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NOTES FOR O'NEILL

1) Gretchen

2) Clerical support

The OMB working team requested <sup>clerical</sup> 50/emergency tap on 5/15.

Request for 58 went out on 5/23.

They were due to report on 5/26.

We have received 15 as of COB 5/29.

We have a typist backlog of at least 3,000 cases.



Per Knisely's memo of 8/21 listing residual PCB administrative tasks which will remain after September 15, there will be a need for a skeleton staff of perhaps 2 dozen people to continue doing PCB work.

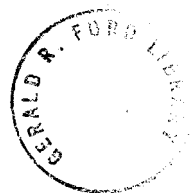
CEG proposes that as of 9/15, that staff formally be transferred to the jurisdiction of the Office of the Attorney General to complete those residual tasks, and that the staff remain physically at 2033 M in order to save packing/moving/unpacking costs. The rest of the staff will have been dispersed to the agencies from whence they came.

The PCB will, in a volunteer capacity, meet for a day thirty days after the President's last warrant signing, to dispose of reconsideration and other hard cases. The Executive Order will be amended to indicate that the PCB goes out of existence at the end of 1975.

Question for decision by O'Neill and CEG: Assuming OMB agreement that this procedure represents substantial compliance with the President's directive that the Board's work be completed by September 15, can O'Neill and CEG agree that they jointly will implement the procedure without needing to go back to the President for decision, and therefore without "staffing out" the decision any further within the White House?

If O'Neill agrees, CEG's staff can draw up a joint memorandum of understanding between CEG and O'Neill (perhaps an "information memorandum" to the President) laying out the procedure which the two principals have agreed upon verbally.

If not, a decision memo to the President will be necessary.



Talking Points for CEG Meeting or Phone Call with O'Neill

Per Knisely's memo of 8/21 listing residual PCB administrative tasks which will remain after September 15, there will be a need for a skeleton staff of perhaps 2 dozen people to continue doing PCB work.

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If not, a decision memo to the President will be necessary.



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

*Gerald R. Ford*  
*Lassy*

Mr. Cooper T. Holt  
Executive Director  
V.F.W. Washington Office  
200 Maryland Avenue, N.E.  
Washington, D.C. 20002



Dear Mr. Holt:

This is in response to your inquiry of April 30, concerning the Presidential Clemency Board (PCB). As you are aware, the President twice extended the deadline for applications from persons qualified for the clemency program which he announced on September 16, 1974. The final application deadline was March 31, 1975 and the resultant caseload now totals nearly 19,000 which has severely overloaded the small PCB staff.

The President has asked the Board to complete consideration of cases and forwarding of recommendations to him by September 15, 1975. In order to handle the large volume of cases in the time available, the President personally approved the expansion of the Board's staffing on a temporary basis and asked the agencies in a Cabinet meeting to assist the PCB. As a result, OMB requested Federal agencies to provide the PCB with personnel on detail to a total of 452, including both professional and clerical categories. Twenty-three different Federal agencies have been asked to assist in this fashion.

The expanded PCB will shortly occupy space at 2033 M Street which houses a portion of the Veterans Administration. The VA office in question is moving to new quarters at Union Center Plaza, a move which was scheduled long before the Clemency Board came into existence and approved by Administrator Roudebush.

With regard to congressional cognizance of the PCB, Chairman Charles Goodell has testified before both House and Senate Judiciary Subcommittees. In addition, the Department of Justice and the Selective Service have also provided testimony on various aspects of the President's overall clemency program

which, as you know, is not limited to the PCB. The PCB itself has been duly created under the terms of the Federal Advisory Committee Act to provide recommendations to the President, on the exercise of his power of pardon. Detailed reports required pursuant to the Act are on file in the Library of Congress. With respect to congressional cognizance in addition to the committees mentioned above, it is not clear what committees, if any, would have authority over the President's broad constitutional power to pardon.

If I can provide any additional information about the Presidential Clemency Board, I will certainly try to furnish it.

Sincerely,

Paul H. O'Neill  
Deputy Director

cc:

Mr. Puritano  
Mr. O'Neill  
Mr. Feezle  
Mr. Jeanneret  
Mr. Scurry  
Mr. Latham, GC  
File/Chron - 9025

IRRO:WRFeezle:RJeanneret/jh 5-1-75

C O P Y

4301 Washington, D.C. April 30, 1975  
PNS Paul H. O'Neill, Deputy Director  
Deputy Director  
Office of Management and Budget  
Washington, D.C. 20503

From a number of sources, I have heard of plans to increase substantially the staffing, funding and real estate holdings of the Presidential Clemency Board.

Request you furnish me immediately the factual basis for such reports. Specifically.

- A. Was OMB tasked specified governmental agencies to produce the reported 600 additional staffers for the PCB?
- B. If so, which agencies and the numbers involved?
- C. Dollar source of staff salaries?
- D. Who has Congressional cognizance of this reported PCB expansion.
- E. Will the VA "M" street office be vacated to accommodate the expanded PCB?
- F. Has the President personally approved this reported PCB expansion?

V.F.W. interest on this matter extremely high. Request your prompt consideration.

COOPER T. HOLT, EXECUTIVE DIRECTOR

V.F.W. WASHINGTON OFFICE

200 MARYLAND AVENUE, N.E.

Washington, D. C. 20002

TWX 710-S22-0110

*Goodell*

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

May 1, 1975

MEMORANDUM FOR: PAUL O'NEILL  
DEPUTY DIRECTOR  
OFFICE OF MANAGEMENT & BUDGET

FROM: CHARLES E. GOODELL *210 for COB*  
CHAIRMAN

SUBJECT: RESULTS OF TAP AS OF COB 4/30/75

	<u>Professional</u>	<u>Support</u>
On Board 3/27/75	<u>43</u>	<u>43</u>
3/27/75 Tap	268*	107
Less New Arrivals	<u>219</u> 49	<u>92</u> 15
Less Slots	<u>17</u>	<u>6</u>
Deficit	32	9

\*The March 27 tap was to be for 268 attorneys. In allocating among agencies, only 267 attorneys were in fact requested.





<u>AGENCY</u>	<u>NEW TAPPING REQUIREMENT OF 3/27</u>	<u>NEW ARRIVALS 3/28-4/30</u>	<u>LESS SLOTS SUBSTITUTED</u>	<u>DEFICIT**</u>
DOJ	15/6	16/5	-	-1/1
DOD	65/24	63/23	-	2/1
Army	23/10 )	21/7 )	-	2/3 )
Navy	18/7 )	13/5 )	-	5/2 )
USMC	11/3 )	6/3 )	-	5/0 )
USAF	13/4 )	23/8 )	-	-10/-4)
USDA	15/6	6/6	9/0	-
COMMERCE	10/4	8/4	-	2/0
HUD	7/3	7/3	-	-
HEW	12/5	10/2	2/3	-
DOL	8/5	9/3	0/1	-1/1
STATE	9/3	3/4	-	6/-1
INTERIOR	10/0	6/0	4/0	-
DOT	3/4	2/2	0/2	1/0
TREASURY	20/8	20/7	-	0/1
EPA	10/4	8/4	-	2/0
FEA	9/0	9/0	-	-
VA	12/7	13/7	-	-1/0
NASA	10/5	6/5	2/0	2/0
SBA	5/2	4/2	-	1/0
GSA	9/5	5/6	-	4/-1
EEOC	10/5	3/2	-	7/3
NLRB	10/5	9/4	-	1/1
FHLBB	5/2	4/1	-	1/1
ACTION	4/2	4/0	-	0/2
CSC	6/1	1/1	-	5/0
SSS	<u>3/1</u>	<u>3/1</u>	<u>-</u>	<u>-</u>
	<u>*267/107</u>	<u>219/92</u>	<u>17/6</u>	<u>31/9</u>
	374	311	23	40

\*Note: The March 27 tap was to be for 268 attorneys. In allocating among agencies only 267 attorneys were in fact requested.

\*\* A minus figure denotes an overage.

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

COB (ep7)

May 9, 1975



MEMORANDUM FOR:

Paul O'Neill  
Deputy Director  
Office of Management and Budget

FROM :

Charles E. Goodell  
Chairman

SUBJECT :

Results of Tap as of COB 5/9/75

	<u>Professional</u>	<u>Support</u>
On Board 3/27/75	<u>43</u>	<u>43</u>
3/27/75	268*	107
Less New Arrivals	<u>233</u> <u>35</u>	<u>95</u> <u>12</u>
Less Slots	<u>16</u>	<u>6</u>
Deficit	19	6

\*The March 27 Tap was to be for 268 attorneys. In allocating among agencies, only 267 attorneys were in fact requested.

NOTE: Today we received no new personnel. We lost one professional; all other changes were adjustments.

COB 5/9/75

<u>AGENCY</u>	<u>TAPPING REQUIREMENTS</u>	<u>3-28-5-9 NEW ARRIVALS</u>	<u>NEW TODAY</u>	<u>'LESS SLOTS SUBSTITUTED</u>	<u>DEFICIT**</u>
DOJ	15/6	14/6	-	-	1/0
DOD***	64/24	62/25	(-2/0)	-	3/-1
USDA	15/6	12/6	-	3/0	0/0
COMMERCE	10/4	8/5	-	-	2/-1
HUD	7/3	7/3	-	-	-
HEW	12/5	11/2	-	1/3	-
DOL	8/5	8/3	-	0/1	0/1
STATE	9/3	3/4	-	6/0	0/-1
INTERIOR	10/0	6/0	-	4/0	-
DOT	3/4	1/2	-	0/2	2/0
TREASURY	20/8	20/7	-	-	0/1
EPA	10/4	10/4	-	-	-
FEA	9/0	9/0	-	-	-
VA	12/7	13/7	-	-	-1/0
NASA	10/5	9/6	-	2/0	-1/-1
SBA	5/2	4/2	-	-	1/0
GSA	9/5	7/5	(1/-1)	-	2/0
EEOC	10/5	5/2	-	-	5/3
NLRB	10/5	10/3	-	-	0/2
FHLBB	5/2	4/1	-	-	1/1
ACTION	4/2	6/0	-	-	-2/2
CSC	6/1	1/1	-	-	5/0
SSS	3/1	3/1	-	-	-
	<u>*267/107</u>	<u>233/95</u>	<u>-1/-1</u>	<u>16/6</u>	<u>18/6</u>
	374	328	-2	22	24

Note: The March 27 top was to be for 268 attorneys. In allocating among agencies, only 267 attorneys were in fact requested.

\*\* A minus figure denotes an overage.

\*\*\* See attached report for specific DOD branches

DOD BRANCHES

<u>AGENCY</u>	<u>TAPPING REQUIREMENTS</u>	<u>3-28-5/9 NEW ARRIVALS</u>	<u>NEW TODAY</u>	<u>LESS SLOTS SUBSTITUTED</u>	<u>DEFICIT**</u>
DOD	65/24	62/25	-	-	3/-1
Army	23/10	21/9	(1/0)	-	2/1
Navy	18/7	16/5	(-1/0)	-	2/2
USMC	11/3	6/3	-	-	5/0
USAF	13/4	19/8	(-2/0)	-	-5/-4

SUMMER DOD INTERNS

5/2/75	2
5/5/75	1
5/7/75	4

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

May 19, 1975

MEMORANDUM FOR: Paul O'Neill  
Deputy Director  
Office of Management and Budget

FROM : Charles E. Goodell  
Chairman

SUBJECT : Results of Tap as of COB 5/19/75



	<u>PROFESSIONAL</u>	<u>SUPPORT</u>
On Board 3/27/75	<u>43</u>	<u>43</u>
3/27/75	268*	107
Less New Arrivals	<u>242</u> <u>26</u>	<u>95</u> <u>12</u>
Less Slots**	<u>14</u>	<u>3</u>
Deficit	12	9

\* The March 27 Tap was to be for 268 attorneys. In allocating among agencies, only 267 attorneys were in fact requested.

\*\* Of the 14 professional slots, all are in process except for four which were recently received. All three support slots are in process.

NOTE: Today we received four new professionals (three were slots) and one support staff.

<u>AGENCY</u>	<u>TAPPING REQUIREMENTS</u>	<u>3-28-5-19 NEW ARRIVALS</u>	<u>NEW TODAY</u>	<u>LESS SLOTS SUBSTITUTED</u>	<u>DEFICIT**</u>
DOJ	15/6	14/6	-	-	1/0
DOD***	65/24	63/24	(1/1)	-	2/0
USDA	15/6	13/6	(1/0)	2/0	-
COMMERCE	10/4	10/4	-	-	-
HUD	7/3	7/2	-	-	0/1
HEW	12/5	10/3	-	2/2	-
DOL	8/5	8/4	-	-	0/1
STATE	9/3	3/4	-	6/0	0/-1
INTERIOR	10/0	7/-1	(1/0)	3/0	0/1
DOT	3/4	3/3	(1/0)	0/1	0/0
TREASURY	20/8	20/8	-	-	-
EPA	10/4	10/4	-	-	-
FEA	9/0	9/-1	-	-	0/1
VA	12/7	12/7	-	-	-
NASA	10/5	9/5	-	1/0	0/0
SBA	5/2	5/2	-	-	-
GSA	9/5	9/5	-	-	-
EEOC	10/5	7/3	-	-	3/2
NLRB	10/5	10/3	-	-	0/2
FHLBB	5/2	4/2	-	-	1/0
ACTION	4/2	6/0	-	-	-2/2
CSC	6/1	1/1	-	-	5/0
SSS	3/1	2/1	-	-	1/0
	<u>*267/107</u>	<u>242/95</u>	<u>4/1</u>	<u>14/3</u>	<u>11/9</u>
	374	337	5	17	20

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DOD BRANCHES

<u>AGENCY</u>	<u>TAPPING REQUIREMENTS</u>	<u>3-28-5-19 NEW ARRIVALS</u>	<u>NEW TODAY</u>	<u>LESS SLOTS SUBSTITUTED</u>	<u>DEFICIT**</u>
DOD	65/24	63/24	(1/1)	-	2/0
Army	23/10	21/8	(0/1)	-	2/2
Navy	18/7	17/5	(1/0)	-	1/2
USMC	11/3	5/3	-	-	6/0
USAF	13/4	20/8	-	-	-7/-4

SUMMER DOD INTERNS

5/2/75	2
5/5/75	1
5/7/75	4
5/12/75	4
5/14/75	4
5/16/75	3
5/19/75	<u>1</u>
TOTAL	19

May 19, 1975

MEMORANDUM FOR: Paul O'Neill  
Deputy Director  
Office of Management and Budget

FROM : Charles E Goodell  
Chairman

SUBJECT : Results of Tap as of COB 5/19/75

	<u>PROFESSIONAL</u>	<u>SUPPORT</u>
On Board 3/27/75	<u>43</u>	<u>43</u>
3/27/75	268*	137
Less New Arrivals	<u>242</u>	<u>95</u>
	<u>26</u>	<u>18</u>
Less Slots**	<u>14</u>	<u>3</u>
Deficit	12	9

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

May 19, 1975

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DOJ	15/6	14/6	-	-	1/0
DOD***	65/24	63/24	(1/1)	-	2/0
USDA	15/6	13/6	(1/0)	2/0	-
COMMERCE	10/4	10/4	-	-	-
HUD	7/3	7/2	-	-	0/1
HEW	12/5	10/3	-	2/2	-
DOL	8/5	8/4	-	-	0/1
STATE	9/3	3/4	-	6/0	0/-1
INTERIOR	10/0	7/-1	(1/0)	3/0	0/1
DOT	3/4	3/3	(1/0)	0/1	0/0
TREASURY	20/8	20/8	-	-	-
EPA	10/4	10/4	-	-	-
FEA	9/0	9/-1	-	-	0/1
VA	12/7	12/7	-	-	-
NASA	10/5	9/5	-	1/0	0/0
SBA	5/2	5/2	-	-	-
GSA	9/5	9/5	-	-	-
EEOC	10/5	7/3	-	-	3/2
NLRB	10/5	10/3	-	-	0/2
FHLBB	5/2	4/2	-	-	1/0
ACTION	4/2	6/0	-	-	-2/2
CSC	6/1	1/1	-	-	5/0
SSS	3/1	2/1	-	-	1/0
	<u>*267/107</u>	<u>242/95</u>	<u>4/1</u>	<u>14/3</u>	<u>11/9</u>
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DOD	65/24	63/24	(1/1)	-	2/0
Army	23/10	21/8	(0/1)	-	2/2
Navy	18/7	17/5	(1/0)	-	1/2
USMC	11/3	5/3	-	-	6/0
USAF	13/4	20/8	-	-	-7/-4

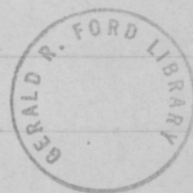
SUMMER DOD INTERNS

5/2/75	2
5/5/75	1
5/7/75	4
5/12/75	4
5/14/75	4
5/16/75	3
5/19/75	<u>1</u>
TOTAL	19

5/20/75

O'Neill

- 1.) OEOB space & passes.
- \* 2.) 200 total interns.
- 3.) Interns / <sup>Senior</sup> Administrator / Legal Production <sup>(Kinsely)</sup>  
Ditcher's function. 3 wks for K to try.
- \* 4.) List of things that have to be done by OMB.
- \* 5.) Staff revolt - attys -
- 6.) Walt + - \$25,000



5/21/W O'Neill

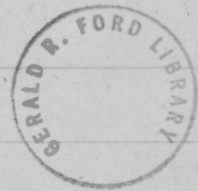
O: "You've really been a bruck about this"

C: "You have too. It's fortunate that we have  
the relationship we do, in this situation."

DOD - interns. Now agreed to 125,  
Let's monitor it, may need more.

D: Gretchen, Jean said it's their understanding  
that DOD offered Gretchen a temporary  
slot at 36 T.

C: First I've heard of it. Will check.





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JUN 20 1975

MEMORANDUM FOR SENATOR CHARLES GOODELL

Subject: Clemency Board Operations

Since May 9, 1975, the Interagency Survey Team has been working with Clemency Board staff in efforts to expand the operations to meet the President's deadline of September 15, 1975.

Since that time, progress has been made in the following areas:

- Staff resources have increased to over 600 people which seems sufficient enough to accomplish the workload factor.
- Staff case summary production for Board presentation and the rate of Board disposition of cases have both increased sufficiently to assure that the September 15, 1975, target date for formal disposition of cases can be met.
- Personnel procedures concerning overtime, vacations, etc. have been issued to all PCB staff.

In light of the progress made, it appears that you now have a strong base to proceed without OMB's or the Interagency Team's direct operational assistance. We do, however, recommend that the Clemency Board address the following work items:

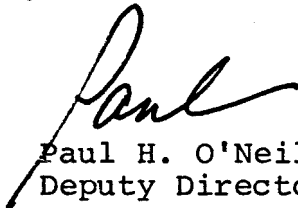
- The case docketing system developed by the PCB staff should be implemented as soon as possible.
- The PCB should prepare a plan for the carry-over workload so that a decision as to how this will be handled can be made by the White House.
- PCB should develop a plan to provide for an orderly and timely return of the case files to the originating agencies and the disposal or archival storage of the Presidential Clemency Board records.



I know you realize the importance of completing these actions as soon as possible.

I would appreciate receiving a bi-weekly written report beginning June 23, and continuing through September 1975, showing the status of the entire PCB caseload by the various stages of production, from applications logged, through case summaries produced, Board dispositions and eventual Presidential signature. In addition, total personnel status should be included. I understand that a technique such as this was developed by PCB staff in cooperation with the Survey Team.

We are pleased with the progress shown and will continue to work with you and your staff.



Paul H. O'Neill  
Deputy Director

THE WHITE HOUSE  
WASHINGTON

Evelyn -

Attached received  
at approx. imality

2:35 - today - 6/23.

(ran off several copies  
for use over there.)

U. - 6/23.





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

JUN 20 1975

MEMORANDUM FOR SENATOR CHARLES GOODELL

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- Staff case summary production for Board presentation and the rate of Board disposition of cases have both increased sufficiently to assure that the September 15, 1975, target date for formal disposition of cases can be met.
- Personnel procedures concerning overtime, vacations, etc. have been issued to all PCB staff.

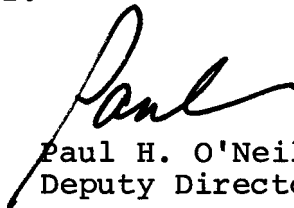
In light of the progress made, it appears that you now have a strong base to proceed without OMB's or the Interagency Team's direct operational assistance. We do, however, recommend that the Clemency Board address the following work items:

- The case docketing system developed by the PCB staff should be implemented as soon as possible.
- The PCB should prepare a plan for the carry-over workload so that a decision as to how this will be handled can be made by the White House.
- PCB should develop a plan to provide for an orderly and timely return of the case files to the originating agencies and the disposal or archival storage of the Presidential Clemency Board records.

I know you realize the importance of completing these actions as soon as possible.

I would appreciate receiving a bi-weekly written report beginning June 23, and continuing through September 1975, showing the status of the entire PCB caseload by the various stages of production, from applications logged, through case summaries produced, Board dispositions and eventual Presidential signature. In addition, total personnel status should be included. I understand that a technique such as this was developed by PCB staff in cooperation with the Survey Team.

We are pleased with the progress shown and will continue to work with you and your staff.



Paul H. O'Neill  
Deputy Director

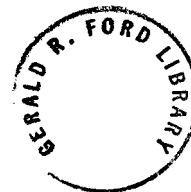


EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

August 29, 1975



MEMORANDUM FOR CHARLES GOODELL

Subject: Presidential Clemency Board

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

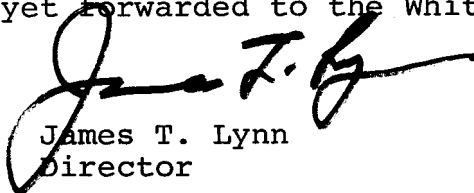
- a. provide separate master pardon warrants and a case summary for all cases in which the applicant has been convicted of a felony prior and/or subsequent to the commission of an offense for which he is now recommended for clemency;
- b. provide separate master pardon warrants for all cases in which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

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

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

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

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



James T. Lynn  
Director

Attachments



001

TOR: 041305L

August 29, 1975

PLEASE NOTIFY MR. FREEZE  
202-395-3477 UPON RECEIPT.  
OF THIS LETTER.

MEMORANDUM FOR CHARLES GOODELL

Subject: Presidential Clemency Board



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Please treat these sets of recommendations in the same  
manner as any others not yet forwarded to the White House.


James T. Lynn  
Director

**Attachments**

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

FOaxaca:byp:8/29/75

The OMB memo itself triggers 5 reactions in me:

- 
1. In asking us to provide separate warrants for all cases in which "written" applications were received after 3/31, ~~OMB~~ the memo makes the judgment that the Board is not the arbiter of its own jurisdiction. Implicitly, the notion is advanced that OMB has the right to decide that oral applications prior to the deadline are insufficient to trigger jurisdiction--and that, in asserting its right to make that decision, OMB has the further right to override the Board's decision on that question.
  2. The memo requests (category "c") not only separate warrants for all cases considered by 2 panels, but also for those "which were considered by the Board and one or more panels of the Board"--all cases which went to the full Board. Does that mean that OMB or Jay intend to substantively review hundreds of the Board's decisions? How would the President feel about that were he aware of it? Looking to panel decisions in order to evaluate full Board decisions seems a fine example of what Rogers Morton's reorganization committee (last August) called "boring holes below the waterline" of Departments by OMB.
  3. The same paragraph explicitly requests that in cases considered by the full Board, we "provide the recommendations of each such panel of the Board for every case". The judiciary employs a legal rule of "finality," and does not look to subordinate administrative decisions when considering a top-level decision. Is not a panel's decision internal to the PCB administratively, although it is public information under the Federal Advisory Committee Act?
  4. 4a The last paragraph of the OMB memo notes that 3 packets of warrants are being returned to us by OMB. Since when does OMB handle out warrants? As a matter of line of authority, you transmit recommendations directly to the President, going through the Counsel's Office as a matter of form. This memorandum puts the Board, and you, in the position of reporting to the President through Jim Lynn and Dick Feezle. That's hardly what the President had in mind when he appointed his old friend to head the Board, and hardly what he had in mind as an OMB role when he called in Paul O'Neill and directed him to ensure that we had all of the resources we need to to the job by September 15.

This memorandum is ultra vires, a grossly improper extension of OMB's role, as well as an organizational insult to the Board and a personal one to you.

4b There is a more serious substantive problem, however: our conditional pardon warrants, and the attached list of conditions tied to individual names, are very closely held in order to protect the privacy and the futures of the individuals involved

We do this because of our oft-articulated concern that no applicant to the Board be harmed as a consequence of his application. There may, moreover, be questions of executive privilege (we are technically funded out of the White House Office; OMB is not) and Privacy Act violation involved. Now that the packet has passed through OMB hands, and perhaps, has been partially Xeroxed in several different OMB offices, we cannot guarantee that the names and conditions of some applicants may not leak out. This is a very potentially serious matter.

5. On the list of those who have received copies of the memo is Larry Traylor. What business has OMB sending him--or anyone outside the White House--a copy? This is another gross discourtesy to the Board. Practically, moreover, it makes necessary either a tart response from you on paper, or a retraction of the memo by Jim Lynn on paper, with copies to Traylor. Otherwise, Justice will have--at a time when we are negotiating details of the transition--the clear impression that the PCB is a bureaucratic 98-pound weakling, easily to be shoved around at any time with no fear.

JAY:  
As a matter of process, Dick Feezle has grossly overstepped himself in Paul O'Neill's absence, and Jay has grossly overstepped himself in getting OMB to do what Mr. Buchen apparently would not. Moreover, Jay has stepped way outside the bounds of propriety by interposing OMB between you and the Counsel's Office on a substantive matter, and has further overstepped by giving confidential White House documents (our conditional pardon warrants and attachments) to people (OMB) not in the White House Office who have no need-to-know with respect to those documents.

What do we do next? Three things, it seems to me:

1. You should call Jim Lynn, who probably hasn't the faintest idea of the significance of the memo he apparently signed (I say "apparently" because no signature is visible on our copy). Using the 5 points above as talking points, you might suggest to him that the whole matter is none of his business, and that what is needed is a terse memo from him retracting this memorandum, and indicating his awareness that --
  - (i) the matter is one to be settled between the Counsel to the President and you, one in which OMB has not been delegated a role by the President, and
  - (ii) the matter has been settled by the Counsel and you.
- 1a. You might request that Dick Feezle be severely disciplined for this episode, and informed that he is to stay out of our hair, except as his assistance is requested or if there is disagreement between us and Justice on the transition.
2. Upon Paul's return Monday, you should discuss the matter with him, with particular emphasis to point 1a above, and to the point that Feezle opted to do this while Paul was



~~xx~~ out of town.

- 2a. If these 2 conversations do not produce an OMB memorandum of retraction, you should write a tart memo to Lynn reiterating the~~xx~~ 5 points, indicating that you have resolved the matter with Mr. Buchen and that you intend to disregard the memorandum as ultra vires. Copies should go to Rumsfeld and to the President, since it is he that brought OMB personally in during a meeting with you.
3. Tomorrow, you should have a conversation with Phil Buchen in his office, in order to request that Jay be severely chastised for (i) getting ahead of his principal, and getting OMB to do, in O'Neill's absence, what Buchen would not, ~~\*~~ (ii) the discourtesy to the Board involved in interposing OMB on a substantive matter, and (iii) breaching the confidentiality of documents from Presidential appointees (the Board; you) to the President. Also (iv) acting without checking out his facts. It would help if Mr. Buchen ordered him to stay out of our hair except when he perceives an overriding legal problem, and then to communicate that problem by memorandum signed by Mr. Buchen to you only--i.e., Mr. Buchen should control what's going out of his shop.

