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PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

October 10, 1975

MEMORANDUM TO BOARD MEMBERS

FROM: Lawrence M. Baskir *LMB*

SUBJECT: Report Summary

I am enclosing a copy of the final draft of the Report Summary. It incorporates the suggestions you have made at the late September meeting. The only change remaining to be made is an editing and reordering of headnotes, to make the Report Summary parallel in structure to the main body of the Report. This will involve no textual changes.

If you have any questions, please call me or Bill Strauss at 395-3609, our new number at our temporary quarters in the New Executive Office Building, not later than Friday October 17 so that we can meet our printing deadline of the following week.

We are continuing to edit and condense the main body of the Report, especially Chapter 2 which will be considerably tighter. Some chapters may be reordered to improve the flow of discussion.



SUMMARY REPORT

I. The President's Clemency Program

In the years before President Ford assumed office, public opinion was sharply divided over what the government policy should be toward those who had committed Vietnam-era draft violations and military absence offenses. Many citizens believed that these actions could not be forgiven in light of the sacrifices endured by others during the war. Many others believed that only unconditional amnesty was appropriate for offenders who had acted in good conscience to oppose a war they believed wrong and wasteful.

Something had to be done to bring Americans together again. The rancor that had divided our country during the Vietnam War still sapped its spirit and strength. The national interest required that Americans put aside their strong personal feelings. Six weeks after taking office, President Ford announced a program of clemency, of forgiveness, of reconciliation for Vietnam-era draft and military absence offenders.

In his Proclamation of September 16, 1974, President Ford created a program of conditional clemency for roughly 13,000 civilians and 100,000 servicemen who had committed draft or military absence offenses between the Gulf of Tonkin Resolution (August 4, 1964) and the day the last American combatant left Vietnam (March 28, 1973). He authorized the Departments of Justice and Defense, respectively, to review prospective applications from the 4,522 draft offenders and 10,115



undischarged servicemen still at large. He created the Presidential Clemency Board to consider prospective applications from the 8,700 convicted and punished draft offenders and the estimated 90,000 servicemen given bad discharges for absence offenses. He gave all eligible persons 4½ months (later extended to 6½ months) to apply. He promised that their cases would be reviewed individually. He further indicated that applicants would be asked to earn clemency where appropriate, by performing up to 24 months of alternative service in the national interest, under the supervision of the Selective Service System.

Under the Justice Department program, fugitive draft offenders would have their prosecutions dropped, enabling them to avoid the punishment and stigma of a felony conviction. Under the Defense Department program, fugitive servicemen were offered an immediate Undesirable Discharge as a permanent end to their fugitive status. They were also offered the chance to earn a Clemency Discharge. Under the Clemency Board program, convicted draft offenders were offered full and unconditional Presidential Pardons for their draft offenses. Former servicemen who had received bad discharges and full Presidential pardons for their absence offenses.

By granting pardon to convicted or discharged offenders, President Ford was exercising the most potent constitutional form of executive clemency available. The Presidential pardon connotes official forgiveness for designated draft or military offenses, restoring all federal civil rights lost as a result of those specific offenses. However, an applicant who has been convicted of other felony crimes receive a pardon only for his draft or AWOL offenses; his pardon does not restore rights lost through

felony convictions for other crimes. Likewise, a full and unconditional pardon indicates that government agencies should disregard all pardoned offenses in any actions they take involving clemency recipients.

By directing that the military services upgrade bad discharges, substituting Clemency Discharges in their place, the President was indicating to employers and creditors that they should not discriminate against those individuals. As a "neutral" discharge, the Clemency Discharge appears to be working: A recent survey of largenational Employers and small local (Pennsylvania) employers found that they view it as almost identical to a General Discharge under Honorable Conditions and much better than an Undesirable Discharge under Other-than-Honorable Conditions.

A Clemency Discharge does not confer veterans' benefits, but it leaves an individual with the same appeal rights that were available to him, prior to receiving such a discharge. Indeed, the receipt of a Presidential pardon and a Clemency Discharge should improve an individual's chances for further upgrade.

Altogether, approximately 21,800 eligible persons applied for clemency.

<u>Agency</u>	<u>Applicants</u>	<u>No. Eligible</u>	<u>No. Applying</u>	<u>% Applying</u>
Defense	Fugitive deserters	10,115	5,600	55%
Justice	Fugitive draft offenders	4,522	700	16%
P.C.B.	Discharged AWOL offenders	90,000	13,589	15%
P.C.B.	Convicted draft offenders	8,700	1,879	22%
	TOTAL	113,337	21,768	19%

Through the first week in January, we had received only 850 applications, with the initial January 31 deadline just a few weeks away. At that time, the public did not realize that the program included not only fugitives but also punished offenders--including servicemen who had served in Vietnam. Very few people realized that the President's program included the following type of individual:

While a medic in Vietnam, this military applicant (an American Indian) received the Bronze Star for heroism because of his actions during a night sweep operation. When his platoon came under intense enemy fire, he moved through a minefield under a hail of fire to aid his wounded comrades. While in Vietnam, he was made Squad Leader of nine men, seven of whom (including himself) were wounded in action. After returning to the United States, he experienced post-combat psychiatric problems. He went AWOL several times to seek psychiatric treatment, for which he received a bad discharge.

Therefore, we began public service announcements on thousands of radio and television stations, held meetings and press conferences at dozens of cities, met with thousands of veterans' counselors throughout the country, and circulated bulletins to agencies in direct contact with eligible persons--such as Veterans' Administration offices, employment offices, post offices, and prison. With a limited budget of \$24,000, the results were dramatic. During the rest of January, we received over 4,000 new applications. Because of this response the President extended the application deadline another month. We received 6,000 in February and, after a final extension, another 10,000 before the March 31st final deadline--for a total of about 21,500, of whom 15,468 turned out to be eligible. This increase in applications was directly attributable to our public information campaign. By asking our applicants who telephoned us when they learned they were eligible, we discovered that over 95%

did not realize they could apply until the January 8 start of the campaign; 90% applied within days or even hours of their discovery that they were eligible.

The Departments of Defense and Justice did not experience a similar increase in applications, because it was already widely understood that fugitive draft offenders and military absentees could apply for clemency. In fact, that still is the public perception. An August 1975 Gallup Poll found that only 15% of the American people understood that convicted draft offenders and discharged AWOL offenders could apply for clemency. Virtually the same percentage--16%--of those eligible actually did apply. We are convinced that most of the remainder still do not know that they were eligible for the program. Others may not have applied because their lives are settled, with their draft offense convictions or bad discharges of no present consequence to them. We suspect that very few failed to apply to the Clemency Board because of their opposition to our program.

The press and the public were--and indeed, still are--preoccupied with anti-war fugitives who fled to Canada. However, we found that only 6% of our civilian applicants and 2% of our military applicants had ever gone to Canada. Virtually all of them subsequently returned to the United States long before they applied for clemency. Of our 15,468 eligible persons, less than 400 ever went to Canada. This stands in marked contrast to the 3,700 (24%) who were Vietnam veterans. In recent years, many estimates have been made of the number of fugitive draft and AWOL offenders in Canada, usually on the basis of very limited data. Based on our own data

and our understanding of applicants to the Defense and Justice programs, we estimate that a maximum of 7,000 persons eligible for clemency were ever Canadian exiles. We further estimate that only 4,000 (less than 5%) of the 91,500 who were eligible but did not apply for clemency are still in Canada, contrary to the usual public impression.

What happens now to those who did not apply? The 8,300 who are still fugitive should surrender to authorities. While they will suffer the stigma of a bad discharge or felony conviction, they will end their fugitive status. The 8,000 who have already been punished can apply to the Pardon Attorney in the Department of Justice and to the appropriate military discharge review boards, avenues of relief which are not related to the President's clemency program and are not affected by the program's end.

II. The Presidential Clemency Board

The Clemency Board was the only new agency created by President Ford for the special purpose of reviewing the cases of clemency applicants. Originally, the President named nine members to the Board, designating former U.S. Senator Charles E. Goodell as the Chairman. After the great increase in applications, the President expanded the Board to eighteen members. Both the original Board and the expanded Board were representative of a cross-section of views on the Vietnam War and on the issue of clemency. The Board consisted of 13 veterans of military service, three women, and two priests. The Board included five Vietnam veterans, two of whom were severely disabled in combat. Another member has a husband who still is listed as missing in action. The backgrounds and

perspectives of every member contributed to our overall policies and to our case dispositions.

The Board worked very hard during the spring and summer in order to fulfill the President's requirement that we give each case individual attention before the President's September 15 deadline. The consensus was remarkable, given the wide range of views represented on the Board. What we sought to maintain was a reasoned, middle ground. By compromising among ourselves, we believed that we would promote the President's goal of a national reconciliation.

To assure the fairness and consistency of our case dispositions, we developed a case-by-case review procedure consistent with our mission of clemency. Because ours was a program of clemency, not law enforcement, we unanimously decided not to seek the assistance of the FBI in preparing our cases. We limited our file acquisition to the official military or court records. Similarly, we kept case files confidential to protect the rights of applicants and to preserve the spirit of reconciliation. We promised strict confidentiality to all who applied to the Board. For each case, staff attorneys prepared narrative summaries which were carefully checked for accuracy. Each applicant was sent his summary, with the opportunity to identify errors and provide additional information. Staff attorneys presented cases in oral hearings before three or four member^s board panels who had read the case summaries in advance. Panel

counsels were also present to assure an objective staff attorney presentation and to assure that Board policy precedents were applied correctly. Every Board member had the right to refer any case to the full Board. This right was exercised in only about 700 (5%) of our cases. The Chairman referred about 50 cases to the full Board, assisted by a computer-aided staff review which flagged case dispositions for being either too harsh or too lenient,

Our dispositions varied little from week to week, especially after our basic policy decisions had been made. During our first six months, we decided 500 cases, recommending outright pardons recommending outright pardons (without alternative service) to 46% of all cases, denial of clemency to 3%, and alternative service to the remainder. During our latter six months, we decided 14,000 cases recommending outright pardons to 44%, denial of clemency to 6%, and alternative service to the remainder.

Contributing to the fairness and consistency of our process were the clear rules we established and published for deciding cases. Our alternative service "baseline" formula took account of the fact that all of our applicants had been punished for their offenses. We started with 24 months, deducting three months for every one month spent in confinement, and deducting one month for every month spent in satisfactory performance of court-ordered alternative service. In cases where military officials and Federal judges considered offenses to be minor enough to merit short sentences, we reduced the baseline figure to match the sentence actually given. Our minimum baseline was three months, and almost

98% of our applicants had baselines of six months or less.

To determine whether an applicant deserved clemency--and, if so, whether his assigned period of alternative service should be different from his working baseline--we applied 28 specific aggravating and mitigating factors. As with our baseline formula, we developed our list of factors by consensus. We were all very concerned about the reasons for an applicant's offense and the circumstances of that offense. Likewise, we were concerned about his overall record as a serviceman and as a member of his community. In special cases, we also were concerned about facts surrounding his application for clemency. Almost all of our designated factors were established very early in our process. Only aggravating factors #11 and #12 were established by our expanded Board, although all factors were continually clarified as new fact situations arose. Each factor was codified, with illustrative case precedents, through publication of five issues of the Clemency Law Reporter. The following was our final list of factors:

Aggravating Factors

1. Other Felony Convictions
2. False Statement to Board
3. Use of Physical Force in Committing Offense
4. AWOL in Vietnam
5. Selfish Motivation for Offense
6. Failure to do Alternative Service
7. Violation of Probation or Parole
8. Multiple AWOL Offense
9. Extended AWOL Offense
10. Missed Overseas Movement
11. Non-AWOL Offenses Contributing to Discharge for Unfitness
12. Apprehension by Authorities



Mitigating Factors

1. Inability to Understand Obligations
2. Personal or Family Problems
3. Physical or Mental Problems
4. Public Service Employment
5. Service-Connected Disability
6. Extended Creditable Military Service
7. Vietnam Service
8. Procedural Unfairness
9. Denial of CO Status for Technical, Procedural, or Improper Grounds
10. Conscientious Motivation for Offense
11. Voluntary Surrender to Authorities
12. Mental Stress from Combat
13. Volunteering for Combat
14. Above Average Military Performance Ratings
15. Decorated for Valor
16. Wounded in Combat

We did not apply each factor with equal weight. For example, conscientious motivation or serious personal or family problems often led to outright pardon recommendations. The following two cases were typical:

This civilian applicant had participated in anti-war demonstrations before refusing induction. He stated that he could not fight a war which he could not support. However, he does believe in the need for national defense and would have served in the war if there had been an attack on United States territory. He stated that "I know that what is happening now is wrong, so I have to take a stand and hope that it helps end it a little sooner."

This military applicant's wife was pregnant, in financial difficulties, and faced with eviction; she suffered from an emotional disorder and nervous problems; his oldest child was asthmatic and an epileptic, having seizures that sometimes resulted in unconsciousness. Applicant requested transfer and a hardship discharge, both of which were denied.

Creditable Vietnam service was also a highly mitigating factor, usually resulting in an outright pardon. In particularly meritorious cases, we recommended to the President that he direct the military to upgrade the applicant's discharge to one under honorable conditions, with full entitlement to veterans' benefits. We were particularly

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concerned about the eligibility of wounded or disabled veterans for medical benefits. We made upgrade recommendations in the following two cases:

Applicant did not go AWOL until after returning from two tours of duty in Vietnam, when his beliefs concerning the war changed. He came to believe that the U.S. was wrong in getting involved in the war and that he "was wrong in killing people in Vietnam". He had over three years' creditable service, with 14 excellent conduct and efficiency ratings. He re-enlisted to serve his second tour within three months of ending his first. He served as an infantry man in Vietnam, was wounded, and received the Bronze Star for Valor.

During his combat tour in Vietnam, applicant's platoon leader, with whom he shared a brotherly relationship, was killed while the latter was awakening applicant to start his guard duty. The platoon had set up an ambush point because it had come upon an enemy complex and the platoon leader was mistaken for a Viet Cong and shot by one of his own men. This event was extremely traumatic to applicant, and he experienced nightmares. In an attempt to cope with this experience, applicant turned to the use of heroin to which he became addicted. During his AWOL, he overcame his drug addiction only to become an alcoholic. After obtaining help and curing his alcoholism, he turned himself in.

On the other hand, some aggravating factors were considered very grave, generally leading to "No Clemency" decisions. There were very few applicants who clearly went AWOL from combat situations.

This applicant would not go into the field with his unit, because he felt the new Commanding Officer of his company was incompetent. He was getting nervous about going out on an operation; there is evidence that everyone believed there was a good likelihood of enemy contact. (His company was subsequently dropped onto a hill where they engaged the enemy in combat. He asked to remain in the rear, but his request was denied. Consequently, he left the company area because, in the words of his chaplain, "the threat of death caused him to exercise his right of self-preservation." Applicant was apprehended while traveling on a truck away from his unit without any of his combat gear.

We denied clemency in the above case, but other cases of AWOL in Vietnam involved strong mitigating factors. Often, combat wounds or the psychological effects of combat led to an AWOL offense. For example, we recommended an outright pardon in the following case:

Applicant was assigned to an infantry unit in Vietnam. During his combat service, he sustained an injury which caused his vision to blur in one eye. His vision steadily worsened, and he was referred to an evacuation hospital in DaNang for testing. A doctor's assistant told him that the eye doctor was fully booked and that he would have to report back to his unit and come back to the hospital in a couple of weeks. Frustrated by this rejection and fearful of his inability to function in an infantry unit, applicant went AWOL.

Applicants who had been convicted of felony offenses involving serious bodily harm were almost always denied clemency, as in the following case:

(Case #02407) This civilian applicant had three other felony convictions in addition to his draft offense. In 1970, he received a one-year sentence for sale of drugs. In 1972, he received one year of imprisonment and two years of probation for possession of stolen property. In 1972, he was convicted of failure to notify his local board of his address. He was sentenced to three years' imprisonment, but his sentence was suspended and he was put on probation. In 1974, he was convicted of assault, abduction, and rape, for which he received a 20-year sentence.

Perhaps our most difficult--and disputed--cases involved applicants who had been convicted of a civilian felony offense other than a draft offense, but who had strong mitigating factors applicable to their case. Some Board members argued that we should disregard unrelated felony convictions, since we were not granting clemency for those offenses. Others argued that granting clemency to convicted felons would cheapen the clemency grants to others. The majority of the Board took the middle view--that a felony conviction would be viewed as a highly aggravating factor, but each case would be evaluated individually. Each case was decided on its total facts, in accordance with the President's direction to avoid a blanket amnesty process. Even so, 42% of our applicants with other felony convictions were denied clemency, either because of the nature of their felony offense or because they did not have compensatingly strong mitigating factors.

However, less serious felony convictions did not overshadow an applicant's Vietnam service or other mitigating facts.

(Case #14792) Applicant volunteered for the Special Forces after his first year in the Army. He re-enlisted to effect a transfer to Vietnam, where he served as a parachute rigger and earned excellent conduct and proficiency ratings. Altogether, he served for 18 months in Vietnam and over three years in the Army, with two Honorable Discharges for re-enlistment purposes. His AWOL offenses totaled 29 days, did not occur until after his return from Vietnam, and were attributed to his problems with alcohol. After his Undesirable Discharge in lieu of court-martial, he was convicted of stealing a television set and served six months in prison. He was recently paroled.

In a few cases, a clear connection existed between an applicant's Vietnam service and his felony conviction.

(Case #11116) Applicant served eight months in Vietnam as a supply specialist before his reassignment back to the United States. His conduct and proficiency scores had been uniformly excellent during his Vietnam service. However, while in Vietnam he became addicted to heroin. He could not break his habit after returning stateside, and he began a series of seven AWOL offenses as he "got into the local drug scene." Eventually, he "ran out of money" and "had a real bad habit," so he "tried to break into a store with another guy that was strung out." He was arrested, convicted for burglary, and given an Undesirable Discharge for AWOL while on bail. (The above quotations are drawn from applicant's written statement to our Board)

Others rehabilitated themselves after their felony offense, indicating their desire to be productive and law-abiding members of their communities.

(Case #02230) Shortly after receiving a Bad Conduct Discharge from the Navy for his AWOL offenses, applicant was convicted of transporting stolen checks across state lines. He was sentenced to a ten-year term, but was paroled after one year and four months. During his confinement, he underwent psychiatric care. Since his parole, he has re-married and established a successful subcontracting business. Currently, he is working with young people in his community in connection with church groups, trying to provide guidance for them. His parole officer stated that applicant has straightened out and is a responsible member of his community.

In each of the above three cases, our Board recommended that the

President grant an outright Pardon. Obviously, we had no jurisdiction to grant clemency for their other felony offenses.

Our case disposition tallies are listed below. Our civilian applicants received a greater proportion of outright pardons, both because a much greater proportion had conscientious reasons for their offenses and because a much smaller proportion had other felony convictions.

Final Civilian Dispositions

	<u>Number</u>	<u>Percent</u>
Outright Pardons	1432	82%
Alternative Service:		
3 months	140	8%
4-6 months	91	5%
7+ months	68	4%
No Clemency	26	1%

Final Military Dispositions

	<u>Number</u>	<u>Percent</u>
Outright Pardon	4620	36%
Alternative Service:		
3 months	2555	20%
4-6 months	2941	23%
7+ months	1756	14%
No Clemency	885	7%

These tallies reflect the spirit of compromise on our Board. Some of our members suggested that we categorically deny clemency to applicants with multiple civilian or military convictions, applicants who failed to report to Vietnam when ordered, and applicants who went AWOL while in Vietnam. Others would have preferred 100% outright Pardons, with no one denied clemency. The majority believed that the President wished to avoid either extreme.

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III. Applicants to the Clemency Board

Chance and circumstance had much to do with the sacrifices faced by each individual during the Vietnam War. By nature, war and conscription are selective. Only 9% of all draft-age men served in Vietnam. Less than 2% ever faced charges for draft or desertion offenses, and only 0.4%--less than one out of two hundred--were convicted or remained charged with these offenses at the start of the clemency program.

Many of our applicants fell into common categories: The civilian conscientious war resister who had his application for CO status denied and who stood trial rather than leave the country; the Jehovah's Witness who, although granted a CO exemption, went to jail because his religion prohibited him from accepting an alternative service assignment from Selective Service; the Vietnam veteran who went AWOL because of his difficulties in adjusting to post-combat garrison duty; the serviceman with a low aptitude score (Armed Forces Qualifying Test Category IV) who could not adjust to military life; the serviceman who went AWOL to find a better-paying job to get his family off welfare.

Our civilian applicants were not unlike most young men of their age. They grew up in stable middle-class families. Eleven percent were black, and 1.3% were Spanish-speaking. Over three-quarters graduated from high school, and their average IQ was 111. Roughly one in four was a Jehovah's Witness or member of another religious sect opposed to war. Almost half applied for a conscientious objector exemption, which was usually denied. The typical draft offense was failure to report for or submit to

17. induction. Three-quarters committed their offense because of their opposition to war in general or the Vietnam War in particular. For 96%, it was their only felony offense, committed at the average age of 21.

Most civilian applicants surrendered immediately, and most who were ever fugitives lived openly at home. Only 6% ever took exile in Canada. After indictment, most pled guilty. Two-thirds were sentenced to probation, usually on the condition that they perform alternative service. The other one-third went to prison, usually for periods of less than one year. Less than 1% served prison terms of two years or longer, but some were in prison for as long as five years.

At the time of their applications for clemency, almost all were either working full-time or in school. Only 2% were unemployed, with another 2% in prison for unrelated felony offenses. Approximately 100 were still imprisoned for their draft offenses when the President announced his clemency program. They were released upon the condition that they apply for clemency.

Unlike our civilian applicants, the vast majority of our military applicants were not articulate, well-educated, or motivated explicitly by opposition to the war. Almost none had applied for a conscientious objector exemption before entering the service, and less than 5% committed their AWOL offenses because of opposition to the war. Most grew up in a broken home, with parents struggling to cope with a low income. Roughly one in five were black, and 3.5% were Spanish-speaking. Despite an average IQ of 98, over three-quarters dropped out of high school before entering military service at the

age of 17 or 18. Almost one in three was tested as below the 30th percentile of intelligence (Category IV on the Armed Forces Qualifying Test), making them only marginally qualified for military service.

Most military applicants enlisted rather than be drafted, usually joining the Army ^{or} the Marines. Slightly over one-third were ordered to Vietnam. Seven percent failed to report, but the other 27% did serve in Vietnam, usually a full year's tour. Of those who served in Vietnam, half either volunteered for a Vietnam assignment, volunteered for a combat mission, or re-enlisted while in Vietnam.

Very few went AWOL in Vietnam; only Four percent one percent of all applicants went AWOL from an apparent combat situation. However, almost one in four suffered from mental stress caused by combat, and two in five have experienced severe personal problems as a result of their Vietnam tour. Two percent of our applicants returned from Vietnam with disabling injuries.

Their AWOL offenses usually occurred after training and in stateside bases. Over half committed their offenses because of serious personal or family problems. Other common reasons for AWOL offenses included resentment of some action by a superior officer or a general dislike of military service. Typically, our applicants went AWOL two or more times. Most returned to their home towns, where they lived openly. Only 2% of our military applicants ever took exile in Canada. Almost half surrendered voluntarily after their last AWOL offenses. At the time of their



last AWOL, they were typically 20 or 21 and had accumulated 14 months of creditable service.

Upon their return to military control, about 15% were given administrative Undesirable Discharges for Unfitness. The other 85% faced court-martial charges, roughly half accepting an Undesirable Discharge in lieu of court-martial. This was a particularly frequent practice among applicants discharged after 1970. The remaining 40% stood general or special court-martials, were convicted, and received Bad Conduct or Dishonorable Discharges. All court-martialed applicants spent at least some time in confinement, with their sentences averaging five months in length. One hundred and seventy were still confined when the clemency program started, and they were released upon application.

The bad discharges have seriously affected the current employment status of our applicants. Seventeen percent were unemployed at the time of their clemency application, whereas only 8% were unemployed during their last AWOL offense. Another 7% were presently incarcerated for civilian felony offenses. Altogether, 12% had been convicted for at least one civilian felony offense.

IV. Managing a Clemency Program

After our late winter flood of applications, we were faced with a seemingly impossible task. Through mid April, the original nine-member Board had heard 500 cases. To meet the President's deadline of September 15, we had to experience a 40-fold increase in our case resolution rate. We met that deadline--to the day--

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with the Board deciding every case for which we had enough information. We decided 14,514 cases. After September 15, 1975, 900 cases with partial or recently-arriving files were referred to the Department of Justice for action in accordance with Board precedents.

Meeting the President's ^{deadline} would have been impossible without a competent staff. We and our staff emerged from this process with an experience in crisis management which we think may be useful to managers of comparable entities in the future. The senior staff developed solutions to management problems which enabled us to act upon over a thousand cases per week. At the same time, it maintained high standards of quality and integrity in our legal process. All policy decisions were made by the Board and implemented by the staff. Having to manage an organization which mushroomed from 100 to 600 employees during a six-week period, it is remarkable that our process involved as little confusion as it did.



V. What Did We Accomplish?

We are very proud of what the President has accomplished in his clemency program. He implemented his program courageously, in the face of early criticism from those who thought he did too much and those who thought he did too little. The program received little overt public support.

When the program started, a Gallup Poll found that only 19% of those polled approved of a conditional clemency program. The overwhelming majority preferred either unconditional

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amnesty or no program of any kind. By contrast, an August 1975 Gallup poll found that a majority of those expressing an opinion are now in favor of conditional clemency, with the minority equally split on either side of the issue. The same poll found that roughly four out of five people would accept a clemency recipient as at least an equal member of their community. Likewise, a survey of employer attitudes has discovered that a Clemency Discharge and Presidential Pardon would have real value when a clemency recipient applies for a job. The clemency program is in fact accomplishing the President's objective of reconciling Americans.

To place the President's clemency program in its proper perspective, one must take note of the manner in which ^{Presidents} Washington, Lincoln, and Truman applied their powers of Executive Clemency in dealing with persons who had committed war-related offenses. President Ford's program is the most generous ever offered, when equal consideration is given to the nature of the benefits offered, the conditions attached, the number of individuals benefit and the speed with which the program followed the war. Yet the President's program does not break precedent in any fundamental way. The only new feature of President Ford's program is its condition of alternative service.

While we are confident that history will regard this program as a success, much of the work remains unfinished. As of September, 1975, only a very small percentage of our applicants have as yet been required to contact Selective Service to begin performing alternative service. Of the 52% of our applicants who received

conditional clemency, three-quarters were assigned six months or less of alternative service. We hope that most will complete this assignment and receive clemency. The responsibility for implementing the alternative service portion of the program in a fair and flexible manner, fully in accord with the clemency spirit of the President's program, rests with the Selective Service System. Likewise, we expect that the United States Pardon Attorney, entrusted with the carry-over responsibility for our program, will perpetuate the policies--and spirit--of our Board. Finally, we hope that other government agencies which will later come in contact with clemency recipients--especially the Veterans Administration and the Discharge Review Boards of the Armed Forces--will deal with them as clemently as their responsibilities permit.

On balance, we consider ourselves to have been partners in a mission of national reconciliation, wisely ^{Conceived} ~~conceived~~ by the President. A less generous program would have left old wounds festering; blanket, unconditional amnesty would have opened new wounds. We are confident that the President's clemency program provides the cornerstone ^{for} for national reconciliation at the end of a turbulent and divisive era. We are proud to have played a role in that undertaking.

SUMMARY REPORT

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Something had to be done to bring Americans together again. The rancor that had divided our country during the Vietnam War still sapped its spirit and strength. The national interest required that Americans put aside their strong personal feelings. Six weeks after taking office, President Ford announced a program of clemency, of forgiveness, of reconciliation for Vietnam-era draft and military absence offenders.

In his Proclamation of September 16, 1974, President Ford created a program of conditional clemency for roughly 13,000 civilians and 100,000 servicemen who had committed draft or military absence offenses between the Gulf of Tonkin Resolution (August 4, 1964) and the day the last American combatant left Vietnam (March 28, 1973). He authorized the Departments of Justice and Defense, respectively, to review prospective applications from the 4,522 draft offenders and 10,115



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undischarged servicemen still at large. He created the Presidential Clemency Board to consider prospective applications from the 8,700 convicted and punished draft offenders and the estimated 90,000 servicemen given bad discharges for absence offenses. He gave all eligible persons 4½ months (later extended to 6½ months) to apply. He promised that their cases would be reviewed individually. He further indicated that applicants would be asked to earn clemency where appropriate, by performing up to 24 months of alternative service in the national interest, under the supervision of the Selective Service System.

Under the Justice Department program, fugitive draft offenders would have their prosecutions dropped, enabling them to avoid the punishment and stigma of a felony conviction. Under the Defense Department program, fugitive servicemen were offered an immediate Undesirable Discharge as a permanent end to their fugitive status. They were also offered the chance to earn a Clemency Discharge. Under the Clemency Board program, convicted draft offenders were offered full and unconditional Presidential Pardons for their draft offenses. Former servicemen who had received bad discharges and full Presidential pardons for their absence offenses. X

By granting pardons to convicted or discharged offenders, President Ford was exercising the most potent constitutional form of executive clemency available. The Presidential pardon connotes official forgiveness for designated draft or military offenses, restoring all federal civil rights lost as a result of those specific offenses. However, an applicant who has been convicted of other felony crimes receives a pardon only for his draft or AWOL offenses; his pardon does not restore rights lost through

felony convictions for other crimes. Likewise, a full and unconditional pardon indicates that government agencies should disregard all pardoned offenses in any actions they take involving clemency recipients.

By directing that the military services upgrade bad discharges, substituting Clemency Discharges in their place, the President was indicating to employers and creditors that they should not discriminate against those individuals. As a "neutral" discharge, the Clemency Discharge appears to be working: A recent survey of largenational Employers and small local (Pennsylvania) employers found that they view it as almost identical to a General Discharge under Honorable Conditions and much better than an Undesirable Discharge under Other-than-Honorable Conditions.

A Clemency Discharge does not confer veterans' benefits, but it leaves an individual with the same appeal rights that were available to him, prior to receiving such a discharge. Indeed, the receipt of a Presidential pardon and a Clemency Discharge should improve an individual's chances for further upgrade.

Altogether, approximately 21,800 eligible persons applied for clemency.

<u>Agency</u>	<u>Applicants</u>	<u>No. Eligible</u>	<u>No. Applying</u>	<u>% Applying</u>
Defense	Fugitive deserters	10,115	5,600	55%
Justice	Fugitive draft offenders	4,522	700	16%
P.C.B.	Discharged AWOL offenders	90,000	13,589	15%
P.C.B.	Convicted draft offenders	8,700	1,879	22%
	TOTAL	113,337	21,768	19%

Through the first week in January, we had received only 850 applications, with the initial January 31 deadline just a few weeks away. At that time, the public did not realize that the program included not only fugitives but also punished offenders--including servicemen who had served in Vietnam. Very few people realized that the President's program included the following type of individual:

While a medic in Vietnam, this military applicant (an American Indian) received the Bronze Star for heroism because of his actions during a night sweep operation. When his platoon came under intense enemy fire, he moved through a minefield under a hail of fire to aid his wounded comrades. While in Vietnam, he was made Squad Leader of nine men, seven of whom (including himself) were wounded in action. After returning to the United States, he experienced post-combat psychiatric problems. He went AWOL several times to seek psychiatric treatment, for which he received a bad discharge.

Therefore, we began public service announcements on thousands of radio and television stations, held meetings and press conferences at dozens of cities, met with thousands of veterans' counselors throughout the country, and circulated bulletins to agencies in direct contact with eligible persons--such as Veterans' Administration offices, employment offices, post offices, and prison. With a limited budget of \$24,000, the results were dramatic. During the rest of January, we received over 4,000 new applications. Because of this response the President extended the application deadline another month. We received 6,000 in February and, after a final extension, another 10,000 before the March 31st final deadline--for a total of about 21,500, of whom 15,468 turned out to be eligible. This increase in applications was directly attributable to our public information campaign. By asking our applicants who telephoned us when they learned they were eligible, we discovered that over 95%

did not realize they could apply until the January 8 start of the campaign; 90% applied within days or even hours of their discovery that they were eligible.

The Departments of Defense and Justice did not experience a similar increase in applications, because it was already widely understood that fugitive draft offenders and military absentees could apply for clemency. In fact, that still is the public perception. An August 1975 Gallup Poll found that only 15% of the American people understood that convicted draft offenders and discharged AWOL offenders could apply for clemency. Virtually the same percentage--16%--of those eligible actually did apply. We are convinced that most of the remainder still do not know that they were eligible for the program. Others may not have applied because their lives are settled, with their draft offense convictions or bad discharges of no present consequence to them. We suspect that very few failed to apply to the Clemency Board because of their opposition to our program.

The press and the public were--and indeed, still are--preoccupied with anti-war fugitives who fled to Canada. However, we found that only 6% of our civilian applicants and 2% of our military applicants had ever gone to Canada. Virtually all of them subsequently returned to the United States long before they applied for clemency. Of our 15,468 eligible persons, less than 400 ever went to Canada. This stands in marked contrast to the 3,700 (24%) who were Vietnam veterans. In recent years, many estimates have been made of the number of fugitive draft and AWOL offenders in Canada, usually on the basis of very limited data. Based on our own data

and our understanding of applicants to the Defense and Justice programs, we estimate that a maximum of 7,000 persons eligible for clemency were ever Canadian exiles. We further estimate that only 4,000 (less than 5%) of the 91,500 who were eligible but did not apply for clemency are still in Canada, contrary to the usual public impression.

What happens now to those who did not apply? The 8,300 who are still fugitive should surrender to authorities. While they will suffer the stigma of a bad discharge or felony conviction, they will end their fugitive status. The 8,000 who have already been punished can apply to the Pardon Attorney in the Department of Justice and to the appropriate military discharge review boards, avenues of relief which are not related to the President's clemency program and are not affected by the program's end.

II. The Presidential Clemency Board

The Clemency Board was the only new agency created by President Ford for the special purpose of reviewing the cases of clemency applicants. Originally, the President named nine members to the Board, designating former U.S. Senator Charles E. Goodell as the Chairman. After the great increase in applications, the President expanded the Board to eighteen members. Both the original Board and the expanded Board were representative of a cross-section of views on the Vietnam War and on the issue of clemency. The Board consisted of 13 veterans of military service, three women, and two priests. The Board included five Vietnam veterans, two of whom were severely disabled in combat. Another member has a husband who still is listed as missing in action. The backgrounds and



perspectives of every member contributed to our overall policies and to our case dispositions.

The Board worked very hard during the spring and summer in order to fulfill the President's requirement that we give each case individual attention before the President's September 15 deadline. The consensus was remarkable, given the wide range of views represented on the Board. What we sought to maintain was a reasoned, middle ground. By compromising among ourselves, we believed that we would promote the President's goal of a national reconciliation.

To assure the fairness and consistency of our case dispositions, we developed a case-by-case review procedure consistent with our mission of clemency. Because ours was a program of clemency, not law enforcement, we unanimously decided not to seek the assistance of the FBI in preparing our cases. We limited our file acquisition to the official military or court records. Similarly, we kept case files confidential to protect the rights of applicants and to preserve the spirit of reconciliation. We promised strict confidentiality to all who applied to the Board. For each case, staff attorneys prepared narrative summaries which were carefully checked for accuracy. Each applicant was sent his summary, with the opportunity to identify errors and provide additional information. Staff attorneys presented cases in oral hearings before three or four member Board panels who had read the case summaries in advance. Panel

counsels were also present to assure an objective staff attorney presentation and to assure that Board policy precedents were applied correctly. Every Board member had the right to refer any case to the full Board. This right was exercised in only about 700 (5%) of our cases. The Chairman referred about 50 cases to the full Board, assisted by a computer-aided staff review which flagged case dispositions for being either too harsh or too lenient.

Our dispositions varied little from week to week, especially after our basic policy decisions had been made. During our first six months, we decided 500 cases, recommending outright pardons recommending outright pardons (without alternative service) to 46% of all cases, denial of clemency to 3%, and alternative service to the remainder. During our latter six months, we decided 14,000 cases recommending outright pardons to 44%, denial of clemency to 6%, and alternative service to the remainder.

Contributing to the fairness and consistency of our process were the clear rules we established and published for deciding cases. Our alternative service "baseline" formula took account of the fact that all of our applicants had been punished for their offenses. We started with 24 months, deducting three months for every one month spent in confinement, and deducting one month for every month spent in satisfactory performance of court-ordered alternative service. In cases where military officials and Federal judges considered offenses to be minor enough to merit short sentences, we reduced the baseline figure to match the sentence actually given. Our minimum baseline was three months, and almost

98% of our applicants had baselines of six months or less.

To determine whether an applicant deserved clemency--and, if so, whether his assigned period of alternative service should be different from his working baseline--we applied 28 specific aggravating and mitigating factors. As with our baseline formula, we developed our list of factors by consensus. We were all very concerned about the reasons for an applicant's offense and the circumstances of that offense. Likewise, we were concerned about his overall record as a serviceman and as a member of his community. In special cases, we also were concerned about facts surrounding his application for clemency. Almost all of our designated factors were established very early in our process. Only aggravating factors #11 and #12 were established by our expanded Board, although all factors were continually clarified as new fact situations arose. Each factor was codified, with illustrative case precedents, through publication of five issues of the Clemency Law Reporter. The following was our final list of factors:

Aggravating Factors

1. Other Felony Convictions
2. False Statement to Board
3. Use of Physical Force in Committing Offense
4. AWOL in Vietnam
5. Selfish Motivation for Offense
6. Failure to do Alternative Service
7. Violation of Probation or Parole
8. Multiple AWOL Offense
9. Extended AWOL Offense
10. Missed Overseas Movement
11. Non-AWOL Offenses Contributing to Discharge for Unfitness
12. Apprehension by Authorities

Mitigating Factors

1. Inability to Understand Obligations
2. Personal or Family Problems
3. Physical or Mental Problems
4. Public Service Employment
5. Service-Connected Disability
6. Extended Creditable Military Service
7. Vietnam Service
8. Procedural Unfairness
9. Denial of CO Status for Technical, Procedural, or Improper Grounds
10. Conscientious Motivation for Offense
11. Voluntary Surrender to Authorities
12. Mental Stress from Combat
13. Volunteering for Combat
14. Above Average Military Performance Ratings
15. Decorated for Valor
16. Wounded in Combat

We did not apply each factor with equal weight. For example, conscientious motivation or serious personal or family problems often led to outright pardon recommendations. The following two cases were typical:

This civilian applicant had participated in anti-war demonstrations before refusing induction. He stated that he could not fight a war which he could not support. However, he does believe in the need for national defense and would have served in the war if there had been an attack on United States territory. He stated that "I know that what is happening now is wrong, so I have to take a stand and hope that it helps end it a little sooner."

This military applicant's wife was pregnant, in financial difficulties, and faced with eviction; she suffered from an emotional disorder and nervous problems; his oldest child was asthmatic and an epileptic, having seizures that sometimes resulted in unconsciousness. Applicant requested transfer and a hardship discharge, both of which were denied.

Creditable Vietnam service was also a highly mitigating factor, usually resulting in an outright pardon. In particularly meritorious cases, we recommended to the President that he direct the military to upgrade the applicant's discharge to one under honorable conditions, with full entitlement to veterans' benefits. We were particularly

concerned about the eligibility of wounded or disabled veterans for medical benefits. We made upgrade recommendations in the following two cases:

Applicant did not go AWOL until after returning from two tours of duty in Vietnam, when his beliefs concerning the war changed. He came to believe that the U.S. was wrong in getting involved in the war and that he "was wrong in killing people in Vietnam". He had over three years' creditable service, with 14 excellent conduct and efficiency ratings. He re-enlisted to serve his second tour within three months of ending his first. He served as an infantry man in Vietnam, was wounded, and received the Bronze Star for Valor.

During his combat tour in Vietnam, applicant's platoon leader, with whom he shared a brotherly relationship, was killed while the latter was awakening applicant to start his guard duty. The platoon had set up an ambush point because it had come upon an enemy complex and the platoon leader was mistaken for a Viet Cong and shot by one of his own men. This event was extremely traumatic to applicant, and he experienced nightmares. In an attempt to cope with this experience, applicant turned to the use of heroin to which he became addicted. During his AWOL, he overcame his drug addiction only to become an alcoholic. After obtaining help and curing his alcoholism, he turned himself in.

On the other hand, some aggravating factors were considered very grave, generally leading to "No Clemency" decisions. There were very few applicants who clearly went AWOL from combat situations.

This applicant would not go into the field with his unit, because he felt the new Commanding Officer of his company was incompetent. He was getting nervous about going out on an operation; there is evidence that everyone believed there was a good likelihood of enemy contact. (His company was subsequently dropped onto a hill where they engaged the enemy in combat. He asked to remain in the rear, but his request was denied. Consequently, he left the company area because, in the words of his chaplain, "the threat of death caused him to exercise his right of self-preservation." Applicant was apprehended while traveling on a truck away from his unit without any of his combat gear.

We denied clemency in the above case, but other cases of AWOL in Vietnam involved strong mitigating factors. Often, combat wounds or the psychological effects of combat led to an AWOL offense. For example, we recommended an outright pardon in the following case: .

Applicant was assigned to an infantry unit in Vietnam. During his combat service, he sustained an injury which caused his vision to blur in one eye. His vision steadily worsened, and he was referred to an evacuation hospital in DaNang , for testing. A doctor's assistant told him that the eye doctor was fully booked and that he would have to report back to his unit and come back to the hospital in a couple of weeks. Frustrated by this rejection and fearful of his inability to function in an infantry unit, applicant went AWOL.

Applicants who had been convicted of felony offenses involving serious bodily harm were almost always denied clemency, as in the following case:

(Case #02407) This civilian applicant had three other felony convictions in addition to his draft offense. In 1970, he received a one-year sentence for sale of drugs. In 1972, he received one year of imprisonment and two years of probation for possession of stolen property. In 1972, he was convicted of failure to notify his local board of his address. He was sentenced to three years' imprisonment, but his sentence was suspended and he was put on probation. In 1974, he was convicted of assault, abduction, and rape, for which he received a 20-year sentence.

Perhaps our most difficult--and disputed--cases involved applicants who had been convicted of a civilian felony offense other than a draft offense, but who had strong mitigating factors applicable to their case. Some Board members argued that we should disregard unrelated felony convictions, since we were not granting clemency for those offenses. Others argued that granting clemency to convicted felons would cheapen the clemency grants to others. The majority of the Board took the middle view--that a felony conviction would be viewed as a highly aggravating factor, but each case would be evaluated individually. Each case was decided on its total facts, in accordance with the President's direction to avoid a blanket amnesty process. Even so, 42% of our applicants with other felony convictions were denied clemency, either because of the nature of their felony offense or because they did not have compensatingly strong mitigating factors.

However, less serious felony convictions did not overshadow an applicant's Vietnam service or other mitigating factors.

(Case #14792) Applicant volunteered for the Special Forces after his first year in the Army. He re-enlisted to effect a transfer to Vietnam, where he served as a parachute rigger and earned excellent conduct and proficiency ratings. Altogether, he served for 18 months in Vietnam and over three years in the Army, with two Honorable Discharges for re-enlistment purposes. His AWOL offenses totaled 29 days, did not occur after his return from Vietnam, and were attributed to his problems with alcohol. After his Undesirable Discharge in lieu of court-martial, he was convicted of stealing a television set and served six months in prison. He was recently paroled.

In a few cases, a clear connection existed between an applicant's Vietnam service and his felony conviction.

(Case #11116) Applicant served eight months in Vietnam as a supply specialist before his reassignment back to the United States. His conduct and proficiency scores had been uniformly excellent during his Vietnam service. However, while in Vietnam he became addicted to heroin. He could not break his habit after returning stateside, and he began a series of seven AWOL offenses as he "got into the local drug scene." Eventually, he "ran out of money" and "had a real bad habit," so he "tried to break into a store with another guy that was strung out." He was arrested, convicted for burglary, and given an Undesirable Discharge for AWOL while on bail. (The above quotations are drawn from applicant's written statement to our Board)

Others rehabilitated themselves after their felony offense, indicating their desire to be productive and law-abiding members of their communities.

(Case #02230) Shortly after receiving a Bad Conduct Discharge from the Navy for his AWOL offenses, applicant was convicted of transporting stolen checks across state lines. He was sentenced to a ten-year term, but was paroled after one year and four months. During his confinement, he underwent psychiatric care. Since his parole, he has re-married and established a successful subcontracting business. Currently, he is working with young people in his community in connection with church groups, trying to provide guidance for them. His parole officer stated that applicant has straightened out and is a responsible member of his community.

In each of the above three cases, our Board recommended that the

President grant an outright Pardon. Obviously, we had no jurisdiction to grant clemency for their other felony offense.

Our case disposition tallies are listed below. Our civilian applicants received a greater proportion of outright pardons, both because a much greater proportion had conscientious reasons for their offenses and because a much smaller proportion had other felony convictions.

<u>Final Civilian Dispositions</u>		
	<u>Number</u>	<u>Percent</u>
Outright Pardons	1432	82% 81.5%
Alternative Service:		
3 months	140	8% 9.77% 7.96%
4-6 months	91	5%
7+ months	68	4%
No Clemency	26	1%
	<u>1757</u>	

<u>Final Military Dispositions</u>		
	<u>Number</u>	<u>Percent</u>
Outright Pardon	4620	36%
Alternative Service:		
3 months	2555	20%
4-6 months	2941	23%
7+ months	1756	14%
No Clemency	885	7%
	<u>12,757</u>	

These tallies reflect the spirit of compromise on our Board. Some of our members suggested that we categorically deny clemency to applicants with multiple civilian or military convictions, applicants who failed to report to Vietnam when ordered, and applicants who went AWOL while in Vietnam. Others would have preferred 100% outright Pardons, with no one denied clemency. The majority believed that the President wished to avoid either extreme.

III. Applicants to the Clemency Board

Chance and circumstance had much to do with the sacrifices faced by each individual during the Vietnam War. By nature, war and conscription are selective. Only 9% of all draft-age men served in Vietnam. Less than 2% ever faced charges for draft or desertion offenses, and only 0.4%--less than one out of two hundred--were convicted or remained charged with these offenses at the start of the clemency program.

Many of our applicants fell into common categories: The civilian conscientious war resister who had his application for CO status denied and who stood trial rather than leave the country; the Jehovah's Witness who, although granted a CO exemption, went to jail because his religion prohibited him from accepting an alternative service assignment from Selective Service; the Vietnam veteran who went AWOL because of his difficulties in adjusting to post-combat garrison duty; the serviceman with a low aptitude score ⁺ Armed Forces Qualifying Test (Category IV) who could not adjust to military life; the serviceman who went AWOL to find a better-paying job to get his family off welfare.

Our civilian applicants were not unlike most young men of their age. ^{usually,} They grew up in stable middle-class families. Eleven percent were black, and 1.3% were Spanish-speaking. Over three-quarters graduated from high school, and their average IQ was 111. Roughly one in four was a Jehovah's Witness or member of another religious sect opposed to war. Almost half applied for a conscientious objector exemption, which was usually denied. The typical draft offense was "failure to ~~report for or submit to,~~

submit to



"
induction. Three-quarters committed their offense because of their opposition to war in general or the Vietnam War in particular. For 96%, it was their only felony offense, committed at the average age of 21.

Most civilian applicants surrendered immediately, and most who were ever fugitives lived openly at home. Only 6% ever took exile in Canada. After indictment, most pled guilty. Two-thirds were sentenced to probation, usually on the condition that they perform alternative service. The other one-third went to prison, usually for periods of less than one year. Less than 1% served prison terms of two years or longer, but some were in prison for as long as five years.

At the time of their applications for clemency, almost all were either working full-time or in school. Only 2% were unemployed, with another 2% in prison for unrelated felony offenses. Approximately 100 were still imprisoned for their draft offenses when the President announced his clemency program. They were released upon the condition that they apply for clemency.

Unlike our civilian applicants, the vast majority of our military applicants were not articulate, well-educated, or motivated explicitly by opposition to the war. Almost none had applied for a conscientious objector exemption before entering the service, and less than 5% committed their AWOL offenses ^{primarily} because of opposition to the war. Most grew up in a broken home, with parents struggling to cope with a low income. Roughly one in five were black, and 3.5% were Spanish-speaking. Despite an average IQ of 98, over three-quarters dropped out of high school before entering military service at the

age of 17 or 18. Almost one in three was tested as below the 30th percentile of intelligence (Category IV on the Armed Forces Qualifying Test), making them only marginally qualified for military service.

Most military applicants enlisted rather than be drafted, usually joining the Army or the Marines. Slightly over one-third were ordered to Vietnam. Seven percent failed to report, but the other 27% did serve in Vietnam, usually a full year's tour. Of those who served in Vietnam, half either volunteered for a Vietnam assignment, volunteered for a combat mission, or re-enlisted while in Vietnam.

? * Very few went AWOL in Vietnam; only four percent, one percent of all applicants went AWOL from an apparent combat situation. However, almost one in four suffered from mental stress caused by combat, and two in five have experienced severe personal problems as a result of their Vietnam tour. Two percent of our applicants returned from Vietnam with disabling injuries.

* Their AWOL offenses usually occurred after training and in stateside bases. Over half committed their offenses because of serious personal or family problems. Other common reasons for AWOL offenses included resentment of some action by a superior officer or a general dislike of military service. Typically, our applicants went AWOL two or more times. Most returned to their home towns, where they lived openly. Only 2% of our military applicants ever took exile in Canada. Almost half surrendered voluntarily after their last AWOL offenses. At the time of their

last AWOL, they were typically 20 or 21 and had accumulated 14 months of creditable service.

Upon their return to military control, about 15% were given administrative Undesirable Discharges for Unfitness. The other 85% faced court-martial charges, roughly half accepting an Undesirable Discharge in lieu of court-martial. This was a particularly frequent practice among applicants discharged after 1970. The remaining 40% stood general or special court-martials, were convicted, and received Bad Conduct or Dishonorable Discharges. All court-martialed applicants spent at least some time in confinement, with their sentences averaging five months in length. One hundred and seventy were still confined when the clemency program started, and they were released upon application.

The bad discharges have seriously affected the current employment status of our applicants. Seventeen percent were unemployed at the time of their clemency application, whereas only 8% were unemployed during their last AWOL offense. Another 7% were presently incarcerated for civilian felony offenses. Altogether, 12% had been convicted for at least one civilian felony offense.

IV. Managing a Clemency Program

After our late winter flood of applications, we were faced with a seemingly impossible task. Through mid April, the original nine-member Board had heard 500 cases. To meet the President's deadline of September 15, we had to experience a 40-fold increase in our case resolution rate. We met that deadline--to the day--

with the Board deciding every case for which we had enough information. We decided 14,514 cases. After September 15, 1975, 900 cases with partial or recently-arriving files were referred to the Department of Justice for action in accordance with Board precedents.

Meeting the President's ^{deadline} would have been impossible without a competent staff. We and our staff emerged from this process with an experience in crisis management which we think may be useful to managers of comparable entities in the future. The senior staff developed solutions to management problems which enabled us to act upon over a thousand cases per week. At the same time, ^{the Board} ~~it~~ maintained high standards of quality and integrity in our legal process. All policy decisions were made by the Board and implemented by the staff. ^{The Clemency Board staff} ~~Having to manage an organization~~ which mushroomed from ⁴⁷ 100 to ⁶⁴² 600 employees, ^{on detail loan from other agencies in 3 months then immediately began to disappear;} ~~during a six-week period~~ it is remarkable that our process involved as little confusion as it did.

V. What Did We Accomplish?

We are ~~very~~ proud of what the President has accomplished in his clemency program. He implemented his program courageously, in the face of early criticism from those who thought he did too much and those who thought he did too little. The program received little overt public support.

When the program started, a Gallup Poll found that only 19% of those polled approved of a conditional clemency program. The overwhelming majority preferred either unconditional



amnesty or no program of any kind. By contrast, an August 1975 Gallup poll found that a majority of those expressing an opinion are now in favor of conditional clemency, with the minority equally split on either side of the issue. The same poll found that roughly four out of five people would accept a clemency recipient as at least an equal member of their community. Likewise, a survey of employer attitudes has discovered that a Clemency Discharge and Presidential Pardon would have real value when a clemency recipient applies for a job. The clemency program is in fact accomplishing the President's objective of reconciling Americans.

To place the President's clemency program in its proper perspective, one must take note of the manner in which ^{Franklin} Washington, Lincoln, and Truman applied their powers of Executive Clemency in dealing with persons who had committed war-related offenses. President Ford's program is the most generous ever offered, when equal consideration is given to the nature of the benefits offered, the conditions attached, the number of individuals benefited and the speed with which the program followed the war. Yet the President's program does not break precedent in any fundamental way. The only new feature of President Ford's program is its condition of alternative service.

While we are confident that history will regard this program as a success, much of the work remains unfinished. As of September, 1975, only a very small percentage of our applicants have as yet been required to contact Selective Service to begin performing alternative service. Of the 52% of our applicants who received

conditional clemency, three-quarters were assigned six months or less of alternative service. We hope that most will complete this assignment and receive clemency. The responsibility for implementing the alternative service portion of the program in a fair and flexible manner, fully in accord with the clemency spirit of the President's program, rests with the Selective Service System. Likewise, we expect that the United States Pardon Attorney, entrusted with the carry-over responsibility for our program, will perpetuate the policies--and spirit--of our Board. Finally, we hope that other government agencies which will later come in contact with clemency recipients--especially the Veterans Administration and the Discharge Review Boards of the Armed Forces--will deal with them as clemently as their responsibilities permit.

On balance, we consider ourselves to have been partners in a mission of national reconciliation, wisely ^{Conceived} ~~conceived~~ by the President. A less generous program would have left old wounds festering; blanket, unconditional amnesty would have opened new wounds. We are confident that the President's clemency program provides the cornerstone ^{for} national reconciliation at the end of a turbulent and divisive era. We are proud to have played a role in that undertaking.