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CJ

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE
WASHINGTON, D.C. 20500

August 1, 1975

MEMORANDUM

TO : All Hands

FROM : Lawrence M. Baskir *lmb*

At the Full Board meeting on the morning of July 31, 1975, several board members brought to my attention areas of uncertainty in the preparation of cases. Please conform your preparation and presentation of cases to the following:

1. Mitigating factor #3 is marked for drug addiction, but not for drug use.
2. "VCM" in the list of decorations means "Vietnam Campaign Medal", and not "Vietnam Commendation Medal." It is neither an award for valor nor a unit citation (Mit. #14 & 15).
3. Vietnamese decorations:
 - A. The Vietnam Cross of Gallantry (with palm) is a personal decoration, awarded by the Vietnamese government and approved by the U.S. Government. This medal is not listed on the Awards Chart since it is a Vietnamese medal, although it may be awarded to an American serviceman (Mit. #15).
 - B. The Republic of Vietnam Gallantry Cross Unit Citation (which has a palm and a metal border) is also awarded by the Vietnamese government, but it is not a personal decoration. It is (obviously) a unit citation (Mit #14).
4. Creditable time for a former serviceman does not include periods spent attending weekly or monthly meetings of an active duty reserve unit. It does include any periods of active duty for training (ACDUTRA) such as the initial training period, the two week summer camp, or any period of active duty of two weeks or longer which occurred during the reserve obligation (Mit. #6).
5. Unexecuted discharges from Special Court Martial:
 - A. If an applicant was awarded a suspended (unexecuted) punitive discharge by Special Courtmartial, subsequently went AWOL, and then the suspended discharge was imposed, there was no "Other adult conviction" and Aggravating Factor #1 is inapplicable. Aggravating Factor #7, violation of probation or parole, is applicable, however. The question of apprehension or voluntary submission is determined only by the last AWOL. If the unexecuted discharge was for an AWOL offense, then that period of absence should be counted towards the length of AWOL (Agg #9).

page 2

- B. If an applicant was awarded a suspended punitive discharge by Special Courtmartial, but for a subsequent AWOL he was given an Undesirable Discharge, then Aggravating Factor #1 is applicable, along with Aggravating Factor #7. The last AWOL again determines submission or apprehension; if the unexecuted discharge was for an AWOL offense, that period of absence should not be counted towards the length of AWOL (Agg #9), but towards multiple AWOLs (Agg. #8)


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

August 1, 1975



MEMORANDUM

TO: All Team Leaders and Asst. Team Leaders

FROM: Chuck Hilbert
Assistant General Counsel 

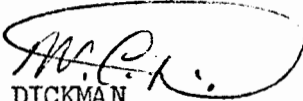
SUBJECT: Reconsideration of cases by Board resulting from new relevant information submitted by applicant

My team is now receiving all PCB correspondence from applicants. Most of the correspondence is in reference to case summaries. The correspondence is reviewed to determine whether it is in any possible way relevant to the decision reached by the Board. Relevance is taken to mean any information which might have affected the marking of an "Ag" or "Mit" factor, or which might have altered the term of alternative service assessed an applicant. If you have received a communication from an applicant which might be relevant and his case has been decided by the Board, the case must be stopped before the Board's decision goes to the White House. Please bring all such correspondence, as soon as possible, to Communications and Appeals, 2033 M St., 7th Floor, see Gil Weidenfeld. We have a procedure to stop those cases that may need to be re-presented. If you are uncertain if the correspondence you have is relevant bring it to us for a determination.

Case writers on all teams will be contacted if relevant correspondence is received for one of their cases.

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

TO: LARRY BASKIR

FROM: COLONEL WILLIAM C. DICKMAN 

DATE: AUGUST 4, 1975

SUBJECT: Minority Report to Director Pepitone
on Alternate Service



Attached please find a copy of the Minority Report signed by:

General Lewis W. Walt
James P. Dougovito
Dr. Ralph Adams
Colonel Harry Riggs

Would you please include it in the General Board Report when you send that along to Selective Service.

Also, I would appreciate receiving a copy of your report as soon as you complete it.

Thanks.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

August 4, 1975

Memorandum to: Lawrence M. Baskir

From: Bill Strauss

Subject: Conversations with PCB Applicants



From July 31 through August 3, I traveled through Southwestern Ohio, Southern Indiana, and Northern Kentucky, trying to find persons whose cases had already been decided by the PCB and announced by the President. This part of the country accounted for 20 of the first 372 cases announced. All 20 were military cases, about equally divided between immediate pardons and pardons conditioned upon alternative service.

As we both expected, it was difficult to locate them. Out of the 20, I was only able to meet with 7. The following is the breakdown:

- 7 - person-to-person meetings with applicants
- 2 - person-to-person meetings with applicants' spouses or girl friends
- 3 - telephone contact with applicants' families, with future telephone contact with the applicants themselves now possible
- 2 - no contact, but confirmation from neighbors that the address was correct
- 4 - applicants had moved, leaving no forwarding address
- 2 - applicant had given the PCB a non-existent address

Some summary statistics are of interest. 10/20 lived in cities (Dayton, Cincinnati, Indianapolis, and Lexington), with the rest living in small towns or on farms. 18/18 are living in either total or near poverty; 8/9 have had problems getting or holding jobs. 3/9 have been in trouble with the law since their clemency application; 11/18 have moved at least once since their clemency application (i.e., since September or October).

In general, they were either of a disadvantaged background or downwardly mobile. They were barely articulate, with a limited educational background. Their one strong point was their close family tie -- with wives, parents, and others. In most cases, I could easily see how family problems could lead them to go AWOL.

Almost everyone with whom I spoke considered the military to have been fair before they (or their husbands, etc.) returned from their AWOL offenses. Two noteworthy exceptions: One applicant went AWOL partly because of racism at an Army base, and another (who opposed the Vietnam War) went AWOL partly because the Army broke an alleged promise not to send him to combat. All but one were bitter about the military's treatment of their offense; in part, their bitterness was a reflection of their disdain for those who escaped confinement altogether because of the clemency program.

The major motivation for applying for clemency was about equally split between regaining at least some veterans benefits and restoring one's good name. Almost all found out about the clemency program either during confinement at Ft. Leavenworth or shortly after confinement, through correspondence from counselors or attorneys at Ft. Leavenworth. Two applied out of the blue, not knowing whether or not they were eligible, but thinking they had nothing to lose by trying.

No one knew anything of the PCB's policies and procedures. They did not know how the PCB was considering their case, nor did they realize that they could get a Clemency Discharge and/or a pardon by applying. Only one recalled having received his case summary, but everyone did in fact recognize it when I showed it to him. Only one (the same one) had a careful recollection of all correspondence between the PCB and himself. By curious coincidence, that same individual was the only one who had any third party assistance during his application process (the manager of the small company which employs him). The unanimous feeling about our case summaries (which I had them re-read carefully) was that they were complete, accurate, and fair. The few errors identified by them were trivial.

Board delay did seem to be a problem. Some thought their case had been forgotten. One tried to reach his action attorney but was not called back. Almost all were surprised when they first received word of their case disposition. Of greater consequence is the fact that at least three (out of nine) felt that they needed their disposition several months earlier to help them apply for jobs denied them because of their bad discharges. The most unfortunate of the three cases involved a sporadically employed applicant who, just one week before we cabled the news of his unconditional pardon to him, apparently committed an armed robbery offense for which he is now in jail awaiting trial. His grandmother received our cable but could not read it. County jail officials would not let her show it to him. His trial is scheduled for this week, and had I not told him, neither he nor his sentencing judge would have known that he had been pardoned for his military offenses.

I contacted four persons (or families of persons) assigned to alternative service employment. One had found a job and, with Selective Service's permission, had moved out-of-state to begin working. Two had contacted Selective Service and had begun looking. The parents of the fourth were not sure what he had done. It may be coincidence, but 5/6 of those who had left no forwarding address or had given a wrong address were assigned alternative service -- versus only 5/14 of those who had maintained clearer local ties. Given the problem of forwarding mail, finding alternative service work, and staying on those jobs once found, I would be surprised if more than 3 or 4 of the 10 individuals assigned alternative service ever will complete it and earn their pardons. One small note of encouragement: 5/7 of those contacted who had unconditional pardons said they would have tried to do alternative service if that had been required of them.

Most were pleased with their grants of clemency, once I explained what they meant. They all considered it an improvement over what they had and clearly worth the little effort they had put into getting it. However, only a few were confident that it would make more than a little bit of difference to them. The people who seemed the most pleased were the applicants' families and friends, so perhaps shyness or left-over bitterness was the reason for their pessimism. Everyone was interested in pursuing appeals with the VA and DRB when I explained to them that they still had that option -- and that their pardon and clemency discharge might improve their chances in subsequent appeals. Only one had realized that he could do this before our conversation.

One curious note: The majority of the applicants had a strong negative feeling about draft resisters. They felt it was unfair for draft resisters to avoid going to jail when they had spent time in jail themselves -- and they considered failing to give the Army a try a much worse offense than leaving it after giving it a "fair try." Generally, they thought it was all right to include draft resisters who had spent time in jail, or those who had not -- assuming the latter did alternative service. Therefore, most were against unconditional amnesty. Their opinion about the war was about 2 - 1 against it, but their opposition was less ethical than political. Many did not see why they should fight in a "politician's war" that meant nothing to them.

My major conclusion from the conversations is that the applicants needed to have someone to describe the program's benefits to them. Few understood that they had received a pardon and a new discharge. Most were confused about what they should say on employment application forms. No one knew what a pardon did for them, so they perceived it as no more than a Presidential gesture. Only one knew about his right to appeal for benefits or for a further upgrade of his discharge. It was clear that they were much more pleased with what they received after our talks. It is equally

clear that they would not have known what to do with their grants of clemency without some counseling. Their telegrams and letters would have remained buried in shoeboxes, perhaps.

Unless ours is to be an intellectual exercise, a due process ~~gavotte~~ in which we give applicants nothing with great style, we should do something about this cognitive problem. I suggest that we begin discussions with the Veterans Administration about having local VA officials contact all clemency recipients personally after the program has ended (preferably during autumn of this year) to explain their grants of clemency and their further opportunities to appeal for benefits or upgrades. This would involve some work from our end -- counseling workshops, preparation of materials, geographical sorting of applicants, etc. Some of this preparatory work might have to be done after September 15.

*dance?
You have to
be out of
your mind
using "gavotte"
to appeal to
the PCB.*

RECOMMENDATION: That we discuss plans for direct personal contacts with PCB applicants, preferably to be done by the Veterans Administration.

YES _____ NO _____ OTHER Not VA

RECOMMENDATION: That such plans include some carry-over PCB staff to prepare materials, conduct workshops, and coordinate the process.

YES _____ NO _____ OTHER _____

*Or not appeal?
Otherwise - report is very
valuable & readable. - CJT
"Cognitive" is a good word -
totally mis-applied for the PCB
& for the best description of this case.*



8/5-

Evelyn -

Bill Strauss told me that Claudia told him that she is "essentially through with alien mail." I told him that nothing had yet been sent out (per Carolyn this morning). Have you seen anything (i.e. stacks of letters) for CEB signature? Bill asked me who was typing it ^{there} and I told him I had no idea.

GMH

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

August 6, 1975



MEMORANDUM FOR: CHARLES E. GOODELL
FROM: LAWRENCE M. BASKIR *LMB*
SUBJECT: FULL BOARD RECONSIDERATION OF FLAGGED CASES

Sometime soon the Board should begin to hear the cases identified by the staff and accepted by you as needing reconsideration because of an apparent deviation in results.

In case you start the process while I'm in Montreal (as I hope you will), let me give you my thoughts:

- 1) The cases should be mixed in with other Board member flags from panels. These cases are no different, and shouldn't be treated (or regarded) as different.
- 2) There should be a short presentation:

"This case seems off
"Here are factors, baseline, result, and why it seems off
"Short review of facts if desired."
- 3) Presentation should be done by you, at least at first. Then we can have our special barrister team - led by Neil Broder - take over the function.
- 4) Since these are deviation cases, no severe case could get higher A/S; no lenient case should get less.
- 5) There are some lenient pardon cases. Despite my reputation as a bleeding heart, and the painful looks on the staff, they should go to the Board as "too lenient" for reasons of consistency, Board dynamics, and justice - an overly lenient result is not fair to other applicants with better facts and worse results.

- 6) The lenient cases are in Batch 6 or 7. You should sprinkle them liberally in the first clutch of cases to the Board.
- 7) The list and memos I send to you should be distributed to the whole membership. The referral of inconsistent cases is not a prerogative only of the Chair. Other members should have the benefit of this staff review. (You could profit by spreading the onus of this function. And the applicants profit by having others see their cases).
- 8) In reprise, I think you should start this process now. No case has ever yet been reheard by this process; and some are very old.

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



August 7, 1975

Memorandum

To: Chairman Charles Goodell
From: Staff Attorney Edward H. Fitch *E.H.F.*
Subject: Case No. 9553-CSW-M, Vietnam Veteran

Yesterday, August 6, 1975, the Full Board made a preliminary vote of 7 to 6 that an applicant who had committed a subsequent armed felony would not be eligible for consideration to receive a Presidential Pardon for his military service during the war era. Your vote indicated that you personally could recommend a pardon if the gun the applicant used in the subsequent offense was not loaded.

While I believe reasonable men can indeed logically reach such a decision, I personally cannot subscribe to the limited arguments the members present articulated. Nor can I subscribe to the argument that because the offense committed by this applicant is so serious, it forever bars the exercise of executive clemency for his military service irrespective of his good conduct and reform. Such a harsh unforgiving decision is foreign to our system of reasonable, merciful justice.

I therefore strongly protest the decision in this case and hereby request that you poll the entire membership of the Presidential Clemency Board on this question.

In the event that you find that this case has been finally resolved by the decision of yesterday, I request that my protest be made part of the record which is forwarded to the President in this case.



8/11

Senator,

General Walt has decided it will not be necessary for case attorneys to present cases before the Special "UP" panel.

I have so notified the team leaders.

Neil Broder will, however, be sitting in on the panel discussions as acting general counsel.

Jim Pool



8/11

Senator Goodell -

The total number of late applications is 167. My 372 (or whatever) figure was wrong because it included those who'd applied late but who were also ineligible for the program anyway (or at least our part of it) and have been written accordingly.

The 167 will be sent a "sorry, too late" letter which Lang has just approved for your signature.

GMN



8/12

Senator Goodell -

Before he left, Larry asked that the two commutation cases* be pulled for review by you and him with the anticipation that they would probably be reheard by the full board.

In his absence, I'm sending him directly to you with the suggestion that you either:

- ① hold for LMB
- ② say to go-ahead and refer to
 - a) panel
 - b) full board

in which case if you'll return to me I'll see that Jim Pool, Toby Singer, and anybody else who needs to know find out about it

- ③ direct some other action

~~_____~~
~~_____~~ Commutation decision for both cases was made on 8/12/23.

GMS

* at least I only know of two

AUG. 13, 1975

FOR : BOB HORN CEM
FROM : NANCY
SUBJECT : DINNER TRIP OF EITHER AUG. 20 or 25th
PER : TELEPHONE CONVERSATION BETWEEN NANCY AND
LT. COMMANDER O'BRIEN TODAY



He left the following information with me for you: (his no. 433-3673)

This afternoon he will deliver to you by messenger:

menus and maps

choice of menu is same for either day

40 guests if we choose buffet

22 guests if we choose sit-down dinner

names and titles must be furnished for all guests

menus must be returned NO LATER THAN MON. AM or better, by Friday, this week.

contact Lt. Beliech in O'Brien's absence, since he hopes to be on leave starting later today for a few days

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

15- NO REVIEW
2 - FB

August 18, 1975

MEMORANDUM FOR CHARLES E. GOODELL

FROM: Toby Singer *tgs*

RE: Early cases on hold

The attached cases seem to have already been reviewed. Should I go ahead and have the cases marked "FB" docketed for the Full Board and release the others? There are other early cases which have not yet been reviewed. They will go through the post-audit process and I will send our recommendations to you.



PCB#	Atty	Decision	Board Date	Reason for Reconsideration:
✓ 010-BSH-C	Kodre	3 mos A/S	2/6	Stauss hold
066-MK				"
✓ 029-EKA-C	Lofff	24 mos. A/S	2/6	"
✓ 107-BDI-M	Little	12 mos. A/S	12/12	
✓ 108-BRD-M	Cheney	18 mos. A/S	12/12	
✓ 109-BSW-M	Cheney	8 mos A/S	2/6	
✓ 127-WMA-M	Broder	6 mos A/S	12/12	
✓ 142-SDE-M	Kodre	3 mos A/S	2/6	released
✓ 165-BGL-M	Broder	3 mos A/S	1/9	
✓ 166-BCX-M	Hickman	7 mos A/S	1/9	
✓ 178-CJE-M	Broder	8 mos A/S	12/12	
✓ 179-CCD-M	Heitz	3 mos. A/S	1/9	
✓ 180-CCA-M	Robinson	3 mos A/S	2/4	
✓ 190-DLB-M	Strauss	3 mos A/S	2/4	
✓ 197-ELH-M	Stevick	10 mos A/S	12/12	Major dissents
✓ 202-FFR-M	Cheney	9 mos. A/S	2/6	
✓ 213-HMD-M	Hickman	7 mos. A/S	12/12	
✓ 215-H-HBDJ-M	Polk	Pardon with benefit ***	1/9	
✓ 220-JRX-M	Danzek	3 mos A/S	2/6	

*** see upgrade table

Stauss hold

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



August 20, 1975

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

I. Decision Maker

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

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

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

II. Standards to be Applied

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

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

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

III. Procedures

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

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

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

IV. Staff

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

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

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

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

V. Finances

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

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

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

VI. Facilities/Equipment

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

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

VII. Institutional Locus

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

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

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

VIII. Final Report

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

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

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

IX. Selective Service interfaces

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

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

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

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

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

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

X. Upgraded Discharges

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

Action needed.

XI. Post Deadline Applications

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

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

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

XII. Unworkable Cases

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

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

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

XIII. Dissemination of information concerning benefits received under the Program

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

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

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

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

XIV. Notification of recipients of clemency

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

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

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

8/21/75



Senator -

As of Tuesday, 8/19/75:

Total # cases referred to FB = 596

" " " heard by FB = 321

" " " remain to be heard
by FB = 275
34
24

ltr for miles.

8/23



Senator,

1. There are 58 cases available for today's full board session.

Docket #15 = 25 cases, Docket #16 = 25 cases, plus 8 cases from Docket #

18. Attorneys* are available and prepared.

2. There are ~~57~~ 57 cases available for tomorrow's full board session.

Docket #17 = 25 cases, Docket #18 = 17 cases, plus 15 cases from

Docket #14 which were not considered previously. Attorneys will be available tomorrow and are prepared.

Jim Pool

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

August 25, 1975



MEMORANDUM FOR: CHARLES E. GOODELL
FROM: LAWRENCE M. BASKIR *LMB*
SUBJECT: #854 - Jurisdiction

There is jurisdiction in this case.

This applicant is living in the U.S., but may be excludable by INS, at least theoretically, since he is an alien and did leave the service. However, deportation is a decision of INS and is subject to judicial review. It would be inappropriate for the Presidential Clemency Board to decide he is a deportable alien since we do not have the competence of these bodies. Our practice has been to decide cases like this in the absence of a deportation determination by INS.

Non-resident aliens are recommended only provisionally, and then referred to ~~DOT~~. We cannot do this for resident aliens like this applicant because of our promise not to penalize them for applying.

Senator Goodell: vA
For your information—

Graham

8/26

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

August 26, 1975



MEMORANDUM TO: GRETCHEN HANDWERGER

THRU: CHARLES O. GRAHAM

Sam: James N. Lantz
SUBJ: CASES FLAGGED BY GENERAL WALT, "TO BE BROUGHT TO THE SPECIAL
ATTENTION OF THE PRESIDENT"

Per the attached copy of my Memorandum to Charlie, dated 8/19/75,
I have discussed the below two cases with General Walt:

7580-JLX-M

14929-HWX-M

The General recalls two others with Viet Nam AWOLs of four each
and will look through his records for verification; I have
volunteered my services and Joe's if help is needed. General Walt
appeared satisfied that we're doing our best to keep the record
straight and he has been assured that his requests as stated will
be honored.

I asked if it was necessary to pull all cases of No Clemency by
either him or Mr. Dougovito during Full Board sessions, but he
expressed no real concern in this matter. Again, assistance was
offered after the press of scribing and recording this week.

August 19, 1975

MEMORANDUM TO: CHARLES O. GRAHAM

FROM: JANET A. HARTLE

SUBJ: CASES TO BE BROUGHT TO THE SPECIAL ATTENTION OF THE
PRESIDENT

Per General Walt's request the Full Board files have been searched for cases that he designated to "be brought to the special attention of the President".

1. 7580-JLX-M Heard July 2, 1975. Full Pardon Notation for the President is that the applicant had five AWOL offenses while in Viet Nam
2. 14929-HWX-M Heard August 13, 1975. Full Pardon Notation that the applicant was convicted of first degree manslaughter.

26 Aug 75

TO: Lawrence M. Baskir

FROM: Mike Bernstein *MB*

SUBJECT: Double Decisions (your memorandum of 25 Aug 75)



LOB
FY1

In accordance with your memorandum concerning cases 12430 and 4818, I made a check to ascertain what dispositions had been made for these cases and why. In addition, I made a check of case 9741 which was mentioned to me by Mr. Craig in my conversation with him. A memorandum of that conversation is attached. My findings for each case are set forth below. If additional information is required, I will be more than happy to undertake the necessary research.

OK 4818--I have been unable to find more than one disposition for this case. That disposition was a pardon, which was recommended by Panel F on August 8. I have checked disposition sheets from August 8 through August 22 with no entry occurring. In addition, neither the Master Log nor the Docketing log reflect any disposition other than that of August 8. Examination of the case file, however, does give indication that a duplicate presentation could have been easily made. The case file and the military personnel file were separate in the file drawer, with summaries, although similar in content, typed on a different typewriter. The summary in the PCB file was annotated "Panel F Pardon--Miller", and the summary in the personnel file was annotated "Letter but no file." Nonetheless, I am unable to find more than one disposition for the case.

OK 9741--This number was given to me by Mr. Craig in the course of my conversation with him on this date. He indicated that it had been presented today and he was sure he had heard the same case presented earlier. I have checked case disposition sheets and established that this case was presented on August 22 before Panel E, of which Mr. Craig was a member. A pardon was awarded at that time, as it was in today's presentation. It is noteworthy that the case was reportedly presented on August 22 by Mr. Rosenak, although I am informed that he has long since returned to his agency. I spoke with Mr. Friedman, who presented the case today, and he indicated that he had made the presentation without a PCB file because he could not locate it anywhere. He further reported that no information he could unearth showed that the case had been disposed of previously, or he would not have made the presentation.

OK 12430--The Master Log reflects only a single disposition--No Clemency--on July 10. The Docketing Log shows the same disposition, but shows the notation "D-A" for June 27. I checked the disposition sheet for June 27 and this indicated that the case had been docketed but was not presented because the attorney was not present. I could find no indication of any other disposition for this case and was unable to locate the file to ascertain if any other disposition was indicated. From my review of the Master Log and the Docketing Log, however, I must conclude that there was only a single recommendation made in this case.

cc: Gretchen Handwerger

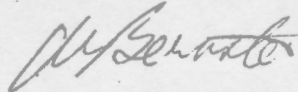
26 Aug 75

Memorandum for file
Conversations with Board members Craig and Adams

In accordance with the Baskir Memorandum of 25 Aug 75, I contacted Mr. Craig for further information (i.e. Case Number) of the case involving a mother's overeating disease on which a duplicate decision had been made. Mr. Craig recalled the incident but indicated that I would have to obtain the information from Dr. Adams. The case had been heard by a panel involving Adams, Craig and Vinson and Dr. Adams recalled the circumstances of the case and the fact that a prior decision had been issued.

Mr. Craig did however indicate another duplicate decision case, this was 9741. It was heard today by his panel and he recalled having heard this case previously. He also recalled 4818, mentioned in the Memorandum and the fact that it had been heard 8 Aug and last week. He inquired as to why such rehearings were happening, especially since both dispositions were pardons. I offered some possible explanations for second hearings, including attorney unawareness of prior hearings and lack of familiarity with docketing procedures (i.e. I cited the case of one attorney who, after her cases were heard, placed a copy of the summary, etc. in the Xerox basket of the team secretary).

Following my conversation with Mr. Craig, I contacted Dr. Adams. He recalled the circumstances of the case and the fact that it was the applicant's brother, not his mother, who was afflicted with the overeating disease. He did not, however, recall the case number.



M. Bernstein
Cleanup Detail

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

August 25, 1975

MEMORANDUM FOR: GUY BRANDENBURG
FROM: LAWRENCE M. BASKIR *LM*
SUBJECT: DOUBLE DECISIONS

The following two cases, #12430 and #4818, were apparently presented to two panels. Can you give me reports on each?

At the same time as one of these two cases, there was another involving an applicant's mother with an over-eating disease. Mr. Craig has this case number, and it also was a double decision. I'd like a report on this one.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 02003

REASON FOR WITHDRAWAL Donor restriction
TYPE OF MATERIAL Memorandum
CREATOR'S NAME Stephen O'Brien
RECEIVER'S NAME Charles Goodell
DESCRIPTION re an applicant
CREATION DATE 08/28/1975

COLLECTION/SERIES/FOLDER ID . 019300057
COLLECTION TITLE Charles Goodell Papers
BOX NUMBER 7
FOLDER TITLE Memoranda - Internal (1)-(3)

DATE WITHDRAWN 11/20/1990
WITHDRAWING ARCHIVIST WHM

PRESIDENTIAL CLEMENCY BOARD
CASE SUMMARY

PCB Attorney: Mark Rosen/Pollack/Owen Case No: 16501-JLF-M
Telephone: (202) 634-4853 Branch of Service: Marines
Summary Completed: 30 July 75 Age: 29
Total Time Served: 1 mo., 28 Days Present Status: Civilian
Predischarge Confinement Date of Application: 30 Jan 75
Discharge Status: Undesirable
Discharge in Lieu of Court-Martial
Offense: AWOL
11 Aug 69 - 7 Oct 69 (1 mo., 26 days)
Total Time: 1 month, 26 days
Total Creditable Service: 2 years, 4
months, 10 days including 6 months active
duty while in reserves

BACKGROUND

This Caucasian applicant was born on 30 May 46 in South Carolina into an intact family of three children. The record is in conflict as to whether he completed 1½ or 3 years of high school. At the age of seventeen he enlisted in the Marine Corps Reserves. After several years in the reserves it was discovered that he had sensitive inner ears and some high frequency hearing loss. The applicant applied for a medical discharge but on 18 Oct 67 the Bureau of Medicine determined that the applicant was fit for duty and denied his request. After receiving this denial, he continued his efforts to be assigned to duties which would not expose him to loud noises. The applicant contends that as a result of his continued efforts for re-assignment, resentment developed. He says that he lost concern for his hearing condition and wanted to prove himself to the reserve unit by enlisting in the regular marines; the applicant did so on 29 Jan 68.

Several months after enlisting the applicant was sent to Vietnam where he served from 23 May 68 until he was medically evacuated on 23 Jun 68. While in a stateside hospital recovering from his wounds, the applicant also had his hearing rechecked. It was determined that his hearing condition required restricted duty with no exposure to loud noises. The applicant and the Marine Corps disagree over whether this stipulation was met.

The applicant's AFQT was 60 (group III) and his GCT was 99. Prior to his AWOL he was rated five times while on active duty, and averaged 4.7 in both conduct and duty. He attained the rank of lance corporal.

CIRCUMSTANCES OF OFFENSE

The applicant was absent without authority from 11 Aug 69 - 7 Oct 69. Just prior to his absenting himself he was beaten up by another marine ostensibly because he had joined a group of demonstrators passing out anti-war leaflets in the Waikiki beach area of Hawaii. While absent he, along with several others, sought and was granted sanctuary at the Church of the Crossroads in Honolulu, Hawaii. During his stay at the church he made several statements disapproving of United States conduct in Vietnam which were published by local newspapers. On 28 Aug 69 he, and another, were secreted out of Hawaii to South Bend, Indiana where he appeared at a convention being held by delegates of the Episcopal Church at the University of Notre Dame. He again made anti-war statements which were publicized by local TV and the newspapers. The Staff Judge Advocate reported that his statements to news media, although anti-war in nature, were not considered disloyal, and accordingly no charges could be sustained for such conduct. On 4 Sept 69 he left Indiana and was driven to Canada where he made some efforts to obtain the necessary documents required to enroll in a Canadian college and to apply for Canadian citizenship. However, apparently at the urging of his parents he returned to the United States and

CIRCUMSTANCES OF OFFENSE (Con'd)

surrendered himself to military authorities on 7 Oct 69.

Upon his return he was placed in confinement. The applicant originally desired to return to duty so he could receive an honorable discharge. However, his attitude changed and he was unwilling to remain confined. On 4 Nov 69 he requested an undesirable discharge for the good of the service. He was discharged on 8 Dec 69.

VIETNAM SERVICE

The applicant served in Vietnam from 23 May 68 until he was medically evacuated on 23 Jun 68 after suffering shrapnel wounds in his back and a cracked rib. He participated in "Operation Allen Brook" in Quang Nam Province. The applicant was awarded the Purple Heart, Vietnamese Service Medal with 1 star, Vietnamese Campaign Medal with device

CHRONOLOGY

30 May 46	Date of Birth
1964 L	Left High School
29 Jan 64	Enlisted in Marine Reserves
29 Jan 68	Re-enlisted for 3 years in Regular Marines
23 May 68 - 22 Jun 68	Vietnam Service
11 Aug 69 - 7 Oct 69	AWOL (1 mo., 26 days) surrendered
9 Oct 69 - 7 Dec 69	Confinement (1 mo., 28 days)
4 Nov 69	Requests UD
8 Dec 69	Undesirable Discharge
30 Jan 75	PCB Application

AWARDS AND DECORATIONS

Purple Heart Medal
 Vietnam Service Medal with 1 star
 Republic of Vietnam Campaign Medal with device
 National Defense Service Medal

PRIOR MILITARY OFFENSES

None

SENTENCE HISTORY

N/A

SOURCES

Military Personnel File
 Applicant's Letter to Congressman

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

Calculation of Baseline for Alternative Service:

Starting Point	<u>24</u>	Months
Less Three Times _____ Months in Prison	-	Months
Less Alternative Service Performed if Period Satisfactorily Completed	-	Months
Less Time Served on Probation or Parole if Period Satisfactorily Completed	-	Months
BASELINE	_____	Months
Judge's Sentence to Imprisonment as Reduced by Competent Authority, which is the Baseline if Less Than the Above Figure	_____	Months
Minimum Baseline	<u>3</u>	Months
Final Baseline for Determining the Period of Alternative Service	U. D. <u>3</u>	Months

Aggravating Factors:

- (1). _____ Other adult convictions
- (2). _____ False statement by applicant to the Presidential Clemency Board
- (3). _____ Use of force by applicant collaterally to AWOL, desertion, or missing movement or civilian draft evasion offense
- (4). _____ Desertion during combat
- (5). _____ Evidence that applicant committed offense for obviously manipulative and selfish reasons
- (6). _____ Prior refusal to fulfill alternative service
- (7). _____ Violation of probation or parole
- (8). _____ Multiple AWOL/UA offenses
- (9). _____ AWOL/UA of extended length 1 MO., 26 DAYS
- (10). _____ Failure to report for overseas assignment
- None of the above

Mitigating Factors:

- (1). _____ Lack of sufficient education or ability to understand obligations or remedies available under the law
- (2). _____ Personal and immediate family problems
- (3). Mental or physical condition
- (4). _____ Employment and other activities of service to the public
- (5). _____ Service-connected disability
- (6). Extended period of creditable military service 2 YRS, 4 MO., 10 DAYS
- (7). Tours of service in the war zone
- (8). _____ Substantial evidence of personal or procedural unfairness
- (9). _____ Denial of conscientious objector status on procedural, technical, or improper grounds
- (10). _____ Evidence that an applicant acted for conscientious, not manipulative or selfish reasons
- (11). Voluntary submission to authorities by applicant
- (12). _____ Behavior which reflects mental stress caused by combat
- (13). _____ Volunteering for combat, or extension of service while in combat
- (14). Above average military conduct and proficiency or unit citations
- (15). _____ Personal decorations for valor
- (16). Wounds in combat
- _____ None of the above

Based on these factors, the Board's decision is that the _____ month baseline should be FULL PARDON. Therefore, a pardon will be granted after performance of _____ months of alternative service.

16501-JLF-M
Case Number

O'BRIEN
Staff Attorney