

DEPARTMENT OF CORRECTIONS
AND HUMAN SERVICES



STAN STEPHENS, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930 FAX (406) 444-4920

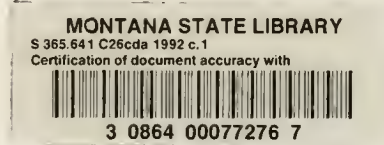
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Jim Pomroy, Acting Administrator
Corrections Division
Department of Corrections and Human Services
1539 11th Avenue
Helena, MT 59620-1301

RE: Committee Supplement to its Investigative
Report

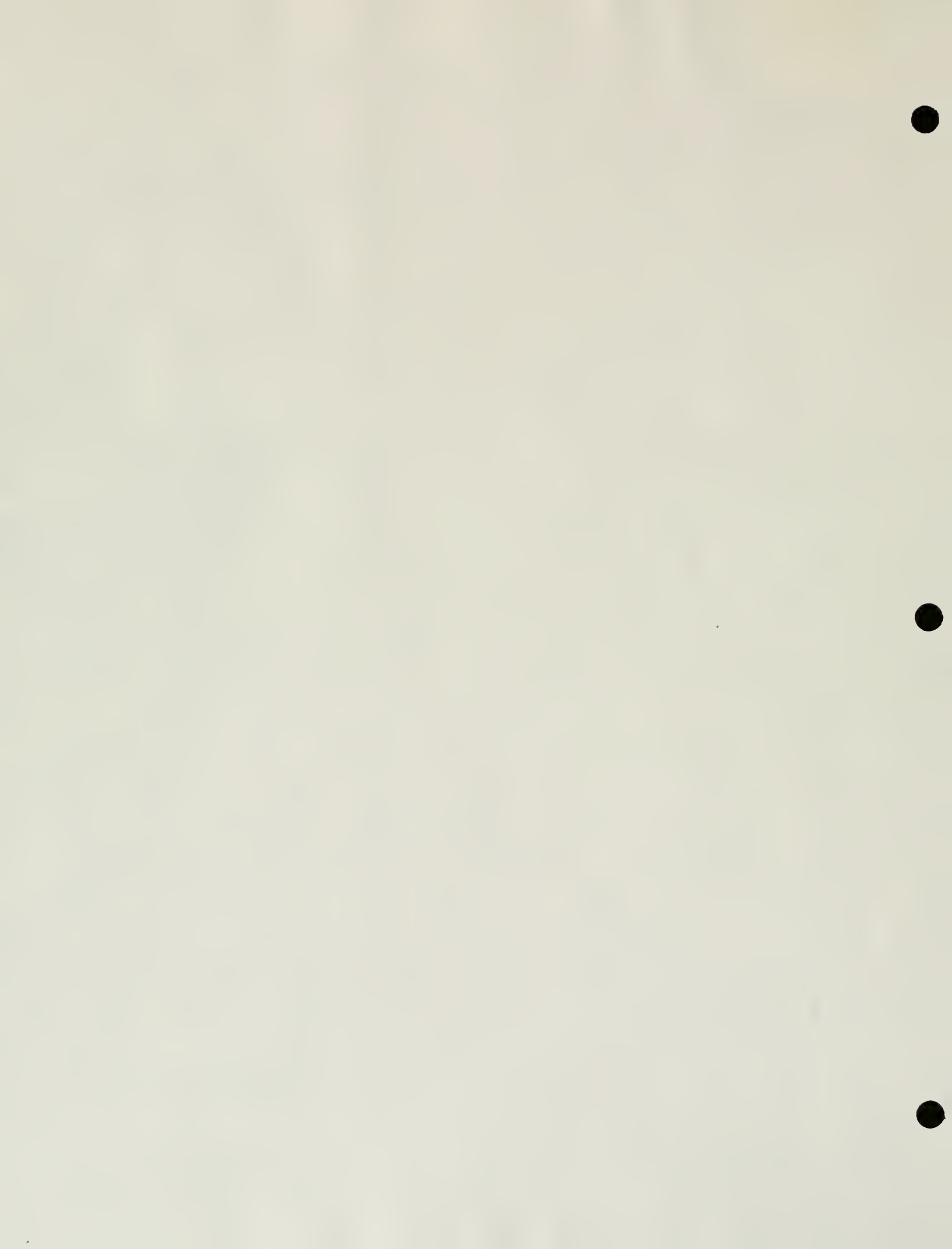
Dear Jim:

This is in response to your questions regarding the investigative report by the Administrative Discipline Review Committee. Since Tom Gooch is on vacation, I will respond to your questions. I have contacted the other Committee member, Ken McElroy. He has indicated his agreement with the following comments.

Both myself and Mr. McElroy re-read the entire Report prior to responding to your questions. This was the first opportunity either he or myself have had to read the Report since it was completed. Speaking for myself, upon re-reading the report it became apparent that certain statements made in the report are not clear. Certain statements characterized as conclusions were not, in fact, the conclusions of the Committee. Other statements are unclear and confusing, and may be misread or misunderstood as findings of the committee. I apologize for that fact, and can understand your confusion over some of the comments made in the Report. Unfortunately, because of time constraints, the Committee was unable to do more than give the document a cursory review before the draft was finalized. I hope the following comments will clear up some of the confusion. In addition to your specific questions, I have noted several misstatements which I have corrected.

1. Use of the term "management" in the document usually refers to personnel from the rank of lieutenant through the warden.

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2. The section headings in bold letters, i.e. "A. Warning signs of an impending riot were ignored." are not the conclusions of the Committee. They refer to deficiencies which the NIC team concluded existed at the prison. The commentary which follows the headings indicates the Committee's findings with respect to each deficiency noted by the NIC team.
3. We did not reach any conclusions regarding which employee or employees should be disciplined. We saw our mission as one of fact-finding only. Any statements made in the report about individual responsibility are only meant to indicate which employee the Committee felt had responsibility for a particular action or omission, relative to other employees at the prison. The Committee did not mean to imply that the individual should be disciplined. We felt that decision rested with yourself, and not the Committee.

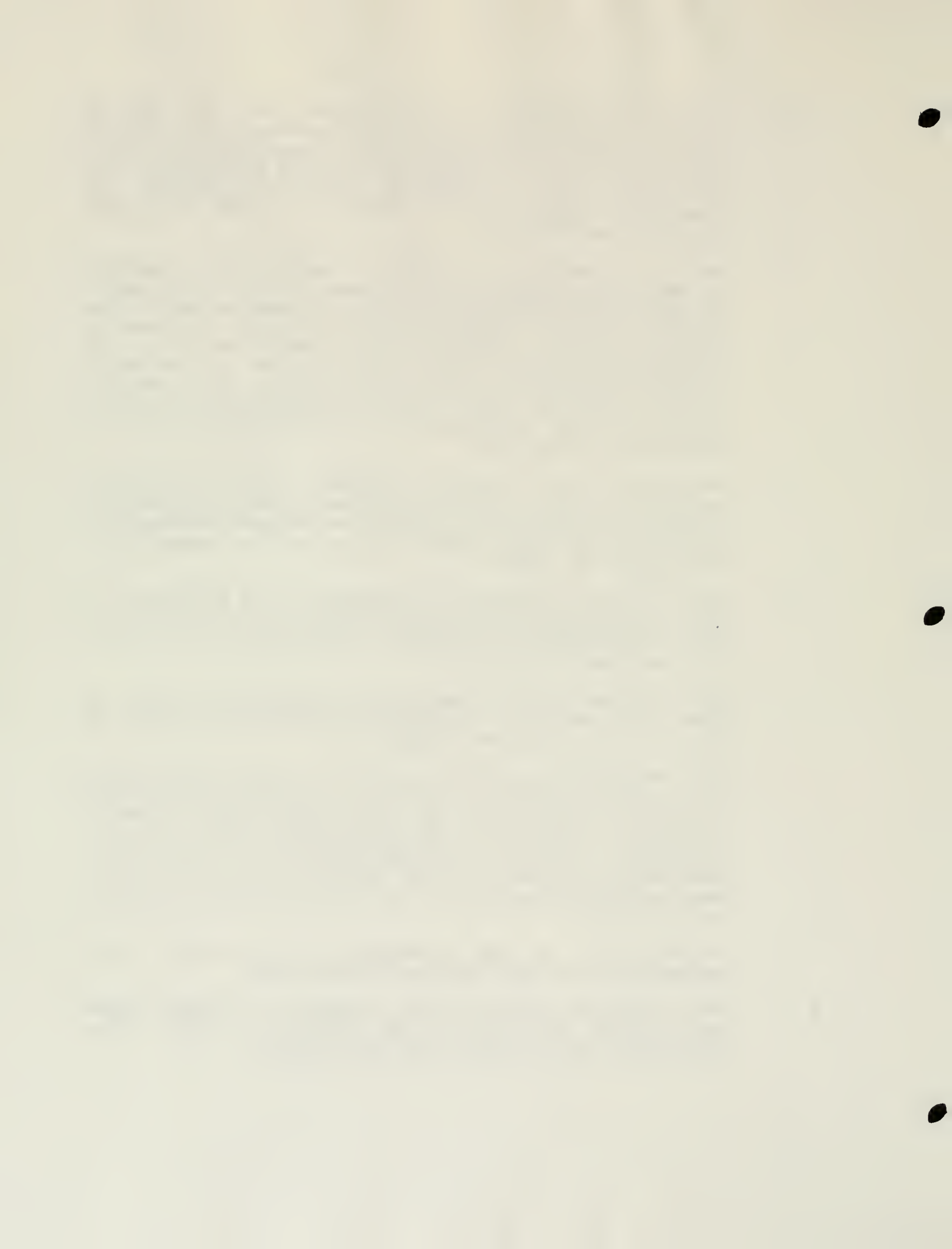
We further felt that this document was a preliminary document to any decisions on discipline. It does not discuss any reasons or rationale for acts or omissions of personnel. We did not ask "Why" an act was taken or why action was not taken.

4. The statement regarding the nickname of the NIC report as the "Inmate Report" on page 9 is merely a recitation of what the Committee was told by prison staff. It is not the Committee's opinion.
5. With regards to the Committee's statement on page 13 that, "The committee is unaware of any follow-up to the Brown kite and the memorandum...." :

The committee was discussing the failure of management and command personnel to follow up these warnings. The committee is aware that Max staff conducted a shakedown of the yard, at which time the defective gate latch was discovered. However, the Committee did not believe upper management were aware of the existence of the kite and memo, and therefore did not act on the warnings contained in the kite.

6. On page 16, at the conclusion of the first full paragraph, the last sentence should read:

"The committee did not reach a consensus on whether these two policy violations were pervasive enough that management should have known about them."



7. On page 20, at the top of the page, in discussing the warden's perception of who was responsible for Max, the Committee did not find that the warden did not know who was responsible for Max. The warden was aware that the Deputy Warden was primarily responsible for Max. What the warden did not know was the relative responsibilities of Weer and Beeson in enforcing policies, investigating incidents, and advising personnel in Max. The following several pages of the report also discuss staff's uncertainty regarding responsibilities for Max, and the Committee's use of language is likewise confusing. To set the record straight, the Committee found that all prison personnel were aware that the person who was primarily responsible for Max was Deputy Weer, and that he was responsible for policy in Max. Where the confusion existed was how much responsibility Beeson had in enforcing policies, inspecting premises and personnel performance, and advising personnel in the Max unit.
8. On page 38, in the middle paragraph, the quotation is not attributable to any particular person, but was the Committee's attempt to paraphrase the response of a number of staff. Staff commented that there are a number of inmates who attempt suicide, not to kill themselves, but to garner attention. Various reasons suggested for the need for attention included an inmate's desire to get out of his cell and spend time in the infirmary or personal problems with other inmates on a block. Staff commented that these individuals know when to attempt a faked suicide so that they will be discovered and taken to the infirmary. Likewise, staff commented that persons who seriously wished to commit suicide knew when to do so to complete the act. The Committee accepted these statements as undoubtedly true. The Committee's concern regarding management staff's response to the problem, which was characterized as "curt", was the fact that staff did not appear to have thought of other situations, such as an accident, which may have placed a life in danger.
9. On page 46, at the end of the first paragraph discussing the remarks of a correctional officer about treatment of inmates in the Reception Unit following the riot:

This statement is attributed to the correctional officer. It should not be considered a statement of opinion by the Committee. I emphasize, as is stated on page 47, that the Committee did not conduct an investigation into inmate treatment following their placement into Reception. Our investigation of inmate treatment was limited to what occurred prior to, and immediately following the riot when the inmates exited Max and were



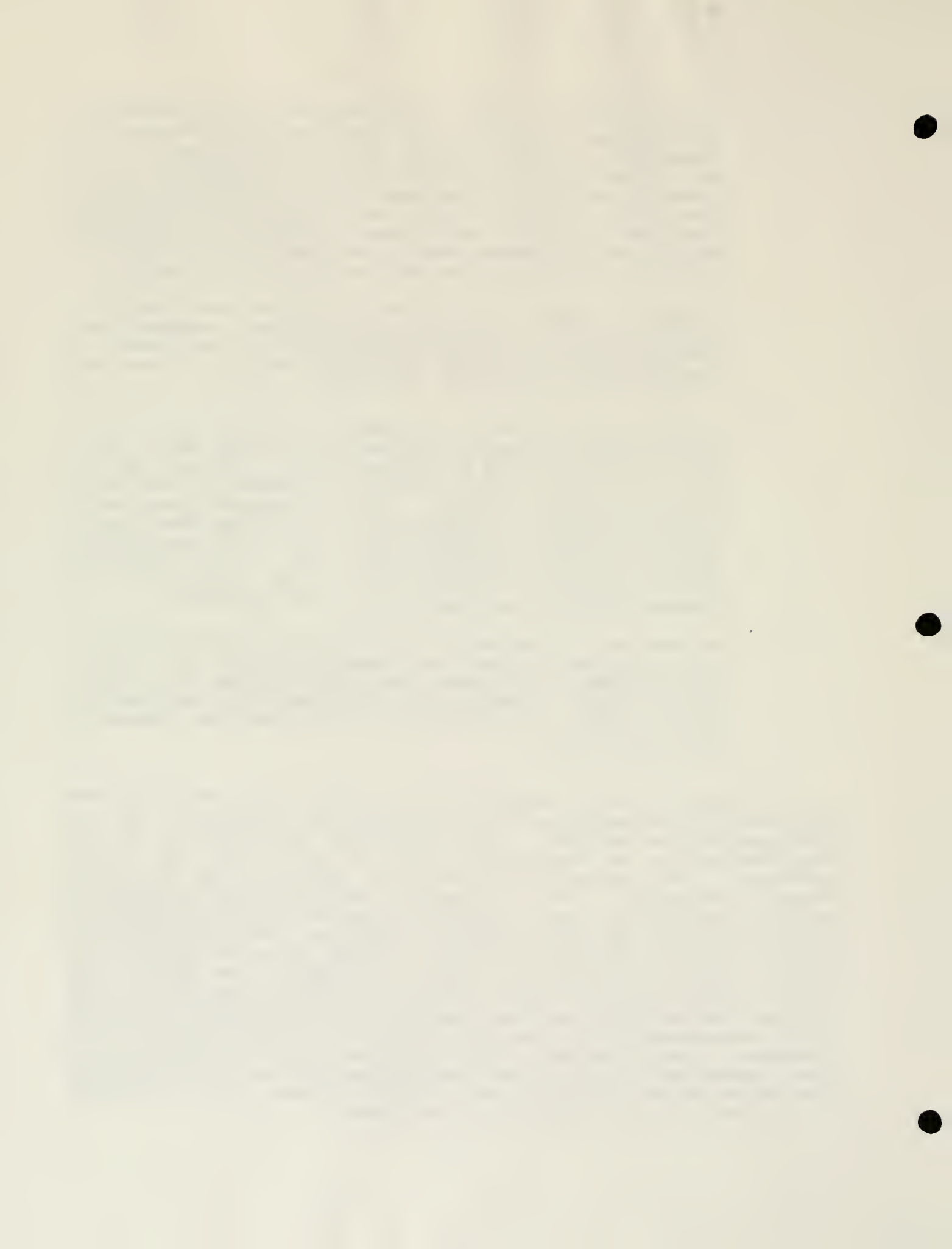
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placed in no-man's land. The Committee did not formulate any opinion regarding the treatment of inmates in Reception. At the outset of our investigation, we determined that our mission was to determine facts relating to whether management staff was responsible for the riot. We did not feel our mission was to inquire into post-riot acts. Additionally, we felt that concerns about inmate treatment were investigated by the FBI, and for us to do so would be duplicative of their effort.

10. On page 6, under 1), the committee noted that the Brown kite was copied to the individuals stated. However, the committee did not determine when the cc: was placed on the document, nor whether the named individuals received a copy prior to or after the riot.
11. On page 18 and page 42, the committee discussed the fact that managers, meaning lieutenants through the warden, did not visit Max on a frequent basis. On page 42, we did not conclude that visits by Command to Max were "essentially non-existent". We did conclude that visits were not frequent. On page 18, we concluded that visits by an individual Command Officer, i.e. a lieutenant or captain, occurred, "at most once a week, and as little as once a month." We did not conclude that visits by Command Officers as a whole were that infrequent.
12. On page 44, discussing the frequency that staff swear at, with or about inmates, the Committee found that it was not infrequent or uncommon for staff to swear at, with or about inmates. However, the characterization that it occurs "with great frequency" misstates the frequency such acts occur.

A couple of other remarks need to be addressed. The Committee believes that the majority of its findings are consistent with the findings of the NIC team. There was some disagreement on the characterization and magnitude of certain points, but not on the substance. For instance, the Committee did not find Max post-orders "ineffectual". We felt that the existing post-orders were marginal, and, if followed, could have negated the riot. Therefore, no basis existed for disciplining an employee. Our difference of opinion can be attributed to the different goals we had at the outset, as well as differing areas of expertise. We agreed with the NIC that the post-orders could be markedly improved. Our opinion was based not upon our knowledge of corrections, but upon a lay understanding of what post orders are for and whether they appeared to meet that goal. The NIC teams opinion was based upon their expertise in corrections. We arrived at essentially the same conclusion as the NIC, only via a different route. Our difference of opinion is one of degree, not substance.



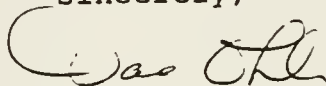
There are a number of other areas in which we reached a somewhat different conclusion than the NIC team. However, in all but two important areas, the differences were primarily ones of degree, not substance.

The two areas we disagreed with the NIC team were 1) whether the Brown suicide was a major cause of the riot, and 2) whether there was any unnecessary and unwarranted treatment of inmates when they were evacuated from Max.

Finally, there are a number of other areas in the report in which findings and conclusions are stated poorly, and which could have been stated more correctly than they were. They are not vitally significant, and are too numerous to mention. I can only attribute that to our need to complete the Report by the Friday deadline.

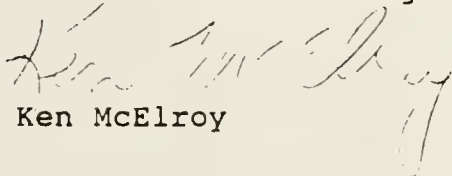
I hope this clarifies the findings of the Committee, and answers your questions.

Sincerely,



DAVE OHLER
Legal Counsel

I concur in the foregoing:



Ken McElroy

DO/jeb

