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ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES E. GOODELL

SUBJECT: Upgrading the Discharges of Ex-Servicemen to Whom You Grant Clemency



On behalf of a unanimous Presidential Clemency Board, this memorandum recommends that you extend, within the scope of your clemency Proclamation, the remedies available to former servicemen to whom you grant clemency pursuant to counsel by the Board.

Up till now, the Board has assumed that you will offer, to ex-servicemen with "bad paper" discharges, a Clemency Discharge and a full pardon, both for court-martial offenses and for offenses which led to an Undesirable Discharge. The Clemency Discharge has been construed by the Department of Defense to be "under other than honorable conditions", and therefore roughly equivalent to an Undesirable Discharge. The Clemency Discharge confers no entitlement to veterans' benefits, although the Veterans Administration may confer benefits in its discretion in unusual cases.

We have been surprised to find that some of the military applicants to the Board have wounds from service in Vietnam, decorations for valor, and multiple tours of honorable service. Some of our applicants got transferred back home for garrison duty after being in combat, were unable to take the stateside military routine, and simply cracked up and went AWOL. Some of them volunteered for second and third tours of duty in Vietnam, were refused, and went AWOL because their superiors would not let them go back to fight in Vietnam.

These are special cases. These men served their country exceptionally well, and committed an unauthorized absence offense only afterward. For that one offense after a valorous record, they got the book thrown at them and received a punitive or undesirable discharge. We feel that the records of some of these people cry out for the correction of injustice. On motion by General Walt, we have concluded, unanimously, that these men deserve better from their country than they have received, and certainly better than a Clemency Discharge "under other than honorable conditions".

We therefore propose that for these truly special cases, you offer a full and unconditional pardon, and an immediate upgrading by you of their discharges to a General Discharge or, in exceptional cases, to an Honorable Discharge. We unanimously believe that these special cases should receive veterans' benefits.

For the typical ex-serviceman to whom you will grant clemency on our recommendation, the military services have available a routine discharge review process under which anyone may ask for review of his discharge. We believe that your offer of clemency to an ex-serviceman is precisely the sort of new fact in the record which should trigger a review of that ex-serviceman's discharge by the normal military process.

We propose, therefore, that whenever you offer clemency to an ex-serviceman, your clemency should not only provide for a full pardon and a Clemency Discharge, but should also trigger a directive from you to his military service to automatically review his case through that service's normal discharge review mechanism. Your directive should specify that that de novo review be conducted without reference to the offense for which you have granted a pardon--as if the offense were not in his record at all.

We expect that in some cases, this review will result in an upgrading to a General Discharge, with or without veterans' benefits depending on the length of honorable military service in each particular case. In some cases the individual will be left with a Clemency Discharge or, if he fails to complete alternate service, with his "bad paper" discharge.

The Department of Defense is amenable to the procedure which we propose for upgrading discharges.

Implementation of Your Decision

If you approve our recommendation, we will construe that as a directive to the Board to write master pardon warrants with appropriate language for the ex-servicemen, and we will prepare a directive for transmittal to the military services under your signature.

Approve _____

Disapprove _____

THE WHITE HOUSE
WASHINGTON
PRESIDENTIAL CLEMENCY BOARD
Old Executive Office Building
Washington, D. C. 20500

October 1, 1974

The Honorable Charles E. Goodell
Suite 601
1225 19th Street, NW.
Washington, D. C. 20036

Dear Mr. Goodell:

This letter outlines procedures for obtaining reimbursement for travel expenses incurred in performance of official duties as a member of the Presidential Clemency Board. Travel must be performed in accordance with the Federal Travel Regulations promulgated by the General Services Administration which are applicable to all civilian employees of the United States.

Briefly summarized are points of interest to you:

(1) Travel must be performed in the most economical class of service available, i. e., tourist class on airplanes, lowest cost first class on other types of carriers. Use of superior class accommodations must be justified by unusual circumstances (only class available, etc.)

(2) You may claim reimbursement for subsistence expenses (lodgings and meals) on an actual expense basis up to a limit of \$40.00 per day, provided that cost of hotel accommodations exceed \$20.00 per day.

(3) You may claim reimbursement for taxicab and limousine fares used to and from residence/office to transportation terminals. You may also claim taxicab fares while at your temporary duty station. You may also claim charges for official telephone calls made during your stay at your temporary duty station. You may claim use of your privately-owned

automobile to and from residence and terminals at a rate of \$.12 per mile provided that costs including parking fees do not exceed the costs of taxi-cab or limousine.

(4) Receipts must be provided for any item claimed which exceeds \$15.00 in cost. Receipts for hotel expenses are required in all cases.

Official travel vouchers must be prepared to claim reimbursement for expenses. The staff of the Board will prepare these for you if you will complete the attached Travel Reimbursement Worksheet for each trip you take. You should also sign the Travel Voucher where indicated by the red checkmark leaving everything else blank. Vouchers will be processed by the General Services Administration and a check will be sent to you from the Treasury Department. The normal processing time is approximately 2 weeks. Extra copies of travel vouchers and worksheets will be provided at the Board meeting scheduled for October 7, 1974.

In the future it will be possible to provide you with prepaid airline tickets if you desire. If you will inform the staff at least five days in advance of your travel as to your plans (flight number, etc.) we can have a ticket ready for you to pick up at the airline terminal on your day of departure. It is requested that you do not make reservations with the airlines; the Board's staff will handle them for you.

In reference to official telephone calls, please send a copy of your telephone company statement with the calls applicable to Board business circled, we will obtain reimbursement for you.

It is hoped that the above will provide you with a general guide as to travel and related matters. Please address all correspondence and inquiries relating to the aforementioned matters to the attention of Ray Mitchell, Presidential Clemency Board, Room 460, Old Executive Office Building.

Sincerely,

Charles Mott / RM

Charles Mott
Clemency Board Liaison

Enclosures 2

TRAVEL VOUCHER

DEPARTMENT, BUREAU, OR ESTABLISHMENT		VOUCHER NO.	
PAYEE'S NAME		SCHEDULE NO.	
MAILING ADDRESS (Including ZIP Code)		PAID BY	
OFFICIAL DUTY STATION	RESIDENCE		
FOR TRAVEL AND OTHER EXPENSES		TRAVEL ADVANCE	
FROM (DATE)	TO (DATE)	Outstanding	\$
APPLICABLE TRAVEL AUTHORIZATION(S)		CHECK NO.	
NO.	DATE	Amount to be applied	CASH PAYMENT OF \$ _____
		Balance to remain outstanding	RECEIVED (DATE) _____
			(Signature of Payee)

TRANSPORTATION REQUESTS ISSUED

TRANSPORTATION REQUEST NUMBER	AGENT'S VALUATION OF TICKET	INITIALS OF CARRIER ISSUING TICKET	MODE, CLASS OF SERVICE, AND ACCOMMODATIONS *	DATE ISSUED	POINTS OF TRAVEL	
					FROM-	TO-

** Certified correct. Payment or credit has not been received.

_____ (Date)	X _____ (Signature of Payee)	AMOUNT CLAIMED →	Dollars	Cts
Approved. Long distance telephone calls are certified as necessary in the interest of the Government.		DIFFERENCES:		
_____ (Date)		*** (Approving Officer)		
NEXT PREVIOUS VOUCHER PAID UNDER SAME TRAVEL AUTHORITY VOUCHER NO.	D.O. SYMBOL	DATE (MONTH-YEAR)	Total verified correct for charge to appropriation (s) (initials)	
Certified correct and proper for payment:			Applied to travel advance (appropriation symbol)	
_____ (Date)		_____ (Authorized Certifying Officer)		
		NET TO TRAVELER →		

ACCOUNTING CLASSIFICATION

* Abbreviations for Pullman accommodations: MR, master room; DR, drawing room; CP, compartment; BR, bedroom; DSR, duplex single room; RM, roomette; DRM, duplex roomette; SOS, single occupancy section; LB, lower berth; UB, upper berth; LB-UB, lower and upper berth; S, seat.
 ** FRAUDULENT CLAIM—Falsification of an item in an expense account works a forfeiture of the claim (28 U.S.C. 2514) and may result in a fine of not more than \$10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; id. 1001).
 ***If long distance telephone calls are included, the approving officer must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).

PRESIDENTIAL CLEMENCY BOARD

TRAVEL REIMBURSEMENT WORKSHEET

Name: _____ Social Security #: _____
Address: _____ Zip Code _____

TRANSPORTATION

Form of Transportation Used:

Air Train Bus Private Auto (Speedometer:begin _____ end _____)

Method of Payment: (Attach copy of ticket or Government T/R)

Personal Funds Government T/R # _____ Prepaid Ticket

Departure from residence/office

Arrival at destination

Date _____ Hour _____

Date _____ Hour _____

Return travel began

Arrival at residence/office

Date _____ Hour _____

Date _____ Hour _____

LOCAL TRANSPORTATION (Taxicab, Limousine, etc.)

<u>Date</u>	<u>From</u>	<u>To</u>	<u>Cost</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

OTHER EXPENSES (Attach receipts when possible)

	<u>Day 1</u>	<u>Day 2</u>	<u>Day 3</u>	<u>Day 4</u>	<u>Day 5</u>
*Hotel	_____	_____	_____	_____	_____
*Breakfast	_____	_____	_____	_____	_____
*Luncheon	_____	_____	_____	_____	_____
*Dinner	_____	_____	_____	_____	_____
Telephone	_____	_____	_____	_____	_____
Telegraph	_____	_____	_____	_____	_____
Other (specify)	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

*Breakdown of these expenses is required only when traveling on actual expense basis rather than normal per diem basis. Total hotel and meals cannot exceed \$40.00 per day. Use reverse of sheet for additional days.

ADDITIONAL INFORMATION

Payment of travel vouchers is usually made two weeks after preparation and submission. If payment is not received within four weeks please notify.

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON

MEMORANDUM



TO: HONORABLE JOHN O. MARSH, JR.

FROM: CHARLES E. GOODELL

DATE: OCTOBER 15, 1974

SUBJECT: OPERATION OF THE PRESIDENTIAL
CLEMENCY BOARD

I first wish to express my personal appreciation for the assistance you and your associates have provided during the initial organization period of the Clemency Board. Your efforts helped us avoid many of the more difficult problems which otherwise might have hindered the speedy implementation of the President's Executive Order.

Unfortunately, there still remain a number of problems which are presently unresolved. When the Order was issued, the President made specific commitments to me regarding the administration of the Board. First, I expressly understood that I would have a free hand in hiring key staff. It was further understood that because of the high priority of the program and its specialized problems, we would require individuals with superior qualifications. Now that we have been in operation for a few weeks, I have determined that it will be necessary to hire five senior staff people, who would have the grades and salaries commensurate with their responsibilities. The positions for these employees are described below:

- | | |
|-------------------------|---------|
| 1) Chief Counsel | G.S. 18 |
| 2) Deputy Chief Counsel | G.S. 16 |
| 3) Executive Secretary | G.S. 15 |

- 4) Deputy Executive Secretary G.S. 14/15
- 5) Public Information Officer G.S. 13

Fortunately, I found an Executive Secretary within the Executive Branch and was able to get him detailed from H.U.D. I have also identified the person I want as Chief Counsel. His name is Lawrence Baskir, currently Chief Counsel of the Senate Sub-Committee on Constitutional Rights. When I interviewed Larry I told him that the position was a G.S. 18. I expressed my belief that the salary and grade were not a problem because of the President's commitment to the Program and the necessity that the staffing accurately reflect that commitment. I would, therefore, appreciate your assistance in obtaining a "super grade" for Larry.

Although this is my primary problem, it is not the only one. Charles Mott has been especially helpful to me in locating staff for the Board. I believe he has also been successful in securing an additional \$30,000 to cover Board expenses. However, I have also been told that these funds are expressly limited to Board Members' salaries and expenses. It appears, therefore, that no allocation has been made for staff travel, expenses and secretarial overtime -- should the need for any of these arise.

Finally, secretarial help also poses a problem. After the announcement of the creation of the Board, secretarial support was generously provided on an ad hoc basis from various offices throughout the White House. Four secretaries were assigned from the White House staff. Although I understand that the press of White House business places heavy demands on their time, I strongly urge that the Board be allowed to keep these secretaries for the time being. As you are aware, we are a fledgling operation and the White House experience of these ladies has contributed greatly to our effective functioning during the first few weeks of our existence.

In summary, obtaining the appropriate grades for my Chief and Deputy Counsel are my most serious administrative problems. For the time being, we seem to have an adequate number of staff attorneys to handle the current work load, although I expect our staffing needs to increase as time goes on. Fortunately, the Board is now sufficiently well established to request staff from other Federal Agencies when the need arises.

Thank you again for your help.

PRESIDENTIAL CLEMENCY BOARD

December 20, 1974

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES E. GOODELL

**SUBJECT: Nature of the Clemency to be Granted
Former Servicemen**

The Presidential Clemency Board unanimously recommends that the particulars of the clemency to be granted in the military cases under your Clemency Proclamation be as follows:

- 1) A full and complete pardon;**
- 2) A Clemency Discharge**
- 3) An automatic review by appropriate military authorities of the service record of each individual to determine whether an Honorable Discharge or General Discharge should be awarded, such review to be made without consideration of the acts for which your pardon is granted.**



In each case, such action will be conditioned upon the satisfactory completion of a period of alternate service, where appropriate.

- 4) In exceptional cases of merit, the immediate grant of an Honorable Discharge or General Discharge in addition to the pardon.**

Discussion

Under the terms of the Proclamation, you have granted clemency in the form of pardons to those civilians convicted of draft-evasion offenses. The Board unanimously recommends that pardons be granted as well for the acts of unauthorized absence, desertion, or missing movement committed by former servicemen. Such pardons may, of course, be conditioned upon the satisfactory completion of an appropriate period of alternate service.

Because former servicemen applying for clemency have an additional disability in the form of a discharge under less than honorable conditions, the Proclamation states that a Clemency Discharge is to be substituted for the original discharge characterization. Such a Clemency Discharge does not, however, alter the bars to entitlement to veterans benefits which may exist as a result of the original discharge.

Under existing authority, each military department has procedures to review and upgrade discharges shown to be unjust, improper, or improvident. The Board unanimously believes that the grant of a Presidential pardon for the act which occasioned the less than honorable discharge is sufficient cause to require the services to review the grounds for the original discharge. The Board believes that this review properly should be undertaken without regard to the act for which you have granted the pardon. Since each former serviceman has already submitted an application for clemency, the Board believes it should not be necessary to require an additional application to be made to the services for this review to take place.

The Board has in its review of military cases, found that some individuals have performed well and faithfully their military duties prior to their offense. Many served courageously in Vietnam. Some were awarded decorations for valor in combat. Often they suffered severe psychological injuries from their experiences, and these led to the commission of the military offense for which they were discharged under other than honorable circumstances.

Because the Clemency Discharge does not adequately reflect the prior faithful service of these individuals, and does not confer entitlement to the benefits which that prior service otherwise earns, the Board upon the suggestion of those members with military service believes that further action is required in these cases.

We recommend that pursuant to your authority as Commander in Chief and consistent with existing statutory authority, you should order the immediate issuance of an Honorable Discharge or General Discharge in these special cases. Such further action is not precluded by the terms of the Proclamation and is entirely consistent with the spirit of your act. Full respect of regular military procedures will be preserved since the services will then determine in each case whether the final discharge should be Honorable or General. The Board has

indicated in the recommendations it has forwarded to you which individuals should be granted this additional aspect of clemency.

The Board is engaged in consultation with the Department of Defense to work out appropriate procedures for the implementation of these recommendations.

Approve _____ Disapprove _____

THE PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON

MEMORANDUM

TO: THE PRESIDENT

FROM: CHARLES E. GOODELL

RE: Personal Assessment of the Clemency Program
as of January 1, 1975



Introduction

On January 31, your program of Vietnam clemency will end, except for certain terminal activities of the Presidential Clemency Board. This memorandum gives you my personal evaluation of the program and makes recommendations for an extension and some improvements in its terms.

Summary

By any definition except the most cynical, your clemency program has not succeeded. At worst, it has failed and is seen as a failure by those familiar with the program. The causes of the failure are:

- 1) The residue of distrust of the Government and its former policy towards those who disagreed with the war.
- 2) Weaknesses in the program and deficiencies in its administration.
- 3) Ignorance, confusion, or caution on the part of most potential candidates.

To remedy these deficiencies, I suggest:

- 1) An extension of the program to at least June 30, and perhaps to the end of the year.

2) Changes in the military part of the program, especially as regards the nature of the Clemency Discharge.

3) Improvements in the administration and tone of the program.

4) Certain relatively minor improvements in the remedies available for the Presidential Clemency Board.

The Department of Defense Program--Evaluation

Although the Department of Defense program for returning military deserters is numerically the most successful, having attracted 2,500 of a total of 12,500, it is the most illusory of the three parts. The Department offers an Undesirable Discharge to all who return, with the attraction of a Clemency Discharge upon completion of 24 months alternate service.

The program is illusory because prior to September 17, and no doubt following January 31, the Department will offer Undesirable Discharges to all who return. Only a relative few (10%) AWOL cases were referred to court-martial in the period prior to September 17. Thus, while the Department of Defense program offers the major benefit of avoiding a court-martial, this is an advantage most participants would have had in any case.

The Clemency Discharge is not, in Department of Defense terms, any different from the Undesirable Discharge it replaces. For the Government to extract 24 months service for a discharge of no tangible difference and only conjectural social advantage is deceptive at best.

The Department of Defense also concedes that it has no way to enforce the terms of its program. A person accepting an Undesirable Discharge and giving a commitment to perform alternative service cannot, as a practical matter, be held to this arrangement.

While the Department of Defense's part of the program is the least significant in terms of what news it offers, it has been administered with almost no criticism. Applicants are treated with respect, dignity and consideration, and the processing is expeditious.

Recommendation

1) The Defense Department program should be extended to help the military clear its books and to complete the unfinished business of the 10,000 servicemen still with outstanding AWOL charges.

2) The clemency discharge and the condition of performing 24 months alternate service should be eliminated, or in the alternative;

3) The clemency discharge should be characterized as a general discharge for the convenience of the Government, bearing no entitlement to veteran's benefits. If the Government is to extract two years of honorable alternate service, the discharge characterization at least should reflect that.

The Department of Justice

The Department of Justice part of the program offers the most attractive terms of the entire program. Upon completion of 24 months alternate service, all threat of a felony prosecution is removed, the individual's record is totally clear, and he suffers no future jeopardy for his draft violation. Despite this, the Department has had the most disappointing response--some 350 candidates of a total that runs from 6,000 to as high as a theoretical 176,000.

I attribute this failure to three causes:

1) An inherent and deep-seated distrust of the Justice Department in general, and especially as regards its role during the Vietnam experience;

2) Failure on the part of the Department to take positive steps to remove this distrust. In fact, in some respects the Department of Justice seems to have taken actions which, calculatedly or not, increase the suspicion; and

3) Substantial ignorance or confusion about the program or its pertinancy to many potential applicants.

The distrust in which the Department of Justice is held in general is not helped by the fact that it is not publicly regarded as being sympathetic to the Vietnam clemency program. In the course of the past 3 months, the Department has taken some actions which aggravate this distrust. While not major, they have had the cumulative effect of discouraging applicants.

1) The Department requires a signed admission of guilt by anyone participating. This puts anyone in extreme jeopardy of conviction if their alternate service experience is unsatisfactory, and it makes the program clearly punitive.

2) The Department has not wholeheartedly accepted its responsibility of providing counsel to any who participate.

3) The Department's actual policy is not to apprehend anyone who enters the country but who fails to conclude an agreement. Publicly, however, it has stated that 15 days after entry in the country, a person is liable to apprehension and prosecution.

4) In the middle of the program, the Department handed down 61 indictments for draft-evasion in Boston, Massachusetts. Whatever the reason, it was a clear message to the exile community of the Department's attitudes.

5) The Department has not guaranteed that anyone not presently under indictment is free from liability. It is unable to give assurances that anyone inquiring as to his status will not be subject to prosecution if he is not now under investigation. This was characterized as entrapment by a representative of the VFW. Since the unresolved cases number 176,000, this means that anyone inquiring runs the risk of having his case reviewed, perhaps for the very first time, and then becoming liable for prosecution.

6) Rumors abound that the Department taps phones of those making inquiry. While not true, and simply a product of the distrust in which the Department is held, the rumors serve further to discourage participation in the program.

To remedy this problem, I suggest:

- 1) Generally, that the tone of the Department's program be improved to reflect the Department's commitment to the spirit of the program as you envisioned it.
- 2) An extension of the deadline.
- 3) Dispensing with the requirement of conceding guilt.
- 4) Provision for counsel to be appointed to any applicant.
- 5) Preparation of a "closed list" containing all those persons liable for draft-evasion prosecution. Anyone not on the list would be free of jeopardy.
- 6) A public admission that no one will be apprehended until after the deadline for applying has expired.

The Presidential Clemency Board

The Presidential Clemency Board has had more success than the Justice Department, but its level of participation is still disappointingly low. I attribute this to a number of factors:

1) The start-up delay of the Board's program. As a new agency, the Board had to acquire staff, facilities, determine policy and implement decisions beginning on September 17. It was not until mid-November that the Board completed this first stage and could make recommendations to you. The first results for civilians were announced on November 29, and for servicemen on December 28. While a short time for any comparable agency, it still represents 3 1/2 of the 4 1/2 months allotted to the program.

2) An inability of the Board to provide sufficient information about the program to prospective candidates. The Board is now well into a direct-mail and public-service announcement program, but neither will be complete by the expiration date of January 31.

Most of the Board's applicants are apparently not sophisticated, articulate, well-educated or socially-favored. Further, they

are all now punished for their offense. They have no natural incentive to participate by becoming involved again with the Government. It therefore takes an extra effort to contact them, inform them of the program, and enlighten them as to the advantages of participating.

3) The benefits of participating in the Board program need to be improved in minor respects to increase the attractiveness to candidates. For servicemen especially, the substitution of a Clemency Discharge for an existing bad discharge is at best a minor advantage. For most of the Board's participants, trading an Undesirable Discharge for a Clemency Discharge is no strong reason for serving up to 24 months. Because the Board offers no chance to obtain veteran's benefits, even if the case well deserves it, this means that many will not see an advantage in participating. This is so, despite the fact that a Presidential pardon is involved, since the bad discharge is the most significant aspect of an unsuccessful term of military service.

4) The Board has had to contend with a number of petty administrative difficulties. While probably inevitable, they have served to detract our attention from our work. These include an inability to place staff on payroll, problems with details of employees, inadequate or slowly produced supplies, reluctance on the part of other White House offices to give full priority to the program, and the like. These problems resulted in the loss of an opportunity to exploit a political coup with the support of former Prisoner of War general officers, employment for 6 or more weeks without pay of key staff, the imminent loss of staff serving on detail, and delays in the approval by other White House offices of Board proposals and actions.

To remedy these deficits, I suggest:

- 1) An extension of the deadline
- 2) Better provision for staff support
- 3) Improvement of the terms of the benefits of the program for Vietnam deserters. This should include:

a) Characterization of the Clemency Discharge as a General Discharge for the convenience of the Government, under honorable conditions, but without veteran's benefits;

b) Provision for the award of a General Discharge or Honorable Discharge, with benefits, for deserving cases;

c) Automatic referral of all cases receiving clemency back to the service for a review of the military record for possible upgrading of the discharge.

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MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES E. GOODELL

SUBJECT: Extension of January 31 Deadline for Applications
to the Presidential Clemency Board

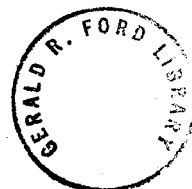
This memorandum recommends that on you extend the deadline for applications to the Presidential Clemency Board from January 31 to June 30, outlines the arguments for and against that recommendation, and summarizes why I believe that you should extend the deadline for application to the Clemency Board only instead of ~~all~~ all three parts of the clemency program.

I. Why Do It?

Your Proclamation creating the amnesty program contemplated a limited application period ending January 31, with the goal of resolving the amnesty problem once and for all.

The selection of January 31 as the deadline apparently rested upon three assumptions:

- (1) It was apparently assumed that the draft evaders and deserters covered by your program are for the most part reasonably well-educated, middle or upper-class persons whose motivation to violate Selective Service or military law was ideological--opposition to the war in Vietnam.
- (2) It followed from that assumption that those people generally have substantial exposure to broadcast and print media.
- (3) It also followed from that assumption that those people must be part of a finely tuned evader and deserter "underground" communications network.



If one accepted those three assumptions at the outset, it was reasonable to expect that most of the population eligible for clemency would learn about the program early and easily, and would therefore be able to make an informed and thought-out choice by January 31 on whether to apply.

The Presidential Clemency Board has found that, at least with respect to the people eligible for consideration under our part of the clemency program, those assumptions are wrong. The applicants who come before us do not at all fit the stereotypes which we held before we began.

In reviewing our cases, we have found that they are not generally ideological war resisters. For the most part, they are people who had severe marital problems which required immediate attention, or a family left without support when a parent died, or a mother or wife who became acutely ill. Some of them are Jehovah's Witnesses and members of other groups with objections to killing, but most were motivated in their offense by their need to take care of a family hardship.

Regardless of the reason for their offense, we have found them generally to be uneducated and not from middle or upper-class backgrounds at all. Most of them were unable to pursue their remedies properly within the legal system precisely because they were unsophisticated and inarticulate. Those who believed deeply that they should not kill, but who couldn't express their feelings adequately, wound up with conviction records and sometimes jail sentences, while the glib ~~and~~ sophisticated got a better shake in the first place. Many of our applicants would have, had they known how to properly proceed, received hardship deferments, or compassionate reassignments or hardship discharges in the military.

Assuming that the applicants we have before us are representative of the over 100,000 potential applicants with whom we have not had contact, we conclude that our potential applicants, as a class, are not ~~at all the educated and sophisticated people we had thought them to be.~~
likely to realize at this stage that they also are eligible

It follows from that proposition that our potential applicants generally do not read or watch television news programs a great deal, and that they are certainly not "plugged in" to any underground communications network of deserters and evaders.

Most of our potential applicants, then, have not contacted the Presidential Clemency Board simply because they do not know that the program exists or do not realize that they are eligible. Although we are making strenuous efforts to reach them by direct mail and by broadcast spots, it is unreasonable to expect, given the nature of the population with which we are dealing, that most of those who have not applied will learn about the program by January 31.

Contrary to the assumptions upon the basis of which January 31 was originally chosen, most potential applicants will not have been able to make an informed and thought-out choice by January 31.

II. Why Not Do It?

Four arguments suggest that you may prefer to keep the deadline at January 31 even though most of the eligibles will not have learned about it by then:

- (1) Extension of the deadline prevents the country from reaching closure on the problem for at least five additional months.

-- It may be counterargued, however, that since most of the eligible population hasn't been reached, any closure reached would be illusory. The problem would remain to be dealt with.

- (2) Given the uninformed nature of the people with whom we are attempting to establish contact, it may be that we will not be able to reach many more of them by June 30 than by January 31. Even with repeated direct mail and radio and television spots, they may be for the most part inherently unreachable.
- (3) It may be that most potential applicants are in fact aware of the clemency program, but are putting off the hard decision until just before the deadline. If that is true, then our application rate should rise steeply as January 31 approaches. Extension of the deadline until June 30 may simply postpone that time of decision for potential applicants, who may wait until just before the new deadline.

The problem with argument (2) is that we will never know whether it is true unless we try, and the problem with argument (3) is that we can never prove it one way or the other. Even if there is a steep rise in applications just before January 31, it may be that the rise just before the deadline would be steeper if the deadline were June 30.

- (4) Extension of the deadline is an implicit admission that, you already believe that the Board's part of the clemency program is, quantitatively, a failure.

-- The counterargument is that the low numbers speak for themselves, whether or not you remain silent.

III. Why Do It Only for Clemency Board Applicants, and Not for Applicants to the Department of Justice and the Department of Defense?

The principal reason why I recommend that you extend the deadline with respect to Clemency Board applicants, and not necessarily for applicants to the other agencies involved in the clemency program, is that there are clearly new facts not available to you on September 16 - which suggest that the January 31 deadline for the Board's applicants was based upon mistaken assumptions (see section I of this memorandum). Moreover, we have taken a small survey of potential applicants in Seattle, and have found that none of them is aware that the program exists.

You should be aware, however, that this argument may suggest extension of the Defense Department's part of the program as well, since Defense has apparently found that their applicants generally have the same characteristics as ours. We assume that Justice's potential applicants are different, but we do not know that for sure.

Two other arguments suggest extension only of the Board's part of the program:

- (1) Unlike those under the jurisdiction of Justice and Defense, potential applicants under our jurisdiction have already been convicted and punished. Because they have paid more to society, they deserve your generosity more than unconvicted applicants for clemency.

(2) Because the books of the criminal justice system and the military discharge system have been closed on our potential applicants, many of them apparently believe that your clemency program does not apply to them. I have heard substantial anecdotal evidence which suggests that many of our potentials believe that the program only to draft evaders who have not yet gone to trial, and to deserters who have not yet returned.

For all three of these reasons, extension of the Board's part of the program alone will be easier to explain to the country than extension of the whole program.

On the other hand, most people do not understand the tripartite nature of the clemency program, and are not aware that the stereotyped draft evaders who fled to Canada are under Justice's jurisdiction. Even if you extend only the Board's part of the program, therefore, you will probably get political reaction based on the mistaken perception that you are extending the whole program. This probability suggests that in terms of public perception, you may have only two choices -- extension of the whole clemency program, or of none of it.

IV. Your Options

Please indicate which option you prefer:

Extension of deadline to June 30 for
Clemency Board only

Extension of deadline to June 30 for
whole clemency program

No extension of deadline

051-C

01

This black applicant, in his middle twenties, comes from a large stable home in the South. He was classified as a conscientious objector by his local board, and completed approximately eleven months of alternative service. He was convicted of failing to remain in alternative service when he failed to report to a hospital to which he had been reassigned. The hospital was located a substantial distance from his home and he lacked the financial means to make the trip and set up a residence. The applicant was convicted and originally sentenced to five years in prison. The appellate court, on appeal, remanded the case for sentence reduction. The trial judge reduced the sentence only by eleven months. He has completed 12-1/2 months of his sentence. When the applicant was released on bond during his appeal, he performed work in the public interest.

Disposition: Pardon

053-C

02

This white applicant, in his middle twenties, was raised in a financially stable home in the Midwest. While attending college he applied for conscientious objector status, which was denied. The local board noted he did not claim conscientious objector status until he no longer qualified for any other kind of deferment. It appears this may have been an improper act by the local board. Selective Service rules allow an individual to apply for conscientious objector until the time he receives his induction notice. When he was ordered to report for induction, he appeared but refused to submit to induction. He was sentenced to three years for failing to submit to induction and has served ten months. When he was in prison, applicant's fiancée died in an auto accident while returning from visiting him.

Disposition: Pardon

072-C

03

This applicant, who is white, in his mid-twenties, was raised on the West Coast. His parents were divorced when he was 19. He was a good student in high school and is closely affiliated with the Catholic Church. Applicant was denied conscientious objector status and advised that he would be denied an in-service hearing for non-combatant duty. On advice of his attorney, he refused to submit for induction. He was sentenced to 6 months in prison and a 2-year probation. He was in prison 2 months. This case was reviewed by the Supreme Court of the United States. The Court held against the applicant, but stated that people in his circumstances are entitled as a matter of right to a hearing while in service.

Disposition: Pardon



.102-C

C4

This applicant is white, in his early twenties and the eldest of several children. Due to a family health problem, applicant's father was forced to leave his job and stay in the home. Consequently, the family has been receiving public assistance. The applicant is a high school graduate, and was granted conscientious objector status. Based on his Jehovah Witness belief, applicant failed to report to the Selective Service System assignment and was sentenced to 5 years in prison. He has served 18-1/2 months.

Disposition: Pardon

104-C

C5

This applicant is black and grew up in a midwestern city. His father abandoned the family when he was quite young and his mother remarried, divorced and remarried again. He had completed one year of college and had a stable employment record before being sentenced to 3 years imprisonment for refusal to submit to induction. He fled while on bail pending appeal and was subsequently rearrested. He claims he was denied procedural due process and that he was not given a physical disability deferment. Prison records show that he was a model prisoner, and he was recommended for meritorious pay as a result of outstanding performance in prison. He has served 17-1/2 months in jail and was due for parole October 4, 1974.

Disposition: Pardon

074-C

C6

This applicant is white, single and from the West. He is the product of a broken home. He began to have troubles when he was very young. He started drinking when he was eleven years old. He has attempted to secure help for his drinking but was unable to follow through. After reporting for his pre-induction physical, he was given a break for lunch, after which he was supposed to return for a psychiatric examination. Instead, he got drunk and did not return. According to the applicant, he always intended to go into the military but one day realized that he couldn't handle it. In fact, his records report that on several occasions he attempted to report to the authorities but each time he turned back. He subsequently pled guilty to failure to submit to induction and was given an indeterminate sentence under the Federal Youth Corrections Act. He has served one year of his sentence.

Disposition: Pardon

030-C

C7

Applicant is a black Muslim, the second of four children, who grew up in a large city in the Midwest. He has 14-1/2 years of formal education, but he had to terminate his schooling because of financial problems. After leaving school, applicant began a career in retail sales where he rose to a managerial level. He declined to seek conscientious objector status and subsequently refused to submit to induction. He was convicted and sentenced to 18 months in prison, although he stood ready to perform alternative service if ordered to do so by the judge. His religion forbids him from accepting alternate service from Selective Service because it considers that agency part of the military. Applicant served 11 months of his sentence. Prison authorities commended his attitude, deportment and work performance during his incarceration.

Disposition: Pardon

071-C

C8

This applicant is in his mid-twenties and is white. He was born in the Southwest and was graduated from college. He claimed conscientious objector status based on his moral beliefs and his sincere opposition to the war. However, his claim was denied and he was ordered to report for induction. He refused and was convicted. The judge placed him on probation on condition that he perform alternative service. He worked part-time in his voluntary job and supported himself in a full-time factory job. This factory went on strike and he refused to cross the picket-line. He left his part-time volunteer work because of personal difficulties although he continued to do alternative service on weekends. However, his probation was revoked because he failed to do the service as prescribed. He was sentenced to 3 years in prison. He has now served 8 months.

Disposition: Pardon

014-C

C9

This applicant, who is white and married, was raised in a Midwestern town in a middle-class family. Following his graduation from college with a degree in accounting, he submitted a request for classification as a conscientious objector. He also attempted to meet his alternative service obligation by first teaching in a public school for 4 months, and later working for a year in a hospital. However, both his application and appeals were denied and, after refusing to submit to induction, he was convicted and sentenced to 18 months in prison. Prior to his furlough, he had served approximately 8-1/2 months.

Disposition: Pardon

080-C

C10

This applicant is white, in his middle twenties, married, and has one child. After his father died, his mother remarried and the family moved to the West Coast. Applicant's formal education stopped at the 11th grade. He has a minor physical disability. In 1969, applicant became interested in farming and moved from the West Coast to Hawaii. Before leaving, applicant informed his draft board that he was moving. Living in relative isolation, and believing that he was physically disqualified for induction, applicant became oblivious to his legal obligations. He was convicted of failing to report for induction and was sentenced to 4-6 years under the Federal Youth Corrections Act. Applicant has served ten months of his sentence.

Disposition: Executive Clemency, three months alternate service. Upon completion of alternate service, Pardon.

095-C

C11

This applicant is black, in his mid-twenties and single. He was born and raised in a large Midwestern city. His father died when applicant was seven and his mother, who is in a mental institution, was unable to provide any care for him. Consequently, he was raised by various relatives. He dropped out of school in the 11th grade. He was convicted of failure to report for induction, sentenced to three years and placed on immediate probation. After his conviction, he attempted to enlist in the Army but was rejected. He failed to report to his probation officer; thus his probation was revoked and he was sentenced to 4 to 6 years. He has served 19 months and 20 days.

Disposition: Executive Clemency, three months alternate service. Upon completion of alternate service, Pardon.

096-C

C12

This applicant is black, in his mid-twenties, and was raised in a religious home in New York City. Although he and his numerous brothers and sisters were reared in a ghetto-type setting, his parents always attempted to provide support and guidance. This applicant has no prior criminal record, and, like his parents, is a Jehovah's Witness. He pleaded guilty to failure to report for induction, and was given probation contingent upon 24 months alternate service. Because he did not find the requisite employment, probation was revoked, and an indeterminate sentence, under the Federal Youth Corrections Act, was imposed. He has served over 13 months imprisonment.

Disposition: Executive Clemency, three months alternate service. Upon completion of alternate service, Pardon.

093 - C

C13

This applicant is black and in his mid-twenties. Although his father died when the applicant was an infant, his mother remarried, and he was raised in a stable environment in the South. This applicant is a Jehovah's Witness who was assigned by his local draft board to civilian work. He failed to report. When he agreed subsequently to perform civilian employment he was placed on probation. After performing his required alternate service for over one year, the applicant left his job. The applicant was sentenced to three years in prison of which he has served almost six months.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Pardon.

097 - C

C14

This applicant is in his mid-twenties and comes from a broken home. He lived with many different relatives, in the South and in New York, during his early years. His parents separated when he was 13 and his mother had difficulty supporting him and herself. He was tried for failing to report for induction. He said that, when he reported, he was told that he had a felony conviction which was being investigated. He said that the Marines told him the same thing when he tried to enlist. The refusal to accept him arose from an unsealed juvenile conviction. He was sentenced to an indeterminate term of four to six years and has now served three years.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Pardon.

The applicant is white, in his early twenties, and the eldest of four children. He was brought up in a comfortable middle class home, and had no delinquency problems. He attended a Quaker boarding school. He is committed to the Quaker religion and states that he felt a duty to oppose the Vietnam War and the military system in general. He refused to register for the draft and fled to Canada. One of his employers in Canada describes him as industrious, conscientious and capable. When he returned to the United States, he was taken into custody, he pled guilty and was placed on probation with the stipulation that he register for the draft. He again refused to do so; his probation was revoked and a six year indeterminate sentence was imposed. He spent seven months in jail. The applicant states that if faced with the same decision again, he would still refuse to go into the service, but he would accept alternate service if ordered to do so by a court.

Disposition: Executive Clemency, 6 months alternate service.
Upon completion of alternate service, Pardon.

101-C

C16

This applicant is black and in his mid-twenties. He was born and raised in New York City. He left school in the 11th grade and has been employed as a construction worker and mail carrier. He reported for an Armed Forces physical examination and was found acceptable; however, he claimed he was inadequately examined but never submitted any substantive proof of that fact to his local draft board. Later he communicated with his draft board and claimed conscientious objector status which was denied. He failed to report for induction and was declared delinquent. Although for a time he was classified as ineligible for induction, he was subsequently reclassified 1-A and he failed to show up for another physical. Several months later he again requested conscientious objector status; again he was refused. He was convicted of failure to report for induction and sentenced to four months in prison, followed by two years probation. He has served 3-1/2 months. .

Disposition: Executive Clemency, 10 months alternate service.
Upon completion of alternate service, Pardon.

081-C

e17

This applicant is Puerto-Rican; his family moved to New York when he was four years old. He dropped out of school in the eighth grade and has four children by his common-law wife. He attempted to enlist in the Army when he was eighteen but was refused. The applicant was charged and pled guilty of failing to report for induction. He expressed remorse for this offense, explaining that he was not refusing induction but just attempting to postpone it in order to settle some personal problems. He has a previous criminal conviction for a minor offense. After being sentenced to a four to six year term under the Federal Youth Corrections Act, he served four months in prison.

Disposition: Executive Clemency, twelve months alternate service.
Upon completion of alternate service, Pardon.

012-C

e18

The applicant is white and came from a broken home in New York State. He was raised under very deprived socio-economic conditions. He left school during the ninth grade when he was sixteen years old. Applicant registered for the draft during a period when he was having difficulty providing for his family which included his wife, his wife's mother, and a daughter burdened with a birth defect. He attempted to obtain a hardship classification but was classified I-A when he failed to submit proof of his claim. He failed to report for induction and shortly thereafter became separated from his wife. He was sentenced to four to six years under the Federal Youth Corrections Act and has served three months in prison.

Disposition: Executive Clemency, 12 months alternate service.
Upon completion of alternate service, Pardon.

227-M

M1

This applicant is white and grew up in an unstable New England family. He has a ninth grade education. He was inducted into the Army despite his disclosure of a congenital birth defect of the spine which caused disability and pain during vigorous physical activity. During basic training, he suffered severe problems because of this physical defect. On leave at home after five months in the Army, he discovered that his father had cancer. He stayed AWOL to tend to his father who died five months later, and he remained AWOL for four years and ten months. In a court-martial, he was sentenced to a Bad Conduct Discharge and imprisonment for six months, four months of which he has served.

Disposition: Pardon. Clemency Discharge.

251-M

M2

* This applicant is white, in his early twenties, and has a 12th grade education. He was adopted at an early age by his aunt and uncle. When he was 17, his stepparents threatened to turn him out unless he enlisted in the Army. He did so, served more than eight months and then was honorably discharged in order to effect his re-enlistment for Vietnam duty. He served there for 14 months as an ammunition specialist and was awarded the Vietnam Service Medal, the Vietnam Campaign Medal and two overseas service bars. In 1972, he learned the identity of his natural mother. He went AWOL in an effort to find her. After 16 months of AWOL, he was sentenced to a Bad Conduct Discharge, and confinement at hard labor for nine months and total forfeitures. He has served more than eight months in jail. He has 22 months of creditable service.

Disposition: Pardon. Clemency Discharge.

117-M

M3

This applicant is black and grew up in a broken home in the Midwest. He and four other children were raised by his mother, who has become disabled. He dropped out of high school after his freshman year, and two years later enlisted in the Marines. While he was home on leave, his mother lost her eyesight and was hospitalized. He remained to support the family, but he turned himself in when his mother returned from the hospital. While awaiting trial for his four-month AWOL, he learned that his brother had been hospitalized after being hit by a taxi. He again went AWOL. This time he remained absent about two and one-half years before turning himself in. He was sentenced to a Bad Conduct Discharge and 18 months confinement. Prior to his release, he had served almost ten months in prison.

Disposition: Pardon. Clemency Discharge.

187-M

M4

This applicant is white and grew up in a middle-class midwestern family. After completing the 10th grade, he quit school but has completed his GED. He worked as a truckdriver to help support his family until he was drafted. He served four months in the Army before going AWOL. He left the Army due to his strong family ties and a feeling of responsibility for his family's financial well-being. During his absence, he was gainfully employed and contributed to the support of his family. He was apprehended 3-1/2 years later. In a court-martial, he was sentenced to a Bad Conduct Discharge and five months confinement. He has served three months of that sentence, plus two months pretrial confinement.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

247-M

M5

* This applicant, in his middle twenties, is black, single and the youngest of five children. He grew up in the South in a closely-knit family. His father died when he was 15, and he was thereafter raised by his mother. He did not finish the 11th grade. He was then inducted into the Army. He went AWOL twice, but he has fifteen months of creditable service. During his over four years of AWOL, he helped provide for his mother and his blind grandmother. He was given a Dishonorable Discharge and two years of confinement, of which he has served seven months.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

201-M

M6

* This applicant is white, in his early thirties, and one of nine children raised in the rural South. He has graduated from high school. He enlisted in the Army in 1965, and later re-enlisted. He served creditably until 1969, when he learned that his wife was ill. He went AWOL for a few days to find someone to help take care of his four children. He returned to the Army and requested leave in order to go back to his family. He was refused and again went AWOL and remained absent for almost 4-1/2 years until he voluntarily turned himself over to military control. In a court-martial, he was given a Bad Conduct Discharge and sentenced to ten months confinement, six months of which he has served.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

193-M

M7

* This white applicant in his mid-twenties is the product of a stable home. Having completed high school, he entered a three-year enlistment in the Army, specifying a certain job preference. He was trained in his job preference but nevertheless ordered to a duty assignment unrelated to his skills. He went AWOL four times due to family financial difficulties caused by his father's loss of employment. He lived openly during over two and one-half years of AWOL. He has over a year of creditable service. He was sentenced to a Bad Conduct Discharge and confinement for twelve months. Including pretrial detention, he has served nearly 14 months in jail. While confined, he suffered a hand injury which resulted in permanent disability.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternative service, Clemency
Discharge and Pardon.

167-M

M8

This applicant is white, in his early twenties, and one of three children. His father was prevented from working because of a heart condition. Having dropped out of school in the ninth grade, he was the sole support of his father and sister before he was drafted. One month after his induction, he attempted to obtain a weekend pass because of his father's worsening condition. When the pass was refused, he went AWOL. He was absent for over three years, as he worked to support his family and his father. He is married and has two children, but his wife suffers from curvature of the spine and is unable to work. He was sentenced to seven months confinement and a Bad Conduct Discharge. He served nearly six months in prison.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

129-M

M9

This applicant, in his early twenties, is Puerto Rican and is one of 15 children. He was born and raised in New York and completed the 8th grade. He enlisted in the Marine Corps and has 11 months creditable service. He went AWOL twice for a total of three and one-half years. These absences were caused by his drug problem, for which he sought assistance, and by family problems. He received a Bad Conduct Discharge and a seven month sentence of which he has served five months.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

123-M

M10

This applicant is white and was born and raised in the northeastern United States. After the age of twelve, he was reared by his grandmother. He left high school before graduation, worked for some years for a moving company, and then joined the Marine Corps. He went AWOL three times because he wanted to help his parents reconcile their marriage. He was absent for a total of one year and seven months. During his three and one-half months of creditable service, he accumulated good conduct and proficiency reports. The applicant was court-martialed and sentenced to a Bad Conduct Discharge and four months confinement. He has served approximately two months of his sentence and was in pretrial confinement over two months.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

231-M

M11

Applicant is of Spanish surname, is in his late twenties, and he was one of 12 children in a stable but low-income family. He completed nine years in school. Inducted into the Army, applicant completed basic and advanced individual training and was assigned to the Republic of Vietnam. He served as a light vehicle driver in an artillery unit for a full tour in Vietnam, and he returned with his unit to the United States. He had excellent conduct and proficiency ratings and one year and seven months of creditable service. With his father facing prison for vehicular homicide and his girlfriend pregnant, he went AWOL to deal with these problems. He remained absent for nearly three years. In a court-martial, he was sentenced to a Bad Conduct Discharge and imprisonment for six months, two and one-half of which he has served.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

122-M

M12

This white applicant, in his mid-twenties, was born and raised in a small midwestern town. Applicant's father was extremely strict with him and the other children in the family. His parents eventually were divorced. He completed high school by passing the GED test. After enlisting in the Marines in 1969, he volunteered for overseas duty but was rejected because of high blood pressure and bleeding feet. He went AWOL because an automobile rental agent threatened to have him placed in the brig. He was absent from the Marines for three years. At his court-martial, he received a sentence of Bad Conduct Discharge and nine months imprisonment. He has served approximately ten months in prison, including pretrial confinement. He has ten months of creditable service.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

112-M

M 13

* This applicant is white, in his early twenties, and grew up in an economically-deprived midwestern family. He has completed only two years of high school. He enlisted in the U.S. Marine Corps at the behest of his stepfather, but with the reluctant consent of his natural mother. He served honorably for 18 months before going AWOL because of an overwhelming family crisis. During his absence, he became a religious convert. Finding that his religious conscience could no longer cope with his disregard of his legal obligations, he surrendered to the military authorities. He was prosecuted before a general court-martial and sentenced to a Bad Conduct Discharge and imprisonment for five months. The applicant was successful in rehabilitating himself upon release from confinement by finding employment in industry.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

214-M

M 14

This applicant is white and the oldest of two children. He has only a 7th grade education. Enlisting in the Army, he was trained as an armor crewman and assigned to Germany. He served for over one year until he went AWOL to attend to some marital problems. His emotional distress caused him to commit two other unauthorized absences. His second and third absences lasted for four years and eight months. After apprehension, he was sentenced by a court-martial, given a Dishonorable Discharge and imprisoned for eight months. He has served over six months of confinement. He has over one year and four months creditable service.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

242-M

M 15

This applicant is black, married and has two children. He was born and raised in a large city in the Midwest and is the second of three children. His parents were separated when applicant was ten years old. Because his mother suffered from heart trouble, applicant began working part-time at the age of twelve and eventually quit school after completing the 10th grade to support his family. At the time of his induction into the Army, applicant was married, had a child and was the sole support of his invalid mother. Applicant's AWOL was precipitated by the medical and financial problems suffered by his family. He was absent six and one-half years. He was sentenced to a Bad Conduct Discharge, to forfeit all pay and allowances and to be confined at hard labor for five months. He served four months of the sentence. He has five months creditable service.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

175M

M 16

This applicant is black and grew up as one of ten children in a low-income family in the South. His father is a disabled farm laborer. He quit school after the 8th grade to work as a farm laborer also. He was drafted into the Army, where he has received excellent conduct and proficiency ratings. He served over one and one-half years of creditable service, including a full tour of duty in Vietnam. He then went AWOL and he worked as a farm laborer to support his family during his six and one-half year absence. In a court-martial, he was given a Bad Conduct Discharge and sentenced to two and one-half months in confinement. He was confined over four months, including 48 days or pretrial confinement.

Disposition: Executive Clemency, 3 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

113-M

M 17

Applicant is white and the product of a low-income background and family instability; his formal education is limited. He withdrew from school to become self-sustaining because his relatives were unable to help him. After enlisting in the Marine Corps, he volunteered for service in Vietnam. He then married and encountered financial problems. He returned home on emergency leave to discover his pregnant wife could no longer live with her sister. He then absented himself for almost five years to provide her support and a home. After apprehension, he was sentenced to a Dishonorable Discharge and six months confinement. At his trial, numerous associates attested to his outstanding character and reputation in his community. In confinement, he was a model prisoner. He has served four months of his sentence and has completed approximately six months of creditable service.

Disposition: Executive Clemency, 6 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

232-M

M 18

This black applicant was born and raised in Texas in a stable home environment. He completed one year of college. He is married and has two children. He was drafted into the Marines in 1969. Prior to being drafted he worked as a truck driver. He states that he went AWOL in 1971 to be with his family and help them resolve several serious problems. One of his children died in 1972, and his father is in poor health. He was employed during his unauthorized absence. Apprehended in 1974, he was sentenced to a Bad Conduct Discharge and imprisonment for nine months. He has seven months of creditable service and has served three months of confinement.

Disposition: Executive Clemency, six months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

106-M

M 19

Born in a stable midwestern Caucasian family, applicant is the oldest of three children. His formal education is very limited. Inducted into the Army, applicant was trained as an infantryman. On leave, pending assignment overseas, applicant discovered that his wife was contemplating divorce. Emotionally disturbed, he overstayed his leave. Applicant remained AWOL for four years and eleven months. He was court-martialed, sentenced to a Bad Conduct Discharge, and ten months confinement. He has served over three months of that sentence. He has nearly five months of creditable military service.

Disposition: Executive Clemency, 6 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

170-111

M 20

This applicant, who is white and 26 years old, was born and raised in the Northeast in a family of poor financial circumstances. After the 11th grade, he dropped out of school to get a job. The following year he enlisted in the Army and obtained his GED. During his first year he had two lengthy periods of AWOL for which he was sentenced to six months confinement. The third time he remained absent for over seven years. During this time both his father and his brother had health problems and he worked in a factory to help support the family. After turning himself in, he was convicted and sentenced to a Bad Conduct Discharge and three months confinement. Including pretrial detention, he has served four months and ten days in confinement.

Disposition: Executive Clemency, 6 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

162-111

M 21

This applicant is black, in his mid-twenties, and grew up in an intact family with seven children. He dropped out of high school in the 11th grade and thereafter enlisted in the Army. He has nine months, 20 days of creditable military service, during which his conduct and efficiency were rated excellent. He went AWOL after injuring his arm in a parachute jump and being unable to relieve the pain. He married while AWOL and now has three children. He was convicted for two months of AWOL; he received a Bad Conduct Discharge and six months confinement. He has served three months of his sentence.

Disposition: Executive Clemency, 6 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

120-111

M 22

This applicant is white, in his early twenties, and was raised in a stable home environment in the South. After completing nine years of education he went to work for a construction company and later enlisted in the Marine Corps. He has over five months creditable service. During Infantry Training School he experienced back problems, and, unable to obtain satisfactory medical treatment, he went AWOL. Thirteen months later he surrendered but again went AWOL during his trial. He was sentenced in absentia to a Bad Conduct Discharge and six months confinement. He later surrendered and has served two months of his sentence.

Disposition: Executive Clemency, 6 months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

125-M

M 23

The applicant is white and lived in a large New England family. His family was on welfare, and he completed only eight years of school. He is now married and has two children. After enlisting in the Marine Corps, he had eight months of creditable service. His two incidents of AWOL totaled almost fifteen months. The first time, he and a friend went on leave, and he was afraid to return when his friend went AWOL. The second offense occurred when he was having marital troubles. At his court-martial he received a Bad Conduct Discharge and a seven month sentence. He has served over five months of that sentence.

Disposition: Executive Clemency, seven months alternate service. Upon completion of alternate service, Clemency Discharge and Pardon.

176-M

M 24

This applicant is black, is the youngest of nine children, and was raised by his mother in a stable but low-income midwestern home. He graduated from high school and worked as a laborer and painter until he was drafted. After almost six months service, he went AWOL rather than report to an overseas replacement station because of his opposition to the Vietnam War. He had never applied for conscientious objector status because he had no religious justification for doing so. He returned but went AWOL again, making him absent for a total of over four and one-half years. After a court-martial and sentence review, he was given a Bad Conduct Discharge and sentenced to four months confinement. He has served that sentence, plus two months of pretrial confinement.

Disposition: Executive Clemency, nine months alternate service. Upon completion of alternate service, Clemency Discharge and Pardon.

221-M

M 25

This applicant, in his early thirties, is the third of five children born to a stable but low-income white family in the South. He dropped out of school in the 10th grade. After being drafted into the Army, he enlisted for a regular term of service. His total creditable service is two years and four months. He went AWOL shortly before the termination of his enlistment because of frustration about his inability to ascertain his projected date of discharge, his concern for his ailing father, and the financial plight of his family. During his absence he worked in construction. After an absence of five years and nine months, he was sentenced to a Dishonorable Discharge and imprisonment for four months. He has served over three months of that sentence.

Disposition: Executive Clemency, nine months alternate service. Upon completion of alternate service, Clemency Discharge and Pardon.

196-M

M 26

This applicant is white, in his mid-twenties, and was raised in a large family in the West. Although the family was not well off financially, a very good family relationship existed. This applicant completed one year of college before leaving because of a drug problem. He married and with his wife's help stopped taking drugs. He was subsequently drafted and, due to the availability of drugs in the Army and the pressure that he was under, he began taking them again. To receive treatment for his drug problem and to be with his wife who was eight months pregnant, this applicant went AWOL. After being AWOL for over 2 1/2 years, he was court-martialed and sentenced to a Bad Conduct Discharge with eight months confinement. He has served four months in prison. He has four and a half months creditable service.

Disposition: Executive Clemency, eleven months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

111-M

M 27

This applicant, in his early twenties, is white and the third of five children born to a low-income and very unstable family. He only completed the eighth grade. When he was young, his mother divorced his father because of physical cruelty. He continued to live with his natural father, a farm laborer. At the age of twelve, he resumed living with his mother who had remarried. He lived with this family unit until age fifteen when he separated because of conflict with his stepfather. At the age of eighteen, he enlisted in the USMC. Although achieving satisfactory proficiency and conduct ratings during his four months of creditable service, he went AWOL twice for a total of over two years. He was sentenced to a Bad Conduct Discharge and imprisonment for 8 months, two months of which he has served.

Disposition: Executive Clemency, eleven months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

256-M

M 28

This applicant, in his mid-twenties, is of Hawaiian ancestry. He was drafted into the Army after leaving high school, but he claimed to be unfit for military service because of his bad back. His claim was rejected, and he later went AWOL to get medical treatment for his back problem. After 3 1/2 years of AWOL, he surrendered to civil authorities. He has nine months of creditable service. In a court-martial, he was sentenced to a Bad Conduct Discharge and confinement for ten months. He was incarcerated for nearly six months.

Disposition: Executive Clemency, ten months alternate service.
Upon completion of alternate service, Clemency
Discharge and Pardon.

205-17

M 29

This applicant, who is white and in his late twenties, was born and raised in New England. He dropped out of high school prior to graduation due to his marriage and the birth of a child, and joined the National Guard. Two years later, he was discharged for failure to attend meetings and, two years after that, was ordered to active duty. In the meantime, he had obtained his GED Certificate and worked as a truckdriver, accountant, salesman, and sales manager. He explains his AWOL was because he was unable to obtain a medical discharge for a back problem. He was apprehended after six months, but three weeks later again went AWOL and this time remained absent over four and one-half years. Part of the time, he was in a Canadian prison for a bigamy conviction, due to his mistaken belief that his first marriage had been annulled. After being released to U. S. authorities, he was convicted and sentenced to ten months confinement and a Bad Conduct Discharge. The applicant has served eight months and twenty days in prison. He has almost ten months creditable service.

Disposition: Executive Clemency, twelve months alternate service.
Upon completion of alternate service, Clemency Discharge
and Pardon.

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON
February 24, 1975

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES E. GOODELL

SUBJECT: Three Decisions on Your Clemency Program



This memorandum forwards, on behalf of a unanimous Presidential Clemency Board, three recommendations for decision by you. Each issue has been discussed with Jack Marsh, Martin Hoffmann, and representatives of the Justice Department and of the White House Counsel's office in a meeting last Thursday afternoon. The questions for decision, your options, and the positions of the parties involved are presented below.

- I. Should you issue military discharges "under honorable conditions," upon recommendation by the Presidential Clemency Board, to ex-servicemen whom the Board believes to be particularly meritorious?

BACKGROUND

The Clemency Board has, in its review of applications before it, discovered that some of the veterans seeking upgrading of bad discharges had meritorious Vietnam combat experience. The Board recommends that you order General Discharges for these cases.

Since your Counsel believes that such an order requires amendment of the Executive Order which created the Board, the Board further recommends that you direct that the Executive Order be amended to specify that the Board may, in exceptional cases, recommend that you order a discharge "under honorable conditions."

DISCUSSION

Jack Marsh, Martin Hoffmann, and I agree that you have a political decision to make: If you choose to follow the Clemency Board's recommendation, should you openly and publicly grant better than

Clemency Discharges to particularly meritorious cases, or should the Department of Defense upgrade these discharges quietly through its normal processes?

In the Thursday meeting, the Defense Department--while maintaining its official opposition to the Board's recommendation on the grounds that such upgrading would be inconsistent with the Department's treatment of clemency applicants--stated that your upgrading of these discharges would cause no problem of precedent. The Department has itself granted 33 such upgradings in cases under its jurisdiction, by removing those particularly meritorious cases from normal clemency processing at Fort Benjamin Harrison and sending them to other military bases for upgraded discharge processing.

The Board believes that you should order the recommended upgradings, and do so publicly, because of the merits of the cases themselves and because of the political impact which will follow. Each of the five veterans whose cases we have commended to you have served gallantly in combat in Vietnam, and have clearly extenuating circumstances for their AWOL. Taken as a whole, their records support the grant of an upgraded discharge.

General Walt and Jim Maye have discussed these cases with veterans and with representatives of the various veterans groups. They have received an unofficial, but unanimous, impression of support from the veterans' groups leaders, although those leaders feel that they cannot publicly reverse their opposition to the clemency program as a whole.

The Vietnam veterans on the Board felt so strongly about these cases that they asked to write a separate memorandum to you. That memorandum, which eloquently expresses their views, is attached.

The most important reason for you to make this decision, and to do so openly, is because equity clearly suggests that these particular cases, and exceptional ones like them which the Board may discover in the future, deserve veterans benefits and public recognition of their service to the country. Your emphasizing that that is your feeling will increase the growing public awareness that there is much more to your clemency program than people returning from Canada--indeed, that the program has critical value for Vietnam veterans. Veterans around the country, as they begin to understand the Presidential Clemency Board's part of the

program have been increasingly sympathetic to it. Your public announcement will further increase public understanding of the program.

OPTIONS

- (a) Issue discharges "under honorable conditions" for the five cases recommended by the Board, amend the Executive Order in order to explicitly grant the Board authority to make such recommendations in the future, and announce to the public your action in the five cases.
- (b) Direct the Department of Defense to issue quietly the five upgraded discharges, do not amend the Executive Order, and make no public announcement.
- (c) Do not upgrade these five discharges to "under honorable conditions."

DECISION: (a) _____ (b) _____ (c) _____

II. Should you direct the Department of Defense that its discharge review boards not consider pardoned AWOL offenses as part of a serviceman's record if he has received clemency from you upon recommendation by the Presidential Clemency Board?

BACKGROUND

Each military department has a discharge review board to which all veterans have the right to apply for review and upgrading of their discharges. A veteran retains this right after he has received clemency under your clemency program upon recommendation of the Board-- he may still apply to have his Clemency Discharge upgraded to a General or an Honorable Discharge. The question is whether, when he applies to the military review board, that board should treat the offense which you have pardoned as if the offense were not in the file at all.

DISCUSSION

The Clemency Board feels, as a matter of equity, that the offense pardoned should no longer be considered by the military discharge review board. The Defense Department and the Counsel's office oppose the Board's recommendation. At Thursday's meeting, the Justice Department representative indicated that as a matter of law that probably has to be done even absent any action by you. We feel, therefore, that what we are asking you to do is to make explicit, in the perception of the military review boards and of potential clemency applicants, what the law already probably requires if you are silent on the question.

You may, of course, decide that your pardon should provide that the pardoned offense explicitly should be considered in the military review process. We feel that it is that position--and not the Board's recommendation--which would be a significant change in the program as you created it. We note, moreover, that you have already granted 28 irrevocable unconditional pardons.

There is certainly no danger of this procedure opening the floodgates and resulting in most Clemency Discharges being upgraded further, since the military itself will implement the discharge review process, and is by no means disposed to grant upgrades in large numbers.

If military review boards do not give full effect to your pardon, there inevitably will be lawsuits on this issue during 1976. We believe it preferable to avoid judicial consideration of this issue, much less adverse judicial decision, next year.

OPTIONS

- (a) Direct that military discharge review boards not consider AWOL offenses pardoned under your clemency program as part of the serviceman's record.
- (b) Remain silent on the issue.
- (c) Require that the military review boards consider such pardoned offenses as part of the record.

DECISION: (a) _____ (b) _____ (c) _____

III. Should you extend the Presidential Clemency Board's application deadline for two months?

BACKGROUND

Since the Board began its information program, its applications have risen from 850 in early January to 8,000 by mid-February. The surge in applications has continued unabated after January 31, at a constant rate of nearly 1,500 per week. Board members traveling the country, the reaction of the media, and the letters we receive all make it unquestionably clear that the public is just now learning that exiled draft evaders and deserters are not the only people eligible for clemency. Until this week, many veterans' groups did not even realize that Vietnam veterans with later AWOL discharges could apply.

The Board recommends that you extend its phase of the program an additional two months, and the Departments of Justice and Defense recommend that their phases of the program not be extended.

DISCUSSION

Pursuant to your order, the Department of Defense mailed over 20,000 notices to eligible veterans about a week ago. Many responses from this notice will not come in until after the March 1 deadline. Defense has indicated that they cannot reach the other 90,000 eligible veterans by mail, and we therefore need increased time to get the word to them through local media and grass-roots veterans counseling groups.

Should you approve the Board's recommendation on upgraded discharges in exceptionally meritorious cases, you should allow time for the media to make this decision known to potential applicants before the program ends. Moreover, the several hundred grass-roots veterans' counseling groups have indicated that they will help spread the word on your decision if they have the time. Veterans with meritorious Vietnam service should have the opportunity to respond to the decision you make.

Terminating the program and announcing the upgradings thereafter, without giving Vietnam veterans a chance to accept your offer of clemency, will be subject to serious criticism from the public and from veterans groups.

Whatever your decision on deadline extension, it should be announced before March 1.

OPTIONS

- (a) Extend the application deadline for two months for the Clemency Board only.
- (b) Extend the application deadline for all phases of the program.
- (c) Announce that there will be no extension beyond March 1, 1975.

DECISION: (a) _____ (b) _____ (c) _____

Attachment

WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
Report	Presidential Clemency Board case summaries and dispositions, 5 pages	N.D.	C

File Location:

Charles Goodell Papers, Box 8, "Memoranda - President and White House Staff" SMD - 6/22/2015

RESTRICTION CODES

- (A) Closed by applicable Executive order governing access to national security information.
- (B) Closed by statute or by the agency which originated the document.
- (C) Closed in accordance with restrictions contained in the donor's deed of gift.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE
WASHINGTON, D.C. 20500

February 6, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: LEWIS W. WALT
JAMES DOUGOVITO
JAMES MAYE

In reference to those cases of Vietnam veterans, being recommended by the Presidential Clemency Board for upgrading to a general discharge with veterans' benefits, we, as active participants of the Vietnam War and as Members of the Presidential Clemency Board, would like to express our views.

We are in favor of the upgrading for the following reasons:

- (1) These men served our Country well in Vietnam, some of them distinguished themselves on the battlefield and suffered wounds in combat.
- (2) Upon their return home, they were confronted by an anti-war - anti-military atmosphere in which they were not recognized as heroes but as individuals who had committed crimes. Their service to our Country was not appreciated.
- (3) It is always difficult for a man to adjust when he returns home from war. The general attitude of our American public made this adjustment even more difficult for these young Americans, and peer pressure forced them to do things which under normal conditions they would not have done.

We earnestly believe that an act of compassion and an expression of appreciation for their combat service in Vietnam is justified.

Mr. President, it may be helpful to you to know that each of us has spoken of these cases at various meetings with veterans and press groups around the Country. We outlined the cases and stated our recommendations. In every case, the response was very favorable. In view of the aforementioned facts, we recommend, in these specific cases, a Presidential Pardon, an upgrading to a general discharge, and the granting of appropriate veterans' benefits.

Lewis W. Walt
James P. Dougovito
James Q. Maye

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

February 24, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES E. GOODELL
SUBJECT: *Charles E. Goodell*
CLEMENCY BOARD FUNDING ESTIMATES

The following are my estimates of what resources would be required for the Presidential Clemency Board to review 10,500 to 12,000 cases by June 30, 1975 (Alternative A), December 31, 1975 (Alternative B), and September 30, 1975 (Alternative C). You will note that our resource estimates are seven times greater than the estimates made by your Counsel's office. You should also be aware that the Board has not yet approved any of the procedural alternatives mentioned below:

Alternative A: (Completion by June 30, 1975)

Assumptions:

- (1) The total number of cases will be between 10,500 and 12,000 by March 1, 1975. (This is a minimum figure. Actual applications could amount to as many as 12,000).
- (2) The Board drastically revised its current procedures of reviewing cases. The drastic change means near abandonment of the case-by-case approach. Several Board Members would object to this blanket approach, and other Board Members might consider it an abridgment of due process.
- (3) Two hundred and eighty (280) additional unreimbursible detailees are provided, (185 professionals and 95 secretarial/clerical). Detailees would continue and unanticipated funds would be used until June 30, the end of FY 1975. After that date, non-reimbursible detailees would be provided immediately. Appropriations for FY 76 would be requested from the Congress.
- (4) Five additional Board Members are named.
- (5) Board Member-days per month are increased to 90, and case review is increased to 3,500 cases per month by April 1.

Estimated Cost: \$95,000 + (Extra detailees may involve additional overhead.)

Sources: Unanticipated personnel needs fund.

Alternative B: (Completion by December 31, 1975)

Assumptions:

- (1) Same as A above (10,500 to 12,000 cases).
- (2) The Board partially revises its current procedures of reviewing cases.
- (3) One hundred and five (105) additional paid staff are provided (70 professionals and 35 secretarial/clerical).
- (4) One new Board member is named.
- (5) Board member-days per month are increased to 55, and case review is increased to 1100 cases per month by April 1.

Estimated Cost: \$1,365,000

Sources: \$95,000 for the remainder of FY 1975 from unanticipated personnel needs fund, plus \$1,270,000 from Congress for FY 1976.

Alternative C: (Completion by September 30, 1975)

Assumptions:

- (1) Same as A above (10,500 to 12,000 cases).
- (2) Same as B above (partial revision of current Board procedures).
- (3) One hundred-eighty (180) additional paid staff are provided (120 professionals and 60 clerical).
- (4) Five additional Board members are named.
- (5) Board member-days per month are increased to 90, and case review is increased to 1800 per month by April 1.

Estimated Cost: \$170,000

Sources: Unanticipated personnel needs fund. (Technically, OMB counsel says that unanticipated reserve funds cannot be obligated beyond June 30; however, this alternative anticipates completion by June 30 with a spillover of three months).

Chairman Gold

February 24, 1975



MEMORANDUM FOR: JOHN O. MARSH, JR.
FROM: JAY T. FRENCH
SUBJECT: Recommendations of Presidential Clemency Board

ISSUE A - Recommendation that the Board be permitted to recommend the issuance of honorable discharges in meritorious cases.

1. (a) The problem that the Board wants to have expanded authority to correct is a larger and different problem than that problem which the Board and the program were designed to correct.
- (b) Each Military Department has existing civilian and military records review boards which are capable of rectifying any wrongs in these cases.
- (c) This action is a significant departure from the program.
- (d) Counsel takes no position on the merits but points out that the Secretary of the Army does not believe these cases are meritorious.
2. (a) White House Counsel and Justice believe that the Executive Order establishing the Clemency Board would have to be amended. See Section 3 of the Executive Order.
- (b) Justice points out that such authority was considered and rejected by those who drafted the original documents of the program.

3. (a) The Board wants to publicize the fact of this expanded authority, if you concur. We believe this is unwise politically.
- (b) Also, these five (5) cases were selected from the first 60 cases. It is estimated, by the Board, that it may deal with 6,000 military cases; therefore 500 cases would ultimately be given honorable discharges. This is a significant broadening of the Board's authority.
- (c) If honorable discharges are issued under the program, the recipients will be able to obtain veterans benefits. Publication of this fact will be misunderstood by the public. Also, it will appear that you are enticing applicants.
- (d) Another extension may be required merely to allow time for the board to inform servicemen of this new authority.

ISSUE B - Extension of the Clemency Board's Application Date

1. The first extension really aided the Clemency Board because there was no great increase in Defense's or Justice's applications after the first extension. Another extension, however, is simply not necessary for the Board. It began its information campaign in mid January and we believe by March 1st that ample time has been allowed.
2. Existing clemency avenues remain available at the Department of Justice after the program concludes.

ISSUE C - What legal effect should be given to the pardon for the purpose of further review of cases by the Defense Department review boards.

1. (a) The White House Counsel agrees with the Clemency Board that further review of military cases, which have been processed by the Board, should be permitted by existing review boards at Defense.
- (b) However, these review boards should consider the entire record of the serviceman. If the pardon "wipes out" the offenses of unauthorized absence, then the boards at Defense will have to upgrade the Clemency Discharge (which you have just given) to an honorable discharge which will allow veterans benefits in about 30% of the cases.
- (c) The Board's request is that you permit "boot strapping" by which 30% of those servicemen who apply to the Board use your pardon to get the Clemency Discharge changed to an honorable one. This defeats the purpose of your program.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE
WASHINGTON, D.C. 20500

February 24, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES E. GOODELL

SUBJECT: CLEMENCY BOARD FUNDING ESTIMATES



The following are my estimates of what resources would be required for the Presidential Clemency Board to review 10,500 to 12,000 cases by June 30, 1975 (Alternative A), December 31, 1975 (Alternative B), and September 30, 1975 (Alternative C). You will note that our resource estimates are seven times greater than the estimates made by your Counsel's office. You should also be aware that the Board has not yet approved any of the procedural alternatives mentioned below:

Alternative A: (Completion by June 30, 1975)

Assumptions:

- (1) The total number of cases will be between 10,500 and 12,000 by March 1, 1975. (This is a minimum figure. Actual applications could amount to as many as 12,000).
- (2) The Board drastically revised its current procedures of reviewing cases. The drastic change means near abandonment of the case-by-case approach. Several Board Members would object to this blanket approach, and other Board Members might consider it an abridgment of due process.
- (3) Two hundred and eighty (280) additional unreimbursible detailees are provided, (185 professionals and 95 secretarial/clerical). Detailees would continue and unanticipated funds would be used until June 30, the end of FY 1975. After that date, non-reimbursible detailees would be provided immediately. Appropriations for FY 76 would be requested from the Congress.
- (4) Five additional Board Members are named.
- (5) Board Member-days per month are increased to 90, and case review is increased to 3,500 cases per month by April 1.

Estimated Cost: \$95,000 + (Extra detailees may involve additional overhead.)

Sources: Unanticipated personnel needs fund.

Alternative B: (Completion by December 31, 1975)

Assumptions:

- (1) Same as A above (10,500 to 12,000 cases).
- (2) The Board partially revises its current procedures of reviewing cases.
- (3) One hundred and five (105) additional paid staff are provided (70 professionals and 35 secretarial/clerical).
- (4) One new Board member is named.
- (5) Board member-days per month are increased to 55, and case review is increased to 1100 cases per month by April 1.

Estimated Cost: \$1,365,000

Sources: \$95,000 for the remainder of FY 1975 from unanticipated personnel needs fund, plus \$1,270,000 from Congress for FY 1976.

Alternative C: (Completion by September 30, 1975)

Assumptions:

- (1) Same as A above (10,500 to 12,000 cases).
- (2) Same as B above (partial revision of current Board procedures).
- (3) One hundred-eighty (180) additional paid staff are provided (120 professionals and 60 clerical).
- (4) Five additional Board members are named.
- (5) Board member-days per month are increased to 90, and case review is increased to 1800 per month by April 1.

Estimated Cost: \$170,000

Sources: Unanticipated personnel needs fund. (Technically, OMB counsel says that unanticipated reserve funds cannot be obligated beyond June 30; however, this alternative anticipates completion by June 30 with a spillover of three months).

extra
CEG

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON
April 18, 1975

ACTION

MEMORANDUM FOR THE PRESIDENT

Charles E. Goodell
FROM: 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.

Non-Council

Judy Johnson
456-2219

needs comments

9/8 - 3:30 p.m.

9/8/75
3:3 p.m.



Larry -

Judy Johnson of the
Domestic Council

called to say she was
asked to have our
comments ~~of~~ on the
Lynn Exec. Order today.
I told her maybe
tomorrow.

- Evelyn

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 7500127

Date: September 4

Time: 1230pm

FOR ACTION: Charles Goodell
 Max Friedersdorf
 Ken Lazarus/Jay French
 Paul Theis
~~Dick~~ Parsons
 NSC/S

cc (for information): Jim Cavanaugh
 Jack Marsh
 Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: September 5

Time: 200pm

SUBJECT:

Executive Order - Termination of Clemency Board

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

call comments to
 Please ~~return~~ to Judy Johnston, Ground Floor West Wing
 456-2219

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James R. Cavanaugh



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 3 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Termination of Clemency Board

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

The Executive Order specifically:

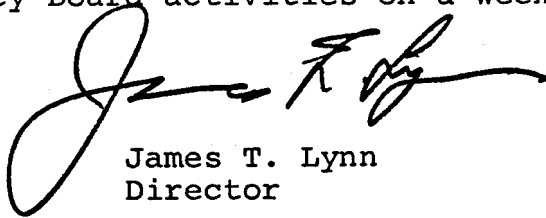
- Terminates the Presidential Clemency Board on September 15, 1975, in accordance with your decision of February 27, 1975.
- Delegates carry-over workload to the Department of Justice and requires DOJ to complete these carry-over activities by March 31, 1976.
- Delegates authority to OMB to take the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

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

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

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

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



James T. Lynn
Director

Attachment

ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES
OF THE PRESIDENTIAL CLEMENCY BOARD

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

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

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

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

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

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

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

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

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

L. BUKY

Draft Statement for the President

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

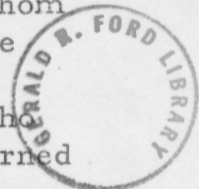
One year ago tomorrow, I established the Presidential Clemency Board as a temporary organization within the White House, in order to carefully consider on a case-by-case basis whether applicants to it ought to be granted clemency, and on what terms. As I had intended, the Board gave careful attention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

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

Each case reviewed individually. consistent results. Justice in each case. They did an outstanding job in the public service.

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

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



Full accord to rights of citizens. to recognition of those who served ultimately, fought, died, sacrificed. Many not inconsistent.

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

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

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

THE WHITE HOUSE

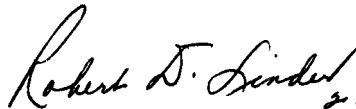
WASHINGTON

September 15, 1975

Dear Mr. Chairman:

The enclosed copy of an Executive Order by the President, entitled "Assigning Responsibilities Relating to Activities of the Presidential Clemency Board," is transmitted for the files of the Presidential Clemency Board.

Sincerely,



Robert D. Linder
Chief Executive Clerk

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

Enclosure



Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES
OF THE PRESIDENTIAL CLEMENCY BOARD

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

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

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

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

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

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

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

more

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

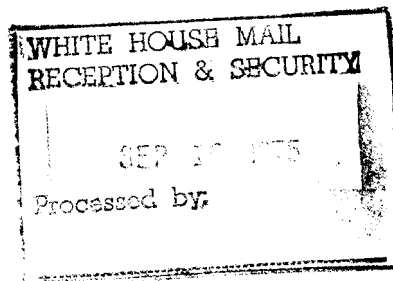
GERALD R. FORD

THE WHITE HOUSE,
SEPTEMBER 10, 1975

#

THE WHITE HOUSE

The Honorable Charles E. Goodell
Chairman
Presidential Clemency Board
Executive Office Building
Room 360
Washington, D. C. 20500



September 22, 1975

The President
The White House
Washington, D. C. 20500



Dear Mr. President:

We are concerned that a public airing of the understandable differences of opinion among the eighteen members of the Board will do unnecessary damage to the success your program has had in healing the divisions in our country. We are especially disturbed at the unwarranted attacks that have been leveled at the Chairman, the Board, and the executive staff.

On behalf of the undersigned members, we wish to commend you in your choice of Charles E. Goodell as our Chairman. Overwhelmingly, the majority of those you appointed support your choice. He was an extremely competent, dedicated, ethical, and tireless leader.

The Guidelines and procedures established by Chairman Goodell and The Board assured each applicant a democratic hearing with just and due process. The Board recommended to you clemency only for the qualifying military and draft evasion offenses of a given applicant in accordance with our charter.

Chairman Goodell and the Board carried out the intent of your program both with healing compassion and within the legal parameters you set. He, in turn, directed a highly professional and competent staff that exhibited the highest moral and ethical values and judgment. The Chairman did an excellent job in mediating extremely opposite views and proved to be a moderating force. We wish the minority members of the Board had given to us and the Chairman the opportunity to see their report before it was released to the public.

We feel the clemency program initiated by a courageous President has contributed toward healing the wounds of Vietnam. We are honored to have been asked by you to serve with Chairman Goodell in this important task.

Although we did not have the opportunity to obtain the signatures of all the people listed below, each has been contacted, and all of them personally subscribe to the contents of this letter.

Sincerely,

Robert S. Carter

John H. Kauffmann

Timothy L. Craig

James A. Maye

John Everhard

E. Frederic Morrow

W. Antoinette Ford

Lewis B. Puller

Rev. Theodore M. Hesburgh

Aida Casanas O'Connor

Vernon E. Jordan

Joan Vinson

Rev. Francis J. Lally

September 23, 1975



Honorable Gerald R. Ford
The White House
Washington, D. C.

Dear President Ford:

While there were times during the year when I regretted having said "yes" when invited to serve on the Presidential Clemency Board, especially when problems mounted and decisions became very difficult, I must say in retrospect that it has been a great experience and I am grateful to you for making it possible. I have high hopes that during the year ahead we will be able to stand back and take a longer look at the great mass of facts that have been compiled and see emerging from them great public policies that will make for a stronger and better America. None of this would have been possible without your having initiated the program in the first place. While all of us, like you yourself, received many nasty letters from the right and the left, I am sure in retrospect and, especially in historical perspective, this will emerge as one of the most generous and responsible programs in national clemency. There may well be more tasks yet to perform, but at least you should take some pride and satisfaction from the thought that many thousands of young men do indeed have a new lease on life, thanks to your initiative.

All best wishes and prayers from here.

Cordially yours,

(Rev.) Theodore M. Hesburgh, C.S.C.
President

cc: Mr. Bundy
Mr. Goodell

THE WHITE HOUSE

WASHINGTON

September 18, 1975

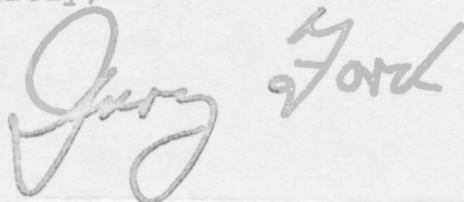
Dear Father Ted:

It is a special pleasure for me to thank you for your dedicated service during the past year as a member of the Presidential Clemency Board.

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

You have earned the lasting gratitude of your fellow citizens and you have my best wishes for the future.

Sincerely,

A handwritten signature in cursive script that reads "Jimmy Ford". The signature is written in dark ink and is positioned below the word "Sincerely,".

The Reverend Theodore H. Hesburgh, C.S.C.
Corby Hall
University of Notre Dame
South Bend, Indiana 46556

MEMORANDUM FOR THE PRESIDENT

FROM: Charles E. Goodell

Subject: Unfinished Clemency Business: ACTION



When the Presidential Clemency Board disbanded last year, we left on your desk a number of recommendations on which you have not taken action. I propose that you implement those recommendations and an additional one now, in an act of Christmas clemency reminiscent of that which President Truman took when he was about to leave office in 1952.

ISSUE 1

Should you direct the Secretary of Defense to issue military discharges under honorable conditions to 253 Vietnam veterans whom the Board found to be particularly deserving of more than a Clemency Discharge?

BACKGROUND and DISCUSSION

The Clemency Board was appalled to find that a significant number of the veterans who received "bad paper" discharges, and then applied to us for clemency, were cashiered from the services after establishing outstanding records in combat in Vietnam. Some of our military applicants had wounds from Vietnam service, decorations for unusual valor in combat, multiple tours of honorable military service in the combat zone, and a record of volunteering for hazardous duty.

These exceptional veterans typically came home to garrison duty, couldn't take the boring duty or ran into a spit-and-polish junior officer who had never been in combat, and simply cracked up. Often they had suffered severe psychological injuries in Vietnam, and went untreated until they went AWOL. Sometimes they found unanticipated family problems at home, and that extra pressure caused them to desert. In a striking number of these cases, they cracked up and went AWOL after they had made requests to return to combat for a second or a third tour, and had been turned down.

We owe these men a special debt of gratitude, both because they are the most poignant emotional wreckage of the Vietnam war and because they served their country with unusual courage before they cracked up, went AWOL, and were cashiered with a bad discharge.

The Vietnam veterans who sat on the Board with me, particularly General Lew Walt and Jim Maye, felt especially strongly that these 253 cases should be treated very differently from the rest of our clemency applicants. The Board members who were Vietnam veterans took pains to discuss these cases with leaders of the various veterans organizations, and received from those leaders unanimous support that these special cases deserve a special remedy over and above the benefits which we offered on your behalf to all clemency applicants.

Our Vietnam veteran Board members, led by General Walt, felt so strongly about these cases that they wrote a memorandum to you on February 6, 1975, recommending that you upgrade the discharges of these types of cases to a discharge "under honorable conditions" (either General or Honorable, depending on the facts of the individual case) with automatic entitlement to veterans' benefits.

The Board made directly to you 103 recommendations for immediate discharge upgrading, and another 150 recommendations for upgrading by the military discharge review boards. We saw the priority 103 cases as being combat heroes, about whom there could be no possible doubt. For all 253 cases, a Clemency Discharge does not reflect what the country owes them, and does not confer entitlement to veterans' benefits which we feel that they have earned.

When we recommended the first of these cases to you in December 1974, the Department of the Army protested on the ground that your directing the issuance of upgraded discharges would be going outside the established process for reviewing upgrade applicants. We noted that your directing an immediate upgrade in unusual cases is within your authority as Commander-in-Chief, permissible under applicable law, and consistent with the spirit of your clemency proclamation.

It is interesting that the Department of Defense, having protested against the granting of discharges under honorable conditions to clemency applicants, found themselves faced with exactly the same problem we discovered: a number of deserters who had served exceptionally well in Vietnam before their offense, and who deserved a General or an Honorable Discharge on the strength of their whole records. For the first 4 months of the clemency program, the Department granted 3 dozen upgradings by removing the exceptional cases from its normal clemency processing at Fort Benjamin Harrison and sending them to other military bases for upgraded discharge processing.

The Department then decided that the commandant of "Fort Ben" had the authority to issue upgraded discharges himself in unusual cases, and he proceeded to do so in at least 5 dozen General Discharges and up to a dozen Honorable Discharges, all entitled to full veterans' benefits.

Faced with the same problem, the military services responded with exactly the same remedy which we have recommended to you in connection with the Board's cases.

These 253 exceptional clemency cases are not at all the kinds of people who fled to Canada or Sweden. They served courageously in combat, cracked, and then were stigmatized despite their unusually valorous records by military discharges under "other than honorable conditions." As an act of Christmas clemency, I propose that you direct that their discharges be upgraded immediately.

ISSUE 2

Should you direct the Veterans Administration to offer medical benefits to 400 deserters who are permanently disabled as a consequence of wounds suffered in Vietnam?

BACKGROUND and DISCUSSION

Led by the Vietnam veterans on the Board, we recommended to you that you direct the Veterans Administration to offer medical benefits to 400 deserters with bad discharges who are permanently disabled from Vietnam wounds. We did not feel that these cases deserved upgraded discharges beyond the Clemency Discharge, but we concluded that the nation owes them treatment for their disabling wounds suffered in Vietnam combat despite the fact that they subsequently deserted.

These cases are not otherwise eligible for veterans benefits, and many of them have not served the requisite 180 days which would make veterans benefits an issue. We recommend that you grant them medical benefits as a special form of clemency, not entitling them to any other kind of benefits.

ISSUE 3

Should you direct the Department of Defence and the Veterans Administration to cease treatment of the Clemency Discharge as presumptively "other than honorable"? Three questions arise.

ISSUE 3a

Should you direct the Secretary of Defence to amend the discharge papers issued to military clemency recipients so as to indicate that a Clemency Discharge is not issued "under other than honorable conditions"?

BACKGROUND and DISCUSSION

Your clemency proclamation directed a Clemency Discharge be issued "in lieu of" a prior discharge under other than honorable conditions, and your executive order establishing the Clemency Board directed that a Clemency Discharge be issued to cases under the Board's jurisdiction "substituted for" a prior discharge under other than honorable conditions.

We have interpreted your intent as being that a Clemency Discharge be a truly neutral discharge, removing from the clemency recipient the stigma of being discharged "under other than honorable conditions", but not conferring upon him the distinction of being discharged under honorable conditions.

The Department of Defence, however, has officially taken the view that a Clemency Discharge is not intended, in any way, to effect a recharacterization of the recipient's under-other-than-honorable-conditions discharge, and that a Clemency Discharge is considered by the Department to be "equal to, and on a par with, an undesirable discharge".

The Department has implemented its perception of the Clemency Discharge in two ways which effectively continue to stigmatize the recipient of the Clemency Discharge:

- (i) The recipient's DD Form 214 (discharge form) is not amended, when he receives a Clemency Discharge to replace his bad discharge, in either the "type of discharge" box or the "character of service" box. He is issued a DD Form 215 ("Correction to DD Form 214") which notes that he has received a Clemency Discharge for satisfactory completion of alternative service, but he is not issued a new discharge form--a new DD Form 214--to show potential employers.

Even after you have given him clemency, his DD Form 214 continues to indicate that his character of service was unsatisfactory and that he received a Dishonorable Discharge, a Bad Conduct Discharge, or an Undesirable Discharge "under conditions other than honorable". That is what a potential employer sees when the clemency recipient applies for a job.

We cannot believe that you intended that, and the Board has recommended that you direct the Secretary of Defence to issue to recipients of a Clemency Discharge a new DD Form 214 which characterizes their service neutrally (though not necessarily with the term "satisfactory") and does not indicate the prior discharge which the Clemency Discharge has replaced.

- (ii) The clemency recipient's record, open to potential employers and others, continues to indicate that he once received a Dishonorable Discharge, a Bad Conduct Discharge, or an Undesirable Discharge, and that his service has been characterized as "unsatisfactory". When a potential employer checks that record, the clemency recipient's probability of getting a job will be nil.

This, too, is an outcome which we do not believe you intended when you signed the clemency proclamation.

We have recommended to you that, in addition to issuing a new, neutral DD Form 214, the Department of Defence seal, except for security check purposes, the prior discharge record of persons to whom you have granted a Clemency Discharge.

I propose that now, in an act of Christmas clemency sealing a major unintended gap in your clemency program, you direct the Secretary of Defence to issue to all military clemency recipients a new, neutral DD Form 214, and to seal their prior discharge records except for security checks. I propose also that in your **directive** to the Secretary, you emphasize your original intent that the Clemency Discharge replaces a prior discharge "under **other** than honorable conditions", instead of being just another name for that class of discharge.

ISSUE 3b

Should you direct the Secretary of Defence to instruct military discharge review boards to treat desertion offenses which you have pardoned, under your clemency program, as if those offenses are not in a serviceman's record at all?

BACKGROUND and DISCUSSION

Each military department has a discharge review board, to which veterans have a right to apply for review and upgrading of their military discharge. Veterans who have received clemency from you for AWOL and desertion offenses retain the right to apply for upgrading of their Clemency Discharge to a General or an Honorable Discharge.

By the terms of your Proclamation, the Clemency Discharge does not bestow entitlement to Veterans Administration benefits. Holders of a General or an Honorable Discharge do gain entitlement to those benefits.

The Clemency Board unanimously recommended to you that when veterans to whom you have granted clemency apply to a discharge review board, the board treat the offense which you have pardoned as if it were not in the applicant's file at all.

If the applicant's record as a whole, aside from the pardoned AWOL or desertion, does not merit upgrading, the discharge review boards would remain free to deny upgrading to applicants with a Clemency Discharge. It seemed to the Clemency Board inequitable and perverse, however, that a discharge review board is able to deny upgrading to a veteran with a Clemency Discharge because of an AWOL or desertion offense which you have pardoned.

I propose that you direct the Secretary of Defence to instruct the discharge review boards to give full effect to your grants of clemency by treating an offense which you have pardoned as if that offense were not in an applicant's record.

ISSUE 3c

Should you direct the Veterans Administration to treat requests for veterans' benefits by clemency recipients as if the offenses which you have pardoned are not in the applicants' records at all?

BACKGROUND and DISCUSSION

Your clemency proclamation stipulates that a Clemency Discharge "shall not bestow entitlement to benefits administered by the Veterans Administration". Where the recipient of a Clemency Discharge was previously ineligible for VA benefits by virtue of his Bad Conduct Discharge or Dishonorable Discharge, he therefore remains ineligible for VA benefits even after that discharge has been replaced by a Clemency Discharge.

If the recipient of a Clemency Discharge previously had an

Undesirable Discharge, his eligibility for VA benefits remains exactly as it was before he received clemency: the VA may bestow benefits upon him at its discretion as a matter of privilege, but he has no legal right to any benefits.

As a practical matter, the VA bestows benefits upon only a marginal number of applicants with Undesirable Discharges. Like discharge review boards, the VA has treated the Clemency Discharge as basis for a presumption against granting applications for benefits. I am unaware of any holder of a Clemency Discharge who has received VA benefits.

The Clemency Board has recommended to you that you give full effect to your grant of clemency to veterans by directing the VA to treat requests for benefits by Clemency Discharge holders as if the offense which you have pardoned is not in the record. The VA may then determine on a case by case basis whether a veteran's record, absent the pardoned AWOL or desertion, merits a grant of veterans' benefits.

The VA may still elect to deny benefits to many applicants with Clemency Discharges on the basis of their whole record, but surely you could not have intended that the VA treat the Clemency Discharge exactly like an Undesirable Discharge which it has replaced, by denying benefits to a veteran on the basis of an AWOL or desertion offense which you have pardoned.

I propose that you direct the VA in accordance with the Clemency Board's unanimous recommendation.

ISSUE 4

Should you grant clemency to approximately 1000 applicants who have committed another crime in addition to the draft evasion or AWOL/desertion offense for which clemency has been recommended by the Clemency Board?

BACKGROUND and DISCUSSION

Your clemency proclamation contemplated that some persons will be eligible for clemency who "have other criminal charges outstanding" or have "additional outstanding charges...under the Uniform Code of Military Justice", and suggested that such persons would remain eligible for clemency whatever the final disposition of such charges.

Moreover, your executive order establishing the Presidential Clemency Board stipulated that the Board give priority consideration to applicants then confined for an evasion or AWOL/desertion offense, "and who have no outstanding criminal charges". The language suggests that after that priority has been attended to, it is implicitly contemplated that the Board consider the cases of those with outstanding criminal charges or criminal records.

Pursuant to these inferences from the clear language of the proclamation and the executive order, the Board in its final weeks considered the cases of applicants with records of civilian or military offenses in addition to the offense for which they sought clemency. We recommended that about

1000 of these applicants be granted some form of clemency for their evasion or AWOL/desertion offense. We did not contemplate that your pardon reach their other offenses, nor that prison sentences for other offences be affected by clemency for the draft or AWOL/desertion offense.

Board's standards on felonies

We did feel, however, that where someone with another offense deserved clemency--in comparison with our other cases--just for his draft or absentee offense, you should treat him equitably by granting him clemency for that offense only.

Your Counsel's Office has held up the Board's recommendations to you on these cases for over a year, and these 1000 applicants have been left in limbo during that time. With Christmas approaching, this seems an appropriate moment to repeat to you the Board's recommendations on these cases, and to urge you to finally dispose of these cases after the protracted delay.

It is cruel, particularly as you leave office, to leave these 1000 persons in an indefinite limbo.

ISSUE 5

Should you grant temporary visas to exile draft evaders and deserters to permit them to visit their families during this Christmas season for 30 days?

BACKGROUND and DISCUSSION

On the first four issues I have represented the Board's recommendations to you. The Board has not considered this last issue, and I therefore make this recommendation on my own motion.

As a practical matter, the Justice Department has not chosen to spend its resources in going after fugitive draft evaders and AWOLs/deserters. Most of those persons can visit their families over Christmas if they so choose without fear of arrest, although it would be a generous gesture if you formalized what is already happening with an order to the Department to leave them alone for 30 days in order to enable them to make those visits without a trace of fear.

Carter

Those fugitives who have gone into exile abroad, however, are barred by the Immigration and Naturalization Service (INS) from returning at any time.

As a Christmas gesture, I propose that you direct INS to grant temporary visas for 30 days to anyone who wants to visit his family in the Christmas season and who would otherwise be denied entry to the country by INS by reason of draft evasion or of a military absence offence, and that you direct the Justice Department to leave them alone during that visit.

CONCLUSION

At Christmas 1952, President Truman granted amnesty to 9000 Korean War deserters, who had not been covered under his previous clemency program.

Those deserters were probably much like the cases which came to the Clemency Board, most of which turned out to have nothing to do with opposition to the Vietnam war. Most of the offences were generated by some kind of family hardship--a wife who was leaving the serviceman in Vietnam, a father who had died leaving a family without any means of support, an acutely ill mother, wife, or child. Many or most of our applicants should have received hardship or other deferments, or compassionate reassignments, emergency leaves, or hardship discharges from the military.

Over half of the applicants to the Board never completed high school, however. They were generally unsophisticated, inarticulate people who were unable to pursue within the legal system the remedies which they deserved. They were too uneducated to weave their way through the maze of regulations and hearings, nobody on the draft boards and in the military offered them any help, so they wound up with criminal records for draft evasion and military absence offences.

More clever and articulate people with exactly the same family problems were able to get a better shake out of the system, often with expensive legal help, and emerged without criminal records.

Four thousand applicants to the Board were actually Vietnam combat veterans, many of them with multiple tours in the war zone, wounds, and decorations. They had emotional problems in the war zone or when they got home, received inadequate medical assistance from the services, and just cracked up. ?

These kinds of people deserve our compassion, and are quite different from the popular stereotype of the Vietnam draft evader or deserter. They are inconsistent with the image which the Board members had of the typical evader or resister before we started examining the cases, and I believe that they are very different from the perception you had of the typical evader or deserter when you initiated the clemency program.

These unfortunate orphans of our complicated draft and military administrative systems need every last bit of help which you can give to make your clemency program meet its promise to them.

It is for these reasons, and in the spirit of the Christmas season, that I urge you now to approve the recommendations in this memorandum.

RECOMMENDATIONS

1. Direct the Secretary of Defence to issue discharges under honorable conditions, pursuant to the Board's recommendations to you, to 253 Vietnam veterans with especially meritorious records.

Approve _____

Disapprove _____

2. Direct the Veterans Administration to offer medical benefits, pursuant to the Board's recommendations to you, to 400

deserters who are permanently disabled as a consequence of wounds suffered in Vietnam, and who are not otherwise eligible for any VA benefits.

Approve _____

Disapprove _____

- 3a. Direct the Secretary of Defence to issue to all Clemency Discharge recipients a new DD Form 214 which does not indicate "unsatisfactory" character of service and which indicates in the "type of discharge" box only that they have received a Clemency Discharge.

Approve _____

Disapprove _____

Direct the Secretary of Defence to give full effect to that new DD Form 214 by sealing, except for security check purposes, the prior discharge record of persons who have received a Clemency Discharge.

Approve _____

Disapprove _____

- 3b. Direct the Secretary of Defence to instruct military discharge review boards to give full effect to your grants of clemency by treating an offense which you have pardoned, under your clemency program, as if that offense were not in the record of an applicant for discharge review who holds a Clemency Discharge.

Approve _____

Disapprove _____

- 3c. Direct the Veterans Administration to give full effect to your grants of clemency by treating an offense which you have pardoned, under your clemency program, as if that offense were not in the record of an applicant for VA benefits who holds a Clemency Discharge.

Approve _____

Disapprove _____

4. Grant clemency, pursuant to the Board's recommendations, to approximately 1000 applicants who have committed another crime in addition to the draft evasion or military absence offense with respect to which the Board has recommended clemency.

Approve _____

Disapprove _____

- 5a. Direct the Immigration and Naturalization Service (INS) to grant temporary visas for 30 days to exile draft evaders and deserters who seek entry into the United States not later than January 3, and who would otherwise be denied entry by reason of a draft evasion or military absence offense.

Approve _____

Disapprove _____

- 5b. Direct the Department of Justice to initiate no new investigation or arrest of an alleged draft evader or military absentee prior to February 7, and to assign lowest priority thereafter to follow-up on information about such a person gained by reason of a Christmas visit under a temporary Christmas visa.

Approve _____

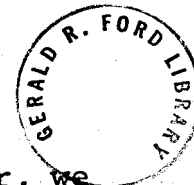
Disapprove _____

December 3, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Charles E. Goodell

Subject: Unfinished Clemency Business: ACTION



When the Presidential Clemency Board disbanded last year, we left on your desk a number of recommendations on which you have not taken action. I propose that you implement those recommendations and an additional one now, in an act of Christmas clemency reminiscent of that which President Truman took when he was about to leave office in 1952.

ISSUE 1

Should you direct the Secretary of Defense to issue military discharges under honorable conditions to 253 Vietnam veterans whom the Board found to be particularly deserving of more than a Clemency Discharge?

BACKGROUND and DISCUSSION

The Clemency Board was appalled to find that a significant number of the veterans who received "bad paper" discharges, and then applied to us for clemency, were cashiered from the services after establishing outstanding records in combat in Vietnam. Some of our military applicants had wounds from Vietnam service, decorations for unusual valor in combat, multiple tours of honorable military service in the combat zone, and a record of volunteering for hazardous duty.

These exceptional veterans typically came home to garrison duty, couldn't take the boring duty or ran into a spit-and-polish junior officer who had never been in combat, and simply cracked up. Often they had suffered severe psychological injuries in Vietnam, and went untreated until they went AWOL. Sometimes they found unanticipated family problems at home, and that extra pressure caused them to desert. In a striking number of these cases, they cracked up and went AWOL after they had made requests to return to combat for a second or a third tour, and had been turned down.

We owe these men a special debt of gratitude, both because they are the most poignant emotional wreckage of the Vietnam war and because they served their country with unusual courage before they cracked up, went AWOL, and were cashiered with a bad discharge.

The Vietnam veterans who sat on the Board with me, particularly General Lew Walt and Jim Maye, felt especially strongly that these 253 cases should be treated very differently from the rest of our clemency applicants. The Board members who were Vietnam veterans took pains to discuss these cases with leaders of the various veterans organizations, and received from those leaders unanimous support that these special cases deserve a special remedy over and above the benefits which we offered on your behalf to all clemency applicants.

Our Vietnam veteran Board members, led by General Walt, felt so strongly about these cases that they wrote a memorandum to you on February 6, 1975, recommending that you upgrade the discharges of these types of cases to a discharge "under honorable conditions" (either General or Honorable, depending on the facts of the individual case), with automatic entitlement to veterans' benefits.

The Board made directly to you 103 recommendations for immediate discharge upgrading, and another 150 recommendations for upgrading by the military discharge review boards. We saw the priority 103 cases as being combat heroes, about whom there could be no possible doubt. For all 253 cases, a Clemency Discharge does not reflect what the country owes them, and does not confer entitlement to veterans' benefits which we feel that they have earned.

When we recommended the first of these cases to you in December 1974, the Department of the Army protested on the ground that your directing the issuance of upgraded discharges would be going outside the established process for reviewing upgrade applicants. We noted that your directing an immediate upgrade in unusual cases is within your authority as Commander-in-Chief, permissible under applicable law, and consistent with the spirit of your clemency proclamation.

It is interesting that the Department of Defense, having protested against the granting of discharges under honorable conditions to clemency applicants, found themselves faced with exactly the same problem we discovered: a number of deserters who had served exceptionally well in Vietnam before their offense, and who deserved a General or an Honorable Discharge on the strength of their whole records. For the first 4 months of the clemency program, the Department granted 3 dozen upgradings by removing the exceptional cases from its normal clemency processing at Fort Benjamin Harrison and sending them to other military bases for upgraded discharge processing.

The Department then decided that the commandant of "Fort Ben" had the authority to issue upgraded discharges himself in unusual cases, and he proceeded to do so in at least 5 dozen General Discharges and up to a dozen Honorable Discharges, all entitled to full veterans' benefits.

Faced with the same problem, the military services responded with exactly the same remedy which we have recommended to you in connection with the Board's cases.

These 253 exceptional clemency cases are not at all the kinds of people who fled to Canada or Sweden. They served courageously in combat, cracked, and then were stigmatized despite their unusually valorous records by military discharges under "other than honorable conditions." As an act of Christmas clemency, I propose that you direct that their discharges be upgraded immediately.

ISSUE 2

Should you direct the Veterans Administration to offer medical benefits to 400 deserters who are permanently disabled as a consequence of wounds suffered in Vietnam?

BACKGROUND and DISCUSSION

Led by the Vietnam veterans on the Board, we recommended to you that you direct the Veterans Administration to offer medical benefits to 400 deserters with bad discharges who are permanently disabled from Vietnam wounds. We did not feel that these cases deserved upgraded discharges beyond the Clemency Discharge, but we concluded that the nation owes them treatment for their disabling wounds suffered in Vietnam combat despite the fact that they subsequently deserted.

These cases are not otherwise eligible for veterans benefits, and many of them have not served the requisite 180 days which would make veterans benefits an issue. We recommend that you grant them medical benefits as a special form of clemency, not entitling them to any other kind of benefits.

ISSUE 3

Should you direct the Department of Defence and the Veterans Administration to cease treatment of the Clemency Discharge as presumptively "other than honorable"? Three questions arise.

ISSUE 3a

Should you direct the Secretary of Defence to amend the discharge papers issued to military clemency recipients so as to indicate that a Clemency Discharge is not issued "under other than honorable conditions"?

BACKGROUND and DISCUSSION

Your clemency proclamation directed a Clemency Discharge be issued "in lieu of" a prior discharge under other than honorable conditions, and your executive order establishing the Clemency Board directed that a Clemency Discharge be issued to cases under the Board's jurisdiction "substituted for" a prior discharge under other than honorable conditions.

We have interpreted your intent as being that a Clemency Discharge be a truly neutral discharge, removing from the clemency recipient the stigma of being discharged "under other than honorable conditions", but not conferring upon him the distinction of being discharged under honorable conditions.

The Department of Defence, however, has officially taken the view that a Clemency Discharge is not intended, in any way, to effect a recharacterization of the recipient's under-other-than-honorable-conditions discharge, and that a Clemency Discharge is considered by the Department to be "equal to, and on a par with, an undesirable discharge".

The Department has implemented its perception of the Clemency Discharge in two ways which effectively continue to stigmatize the recipient of the Clemency Discharge:

- (i) The recipient's DD Form 214 (discharge form) is not amended, when he receives a Clemency Discharge to replace his bad discharge, in either the "type of discharge" box or the "character of service" box. He is issued a DD Form 215 ("Correction to DD Form 214") which notes that he has received a Clemency Discharge for satisfactory completion of alternative service, but he is not issued a new discharge form--a new DD Form 214--to show potential employers.

Even after you have given him clemency, his DD Form 214 continues to indicate that his character of service was unsatisfactory and that he received a Dishonorable Discharge, a Bad Conduct Discharge, or an Undesirable Discharge "under conditions other than honorable". That is what a potential employer sees when the clemency recipient applies for a job.

We cannot believe that you intended that, and the Board has recommended that you direct the Secretary of Defence to issue to recipients of a Clemency Discharge a new DD Form 214 which characterizes their service neutrally (though not necessarily with the term "satisfactory") and does not indicate the prior discharge which the Clemency Discharge has replaced.

- (ii) The clemency recipient's record, open to potential employers and others, continues to indicate that he once received a Dishonorable Discharge, a Bad Conduct Discharge, or an Undesirable Discharge, and that his service has been characterized as "unsatisfactory". When a potential employer checks that record, the clemency recipient's probability of getting a job will be nil.

This, too, is an outcome which we do not believe you intended when you signed the clemency proclamation.

We have recommended to you that, in addition to issuing a new, neutral DD Form 214, the Department of Defence seal, except for security check purposes, the prior discharge record of persons to whom you have granted a Clemency Discharge.

I propose that now, in an act of Christmas clemency sealing a major unintended gap in your clemency program, you direct the Secretary of Defence to issue to all military clemency recipients a new, neutral DD Form 214, and to seal their prior discharge records except for security checks. I propose also that in your directive to the Secretary, you emphasize your original intent that the Clemency Discharge replaces a prior discharge "under **other** than honorable conditions", instead of being just another name for that class of discharge.

ISSUE 3b

Should you direct the Secretary of Defence to instruct military discharge review boards to treat desertion offenses which you have pardoned, under your clemency program, as if those offenses are not in a serviceman's record at all?

BACKGROUND and DISCUSSION

Each military department has a discharge review board, to which veterans have a right to apply for review and upgrading of their military discharge. Veterans who have received clemency from you for AWOL and desertion offenses retain the right to apply for upgrading of their Clemency Discharge to a General or an Honorable Discharge.

By the terms of your Proclamation, the Clemency Discharge does not bestow entitlement to Veterans Administration benefits. Holders of a General or an Honorable Discharge do gain entitlement to those benefits.

The Clemency Board unanimously recommended to you that when veterans to whom you have granted clemency apply to a discharge review board, the board treat the offense which you have pardoned as if it were not in the applicant's file at all.

If the applicant's record as a whole, aside from the pardoned AWOL or desertion, does not merit upgrading, the discharge review boards would remain free to deny upgrading to applicants with a Clemency Discharge. It seemed to the Clemency Board inequitable and perverse, however, that a discharge review board is able to deny upgrading to a veteran with a Clemency Discharge because of an AWOL or desertion offense which you have pardoned.

I propose that you direct the Secretary of Defence to instruct the discharge review boards to give full effect to your grants of clemency by treating an offense which you have pardoned as if that offense were not in an applicant's record.

ISSUE 3c

Should you direct the Veterans Administration to treat requests for veterans' benefits by clemency recipients as if the offenses which you have pardoned are not in the applicants' records at all?

BACKGROUND and DISCUSSION

Your clemency proclamation stipulates that a Clemency Discharge "shall not bestow entitlement to benefits administered by the Veterans Administration". Where the recipient of a Clemency Discharge was previously ineligible for VA benefits by virtue of his Bad Conduct Discharge or Dishonorable Discharge, he therefore remains ineligible for VA benefits even after that discharge has been replaced by a Clemency Discharge.

If the recipient of a Clemency Discharge previously had an

Undesirable Discharge, his eligibility for VA benefits remains exactly as it was before he received clemency: the VA may bestow benefits upon him at its discretion as a matter of privilege, but he has no legal right to any benefits.

As a practical matter, the VA bestows benefits upon only a marginal number of applicants with Undesirable Discharges. Like discharge review boards, the VA has treated the Clemency Discharge as basis for a presumption against granting applications for benefits. I am unaware of any holder of a Clemency Discharge who has received VA benefits.

The Clemency Board has recommended to you that you give full effect to your grant of clemency to veterans by directing the VA to treat requests for benefits by Clemency Discharge holders as if the offense which you have pardoned is not in the record. The VA may then determine on a case by case basis whether a veteran's record, absent the pardoned AWOL or desertion, merits a grant of veterans' benefits.

The VA may still elect to deny benefits to many applicants with Clemency Discharges on the basis of their whole record, but surely you could not have intended that the VA treat the Clemency Discharge exactly like an Undesirable Discharge which it has replaced, by denying benefits to a veteran on the basis of an AWOL or desertion offense which you have pardoned.

I propose that you direct the VA in accordance with the Clemency Board's unanimous recommendation.

ISSUE 4

Should you grant clemency to approximately 1000 applicants who have committed another crime in addition to the draft evasion or AWOL/desertion offense for which clemency has been recommended by the Clemency Board?

BACKGROUND and DISCUSSION

Your clemency proclamation contemplated that some persons will be eligible for clemency who "have other criminal charges outstanding" or have "additional outstanding charges...under the Uniform Code of Military Justice", and suggested that such persons would remain eligible for clemency whatever the final disposition of such charges.

Moreover, your executive order establishing the Presidential Clemency Board stipulated that the Board give priority consideration to applicants then confined for an evasion or AWOL/desertion offense, "and who have no outstanding criminal charges". The language suggests that after that priority has been attended to, it is implicitly contemplated that the Board consider the cases of those with outstanding criminal charges or criminal records.

Pursuant to these inferences from the clear language of the proclamation and the executive order, the Board in its final weeks considered the cases of applicants with records of civilian or military offenses in addition to the offense for which they sought clemency. We recommended that about

1000 of these applicants be granted some form of clemency for their evasion or AWOL/desertion offense. We did not contemplate that your pardon reach their other offenses, nor that prison sentences for other offences be affected by clemency for the draft or AWOL/desertion offense.

Bo's standard on felonies

We did feel, however, that where someone with another offense deserved clemency--in comparison with our other cases--just for his draft or absentee offense, you should treat him equitably by granting him clemency for that offense only.

Your Counsel's Office has held up the Board's recommendations to you on these cases for over a year, and these 1000 applicants have been left in limbo during that time. With Christmas approaching, this seems an appropriate moment to repeat to you the Board's recommendations on these cases, and to urge you to finally dispose of these cases after the protracted delay.

It is cruel, particularly as you leave office, to leave these 1000 persons in an indefinite limbo.

ISSUE 5

Should you grant temporary visas to exile draft evaders and deserters to permit them to visit their families during this Christmas season for 30 days?

BACKGROUND and DISCUSSION

On the first four issues I have represented the Board's recommendations to you. The Board has not considered this last issue, and I therefore make this recommendation on my own motion.

As a practical matter, the Justice Department has not chosen to spend its resources in going after fugitive draft evaders and AWOLs/deserters. Most of those persons can visit their families over Christmas if they so choose without fear of arrest, although it would be a generous gesture if you formalized what is already happening with an order to the Department to leave them alone for 30 days in order to enable them to make those visits without a trace of fear.

Carter

Those fugitives who have gone into exile abroad, however, are barred by the Immigration and Naturalization Service (INS) from returning at any time.

As a Christmas gesture, I propose that you direct INS to grant temporary visas for 30 days to anyone who wants to visit his family in the Christmas season and who would otherwise be denied entry to the country by INS by reason of draft evasion or of a military absence offence, and that you direct the Justice Department to leave them alone during that visit.

CONCLUSION

At Christmas 1952, President Truman granted amnesty to 9000 Korean War deserters, who had not been covered under his previous clemency program.

Those deserters were probably much like the cases which came to the Clemency Board, most of which turned out to have nothing to do with opposition to the Vietnam war. Most of the offences were generated by some kind of family hardship--a wife who was leaving the serviceman in Vietnam, a father who had died leaving a family without any means of support, an acutely ill mother, wife, or child. Many or most of our applicants should have received hardship or other deferments, or compassionate reassignments, emergency leaves, or hardship discharges from the military.

Over half of the applicants to the Board never completed high school, however. They were generally unsophisticated, inarticulate people who were unable to pursue within the legal system the remedies which they deserved. They were too uneducated to weave their way through the maze of regulations and hearings, nobody on the draft boards and in the military offered them any help, so they wound up with criminal records for draft evasion and military absence offences.

More clever and articulate people with exactly the same family problems were able to get a better shake out of the system, often with expensive legal help, and emerged without criminal records.

Four thousand applicants to the Board were actually Vietnam combat veterans, many of them with multiple tours in the war zone, wounds, and decorations. They had emotional problems in the war zone or when they got home, received inadequate medical assistance from the services, and just cracked up.

These kinds of people deserve our compassion, and are quite different from the popular stereotype of the Vietnam draft evader or deserter. They are inconsistent with the image which the Board members had of the typical evader or resister before we started examining the cases, and I believe that they are very different from the perception you had of the typical evader or deserter when you initiated the clemency program.

These unfortunate orphans of our complicated draft and military administrative systems need every last bit of help which you can give to make your clemency program meet its promise to them.

It is for these reasons, and in the spirit of the Christmas season, that I urge you now to approve the recommendations in this memorandum.

RECOMMENDATIONS

1. Direct the Secretary of Defence to issue discharges under honorable conditions, pursuant to the Board's recommendations to you, to 253 Vietnam veterans with especially meritorious records.

Approve _____

Disapprove _____

2. Direct the Veterans Administration to offer medical benefits, pursuant to the Board's recommendations to you, to 400

deserters who are permanently disabled as a consequence of wounds suffered in Vietnam, and who are not otherwise eligible for any VA benefits.

Approve _____

Disapprove _____

- 3a. Direct the Secretary of Defence to issue to all Clemency Discharge recipients a new DD Form 214 which does not indicate "unsatisfactory" character of service and which indicates in the "type of discharge" box only that they have received a Clemency Discharge.

Approve _____

Disapprove _____

Direct the Secretary of Defence to give full effect to that new DD Form 214 by sealing, except for security check purposes, the prior discharge record of persons who have received a Clemency Discharge.

Approve _____

Disapprove _____

- 3b. Direct the Secretary of Defence to instruct military discharge review boards to give full effect to your grants of clemency by treating an offense which you have pardoned, under your clemency program, as if that offense were not in the record of an applicant for discharge review who holds a Clemency Discharge.

Approve _____

Disapprove _____

- 3c. Direct the Veterans Administration to give full effect to your grants of clemency by treating an offense which you have pardoned, under your clemency program, as if that offense were not in the record of an applicant for VA benefits who holds a Clemency Discharge.

Approve _____

Disapprove _____

- 4. Grant clemency, pursuant to the Board's recommendations, to approximately 1000 applicants who have committed another crime in addition to the draft evasion or military absence offense with respect to which the Board has recommended clemency.

Approve _____

Disapprove _____

- 5a. Direct the Immigration and Naturalization Service (INS) to grant temporary visas for 30 days to exile draft evaders and deserters who seek entry into the United States not later than January 3, and who would otherwise be denied entry by reason of a draft evasion or military absence offense.

Approve _____

Disapprove _____

- 5b. Direct the Department of Justice to initiate no new investigation or arrest of an alleged draft evader or military absentee prior to February 7, and to assign lowest priority thereafter to follow-up on information about such a person gained by reason of a Christmas visit under a temporary Christmas visa.

Approve _____

Disapprove _____