoner's maximum term are: (a) Writ of Habeas Corpus; (b) Full Pardon; (c) Conditional Pardon; (d) Respite; (e) Good Time Deduction; (f) Parole; and, (g) Death of the Prisoner. Reprieve is not listed, as it was only a temporary stay from execution of a death sentence, which can no longer be imposed. The invoking of any one of these could shorten the time a person has to serve in prison. West Virginia has a Good Time Deduction Statute, which permits all prisoners, except those having life sentences, to be allowed so much time off on the maximum sentence imposed.

III--Parole--An Intervening Legal Force

The only intervening legal force to which this document addresses itself is parole. Parole, as a method of release from prison or jail, is not an inherent right bestowed upon the confined person. He has no "right" to be paroled. Prison or jail release, through parole, is a privilege which may or may not be granted to the confined person. Parole, in no instance, should be considered as an act of mercy, clemency or forgiveness for the offense committed. It is not a reward for good conduct and work performed by the confined prisoner. Parole release is not dependent upon such factors as the illness, physical condition, or handicaps of the confined person. It is not to be considered as a method of release from prison because of the economic hardships of parents, family or dependents. Nor, will parole be granted because of the illness or age of parents and relatives, or because the confined person is needed at home.

IV--Basic Principles of Release on Parole

Release from prison through the process of parole rests upon two basic principles. The first and greatest of these is protection of society. That principle gives itself to a review of the question, should the prisoner be released on parole? That question brings into focus the prisoner's offense, his background and the impact his release would bring in the administration of justice. In other words, would parole release be a menace and danger to the peace and security of society? If, from all the available information, records and views expressed, it were to appear that parole release would, then such release will not be made. The Parole Board, in fact, will revoke the parole of any prisoner, even though he has been granted parole, should it appear to the Board, prior to his release, that the prisoner's release would constitute a menace, threat and danger to society, for any reason.

The second principle of parole release is the rehabilitation of the criminal offender. Rehabilitation begins when the offender decides within himself that he no longer will engage in criminal activities. Physical and continuing rehabilitation should be made through incarceration and the planned program of the institution. The program of parole is the further rehabilitation of the offender on return to society.

V--The Parole Board's Policy

These, then, are the policies of the West Virginia Board of Probation and Parole:

- (a) No person will be released on parole whose release will be a menace, danger or threat to society; or, that release on parole will be incompatible with the best interest and welfare of society.
- (b) Persons released on parole are under the sole jurisdiction of the Director of the Division of Correction.
- (c) Parolees must observe and abide by the rules and regulations made for their supervision.
- (d) Parole agents have the power and authority to arrest any parolee, with or without a warrant, and cause his confinement in any county or city jail.
- (e) Paroled prisoners arrested and placed in jail for Parole Violation Hearing by the Parole Board may not be released on bond.
- (f) Any sheriff or jailor in whose jail a paroled prisoner is committed pending a Parole Violation Hearing must hold him for the jurisdiction of the Parole Board.
- (g) No prisoner will be released on parole more than twice under the same sentence; nor, more than twice under any number of sentences running consecutively.
- (h) Parole release is as to all existing sentences upon which the prisoner is confined, whether such sentences run concurrently or consecutively.
- (i) Parole release from jail is part of the statutory authority given the Board of Probation and Parole.

VI--Confidential Nature of Reports and Files

The Board of Probation and Parole has custody jointly with the Division of Correction of the files and records of all persons committed to a penal institution and all persons committed to county or city jails who have made application for parole.

This permanent record, being of a confidential nature, is not open for public inspection.

MEMBERS, TERM, QUALIFICATIONS AND ORGANIZATION

I--Board Members and Term

The West Virginia Board of Probation and Parole is composed of three members. Members on the Parole Board must be appointed by the Governor, by and with the advice and consent of the Senate. Members are appointed at the will and pleasure of the Governor for the term for which the Governor was elected and until their successors have been appointed and qualified.

II--Qualifications

The West Virginia Code, as Amended, provides in Chapter Sixty-two, Article Twelve, Section Twelve, that, "Each member of the Board shall have had experience in the fields of social science or administration of penal institutions and shall be familiar with the principles, practices and problems thereof and shall be otherwise competent to perform the duties of his office... The members of the Board shall devote their full time and attention of their duties as members thereof."

III--Organization

The Parole Board is organized with a Chairman, Member-Secretary and Member. The Chairman of the Parole Board is designated by the Governor. The Member-Secretary is named by the other members of the Parole Board.

STAFF AND PERSONNEL

The Board of Probation and Parole, although a separate statutory entity, has no authority to appoint or supervise state probation and parole officers, nor its own clerical staff. These are appointed and supervised by the Division of Correction.

The offices of the Parole Board are located on the Seventh Floor, Building Three, 1800 Washington Street, East, Charleston, West Virginia, having Rooms 709 - 712.

The Parole Board's offices are open Monday through Friday, excluding legal holidays.

PROCEDURE

I--The Parole Interview

The Parole Board schedules interviews each month of the year, with the exception of the months of February, July and December.

- (a) A prisoner's interview date is determined by the month his indeterminate or definite sentence is effective.
- (b) Each eligible prisoner is interviewed once during the year.
- (c) The parole interviews are personally with the prisoners and the members of the Parole Board.
- (d) Attorneys, members of families, prison officials and others are not permitted to sit in on a prisoner's parole interview.
- (e) The Parole Board reaches its own written conclusion as to granting the prisoner the privilege of parole.
- (f) The vote on granting or denying parole is by majority vote of the Board.
- (g) The Parole Board, by the same vote, may place the prisoner's case on its log for Further Consideration.
- (h) Any prisoner may waive his right to a particular interview. Where a waiver is involved, the prisoner's record will be so marked.
- (i) The Parole Board may attach any special condition or conditions it deems advisable to paroles granted.
- (j) The Parole Board will advise each prisoner, at the interview, whether he is granted parole, denied parole or his case placed on the log for Further Consideration. Prisoners interviewed receive also written notice on the decision made by the Parole Board.
- (k) All members of the Parole Board must sign the report of interview, including any dissents and the reasons therefor, unless for some reason stated of record, a member is disqualified.
- (l) Prisoners whose interview hearings are taken under consideration will be duly advised, by written notice, of the final decision of the Parole Board on their applications to be released on parole.
- (m) Good time and extra good time deduction will not be considered by the Parole Board as coming off the minimum term of an indeterminate, definite or flat sentence in order to complete the eligibility requirement.

II--Detainers or Holds

Prisoners having a "Detainer" or "Hold" lodged against him will not prevent their appearance before the Board for parole interview. He, of course, must be otherwise eligible for such interview.

If parole is granted to the prisoner, such other state, Federal authority or county in West Virginia, having the Detainer or Hold, will be given notice as to the date the prisoner is to be released.

III--Prisoners With Two or More Prior Convictions

A prisoner having two or more prior felony convictions against him and is not serving a life sentence becomes eligible for parole interview after completing the minimum of his indeterminate or one-third of his definite or flat sentence.

The time as to when a prisoner is to be paroled is discretionary with the Board of Probation and Parole. The time as to when a prisoner is to be released on parole is discretionary with the Director of the Division of Correction.

IV--The First Offender; The Young Offender

The first offender and the young offender will be given preference in parole consideration by the Parole Board. Such offenders must, however, be otherwise eligible for parole interview. Their conduct record in the institution is a very important factor in determining whether or not to grant parole.

ELIGIBILITY--PAROLE INTERVIEW-- FAVORABLE PAROLE CONSIDERATION

A--The Sentences

1. Prisoners must complete the minimum of their indeterminate sentences or the one-third of their definite or flat sentences.
2. The minimum of indeterminate sentences or the one-third of definite or flat sentences are computed by the Parole Board on the basis of a calendar year.

3. Applications for release on parole should be filed with the Institutional Parole Officer as soon as possible after prisoners are received at the institution.
4. The Parole Board will not give favorable parole consideration to release on parole to prisoners who have not filed their applications or have refused to do so.
5. Prisoners with life sentences, other than under the Habitual Criminal Act, must serve ten years.
6. Prisoners with life sentences, not under the Habitual Criminal Act, and who have two or more prior felony convictions on their records must serve fifteen years.
7. Prisoners having life sentences under the Habitual Criminal Act must serve fifteen years.
8. Prisoners with life sentences, without recommendation for mercy, are not eligible for parole.
9. Prisoners having one or more indeterminate sentences or definite or flat sentences running consecutively must serve the total of such minimum of their indeterminate consecutive sentences or the minimum of their definite or flat consecutive sentences.

B--Escapes

The Board of Probation and Parole, in determining the fitness for parole of any prisoner, will take a serious view of any escape on such prisoner's record.

The following rules will be effective in determining eligibility for parole of prisoners who have escaped:

1. Prisoners who escape from custody of prison authority before serving the minimum of their indeterminate sentences or the one-third of their definite or "flat" sentences must, on apprehension and return to custody, serve the remaining months of their minimum sentences, plus the minimum of any new sentence, plus a period of one year.
2. Prisoners who escape from custody of prison authority after serving the minimum of their indeterminate sentences or the one-third of their definite or "flat" sentences must, on apprehension and return to custody, serve the minimum of any new sentence received, plus a period of one year.

3. Prisoners who escape from custody of prison authority once before and once after serving the minimum of their indeterminate sentences or the one-third of their definite or "flat" sentences must, upon apprehension and return to custody, serve the minimum of any new sentences received, plus a period of two years.
4. Prisoners who escape from custody of prison authority two or more times before serving the minimum of their indeterminate sentences or the one-third of their definite or "flat" sentences must, upon apprehension and return to custody complete the remaining months of their minimum sentences, plus the minimum of any new sentences, plus three years.
5. Prisoners who escape from custody of prison authority two or more times after completing the minimum of their indeterminate sentences or the one-third of their definite or "flat" sentences must, on apprehension and return to custody, serve the minimum of any new sentences, plus a period of three years.
6. Prisoners who escape from custody of prison authority two or more times before and two or more times after serving the minimum of their indeterminate sentences or the one-third of their definite or "flat" sentences must, upon apprehension and return to custody, serve the minimum of any new sentences received, plus a period of four years.

Return to custody means return to the penal institution.

The Board will consider an "attempted escape" as an escape in determining eligibility.

C--Violation of Prison Rules and Regulations

Institutional rules and regulations are designed for control and discipline within the institution. Prisoners who are in violation of the institution rules give indications of non-adjustment. Therefore:

1. Prisoners on Red and White, in solitary confinement, Red Lock, seclusion or otherwise undergoing punishment and not being so held only for protection will not be given parole interview hearings.

2. Prisoners who failed to maintain an institutional good conduct record for a period of three months prior to the date of his parole interview month will not appear before the Parole Board.
3. Prisoners who have so failed to maintain good conduct, as above, will have their interview month moved forward for six months from the date of the violation committed in the institution, and if denied at that time will be reviewed yearly from that date.
4. Prisoners having rules violations who are warned, or excused in writing by the warden, will fall in the regular parole interview period.

D--Mentally Ill Prisoners--Tuberculosis

1. Prisoners confined in mental institutions for observation and psychiatric treatment will not be interviewed by the Parole Board until it has received a complete report from the institution showing that there has been a recovery from the mental illness or disturbance.
2. Prisoners confined and/or taking treatment for tuberculosis may be interviewed by the Parole Board. They could be granted parole, but parole will not be approved until the receipt of medical reports giving assurance that they are cured or the case has been arrested. The report should show that release would not constitute a danger to the health and welfare of society.

APPEARANCE FOR PAROLE INTERVIEW

When a prisoner appears for parole interview, the Board shall have before it information on:

- (a) Social history and family background.
- (b) Education, habits and associations.
- (c) Occupation, and any prospective employment.

- (d) Home from where he came and the one to which he will go.
- (e) The complete crime report, facts and circumstances.
- (f) Sentiment for or against parole release, including statements from the judge, prosecuting attorney, arresting officer and victim.
- (g) Summary of the pre-parole investigation with any recommendation.
- (h) Reports from C.I.B. and F.B.I.
- (i) Institutional conduct record, nature and extent of punishment.
- (j) Any changes or improvements noted in his mental or moral condition.
- (k) Institutional work record, kind, average hours per day, with recommendation as to kind of employment he is best fitted to perform and succeed on leaving prison.
- (l) Report on physical, mental and psychiatric condition made within two months prior to parole interview.

The Parole Board has authority to waive the requirement as to any of the above named reports when not available or applicable to the prisoner being considered for parole. In such event, however, the Board shall enter the waiver on the record and give its reasons therefor.

The Parole Board, at the interview, shall inquire into and get statements thereof, among other things, as to the prisoner's current attitude toward:

1. Society in general.
2. Judge.
3. Prosecuting Attorney.
4. Police or officer making arrest.
5. Crime for which sentenced.
6. Prior criminal record.

PAROLE FROM JAIL

The Parole Board under the provisions of Chapter 62, Article 12, Section 13 of the West Virginia Code as Amended, has exclusive authority to parole from any county and city jail. In order for the Board to take action, there are certain specific requirements. These are:

- (a) The jailed person must submit his written application.
- (b) If under sentence on a felony conviction, he must serve the minimum time required for penitentiary prisoners.
- (c) If under a misdemeanor sentence, he is eligible for parole consideration, upon receipt of his written parole application and after time for probation release by the sentencing court or judge has expired.
- (d) The Parole Board, before making a decision, will conduct a thorough investigation into the applicant's case, contacting the judge, prosecuting attorney, arresting officers and others regarding the applicant.
- (e) The Parole Board reaches its own conclusion as to the advisability of parole release of a person from jail.

The Parole Board acts to release on parole from jail when the power of the court ceases. This is after ten days have been served under the jail prisoner's sentence. After that time, the control of the duration of sentence in jail lies in the authority of the Board of Probation and Parole. If it believes the jailed prisoner is ready to take his place in society, it will grant him parole. There is no minimum time required to be served, after being granted parole, before being released on parole.

PAROLE RELEASE--CONDITIONS

1--Parole Program

When a prisoner is granted parole, he will be referred to the Division of Correction for release.

It is not a requirement for parole that the prisoner has a suitable home or job available; however that information is helpful to the Division of Correction in arranging for release and supervision upon parole being granted by the Board of Probation and Parole.

The Parole Board recommends that guards, correctional or prison officials should not submit home and employment offers on behalf of any prisoner.

II--The Order of Release on Parole

When a prisoner's parole program is approved by the Director of the Division of Correction, after parole is granted by the Board, an order for his release on parole is executed. This order must be signed by the Chairman of the Board of Probation and Parole and the Member-Secretary.

The Order of Release on Parole carries the parole agreement which is binding on the Parolee when he signs it. The agreement is that the:

- (a) Parolee shall not, during the period of his parole, violate any criminal laws of West Virginia, any other state or of the United States.
- (b) Parolee will not, during the period of his parole, leave the State of West Virginia without the written consent of the Director of the Division of Correction.
- (c) Parolee shall comply with and abide by the rules and regulations prescribed by the Director of the Division of Correction for his supervision.
- (d) If arrested in another state during his parole he waives extradition and will not resist being returned by order of the West Virginia Director of the Division of Correction.

The Parole Board may add any other special condition it deems advisable. The Board may not permit a parolee to enter, visit or live in a specific county or counties; or may recommend that he serve so many months on parole.

PAROLE SUPERVISION

A--Rules

Parolees are supervised by the Director of the Division of Correction and his agents and all persons released on parole shall comply with such rules and regulations prescribed by the Director. These rules and regulations are set forth on the reverse side of the Order of Release on Parole.

PERIOD OF PAROLE--DISCHARGE

The period of parole is for the maximum time for which a prisoner was sentenced, less such good time deduction as provided by law. If the Director of the Division of Correction believes that the ends of parole have been attained, he may issue a certificate of discharge to the paroled prisoner. This certificate of discharge is for all sentences upon which the paroled prisoner was confined. The certificate, however, is not effective until received by the paroled prisoner. Receipt thereof terminates the sentence or sentences imposed upon him for which he was serving when paroled.

The Director of the Division of Correction may, after a paroled prisoner, serving sentences less than life, has been on parole one year, discharge him. In the case of life sentences, there can be no discharge until the parolee has served five years from the date of release on parole. Further, the Director may discharge from parole a parolee who is under sentence in another penitentiary outside of West Virginia, or under Federal sentence in a United States Prison, if he believes that the ends of justice do not require his return and reconfinement in this state.

The paroled prisoner is required to sincerely conduct himself in every respect in an upright, honorable, peaceful and law-abiding manner at all times. That, by so doing, he may again become a useful citizen in his community and state.

The West Virginia Parole Board wishes the paroled prisoner every success in his return to society.

THE PAROLE VIOLATOR

A--Return to Prison

A paroled prisoner who becomes delinquent through or by violating these rules and regulations or any of the terms and conditions of release on parole could be returned to prison. When so returned, he is classified as a parole violator. As a parole violator, he could be returned to prison to serve the remainder of his sentence or for such additional time as provided in these rules and regulations. A paroled prisoner, in violation of his parole, must first be given a prompt and summary parole violation hearing. The hearing may be held by the full membership of the Board or a member or members thereof. Record of the proceedings is made and placed on permanent file.

B--The Parole Violation Hearing

The Board, after the paroled prisoner's arrest and he is in custody, will arrange for the holding of a prompt and summary hearing. The paroled prisoner is given a notice as to the hearing and the place where it is to be held. In the notice, he is given the various charges of violation of parole. He is also advised that he has the right to be represented by an attorney. The attorney, of course, must be employed by the paroled prisoner or his family or someone in his behalf, as there is no provision under our law for the furnishing of an attorney by the State of West Virginia. The paroled prisoner also is permitted the right to have witnesses to give testimony or evidence in his behalf at the hearing. Such witnesses may or may not be sworn. In those cases where the paroled prisoner does not desire to be represented by an attorney, he is duly cautioned as to his rights and that his plea or pleas of guilty could cause his return to prison. The paroled prisoner is also advised that he could give any information, evidence or explanation regarding the claims of parole violation placed against him. The violation falls in two categories, viz, "Felony" and "Technical."

Where the hearing is held by less than the full membership of the Board, a report is filed and final action is taken by all members of the Board. In the report, the Hearing Member or Members make specific recommendation which may or may not be followed by the full Board at the time of the decision.

C--The Felony Violator

Where the paroled prisoner has confessed to, or been convicted of, in West Virginia, or any other state, or under Federal laws, the laws of the District of Columbia, or the territorial possessions of the United States of the crimes of treason, murder, armed or unarmed robbery, rape, sodomy or incest, he will be returned to prison in West Virginia. On such return, he will be reconfined for the maximum term of the sentence on which he was paroled.

When the felony violation is not one of the crimes indicated above, a different status occurs as to the parole violator. He could be returned to prison for a stated time and be again re-released on parole.

When the felony violator is returned to prison with a new sentence, the Parole Board has no discretion in revoking the parole. In other instances of felony violators, where confined in prison in another state or any of the prisons of the United States, the Director of the Division of Correction may cause his return to West Virginia and refer his case to the Board of Probation and Parole for a Parole Violation Hearing and the Board may revoke the parole; or continue on parole.

D--The Technical Violator

The technical violator is a paroled prisoner who has become delinquent through violating the rules and regulations and not on felony grounds. This kind of violation, after a hearing, may or may not cause the return to prison. The decision as to return or continuance on parole rests with the Parole Board.

PAROLE VIOLATORS---ELIGIBILITY FOR RE-PAROLE

1. Paroled prisoners returned as violators for committing treason, murder, armed or unarmed robbery, rape, sodomy or incest, are not eligible for re-parole. They must serve the maximum time of the sentence on which they were released on parole. Where such paroled prisoners have received additional sentences or sentence, on any one of the crimes listed, they become eligible for parole interview on completion of the sentence on which they were released on parole; providing they have completed the minimum portion of the new sentence or sentences received while on parole.
2. Paroled prisoners returned as violators for committing some felonies, other than any of those listed in paragraph 1, will be required to serve two years from the effective date of the revoking parole before being interviewed for re-release on parole.
3. If the paroled prisoners, so returned as violators, have received a new sentence or sentences, they will be required to serve the two years for parole violation plus the minimum of the new sentence or sentences received before being interviewed for re-release on parole.
4. If paroled prisoners complete the sentence on which they were paroled and have served the minimum portion of the new sentence or sentences received, they may be called for interview, even though they have not completed the time required in paragraph 3. That paragraph is applicable only where the paroled violators returned have not completed the sentence on which they were released on parole.

5. Paroled prisoners returned as violators on technical grounds are required to serve one year from the effective date of revocation of parole before appearing for interview on their applications to be re-released on parole.
6. Paroled prisoners returned as violators on technical grounds and, while re-confined escape from custody of prison authority, upon apprehension and return to custody will be required to serve the minimum of any new sentences received and in addition will be required to serve at least eighteen months before being given favorable consideration for re-release on parole.
7. Paroled prisoners returned as violators on felony grounds, other than those listed in paragraph 1, and while re-confined escape from custody of prison authority, upon apprehension and return to prison custody will be required to serve the minimum of all new sentences received under West Virginia law, plus a period of thirty months, before being given favorable consideration for re-release on parole.

Return to custody in all cases shall mean return to the penal institution.

STATE OF WEST VIRGINIA



BOARD OF PROBATION AND PAROLE
CHARLESTON

ORDER OF RELEASE ON PAROLE

KNOW ALL MEN BY THESE PRESENTS: That the West Virginia Board of Probation and Parole being of opinion that _____ Serial No. _____, a prisoner of the State of West Virginia, confined at _____ intends to lead an orderly and law abiding life as a worthwhile and useful citizen, and that the release of said _____ will not be incompatible with the best interests and welfare of society, doth hereby order that the said _____ be and _____ is hereby granted a release on parole in accordance with the laws of West Virginia as to parole and subject to the rules and regulations prescribed by the Commissioner, Department of Corrections regarding release from the institution, and subject to the rules and regulations governing parole supervision made in pursuance thereof.

Done this the _____ day of _____, 19 ____.

WEST VIRGINIA BOARD OF PROBATION AND PAROLE

By a majority vote of the Board

Chairman

Member-Secretary

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3-20-79

STATE OF WEST VIRGINIA
DEPARTMENT OF CORRECTIONS

RULES AND REGULATIONS GOVERNING PAROLE SUPERVISION

Inmates released on parole are required to abide by the laws governing parole and by rules and regulations, as provided by the Commissioner, Department of Corrections, for their supervision. It is the duty of a field officer to require a parolee to abide by the terms and conditions of parole and the rules and regulations made for his or her supervision. The field officer may arrest the parolee with or without a warrant, or can cause his or her arrest by any law enforcement officer.

RULES AND REGULATIONS ARE AS FOLLOWS

1. When released, you must proceed directly to the place to which you have been paroled and report to your field officer within 24 hours unless otherwise instructed.
2. You are required to have the written permission of your parole officer before you may:
 - a. Apply for operator license, own or operate a motor vehicle
 - b. Marry
 - c. Change residence
 - d. Change employment
 - e. Leave the county to which you are paroled
3. You must not use intoxicants to such an excess that your behavior becomes unacceptable. (example: an arrest for public intoxication, DWI, or evidence of consistent established patterns.)
4. You are required to have suitable employment and to remain gainfully employed. Further, you must support your family and dependents and assume all of your moral and legal obligations.
5. You must not visit or frequent places or areas forbidden by your parole officer.
6. You must not own, carry or possess firearms or lethal weapons of any kind, or be in any vehicle that contains these weapons.
7. You must report immediately to your parole officer each time you are arrested or questioned by officers of any law enforcement agency and furnish to your parole officer all the facts and circumstances which brought about your arrest or questioning.
8. Between the first and fifth of each month you must make a complete and truthful written report to your field officer of your previous months activities on forms provided and make personal reports as directed by your field officer.
9. You are not to possess, use, or have in your possession any drugs, paraphernalia, or violate any of the rules and regulations of the Uniform Controlled Substances Act, 1973, as amended.
10. You must not write to or visit with inmates in the penal institutions of this state, unless you first secure the written permission from the warden or superintendent of such institution.
11. You will abide by any special written instructions imposed upon you by your field officer.
12. Your parole discharge is effective only upon your receipt of a discharge certificate that has been signed by the Commissioner of the Department of Corrections. A certificate of discharge terminates the sentence or sentences imposed upon you by the Court.

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3-20-79

STATE OF WEST VIRGINIA



DEPARTMENT OF CORRECTIONS

PAROLE AGREEMENT

I, _____, a prisoner of the State of West Virginia, in confinement at _____, in consideration of being granted release on parole, do hereby agree that, during the period of my parole, I shall:

1. Not violate any criminal laws of this or any state, or of the United States.
2. Not leave the State of West Virginia without the written permission of the Commissioner of Corrections or an authorized agent.
3. Comply with and abide by all the rules and regulations prescribed by the Commissioner, Department of Corrections or an authorized agent.
4. If arrested in another state during the period of my parole, I waive extradition and will not resist being returned by order of the West Virginia Department of Corrections.
5. Special Conditions _____

It is understood by me that the violation of any of the terms and conditions of this agreement for my release on parole or any rules and regulations made for my supervision while on parole, shall subject me to being returned to the institution from which I was paroled to serve the maximum of my term, except when otherwise ordered.

I do hereby declare that the conditions of release and the rules for my supervision, have been explained to me and I fully understand the rules and conditions. I shall faithfully obey and abide by the same and report as directed.

Signed this the _____ day of _____ 19 _____.

PAROLEE

BY: _____
PAROLE OFFICER