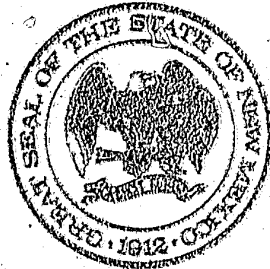


STATE OF NEW MEXICO
PAROLE BOARD



**RULES, REGULATIONS, PROCEDURES AND
PAROLE BOARD STATUTES**

JULY 1976

MICROFICHE

58904

ODACA
OR

ANTONIO A. RIVERA
CHAIRMAN

GUNTHER A. HASELBAUER
MEMBER

CHARLES OVERCASH
MEMBER

STATE OF NEW MEXICO

Governor
JERRY APODACA

Parole Board

Telephone: (505) 827-2103

Chairman
ANTONIO A. RIVERA



Deputy Director
JAMES R. HEIN

Members
CHARLES OVERCASH
GUNTER A. HASELBAUER

1451 St. Michael's Drive, Suite No. 1
Santa Fe 87503

July 21, 1976

RULES AND REGULATIONS

The 1975 Legislative Session under the urging of Governor Jerry Apodaca, created New Mexico's first professional, full-time Parole Board.

Legislative and Executive mandate stipulated the formalizing of new rules and regulations to replace the previous part-time Board's guidelines. The following text represents our efforts in fulfilling this requirement and I am sure it will be useful to all concerned.

Special appreciation is extended to Mr. Santos Quintana, Director of Field Services Division, the Parole Officers in the field, Ms. Andrea Buzzard, Assistant Attorney General, Mr. Charles Baldonado of the Public Defender's Office and the caseworkers at the Penitentiary for the information and assistance given to the Parole Board in this endeavor.

All previous regulations in conflict herewith are hereby rescinded.

Sincerely,

Antonio A. Rivera
Chairman

AAR/ff

CONCUR:

GUNTHER HASELBAUER
MEMBER

CHARLES G. OVERCASH
MEMBER



STATE OF NEW MEXICO

OFFICE OF THE GOVERNOR

SANTA FE

87503

JERRY APODACA
GOVERNOR

July 26, 1976

A MESSAGE FROM THE GOVERNOR

I am very pleased to endorse the first compilation of rules and regulations of the new full-time, professional Parole Board for the State of New Mexico.

The introduction of these formalized procedures and guidelines is consistent with the Goals for Corrections established by the National Advisory Commission on Criminal Justice and meets the Law Enforcement Assistance Administration's criteria as administered by my Council on Criminal Justice Planning.

These procedures are in compliance with my mandate and the Statutes enacted by the 32nd Legislature, 1st Session, Laws 1975, House Bill 330, as amended and are meant to present, clearly and concisely, information which may be useful to court officials, parole and penitentiary personnel, inmates and other interested people.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Apodaca", written over a horizontal line.

JERRY APODACA
Governor

JA:aar

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POLICY STATEMENT PERTAINING TO THE GRANT,
DENIAL AND REVOCATION OF PAROLE
AND TO THE DISCHARGE OF A PAROLEE

In accordance with Section 41-17-40, NMSA 1953 Comp. (1975 P.S.), the Parole Board hereby adopts a written policy specifying the criteria to be considered by the Board in determining whether to grant, deny or revoke parole or to discharge a parolee.

A. With respect to the grant or denial of parole, the following criteria will be considered by the Parole Board in making a determination:

- (1) Whether the inmate has given evidence of having secured gainful employment or satisfactory evidence of self-support.
- (2) Whether the inmate can be released without detriment to himself or to the community.
- (3) Whether the inmate is able and willing to fulfill the obligations of a law-abiding citizen.
- (4) Criteria (1), (2), (3) must be met in order for an inmate to be paroled to the community.

B. In determining whether criteria (1), (2), and (3) have been met, the following factors will be considered by the Board:

- (1) The inmate's ability and readiness to assume the obligations and responsibilities provided in the parole certificate.
- (2) The degree to which the inmate has close ties to family and friends.
- (3) The degree to which the type of residence or community in which the inmate plans to live is conducive to good behavior while on parole.
- (4) The inmate's employment history and his occupational skills and training, both civilian and/or military, and any skills he may have attained while at the penitentiary.
- (5) The inmate's plans and intended pursuits if released.
- (6) The inmate's past use of narcotic or excessive use of alcohol.
- (7) Any recommendations made by the sentencing court.
- (8) The inmate's conduct during his term of imprisonment.
- (9) Any presentence or pre-release investigative reports prepared in accordance with Section 41-17-23, NMSA 1953 Comp.
- (10) The inmate's criminal record.
- (11) Reports of physical and mental examinations as have been

- made, and conclusions and recommendations made therein.
- (12) The inmate's behavior and attitude during the present and any previous confinement.
 - (13) The inmate's behavior and attitude while on probation or parole from any other sentence and the recentness of such probation or parole.
 - (14) The availability of community resources to assist the inmate if paroled.
 - (15) The circumstances of the offense of which the inmate was convicted and sentenced.
 - (16) Any recommendations or comments filed with the Board regarding the inmate's suitability for parole.
 - (17) The inmate's previous social history, including his reputation in his home community.
 - (18) The inmate's positive efforts on behalf of others.
 - (19) The inmate's culture, language, values, mores, judgments, communicative ability and other unique qualities.
 - (20) One standard, is not, will not, be applied to all inmates regardless of race or culture.
 - (21) Any other relevant factors which the applicant and the board may wish to pursue.

C. With respect to the parole of an inmate to a detainer or to a consecutive number, the following criteria will be considered by the board in making a determination:

- (1) The inmate must sufficiently demonstrate the attitude that he could, if released to the community, be able and willing to be a law abiding citizen.
- (2) The inmate must sufficiently demonstrate the attitude that, if he were to be released to the community, he would not be a detriment to himself or to the community.
- (3) The parole of an inmate to a detainer or to a consecutive number must be in the best interest of the applicant and society.

D. With respect to the parole of an inmate for hospitalization, the following criteria will be considered by the board in making a determination:

- (1) It must appear that the inmate needs and will benefit from physical or mental treatment.
- (2) It must appear that such treatment, if successful, would probably render the inmate a suitable candidate for parole to the community.

E. With respect to the revocation of parole, the criteria is as follows:

- (1) Whether the parolee has violated a condition of parole. Whether the violation or violations of one or more conditions of parole demonstrates a disregard of or care-

less attitude toward the conditions of parole. Whether the parolee, whose violation of parole is established should be recommitted to the penitentiary or should other steps be taken to protect society and improve chances of rehabilitation?

- (2) If the violation is sufficiently justified by the parolee, the board may continue his parole or may enter any other order it deems appropriate.
- (3) If the violation is not established the parolee will be reinstated on parole.
- (4) When a parolee has been returned to the Penitentiary of New Mexico, bail or bond release cannot be accomplished pending final revocation hearing. (See Attorney General Opinion - 4/7/76)
- (5) A record will be made of all parole violation hearings. (This to be accomplished by electronic recording)

F. With respect to the criteria to be considered by the Board in determining whether to discharge a parolee, the following will be considered:

- (1) Upon recommendation by Field Services Division, a parolee who has performed the obligations of his release for such time as will satisfy the Board that his final release is not incompatible with his welfare and that of society, the Board will make a final order of discharge to the parolee.
- (2) No such order of discharge shall be made in any case within a period of less than one year after the date of parole release, except where the sentence expires earlier thereto.

PAROLE HEARINGS

- I. Regular Parole Hearings will be held at regularly scheduled times at the New Mexico State Penitentiary of satellite facilities.
 - A. There are three types of regular parole hearings:
 - (1) The initial hearing, to which each inmate is entitled upon meeting the statutory requirements;
 - (2) Review hearing;
 - (3) Special hearing.
 - B. All special reviews must be approved by the Board before the hearing date.
 - C. Legal counsel for a prospective parolee is not permitted in a regular parole hearing. Visitors will not be permitted unless cleared by the Chairman with the consent of the other Board Members.
 - D. Letters of recommendation concerning parole or job offers should be sent at least one month before the Parole Board hearing. A Parole Board Docket for regular board hearings will be prepared and copies sent to the district court judges who committed the prospective parolees at least thirty (30) days prior thereto.
 - E. Inmates will be informed of the Parole Board's decision within a two (2) day period.
 - F. If parole is denied, reasons for the denial will be provided the inmates. The inmate's caseworker or the Parole Board will inform the inmates of the Board's decision.
 - G. Minutes of regular parole hearings are kept by one of the Board Members.
 - H. If it appears during a regular parole hearing that a translator and/or interpreter are needed in order that the inmate may communicate to the Board and understand the proceedings, the Board will provide one.
 - I. With respect to the parole of inmates sentenced by New Mexico Courts, who are confined in state institutions outside of New Mexico, if the state in which the inmate is located is party to the Western Interstate Corrections Compact, a parole hearing may be provided the inmate pursuant to the provisions of the Western Interstate Corrections Compact.

- J. Meetings of the Parole Board held for the purpose of taking formal action upon a matter not requiring the presence of an inmate may be held at the office of the Parole Board.

HEARING OFFICER REGULATIONS

(Adopted April 29, 1977)

1. Regular parole application hearings may be conducted before one member of the Board or before a hearing officer designated by the Board.
 - A. The regular hearing procedures as set out in the Rules and Regulations of the Parole Board shall be followed.
 - B. If only one Board Member or a hearing officer presides over such hearing, he shall prepare and submit a written summary of the testimony and other evidence, copies of all relevant documentation together with recommendations to the Board within seven (7) calendar days of the close of the hearing for a decision by the full Board.
2. Parole revocation hearings may be conducted before one member of the Board or before a hearing officer designated by the Board.
 - A. The regular hearing procedures as set out in the Rules and Regulations of the Parole Board shall be followed.
 - B. If only one Board Member or a hearing officer presides over such hearing, he shall prepare and submit written findings of fact and conclusions of law together with a summary of the evidence presented at the hearing and recommendations to the full Board within seven (7) calendar days of the close of the hearing for a decision by the full Board.

(Please incorporate in State of New Mexico Parole Board Rules, Regulations, Procedures and Parole Board Statutes, July, 1976.)

PAROLE REVOCATION PROCEDURES

1. Parolees charged with parole violation will receive a preliminary hearing upon such charge or charges in accordance with the rules and regulations of the Department of Corrections and the law applicable thereto.
2. Parolees returned to the Penitentiary subsequent to a finding of probable cause at such preliminary parole revocation hearing will receive a prompt final parole revocation hearing. Parolees returned to the Penitentiary twelve days prior to the next regularly scheduled parole hearings will receive their hearings at such next regular scheduled hearings. Parolees returned to the Penitentiary less than twelve days prior to the next regularly scheduled parole revocation hearings will receive their hearings at the subsequent regularly scheduled parole revocation hearings.
3. Parolees will be afforded the opportunity to request assistance of counsel. Parolees requesting assistance of counsel at their final revocation hearings will be interviewed by a member of the Parole Board to determine whether such parolees need assistance of counsel in accordance with the following criteria:
 - A. Whether the parolee claims he has not committed the alleged violation.
 - B. Whether there are substantial reasons which justified or mitigated the violation and makes revocation inappropriate.
 - C. Whether such reasons are complex or otherwise difficult to develop or present.
 - D. Whether the parolee appears capable or incapable of speaking effectively for himself.
 - E. Whether the parolee is indigent.
4. If counsel is refused, the Board shall succinctly state the grounds for refusal.
5. If the Parole Board determines that counsel is necessary for an indigent parolee the New Mexico Public Defender's Office shall be notified and requested to represent the parolee.
6. At the final parole revocation hearing, the following due process requirements will be observed:
 - A. Written notice to parolee of the claimed violations of parole.
 - B. Disclosure to the parolee of evidence against him.
 - C. Opportunity to be heard in person and to present witnesses and documentary evidence.

- D. The right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation).
 - E. A written statement by the factfinders as to the evidence relied on and reasons for revoking parole.
7. The Parolee will be afforded the opportunity prior to final revocation hearing to request the presence of witnesses who have given adverse information.
 8. Hearsay evidence which the Parole Board deems reliable may be admitted at such parole hearings. The Board may consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial.
 9. If the parole violation charged is established, the Parole Board may continue or revoke the parole or enter any other order it deems appropriate. In determining its course of action, the Board will consider whether the parolee should be recommitted or other steps taken to protect society and improve chances of rehabilitation.
 10. At the final parole revocation hearing, a parolee cannot relitigate issues determined against him in other forums, as in the situation presented when revocation is based on conviction of another crime.
 11. Parolees confined in institutions outside of New Mexico by reason of a new conviction subsequent to release on parole will receive a final parole revocation hearing upon their return to the New Mexico State Penitentiary.
 12. Credit for time served while on parole will be given unless (1) the parolee absconds from parole supervision, or (2) the parolee was convicted in another state and sentenced to confinement in a penal institution outside of New Mexico. However, the Parole Board may exercise discretion in determining whether to grant or disallow credit for those periods of time while on parole prior to revocation.

REVIEW AFTER INITIAL DENIAL

An inmate who has received an initial hearing, and has been denied a parole, may request an early review, in the following manner:

1. Submit request through caseworker.
2. Request, and caseworker's recommendation, will be submitted to the Parole Board.
3. In all instances the request for a review will state the compelling reason, if any, or the reasons for the requested review.
4. The Parole Board will advise applicant in writing of its decision.

RESCINDING PAROLE

Any inmate who has been granted a parole can have his parole rescinded, while in actual confinement in any of the penal institutions of this State, for the following reasons:

1. Admission of, or finding of guilt, of a disciplinary level report.
2. Admission of, or finding of guilt, of any misconduct report.

WAIVER OF PAROLE HEARING

Any inmate may waive his initial, or any subsequent parole hearing, in writing or by oral statement to the Board or by advising his case manager of his desire to so waive.

WAIVER OF PAROLE HEARING BY OUT-OF-STATE INMATE

Any inmate serving a concurrent out-of-state sentence in a New Mexico sentence in an out-of-state institution, may waive his initial appearance, before the Board by signing a waiver of personal appearance and the Parole Board may review the case administratively.

REMOVING OR ADDING PAROLE CONDITIONS

Any parolee, by going through his parole officer, may request that a condition be removed, but the request must have the recommendation of his parole officer.

The parole officer who wishes to add or remove any condition, must have the Parole Board's permission to change the parolee's certificate. In some cases a personal interview may be requested.

In all instances the request for addition or removal of parole conditions must state the reasons for the request.

VOTING ON GRANTING A PAROLE AND
VOTING ON PAROLE REVOCATIONS

A majority of two Board Members is required to grant, deny or revoke a parole. If only two Members of the Board are present at any hearing and a tie vote, results then the matter will be deferred and resubmitted to the full Board for decision.

VENUE FOR TRANSACTION OF PAROLE BOARD HEARINGS

Parole Board hearings will be held at the following places, as applicable:

1. Penitentiary of New Mexico;
2. Satellite facilities established by the Corrections Commission;
3. New Mexico State Hospital, Forensic Treatment Unit; and/or
4. At the main office of the Parole Board.

FINAL PAROLE REVOCATION HEARING DATES
AND SERVICE OF DOCUMENTATION

1. Final Parole Revocation Hearings are scheduled to commence on the third Wednesday of each month and continuing through Thursday and Friday.
2. Field Services Division Staff will serve the parolee with proper documentation on alleged violations.
3. Parole Board will make determination as to attorney eligibility and notify the Public Defender's Office and Field Services Division.
4. Field Services Division will serve the Public Defender's Office with proper documentation on alleged violations a minimum of at least ten (10) working days before the scheduled hearing.
5. Parolees not requiring the services of counsel, and arriving at the Penitentiary of New Mexico at least five (5) working days before the scheduled hearings for that month will be served with proper documentation and will be heard that month.

APPOINTING AN ACTING CHAIRMAN

When the Chairman is unavailable, he shall designate one member of the Board to be acting Chairman.

SUPPORT SUPERVISORY RELEASE

CRITERIA

There is hereby adopted by the Parole Board the following practice to be applied in those instances where a resident of the New Mexico Penitentiary is approaching a final release date, and to be followed only in those instances where the final release date is a minimum of six (6) months:

(This program involves considering parole for those inmates who have previously been denied parole but who will "final out" their sentence within six (6) months. Such releases are made on the theory that it is more appropriate to release "poor parole" risks under some form of supervision rather than to release them without any supervision at the termination of their sentence.)

- A. A petition, which may be by letter shall be submitted to the Parole Board seeking consideration under this procedure. In all instances the petition shall be accompanied with the recommendations of the case manager.
- B. To be considered for this program, the petitioner must meet the minimum parole eligibility requirements.

CHAIRMAN
Antonio A. Rivera
MEMBERS
Charles Overcash
Gunther A. Haselbauer

STATE OF NEW MEXICO
PAROLE BOARD

CERTIFICATE OF PAROLE

TO _____ PNM No. _____

The Parole Hearing Board of the State of New Mexico, by virtue of the authority conferred upon it by law, has approved your parole effective _____, 19____, or as soon thereafter as possible.

Your parole will expire on _____, 19____, unless extended by an act of delinquency or revocation. This parole was authorized and special conditions mandated by the New Mexico Parole Hearing Board at their meeting _____, 19____.

(Reporting Instructions)

Given in quadruplicate _____

Signed: _____
Antonio A. Rivera

I hereby certify that the resident indicated was released on parole from the Penitentiary of New Mexico in compliance with the instructions of the Parole Hearing Board on _____, 19____.

Signed: _____

Title: _____
Penitentiary of New Mexico

This parole is to be granted to you and accepted by you, subject to the conditions hereinafter set forth as well as those imposed by the Parole Hearing Board at any time during your period of parole. Upon completion of one year after your parole discharge or release from this institution, you can apply by letter to the Governor for a pardon.

PAROLE CONDITIONS

1. I will report to my Parole Officer no later than the 10th of each month in person, (unless otherwise instructed) and submit a full and truthful MONTHLY REPORT on the form provided for that purpose.
2. If I am paroled or transferred to the custody of another State, I will abide by any rules in effect in that State, and by the Parole Conditions imposed by the New Mexico Parole Board.
3. I must secure a travel permit from my Parole Officer before:
 - (a) Leaving the State of New Mexico;
 - (b) Leaving the County to which I have been paroled, (unless otherwise determined by my Parole Officer).
4. I must consult with my Parole Officer, and secure his/her consent before:
 - (a) Changing my residence;
 - (b) Changing my employment;
 - (c) Entering into any civil contracts;
 - (d) Enrolling or withdrawing from any educational or vocational institutions.
5. I will demean myself as a law abiding citizen, including obedience to rules and regulations of any educational or vocational institution. I will report any arrests of myself to my Parole Officer within 72 hours.
6. I will not illegally possess, use, or sell any narcotic durg and/or controlled substance or paraphenalia related thereto.
7. I will not visit any penal institution or communicate with any inmate thereof without first securing the permission of my Parole Officer and superintendent of said institution.
8. I will not knowingly associate with any person whom my Parole Officer has identified as a detriment to my parole.
9. I will not own, carry, purchase or possess deadly weapons of any kind.
10. I will seek and retain employment, and notify my Parole Officer in the event of termination thereof.
11. I will not enter into any agreement to act, or act, as "informer" or special agent for any law enforcement agency without the permission of the Director of Field Services Division.
12. I will permit my Parole Officer to visit with me at all reasonable times and places.
13. I will not use intoxicating beverages to excess.

SPECIAL CONDITIONS: _____

NOW, THEREFORE, I do solemnly affirm, by affixing my signature to this Parole Certificate, that it is my intention to lead an exemplary life and to obey all the laws of society and the conditions hereinabove set out, and that any finding to the contrary by the Parole Board of the State of New Mexico will be sufficient cause to have my parole revoked and do hereby specifically waive any extradition proceedings which may be initiated for my return to the State of New Mexico.

DATED at _____, New Mexico, this _____ day of _____, 19____.

 Parolee

 Witness

 Title

SPECIAL CONDITIONS

- A. I will not consume or buy intoxicating beverages at any time.
- B. I shall not enter what is commonly known as a bar or lounge where only intoxicants are sold.
- C. I will take antabuse, as directed by my Parole Officer.
- D. Until further order of the Board, I will participate in the following rehabilitative program(s):

- E. I will submit to urinalysis _____time(s) weekly.
- F. I will refrain from the following activity:

ADMINISTRATIVE PROCEDURES

(Parole Board-Field Services Division)

1. All communications directed to the Parole Board by Field Services staff shall be routed through the Director of Field Services Division.
2. All communications from the Parole Board directed to Field Services staff shall be routed through the Director of Field Services Division.
3. Information at the disposal of Field Services Division staff, which they deem material and relevant to an individual's parole determination should be forwarded to the Director of Field Services Division and forthwith submitted to the Board.
4. Recommendations for additions or deletions of Special Parole Conditions will be submitted as herein before set out.
5. The addition of the words "Strictly Enforced" in the Parole Certificate removes the use of discretion on the Parole Officer's part and any violation of this condition must be reported to the Director of Field Services Division.
6. The check-out of a "Homeplan" for parole release by Field Services staff should be used as an alternative when employment is non-existent or on a temporary basis.
7. Upon receipt by the Parole Board of parole plan which is unacceptable, the Board shall advise the prospective parolee in writing of this fact, with copies to the Director of Field Services Division.
8. Field Services Division may request that the Board write a letter of reprimand to a parolee who is adjusting poorly on parole, or that said individual appear before the Board personally to discuss his parole adjustment.
9. On requests for parole discharges, persons having three (3) or more years to serve on parole, the parole supervisor will submit a request for consideration of discharge only if in his opinion such parolee merits a review.
10. A parole plan check-out and investigation which reveals that return to a particular community or area which would have adverse effect on the parolee or the community should be covered in said parole plan check-out so that the Board may be apprised of that information prior to the release of the parolee.

11. In the event that the Parole Board places a special parole condition on an individual and the parole plan check-out reveals that compliance therewith is not possible, such determination should be brought to the attention of the Board at the time the parole plan report is submitted.

CHAIRMAN

Antonio A. Rivera

MEMBERS

Charles Overcash

Gunther A. Haselbauer

STATE OF NEW MEXICO

Parole Board



Certificate of Parole

TO _____, PNM NO. _____

The Parole Board of the State of New Mexico, by virtue of the Authority conferred upon it by law, has approved your Parole to consecutive sentence under PNM No. _____.

Upon Satisfactory completion of the minimum requirements of this sentence or upon expiration of this sentence PNM No. _____, the Parole Board will review your case for consideration to community supervision.

This Parole is granted to you and accepted by you, subject to your acceptable conduct while in this institution. Any infraction(s) of institution policy(s) or rule(s) could result in the revocation of this Parole. I also understand that Special Conditions may be added or modified by the Parole Board at anytime.

A determination by the Parole Board that you have failed to comply with this Parole shall be conclusive.

Special Conditions:

Issued in quadruplicate this _____ day of _____, 19____.

Signed: _____
Chairman, Parole Board
Antonio A. Rivera

I have read, or have had read to me, the foregoing conditions of Parole to consecutive sentence. I fully understand them and I agree, in consideration of this privilege, to observe and abide by such conditions.

Signed in quadruplicate this _____ day of _____, 19____.

Signed: _____

Attest: _____
Penitentiary of New Mexico

Title: _____

PAROLE CERTIFICATE

ISSUED TO: _____, PNM No. _____

THIS CAUSE having been submitted to the New Mexico Parole Board for determination on the _____ day of _____ and the Parole Board, under the authority of Section 41-17-24.1, NMSA, 1953 Comp., having received an evaluation of the above-named individual from the Forensic Treatment System, Department of Hospitals & Institutions, with recommendations for referral to the Forensic System for treatment as a part of the terms of his parole, do hereby parole this individual to the Forensic Treatment System under the following terms and conditions:

1. Legal custody over the person of the individual is here by placed with the Forensic Treatment System, including the right to grant furloughs and off-grounds privileges, when it is determined by the Forensic Treatment System that it would be medically advantageous and beneficial for the treatment of this individual to receive such furloughs and other off-grounds privileges.
2. The Forensic Treatment System will furnish the Parole Board (forthwith by mail) with a copy of all furlough certificates and other off-grounds privileges given by the individual and copies of these documents will also be furnished to the Parole Officer, Field Services Division at the geographic area of placement.
3. The Board will review this cause when report is made from the Forensic Treatment System that the individual has received maximum benefits or that the Forensic Treatment System is unable to afford any further treatment. Upon review the Board will determine whether the individual will be returned to the Penitentiary of New Mexico or will be paroled to the community, subject to the issuance of a regular Parole Certificate, or such other disposition as the Parole Board may deem necessary and proper.
4. An established violation of a serious nature of NMSH-FTU rule or regulation, or New Mexico laws, will be sufficient grounds for the Parole Board to rescind this parole forthwith and to be considered for parole at his next regularly scheduled date.
5. A duly signed copy of this Parole Certificate will be sufficient authority for the Warden of the Penitentiary of New Mexico, or his duly authorized agent, to transport the individual to the facility designated by the Forensic Treatment System and that that facility will accept custody of the individual under the terms and conditions herein expressed.

DATED at Santa Fe, New Mexico, this _____ day of _____,
19____.

CHAIRMAN, NEW MEXICO PAROLE BOARD

(SEAL)

REASONS FOR DENIAL OF PAROLE

TO: _____ PNM No. _____

DATE: _____

FROM: NEW MEXICO PAROLE BOARD

RE: PAROLE HEARING

- _____ 1. There is a substantial risk that you will not conform to the Conditions of Parole.
- _____ 2. Your parole at this time would depreciate the seriousness of your crime.
- _____ 3. You have not maintained a clear conduct record sufficient to justify your parole at this time.
- _____ 4. It is found that you need to participate in the following rehabilitative programs:
 - (a) _____
 - (b) _____
 - (c) _____
- _____ 5. The Parole Plan you have presented is not acceptable and you have not shown evidence of satisfactory self-support.

REASONS FOR DENIAL OF PAROLE TO CONSECUTIVE SENTENCE OR DETAINER

- _____ 6. You have not maintained a clear conduct record sufficient to justify your parole to (consecutive sentence) (_____ detainer).
- _____ 7. Parole to your (consecutive sentence) (detainer) would depreciate the seriousness of your crime.
- _____ 8. It is found that you need to do the following before favorable consideration:
- (a) _____
- (b) _____
- (c) _____

WAIVER OF INITIAL PAROLE HEARING

I, _____, PNM # _____,
being fully advised that I have a right to appear before the New Mexico Parole
Board during the month of _____, 197__, do hereby waive
this right and state I do not want to have a parole hearing and agree that I
will see my next regularly scheduled Board.

PNM # _____

DATED: _____

WITNESS:

Case Manager

WAIVER OF PERSONAL APPEARANCE AT INITIAL HEARING

I, _____, PNM # _____
serving time at _____,
do hereby request the New Mexico Parole Board to review my case history and
progress reports from this institution, for purposes of making a decision whether
I should be paroled to serve my New Mexico sentence concurrent with the sentence
I am now serving.

PNM # _____

WITNESS:

Title

STAMPS

(Conditions for parole action on detainers)

1. Parole granted to detainer. If detainer dropped, or charges dropped, while in custody of the PNM, parole denied.
2. Parole granted to detainer. If detainer dropped, or charges dropped, while in the custody of the detaining authority, continued on parole.
3. Parole granted to detainer. If detainer dropped, or charges dropped, while in the custody of the detaining authority, parolee to be returned to NM and parole denied.

WAIVER OF ATTORNEY
AT FINAL REVOCATION HEARING

TO: New Mexico State Parole Board

I, _____, PNM No. _____
knowing and understanding that I may have an attorney appointed to represent me on Final Revocation Hearing, feel that I am able to present my own case to the Parole Board and do hereby waive the right to have an attorney appointed to represent me.

I do hereby specifically request the right to appear before the Parole Board personally and represent myself at such Final Revocation Hearing.

DATED: _____

PNM No. _____

WITNESS:

Title _____

(If this form is completed, please return to your caseworker)

WAIVER OF FINAL REVOCATION HEARING

TO: New Mexico State Parole Board

I, _____ PNM No. _____,
have been advised and know that I may have a Final Revocation Hearing before
the Parole Board.

After considering this matter, I do hereby waive the right to have an
attorney represent me and further waive the right to have a Final Revocation
Hearing, I freely and voluntarily admit that I have violated the terms and
conditions of my Parole, as alleged.

I further agree that the Parole Board may enter a decision in my case and
that I need not be present.

DATED: _____

PNM No. _____

WITNESS:

Title: _____

(If this form is completed, please return to your caseworker)

41-17-37. Short title.--Sections 1 through 5 of this act ¶41-17-37 to ~~41-17-41~~ may be cited as the "Parole Board Act."

41-17-38. Purpose.--The purpose of the Parole Board Act ¶41-17-37 to 41-17-44¶ is to create a full-time, professional salaried parole board.

41-17-39. Parole board--Members--Appointment--Terms--Qualifications
--Compensation--Organization.--A. There is created the "parole board"
consisting of three ¶3¶ members appointed by the governor with the consent
of the senate. Each member of the board shall devote his full time to the
duties of the board.

B. The terms of the members of the board shall be three ¶3¶ years
except that the members of the initial board shall be appointed for
staggered terms of one ¶1¶, two ¶2¶ and three ¶3¶ years respectively.

C. Members of the board may be removed by the governor as provided
in article 5, section 5 of the Constitution of New Mexico. Vacancies shall
be filled by the governor for the remainder of the unexpired term.

D. Members of the board shall be persons qualified by such academic
training or professional experience as is deemed necessary to render them
fit to serve as members of the board. No member of the board shall be an
official or employee of any other federal, state or local governmental
entity.

E. The chairman of the board shall receive an annual salary of twenty
thousand dollars (\$20,000) and the other two ¶2¶ members of the board shall
receive an annual salary of eighteen thousand dollars (\$18,000) and they
shall be reimbursed as provided in the Per Diem and Mileage Act ¶5-10-1 to
5-10-4¶ in lieu of actual expenses for transportation, lodging and subsis-
tence while on the official business of the board.

F. The governor shall designate one ¶1¶ member of the board to serve
as chairman.

G. A parole may be granted, denied or revoked only by a majority of
the board.

41-17-40. Powers and duties of the board.--A. The board shall have the powers and duties of the former state board of probation and parole pursuant to sections 41-17-18, 41-17-24 through 41-17-26, 41-17-28, 41-17-30 and 41-17-31 NMSA 1953 and such additional powers and duties relating to the parole of adults as are hereinafter enumerated.

B. The board shall have the following powers and duties to:

- (1) grant, deny or revoke parole;
- (2) conduct or cause to be conducted such investigations, examinations, interviews, hearings and other proceedings as may be necessary for the effectual discharge of the duties of the board;
- (3) summon witnesses, books, papers, reports, documents or tangible things and administer oaths as may be necessary for the effectual discharge of the duties of the board;
- (4) maintain records of its acts, decisions and orders and notify each corrections facility of its decisions relating to persons who are or have been confined therein;
- (5) adopt an official seal of which the courts shall take judicial notice;
- (6) employ such officers, agents, assistants and other employees as may be necessary for the effectual discharge of the duties of the board;
- (7) contract for services, supplies, equipment, office space and such other provisions as may be necessary for the effectual discharge of the duties of the board; and
- (8) adopt such rules and regulations as may be necessary for the effectual discharge of the duties of the board.

C. The board shall provide a prisoner or parolee with a written statement of the reason or reasons for denying or revoking parole.

D. The board shall adopt a written policy specifying the criteria to be considered by the board in determining whether to grant, deny or revoke parole or to discharge a parolee.

41-17-41. Transitional provisions.--A. The records, property, equipment and unencumbered and unexpended funds previously belonging to or appropriated for the use of the former parole hearing board shall become, on the effective date of the Parole Board Act ¶41-17-37 to 41-17-41¶, a part of the property of the parole board.

B. The provisions of the Parole Board Act apply to all persons who, on the effective date, are on parole or eligible to be placed on parole with the same effect as if that act had been in effect at the time they were placed on parole or became eligible to be placed on parole.

41-17-12. Short title.--Sections 41-17-12 through 41-17-34 New Mexico Statutes Annotated, 1953 Compilation, may be cited as the "Probation and Parole Act."

41-17-13. Construction and purpose of act.--The Probation and Parole Act ~~¶41-17-12 to 41-17-34¶~~ shall be liberally construed to the end that the treatment of persons convicted of crime shall take into consideration their individual characteristics, circumstances, needs and potentialities as revealed by case study, and that such persons shall be dealt with in the community by a uniformly organized system of constructive rehabilitation under probation supervision instead of in an institution, or under parole supervision when a period of institutional treatment is deemed essential in the light of the needs of public safety and their own welfare.

41-17-14. Definitions.--As used in the Probation and Parole Act
¶41-17-12 to 41-17-33¶:

A. "probation" means the procedure under which an adult defendant, found guilty of a crime upon verdict or plea, is released by the court without imprisonment under a suspended or deferred sentence and subject to conditions;

B. "parole" means the release to the community of an inmate of an institution by decision of the board prior to the expiration of his term, subject to conditions imposed by the board and to its supervision;

C. "institution" means the state penitentiary and any other similar state institution hereinafter created;

D. "board" means the state board of probation and parole;

E. "director" means the director of the field services division of the corrections department or any employee designated by him; and

F. "adult" means any person convicted of a crime by a district court.

41-17-18. Protection of records.--All social records, including presentence reports, pre-parole reports and supervision histories, obtained by the board are privileged and shall not be disclosed directly or indirectly to anyone other than the board, director or sentencing judge, but authorities of the institution in which the prisoner is confined shall have access to all records and reports concerning the prisoner and the sentencing judge, board and director shall have access to all records concerning the prisoner. The Board, in the case of parole records, and the sentencing judge, in the case of probation records, in their discretion, whenever the best interest or welfare of a particular probationer or prisoner makes such action desirable or helpful, may permit inspection of the reports, or parts thereof, by the probationer, prisoner or his attorney.

41-17-21. Duties of director.--The director shall: A. provide probation and parole services and supervise probationers and parolees;

B. assign officers to serve in each judicial district. Selection and assignment of officers to each judicial district shall be made by the director with the advice and consent of the judge of the district;

C. obtain office quarters for the staff in each district as necessary;

D. assign the secretarial, bookkeeping and accounting work to clerical employees;

E. direct the work of the officers and other employees;

F. formulate methods of investigation, supervision, record keeping and reports;

G. conduct training courses for the staff;

H. seek to co-operate with all agencies, public and private, which are concerned with the treatment or welfare of persons on probation or parole; and

I. report to the parole board concerning the status of parolees under his supervision.

41-17-21.1. Director to administer interstate compacts relating to convicts on probation and parole.--The director of parole is the administrator of interstate compacts relating to convicts on probation and parole.

41-17-23. Presentence and prerelease investigations.--A. Upon the order of any district or magistrate court, the director shall prepare a presentence report which shall include such information as the court may request.

B. Upon the order of any district court the director shall prepare a prerelease report which the court shall use to determine the accused's qualifications for bail. The report shall include available information about the accused's family ties, employment, financial resources, character, physical and mental condition, the length of his residence in the community, his record of convictions, his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings and any history of drug or alcohol abuse.

C. All local and state law enforcement agencies shall furnish to the director any requested criminal records.

41-17-24. Parole authority and procedure.--The board may release on parole any person confined in any correctional institution administered by state authorities, except persons under sentence of death, when the prisoner gives evidence of having secured gainful employment or satisfactory evidence of self support, and the board finds in its opinion the prisoner can be released without detriment to himself or to the community.

The board shall consider all pertinent information regarding each inmate, including the circumstances of his offense, the reports filed under section 12 ¶41-17-23¶ above, his previous social history and criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made.

At least thirty ¶30¶ days before ordering any parole, the board shall notify the district judge of the judicial districts ¶sic¶ from which the inmate was committed to the correctional institution. Such judge may express his views on the inmate's prospective parole either in writing or personally, to the board, but the final decision on parole shall be of the board.

Before ordering the parole of any prisoner, the board shall have the inmate appear before it and shall interview him at the institution to which he is committed. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An inmate shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be subject to the orders of the board. The board shall furnish to each person released under their supervision a written statement of the conditions of parole which shall be accepted and agreed to by him as evidenced by his signature affixed to a duplicate copy to be retained in the files of the board and shall instruct him regarding the same. Provided that the following rules shall apply to the eligibility of prisoners for paroles:

1. Prisoners may become eligible for parole hearing after they have completed one-third of their minimum sentence; however, they must have a clear conduct record for at least six ¶6¶ months prior to their appearance before the parole board.

2. Prisoners having minimum sentences of ten ¶10¶ years or more shall be required to serve one third of ten ¶10¶ years plus one ¶1¶ month additional for every year beyond a ten-year sentence before becoming eligible to appear before the parole board.

3. Prisoners sentenced for thirty ¶30¶ years or more shall become eligible to appear before the parole board after they have served seven ¶7¶ years of their minimum sentence.

4. Prisoners sentenced to life imprisonment shall become eligible to

appear before the parole board after they have served ten ¶10¶ years.

5. An inmate may, at any time, after one ¶1¶ year has elapsed from the time he has appeared before the parole board, make application for a review of his case; however, the board may decide if he should appear before them or a review of his record may be made without having him appear in person.

6. The board may on its own motion re-open any case in which a hearing has already been granted and parole denied.

The board may adopt such other rules not inconsistent with law as it may deem proper or necessary, with respect to the eligibility of prisoners for parole, the conduct of parole hearings or conditions to be imposed on parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

41-17-24.1. Parole to detainers, to serve another sentence or for hospitalization.--Prisoners who are otherwise eligible for parole may be paroled to detainers or to serve another sentence within the penitentiary or for hospitalization, without giving evidence to the board of parole of having secured employment or of ability of self-support.

41-17-25. Conditional release.--Any prisoner who shall be released by authority of the governor under any "conditional release" or other disposition made under the pardoning power, other than full pardon, shall, upon release, be deemed as released on parole until the expiration of the maximum term or terms for which he was sentenced.

41-17-26. Information from prison officials.--It shall be the duty of all prison officials to grant to the members of the board, or its properly accredited representatives, access at all reasonable times to any prisoner over whom the board has jurisdiction under this act ¶41-17-12 to 41-17-34¶, to provide for the board or such representatives facilities for communicating with and interviewing such prisoner, and to furnish to the board such reports and records as the board shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by the board pertinent in determining whether such prisoner shall be paroled.

41-17-28. Return of parole violator.--A. At any time during release on parole the board or the director may issue a warrant for the arrest of the released prisoner for violation of any of the conditions of release, or issue a notice to appear to answer a charge of violation. The notice shall be served personally upon the prisoner. The warrant shall authorize the superintendent of the institution from which the prisoner was released to return the prisoner to the actual custody of the institution or to any other suitable detention facility designated by the board or the director. If the prisoner is out of the state, the warrant shall authorize the superintendent to return him to the state.

B. The director may arrest the prisoner without a warrant or may deputize any officer with power of arrest to do so by giving him a written statement setting forth that the prisoner has, in the judgment of the director, violated the conditions of his release. Where an arrest is made without a warrant, the prisoner shall not be returned to the institution unless authorized by the director or the board. Pending hearing as provided by law upon any charge of violation, the prisoner shall remain incarcerated in the institution.

C. Upon arrest and detention, the board shall cause the prisoner to be promptly brought before it for a parole revocation hearing on the parole violation charged, under rules and regulations the board may adopt. If violation is established, the board may continue or revoke the parole or enter any other order as it sees fit.

D. A prisoner for whose return a warrant has been issued shall, if it is found that the warrant cannot be served, be a fugitive from justice. If it appears that he has violated the provisions of his release, the board shall determine whether the time from the date of the violation to the date of his arrest, or any part of it, shall be counted as time served under the sentence.

41-17-28.1. Return of probation violator.--A. At any time during probation:

(1) The court may issue a warrant for the arrest of a probationer for violation of any of the conditions of release. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court; or

(2) The court may issue a notice to appear to answer a charge of violation. The notice shall be personally served upon the probationer; or

(3) The director may arrest a probationer without warrant or may deputize any officer with power of arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the director, violated the conditions of his release. The written statement, delivered with the probationer by the arresting officer to the official in charge of a county jail or other place of detention, is sufficient warrant for the detention of the probationer. Upon arrest and detention, the director shall immediately notify the court and submit in writing a report showing in what manner the probationer has violated the conditions of release.

B. The court shall then hold a hearing, which may be informal, on the violation charged. If the violation is established, the court may continue or revoke the probation and may require the probationer to serve the balance of the sentence imposed or any lesser sentence. If imposition of sentence was deferred, the court may impose any sentence which might originally have been imposed, but credit shall be given for time served on probation.

C. If it is found that a warrant for the return of a probationer cannot be served, the probationer is a fugitive from justice. After hearing upon return, if it appears that he has violated the provisions of his release, the court shall determine whether the time from the date of violation to the date of his arrest, or any part of it, shall be counted as time served on probation.

D. The board shall budget funds to cover expenses of returning probationers to the court. The sheriff of the county in which the probationer was convicted is the court's agent in the transportation of the probationer but the director, with the consent of the court, may utilize other state agencies for this purpose when it is in the best interest of the state.

41-17-30. Discharge of prisoner or parolee.--The period served on parole shall be deemed service of the term of imprisonment, and, subject to the provisions contained in section 17 ¶41-17-28¶ herein relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed the maximum term or sentence. When a prisoner on parole has performed the obligations of his release for such time as shall satisfy the board that his final release is not incompatible with his welfare and that of society, the board may make a final order of discharge and issue a certificate of discharge to the prisoner; but no such order of discharge shall be made in any case within a period of less than one ¶1¶ year after the date of release except where the sentence expires earlier thereto.

41-17-31. Executive clemency--Investigation and reports.--On request of the governor the board shall investigate and report to him with respect to any case of pardon, commutation of sentence, or reprieve.

41-17-32. Application to persons now on probation or parole.-- The provisions of the Probation and Parole Act ¶41-17-12 to 41-17-34¶ apply to all persons who, at the effective date, are on probation or parole, or eligible to be placed on probation or parole under existing laws, with the same effect as if the act had been in operation at the time they were placed on probation or parole or became eligible to be placed thereon.

41-17-33. Participation of the United States and other states.--The board, in its discretion and with the written consent of the governor, may accept from the United States or any of its agencies, and from any state of the United States, advisory services, funds, equipment and supplies available to this state for any of the purposes contemplated by the Probation and Parole Act §§41-17-12 to 41-17-34§, and may enter into contracts and agreements with the United States or any of its agencies, and any state of the United States as necessary, proper and convenient.

41-17-36. Conditions of probation.--The board shall adopt general regulations concerning the conditions of probation which apply in the absence of specific conditions imposed by the court. All probationers are subject to supervision of the board unless otherwise specifically ordered by the court in the particular case. Nothing in the Probation and Parole Act ¶41-17-12 to 41-17-34¶ limits the authority of the court to impose or modify any general or specific condition of probation. The board may recommend and by order the court may impose and modify any conditions of probation. The court shall transmit to the board and to the probationer a copy of any order.

40A-22-17. Encouraging violation of probation, parole or bail.--Encouraging violation of probation, parole or bail consists of intentionally aiding or encouraging a person known by him to be on parole, probation or bail to abscond or to violate a term or condition of his probation, parole or bail.

Whoever commits encouraging violation of probation, parole or bail is guilty of a misdemeanor.

40A-29-3.1. Use of firearm--Increased sentences--Suspension limited.
--A. When a separate finding of fact by the court or jury shows that a firearm was used in the commission of:

(1) any felony except a capital felony, the minimum and maximum terms of imprisonment prescribed by the Criminal Code shall each be increased by five §5§ years; and

(2) for any crime constituting a felony other than a capital felony, the court shall not suspend the first one §1§ year of any sentence imposed.

B. For second and subsequent felonies other than a capital felony in which a firearm is used, the minimum and maximum terms of imprisonment prescribed by the Criminal Code shall be increased by five §5§ years and the court shall not suspend or defer all or any part of the sentence nor shall parole be considered unless the minimum sentence has been served.

C. If the case is tried by a jury and if a prima facie case has been established showing that a firearm was used in the commission of the offense, the court shall submit the issue to the jury by special interrogatory.

40A-29-8. Duty of public officers to report information concerning habitual offenders.--Whenever it shall become known to any warden or prison, probation, parole or police officer or other peace officer that any person charged with or convicted of a felony has previously been convicted of a felony in this state, or a crime under the laws of any other state, government or country, which, if committed in this state would be a felony, it shall be his duty forthwith, to report the facts to the district attorney of the county, who shall then file an information.

40A-29-10. Sentence of convict for crime committed while at large.
--Any person who commits a crime while at large under suspended sentence, parole or probation and who is convicted and sentenced therefore, (sic) shall serve such sentence consecutive to the term under which he was released, unless otherwise ordered by the court in sentencing for the new crime.

40A-29-14. Effect of criminal conviction upon civil rights--Governor may pardon or grant restoration of citizenship.--A. Any person who has been convicted of a felony shall not be permitted to vote in any election held pursuant to the laws of the state or any subdivision thereof, nor shall such person be permitted to hold any office of public trust for the state or any subdivision thereof.

B. When any convict shall pass the entire period of his sentence within the penitentiary, he shall be entitled to a certificate thereof by the superintendent of the penitentiary; or if such person shall complete the period of his sentence while on parole, he shall be entitled to a certificate thereof by the director of parole.

C. The disability imposed by this section may only be removed by the governor. Upon presentation to the governor of a certificate evidencing the completion of an individual's sentence, the governor may, in his discretion, grant to such individual a pardon or a certificate restoring such person to full rights of citizenship.

40A-29-24. Credit for time pending appellate review.--A person convicted of a felony in the district court and held in official confinement while awaiting the outcome of an appeal, writ of error to, or writ of certiorari from, a state or federal appellate court, or prior to his release as a result of post-conviction proceedings or habeas corpus, shall be given credit for the period spent in confinement against any sentence finally imposed for that offense.

40A-29-25. Credit for time prior to conviction.--A person held in official confinement on suspicion or charges of the commission of a felony shall, upon conviction of that or a lesser included offense, be given credit for the period spent in presentence confinement against any sentence finally imposed for that offense.

INTERSTATE COMPACTS

41-20-8. Compact relating to convicts on probation or parole authorized.---The governor of this state is hereby authorized and directed to execute a compact on behalf of the state of New Mexico with any of the Unites States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An Act Granting the Consent of Congress to any two or more States to enter into Agreements or Compacts for Co-operative Effort and Mutual Assistance in the Prevention of Crime and for other purposes."

The contracting states solemnly agree:

(1) that it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state"), while on probation or parole, if

(a) such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one ¶1¶ year prior to his coming to the sending state and has not resided within the sending state more than six ¶6¶ continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state.

Renunciation of this compact shall be by the same authority which executed it, by sending six ¶6¶ months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

41-20-9. Short title.--This act ¶41-20-8, 41-20-9¶ may be cited as the Uniform Act for Out-of-State Parolee Supervision.

41-20-10. United States' territories as parties to compact.--It is hereby declared that the term "state" as used in section 41-20-8 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1937, chapter 10, section 1) means any one of the several states and Hawaii, the Commonwealth of Puerto Rico, the

Virgin Islands, and the District of Columbia.

It is hereby recognized and further declared that pursuant to the consent and authorization contained in section 111 (b) of Title 4 of the United States Code as added by Public Law 970-84th Congress, chapter 941-2d Session, this state shall be a party to said Interstate Compact for the Supervision of Parolees and Probationers with any additional jurisdiction legally joining therein when such jurisdiction shall have enacted said compact in accordance with the terms thereof.

41-20-11. Western Interstate Corrections Compact--Form.--The Western Interstate Corrections Compact is enacted into law and entered into on behalf of New Mexico with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I--PURPOSE AND POLICY

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of co-operation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of co-operation for the confinement, treatment and rehabilitation of offenders.

ARTICLE II--DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

- A. "State" means a state of the United States, the Territory of Hawaii, or, subject to the limitation contained in Article VII, Guam.
- B. "Sending state" means a state party to this compact in which conviction was had.
- C. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.
- D. "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.
- E. "Institution" means any prison, reformatory or other correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates may lawfully be confined.

ARTICLE III CONTRACT

A. Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

- (1) Its duration
- (2) Payments to be made to the receiving state by the sending state for inmate maintenance; extraordinary medical and dental expenses, and any participation in or receipts by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.
- (3) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.
- (4) Delivery and retaking of inmates.
- (5) Such other matters as may be necessary and appropriate to fix the obligations responsibilities and rights of sending and receiving states.

B. Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific per centum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

c. The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV--PROCEDURES AND RIGHTS

A. Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

B. The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

C. Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual right or right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; Provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

D. Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

E. All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

F. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

G. Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

H. Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

I. The parent, guardian, trustee, or other person or persons entitled under law of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V--ACTS NOT REVIEWABLE IN RECEIVING STATE: EXTRADITION

A. Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

B. An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI--FEDERAL AID

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision provided that if such program or

activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII--ENTRY INTO FORCE

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one ¶1¶ party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of Congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

ARTICLE VIII--WITHDRAWAL AND TERMINATION

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two ¶2¶ years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX--OTHER ARRANGEMENTS UNAFFECTED

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of co-operative institutional arrangements.

ARTICLE X--CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of

the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

41-20-12. Commitment or transfer of inmate to institution in or outside state.-- Any court or other agency or officer of this state having power to commit or transfer an inmate (as defined in Article II (d) of the Western Interstate Corrections Compact ¶41-20-11¶) to any institution for confinement may commit or transfer the inmate to any institution in or outside New Mexico if New Mexico has entered into a contract or contracts for the confinement of inmates in the institution pursuant to Article III ¶41-20-11¶ of the Western Interstate Corrections Compact.

41-20-13. Enforcement of compact--Submission of reports.--The courts, departments, agencies and officers of New Mexico and its subdivisions shall enforce this compact and do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission or reports required by the compact.

41-20-14. Board of parole--Hearings within and outside state.--The New Mexico board of parole is authorized to hold hearings within and outside New Mexico pursuant to Article IV (F) of the Western Interstate Corrections Compact ¶41-20-11¶.

41-20-15. Contracts of governor--Approval by board of finance.--The governor may enter into contracts on behalf of New Mexico to implement the participation of this state in the Western Interstate Corrections Compact pursuant to Article III of the compact ¶41-20-11¶, provided that any contract entered into by the governor must be approved by the state board of finance before the same shall be binding.

41-20-16. Release of inmate from institution outside state--Transportation to home or place of employment.--If an inmate is released from an institution outside of New Mexico, pursuant to Article IV (G) of the compact ¶41-20-11¶, the superintendent of the penitentiary shall provide him with transportation to either his home or place of employment if in New Mexico, or

if neither of these is applicable to any point in New Mexico selected by the inmate.

41-20-17. Interstate Compact on Mentally Disordered Offenders.--The Interstate Compact on Mentally Disordered Offenders is entered into with all other jurisdictions legally joining therein in a form substantially as follows:

INTERSTATE COMPACT ON MENTALLY
DISORDERED OFFENDERS

Article 1. PURPOSE AND POLICY.--A. The party states, desiring by common action to improve their programs for the care and treatment of mentally disordered offenders, declare that it is the policy of each of the party states to:

(1) strengthen their own programs and laws for the care and treatment of the mentally disordered offender;

(2) encourage and provide for such care and treatment in the most appropriate locations, giving due recognition to the need to achieve adequacy of diagnosis, care, treatment, aftercare and auxiliary services and facilities and, to every extent practicable, to do so in geographic locations convenient for providing a therapeutic environment;

(3) authorize co-operation among the party states in providing services and facilities, when it is found that co-operative programs can be more effective and efficient than programs separately pursued;

(4) place such mentally disordered offender in a legal status which will facilitate his care, treatment and rehabilitation;

(5) authorize research and training of personnel on a co-operative basis in order to improve the quality or quantity of personnel available for the proper staffing of programs, services and facilities for mentally disordered offenders; and

(6) care for and treat mentally disordered offenders under conditions which will improve the public safety.

B. Within the policies set forth in this article, it is the purpose of this compact to:

(1) authorize negotiation, entry into and operations under contractual arrangements among any two ¶2¶ or more of the party states for the establishment and maintenance of co-operative programs in any one ¶1¶ or more of the fields for which specific provision is made in the several articles of this compact;

(2) set the limits within which such contracts may operate, so as to assure protection of the civil rights of mentally disordered offenders and protection of the rights and obligations of the public and of the party states; and

(3) facilitate the proper disposition of criminal charges pending against mentally disordered offenders, so that programs for their care, treat-

ment and rehabilitation may be carried on efficiently.

Article 2. DEFINITIONS.--As used in this compact:

A. "mentally disordered offender" means a person who has been determined, by adjudication or other method legally sufficient for the purpose in the party state where the determination is made, to be mentally ill and:

- (1) is under sentence for the commission of crime; or
- (2) who is confined or committed on account of the commission of an offense for which, in the absence of mental illness, the person would be subject to incarceration in a penal or correctional facility;

B. "patient" means a mentally disordered offender who is cared for, treated or transferred pursuant to this compact;

C. "sending state" means a state party to this compact in which the mentally disordered offender was convicted; or the state in which he would be subject to trial on or conviction of an offense except for his mental condition; or, within the meaning of Article 5 of this compact, the state whose authorities have filed a petition in connection with an untried indictment, information or complaint; and

D. "receiving state" means a state party to this compact to which a mentally disordered offender is sent for care, aftercare, treatment or rehabilitation, or within the meaning of Article 5 of this compact, the state in which a petition in connection with an untried indictment, information or complaint has been filed.

Article 3. CONTRACTS.--A. Each party state may make one or more contracts with any one or more of the other party states for the care and treatment of mentally disordered offenders on behalf of a sending state in facilities situated in receiving states, or for the participation of mentally disordered offenders in programs of aftercare on conditional release administered by the receiving state. Any such contract shall provide for:

- (1) its duration;
- (2) payments to be made to the receiving state by the sending state for patient care, treatment and extraordinary services, if any;
- (3) determination of responsibility for ordering or permitting the furnishing of extraordinary services, if any;
- (4) participation in compensated activities, if any, available to patients, the disposition or crediting of any payment received by patients on account thereof and the crediting of proceeds from or disposal of any products resulting therefrom;
- (5) delivery and retaking of mentally disordered offenders; and
- (6) other matters as necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

B. Prior to the construction or completion of construction of any facility for mentally disordered offenders or addition to such facility by a party state, any other party state or states may contact therewith for the enlargement of the planned capacity of the facility or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentage of the capacity of the facility to be kept available for use by patients of the sending state or states so contracting. Any sending state so contracting may, to the extent that money is legally available therefor, pay to the receiving state a reasonable sum as consideration for such enlargement of capacity or provision of equipment or structures and reservation of capacity. The payment may be in a lump sum or in installments as provided in the contract.

C. A party state may contract with any one or more other party states for the training of professional or other personnel whose services, by reason of such training, would become available for or be improved in respect of ability to participate in the care and treatment of mentally disordered offenders. Such contracts may provide for such training to take place at any facility being operated or to be operated for the care and treatment of mentally disordered offenders, at any institution or facility having resources suitable for the offering of such training or may provide for the separate establishment of training facilities, provided that no separate establishment shall be undertaken unless it is determined that an appropriate existing facility or institution cannot be found at which to conduct the contemplated program. Any contract entered into pursuant to this subarticle shall provide for:

- (1) the administration, financing and precise nature of the program;
- (2) the status and employment or other rights of the trainees; and
- (3) all other necessary matters.

D. No contract entered into pursuant to this compact shall be inconsistent with any provision thereof.

Article 4. PROCEDURES AND RIGHTS.--A. Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article 3, decide that custody, care and treatment in, or transfer of a patient to, a facility within the territory of another party state, or conditional release for aftercare in another party state is necessary in order to provide adequate care and treatment or is desirable in order to provide an appropriate program of therapy of other treatment, or is desirable for clinical reasons, said officials may direct that custody, care and treatment be within a facility or in a program of aftercare within the territory of the other party state, the receiving state to act in that regard solely as agent for the sending state.

B. The appropriate officials of any state party to this compact shall have access at all reasonable time to any facility in which it has a contractual right to secure care or treatment of patients for the purpose of inspection and visiting such of its patients as may be in the facility or served by it.

C. Except as otherwise provided in Article 6, patients in a facility pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed for transfer to a facility within the sending state, for transfer to another facility in which the sending state may have a contractual or other right to secure care and treatment of patients, for release on aftercare or other conditional status, for discharge or for any other purpose permitted by the laws of the sending state, provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article 3.

D. Each receiving state shall provide regular reports to each sending state on the patients of that sending state in facilities pursuant to this compact, including a psychiatric and behavioral record of each patient, and certify the record to the official designated by the sending state in order that each patient may have the benefit of his or her record in determining and altering the disposition of the patient in accordance with the law which may obtain in the sending state and in order that the record may be a source of information for the sending state.

E. All patients who may be in a facility or receiving aftercare from a facility pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for, treated and supervised in accordance with the standards pertaining to the program administered at the facility. The fact of presence in a receiving state shall not deprive any patient of any legal rights which the patient would have had if in custody or receiving care, treatment or supervision as appropriate in the sending state.

F. Any hearing or hearings to which a patient present in a receiving state pursuant to this compact may be entitled by the laws of the sending state shall be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. The record, together with any recommendations of the hearing officials, shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In all proceedings pursuant to the provisions of this subarticle, the officials of the receiving state shall act solely as agents of the sending state, and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subarticle shall be borne by the sending state.

G. Any patient confined pursuant to this compact shall be released within the territory of the sending state unless the patient and the sending and receiving states agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

H. Any patient pursuant to the terms of this compact shall be subject to civil process and shall have all rights to sue, be sued and participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if in any appropriate facility of the sending state or being supervised therefrom, as the case may be, located within such state.

I. The parent, guardian, trustee or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any patient shall not be deprived of, or restricted in his exercise of, any power in respect of any patient pursuant to the terms of this compact.

Article 5. DISPOSITION OF CHARGES.--A. Whenever the authorities responsible for the care and treatment of a mentally disordered offender, whether convicted or adjudicated in the state or subject to care, after-care, treatment or rehabilitation pursuant to a contract, are of the opinion that charges based on untried indictments, informations or complaints in another party state present obstacles to the proper care and treatment of a mentally disordered offender or to the planning or execution of a suitable program for him, such authorities may petition the appropriate court in the state where the untried indictment, information or complaint is pending for prompt disposition thereof. If the mentally disordered offender is a patient in a receiving state, the appropriate authorities of the sending state, upon recommendation of the appropriate authorities in the receiving state, shall, if they concur in the recommendation, file the petition contemplated by this subarticle.

B. The court shall hold a hearing on the petition within thirty (30) days of the filing thereof. The hearing shall be only to determine whether the proper safeguarding and advancement of the public interest, the condition of the mentally disordered offender and the prospects for more satisfactory care, treatment and rehabilitation of him warrant disposition of the untried indictment, information or complaint prior to termination of the defendant's status as a mentally disordered offender in the sending state. The prosecuting officer of the jurisdiction from which the untried indictment, information or complaint is pending, the petitioning authorities and such persons as the court may determine shall be entitled to be heard.

c. Upon any hearing pursuant to this article, the court may order such adjournments or continuances as may be necessary for the examination or observation of the mentally disordered offender or for the securing of necessary evidence. In granting or denying any such adjournment or continuance, the court shall give primary consideration to the purposes of this compact, and more particularly to the need for expeditious determination of the legal and mental status of a mentally disordered offender so that his care, treatment and discharge to the community only under conditions which will be consonant with the public safety may be implemented.

D. The presence of a mentally disordered offender within a state wherein a petition is pending or being heard pursuant to this article, or his presence within any other state through which he is being transported in connection with such petition or hearing, shall be only for the purposes of this compact, and no court, agency or person shall have or obtain jurisdiction over the mentally disordered offender for any other purpose by reason of his presence pursuant to this article. The mentally disordered offender shall, at all times, remain in the custody of the sending state. Any acts of officers, employees or agencies of the receiving state in providing or facilitating detention, housing or transportation for the mentally disordered offender shall be only as agents for the sending state.

E. Promptly upon conclusion of the hearing, the court shall dismiss the untried indictment, information or complaint, if it finds that the purposes enumerated in subarticle B of this article would be served thereby. Otherwise, the court shall make such order with respect to the petition and the untried indictment, information or complaint as may be appropriate in the circumstances and consistent with the status of the defendant as a mentally disordered offender in the custody of, and subject to the jurisdiction of, the sending state.

F. No fact or other matter established or adjudicated at any hearing pursuant to this article or in connection therewith shall be deemed established or adjudicated, nor shall the same be admitted in evidence, in any subsequent prosecution of the untried indictment, information or complaint concerned in a petition filed pursuant to this article unless:

- (1) the defendant or his duly empowered legal representative requested or expressly acquiesced in the making of the petition, and was afforded an opportunity to participate in person in the hearing; or
- (2) the defendant himself offers or consents to the introduction of the determination or adjudication at such subsequent proceedings.

Article 6. ACTS NOT REVIEWABLE IN RECEIVING STATE--RETURN.--A. Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon, and not reviewable within, the receiving state, but, if at the time the sending state seeks to remove a patient from the receiving state, there is pending against the patient within such state any criminal charge, or if the patient is suspected of having committed within such state a criminal offense, the patient shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport patients pursuant to this compact through all states party to this compact without interference.

B. A patient who escapes while receiving care and treatment, or who violates provisions of aftercare by leaving the jurisdiction, or while being detained or transported pursuant to this compact, shall be deemed an escapee from the sending state and from the state in which the facility is situated or the aftercare was being provided. In the case of an escape to a

jurisdiction other than the sending state or receiving state, the responsibility for return shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Article 7. FEDERAL AID.--Any state party to this compact may accept federal aid for use in connection with any facility or program, the use of which is or may be affected by this compact or any contract pursuant thereto, and any patient in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that, if such program or activity is not part of the customary regimen of the facility or program, the express consent of the appropriate official of the sending state shall be required therefor.

Article 8. ENTRY INTO FORCE.--The compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states from among the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state, upon similar action by such state.

Article 9. WITHDRAWAL AND TERMINATION.--This compact shall continue in force and remain binding upon a party state until it has enacted a statute repealing the compact and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two (2) years after the notices provided in the statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such patients as it may have in other party states pursuant to the provisions of this compact.

Article 10. OTHER ARRANGEMENTS UNAFFECTED.--Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the custody, care, treatment, rehabilitation or aftercare of patients, nor to repeal any other laws of a party state authorizing the making of co-operative arrangements.

Article 11. CONSTRUCTION AND SEVERABILITY.--The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, or sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the

applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in effect as to the remaining states and in effect as to the state affected as to all severable matters.

41-20-18. Compact authority.--The governor may negotiate and enter into contracts on behalf of this state pursuant to Article 3 of the Interstate Compact on Mentally Disordered Offenders and may perform the contracts. No funds, personnel, facilities, equipment, supplies or materials shall be pledged for, committed or used on account of any such contract unless legally available therefor.

41-20-19. Agreement on detainers.--The Agreement on Detainers is entered into with all other jurisdictions legally joining therein a form substantially as follows:

AGREEMENT ON DETAINERS

Article 1. FINDINGS.--The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also finds that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of co-operative procedures. It is the further purpose of this agreement to provide such co-operative procedures.

Article 2. DEFINITIONS.-- As used in this agreement:

A. "state" means a state of the United States, the Unites States, a territory or possession of the Unites States, the District of Columbia or the Commonwealth of Puerto Rico;

E. "sending state" means a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article 3 of this agreement or at the time that a request for custody or availability is initiated pursuant to Article 4 of this agreement; and

C. "receiving state" means the state in which trial is to be had on an indictment, information or complaint pursuant to Article 3 or Article 4 of this agreement.

Article 3. PRISONER'S REQUEST FOR FINAL DISPOSITION.--A. Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty §180§ days after he has caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

B. The written notice and request for final disposition referred to in subarticle A shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

C. The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

D. Any request for final disposition made by a prisoner pursuant to subarticle A shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this subarticle shall be accompanied by copies of the prisoner's written notice, request and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any

further force or effect, and the court shall enter an order dismissing the same with prejudice.

E. Any request for final disposition made by a prisoner pursuant to subarticle A shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of subarticle D, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this subarticle shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

F. Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in subarticle A shall void the request.

Article 4. PROSECUTOR'S REQUEST FOR FINAL DISPOSITION.--A. The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending is entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article 5A of this agreement upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated, but the court having jurisdiction of the indictment, information or complaint shall have duly approved, recorded and transmitted the request, and there shall be a period of thirty ¶30¶ days after receipt by the appropriate authorities before the request is honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

B. Upon receipt of the officer's written request as provided in subarticle A, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reason therefor.

C. In respect of any proceeding made possible by this article, trial shall be commenced within one hundred twenty ¶120¶ days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

D. Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in subarticle A, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

E. If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoners's being returned to the original place of imprisonment pursuant to Article 5E of this agreement, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article 5. TRANSFER OF CUSTODY.--A. In response to a request made under Article 3 or Article 4 of this agreement, the appropriate authority in a sending state shall offer to deliver temporary custody of the prisoner to the appropriate authority in the state where the indictment, information or complaint is pending against the person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article 3 of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

B. The officer or other representative of a state accepting an offer of temporary custody shall present upon demand:

- (1) proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given; and
- (2) a certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

C. If the appropriate authority refuses or fails to accept temporary custody of the person, or if an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article 3 or Article 4 of this agreement, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing it with prejudice, and any detainer based thereon shall cease to be of any force or effect.

D. The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one ~~1~~ or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his

presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

E. At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

F. During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

G. For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

H. From the time that a party state receives custody of a prisoner pursuant to this agreement until the prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, information or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this subarticle govern unless the states concerned have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state or between a party state and its subdivisions as to the payment of costs or responsibilities therefor.

Article 6. APPLICATION.--A. In determining the duration and expiration dates of the time periods provided in Articles 3 and 4 of this agreement, the running of the time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

B. No provision of this agreement and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill.

Article 7. COMPACT ADMINISTRATOR.--Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article 8. PARTY STATES.--This agreement shall enter into full force and effect as to a party state when such state has enacted the agreement into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing this agreement. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time the withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article 9. CONSTRUCTION.--This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable, and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

41-20-20. Definition.--As used in the Agreement on Detainers with reference to the courts of this state, the phrase "appropriate court" means the district court.

41-20-21. Co-operation.--All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the Agreement on Detainers and to co-operate with one another and with other party states in enforcing the agreement and effectuating its purpose.

41-20-22. Habitual offenders.--Nothing in this act §41-20-19 to 41-20-23§ or in the Agreement on Detainers shall be construed to require the application of the habitual offenders laws to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of that agreement.

41-20-23. Transfers.--The corrections department shall give over the person of any inmate whenever required by the operation of the Agreement on Detainers.

41-24-4. Power to refuse, renew, suspend or revoke public employment or license.--A. Any board or other agency having jurisdiction over employment by the state or any of its political subdivisions or the practice of any trade, business or profession may refuse to grant or renew, or may suspend or revoke, any public employment or license or other authority to engage in the public employment, trade, business or profession for any one or any combination of the following causes:

(1) where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment, trade, business or profession;

or (2) where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment, trade, business or profession, if the board or other agency determines, after investigation, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.

B. The board or other agency shall explicitly state in writing the reasons for a decision which prohibits the person from engaging in the employment, trade, business or profession, if the decision is based in whole or part on conviction of any crime described in paragraph (1) of subsection A of this section. Completion of probation or parole supervision, or of a period of three ~~¶3¶~~ years after final discharge or release from any term of imprisonment without any subsequent conviction, shall create a presumption of sufficient rehabilitation for purposes of paragraph (2) of subsection A of this section.

42-1-18. Accepting gifts from convicts--Penalties.--No member of the board, superintendent, assistant superintendent, guard, turnkey, or other officer or employee of the penitentiary, shall, under any pretense whatever, recieve from any convict, any sum of money, emolument or reward, or any article of value as a gift, under the penalty of being discharged from service or from office and forfeiting all money due them, and being disqualified from ever holding such position in the future.

42-9-2. Definitions.--As used in the Corrections Act ¶42-9-1 to 42-9-11¶:

A. "department" means the corrections department;

B. "secretary" means the secretary of corrections, chief administrator of the department;

C. "corrections facility" means any facility or program controlled or operated by the state or any of its agencies or departments, and supported wholly or in part by the state funds, for the correctional care of persons, including but not limited to:

(1) the "penitentiary of New Mexico," which consists of the penitentiary at Santa Fe and other places in the state designated by the commission;

(2) the "New Mexico Boys' School," which consists of the school at Springer and other places in the state designated by the commission;

(3) the "Girls' Welfare Home," which consists of the home at Albuquerque and other places in the state designated by the commission;

(4) the state board of probation and parole except to the extent delegated to the parole board by the Parole Board Act ¶41-17-37 to 41-37-41¶; and

(5) the juvenile probation services division of the administrative office of the courts; and

D. "commission" means the corrections commission.

42-9-3. Purpose.--It is the purpose of the legislature to create a single, unified department to administer all laws and exercise all functions formerly administered and exercised by the penitentiary of New Mexico, the state board of probation and parole except to the extent delegated to the parole board by the Parole Board Act ¶41-17-37 to 41-17-41¶, the New Mexico Boys' School, the Girls' Welfare Home and the juvenile probation services division of the administrative office of the courts.

42-9-9. Construction of applicable laws.--Wherever, under any statute which was administered or enforced prior to July 1, 1969, by the penitentiary of New Mexico board, the state board of probation and parole or by the boards of the New Mexico Boys' School or the Girls' Welfare Home or by the juvenile probation services division of the administrative office of the courts, or by their officers or employees, reference is made to any such officers, employees or agencies, the reference shall be construed to mean the department, except as powers and duties are designated to the parole board by the Parole Board Act ¶41-17-37 to 41-17-41¶.