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Extra
CEG

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON

April 18, 1975

MEMORANDUM FOR: PHIL BUCHEN

Attached is a Summary of Case No. 75-1223,
an applicant to the Presidential Clemency Board.

The Board would appreciate guidance from
the President as to whether this is the type of
case that the President had in mind to receive
clemency.

I would appreciate your asking the President
to read the Summary and give the Clemency Board
his decision.



Charles E. Goodell
Chairman

Attachment



PRESIDENTIAL CLEMENCY BOARD
CASE SUMMARY

Go Pres

PCB Attorney: Broder
Telephone Number: (202) 456-2110
Summary Completed: 10 Mar 1975
Total Time Served: 25 days pre-
discharge confinement

Case Number: 75-1223-BRO-M
Branch of Service: Army
Age: 25
Present Status: Civilian
Date of Application: 21 Jan 1975

Discharge Status: Undesirable
Discharge in lieu of court-martial
Offenses: AWOL - 2 specifications:
27 Jan 1972 - 1 Mar 1972 (1 month,
5 days); 2 Mar - 26 Nov 1972 (8 months,
25 days)
Total absence: 10 months
Total Creditable Service: 1 year, 2 days

Background:

This married, Caucasian applicant, one of four brothers, was born in Washington, D. C., on 10 Dec 1949. He has one child. Available records disclose no other information about his family background, except that his father did not live with his family. Applicant is a high school graduate with a GT score of 141 and an AFQT score measuring 99 (Group I). He has attended several years of college, and in a letter to the Board accompanying his application he relates that he is presently studying to be an optometrist, expecting to graduate in 1978. On 17 Feb 1971 applicant enlisted in the Army for a period of two years. During his one year and two days of creditable service he was awarded the M-16 expert rifle badge and a hand grenade badge. Additionally, in Sept 1971, he was given the Self-Achievement Award for his battalion. Applicant was rated twice as excellent for conduct and efficiency. He has neither prior civilian nor prior military convictions, and he has no non-judicial punishments.

Circumstances of Offense:

During the summer and fall of 1971 applicant was stationed at Ft. Carson, Colorado, where he encountered many men returning from Vietnam. In a letter to the Board dated 8 Jan 1975 applicant relates that he was troubled by the attitude and bitterness of these men which caused him to reconsider carefully the United States involvement in Southeast Asia. Applicant does not characterize himself as a conscientious objector. Specifically, he states:

I believe there is a need for an armed forces to defend the United States and I cannot classify myself as a conscientious objector because this status indicates a belief that all war is wrong and therefore a military force is unnecessary.

Nonetheless, when applicant received orders for duty in Vietnam in Dec 1971, ". . . [he] became more distressed and confused as to what course of action . . . [he] should take." Despite serious doubts about his own feelings he reported to the overseas replacement station at Ft. Lewis, Washington, in January 1972 where he ultimately received counselling as to discharge by reason of conscientious objection. Having concluded that he was not a conscientious objector, applicant "decided to go AWOL until . . . [he] had cleared up . . . [his] own doubts." He proceeded home to his wife and daughter. A short time later he was returned to military control, but went AWOL again because he ". . . still needed more time to resolve the conflicts . . . [he] felt about service to . . . [his] country." He surrendered from this second absence on 26 Nov 1972. In this letter to the Board, applicant's own words best describe his feelings:

I examined the interests of the United States in this war. The enemy was not a threat to our country and no U.S. lives were jeopardized by this war. It was and still is a civil war. It was said to be a matter of honor but I felt our country's [sic] honor lay in serving a just cause, not in serving the ends of another country's civil war.

* * * * *

As I examined this inner conflict, my questions were:
Can a man believe in the right to a military defense and the duty of a citizen to serve and yet refuse to support a particular military action? Does government policy make a cause just? Am I in a situation where I cannot consciously [sic] support a policy/action? If so, what measures are justifiable?

* * * * *

I accepted the adverse affect [sic] on my life and the loneliness of my decision because I believe a citizen must serve his country the best way he can, not the easiest.

Applicant's request for an Undesirable Discharge was granted on 21 Dec 1972. In his letter to the Board accompanying his application he states that his discharge was not the result of, nor did it involve, any procedural unfairness.

Vietnam Service: None

Chronology:

10 Dec 1949	Date of birth
1968	High School graduation
17 Feb 1971	Two-year enlistment
Sept 1971	Self-Achievement Award
July 1971 - Dec 1971	Stationed at Ft. Carson, Colorado
27 Jan 1972 <i>1 mo</i>	AWOL
1 Mar 1972	Termination of AWOL
2 Mar 1972 <i>9 mos</i>	AWOL
26 Nov 1972	Surrender
26 Nov - 21 Dec 1972	Pre-discharge confinement
21 Dec 1972	Undesirable Discharge
Jan 1973	Attendance at community college
June 1973	Attended Maryland University
Sept 1973 - June 1974	Attended Ohio State University
Sept 1974 to date	Attends Optometry College in California
8 Jan 1975	Letter to Board
21 Jan 1975	PCB application; letter to Board

Awards and Decorations:

National Defense Service Medal;
Expert Badge M-16
Hand Grenade Badge

Prior Military Offenses: None

Sources:

1. Military Personnel Records jacket
2. Letters of Applicant dated 8 and 21 Jan 1975

Evelyn:

I believe these should be in their respective
case files - don't you?

Marilyn M. 9/10

THE WHITE HOUSE

WASHINGTON

April 24, 1975

MEMORANDUM FOR:

Charles E. Goodell

FROM:

Philip W. Buchen

T.W.B.

This memorandum is in response to your request on behalf of the Presidential Clemency Board ("Board") for guidance in the disposition of cases similar to Case No. 75-1223. In that case the applicant violated the Uniform Code of Military Justice twice by absenting himself from his unit during the Vietnam Era because he believed the war was unjust. Your memo inquires whether the President intended the reconciliation program to apply to offenders who evidence such anti-war motives.

The language in the Proclamation and the Executive Order establishing the program gives no indication whether an offender's motives are relevant to the Board's deliberations. Thus the President's intent is not affirmatively stated. The absence of such language might be interpreted to infer that such a matter was left to the Board's discretion. However, if such an examination of motives were intended, it would have to apply equally to the Departments of Justice and Defense in order not to create a gross inequity in the overall administration of the reconciliation program. An examination of the language in the Proclamation establishing the guidelines for the Departments indicates that distinguishing cases based on the motives of the offenders was not intended because these guidelines are drawn too tightly. Therefore, I conclude that there was no intention that the Board distinguish between the motives of any applicant in considering whether to recommend Executive clemency.

PRESIDENTIAL CLEMENCY BOARD

April 18, 1975

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Applicant's request for an Undesirable Discharge was granted on 21 Dec 1972. In his letter to the Board accompanying his application he states that his discharge was not the result of, nor did it involve, any procedural unfairness.

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Chronology:

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Awards and Decorations:

National Defense Service Medal;
Expert Badge M-16
Hand Grenade Badge

Prior Military Offenses: None

Sources:

1. Military Personnel Records jacket
2. Letters of Applicant dated 8 and 21 Jan 1975

THE WHITE HOUSE

WASHINGTON
April 28, 1975

MEMORANDUM FOR:

Chairman Charles E. Goodell

FROM:

Philip W. Buchen

T.W.B.

By your memorandum to the President dated April 18, 1975, you requested the President's personal consideration of Case No. 041 which is pending before the Presidential Clemency Board. The Board is narrowly divided on its recommendation and both the majority and the minority have supporting reasons which they want to insure are brought to the President's attention.

Since the Board has not made a recommendation to the President in this case, the President's review at this time might be considered premature. Also, such review would only serve to insure that the Board's final recommendation would coincide with the President's final action. There is no indication that such complete agreement is necessary.

An alternate course of action which the Board might adopt in this case is to submit its majority and minority views to the President along with a final recommendation. In this way, the President would be fully informed of the Board members' views before reaching his final decision.

The Counsel's office will delay action on the Board's memo until the Board determines whether the proposed alternate course of action is acceptable.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON

April 18, 1975

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM:

Charles E. Goodell
CHARLES E. GOODELL

SUBJECT:

Case #041

At the request of the members of the Presidential Clemency Board, I am transmitting to you by special memorandum Case #041. The Board has considered this case a number of times and is divided on the proper recommendation. They ask that you consider the case personally.

The Board, by a divided vote of 4 - 3, recommends a full and immediate pardon. The majority believes that this applicant was so mentally ill that he was not responsible for his action. They also believe that his continuing psychological problems are such as to make him unable to perform any alternative service. In effect, a requirement to do service would be tantamount to a denial of clemency. The minority believes that a period of alternative service of at least three months is proper. They are not persuaded by the evidence of mental infirmity. It is quite clear that absent this infirmity the Board would have recommended that this particular individual perform a term of service.

The summary prepared for the Board's use is attached.

OPTIONS:

- (a) Approve an immediate pardon for Case #041.
- (b) Approve a pardon conditioned on 3 months alternative service.

DECISION:

(a) _____ (b) _____

Attachment

PRESIDENTIAL CLEMENCY BOARD
Case Summary

Case No. 74-041 -C

Sentence: 2 years; no jail time

Present Status: PCB furlough

Time Served: 8 months, 2 days

Offense: Failure to report for
civilian duty

Background

Applicant was born on 20 Oct 1946 in Ft. Lauderdale, Florida. He is the younger of two children. The applicant's father reportedly (presentence report) is an alcoholic and thrice married. The second marriage followed a period of four to five years during which the applicant lived with his paternal grandparents. The second wife of applicant's father reportedly was such a poor housekeeper (prison report) that a half-sister was hospitalized due to living conditions. The third marriage is reportedly a happy one and the applicant's stepmother took a strong interest in him. During high school the applicant was seen as an "All American Boy". He was in the upper 15% of his class, played football for two years, and was president of his senior class. Upon graduation in 1965 the applicant entered the University of Cincinnati. He continued there until spring of 1968 where he accumulated 142 quarter hours. Following a short period of work and another semester of school, the applicant left the country to travel in Europe, Africa and Lebanon. He was arrested and sentenced in Beirut, Lebanon, to a three year prison term for smuggling hashish. A panel of medical experts found his medical condition unstable and the sentence was reduced to nine months (presentence report). Subsequently the applicant appeared in Holland where he joined a society that advocated the benefits of trephination. The applicant performed this operation on himself (dove a hole in his skull), was subsequently hospitalized for infection, returned to the United States and hospitalized in Cincinnati, Ohio. The report of a prison psychiatrist indicates the applicant is suffering from paranoid schizophrenia (prison report).

Circumstances of Offense

The applicant registered for the draft, received a student deferment, and in 1967 was granted conscientious objector status. In July 1969 the applicant was authorized civilian work at Citizens Hospital in Ohio but failed to report.

PRESIDENTIAL CLEMENCY BOARD

May 15, 1975

MEMORANDUM FOR: PHILIP W. BUCHEN

FROM: CHARLES E. GOODELL

SUBJECT: Pending Clemency Board Issues
Before the President

The President has acted on 65 recommendations from the Presidential Clemency Board to date. There are now 236 recommendations pending, including 114 recommendations sent to the President on March 26, 1975.

I understand they are being held because some question as re-arison with reference to the President granting a pardon for the AWOL offenses that led to an Undesirable Discharge. If you will recall, this issue was resolved by the President in a meeting with Marsh, Buchen and Goodell in late November or early December. You and I discussed the issue in your office prior to meeting with the President. I recall your reaching for a copy of the Constitution and reading the language as follows:

"and he shall have power to grant reprieves and pardons for offenses against the United States".

I explained that the Clemency Board had then reached a serious impasse because we unanimously felt that we could not require alternative service of an applicant if all we had to offer him was a change from an Undesirable Discharge to a Clemency Discharge. We distinguished the cases being processed by the Department of Defense because that program dealt with fugitives who had charges hanging over them. Their participation in the clemency program benefitted them by the military dropping the pending charges against them.

I believe it would be not only unfortunate, but a serious disruption of the Clemency Board functions to reopen the issue of pardons for AWOL offenses leading to Undesirable Discharges. The matter was discussed in the presence of the President and a decision was made which solved a major policy crisis in the Board last fall. Since

approximately 70% of our applications are from undesirable discharges, a decision to grant them only a Clemency Discharge would expose the President to vehement criticism and perhaps even ridicule. All of the members of the Clemency Board have repeatedly stated in public the President's decision to grant pardons for AWOL offenses leading to Undesirable Discharges. This is not the time for a retraction or an apparent renegeing on public commitments with reference to clemency.

I understand that there are those advisors to the President who have been advocating, in view of events in Vietnam, that the President announce universal and unconditional pardons at this time. I do not advocate such a course, but I believe the President should take the following actions previously recommended by the Clemency Board:

Insert - page 2

. . . . date, 5 of which have been forwarded to the President.

1. Upgrade

The Board has recommended twenty-one upgrade cases to date. These are individuals who served gallantly in Vietnam, often volunteering for extra hazardous duty. They subsequently cracked up and are now denied veterans benefits. We recommend unanimously, on the motion of the Board members who are veterans of Vietnam, that these individuals receive General Discharges with veterans benefits.

2. Effect of Clemency on Future Discharge Review

We proposed that any individual going to a Discharge Review Board or Board for the Correction of Military Records having received a Pardon from the President would be treated as follows:

(a) He would not have to make a separate, special application to these boards. The application to the clemency Board would be considered the functional equivalent of the application to the military; (b) Any review would be taken without regard to the acts for which the President has issued a Pardon.

3. Nature of Clemency Discharge

The Proclamation and the President's evident intent is that the Clemency Discharge be a truly neutral discharge, neither less-than-honorable nor "under honorable conditions". The actual certificate

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I understand that there are those advisors to the President who have been advocating, in view of events in Vietnam, that the President announce universal and unconditional amnesty at this time. I do not advocate such a course, but I believe the President should take the following actions previously recommended by the Clemency Board:

1. Upgrade

The Board has recommended twenty-one upgrade cases to date. *(insert)* These are individuals who served gallantly in Vietnam, often volunteering for extra hazardous duty. They subsequently cracked up and are now denied veterans benefits. We recommend unanimously, on the motion of the Board members who are veterans of Vietnam, that these individuals receive General Discharges with veterans benefits.

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used by Defense states that it is a Clemency Discharge given "under clemency conditions" or some similar phraseology. However, the Department has made it quite clear that they consider the Clemency Discharge to be a discharge under other than honorable conditions (the functional equivalent of an Undesirable Discharge), not only for the purposes of continuing to preclude veterans benefits (the President's desire), but also as a public connotation and an official description within the government.

We recommend that the President make it clear that a Clemency Discharge replaces a discharge under less than honorable conditions. The Executive Order states that a Clemency Discharge is "in lieu of" and "substituted for" a Bad Discharge. The Clemency Discharge should be regarded as completely neutral, neither under honorable conditions or less than honorable conditions.

4. The President should act upon the 236 recommendations made by the clemency Board thus far and publicly announce that he has signed the warrants implementing those recommendations.

CEG
FYI

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON
May 16, 1975

MEMORANDUM FOR: PHILIP W. BUCHEN
FROM: *Charles E. Goodell*
CHARLES E. GOODELL
SUBJECT: Pending Clemency Board Issues
Before the President

The President has acted on 65 recommendations from the Presidential Clemency Board to date. There are now 236 recommendations pending, including 114 recommendations sent to the President on March 26, 1975.

I understand they are being held because some question has re-arisen with reference to the President granting a pardon for the AWOL offenses that led to an Undesirable Discharge. If you will recall, this issue was resolved by the President in a meeting with Marsh, Buchen and Goodell in late November or early December. You and I discussed the issue in your office prior to meeting with the President. I recall your reaching for a copy of the Constitution and reading the language as follows:

"and he shall have power to grant reprieves and pardons for offenses against the United States".

I explained that the Clemency Board had then reached a serious impasse because we unanimously felt that we could not require alternative service of an applicant if all we had to offer him was a change from an Undesirable Discharge to a Clemency Discharge. We distinguished the cases being processed by the Department of Defense because that program dealt with fugitives who had charges hanging over them. Their participation in the clemency program benefitted them by the military dropping the pending charges against them.

I believe it would be not only unfortunate, but a serious disruption of the Clemency Board functions to reopen the issue of pardons for AWOL offenses leading to Undesirable Discharges. The matter was discussed in the presence of the President and a decision was made which solved a major policy crisis in the Board last fall. Since

approximately 70% of our applications are from undesirable discharges, a decision to grant them only a Clemency Discharge would expose the President to vehement criticism and perhaps even ridicule. All of the members of the Clemency Board have repeatedly stated in public the President's decision to grant pardons for AWOL offenses leading to Undesirable Discharges. This is not the time for a retraction or an apparent reneging on public commitments with reference to clemency.

I understand that there are those advisors to the President who have been advocating, in view of the events in Vietnam, that the President announce universal and unconditional amnesty at this time. I do not advocate such a course, but I believe the President should take the following actions previously recommended by the Clemency Board:

1. Upgrade

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4. The President should act upon the 236 recommendations made by the Clemency Board thus far and publicly announce that he has signed the warrants implementing those recommendations.

I firmly believe Presidential action on all of the above issues would re-emphasize the fair, generous and significantly beneficial nature of the President's approach to amnesty, stopping far short of unconditional amnesty. Any arguments that such actions create difficult precedents for existing agencies or open floodgates, ignore the fact that the clemency program is by definition unique and sets no precedents whatsoever in other agencies for those beyond the purview of the clemency program itself.

Feb 27, 1975 - Memo from Jerry Jones to all concerned.

"The President has made the decision to extend the Clemency Board application deadlines, as well as the deadlines of the Departments of Defense and Justice, for a period to end March 31st. This is to be the absolute final extension and the extension of time in no way implies any broadening of authority"

THE WHITE HOUSE

WASHINGTON

May 22, 1975

MEMORANDUM FOR: CHAIRMAN CHARLES GOODELL
FROM: PHILIP W. BUCHEN *P.W.B.*

This memo is in response to your memo dated May 16, 1975, in which you raised four issues concerning the President's clemency program.

Although you believe the issue concerning pardons for servicemen who received undesirable discharges was discussed with the President last year, I have confirmed that positions on this issue were never requested from the Departments of Defense and Justice. Attached for your review are memos from the United States Pardon Attorney and the Department of Defense opposing your recommendation. In light of their opinions, it would be desirable to hold a meeting of the interested agencies for the purpose of reaching a resolution on this issue.

With respect to the issue you raised in item number three of your memo, I believe it also should be discussed at the meeting of all interested agencies. This issue had been raised with the President in September, 1974. At that time he decided that a clemency discharge would be equivalent to an undesirable discharge. However, because that decision was made prior to the appointment of the Board, I believe it would be appropriate to have an exchange of views on this issue in a meeting with other interested agencies.

Also, your memo raises two issues (numbers one and two) which were previously raised by you in a memorandum dated February 24, 1975, to the President. On February 25 these issues were discussed with the President. All interested agencies had the opportunity to convey their views to the President in person or by memo, and on February 27 the staff secretary by memo informed all parties that the President did not approve the Board's recommendations. Therefore, I feel that these issues are moot.

Finally, in response to item number four in your memo, it is my intention to forward to the President the recommendations of the Board as soon as final agreement is reached among all parties on these issues.

You will be contacted concerning a convenient date for the proposed meeting.

PRESIDENTIAL CLEMENCY BOARD

May 16, 1975

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1. Upgrade

The Board has recommended twenty-one upgrade cases to date, 5 of which have been forwarded to the President. These are individuals who served gallantly in Vietnam, often volunteering for extra hazardous duty. They subsequently cracked up and are now denied veterans benefits. We recommend unanimously, on the motion of the Board members who are veterans of Vietnam, that these individuals receive General Discharges with veterans benefits.

2. Effect of Clemency on Future Discharge Review

We proposed that any individual going to a Discharge Review Board or Board for the Correction of Military Records having received a Pardon from the President would be treated as follows:

- (a) He would not have to make a separate, special application to these boards. The application to the Clemency Board would be considered the functional equivalent of the application to the military;
- (b) Any review would be taken without regard to the acts for which the President has issued a Pardon.

3. Nature of Clemency Discharge

The Proclamation and the President's evident intent is that the Clemency Discharge be a truly neutral discharge, neither less-than-

honorable nor "under honorable conditions". The actual certificate used by Defense states that it is a Clemency Discharge given "under clemency conditions" or some similar phraseology. However, the Department has made it quite clear that they consider the Clemency Discharge to be a discharge under other than honorable conditions (the functional equivalent of an Undesirable Discharge), not only for the purposes of continuing to preclude veterans benefits (the President's desire), but also as a public connotation and an official description within the government.

We recommend that the President make it clear that a Clemency Discharge replaces a discharge under less than honorable conditions. The Executive Order states that a Clemency Discharge is "in lieu of" and "substituted for" a Bad Discharge. The Clemency Discharge should be regarded as completely neutral, neither under honorable conditions or less than honorable conditions.

4. The President should act upon the 236 recommendations made by the Clemency Board thus far and publicly announce that he has signed the warrants implementing those recommendations.

I firmly believe Presidential action on all of the above issues would re-emphasize the fair, generous and significantly beneficial nature of the President's approach to amnesty, stopping far short of unconditional amnesty. Any arguments that such actions create difficult precedents for existing agencies or open floodgates, ignore the fact that the clemency program is by definition unique and sets no precedents whatsoever in other agencies for those beyond the purview of the clemency program itself.

CEG:mm

THE WHITE HOUSE

WASHINGTON

May 22, 1975

MEMORANDUM FOR: CHAIRMAN CHARLES GOODELL
FROM: PHILIP W. BUCHEN *P.W.B.*

This memo is in response to your memo dated May 16, 1975, in which you raised four issues concerning the President's clemency program.

Although you believe the issue concerning pardons for servicemen who received undesirable discharges was discussed with the President last year, I have confirmed that positions on this issue were never requested from the Departments of Defense and Justice. Attached for your review are memos from the United States Pardon Attorney and the Department of Defense opposing your recommendation. In light of their opinions, it would be desirable to hold a meeting of the interested agencies for the purpose of reaching a resolution on this issue.

With respect to the issue you raised in item number three of your memo, I believe it also should be discussed at the meeting of all interested agencies. This issue had been raised with the President in September, 1974. At that time he decided that a clemency discharge would be equivalent to an undesirable discharge. However, because that decision was made prior to the appointment of the Board, I believe it would be appropriate to have an exchange of views on this issue in a meeting with other interested agencies.

Also, your memo raises two issues (numbers one and two) which were previously raised by you in a memorandum dated February 24, 1975, to the President. On February 25 these issues were discussed with the President. All interested agencies had the opportunity to convey their views to the President in person or by memo, and on February 27 the staff secretary by memo informed all parties that the President did not approve the Board's recommendations. Therefore, I feel that these issues are moot.

Finally, in response to item number four in your memo, it is my intention to forward to the President the recommendations of the Board as soon as final agreement is reached among all parties on these issues.

You will be contacted concerning a convenient date for the proposed meeting.

THE WHITE HOUSE
WASHINGTON

Evelyn -

Mtg. 10:00 - Thurs. - 5/29
w/ Buchen et al

U.

THE WHITE HOUSE

WASHINGTON

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Finally, in response to item number four in your memo, it is my intention to forward to the President the recommendations of the Board as soon as final agreement is reached among all parties on these issues.

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PRESIDENTIAL CLEMENCY BOARD

May 16, 1975

MEMORANDUM FOR: PHILIP W. BUCHEN
FROM: CHARLES E. GOODELL
SUBJECT: Pending Clemency Board Issues
Before the President

The President has acted on 65 recommendations from the Presidential Clemency Board to date. There are now 236 recommendations pending, including 114 recommendations sent to the President on March 26, 1975.

I understand they are being held because some question has re-arisen with reference to the President granting a pardon for the AWOL offenses that led to an Undesirable Discharge. If you will recall, this issue was resolved by the President in a meeting with Marsh, Buchen and Goodell in late November or early December. You and I discussed the issue in your office prior to meeting with the President. I recall your reaching for a copy of the Constitution and reading the language as follows:

"and he shall have power to grant reprieves and pardons for offenses against the United States".

I explained that the Clemency Board had then reached a serious impasse because we unanimously felt that we could not require alternative service of an applicant if all we had to offer him was a change from an Undesirable Discharge to a Clemency Discharge. We distinguished the cases being processed by the Department of Defense because that program dealt with fugitives who had charges hanging over them. Their participation in the clemency program benefitted them by the military dropping the pending charges against them.

I believe it would be not only unfortunate, but a serious disruption of the Clemency Board functions to reopen the issue of pardons for AWOL offenses leading to Undesirable Discharges. The matter was discussed in the presence of the President and a decision was made which solved a major policy crisis in the Board last fall. Since

approximately 70% of our applications are from undesirable discharges, a decision to grant them only a Clemency Discharge would expose the President to vehement criticism and perhaps even ridicule. All of the members of the Clemency Board have repeatedly stated in public the President's decision to grant pardons for AWOL offenses leading to Undesirable Discharges. This is not the time for a retraction or an apparent reneging on public commitments with reference to clemency.

I understand that there are those advisors to the President who have been advocating, in view of the events in Vietnam, that the President announce universal and unconditional amnesty at this time. I do not advocate such a course, but I believe the President should take the following actions previously recommended by the Clemency Board:

1. Upgrade

The Board has recommended twenty-one upgrade cases to date, 5 of which have been forwarded to the President. These are individuals who served gallantly in Vietnam, often volunteering for extra hazardous duty. They subsequently cracked up and are now denied veterans benefits. We recommend unanimously, on the motion of the Board members who are veterans of Vietnam, that these individuals receive General Discharges with veterans benefits.

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We recommend that the President make it clear that a Clemency Discharge replaces a discharge under less than honorable conditions. The Executive Order states that a Clemency Discharge is "in lieu of" and "substituted for" a Bad Discharge. The Clemency Discharge should be regarded as completely neutral, neither under honorable conditions or less than honorable conditions.

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CEG:mmm

THE WHITE HOUSE

WASHINGTON

June 12, 1975

Dear Chairman Goodell:

On the basis of the recommendations contained in your memorandum dated June 2, 1975, the President has decided that the Presidential Clemency Board may recommend pardons to him in meritorious cases for those applicants to the Board, under the Program for the Return of Vietnam Era Draft Evaders and Military Deserters, who were discharged from the Military Departments for their absentee offenses. The grant of pardons in these cases would be conditioned on the satisfactory completion of any period of alternate service recommended by the Board and approved by the President.

In reaching this decision, the President was aware that to grant pardons to those who received undesirable discharges for their offenses is an unusual exercise of his power to grant clemency. However, the President concluded that in meritorious cases the unique purposes of his Proclamation, to show mercy and to offer these young Americans the chance to contribute a share in the rebuilding of peace, required an unusual exercise of clemency.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Charles E. Goodell
Chairman
Presidential Clemency Board
The White House
Washington, D. C. 20500

THE WHITE HOUSE

The Honorable Charles E. Goodell
Chairman
Presidential Clemency Board
The White House
Washington, D. C. 20500

July 2, 1975

Dear Phil:

The Presidential Clemency Board is fortunate to have the services of approximately 130 legal interns who represent a broad geographical section of the United States. Because many of our legal interns are from other parts of the United States, and will return to their respective homes once their stay with the PCB is over in order to finish their legal education, I would very much like to make their stay in Washington, D.C. as instructive as possible.

Members of my staff are now in the process of putting together a number of interesting programs that are specifically designed for our legal interns, I would very much appreciate it if Bill Casselman could give an informal talk to our interns on the nature of his work as a White House Counsel. Bill has informally indicated to a member of my staff that he could do so.

In addition, at some further time I think that an informal meeting between Jay French and our legal interns would also be very beneficial. Jay has been very much involved with the Presidential Clemency Board from its inception, and I believe that our interns would particularly profit from his observations about the origins and aims of the program.

With kind regard, I am

Sincerely,

Charles E. Goodell
Chairman

Mr. Philip W. Buchen
The White House
Washington, D.C. 20500

July 21, 1975

Dear Phil:

Thank you for your letter of July 17, 1975. I am aware that the President wishes the Clemency Board program to be completed by September 15.

We have now processed 9,000 cases, and we will complete all the cases for which we have files by September 15. There will be some carryover, for which we must make provision, because there are no files whatsoever on some cases. I have a special project working to reconstruct files where necessary in order to minimize that problem.

We sent 413 cases to the President last week, totaling 1,067 cases to the President to date. As you know, we guarantee an applicant 30 days in which to correct the summary of his record after receipt thereof. We began virtually full time operations the first week in June, disposing of 1200 to 1500 cases a week. Those cases are now "ripe" and the President will be receiving upwards of 1,000 recommendations per week from the Clemency Board hereafter.

You need have no concern about the matter of late applications. The Clemency Board established a policy from the outset that any confirmed inquiry to an official Government agency should be considered an application if followed up by a written application by May 31, 1975. Our projected applications, taking account of the fallout that we have had thus far, are between 16,000 and 17,000. The Clemency Board has not changed its rules in order to accommodate late applicants. I suspect that Jay French's inquiry arises from a single case which the full Board heard last week. The applicant had inquired as to how to apply for clemency to the United States consulate in Canada prior to March 31, 1975, the deadline for applications. He was given misinformation. He returned to the United States on April 12 and turned himself in to the U.S. Attorney.

The Board unanimously accepted the application since, on the basis of our established rule, he submitted his application prior to March 31, 1975.

I am not about to permit revision of rules contrary to the President's directives, and I certainly do not intend to complicate our problem of completing disposition of all cases for which we have adequate information by September 15. It will be done.

Sincerely,

Charles E. Goodell
Chairman

Mr. Philip W. Buchen
The White House
Washington, D.C. 20500

PRESIDENTIAL CLEMENCY BOARD

August 15, 1975

MEMORANDUM FOR: PHILIP BUCHEN
FROM: CHARLES E. GOODELL
SUBJECT: Presidential Clemency Board's Final
Recommendations

Under section 9 of Executive Order 11803 ("Establishing a Clemency Board..."), the Presidential Clemency Board is charged to "submit its final recommendations to the President not later than December 31, 1976". Since the Board contemplates a completion of its caseload by September 15, we are preparing a final report to the President to be submitted by that date.

That report will describe to the President what kinds of people applied to the Board and what kinds of problems generated their offense, the procedure by which the Board reached its recommendations on clemency applications, some broad problems which we have learned about as we see patterns emerging from the cases, and some recommendations as to what the President might do to remedy those broad problems.

It is the President's prerogative, not the Board's, to release or to elect not to release all or part of the Board's final recommendations to him. On that assumption, I envision submitting those recommendations in a two-part package:

- (1) A final report written in a form appropriate for public release, in contemplation of its release by the White House very shortly after submission to the President. The Board itself will submit the report to the President, and will not publicly release anything. Although the existence of a report will obviously be known to the press, the President will retain the option of releasing it or not.
- (2) An options memorandum forwarding the Board's recommendations for action by the President. This memorandum will not be released to the public.



To avoid confusion about who will publicly release what materials at what time, we should establish procedural ground rules well before the Board's recommendations are formulated. Please let me know whether you concur on the procedure which I propose, and, if not, what alternatives you proffer.

cc.: DONALD RUMSFELD

RTropp:mm

THE WHITE HOUSE

WASHINGTON

August 26, 1975

MEMORANDUM FOR: CHARLES E. GOODELL
FROM: PHILIP W. BUCHEN *P.W.B.*
SUBJECT: Your memorandum of August 15

As I read your memorandum, you interpret Section 9 of Executive Order 11803 differently from the way I think it must be interpreted. Section 9 calls for "final recommendations to the President" by a specified date which you now indicate will be no later than September 15. The only recommendations called for by the Order are those specified in Section 3. The Board's recommendations shall be "as to whether executive clemency should be granted or denied in any case [and] if clemency is recommended... the form that such clemency should take." Thus, according to the Order, once the Board makes its recommendations as to granting or denial of clemency in each case which has come before it, its work will have been completed.

You, on the other hand, appear to read the Order as requiring recommendations of how the President should deal in the future with broad problems which you may have detected as a result of the activities of the Board. This is an interpretation which I do not believe is supported in any way by the language of the Order or the President's intent, and I believe you should confine the remaining activities of the Board to completing review of the cases before you in accordance with Section 3 of the Order. By following this appropriate course, we avoid any question about preparing either a further report to the President for him to release or a confidential memorandum to him.

cc: Donald Rumsfeld



THE WHITE HOUSE

WASHINGTON

August 26, 1975

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FROM: PHILIP W. BUCHEN *P.W.B.*
SUBJECT: Your memorandum of August 15

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cc: Donald Rumsfeld

THE WHITE HOUSE
WASHINGTON

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.



Page 2

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,

Evelyn -

A copy has been
given to Rick.

U. - 9/8

THE WHITE HOUSE

WASHINGTON

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Sincerely,

DRAFT.

September 25, 1975

MEMORANDUM TO

: Phil Buchen
Counsel to the President

Paul O'Neill
Deputy Director, OMB

Edward H. Levi
Attorney General

FROM

: Charles E. Goodell

SUBJECT

: Final Report and Other PCB
Policy Issues Which Remain Unresolved



As the result of several discussions with the White House, OMB and the Justice Department, it was my understanding that the Presidential Clemency Board was required by statute to issue a final report.

Previously I expressly assured all concerned that the PCB final report would not be a political document but rather would be a narrative describing the Board's activities during the past year. Since there was no disagreement on the necessity and desirability of issuing such a document, I fully expected that necessary support would be provided to assure that the report would be issued quickly and without much fanfare.

As of this date I am uncertain that this belief is shared by others involved in the transition of Presidential Clemency activities to the Justice Department. On September 19, I addressed a memorandum to the Attorney General requesting that certain key staff members be retained on detail to the Justice Department, beyond September 29th, the date Board members will meet at 2033 M Street, ~~Washington~~, to review the latest draft of the final report. Although I have not received any formal

September 25, 1975

DRAFT

The Federal Advisory Commission Act requires a Final Report from the PCB. Phil Buchen & I discussed that matter some time ago & agreed. The Final Report will be descriptive, informative of the process followed, and factual. It will not be controversial and will contain no recommendations.

The Full Board is meeting in Washington voluntarily & at their own expense on Monday, Sept 29 to give final directions to the staff and ^{final} approval of the reports in accordance w/ those directions.

At the moment, there appears to be a ~~misapprehension~~ ^{misapprehension} by those directing the PCB ~~clean up~~ carry-over operation that there will be no Final Report. Perhaps that reflects a higher misunderstanding. In any event, they are in the process of decimating the small staff necessary to ^{conserve} ~~carry~~ the Final Report. ~~then to the~~

response from the Attorney General, I have received verbal messages through intermediaries working for the Pardon Attorney, indicating that my request was denied. These same people, acting on what they believe are instructions from their superiors, have also released or re-assigned both the professional and clerical staff working on the final report. Obviously, without the necessary professional and clerical support, it will be impossible to issue a report satisfactory for submission to the President. I am certain that such a result was not intended by any of the principals with whom this matter was discussed. However, it now becomes ^{critical} ~~essential~~ that specific written instructions be issued as quickly as possible to insure that the final report can be completed.

In my opinion there have been too many people involved in preparing the report to permit the whole issue to be swept under the rug.

~~Therefore, I suggest that ^{every} efforts be made to complete ^{and issue} the final report.~~

I believe this can be accomplished within the next 4 weeks. The remaining work required is as follows: Phase 1 will involve final editing and incorporation of changes and suggestions made by the Board members on September 29. Nine professionals, including Baskir, Knisely, Horn and Strauss, and three secretaries (two with MTST experience) would be required through October 3. Phase 2 involves proofreading and final preparation of the report for printing. It requires 5 professionals, including Baskir and Strauss, and three secretaries, and should be completed by October 17. Phase 3 involves review of galleys and arranging for and monitoring the actual printing. It will involve Baskir, and one

professional, ^{and} and one secretary, ^{it} and should be completed by November 1.

I am also concerned about the apparent lack of progress that has been made since September 15 in completing the residual work of the Clemency Board. To my knowledge no additional recommendations have been sent to the President since September 15. The previous rate was 1,000 a week. Packets 12 through 41 previously submitted by the Clemency Board have been returned. Although a few of these packets require re-typing in order to separately list persons with felony convictions, the vast majority of these transmittals require no additional work. If the transition is to be completed by November 1, the remaining 6000 recommendations not transmitted as of September 15 must be in the President's hands by October 1.

Although the Presidential Clemency Board went out of formal existence on September 15, I do not consider the Board's work concluded until the final report has been completed and the President has acted on all 15,000 Board recommendations. You can understand my continuing concern and interest that the transition phase be completed on schedule in a manner which does not jeopardize the work of the Board or the President's objectives *with regard to clemency.*

Prof phase - : [Strauss] Horn, [Kinsey] ~~Quartel~~ Baskir.
Quartel, Beck, Ebel, Virginia,

Thru Oct 3rd Remington

2 secretaries MTST - robotype
+ Mary Essex

2nd phase - :

Thru Oct 17th

Strauss & Baskir,
3 of 5 professionals
3 secretaries

3rd Phase - : Baskir + 1 (Remington or Ebel)

Thru Nov 1st 1 secretary.

Access to typewriters, paper & Xerox

Nothing is moving.

Packets #12 - #41 - 6500 (2400 signal)

Pardons not going out from DoJ.

1000/wk to Pres prior to Sept 15.

THE WHITE HOUSE

WASHINGTON

November 6, 1975

RECEIVED NOV 10 1975

Dear Charlie:

Thank you for your recent memorandum concerning the disposition of the papers of former members of the Presidential Clemency Board. However, there are two problems that should be resolved prior to the disposition of these papers outside of Government control.

As I am sure you are aware, the question of ownership of Presidential papers is now in litigation. Enclosed are the guidelines used by the previous Administration which describe the categories of materials that staff members can take with them on departure. Inasmuch as the present litigation does not appear to affect these guidelines, we have continued to follow them in order to preserve the status quo. In view of the unique nature of the Board's functions, these guidelines should be applied in this instance.

The second problem relates to the confidentiality of the materials which the guidelines authorize to be taken on departure. Although the Board's papers are not now subject to the specific safeguards of the Privacy Act of 1974, P.L. 93-579, any disposition of these papers should also take into account the protection of individual privacy which the Act seeks to assure. In effect, the Board has already made this determination by its regulation guaranteeing the confidentiality of communications to the Board from applicants and potential applicants, 2 CFR 100.12(a).

In view of this regulation and in order to comply fully with the spirit of the Privacy Act, appropriate guidelines should be developed



prior to the disposition of any of these materials to points outside government control. My staff would be pleased to discuss further these matters with you at your convenience.

With best wishes,

Sincerely,

A handwritten signature in cursive script that reads "Phil".

Philip W. Buchen
Counsel to the President

The Honorable Charles E. Goodell
Hydeman, Mason & Goodell
1225 - 19th Street, N.W.
Washington, D.C. 20036

(3) As to any person denied executive clemency, again not recommend the applicant for executive clemency.

§ 101.11 Referral to appropriate agencies.

After the expiration of the period allowed for petitions for reconsideration, the Chairman of the Board shall forward for further action to the Secretaries of the Army, Navy, and Air Force, the Secretary of the Department of Transportation, the Director of the Selective Service System, and the Attorney General, as appropriate, the President's determination as to each recipient of executive clemency.

§ 101.12 Confidentiality of communications.

(a) The Board has determined that it will take all steps possible to protect the privacy of applicants and potential applicants to the Presidential clemency program. No personal information concerning an applicant or potential applicant and related to the Presidential clemency program will be made known to any agency, organization, or individual, whether public or private, unless such disclosure is necessary for the normal and proper functioning of the Presidential Clemency Board. However, information which reveals the existence of a violation of law (other than an offense subject to the Presidential clemency program) will of necessity be forwarded to the appropriate authorities.

(b) In order to have his case considered by the Board, an applicant need submit only information sufficient for a determination of jurisdiction, and for the retrieval of necessary official records and files. The application form will therefore require the applicant's name; date of birth; selective service number; military service and service number, if applicable; information concerning the draft evasion offenses or absence-related military offenses and the disposition thereof; and the mailing address of either the applicant or his representative. If the applicant submits such information as part of his initial filing, the completion of the application form itself is not necessary.

§ 101.13 Representation before the Board.

(a) Although an applicant may bring his case before the Board without a representative or legal counsel, each ap-

plicant is entitled to representation and will be encouraged to seek legal counsel experienced in military or selective service law. Upon request, Board staff will attempt to refer an applicant to a skilled volunteer representative.

(b) An applicant who does not wish to file his application in person may have his representative do so on his behalf.

§ 101.14 Requests for information about the clemency program.

(a) Upon receipt by the Board of an oral or written request for information or consideration concerning an individual who is clearly beyond the jurisdiction of the Board, a member of the Board's staff shall inform the individual:

(1) That jurisdiction does not lie;

(2) Whether jurisdiction may lie within the Presidential clemency program, and if so, with which agency;

(3) That in the event the individual prefers not to contact personally such other agency that an Action Attorney will obtain from such other agency information concerning the individual's status with respect to the Presidential clemency program, and provide to the individual that information.

(b) The Action Attorney shall submit to the Executive Secretariat of the Presidential Clemency Board a summary of the communication with, and information provided to, such individuals.

APPENDIX A¹

APPENDIX B—INSTRUCTIONS FOR APPLICATION FOR CLEMENCY

On September 16, 1974, the President announced a program of clemency. Depending on your case, you may apply to the Presidential Clemency Board, the Department of Justice, or the Department of Defense.

You may be eligible for clemency by the Presidential Clemency Board if you have been convicted of a draft evasion offense such as failure to register or register on time; failure to keep the local board informed of current address; failure to report for or submit to pre-induction or induction examination; failure to report for or submit to or complete service, during the period from August 4, 1964 to March 28, 1973; or if you have received an undesirable, bad conduct, or dishonorable discharge for desertion, absence without leave, or missing movement, and for offenses directly related, between August 4, 1964 to March 28, 1973.

If you are now absent from military service or have a charge against you for a Selective Service violation and have not been convicted or received a discharge, you may still

¹ Filed as part of original document.

be eligible for clemency under another part of the President's program. If you have any questions, please contact the Board and we will try to answer your questions.

If you believe that you are eligible to be considered by the Presidential Clemency Board but are not sure, you should apply to the Board. If it turns out that you are not eligible for consideration by the Board, you may possibly qualify under another part of the clemency program. You do not have to identify your current location. We will then be able to notify you of the proper agency to contact. If you are appealing a conviction or a military discharge you may continue your appeal, and still apply to the Board at the same time.

I. The Board will not give its files to any other federal agency. It will keep any information you provide in strictest confidence, except evidence of a serious crime which is not covered in the Presidential Clemency program.

II. Although you may apply to the Board without attorney or any other representative if you wish, we encourage you to obtain the help of legal counsel. If you do not have a counsel but desire one, we will be glad to refer you to a lawyers' organization which will help you find one. These organizations will help you get legal assistance even if you cannot afford to pay.

III. To apply to the Board, you need only supply the information necessary to find your file from other departments. If you do not wish to file your application personally, you may select a representative of your own choice to do it for you, but you must tell us that he is authorized. The Board will maintain its own file on your case and that file will be available for examination by you or your own attorney.

IV. You are encouraged to submit evidence which you feel helps your case, and to submit letters from other people on your behalf. You may submit evidence in order to correct inaccurate, incomplete, or misleading information to the Board's file.

V. A personal appearance by you before the Board will not be necessary.

If you have any questions, please call or write the Presidential Clemency Board, The White House, Washington, D.C. 20500, (202-456-6476). If application is made by a representative on your behalf, it is not necessary that your home address and telephone number be included. Your representative should indicate his capacity (attorney, friend, etc.) and give us his address and telephone number.

Application for people not in custody should be completed and mailed to the Board no later than midnight, January 31, 1975. Special procedures will be established for persons incarcerated whether or not they have been released on furlough.

PART 102—SUBSTANTIVE STANDARDS OF THE PRESIDENTIAL CLEMENCY BOARD

Sec.

- 102.1 Purpose and scope.
- 102.2 Board decision on whether or not to recommend that the President grant executive clemency.
- 102.3 Aggravating circumstances.
- 102.4 Mitigating circumstances.
- 102.5 Calculation of length of alternative service.

AUTHORITY: E.O. 11803, 39 FR 33297.

SOURCE: 39 FR 41353, Nov. 27, 1974, unless otherwise noted. Correctly designated, 39 FR 44709, Dec. 27, 1974.

§ 102.1 Purpose and scope.

This part articulates the standards which the Presidential Clemency Board will employ in deciding whether to recommend that the President grant executive clemency to a particular applicant, and in then deciding whether that grant of clemency should be conditional, and, if so, upon what specified period of alternative service.

§ 102.2 Board decision on whether or not to recommend that the President grant executive clemency.

(a) The first decision which the Board will reach, with respect to an application before it, is whether or not it will recommend to the President that the applicant be granted executive clemency. In reaching that decision, the Board will take notice of the presence of any of the aggravating circumstances listed in § 102.3, and will further take notice of whether such aggravating circumstances are balanced by the presence of any of the mitigating circumstances listed in § 102.4.

(b) Unless there are aggravating circumstances not balanced by mitigating circumstances, the Board will recommend that the President grant executive clemency to each applicant.

§ 102.3 Aggravating circumstances.

(a) Presence of any of the aggravating circumstances listed herein either will disqualify an individual for executive clemency or may be considered by the Board as cause for recommending to the President executive clemency conditioned upon a length of alternative service exceeding the applicant's "baseline period of alternative service," as determined under § 102.5.

WHITE HOUSE OFFICE PAPERS

By custom and tradition, all White House Office papers are regarded as the personal property of the President and subject to such control and disposition as he may determine. At the close of the Administration, the entire collection of papers now being created may be expected to be deposited in a Presidential library similar to the libraries that preserve the papers of the last six Presidents. To provide the President with a complete and accurate record of his tenure in office, the White House staff must oversee the preservation of the papers it generates.

The procedures set forth in this document represent the collective thinking of many members of the staff as to how best to preserve papers and documents for the President. Compliance with these procedures is an expression of loyalty by the staff to the President. For these procedures to be effective, it will require cooperation and assistance of every staff member.

The security classification of each document prepared in the White House is determined by the individual staff member writing it in accordance with Executive Order 10501—or other applicable Executive Orders. He is responsible for insuring that the classification assigned to his work reflects the sensitivity of the material concerned, and also for making certain that this classification is not excessively restrictive.

White House Office Papers: Filing with Central Files

1. *It is requested that the maximum possible use be made of Central Files, and the procedures listed below be followed.* This will aid in the faster and more complete retrieval of current information, eliminate unnecessary duplication of files, prevent excessive xeroxing, and maximize preservation of White House papers.

2. *Each staff member shall maintain his personal files separate from any working files he may keep on official business and clearly designate them as such.* Personal files include correspondence unrelated to any official duties performed by the staff member; personal books, pamphlets and periodicals; daily appointment books or log books; folders

of newspapers or magazine clippings; and copies of records of a personnel nature relating to a person's employment or service. Personal files should not include any copies, drafts or working papers that relate to official business or any documents or records, whether or not adopted, made or received in the course of official business.

3. *Each staff office shall forward regularly to Central Files three copies of all outgoing official business consisting of correspondence and memoranda. One copy of all other outgoing related materials should also be filed.*

4. *Each staff office shall forward regularly to Central Files any incoming official business from sources other than White House staff offices after action, if any, has been taken.* Each staff office, if it so desires, may keep a copy of such incoming official business for its own working files.

5. *Each staff office shall forward regularly to Central Files any originals of incoming official business from other White House staff offices after action, if any, has been taken and if such originals were not intended to be returned to the sender.* If desired, a copy may be kept for the staff's working files.

6. *Each staff office shall forward to Central Files at such times as it determines to be appropriate all working files of official business which are inactive and no longer needed.* These files will be stored by office as well as listed by subject matter. They will, of course, always be available for later reference.

7. *Each staff office at its own discretion may segregate any materials that it believes to be particularly sensitive and which should not be filed by subject matter.* Such sensitive materials should be forwarded to the Staff Secretary on the same basis as outlined in paragraphs 3 through 6 in an envelope marked SENSITIVE RECORDS FOR STORAGE with the office or individual from which they are sent marked on the outside and (as appropriate) a list of inventory in general terms attached. This list of inventory should also be sent to Central Files so that notations can be made in subject files that certain material is missing from the file. These materials will be filed in locked containers and will only be made available to the in-

dividual or office from whom they were received.

8. *No defense material classified under Executive Order No. 10501 with a classification of TOP SECRET or Restricted Data under the Atomic Energy Act of 1954 should be forwarded to Central Files. All such material should be forwarded to the Staff Secretary for storage.*

9. *No exceptions to the above shall be made without the express consent of the Counsel to the President. Additional advice on the operation of Central Files may be obtained from Frank Matthews, Chief of Central Files (Ext. 2240).*

White House Office Papers: Disposition of Papers Upon Leaving Staff

1. *Upon termination of employment with the staff, each staff member will turn over his entire files to Central Files with the exception of any personal files he might have maintained.*

2. *Personal files include: correspondence unrelated to any official duties performed by the staff member; personal books, pamphlets and periodicals; daily appointment books or log books; folders of newspaper or magazine clippings; and copies of records of a personal nature relating to a person's employment or service. Personal files should not include any copies, drafts, or working papers that relate to official business; or any documents or records, whether or not adopted, made or received in the course of official business. The White House Office of Presidential Papers, staffed by representatives of the National Archives, is available to assist staff members in the determination of what are personal files. Any question in this regard should be resolved with their assistance by contacting John Nesbitt, supervisory archivist of the Office of Presidential Papers (Ext. 2545).*

3. *A staff member, upon termination of employment, may at his discretion make copies for his personal use of a carefully chosen selection of the following types of documents within his files:*

(A) *Documents which embody original intellectual thought contributed by the staff member, such as research work and draftsmanship of speeches and legislation.*

(B) *Documents which might be needed in future related work by the individual.*

4. *No staff members shall make copies as permitted in paragraph three of any documents which contain defense material classified as CONFIDENTIAL, SECRET OR TOP SECRET under Executive Order No. 10501, Restricted Data under the Atomic Energy Act of 1954, or information supplied to the government under statutes which make the disclosure of such information a crime.*

5. *Each staff member who decides to make copies of such documents described in paragraph three shall leave a list of all such documents copied with Central Files. This will enable retrieval of a document in the event that all other copies of it and the original should be later lost.*

6. *The discretionary authority granted in paragraph three is expected to be exercised sparingly and not abused. All White House Office papers, including copies thereof, are the personal property of the President and should be respected as such. Any copies retained by a staff member should be stored in a secure manner and maintained confidentially.*

7. *All confidential and sensitive materials will be protected from premature disclosure by specific provisions of the Presidential Libraries Act of 1955 (44 U.S.C. 2108).*

RECEIVED NOV 10 1975

THE WHITE HOUSE

WASHINGTON

November 7, 1975

Dear Charlie:

Thank you for providing me with a copy of your letter to Byron Pepitone dated August 20 in which you set forth the Clemency Board's recommendations for handling referrals to Selective Service who are required to perform short terms of alternate service.

The Director of Selective Service has assured me that he shares the Board's concern and interest in these cases. Indeed, after considering these recommendations, Mr. Pepitone issued instructions that referrals with three to six months of alternate service should be permitted to keep their regular employment by working twenty hours a week at their alternate service jobs. This new procedure satisfies the first and second recommendations contained in your August 20 letter. Mr. Pepitone did not implement the Board's third recommendation, that sixteen hours would be the equivalent of a forty-hour week, because he felt that it created too great an inequity between persons who are already working at full-time alternate service jobs or who have fulfilled their obligations and those who would be permitted to take advantage of such a change in the rules.

I appreciate the principal concern underlying the Board's recommendations to insure that large numbers of referrals with short terms of service find employment. However, to date, only 542 referrals from the Clemency Board have enrolled at Selective Service and it has been reasonably successful in locating alternate service jobs. I think we now should give the Director of Selective

November 7, 1975
Page Two

Service an opportunity to evaluate the effectiveness of the Board's recommendations as larger numbers of referrals report for alternate service.

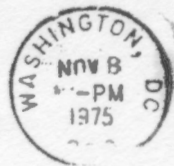
Sincerely,

A handwritten signature in black ink, appearing to read "Phil", written in a cursive style.

Philip W. Buchen
Counsel to the President

Charles Goodell, Esquire
Room 601
1225 - 19th Street, N. W.
Washington, D. C. 20036

THE WHITE HOUSE



ALWAYS
USE ZIP

CODE



Charles Goodell, Esquire
Room 601
1225 - 19th Street, N. W.
Washington, D. C. 20036

November 14, 1975

Mr. Robert C. Carter
601 Eye Street, S. W.
Washington, D. C.

Dear Bob:

Enclosed you will find a copy of a letter from Phil Buchen on the alternative service recommendations made to Selective Service by the Clemency Board.

I think it would be helpful if either one of you, or both, expressed your strong feelings on the issue directly to Phil Buchen. He obviously has decided not to intervene at this time or to hold a meeting with us to discuss intervention. Selective Service is telling him that things are going swimmingly. If that turns out to be over-optimistic, it will be too late to do anything about it.

You might also consider meeting with Byron Pepitone. Byron's letter arrived after our discussion at Jim Maye's party. In light of the letter, I think you two would be more effective by yourselves without me. That also leaves me more freedom to go directly to the President, in the event you run into a stone wall. I am hesitant to do that, however, until all other avenues have been explored. After you have received this and discussed it with each other, perhaps one or both of you might like to discuss the matter further by phone. I should be available all next week.

With warm regard, I am

Sincerely,

Charles E. Goodell

CEG:daw

Enclosure