

**The original documents are located in Box 6, folder “Clemency Program - Termination of the Clemency Board” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.**

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

GENERAL COUNSEL

August 25, 1975

**DISTRIBUTION**

**DOD    Justice    GSA    SSS    Presidential Clemency Board**

Herewith, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Assigning Responsibilities Relating to Activities of the Presidential Clemency Board."

This proposed Order was prepared in this office.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving your comments concerning this Executive order. Comments or inquiries may be submitted by telephone (395-5600; 395-4550; IDS 103-5600; 103-4550). I will assume that you have no objection to the issuance of this proposed Order if your comments have not been received by Thursday, August 28, 1975.

Sincerely,

*William M. Nichols*  
William M. Nichols  
Acting General Counsel

Enclosure

**COPY FOR MR. PHILIP W. BUCHEN - THE WHITE HOUSE**



EXECUTIVE ORDER  
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ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES  
OF THE PRESIDENTIAL CLEMENCY BOARD

By virtue of the authority vested in me by the Constitution of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Section 9 of Executive Order No. 11803 of September 16, 1974, as amended, is amended to read:

"The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist."

Sec. 2. With respect to any applications for Executive clemency, as to which the Presidential Clemency Board (established by Executive Order No. 11803) has not reported its findings and recommendations to the President pursuant to Section 3 of Executive Order No. 11803, those applications and related files pertaining to persons convicted of violating Section 12 or 6(j) of the Military Selective Service Act (50 App. U.S.C. 462), or of any rule or regulation promulgated pursuant thereto, shall be transferred to the Attorney General, those applications and related files pertaining to persons given punitive or undesirable discharges as a consequence of violations of Articles 85, 86, or 87 of the Uniform Code of Military Justice (10 U.S.C. 885, 886, and 887), shall be transferred to the Secretary of Defense.



Sec. 3. The Attorney General and the Secretary of Defense, with respect to the applications and related files transferred to them by Section 2 of this Order, shall expeditiously report to the President their findings and recommendations as to whether Executive clemency should be granted or denied in any case. In performing their responsibilities under this Order, the Attorney General and the Secretary of Defense shall apply the relevant criteria and conform to the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended, regulations of the Presidential Clemency Board issued pursuant to that Order, Proclamation No. 4314 of September 16, 1974, as amended, and Executive Order No. 11804 of September 16, 1974.

Sec. 4. The Director of the Office of Management and Budget is hereby designated and empowered to take such action as he deems necessary to ensure the orderly and prompt termination of the activities of the Presidential Clemency Board and the assignment of responsibilities directed by this Order.

Sec. 5. Departments and agencies in the Executive branch shall, to the extent permitted by law,



cooperate and assist the Attorney General, the Secretary of Defense, and the Director of the Office of Management and Budget, in the performance of their responsibilities under this Order.

Sec. 6. The responsibilities assigned under this Order are to be completed no later than March 31, 1976, at which time the Attorney General and the Secretary of Defense shall submit a final report to the President.

THE WHITE HOUSE

, 1975



Copy for  
PWB

August 28, 1975

**MEMORANDUM FOR: PAUL O'NEILL  
FERNANDO OAXACA**

**FROM: JAY T. FRENCH**

**SUBJECT: Presidential Clemency Board**

It is my understanding that OMB is considering ways to conclude the administrative operations of the Presidential Clemency Board by September 15. I am concerned that in the rush of the Board to forward recommendations to the President that adequate attention and review may not be given to these recommendations by the office of the White House Counsel, and in particular to difficult cases. Accordingly, it would assist my office if your staff could arrange for the Board to implement immediately the following measures:

- a. provide separate master pardon warrants and a case summary for all cases in which the applicant has been convicted of a felony prior and/or subsequent to the commission of an offense for which he is now recommended for clemency;
- b. provide separate master pardon warrants for all cases in which written applications were received after the March 31, 1975 deadline, and provide for each such case a statement of the basis of the Board's jurisdiction;
- c. provide separate master pardon warrants for all cases which were considered by more than one panel of the Board or which were considered by the Board and one or more panels of the Board, and provide the recommendation of each such panel of the Board for every case.



For each of these categories, as well as for other categories, an appropriate certification should be provided by the Board's Executive Secretary that the persons listed have been properly classified and that the recommended decision is in accordance with the action officially taken by the Board.

To the extent that any case falls within more than one of these special categories, the Board's staff should so identify the case and provide all requested materials.

Finally, I am returning herewith the 13th, 14th, and 15th set of recommendations which the Counsel's office has received and which have not been forwarded yet to the President.

**Enclosures**

**JTF:dln**





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

*Parsons*

WASHINGTON, D.C. 20503

August 29, 1975

*Room  
110*

MEMORANDUM FOR CHARLES GOODELL

Subject: Presidential Clemency Board

A concern has been expressed by the office of the White House Counsel that in the concentrated effort of the immediate future to forward all Board recommendations to the President by September 15, special steps be taken to insure adequate attention and review of these recommendations, particularly on difficult cases. Accordingly, it is requested that the Board implement immediately the following measures:

- a. provide separate master pardon warrants and a case summary for all cases in which the applicant has been convicted of a felony prior and/or subsequent to the commission of an offense for which he is now recommended for clemency;
- b. provide separate master pardon warrants for all cases in which written applications were received after the March 31, 1975 deadline, and provide for each such case a statement of the basis of the Board's jurisdiction;
- c. provide separate master pardon warrants for all cases which were considered by more than one panel of the Board or which were considered by the Board and one or more panels of the Board, and provide the recommendation of each such panel of the Board for every case.

For each of these categories, as well as for other categories, an appropriate certification should be provided by the Board's Executive Secretary that the persons listed have been properly classified and that the recommended decision





is in accordance with the action officially taken by the Board.

To the extent that any case falls within more than one of these special categories, the Board's staff should so identify the case and provide all requested materials.

Finally, attached herewith are the 13th, 14th, and 15th sets of recommendations which the Counsel's office had received and had not yet forwarded to the President. Please treat these sets of recommendations in the same manner as any others not yet forwarded to the White House.

James T. Lynn  
Director

Attachments

cc: DO Records  
Director  
Deputy Director  
French, WH  
Nicols  
Puritano ✓  
Traylor, DOJ  
Oaxaca

FOaxaca:byp:8/29/75





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

*Clemency*

SEP 3 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Termination of Clemency Board

The attached Executive Order was prepared in this office and its substantive provisions have been coordinated with the Departments of Defense, Justice and the Selective Service System. It has the approval of the Attorney General.

The Executive Order specifically:

- Terminates the Presidential Clemency Board on September 15, 1975, in accordance with your decision of February 27, 1975.
- Delegates carry-over workload to the Department of Justice and requires DOJ to complete these carry-over activities by March 31, 1976.
- Delegates authority to OMB to take the necessary action to ensure the orderly and prompt termination of the PCB.
- Directs the DOJ to report to the President their findings and recommendations.

In addition to the above, I have taken the following actions to assure an orderly transition of the PCB activities to the DOJ.

- A high level joint transitional oversight committee has been established to review PCB functions that will require action after September 15, 1975. This oversight committee is chaired by DOJ, and includes staff from DOD, SSS, GSA, PCB and OMB.

COPY FOR WHITE HOUSE LEGAL COUNSEL



- DOD/GSA have begun work with PCB for orderly return of records to appropriate centers.
- GSA will assist DOJ in meeting any transitional potential problems concerning space or logistical support, etc.
- Selective Service/DOJ have agreed on an alternative service procedure after September 15, 1975.

I recommend you sign the Executive Order. We will continue to report to you on Clemency Board activities on a weekly basis.

(Signed) James T. Lynn

James T. Lynn  
Director

Attachment



EXECUTIVE ORDER  
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ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES  
OF THE PRESIDENTIAL CLEMENCY BOARD

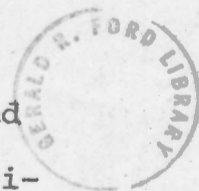
By virtue of the authority vested in me by the Constitution of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Section 9 of Executive Order No. 11803 of September 16, 1974, as amended, is amended to read:

"The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist."

Sec. 2. Any applications for Executive clemency, as to which the Presidential Clemency Board (established by Executive Order No. 11803) has not taken final action shall be transferred, together with the files related thereto, to the Attorney General.

Sec. 3. The Attorney General, with respect to the applications and related files transferred to him by Section 2 of this Order, shall take all actions appropriate or necessary to complete the clemency process and shall expeditiously report to the President his findings and recommendations as to whether Executive clemency should be granted or denied in any case. In performing his responsibilities under this Order, the Attorney General shall apply the relevant criteria and comply with the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended, Proclamation



No. 4313 of September 16, 1974, as amended, Executive Order No. 11804 of September 16, 1974, and, to the extent that he deems appropriate, the regulations of the Presidential Clemency Board and the Selective Service System issued pursuant to the foregoing Executive orders.

Sec. 4. The Director of the Office of Management and Budget is hereby designated and empowered to take such action as he deems necessary to ensure the orderly and prompt termination of the activities of the Presidential Clemency Board and the assignment of responsibilities directed by this Order.

Sec. 5. Departments and agencies in the Executive branch shall, to the extent permitted by law, cooperate with and assist the Attorney General, the Director of the Selective Service, and the Director of the Office of Management and Budget in the performance of their responsibilities under this Order.

Sec. 6. The responsibilities assigned under this Order are to be completed no later than March 31, 1976, at which time the Attorney General shall submit his final recommendations to the President.

THE WHITE HOUSE

, 1975



Monday 9/8/75

2:55 Col. Benson said they would have taken this up with Jay, but found that he was not in the office because of the death of his father.

The paper was given in confidence. \*

The proposed organizational chart is for after the 15th. The various functions and figures represent the total number of personnel initially required -- making a total of 60.


Copies of this chart should go to OMB -- and possibly to Traylor of the Dept. of Justice. *Paul Orville*

\* He understands the Task Force is now working to prepare this document (in the form of a letter) that will be disseminated (without any Board approval) to all government agencies and could have some very disastrous after effects ----- needs to be nipped in the bud before it gets out.



PRESIDENTIAL CLEMENCY BOARD  
THE WHITE HOUSE  
WASHINGTON, D.C. 20500

8, September, 1975

MEMORANDUM FOR: Philip Buchen  
FROM: General Lewis W. Walt   
SUBJECT: PCB Transition Discussion Paper

Attached is a copy of the transition discussion paper (given to you in confidence) prepared by a member of the senior staff. I had no knowledge of this until today when it was brought to my attention by one of the staff attorneys. All statements which I have underlined are of particular interest.

Section XIII, in my opinion, deserves your immediate attention. It is an explanation of a PCB senior legal staff project to disseminate their perceptions of the legal effect and content of a clemency discharge to all Federal agencies, and state welfare and employment organizations. This seemingly innocent project, in my opinion, is fraught with peril.

It appears to me that such a project should receive clearance from both you and the Attorney General, since the latter will have to administer the residual program.

This is but another example of a "run-away" senior staff, attempting to circumvent the Board.

An improvident legal opinion issued by the PCB General Counsel or Chairman in the guise of an information letter may place the Government in a disadvantageous position should litigation ensue on the entitlements of the recipient of a clemency discharge.



PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE  
WASHINGTON, D.C. 20500

August 20, 1975

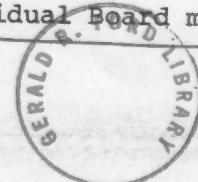
MEMORANDUM FOR: CHARLES E. GOODELL  
FROM: ROBERT A. KNISELY *RAK*  
SUBJECT: TRANSITION DISCUSSION PAPER

I. Decision Maker

Problem: An authorized person or board is necessary to make decisions after 15 September 1975.

Discussion: Without doubt, there will be decisions to be made on individual cases after 15 September 1975. At minimum, there will be appeals, reconsideration cases, and unworkable cases. There may also be a small number of "worked unworkables," those cases that were held to be unworkable, but were completed by the action attorneys prior to 15 September 1975, but too late for a panel-meeting. In my meeting with Bruce Fein, Mark Wolf, and the Pardon Attorney (the DoJ meeting), they suggested that the Pardon Attorney be empowered personally to decide cases, much as he now decides who is to receive a Pardon. While I admitted that our substantive guidelines would permit the Pardon Attorney to make decisions congruent with those of the present Board, I reserved judgment on whether it would be appropriate for the Pardon Attorney to assume the functions of the President's Board. I noted that the present Board's charter does not expire until 31 December 1976, and that about 10 of the members of the present Board reside in the Washington area. The present Board, or some part of it, or others acting in its name could easily continue past the 15 September 1975 Deadline. According to Russ Deane, a waiver executed by the Board members would suffice to allow a pro bono Board (as against Title 31 prohibiting voluntary service), and since there will be very few decision days required, this might assure continuity while not gainsaying the 15 September 1975 deadline. ("Of course, we finished on 15 September 1975; the Board members are just cleaning us some appealed cases, etc., and they are doing it for nothing.") On the other hand, the present Board members or others could be hired as consultants to the Department of Justice, and paid for their time.

Action Needed: A decision as to who will decide residual Board matters, and under what terms.





II. Standards to be Applied

(federal)

Problem: To obviate equal protection arguments, the same substantive standards should be applied to all cases whether decided before or after 15 September 1975.

Discussion: This appears to be no problem. In the DoJ meeting, all the DoJ attendees were ecstatic about the Clemency Law Reporter, our established precedents, and the whole nine yards. They welcome all of the above with open arms.

NOT a Board approved publication

Action Needed: Obtain firm, written commitment to the use of PCB standards by succeeding agency.

III. Procedures

Problem: The <sup>STAFF</sup>(Board) has developed and accepted a set of procedures which attempt to guarantee a measure of due process to its applicants. To the degree possible, any follow-on agency should attempt to guarantee the same measure of due process, even if the procedures vary.

Discussion: Although DoJ would probably agree to a continuation of the preparation of case summaries, written notification of applicants, detailed record-keeping, and so forth, the Pardon Attorney stated that he was not convinced of the necessity of oral presentation, in a formal setting, of each case to the decision-maker. Also, personal appearances are not used in straight pardon cases. It is not clear which of our procedures are necessary to the due process we are attempting to guarantee our applicants.

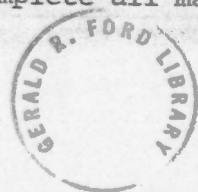
Action needed: I have asked Mike Remington of Bill Strauss' team to prepare a list of the procedures used by the PCB which in his opinion contribute significantly to the rights of our applicants. After discussion among the senior staff, a list of procedures essential to our process should be drawn up, and agreement obtained from DoJ that these will be continued. ?

IV. Staff

Exec. Staff

Problem: By 15 September 1975, the (Board) and the Action Attorneys will have "gone about as far as they can go," but the administrative tasks of preparation of Presidential packets, notification of applicants, return of records, and close-out, will not be completed. Staff must be retained to perform these functions.

Discussion: If the Board continues making decisions up to and including 15 September 1975, there will obviously be tasks remaining to be done affecting those last decisions. In all probability, the work of returning records, etc., will not be completed either. The National Archives will not decide to accept their part of our records until weeks after they are offered, which cannot be until we have completed all but a fraction of our work. While the current staff will be working to the best of its ability to complete all major tasks,



if you are to prepare for the worst case, we will need OMB's concurrence to retain some detailed employees beyond 15 September 1975. The DoJ has at present 17 professionals and 12 clerical folks on our staff; presumably these people cease being on detail and begin a reassignment as of 16 September 1975, and do not "count against" our totals. While I hope that this will not be the case, as many as 20 additional people may be necessary for from 4 to 6 weeks after the 15 September 1975 deadline. It is impossible to predict how many, or indeed if, additional detailees will be needed at this time. Over the next week, the DoJ people now on board will be moved to positions from which they can supervise or continue our functions if necessary.

Action needed: OMB should be convinced to stand ready to OK and enforce the extension of a small number of details from non-DoJ agencies for several weeks to a month after the 15 September 1975 deadline.

#### V. Finances

Problem: No money can be expended in the name of the Board after 15 September 1975; none for Board salaries, xerox rental, stationery, no nothing, as I understand it.

Discussion: While we can stockpile expendables such as xerox paper, we (or someone) will have continuing expenses through September and part of October for such things as electricity and rent, which presumably GSA will continue to cover, xerox rentals which I believe have been covered by our budget, and so forth. The magnitude of the sums are not clear.

Action needed: Since it is clear that even with a small staff handling only such time-dependent tasks as appeals, there will be a need for financial aid, Bob Horn should be directed to begin immediately scoping out the likely magnitude of the need, and the likely sources.

#### VI. Facilities/Equipment

Problem: The Pardon Attorney does not have space in his area for even the DoJ detailees that will remain with the Board after 15 September 1975. Therefore, regardless of the size of the carryover staff, some facilities and equipment will be necessary. In conversations with the Pardon Attorney on 20 August 1975, he indicated a desire to maintain the facilities at 2033 M Street as long as necessary although only several floors will be needed. We are expecting to release 1206 New Hampshire Avenue to the GSA COB 15 September 1975.

Action needed: Bob Horn and Bruce Lawhead should enter negotiations with GSA concerning the retention of 2033 M Street and appropriate equipment for some weeks beyond 15 September 1975.



VII. Institutional Locus

Problem: Some agency has to assume responsibility for the PCB residual functions.

Discussion: While it appears almost universal that DoJ should have the responsibility for the residual PCB functions, the recent letter from Paul O'Neill to Senator Goodell indicates a possible interest by DoD in having its unfinished applicants back. It is to my knowledge as yet undecided whether the Pardon Attorney or some other locus within DoJ is most appropriate; arguments have been made for the Executive or Immediate Office of the Attorney General, to provide more clout.

Action needed: A decision should be reached that the residual work and residual functions of the PCB should be attached to a given part of a given agency. It appears to me that the Pardon Attorney within Justice is the most appropriate candidate.

VIII. Final Report

Problem: After Board agreement, the Final Report must be revised, edited, managed through the Government Printing Office (proofreading and a multitude of tasks) and disseminated. Possibly questions will need answering from the residual office.

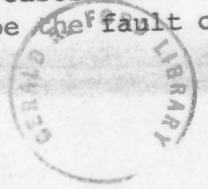
Discussion: The printing cycle could be managed by another agency, say the GSA, but having someone familiar with the report in charge of last minute editing and proofing would be most helpful. Dissemination can be done by someone who reads the report.

Action needed: A decision should be made to retain one member of Bill Strauss' staff to ride herd on the Final Report until it is put to bed at GPO.

IX. Selective Service interfaces

Problem one: Our applicants need help weeding their way through a hostile and indifferent Selective Service bureaucracy. Our applicants will not do well with only a written set of instructions and a far away State Selective Service Office to deal with.

Discussion: A part of substantive due process for a large part of our applicants would be an ombudsman function overseeing both the performance of our applicants and of the Selective Service System. This would necessitate another function for the carryover group, and a long-term one. Since the Board or its successor decision-maker could reduce a person's alternative service to time served, and certify to the Pardon Attorney the successful completion of the period of alternative service, in those cases where the failure to complete the period of service appears not to be the fault of the applicant, we should stay in the business of watching SSS.



? → Action needed: The carryover agency should be strongly encouraged to maintain as a function and perhaps as a staff unit the monitoring of SS and its behavior toward our applicants. OMB should be apprised of this decision.

Problem two: At present when Selective Service notifies the Clemency Board of the successful completion of a period of alternative service, the Board notifies the Pardon Attorney who prepares the pardon for the Attorney General's signature. In the absence of the Clemency Board, some amendment to either our regulations or the Executive Order is necessary to avoid a nullity.

Discussion: Consonant with the discussion of the difficulties anticipated with Selective Service outlined in Problem One, Selective Service, it is clear to me that Selective Service should not be set up as the agency to have an unreviewable certification power over our applicants. I would prefer that the Pardon Attorney wear two hats, certifying to himself those certified by Selective Service and any others he finds meritorious. Other options are doubtless available.

Action needed: Both a decision as to the locus of an intermediate approver of successful completion of alternative service by our applicants, and the requisite changes to the legal record. Bob Horn might be dispatched to research and write this up.

X. Upgraded Discharges

Problem: To date, the President has not signed off on the Board's recommendation as to upgraded discharges.

Action needed.

XI. Post-Deadline Applications

Problem: We have a box filled with several hundred applications, presumably valid, which were not received by the 31 March 1975 deadline.

Discussion: While this appears to be a file or discard problem, in discussions with Bruce Fein in Justice he pointed out that DoJ was going to send a paper to the White House with recommendations as to the future of the amnesty/clemency issue in this Administration. Clearly if this is true, the box of post-deadline applications should be preserved.

Action needed: Senator Goodell or Rick Tropp should find out about the larger, amnesty/clemency paper from DoJ, join the fun, and we will hold the box of applications for the carryover agency.



XII. Unworkable Cases

Problem: On 15 September 1975, there will be valid applications in hand, for which case summaries have not been prepared due to insufficient information. These cases will have received extensive, individual attention by that time.

Discussion: A staff of perhaps 50 attorneys in 1206 New Hampshire Avenue are presently attempting to develop case summaries on the so-called "hard cases". To the degree that they are able to do so, under the direction of Paul Krause and John Foote, the summaries will be ready for presentation to the Board on 08 or 09 September 1975. This will allow time for referrals to the full Board later in the week. If we assume that not all cases will be developed into a presentable status, and presume likewise that all these residual cases will be seen by at least one Board member prior to 15 September 1975, what is to be done with them after 15 September 1975? According to the Pardon Attorney, he has neither the staff resources nor the inclination to treat them as other than perfectible applications, until such time as the applicants further contact the government.

Action needed: The Board may wish to take a position with respect to the unworkable, hard cases. This might include an urging to the DOJ and a recommendation to the White House and OMB that he continue active searches for more information concerning the applicants. Certainly, the Board will wish that the carryover agency retain in their files the names and all pertinent information concerning the individuals that has been developed, so that if they are in subsequent contact with the government concerning their applications, the fact of their having met the application deadline of 31 March 75, and their continuing eligibility will be on record.

XIII. Dissemination of information concerning benefits received under the Program

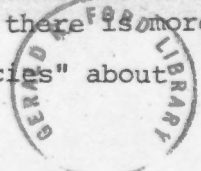
Problem: Bill Strauss discovered on his tour of Dayton and environs that our typical clemency recipient is not oriented toward receiving information via the written word. See his memo concerning that trip. How do we get the word to the clemency recipients that they received a clemency discharge and a pardon, and what those items are worth?

Discussion: I have directed John Lohff to take his reduced staff, meet with Bill Strauss and Mike Remington, and begin work on a set of materials which can be sent to all the "first line" agencies that deal with our kind of people, so that when a clemency recipient appears at the door of such an agency, someone will have in hand information to answer questions concerning the value and use of the clemency documents. This list will include VA offices, Welfare offices, and the like. Between now and 15 September 1975, John Lohff's team will attempt to write and get cleared the appropriate substantive material, identify the appropriate offices and their national entities, if any (of the United Way, and so forth) and get the material out.

Action needed: If on 15 September 1975, we discover that there is more work to be done about disseminating information to "contact agencies" about

No records available

7



the value of the clemency papers, we should insist that the carryover agency assume that function until it is done.

XIV. Notification of recipients of clemency

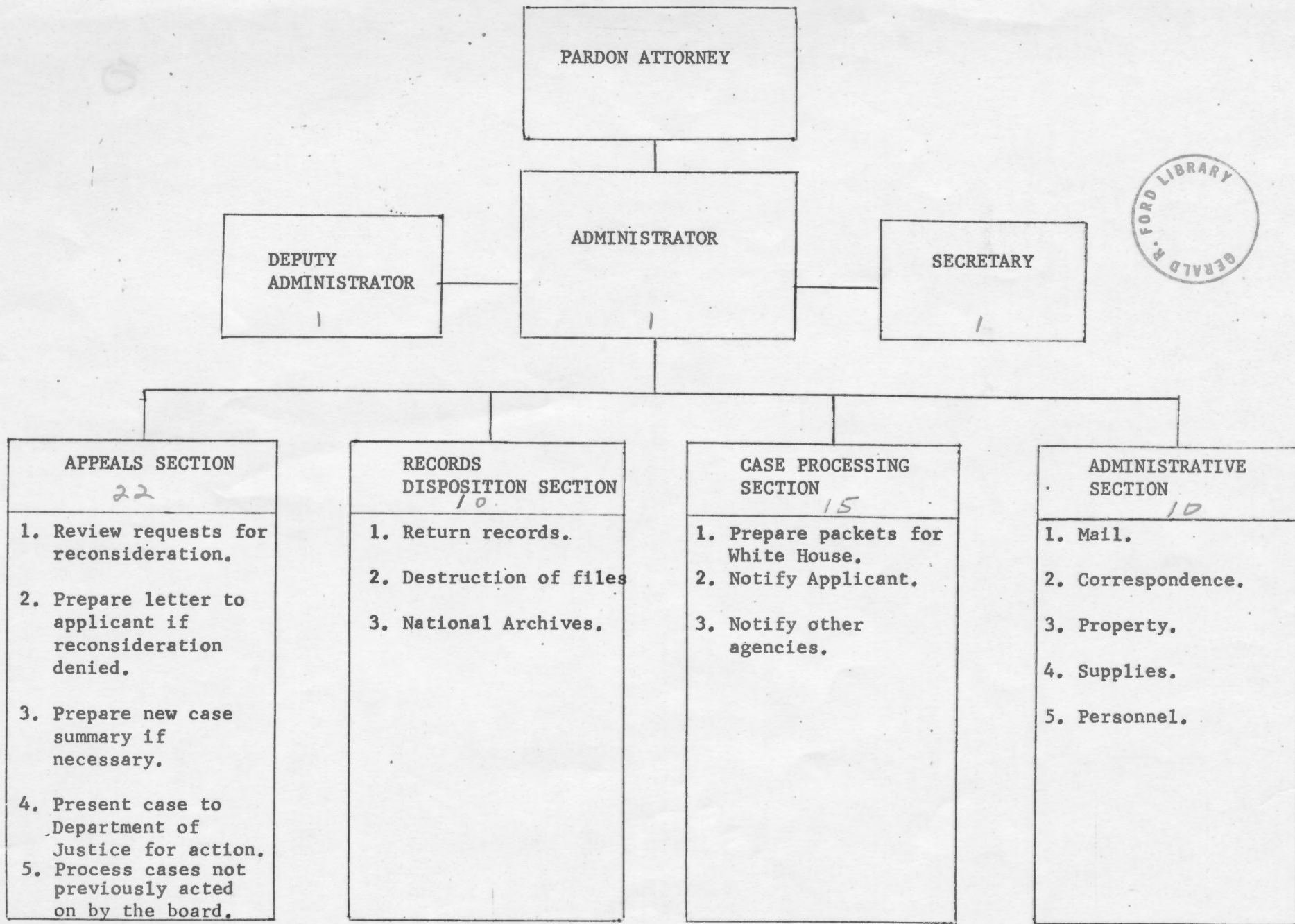
Problem: During the next little while, until 15 September 1975, we have about 18,000 pieces of mail to be sent out. We have two automatic typewriters and a number of clerical personnel who are needed elsewhere.

Discussion: While I am attempting to get additional information about workload for the automatic typewriters, it appears perfectly clear to me that we do not have the resources to get original letters typed for the clemency recipients, the no clemency cases, the no jurisdiction cases, the pro and con general correspondence, and any other pockets of resistance that show up. Many of these, particularly the letters for the clemency recipients, require only the most minimal information to be added to the standard letter: address, date, and period of alternative service. We need to get additional assistance in typing those letters, and there is no reason to delay. The White House Correspondence unit could begin cranking them out ASAP.

Action needed: Another source should be immediately identified to begin the auto-typing process for many of our letters. I suggest the White House Correspondence unit.



ORGANIZATION AND FUNCTIONAL CHART



ALL OF THE ABOVE FUNCTIONS CAN BE ACCOMPLISHED EFFECTIVELY AND EFFICIENTLY WITH A MAXIMUN OF 60 PERSONNEL.

THE WHITE HOUSE  
WASHINGTON

Send to  
Paul O'Neill  
for his eyes  
only  
I P.



THE WHITE HOUSE  
WASHINGTON

*Clemency Board*

September 5, 1975

MEMORANDUM FOR:

CHARLES E. GOODELL

FROM:

PHILIP W. BUCHEN

*P.W.B.*

This is in response to a memorandum dated June 2, 1975, from the Clemency Board's General Counsel to Jay French, of my staff, forwarding a letter dated May 29 from Forrest R. Browne, Director, Federal Personnel and Compensation Division, General Accounting Office, advising you that GAO intends to conduct a survey of the Presidential Clemency Board.

The request of the GAO has been considered by the Department of Justice and this office. Based on the following discussion, I have prepared a suggested response for you to send to Mr. Browne. (See Tab A.)

In large measure, the operations of the Presidential Clemency Board are based upon the President's exclusive constitutional authority to grant Executive clemency. To the extent the GAO survey seeks information about this area of the Board's operations, such information is not subject to disclosure without the President's permission.

A small part of the operations of the Board involves upgrading discharges of former servicemen. To the extent the GAO survey concerns information about this part of the Board's activities, such information falls within a legitimate area of interest to the Congress because the Congress has the constitutional authority to "make rules for the government and regulation of the land and naval forces." See Article I, Section 8, Constitution.

If the GAO decides that it would like to have access to material of this specific nature, it will be necessary to review each document to determine whether it may be subject to a claim of privilege.



Privileged material is generally intra-executive advisory, deliberative material, or material directed to the President. The Counsel's office should review all material which you determine is privileged.



DRAFT

Dear Mr. Browne:

This is in response to your letter dated May 29 informing me that the General Accounting Office intends to perform a survey of the Presidential Clemency Board.

The operations of the Board are largely based upon the President's exclusive constitutional authority to grant "reprieves and pardons for offenses against the United States." To the extent the GAO survey concerns information based upon this authority, such information is not subject to disclosure. A smaller part of the Board's actions, however, concern upgrading discharges of former servicemen. Information about this area of the Board's activities would be available to GAO, unless it was determined that such information involved intra-executive advisory, deliberative material, or material directed to the President.

If the General Accounting Office would like to conduct a survey of matters involving the upgrading of discharges of former servicemen, the Board and its staff would be pleased to assist in any way possible.

Sincerely,



Tuesday 9/9/75

9:55 John Foote (Associate General Counsel of the Clemency Board) said they heard a rumor this morning that the President had signed an order transferring the Clemency functions from the White House to Ed Levi at Justice.

634-4858

Mr. Buchen said to tell him to call Paul O'Neill in OMB; there's an executive order, and O'Neill could tell him.

4742



PRESIDENTIAL CLEMENCY BOARD  
THE WHITE HOUSE  
WASHINGTON, D.C. 20500

*Clemency*

September 11, 1975

MEMORANDUM FOR: Donald Rumsfeld

FROM: *Charles E. Goodell*  
Charles E. Goodell, Chairman

SUBJECT: Statement for the President to Issue upon the Expiration  
of the Presidential Clemency Board.

Attached is my proposed statement for the President to issue  
on Monday in connection with the Presidential Clemency Board's  
completion of its work.

cc: Philip W. Buchen  
John O Marsh  
Ronald Nessen  
James Connor



Draft Statement for the President

I am today signing an Executive Order terminating the Presidential Clemency Board, which has completed its consideration of all applications for clemency made to it. The Board has worked day and night for the past 5 months in order to meet the target of September 15 which I set for it, and it has made recommendations to me on approximately 15,500 cases. 5,000 applications to it proved to be from people ineligible for consideration under the Proclamation which established the clemency program.

One year ago tomorrow, I established the Presidential Clemency Board as a temporary organization within the White House, in order to carefully consider on a case-by-case basis whether applicants to it ought to be granted clemency, and on what terms. As I had intended, the Board gave careful attention to each individual case, and did not simply recommend blanket amnesty for whole categories of applicants.

The Board considered its cases under a set of regulations which guaranteed scrupulous fairness and due process for each applicant. At the same time, in its overall pattern of decisions, the Board has ensured that the decisions of the military justice system were respected and that military discipline has been maintained. Constantly, in thinking about every application it faced, the Board remembered the sacrifices made by our veterans who went into combat in Vietnam, who died, and who suffered grievous wounds for their country.

I am proud that the Board is breaking governmental precedent by getting its job done and going out of existence within the deadline set for it.

It seems to me critical that the American people understand that although there are cases of clemency which have been granted to those who conscientiously opposed the war in Vietnam, most of the clemency cases have turned out to have nothing to do with opposition to the war. By and large, they involve family hardship cases and cases in which former servicemen fought well in Vietnam, and then cracked under the strain after they had completed their duty in the combat zone. They were generally unsophisticated, uneducated, inarticulate people who just did not know the proper channels when they ran into dying parents, sick children, deserting spouses, or just plain emotional problems.



These are not at all the kind of people whom, we, as a nation, pictured as the stereotype draft evader or deserter. These are, rather, unfortunates who have shown that they are willing to fulfill their obligation to their country by doing alternative service, and whom we should accept back into their communities. Where they are former servicemen with a Clemency Discharge, I hope that neighbors and employers will treat them as ordinary people who have earned their re-entry into their community, who have earned the privilege of being treated just the same as anyone else.

I ask the business community, particularly the small businessmen and the manufacturers who will employ most of these people, for their help in this.

I am gratified to note that the recent Gallup Poll shows, consistently with other surveys, that 85% of the American people will welcome back into their communities those who have earned re-entry under the clemency program. I am especially pleased to note that veterans in general, and Vietnam veterans in particular, have overwhelmingly indicated that they intend to accept clemency recipients back.

It is this generous reaction of the American people, and particularly of those most intimately acquainted with the Vietnam war, which will make the clemency program a success in healing the divisions generated by the war, and in consigning the clemency/amnesty issue to the pages of history.



PRESIDENTIAL CLEMENCY BOARD  
THE WHITE HOUSE  
WASHINGTON, D.C. 20500  
September 12, 1975

*cy sent  
to Jay  
9/15*

MEMORANDUM FOR: HONORABLE JAMES T. LYNN  
Director, OMB  
*Charles E. Goodell*  
FROM: CHARLES E. GOODELL  
Chairman

SUBJECT: Your Memorandum of August 29, 1975 on  
Recommendations by the Presidential  
Clemency Board

With respect to the three categories of Board recommendations specified in your memorandum of August 29, the Board will take the following actions:

- a. As we had already been doing prior to your memorandum, per oral agreement between Phil Buchen and me, we will provide case summaries for all cases in which an applicant has been convicted of a felony in addition to the offense with respect to which clemency is recommended. We will also provide separate master warrants for those cases.
- b. No cases are sent to the President if application was received after the March 31, 1975 deadline. The Board has ruled that applications will be construed to have been made prior to the deadline if an oral application was made prior to that date, followed by a written one. We will not provide separate master warrants for cases in which oral application was made prior to March 31 but written application did not arrive until after the deadline. The Board sees no distinction between this class of applicants and all others.
- c. We will not provide separate master warrants for cases which have been considered by more than one panel of the Board, but we will provide memoranda noting which of the cases on a warrant are in this category, together with reasons for double consideration and for the disposition recommended to the President. We will not provide separate master warrants for cases considered by the full Board upon referral from a panel.





There are hundreds of such cases, and we find them not materially different than those in which a recommended disposition was reached by a panel without referral to the full Board.

These conclusions have been discussed orally with, and approved by, the Counsel to the President. Pursuant to that conversation, the master warrants which were returned to the Board have been sent back to his office.

I would call your attention to several procedural questions which are, I surmise unintentionally, raised by your memorandum:

1. In seeking separate warrants for all cases in which "written" applications were received after March 31, the memorandum suggests that you may consider oral applications prior to the deadline to be insufficient to trigger the Board's jurisdiction. The implicit presumption is that the Board is not the arbiter of its jurisdiction, but rather that OMB may override the Board's jurisdictional decision on this particular question.
2. In requesting separate warrants not only for cases considered by two panels but also for those referred to the full Board, the memorandum suggests that OMB intends to substantively review those several hundred cases. I am dubious as to whether the President intended such review when he directed OMB last spring to offer the Board assistance, and I am dubious as to whether you have the resources to review every such case. If some but not all such cases are reviewed, questions of unequal protection will inevitably arise. We have tried, by applying our regulations evenhandedly to all cases, to mute the pleas of unequal protection which must inevitably arise in any discretionary process.
3. With respect to cases considered by the full Board upon referral by a panel, the memorandum requests that we provide the panels' recommendations in all such cases. It seems to me, rather, that in cases for which dispositions have been reached by full Board review, panel preliminary recommendations should remain internal to the Board and should not be employed as standards to review full Board



decisions. I believe that a task force reporting to the President last August labeled such behavior "boring holes below the waterline", and that you were at one time on the other end of it.

4. The last paragraph of the memorandum indicates that OMB is returning warrants to us for modification in their form. Where hitherto the Board has reported directly to the President, submitting papers as a matter of form through the Counsel's Office, the memorandum implicitly suggests that the Board now reports to the President through OMB.

That is not the fact, and I suspect that the President intends the Department of Justice to continue to report on residual clemency recommendations directly to him, routing papers only through the Counsel's Office. Certainly clemency recommendations from the Attorney General to the President have not in the past been submitted through OMB, and have not been subject to its review.

5. Hitherto, our conditional pardon warrants, and the lists of conditions for each clemency recipient appended to the warrants, have been very closely held in order to protect the privacy of the individuals with respect to whom clemency is recommended. The Board has often expressed its intent that individuals applying to the President through it not be worse off than they were prior to their application. Routing the master warrants and lists of conditions through OMB raises questions of possible violation of applicants' privacy and of the Privacy Act.

Presuming that you did not intend these questions to be raised, nor the outcomes which follow from them, the Board will proceed pursuant to my agreement with the Counsel to the President.

You may wish to indicate to the Attorney General that he should follow the same procedure on residual clemency recommendations.

cc.: PHILIP BUCHEN



*Clemency Bd*

Friday 9/12/75

Pres scheduling  
9/16/75  
5:30 p.m.

11:40 The Clemency Board meeting with the President has  
been rescheduled for 5:30 on Tuesday 9/16.



Friday 9/12/75

Pres. Scheduling  
9/15/75  
5:30 p.m.

10:30 Nell advises the President has approved the scheduling proposal for the Clemency Board for Monday 9/15 at 5:30 p.m. for the group recommended for 15 minutes.

Following that the President will go out and greet the whole staff of the Clemency Board (400).

We are to notify the Board.

Will you want to call Charles Goodell?



Clemency  
Board

Thursday 9/11/75

5:55 Warren Rustand needs urgently to talk with you  
about a scheduling request for the Clemency Board.



Thursday 9/11/75

5:55 Warren Rustand needs urgently to talk with you  
about a scheduling request for the Clemency Board.



MEMORANDUM

THE WHITE HOUSE

WASHINGTON

HIGH PRIORITY

September 10, 1975

MEMORANDUM FOR:

JAMES CONNOR  
→ PHILIP BUCHEN  
ROBERT HARTMANN  
MAX FRIEDERSDORF  
JOHN MARSH

FROM:

WARREN RUSTAND *WBR*

SUBJECT:

Recognition of The Clemency Board  
as it Finishes its Work on September 15

We are tentatively proposing this for Monday, September 15.

Do you concur with the proposal?



PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

September 8, 1975

MEMORANDUM FOR: WILLIAM NICHOLSON

FROM: RICHARD TROPP *RT*  
Special Counsel

SUBJECT: Scheduling Proposal: Presidential Reception  
for Presidential Clemency Board

As I mentioned in our conversation earlier today, the Presidential Clemency Board will complete its work and go out of existence on September 15. By that date, it will have processed 15,500 cases and 5,000 ineligible applications.

On behalf of the Board and its Chairman, I request that two meetings be scheduled to mark the completion of the case resolution phase of the President's clemency program:

- (i) A reception for the Board and the senior staff (26 people), or alternatively perhaps a ceremonial meeting in the Cabinet Room or the Oval Office, and
- (ii) A brief meeting with the whole Clemency Board staff (approximately 400), perhaps in the East Room. This meeting might take place immediately upon the adjournment of the reception.

Simultaneously with these gatherings, the President may want to release a statement marking the end of the clemency program, and

- noting the recent Gallup Poll and other surveys, and congratulating the American people on their overwhelming (85% of those surveyed) acceptance back into their communities of those who have earned re-entry under his clemency program,
- thanking the Board for having worked day and night for the last 3 1/2 months in order to meet his target for caseload completion,





- noting that exactly one year ago he created a temporary program and a new government organization within his Office to administer it, and that the organization is breaking precedent by getting its job done and going out of existence within the deadline which he set for it, and
- affirming that, with the Board's work completed, the clemency/amnesty issue is now a dead letter and a part of history. This particular wound of the Vietnam war is, to the extent that it ever humanly can be, healed.

We will prepare a draft statement.

September 16, the day after the Board's completion of its work, is the most appropriate date for the reception and the meeting with the staff. The next three days of that week are second choice.



Monday 9/15/75

3:15 Jay has a draft statement for the President on the clemency board -- the President has the package at this moment.

Cheney needs this checked out right away.

Paul O'Neill has read it and approves it.

*They're not  
going to  
release a  
statement  
until  
Tuesday*



*Clemency*

11:25 a.m.

Monday, September 15

Jay has reviewed the material on the Clemency Board and approves it. OMB apparently prepared. It will be released at 3:30 today.



THE WHITE HOUSE  
WASHINGTON

*copy sent  
to Gary*

DATE: Sept. 15, 1975  
TO: PHIL BUCHEN, ROD HILLS  
FROM: JIM CAVANAUGH  
SUBJ: Q&A  
FYI \_\_\_\_\_  
Action \_\_\_\_\_

Jim Shuman would like this  
by 6 tonight for a  
surprise press conference  
tomorrow.



CLEMENCY BOARD

Q. The Federal Clemency Board, which you set up a year ago, has ended its program amid charges from some quarters that it failed to do its job of restoring the rights of Vietnam war resisters. Do you feel this program, which received applications from only 16,500 out of a possible 100,000 men, was successful. And have you given any thought to a general amnesty for Vietnam War resisters?



9/15/75  
sent to  
Shuman

I believe the program administered by the Presidential Clemency Board, as well as the Departments of Defense and Justice, was successful in offering a number of young Americans whose status at the end of the Vietnam Era was uncertain, an opportunity to earn their way back into our society by the performance of alternate service. Furthermore, this program <sup>was</sup> ~~has been~~ successful in creating an atmosphere of national reconciliation.

Undoubtedly, some eligible persons refused the offer made in this program because they preferred not to serve a period of alternate service in the national interest. I believe that requirement, however, was necessary to balance the national interest in achieving reconciliation with the recognition that millions of other young Americans served their country when called.

Finally, I would like to restate my previous public statement that I oppose a general amnesty for all war resisters.



*Desk file*

*Clemency*

**Sept. 15, 1975**

**To: Jim Shuman**

**From: Phil Buchen**



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THE WHITE HOUSE  
WASHINGTON

*my sent  
to Jay*

DATE: Sept. 15, 1975  
TO: PHIL BUCHEN, ROD HILLS  
FROM: JIM CAVANAUGH  
SUBJ: Q&A  
FYI \_\_\_\_\_  
Action \_\_\_\_\_

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Q. The Federal Clemency Board, which you set up a year ago, has ended its program amid charges from some quarters that it failed to do its job of restoring the rights of Vietnam war resisters. Do you feel this program, which received applications from only 16,500 out of a possible 100,000 men, was successful. And have you given any thought to a general amnesty for Vietnam War resisters?



SEPTEMBER 15, 1975

Office of the White House Press Secretary

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THE WHITE HOUSE

EXECUTIVE ORDER

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ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES  
OF THE PRESIDENTIAL CLEMENCY BOARD

By virtue of the authority vested in me by the Constitution of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Section 9 of Executive Order No. 11803 of September 16, 1974, as amended, is amended to read:

"The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist."

Sec. 2. Any applications for Executive clemency, as to which the Presidential Clemency Board (established by Executive Order No. 11803) has not taken final action shall be transferred, together with the files related thereto, to the Attorney General.

Sec. 3. The Attorney General, with respect to the applications and related files transferred to him by Section 2 of this Order, shall take all actions appropriate or necessary to complete the clemency process and shall expeditiously report to the President his findings and recommendations as to whether Executive clemency should be granted or denied in any case. In performing his responsibilities under this Order, the Attorney General shall apply the relevant criteria and comply with the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended, Proclamation No. 4313 of September 16, 1974, as amended, Executive Order No. 11804 of September 16, 1974, and, to the extent that he deems appropriate, the regulations of the Presidential Clemency Board and the Selective Service System issued pursuant to the foregoing Executive orders.

Sec. 4. The Director of the Office of Management and Budget is hereby designated and empowered to take such action as he deems necessary to ensure the orderly and prompt termination of the activities of the Presidential Clemency Board and the assignment of responsibilities directed by this Order.

Sec. 5. Departments and agencies in the Executive branch shall, to the extent permitted by law, cooperate with and assist the Attorney General, the Director of the Selective Service and the Director of the Office of Management and Budget in the performance of their responsibilities under this Order.

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Sec. 6. The responsibilities assigned under this Order are to be completed no later than March 31, 1976, at which time the Attorney General shall submit his final recommendations to the President.

GERALD R. FORD

THE WHITE HOUSE,  
SEPTEMBER 10, 1975

# # # # #



September 15, 1975

## Office of the White House Press Secretary

THE WHITE HOUSE

## FACT SHEET

## PRESIDENTIAL CLEMENCY BOARD TRANSITION

The President has today issued an Executive Order terminating the Presidential Clemency Board operations and delegating residual administrative responsibilities to the Department of Justice and the Selective Service.

Background

On September 16, 1974, the President issued a proclamation and Executive Orders establishing a program of clemency for draft evaders and military deserters to commence immediately. The program for the return of Vietnam-era draft evaders and military deserters was formulated to permit these individuals to return to American society without risk of criminal prosecution or incarceration for qualifying offenses if they acknowledge their allegiance to the United States and agree to serve a period of alternate civilian service, when required as a condition of clemency.

The Presidential Clemency Board was comprised of eighteen private citizens designated by the President with former Senator Charles E. Goodell as Chairman. The Board reviewed the records of two kinds of applicants. First, those convicted of a draft evasion offense committed between the date of the Tonkin Gulf Resolution (August 4, 1964) and the date of withdrawal of United States troops (March 28, 1973). Second, those who received a punitive or undesirable discharge from the armed forces because of a military absentee offense committed during the Vietnam era or were serving sentences of confinement for such violations. The Board was empowered to make recommendations to the President on a case-by-case basis either granting or denying clemency. In the absence of aggravating factors, the Clemency Board was expected to recommend clemency.

When appropriate, the Board could recommend clemency conditioned upon the performance of some alternate service, to be performed under the auspices of the Director of the Selective Service.

In the case of a military deserter, the Board could also recommend that a clemency discharge be substituted for a punitive or undesirable discharge. The Clemency Board's recommendations to the President took the form of a pardon, and a clemency discharge with and without conditions of alternate service requirements.

Military deserters and draft evaders who had not been discharged or convicted did not apply to the Presidential Clemency Board but reported to their military department or the Department of Justice. There they were relieved of punishment contingent upon fulfillment of alternate service requirements.

The deadline for all applicants to apply for clemency was originally set for January 31, 1975, but was extended to March 31, 1975, to respond to the heavy volume of applications received after the original date.

more



The Clemency Board was charged to complete its recommendations to the President by September 15, 1975 on those applications received by the March 31, 1975 deadline.

#### Accomplishments of the Board

The record of the Presidential Clemency Board reflects a successful completion of the Board's responsibilities within the deadline date of September 15, 1975.

- The Board received approximately 21,500 applications and requests for clemency.
- Of these applicants, approximately 5,000 did not qualify for the program.
- The remaining approximately 15,500 cases all have been reviewed by the Board and recommendations made for Presidential consideration.
- Approximately six percent of the total cases reviewed by the Board resulted in recommendations for denial of the applicant's request for clemency.
- Of the total, roughly 43 percent of the cases were recommended for clemency conditional on fulfillment of alternate service for an average of six months.
- The remaining 51 percent of the cases were recommended for pardons.

#### Effects of Program

Expeditious action by the Board has enabled thousands of persons convicted of draft evasion or desertion to return to the mainstream of American society. Many thousands who were recommended for clemency can choose to fulfill alternate service requirements and cause less than honorable discharges to be converted to clemency discharges, while working in areas that contribute to the betterment of their community and the country. The maximum length of alternate service is two years. In prescribing the length of alternate service in individual cases, honorable service rendered prior to desertion, penalties already paid under law for the offense, and other mitigating factors were taken into account to ensure equity of treatment among those participating in the program. The Director of Selective Service has the responsibility to find or approve alternate service jobs for those who agree to the conditional provisions and report for assignment.

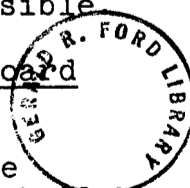
Determining factors in selecting suitable jobs are:

- Contributes to national health, safety or interest;
- Non-interference with the competitive labor market;
- Compensation is comparable to that received by another employee utilizing the same skills and occupying the same position,
- Utilizes any applicant's special skills, where possible

#### Follow-Up Activities Related to Presidential Clemency Board Activities

Any applications for executive clemency, as to which the Presidential Clemency Board has not taken final action shall be transferred, together with the files related thereto, to the Attorney General.

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The Attorney General, with respect to the applications and related files transferred to him by Section 2 of this Order, shall take all actions appropriate or necessary to complete the clemency process and shall expeditiously report to the President his findings and recommendations as to whether executive clemency should be granted or denied in any case. In performing his responsibilities under this Order, the Attorney General shall apply the relevant criteria and comply with the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended, Proclamation No. 4313 of September 16, 1974, as amended, Executive Order No. 11804 of September 16, 1974, and, to the extent that he deems appropriate, the regulations of the Presidential Clemency Board and the Selective Service System issued pursuant to the foregoing Executive Orders.

# # # # #



SEPTEMBER 16, 1975

Office of the White House Press Secretary  
-----THE WHITE HOUSE

## STATEMENT BY THE PRESIDENT

When I took office 13 months ago, the status of persons who had evaded military service or had deserted the Armed Forces during the Vietnam conflict remained unresolved. In furtherance of our national commitment to justice and mercy, I established on September 16, 1974, a Program for the Return of Vietnam Era Draft Evaders and Military Deserters, because I believed these young Americans should have the opportunity to contribute a share in the rebuilding of peace among ourselves and with all nations.

As part of this program, I established the Presidential Clemency Board to review the cases of evaders and deserters who had been convicted of these offenses. In addition, other parts of the program were administered by the Department of Justice and by the Department of Defense.

The Clemency Board, under the chairmanship of Charles E. Goodell, has considered approximately 15,500 applications on a case-by-case basis for the purpose of making recommendations to me. As I had intended, the Board gave careful attention to each individual case and did not simply recommend blanket amnesty for whole categories of applicants. The Board has worked diligently to fulfill its very important assignment.

Now that the Presidential Clemency Board has completed its consideration of all its cases, I have signed an Executive Order terminating operations of the Board and transferring to the Attorney General whatever administrative duties may remain to be completed.

I want to thank the members of the Board for their personal contribution and hard work. As a result of their efforts, many deserving young Americans will have been helped to achieve full re-entry into their respective communities.



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THE WHITE HOUSE

WASHINGTON

September 16, 1975

MEETINGS WITH PRESIDENTIAL CLEMENCY BOARD  
AND THE BOARD'S STAFF

Tuesday, September 16, 1975

5:30 p. m. Cabinet Room (10 minutes)

5:40 p. m. Rose Garden (20 minutes)

From: Philip W. Buchen

I. PURPOSE

Cabinet Room

To thank the members of the Presidential Clemency Board (4 of the 18 members will be absent), Chairman Goodell, and key staff for the successful completion of the Board's assignment.

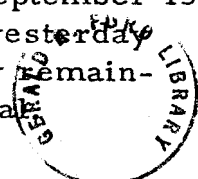
Rose Garden

To thank the staff of the Clemency Board for their efforts in processing the Board's cases.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: On September 16, 1974, one year ago today, you established the Program for the Return of Draft Evaders and Military Deserters. As part of the program, you created the Presidential Clemency Board to make recommendations to you in cases involving persons who had been convicted of draft evasion or military absentee offenses, or had been administratively discharged from the Armed Forces for absentee offenses.

Statutory funding restrictions made it necessary that the Board complete its consideration of cases by September 15, yesterday. The Board met this deadline, and yesterday you signed an Executive Order transferring any remaining administrative duties to the Attorney General.



The Board is required by law to submit a final report to you, and this report will be completed in several weeks.

You should be aware that a minority group of four Board members has disagreed frequently with certain actions taken by the Board. Your staff has attempted to resolve these concerns from time to time.

B. Participants:

Cabinet Room, 5:30 p. m. (See Tab A)

Rose Garden, 5:40 p. m., approximately 300 members of the Board's staff

C. Press Plan: Not open to press.

III. TALKING POINTS

Cabinet Room, see Tab B

Rose Garden, see Tab C



TALKING POINTS: MEETING, CABINET ROOM

1. One year ago, today, I established the Presidential Clemency Board, as part of a national reconciliation program, to review cases of convicted draft evaders, and military deserters and absentees.
2. The Board's specific assignment was to make recommendations to me for clemency for these young men, based in some cases on alternate service.
3. I have been impressed that the Board, under Chairman Goodell's leadership, has considered and made recommendations in more than 15,500 cases.
4. This is particularly a significant achievement because the Board's consideration was made on a case-by-case basis which created a heavy case load for each of you as Board members.
5. I want to take this opportunity to personally thank each of you for your hard work and effectiveness in successfully fulfilling this task.
6. Also, I would like to express my appreciation to those staff members of the Board who are here for your personal contribution and efforts.
7. One point in the Board's history that I recall is the extraordinary effort you made in January and February particularly, to get the word out to the many eligible young Americans who had not learned of this program last fall.
8. By your willingness to travel extensively around the country to explain this program, you contributed to the creation of a national atmosphere of reconciliation which is essential in the post Vietnam Era.

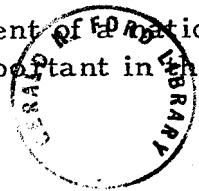


9. Also, your efforts directly and dramatically increased participation in the Clemency Board's phase of the program.
10. Now that you have completed your consideration of cases, it is possible for me to transfer any remaining administrative duties of the Board to the Attorney General.
11. As you are aware, yesterday I signed an Executive Order accomplishing this transition.
12. Would you join me in the Rose Garden while I meet the members of your staff who have assisted you so ably.



TALKING POINTS: MEETING, ROSE GARDEN

1. One year ago, today, I established the Presidential Clemency Board, as part of a national reconciliation program, to review cases of convicted draft evaders, and military deserters and absentees.
2. The Board's specific assignment was to make recommendations to me for clemency for these young men, based in some cases on alternate service.
3. In order to assist the Board members in this difficult assignment, it was necessary to develop a large staff to process each case individually.
4. The most practical way to do this was by bringing together experience women and men from nearly all the Federal Departments and agencies to support the Board.
5. I know that many of you have entirely different fields of expertise in the Federal Government and that it was necessary for you to make a professional sacrifice for several months by joining the Board's staff and working in the area of Executive clemency.
6. I cannot thank each of you enough for your willingness to help and bring this program to a successful completion.
7. You have performed a remarkable job.
8. Yesterday, because of your efforts, it was possible for me to sign an Executive Order transferring any remaining administrative duties of the Board to the Attorney General.
9. Each of you has contributed to the achievement of a national atmosphere of reconciliation which is so important in the post Vietnam Era.
10. Thank you.



THE WHITE HOUSE

WASHINGTON

September 16, 1975

MEMORANDUM FOR:

PHILIP W. BUCHEN

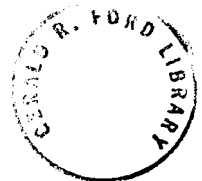
FROM:

JAY T. FRENCH

Attached are three items which you might wish to review before the President's meeting with the Clemency Board.

- Up-to-date statistics on cases
- Today's Presidential statement which you drafted last night
- The Executive Order and Fact Sheet prepared by OMB

Attachments





## CLEMENCY BOARD STATISTICS

- The Board received approximately 21,500 applications and requests for clemency.
- Of these applicants, approximately 5,000 did not qualify for the program.
- The remaining approximately 15,500 cases all have been reviewed by the Board and recommendations made for Presidential consideration.
- Approximately 6 percent of the total cases reviewed by the Board resulted in recommendations for denial of the applicant's request for clemency.
- Of the total, roughly 43 percent of the cases were recommended for clemency conditional on fulfillment of alternate service for an average of six months.
- The remaining 51 percent of the cases were recommended for pardons.
- To date, the President has signed warrants for about 2,100 persons of the 15,500.
- The President's staff is reviewing 8,000 more recommendations and these will be ready for the President's signature within one month.
- The remaining 5,500 cases have not reached the President's staff.







When I took office 13 months ago, the status of persons who had evaded military service or had deserted the Armed Forces during the Vietnam conflict remained unresolved. In furtherance of our national commitment to justice and mercy, I established on September 16, 1974, a Program for the Return of Vietnam Era Draft Evaders and Military Deserters, because I believed these young Americans should have the opportunity to contribute a share in the rebuilding of peace among ourselves and with all nations.

As part of this program, I established the Presidential Clemency Board to review the cases of evaders and deserters who had been convicted of these offenses. In addition, other parts of the program were administered by the Department of Justice and by the Department of Defense.

The Clemency Board, under the chairmanship of Charles E. Goodell, has considered approximately 15,500 applications on a case-by-case basis for the purpose of making recommendations to me. As I had intended, the Board gave careful attention to each individual case and did not simply recommend blanket amnesty for whole categories of applicants. The Board has worked diligently to fulfill its very important assignment.



Now that the Presidential Clemency Board has completed its consideration of all its cases, I signed yesterday an Executive Order terminating operations of the Board and transferring to the Attorney General whatever administrative duties may remain to be completed.

I want to thank ~~each~~ of the members of the Board for <sup>Their</sup> ~~his~~ personal contribution and hard work. As a result of their efforts, many deserving young Americans will have been helped to achieve full re-entry into their respective communities.

C





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

113

Bob Roussack  
in Paul Theiss's office  
x 6573

Connie —  
John Carlson  
2517

MEMORANDUM FOR: JIM CANNON  
DICK CHENEY  
PAUL THEIS ✓  
JACK MARSH  
RON NESSEN

*O'Neill*

FROM: PAUL H. O'NEILL

Attached is a draft fact sheet/Q&A package regarding termination of the Clemency Board.

These materials have been checked for factual accuracy and cleared by DOD, DOJ, Selective Service, Clemency Board, and OMB.

Your views on substance and tone are necessary additions. I propose that Paul Theis circulate through his normal process in order to get this into final form.

Attachments:



September 15, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

PRESIDENTIAL CLEMENCY BOARD TRANSITION

The President has today issued Executive Order terminating the Presidential Clemency Board operations and delegating residual administrative responsibilities to the Department of Justice and the Selective Service.

Background

On September 16, 1974, the President issued a proclamation and Executive Orders establishing a program of clemency for draft evaders and military deserters to commence immediately. The program for the return of Vietnam-era draft evaders and military deserters was formulated to permit these individuals to return to American society without risk of criminal prosecution or incarceration for qualifying offenses if they acknowledge their allegiance to the United States and agree to serve a period of alternate civilian service, when required as a condition of clemency.

The Presidential Clemency Board was comprised of eighteen private citizens designated by the President with former Senator Charles E. Goodell as Chairman. The Board reviewed the records of two kinds of applicants. First, those convicted of a draft evasion offense committed between the date of the Tonkin Gulf Resolution (August 4, 1964) and the date of withdrawal of United States troops (March 28, 1973). Second, those who received a punitive or undesirable discharge from the armed forces because of a military absentee offense committed during the Vietnam era or were serving sentences of confinement for such violations. The Board was empowered to make recommendations to the President on a case-by-case basis either granting or denying clemency. In the absence of aggravating factors, the Clemency Board was expected to recommend clemency.

When appropriate, the Board could recommend clemency conditioned upon the performance of some alternate service, to be performed under the auspices of the Director of the Selective Service.

In the case of a military deserter, the Board could also recommend that a clemency discharge be substituted for a punitive or undesirable discharge. The Clemency Board's recommendations to the President took the form of a pardon, or a clemency discharge with and without conditions of alternate service requirements.

Military deserters and draft evaders who had not been discharged or convicted did not apply to the Presidential Clemency Board but reported to their military department or the Department of Justice. There they were relieved of punishment contingent upon taking an oath of allegiance and fulfillment of alternate service requirements.

The deadline for all applicants to apply for clemency was originally set for January 31, 1975, but was extended to March 31, 1975, to respond to the heavy volume of applications received after the original date.

(more)

(OVER)

The Clemency Board was charged to complete its ~~reviews and~~ recommendations to the President by September 15, 1975 on those applications received by the March 31, 1975 deadline.

#### Accomplishments of the Board

The record of the Presidential Clemency Board reflects a successful completion of the Board's responsibilities within the deadline date of September 15, 1975.

- The Board received approximately 21,500 applications and requests for clemency.
- Of these applicants, approximately 5,000 did not qualify for the program.
- The remaining approximately 15,500 cases have all been reviewed by the Board and recommendations made for Presidential consideration.
- Approximately six percent of the total cases reviewed by the Board resulted in recommendations for denial of the applicant's request for clemency.
- Of the total, roughly 43 percent of the cases were recommended for clemency conditional on fulfillment of alternate service for an average of six months.
- The remaining 51 percent of the cases were recommended for pardons.

#### Effects of Program

Expeditious action by the Board has enabled thousands of persons convicted of draft evasion or desertion to return to the mainstream of American society. Many thousands who were recommended for clemency can choose to fulfill alternate service requirements and cause less than honorable discharges to be converted to clemency discharges, while working in areas that contribute ~~belatedly~~ to the betterment of their community and the country. The maximum length of alternate service is two years. In prescribing the length of alternate service in individual cases, honorable service rendered prior to desertion, penalties already paid under law for the offense, and other mitigating factors were taken into account to ensure equity of treatment among those participating in the program. The Director of Selective Service has the responsibility to find or approve alternate service jobs for those who agree to the conditional provisions and report for assignment.

Determining factors in selecting suitable jobs are:

- Contributes to national health, safety or interest;
- Non-interference with the competitive labor market;
- Compensation is comparable to that received by another employee utilizing the same skills and occupying the same position;
- Utilizes any applicant's special skills, where possible.

#### Follow-Up Activities Related to Presidential Clemency Board Activities

**Any** applications for executive clemency, as to which the Presidential Clemency Board has not taken final action shall be transferred, together with the files related thereto, to the Attorney General.

(more)



(OVER)

The Attorney General, with respect to the applications and related files transferred to him by Section 2 of this Order, shall take all actions appropriate or necessary to complete the clemency process and shall expeditiously report to the President his findings and recommendations as to whether executive clemency should be granted or denied in any case. In performing his responsibilities under this Order, the Attorney General shall apply the relevant criteria and comply with the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended, Proclamation No. 4313 of September 16, 1974, as amended, Executive Order No. 11804 of September 16, 1974, and, to the extent that he deems appropriate, the regulations of the Presidential Clemency Board and the Selective Service System issued pursuant to the foregoing Executive Orders.

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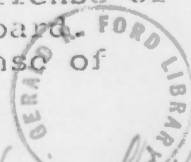


PRESIDENTIAL CLEMENCY BOARD TRANSITION

QUESTIONS AND ANSWERS

- Q. Exactly what does the Executive Order do?
- A. The Executive Order terminates the Clemency Board operations and delegates authority for carryover functions of the Presidential Clemency Board after September 15 to the Department of Justice.
- Q. Will the Clemency Board meet after September 15?
- A. No. The Board has completed all actions on cases available for its review and has completed its final report to the President.
- Q. Were files used by the Presidential Clemency Board made available to other agencies such as the Federal Bureau of Investigation?
- A. No. The policy of the Presidential Clemency Board was that no records under any circumstances were to be released to any other Federal agency or other inquirers. I understand that inadvertently one record was released to the Federal Bureau of Investigation.
- Q. Were files of the Federal Bureau of Investigation or other intelligence agencies made available to the Presidential Clemency Board?
- A. Yes. The Presidential Clemency Board was assisted in performing its functions by the Federal Bureau of Investigation, various police departments in obtaining necessary information to properly review applications for clemency.
- Q. What security measures were taken to protect applicant's files from unauthorized use?
- A. Normal security measures were taken to protect the confidentiality of applicant's files and records.
- Q. If a person does not fulfill his alternate service requirements, is he subject to ~~a new liability or merely~~ the original charge against him?
- A. <sup>Prosecution for</sup> ~~Those~~ <sup>persons</sup> who <sup>were</sup> have received pardons conditioned upon the performance of alternate service and who fail to fulfill their alternate service requirements will not be subject to any new liability or to the underlying charge against them. <sup>alternate service</sup> ~~With respect to the military deserter~~ who signs <sup>an agreement</sup> with the Secretary of the Department of the Armed Forces in which <sup>he</sup> served and thereby receives an undesirable discharge, if that individual breaks the agreement, he is not subject to prosecution on the underlying charge. On the other hand, the unindicted draft evader who signs an agreement with the U.S. Attorney and who breaks the agreement is subject to prosecution on the underlying charge.
- Q. I understand that in some cases in which clemency was granted included persons presently serving jail terms. Is that so?
- A. Offenses other than draft evasion and desertion were not within the jurisdiction of the Clemency Board. In determining the merits of each application, aggravating factors such as conviction for other offenses committed prior or subsequent to the offense of evasion or desertion were taken into account by the Board. Clemency Board recommendations apply only to the offense of desertion or draft evasion.

*Persons who applied to the PCB <sup>already</sup> have been convicted of the underlying offenses; therefore, should such an applicant fail to perform as he would not be prosecuted simply not rec'v the pardon certificate. Persons who applied to the ~~the~~ U.S. Attorney were subg.*



1. There were 15,500 draft evaders potentially eligible under the Presidential Clemency Board program. An indeterminate number of military deserters were eligible.
- Q. The statement is made that 43 percent of the applicants to the Clemency Board were required to complete alternate service as a condition to clemency. Where are these jobs to be found when the unemployment rate of honorably discharged veterans is so high?
- A. The Director of the Selective Service is responsible for assigning applicants to suitable jobs. Most will be placed in the type of job for which it is normally difficult to find applicants such as in service jobs in hospitals, charitable organizations, etc. Generally, these jobs are in the lower range of pay. Many will be permitted to work in volunteer services in addition to their regular employment if necessary to support families.
- Q. What would the President's reaction be to a congressional action to provide amnesty to all deserters and draft evaders who did not take advantage of the clemency program by the deadline date?
- A. The President is committed to the concept of justice on the side of leniency and mercy, but he has also promised to work within the existing system of military and civilian law and the precedents set by his predecessors who faced similar post-war situations, among them Abraham Lincoln and Harry S. Truman. He ~~would be~~ *has publicly stated that he is* opposed to total amnesty.
- Q. What did it cost to process the approximately 21,500 cases reviewed by the Clemency Board?
- A. The budget provided for the Board was \$521,000 plus legal and clerical staff from various other Federal agencies.
- Q. What type of people applied for the program?
- A. Most of those offenders who applied for clemency consisted of persons classified as low income, from rural areas, having a low educational level and had mitigating factors such as family hardships during his service.
- Q. How many of the total applicants actually served in Vietnam?
- A. Twenty-four percent of the total applications received served some period of time in Vietnam. ~~As a matter of fact, many of these individuals received decorations while in Vietnam.~~
- Q. As of Sept. 15 how many cases have been heard by the Board.
- A. The Board has reviewed all 15,500 cases. Of the 15,500 approximately 900 are "Hard Cases". These are cases where information related to applicants has not yet been available or has been found not to exist. These 900 cases will be transferred to the Department of Justice who will continue to search for the necessary information to prepare a case.
- Q. How many cases have been forwarded to the White House for signature, and how many have actually been signed.
- A. Approximately 6981 cases have been forwarded for signature. Of the 6,981, 2,402 have been signed.



*Clemency*

THE WHITE HOUSE  
WASHINGTON

September 23, 1975

MEMORANDUM FOR: JIM CONNOR  
FROM: PHIL BUCHEN *P. W. B.*  
SUBJECT: Proposed Presidential Letter to  
Charles Goodell, Chairman of  
the Presidential Clemency Board

I have no objections to the proposed Presidential letter  
to Charles Goodell.

cc: John Marsh



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 22, 1975

Time:

FOR ACTION:

cc (for information):

Phil Buchen  
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: September 23, 1975

Time: 9 A.M.

SUBJECT:

Proposed Presidential Letter to  
Charles Goodell for his work as  
Chairman of the Presidential  
Clemency Board

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

As Letter s to other members of the Clemency Board  
have all ready been sent we would like a quick turn-around  
on the proposed letter to Charles Goodell. Thanks.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a  
delay in submitting the required material, please  
telephone the Staff Secretary immediately.

Jim Connor  
For the President



Date: September 22, 1975

Time:

FOR ACTION:

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Jack Marsh

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telephone the Staff Secretary immediately.

Jim Connor  
For the President

**Dear Charlie:**

**It is a special pleasure for me to thank you for your dedicated service and outstanding leadership as Chairman of the Presidential Clemency Board.**

**A little over one year ago, when I asked you to undertake this assignment, we both understood that the job would be challenging -- and at times controversial -- but also one which would be extremely rewarding and important to the future health of our Nation. I think you will agree that our expectations have been fulfilled.**

**This Administration, your country and several thousand young Americans are indebted for your unselfish assistance and inexhaustible concern as Board Chairman. By your skillful and sensitive attention to the personal problems of these young people, you have made a valuable contribution toward healing the Nation's wounds.**



I deeply appreciate the ties of friendship which we have enjoyed through the years and your willingness to accept this special task. You have earned the lasting gratitude of your fellow citizens and my own heartfelt thanks for all that you have done.

Warmest personal regards.

The Honorable Charles Goodell  
2823 Q Street, N. W.  
Washington, D. C. 20010

Cleared in final with Paul Theis.

GRF:JHH:AVH:PAT:aby



*Clemency*

Friday 9/26/75

2:20 Jay said Charles Goodell has made an appointment to see Mr. Traylor, the Pardon Attorney.

Traylor heard that Charlie talked to you on the phone and Larry wants to find out what, if any, promises you made.

Mr. Traylor just wanted Jay to talk with you and give him some guidance.

