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

September 1st, 1975

MEMORANDUM

To : Mr. Robert Carter, Board Member, PCB
Mrs. Aida O'Connor, Board Member, PCB

From : John Brander, Staff Attorney, PCB



CATEGORY IVs AND PROJECT 100,000

Many applicants who have applied to the Presidential Clemency Board for clemency are those the Military term Category IV men. Category IVs are those whose Armed Forces Qualification Test (AFQT) score is between 10 and 30. Prior to the Vietnam War those in this category were usually rejected for military service. The practice was to accept only those in Category IV whose scores were between 15 and 30 and who had passed supplemental aptitude examinations. Such men who are in this category were considered below average in mental ability. The escalation of the war in 1966, the concomitant manpower need and the expansion of the Army necessitated a dramatic change in this practice. This change of practice was not one which was authorized by Congress. Nor

was it one actively lobbied for by the Military or the Department of Defense. Rather it was a change that came about by administrative fiat of the then Secretary of Defense, Robert McNamara. This change quickly became known as Project 100,000. The project has since been phased out. But not the utilization of Category IV men into the services.

Today's Volunteer Army draws upon the same sectors of the population that Project 100,000 drew upon ; the number of such men accepted depending upon the number needed and the number in the other categories applying. It is for this broader reason that Project 100,000 should be looked at one more time before it becomes relegated to the dust of the history book. The work of the Board has been taken up with a disproportionate number of cases of applicants in the Category IV range who should never have been in the Military in the first place or who should have been given discharges under Honorable conditions when it became evident that they were not suitable for military service.

The work of the Board is negligible if administrative and military attitudes towards those in Category IV remain unchanged. No doubt there is a place for Category IVs in the Armed Services. It is not the purpose of this paper to discuss

what that place should be. Rather it is the purpose of this paper to raise two questions, namely :

- (i) How should such men be discharged in future ?
- (ii) What, if anything, should be done for the many thousands of Category IVs who did not know of the Clemency Program or who were ineligible because their offenses were not AWOL or AWOL related ?

Category IV men had two special problems which other men in the Military did not have to contend with to quite the same degree.

The first problem was that Category IV men were treated and trained no differently from men in other categories. It is to the credit of the Military that Category IV men were not assigned to what might have become known as "moron squads". Having "moron squads" would certainly have created a pandora box of special problems of another sort. Being treated and trained as other Category men meant that they had to produce to the same extent. To conform to the same standards. To work regular 8 to 5 type shifts. Their immediate superiors did not know they were Category IV men and thus not mentally and/or physically on the same level as men in the other categories. As a result Category IV men were subjected to a proportionally greater amount of harassment than those in

other categories had to put up with. It is well known that Category IV men have a lower threshold of tolerance to certain forms of harassment than those in other categories possess. Especially when the form of harassment refers to their intelligence / stupidity.

The second special problem that was peculiar to these men was one that was the product of the war itself. This problem had to do with the rumors of torture and mass killings taking place in Vietnam by the Viet Cong and the North Vietnamese. The years 1967, 1968 and 1969 were years of rumor. The brighter and more sophisticated could discount these rumors as farfetched and improbable. But the rumors got to those who were gullible and they were often believed hook, line and sinker.

Life in boot camp for many Category IVs was miserable. Both problems taken together resulted in a higher rate of AWOL offenses prior to being sent to Vietnam than would otherwise have occurred. Boredom and combat stress in Vietnam itself increased the susceptibility of men in this Category to take drugs, drink and get into financial debt. A large part of the demoralization of the Military in Vietnam may be ascribed to the effects of boredom and stress on those in the Category IV range. On their return to Stateside, Category IV men found the military discipline which had been lax in Vietnam tightened

up unbearably. A large number of these men, having an inability to cope with family problems at the best of times, simply could not cope with family problems on the one hand and the disciplined routine of a stateside military base. Many of these men thus took to their feet and went home.

During the Vietnam War an unduly large proportion of General and Undesirable Discharges were of those in Category IV. Those who were given Undesirable Discharges left the service as failures. With a deeply hurt image of themselves which often was not justified. The word "undesirable" has a bad connotation which the word "unsuitable" does not have. It may be true that many of these men were unsuitable for military service, but the stigma of their discharge as it follows them into civilian life is probably not one those in the Military would have intended. Often such men when offered an Undesirable Discharge in Lieu of Court-Martial accepted the offer even though they might have had a good defense to any charge being brought against them or that, if found guilty, would not have been sentenced to a Bad Conduct or Dishonorable Discharge. Most of these men though they signed a waiver form did not make a knowing and intelligent waiver of whatever rights they may have had.

In the Appendix to this paper will be found a brief history of Project 100,000, originally written by James Fallon of the Department of Justice, Civil Rights Division, and modified by myself. The Project 100,000 came about in response to the War needs of 1966. At that time the Selective Service system was faced with two alternatives. One was to induct the college kids who were being exempted. The other was to lower mental and physical standards and induct those in the Category IV range. Politically at the time it was easier to select the second alternative. Especially as the war was beginning to be unpopular with those in the colleges. Recruitments in the other services were falling off, too, so that the opposition by the different armed services to lowering mental and physical standards became less vocal in those years. Body counts were maintained through the peak of the war years despite opposition to the war from liberals and the left at home. Because the college kids got out of the war so easily, clemency, if justified for no other reason, might be justified to those in Category IV who though unsuitable for military service, did to the extent that they were able to give whatever service they could. The fact that many of these Category IV did make it in the Military and were separated under Honorable conditions may be an added justification for granting clemency to those who didn't.

Conclusion

The next war, if one takes place, may be more unpopular than the Vietnam War. It may be more derisive than any war in our history has been. To believe anything else is to be oblivious to the events taking place in the rest of the world at this moment. The present ambivalence in public opinion concerning these events is indicative of the extent this nation has been wounded by the recent war. No one knows when the next war will break out. Or who we will be supporting and who we will be fighting. But one thing is obvious. The more national unity we as a people possess, the less problems the Military will have to contend with in successfully waging that war. The preservation of the nation is probably the single important thing for its citizens. Only by national unity in wartime can the traditions of a people be preserved. Building national unity in peacetime offers the best safeguard to successfully preserving the nation itself in times of war. The final report of the Board and the reception it receives by the President, the Congress, the Military, the Press and the people will be one of many small factors that can accelerate or retard what should be our number one priority of the Seventies : the achieving of a viable national unity.

What faction in the Board ultimately prevails and gets the ear of the President is immaterial if the result of the work of the Board is a healing of the national wounds of the last decade and the forging of a national unity that can withstand the stress and strain of our next military involvement.

I have tried to examine something of the Category IV question that might be of help to you. It is usual in memoranda of this sort to suggest recommendations. I should refrain from doing so in this instance as the conclusions you have drawn for yourselves are more informed than my own. All I have wanted to do is to give you some impressions of my own for your consideration. They are impressions gained from having worked as an attorney on a hundred cases, having been here for five months and spoken to a large number of other attorneys, having read on the subject and having to overcome a number of my own prejudices. You, too, have spent countless hours over thousands of these cases. This has provided all the members of the Board a common background from which you can draw your own conclusions. It is this common background more than anything else that offers the best chance feasible recommendations on the Category IV issue can be made to the President, feasible recommendations he can implement and the American people welcome and accept.

APPENDIX

History of the Project 100,000 Program

(i) Background

Mental standards were reduced in the Second World War when manpower needs increased in 1943 and 1944. The Military in those years anticipated a long land war in Japan and having reached the metaphorical "bottom of the barrel" began recruiting convicted convicts and those rejected on physical and mental grounds. When the war was over only a small percentage of low mental category men became career soldiers. Two views prevailed at that time concerning the effectiveness of these low category men. Holders of the first view thought it was a good thing that they were accepted. Such men took orders well and made good "cannon fodder". Holders of the other view felt that these men were a disaster to the services. Holders of this view tended to be in the technical arms where aptitude and proficiency were traits as important as attitude and conduct.

The problem of low category enlistment did not become a major issue until the early Sixties. Shortly before his death in 1963 President Kennedy established the Task Force on Manpower Conservation under the direction of Professor Daniel Moynihan.

The mission of this task force was to study the one third of the male population that failed to qualify for the Selective Service. A report was submitted to President Johnson in early January 1964. Within a week of its submission President Johnson directed the Selective Service System and the Department of Labor to establish a "voluntary rehabilitation" program for draft rejects. Due to a number of reasons such as ineffective advertising, and budgetary needs of other "War on Poverty" programs, this program died in early 1964.

On August 13th, 1964, nine days after the Tonkin Gulf resolution, the Department of Defense announced that it would take a total of 11,000 volunteers who had been previously rejected. This was done by order of the White House to ameliorate the expected severity of the draft. However, with the active opposition of Representative Mendel Rivers, Congress refused to fund the required \$ 16 million to administer this program.

The Department of Defense was opposed to the "lowering of standards".

Secretary of Defense McNamara decided to alter the existing practices of accepting only those with scores of 30 and above on the AFQT. The Military was legally free to accept anyone above

10, so that beginning in November 1965 about 30, 000 men were brought into the service over the next eleven months.

(ii) Project 100,000

In August, 1966, a few days after the first massive draft call (46,000 for October, 1966) was announced, Secretary McNamara announced "Project 100,000". The new program would involve 40,000 "New Standards" men in the first year, and 100,000 men in each subsequent year, and would include both draftees and enlistees. The Secretary promised ".....(W)e can salvage tens of thousands of these men, each year, first to productive military careers and later for productive roles in society." While the Secretary spoke of 1500 different skills that could be developed by military training, the results of the program indicated that about 80% of those in the project were engaged in five types of duty :

- a. Cook ;
- b. Infantryman ;
- c. Supplyman ;
- d. Clerk ;
- e. Mechanical/equipment repair.

While 14% of those in the Military received combat roles, about 37 % of those in the project were sent into combat.

The Category IV men had a reading level of a sixth grader and averaged 10.6 years of schooling. At the outset of the program

there was no funding for any special training. This factor coupled with the Department of Defense's good faith desire not to treat these men separately or "stigmatize" them, caused those in the project to be assigned for training and duty assignment along with all other personnel. Although there were confidential reports kept in their military personnel records for feedback to the Department of Defense, the immediate superiors of these men did not know that they were Category IVs.

In the first three years of the program, 246, 000 men were accepted. 225, 000 were admitted under reduced mental standards. The other 20,000 were admitted under reduced physical standards.

In early 1967 the Navy set-up a remedial reading and training program. The Air Force did so at the end of 1967. The Army did so in the spring of 1968. The Marine Corps decided not to do so as it was problematic what lasting benefit it would be to the Category IV to have a program lasting only six weeks.

Category IVs were recycled in basic training and advanced individual training more than those in other categories. About 3 % of those in other categories were

recycled. As many as 10 % of those in the upper part of Category IV (AFQT scores between 16 and 30) and 25 % of those in the lower part were recycled. Those in Project 100,000 had more than twice the Court-Martial conviction rate that those in other categories had and more than one and a half times the non judicial punishment rate.

Studies have shown that unsuitability, basic training attrition rates, and reenlistment ineligibility are directly correlated with AFQT scores, while there is an inverse relationship between promotion rates and AFQT scores.

It should be noted that the unit commander could award at his discretion a General Discharge for unsuitability or an Undesirable Discharge for unfitness. Since men in Project 100,000 would fit into a potential unsuitable category, arguments have been made that it would be appropriate to reclassify these men with General Discharges for unsuitability.

Dictated by Gretchen over phone 9/2



This form letter was sent to all applicants who had submitted telephone applications before the deadline or letters, post cards, etc. (The letter Gretchen read was dated 5/17) Gretchen thinks a letter like this could have gone out after 6/1.

'Dear _____

A review of our records shows that we have not yet received your completed application for consideration by the Presidential Clemency Board. As a result of your telephone inquiry (or letter, post card, etc), we sent you an application kit containing information about the Presidential Clemency Board, rules concerning those who qualify, and an application for you to fill in and return to us.

If, for some reason, you may not have received the original kit, we are sending you another to complete. If we do not hear from you by June 1, 1975, we will not be able to process your case and you will not be eligible for clemency under the President's program.

Sincerely,

Charles E. Goodell
Chairman"

Dictated by Gretchen over phone 9/2



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Chairman"



1. General Walt called Gretchen in this morning and chewed her out for some of his mail being opened last week. He told her it was a Federal offense; she said that she tried to explain it to him that while she was away, an assembly line was set up to open mail and the people just slit all mail open. He would not accept that as an excuse. She said that beside her, there was Walt, Dickman, Benson, and Major Buck present.

(per Gretchen 9/2/75)

Charles E. Goodell,

For your
information.

John Lohff

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

September 5, 1975



Dear Sir or Madam:

On September 16, 1974, President Gerald R. Ford issued a Proclamation announcing a "Program for the Return of Vietnam Era Draft Evaders and Military Deserters," thereby establishing the Presidential Clemency Program. This program was created in the hope of furthering our national commitment to justice and mercy so that, in President Ford's words, we could "bind the Nation's wounds and heal the scars of divisiveness."

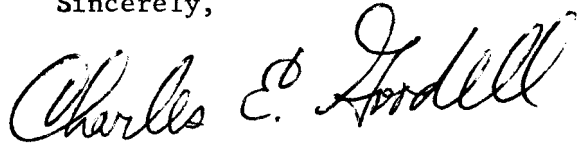
I am writing to you because your organization is one which participants in the Presidential Clemency Program might be contacting regarding the effect of a Presidential pardon or a Clemency Discharge.

The Clemency Program was established in order that the thousands of young Americans who were convicted of violations of the Military Selective Service Act or of the Uniform Code of Military Justice could have the chance to contribute a share to the rebuilding of peace among ourselves and with all nations. The President strongly urges that these Americans who have earned clemency be allowed the opportunity to return to their families with a restored standing.

Enclosed is some information which should be helpful in providing those individuals who come to your organization seeking advice and guidance with constructive, clear information about what benefits attach automatically to a Presidential pardon and/or Clemency Discharge. It will also enable your organization to advise these individuals concerning further remedies which may be available to them, as they seek to reenter the mainstream of American life.

I hope that you will disseminate the enclosed information within your organization and give it the highest possible priority. Those who have received a pardon from the President need your help and they will profit from as much attention as can be afforded them.

Sincerely,

A handwritten signature in cursive script that reads "Charles E. Goodell". The signature is written in black ink and is positioned above the typed name.

Charles E. Goodell
Chairman

Enclosures:

Meaning of a Pardon
Meaning of a Clemency Discharge
Discharge Review Boards
Exemplary Rehabilitation Certificate
Drug Discharge
Civil Service Commission
Coerced Enlistment

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE
WASHINGTON, D.C. 20500
September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir
General Counsel

Subject: Meaning of a Pardon

A pardon is the supreme constitutional gesture of forgiveness or mercy, and, once granted, has many wide-reaching effects. The pardon releases an individual who is incarcerated. In addition, once a person receives a Presidential pardon, Federal civil rights which have been lost because of the conviction are restored, i.e., the right to vote, to hold Federal office and to sit on a Federal jury. The Presidential pardon may also, since it is generally honored by the States, restore State rights including, but not limited to, the rights to vote, hold office and obtain licenses for trades and professions from which convicted felons are otherwise barred. Also, a pardon indicates to all government agencies and officials the President's intent that they not consider pardoned offenses in deciding questions involving the pardon recipient. Finally, a Presidential pardon is an expression by the Chief Executive of his desire that the stigma of conviction be removed and that the pardon recipient no longer be discriminated against when seeking employment, housing or other opportunities.

However, while a pardon removes most legal disabilities of an offense, it does not erase the offense, and a pardon in and of itself will not qualify an individual for a position of trust. Where the character of the individual applying for a job, housing or other opportunities is the basis for determining suitability, the offense which was pardoned can still be considered in making that determination.

For further information about the meaning of a Pardon, you may contact the Pardon Attorney, Department of Justice, Washington, D. C. 20530.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE
WASHINGTON, D.C. 20500

September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir, General Counsel

Subject: Meaning of a Clemency Discharge

The Clemency Discharge is a neutral discharge, issued neither under "honorable conditions" nor under "other than honorable conditions." It is to be considered as ranking between an Undesirable Discharge and a General Discharge. Such a discharge in and of itself restores no Veterans Benefits. While there is no change in benefit status per se, a recipient may apply to the Veterans Administration for benefits. He may also apply for an upgrade in his original discharge (Undesirable, Bad Conduct, Dishonorable) to the appropriate Discharge Review Board, where the Clemency Discharge should greatly improve the recipient's chances for success. Finally, the Clemency Discharge, like a Presidential pardon, is an expression by the Chief Executive that the stigma of a bad record has been removed, and that the bearer of a Clemency Discharge should no longer be discriminated against in his future opportunities.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir
General Counsel

Subject: Discharge Review Boards

Any individual who received a less than honorable discharge from the Armed Forces may apply to the Discharge Review Board (DRB) and/or the Board for Correction of Military Records (BCMR) for a possible upgrade to a general or honorable discharge. Each branch of service has its own Discharge Review Board and Board for Correction of Military Records.

Generally speaking, the veteran should first apply for a recharacterization of his discharge to the Discharge Review Board. The DRB may upgrade the type of discharge but may not revoke a discharge nor may it reinstate the applicant in the service. Also, it may not review a discharge resulting from the sentence of a General Court-Martial. The veteran may apply within 15 years of the date of his discharge. This statutory limitation may not be waived, but any contact with the DRB during the 15 year period starts the period running anew. Even if the veteran has already applied to the DRB, he may petition for a rehearing if material evidence such as a Clemency Discharge and a Pardon, not available at the time of the first hearing, is now available, or if he or she is now seeking a personal appearance and has not previously appeared before the Board.

The Board for Correction of Military Records may correct any error in the individual's military record. The BCMR may review a discharge after relief has been denied by the DRB. Further, it may change the reenlistment code on a given discharge, allowing the veteran to reenlist. This Board can also review discharges awarded by sentence of a General Court-Martial. The statute of limitation for filing with the BCMR is 3 years, but this is freely waived in the interest of justice. However, it should

be noted that the BCMR will not review a case within 15 years from the date of discharge unless the DRB has already heard it. Reconsideration will be granted by the BCMR only in the case of new evidence.

Army DRB
Room 1E479
Department of the Army
Pentagon
Washington, D. C. 20310
(202) 695-4682, 697 - 3166

Air Force DRB
1300 Wilson Blvd.
Commonwealth Building
Room 920
Arlington, Virginia 22209
(202) 694-5249

Navy DRB
Department of the Navy
Navy Annex
Washington, D. C. 20370
(202) 694-1631

Coast Guard DRB
400 7th St., S. W.
Washington, D. C. 20590
(202) 426-0884

Army BCMR
Department of the Army
Washington, D. C. 20310
(202) 695-4298

Air Force BCMR
Room 5C860
Pentagon
Washington, D. C. 20330
(202) 695-2172

Navy BCNR
Department of the Navy
Navy Annex
Washington, D. C. 20370

Coast Guard BCMR
400 7th St., S. W.
Washington, D. C. 20590
(202) 426-2270

(Note: USMC applicants should apply to the Navy)

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

September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir, General Counsel

Subject: Exemplary Rehabilitation Certificate

An Exemplary Rehabilitation Certificate is available to individuals who have received General or other than Honorable discharges from the Armed Forces, but who have long records of good conduct in the civilian community. This certificate is tangible evidence to show employers that the recipient has made an effort, despite his bad discharge, to make a good life for himself. Further, the certificate entitles the recipient to special job counseling at his State employment office. Once awarded, a copy is automatically placed in his military file.

Applications and additional information are available from:

U.S. Department of Labor
Manpower Administration
Washington, D.C. 20210
ATTN: METR

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE
WASHINGTON, D.C. 20500

September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir, General Counsel

Subject: Discharges for Drug Use

On July 1, 1971, Secretary of Defense Laird established a policy exempting military members from prosecution or issuance of "other than honorable discharges" for drug use or possession. On August 18, 1971 Secretary Laird instructed the Secretary of each service to review applications, through the Discharge Review Boards, for recharacterization of those other than honorable discharges issued solely on the basis of use of drugs or possession of drugs for personal use in process on or before that date. The Navy and Marine Corps use August 20, 1971, as the cut-off date.

On April 28, 1972, this policy was extended to punitive discharges issued as a result of court-martial convictions for the use or possession of drugs. Discharges resulting from the sale of drugs or the intent to sell drugs are not covered under this policy. The Under Secretary of the Army stated "that the term 'solely' should not be construed to bar the favorable recharacterization of a discharge where only minor offenses, especially those related to or caused by drug abuse, may have been a contributing factor in the granting of an Undesirable or other than Honorable Discharge."

Application should be made to the Discharge Review Board of the appropriate branch of the service if the above described policy is applicable to an individual's situation. If the Discharge Review Board applies this policy, the discharge will be recharacterized as General under honorable conditions or as Honorable depending on the merits of the case.

Army DRB
Room 1E479
Department of the Army
Pentagon
Washington, D.C. 20310
(202) 695-4682/697-3166

Navy DRB
Department of the Navy
Navy Annex
Washington, D.C. 20370
(202) 694-1631

Air Force DRB
1300 Wilson Boulevard
Commonwealth Building, Room 920
Arlington, Virginia 22209
(202) 694-5249

Coast Guard DRB
400 7th Street, S.W.
Washington, D.C. 20590
(202) 426-0884

(Note: USMC applicants should apply to the Navy)

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir, General Counsel

Subject: Civil Service Commission

The present policy of the Civil Service Commission regarding "rehabilitated offenders" is to consider each applicant's suitability for federal employment on a case by case basis. Factors considered by the Commission are (1) nature and seriousness of the crime; (2) circumstances surrounding the crime; (3) how long ago the crime was committed; (4) age of the offender at the time of the commission of the crime; (5) contributing social or environmental conditions; and (6) absence or presence of rehabilitation. Further information regarding the rehabilitated offender concept can be found in "Employment of the Rehabilitated Offender in the Federal Service," BRE-29, a publication of the Civil Service Commission. Determinations regarding suitability are made after an individual has applied for a job. Assistance in applying for a job can be obtained from a Selective Placement Specialist at any Federal Job Information Center. As of this date a final determination has not been made by the Civil Service Commission regarding eligibility for veteran's preference for holders of Clemency Discharges.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

September 5, 1975

MEMORANDUM

From: Lawrence M. Baskir
General Counsel

Subject: Coerced Enlistment Under Threat of Incarceration
(U.S. v. Catlow, 48 CMR 758 (1974))

Army Regulation 601-210 disqualifies from enlistment persons who are enlisting as an alternative to jail or court proceedings. In the Catlow case, the Court of Military Appeals applied this regulation and held that Catlow's enlistment was illegal. No constructive enlistment was found to have occurred, even though Catlow had received Army pay and allowances, because there was never an intention on Catlow's part to be a soldier. The determination that there was not a constructive enlistment was based on the fact that Catlow "never served in the United States Army honorably." A constructive enlistment cannot occur where there was never an intention to be a soldier; receipt of pay and allowances is merely evidence of the intention and not proof conclusive. The other services have a similar policy regarding coerced enlistments.

If an applicant to the Presidential Clemency Board, who has received a discharge under other than honorable conditions, or any other former serviceman or woman, believes that his or her enlistment was coerced in this manner, he or she may meet the Catlow test. Application should be made to the military Discharge Review Board of the appropriate branch of service. Corroborating evidence of the illegal enlistment, such as a court record or transcript, should accompany the application for review.

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(202) 426-0884

Navy DRB
Department of the Navy
Navy Annex
Washington, D. C. 20370
(202) 694-1631
(Note: USMC Applicants should
apply to the Navy)

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

Thursday, 11Sep75

HEY!

To: All hands, past and present

From: Bob Knisely *RAK*



Subject: A visit to the Rose Garden

According to Rick Tropp, all members of the PCB staff, past and present, are invited to meet with the President in the Rose Garden at the White House next Monday, 15Sep75, at about 5:40 pm.

That's the good news.

The bad news is, understandably, that the Secret Service has tightened the security arrangements around the President. In order to gain entrance to the Rose Garden, you must provide to the Secret Service the following information:

1. Name
2. Present address
3. Social Security Number
4. Place of Birth
5. Date of Birth

We have been told that this information must reach the Secret Service by NO LATER THAN COB TONIGHT, Thursday, 11Sep75. We are asking for an extension until tomorrow noon, but no one should count on it.

If you wish to attend, please write the above information on a piece of paper, typewritten if at all possible, and bring it to ~~Mary Harbachewski in my office on the ninth floor. Please try to have many names on each sheet of paper, and all that.~~ Supervisors should coordinate this effort where possible. ONE NAME PER SHEET, PLEASE.

CHARIE
MOTT
NW 501C

IF YOU HAVE A WAY TO CONTACT FORMER STAFF MEMBERS OF THE PCB, AND GET FROM THEM THE NEEDED INFORMATION, PLEASE DO SO IMMEDIATELY. We have no way of calling them all by the end of the day.

We will check the names against the various rosters that we have, and get the list to the Secret Service as best we can.

We never promised you the Rose Garden...

(EG

Personal

Jan 1963



DRAFT

September 11, 1975

MEMORANDUM FOR: GENERAL LEWIS W. WALT
FROM: CHARLES E. GOODELL
SUBJECT: FOLLOW-UP ON YESTERDAY'S MEETING



I am pleased that the Board had a chance to discuss some of the issues which have concerned you in recent days. I believe ~~that~~ it is best that we continue to raise these concerns openly, especially in ^{the} closing days when the work schedule is so hectic and we are all so tired ^{the} by/pace we have been setting.

^{hope you I am particularly insist}
~~I am particularly concerned that you unclustered my position on~~
^{are kept fully}
~~keeping~~ you and all Board members aware of any information you desire.

When the matter first came up, I gave clear and explicit instructions to the General Counsel to respond as fully and promptly as practical to ^{the} ~~the~~ requests ^{from} you and anyone else. He informs me that he so instructed the staff.

I regret that you may have had some initial delays in getting information. But I gather that the difficulties no longer exist, and that for some time the staff has been cooperating promptly and fully ^{and that} ~~and that~~ you ^{have been getting what you desire.}

I hope that if you encounter any future difficulties, you will make certain the General Counsel is aware of them, and that you will come to me immediately if he does not respond satisfactorily.

Mr. Baskir has told me that he expressed his regret in not answering your memo in writing. He discussed the matter orally with ^{one} ~~me~~ of your staff assistants, and believed that the issue was resolved. I gather that you, ^{have now gotten} ~~in fact,~~ did get what you wished. Mr. Baskir tells me that most of your requests have been oral, and have not been directed to him, but to

other staff members. If you will keep him informed in writing of your needs, he can then insure that they are satisfied.

In ~~yesterday's~~ meeting, you said you had information about questionable staff operations. My information, as I told you, is apparently not as complete as yours. I would appreciate your bringing to my attention the details of your information so I can investigate and take any necessary steps. In particular, I would like a copy of the letter to Ft. Leavenworth you mentioned, and the list of 252 double-panel submissions. I would also like your list of cases which the staff has referred to the full Board without my knowledge, *and the cases which involve late applications.*

Let me add a brief personal note. My respect for your life-time service to the country and for your loyalty and dedication to the President is of the highest. There is no other Board member who has been more conscientious, ~~nor~~ who has worked harder ~~nor~~ with more dedication than you. Indeed, few can match the industry you have contributed to this important task. I hope that in these last days, we can preserve the harmony and spirit of cooperation that the Board has had for these long and hard 12 months. It would indeed be a tragedy if the pressures of the closing hours were to jeopardize the success we have had. It would be a tragedy if the President suffered any embarrassment now, after having handled so well this most sensitive *and difficult* ~~political, moral, and security~~ issue.

September 12, 1975

MEMORANDUM FOR : General Lewis W. Walt
FROM : Robert J. Horn
Executive Secretary
SUBJECT : Preliminary Report on
Duplicate Decisions



This is a follow up to our conversation during the Board meeting today. As I informed you, preliminary reports of cases involving duplicate decisions taken from Colonel Benson's log in the file room indicate the following:

Of the 140 cases surveyed so far, 26 were actual duplicate presentations, all of which have been discovered prior to their presentation to the President.

70 were full Board referrals.

11 involved clerical errors--that is, incorrect entries by clerical personnel.

33 were tabled cases.

As soon as our survey is completed, we will prepare a final report to you. I understand that you will be out of the country for awhile and expect that there will be a final report on your desk when you return. I also expect that I won't be here at that time so if you need to get in touch with me my home number is 337-8193.

As soon as you have our report, you will have an opportunity to compare our list with yours. Hopefully that process will allow us to put to rest the misunderstandings concerning duplicate decisions.

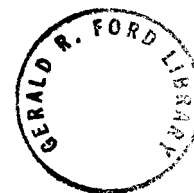
In our previous discussion, you also raised other issues concerning Clemency Board operations which disturbed you. I also believe when we have an opportunity to discuss these matters with you and your staff they too can be resolved.

As you are aware, I have the greatest respect and warm personal feeling towards you and I hope that the Clemency Board's activities can therefore end harmoniously. I have enjoyed working with you and would like very much to stay in touch.

cc: Sen. Goodell ✓
Rm Baker

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

14 September 1975



MEMORANDUM FOR: Senator Charles Goodell
FROM: General Lewis W. Walt
SUBJECT: Reception With The President on 16 September 1975

I regret that I will be unable to attend this reception for the Board members and Senior staff. However, I would appreciate it very much if you would include my two Senior Staff Assistants, Col. O. G. Benson and Col. William C. Dickman.

A handwritten signature in cursive script, reading "Lewis W. Walt". The signature is fluid and elegant, with a long, sweeping tail on the final letter.

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

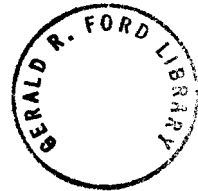
15 September 1975

MEMORANDUM

TO: Chairman Charles Goodell

FROM: General Walt
Mr. Dougovito

SUBJECT: Upgrade Cases, Recommendation
Concerning



To date there have been 25 cases tentatively recommended for upgrade. There are still over 200 cases which have not been considered and due to the Board's termination date of 15 September 1975, they cannot be considered. It was the consensus of the Full Board and the strong position of the Department of Defense that all the upgrade cases should be considered at one time. We also believe that each case must have a careful final check to make sure that all facts presented in the brief are accurate and that the applicant is not now in trouble with the law. We, therefore, are definitely opposed to approving only the 25 cases which have been tentatively acted on by the Upgrade Panel.

We recommend that the upgrade program of the Clemency Board be abandoned and that the 25 tentatively above cases and the 207 cases not yet acted on by the Upgrade Panel be turned over to the Review Boards of the Defense Department for special consideration. We are still firm in our belief that there are many deserving applicants in this group who should be given the veteran's benefits.

A handwritten signature in black ink, appearing to read "Lewis W. Walt". The signature is fluid and cursive.

Lewis W. Walt
Board Member

A handwritten signature in black ink, appearing to read "James P. Dougovito". The signature is fluid and cursive.

James P. Dougovito
Board Member

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

*Senator -
Attached are the
results of our decision
audit (which continues).
I have marked my
evaluations where default
15 September 1975
double
decisions are involved.*

MEMORANDUM

To: Larry Baskir
Through: Gretchen Handwerker *gmh*
From: Greg Barnes
Subject: Status of Resolution of Multiple Decisions Revealed by the
Benson/Mosny Log

Thus far, investigation has shown that "multiple decisions" revealed by the Benson/Mosny Log have either been cases which were legitimately re-heard or are merely clerical errors. This log has very sketchy entries compared to other PCB sources, such as the final decision sheets, The Master Log, or The Docket Log. Entries are made in the Benson/Mosny Log by case number only: the initials and civilian or military designations which follow the case number in other PCB sources are absent from the Benson/Mosny Log. Decisions are recorded only by date - the nature of the decision (pardon, A/S, etc.) is omitted. The absence of initials and decisions removes two safeguards of associating the right decision with the right case number that the other PCB logs have. Thus, although all PCB logs transcribe their results from the final decision sheets, it can be seen that the Benson/Mosny Log is more prone to clerical error than the other logs. Also, the Benson/Mosny log is not, according to Paul Mosny, subject to the corrective feedback that the other logs undergo. Compared to the docket log and the master log, the Benson/Mosny Log is a source of low probative value for PCB decisions.

The following statistics reflect explanation for the multiple entries next to a case number in the Benson/Mosny Log. This investigation is time consuming and is not yet complete; however, the trend is clearly shown that these multiple entries cannot be explained in terms of panel snopping by PCB attorneys. Attached is a list of the first 28 cases on the duplicate decision sheet. This serves to illustrate the different kinds of problems and solutions posed by the multiple entries.



FULL BOARD REFERRALS -----	75
TABLED -----	29
SAME RESULT/PARDON -----	15
(presents no problem because both decisions identical)	
SAME RESULT/ALTERNATE SERVICE -----	15
ADDITIONAL INFORMATION -----	14
REASON FOR SECOND PRESENTATION UNKNOWN	
(Referred to Larry Baskir for policy decision by clean-up)-	4
SECOND REFERRAL DETERMINED TO BE IN ERROR BY GENERAL COUNSEL-	1
CLERICAL ERROR -----	27
(In either Benson/Mosny Log or a PCB source)	
RE-HEARD AFTER PRESIDENT SIGNED PARDON -----	3
(no A/S - no apparent reason for re-hearing)	
TOTAL -----	183
TO BE RESOLVED -----	87

The following list of cases serves only to explain the existence of two entries for a single case number in the Benson/Mosny log. Where this investigation has revealed possible double dispositions, these problem cases have been noted and will be dealt with through the "clean-up" procedures established by Mike Bernstein.

Where the reason for the duplicate entry has not yet been established, the PCB sources thus far utilized in the search will be noted along with the data found therein. The following abbreviations will be used in this status report: DS - final decision sheets prepared by the scribes; ML - Master Log; DOC - Docket Log prepared by Charlene Geraci; FB - full board.

- ✓ 007 FB reconsidered its 6 March decision on 7 March. Legitimate rehearing.
- ✓ 026 Tabled on 5 Dec 74. The case was redocketed and heard 14 Aug - pardon.
- ✓ 197 Both decisions were 10 months A/S. No problem.
- ✓ 264 8 Feb - No decision, tie vote. Applicant granted a pardon on 7 Jun.
- ✓ 304-BDX-C Heard 8 May panel C, am panel; no decision. Panel C recommended a pardon for the applicant at the 8 May pm panel. Reheard 7 June where a pardon was also granted. No reason discovered for the rehearing, but no problem since a pardon was granted both decisions.
- ✓ 393 ~~Tabled~~ referred to FB 9 May. FB granted a pardon 7 June.
- ✓ 401 Tabled 7 March. Referred to FB by panel B on 8 May. FB recommended a pardon on 10 May.
- ✓ 423 Referred to FB on 4 April. Pardon recommended on 17 June.
- ✓ 433 Tabled 9 Jan. Pardon recommended on 6 February.
- ✓ 490 Panel B on 7 March referred to FB for possible VA benefits. FB recommended a pardon on 8 March.
- 561 Unresolved. DOC shows 4 April - 6 mos.; 8 May - pardon. ML shows 8 May - pardon.
- ✓ 582 TDX-C UTL 582 on 7 March DS. However, 852 was heard that day. 582 recommended for a pardon by panel T on 23 July. Probable clerical in transcribing DS onto BM.
- ✓ 586 Applicant received a pardon both times.
- ✓ 659 Presented twice in one day to the same panel. The panel (S) was unable to decide on a recommendation in the morning session; the panel members permitted the second presentation and agreed to recommend 9 mos. This decision has been previously investigated by Clean-up. Larry Baskir approved the 9 mos. decision on 22 August.

- ✓ 664 4 April referred to FB. Panel A on 8 May recommended a pardon.
- ✓ 768 UTL on 7 March DS. However, the Board considered cases 876 and 767 on 7 March, which makes a clerical error possible as explanation for the two entries on 768. 768 recommended for a pardon on 8 May.
- ✓ 772 RMT-M DS for 7 March shows 6 mos. The case was presented on that date by Capt. Bruce Heitz. The file indicates that new information was received from the applicant on 21 March. Apparently, on the basis of this new info, Capt. Heitz presented the case to panel A on 8 May where 9 mos. was recommended.
- ✓ 831 JJX-M Probable clerical error. UTL on 9 May DS. However 832 was decided on that date. 831 was heard on 19 June and recommended for a pardon.
- ✓ 837 Referred to FB by panel B on 7 March. Tabled by FB on 8 March. No problem.
- ✓ 884 Referred to FB on 8 May by panel C. FB recommended pardon and VA benefits on 17 June.
- ✓ 957 DCX-C On 6 June panel S recommended the Applicant do 9 mos. A/S. This case was presented by attorney Gannon. There were no aggravating factors and 3, 10, and 11 were in mitigation. "Full Board Referral" written in large letters on file jacket. There is also a letter in file dated 16 June indicating that the applicant had commenced A/S in fulfillment of his sentence. It appears that this case was reheard on the basis of this additional info by the FB on 31 August. FB recommended 3 mos.
- ✓ 963 UTL this case on either of the dates appearing in the EM log. No corresponding entries in any of the other PCB source material. No problem.
- ✓ 967 Pardon recommended by FB on 3 April. Case reheard by panel D on 22 May where the recommendation was changed to 3 mos. UTL any reference to 967 in other PCB sources for the 23 August entry in the EM log. No problem.
- ✓ 1022 Recommended for upgrade on 23 May. FB granted the upgrade on 17 June.
- ✓ 1062 Recommended for a pardon by panel W on 22 May. The applicant was informed that the president had granted his pardon on 5 July. UTL any 13 June decision sheets, including FB DS for that date; however, 1062 was not on the 13 June FB docket which I did locate. Apparent clerical error.
- ✓ 1074 The 9 May decision sheet states "Question of SOP re: court-ordered A/S". FB recommended a pardon on 7 June. The President granted the pardon on 27 June.
- ✓ 1100 MJR-M Recommended for a pardon 4 April. UTL case 1100 on the 10 July DS. I did find that case 11100 LJX-M was heard 10 July by panel O. Probable clerical error.
- ✓ 1127 This duplicate disposition resulted from the transposition of 1172 on a DS. No multiple presentation involved.

11 September, 1975

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions



During our investigations of yesterday, I and those working with me on this detail have discovered a total of seventeen cases in which double decisions were made. A brief summary of each case appears below.

- ✓ 3387-BWF-M This case was presented to panel U on 4 June and received no clemency with a referral for jurisdiction. It was referred to you and on 19 June you indicated that the PCB did have jurisdiction over the case. The case was accordingly redocketed and presented to panel W on 26 August, where it received 6 mos.
- 3810-CHW-M This case was given no clemency on 23 May and for reasons unknown was presented to another panel on 26 August. At that time, it was noted that the case had been previously heard and it was referred to the Full Board for disposition. I am advising you of this case because the Full Board referral amounts to a disposition by the panel.
what decision of FB?
- ✓ 3863-BEG-C This case was given no clemency on 27 June and for unknown reasons was presented again on 26 August. At that time it was noted that the case had been heard previously and it was referred to the Full Board.
- ✓ 4132-GJH-C This case was heard by panel H on 3 July and given a pardon. Apparently, it was returned to files with no visible evidence that it had been written or presented. It was reassigned to another team, where an attorney prepared a new summary and presented it to panel J on 21 August. It received another pardon.
- ✓ 4170-WDG-C This case, too, was presented to panel H on 3 July and received a pardon. The attorney in this case (Wince) again apparently returned it to files without any indication of ~~bits~~ being written or disposed of. An attorney from another team then prepared a new summary and presented it to panel O on 22 August, where it received another pardon.
- ✓ 4177-SDW-M This case initially received no clemency from panel B on 27 June, then further information concerning the applicant's murder conviction was obtained. The case was redocketed on this basis and received no clemency from panel W on 26 August.
- ✓ 4451-~~BBM~~-M This case received a pardon from panel L on 9 July. For unknown reasons, a second presentation to panel R was made on the basis of the same summary on 26 August. Another pardon was the result.
- ✓ 4869-LJK-M Presented initially to panel H on 3 July, the case received 9 mos. The only summary in file is dated 28 July, so presumably this was reassigned with no indication of prior presentation. The second attorney presented the case to panel X and received 9 mos. on 26 August.
- ✓ 5776-GMX-M As the attorney involved, I can explain the circumstances of this case. It was initially presented to panel U on 6 June and received 6 mos. Some time later, about early August, I held a telephone conversation with the applicant and received additional information about his reasons for his AWOLs. On this basis, I redocketed the case and had it presented a second time to panel O on 22 August, where it received 3 mos.
- ✓ 6031-BLL-M Originally presented to panel D, this case received 9 mos. on 23 May. After the presentation, a telephone conversation with the applicant (7/15) yielded additional information and the case was redocketed. It was presented to panel S on 26 August and again received 9 mos.
- ✓ 6287-SHH-M Panel H granted a pardon to this case on 13 June. The only summary in file, however, is dated 18 August so presumably it was returned to files without any evidence of prior disposition. The second attorney to be assigned the case thereupon prepared a new summary and presented it to panel X on 26 August, where it received 3 mos. I believe, in view of lack of any evidence of new information, that the initial decision should stand.
- ✓ 13055-SVE-M Panel B gave this case 3 mos. on 29 July. For reasons unknown it was subsequently redocketed and presented to panel ~~X~~ R on 28 August. It again got 3 mos. It is most probable that this was the result of poor procedures for showing that the case had been presented.

PCB Attorney: _____

PCB Case Number (in full): _____

Disposition of case _____

Name of applicant (in full; last name first) _____
LAST FIRST MIDDLE

Best address: _____
(include _____
zip code) _____

Other address (if listed): _____
(include zip code) _____

Best telephone number (with area code): _____

Other telephone numbers (if any--with area code): _____
(identify)

Attorney (if any): _____

Law Firm name (if any): _____

Attorney address (if any): _____
(include zip code) _____

Attorney telephone number (with area code): _____

Branch of Service (If Military) _____

District Court of Conviction (If Civilian) _____

Date of Conviction _____

Is applicant now on parole or probation? _____

If so, give name and address of supervisor _____

If a Senator or Congressman is to be informed of disposition of case, give name and address.

REMARKS (especially if pertinent to contacting applicant either by phone or mail):

- ✓ 13840-RRS-M Presented to panel I on 11 June, this case received a pardon. On 2 July a letter was received from the applicant which indicated the existence of a previously unsuspected criminal record. Further investigation yielded a background of several convictions for violent crimes. Presented to panel J on this basis, the case received no clemency on 15 August.
- ✓ 15054-HBA-M The case was presented initially on 29 July and received no clemency. It was immediately flagged by the case attorney and, presumably after proper flagging procedures were followed, it was re-presented to panel on 28 August, where it again received no clemency.
- ✓ 15708-BJA-M This case was initially presented on 16 July and received 6 mos. Following the presentation, a telephone call from the applicant yielded additional information and the case was redocketed. It was presented again on 28 August and again received 6 mos.
- ✓ 16784-YSL-M The case received a pardon on 30 July. For unknown reasons it was redocketed and later presented on the basis of the same summary. It again received a pardon on 28 August.
- ?
✓ 16814-JTP-M This case was presented initially on 29 July and received 6 mos. Following this presentation, a telephone contact with the applicant (8 Aug) gave additional information and the case was redocketed. Presented with this additional information on 28 August the case received a full pardon.

PCB Attorney: _____

PCB Case Number (in full): _____

Disposition of case _____

Name of applicant (in full; last name first) _____
LAST FIRST MIDDLE

Best address: _____
(include _____
zip code) _____

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(include zip code) _____

Best telephone number (with area code): _____

Other telephone numbers (if any--with area code): _____
(identify)

Attorney (if any): _____

Law Firm name (if any): _____

Attorney address (if any): _____
(include zip code) _____

Attorney telephone number (with area code): _____

Branch of Service (If Military) _____

District Court of Conviction (If Civilian) _____

Date of Conviction _____

Is applicant now on parole or probation? _____

If so, give name and address of supervisor _____

If a Senator or Congressman is to be informed of disposition of case, give name and address.

REMARKS (especially if pertinent to contacting applicant either by phone or mail):

10 Sep 75

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions

During the course of our investigations yesterday, I and those working with me on this detail found twelve cases in which a double decision had been made. A brief summary of each case appears below.

- ✓ 967-BJR-C This case was presented initially to panel E on 22 May and was given 6 mos. Following presentation, a conversation was held with the State Director of the Selective Service System in which he voiced a belief, after a review of the applicant's SSS file, that he should not have been prosecuted in the first place. On the basis of the material obtained from that conversation, the case was redocketed and was given a pardon by panel Q on 24 Aug.
- ✓ 1825-BJT-M This case was initially heard by panel G on 23 May and given No Clemency. Additional information was obtained through conversations with law enforcement officials regarding the applicant's civil convictions, and the case was redocketed. Presented by the same attorney with the same summary, it was given 12 mos. by panel Q on 24 August.
- ✓ 3216-KKC-M This case was presented initially by Ms. Kinland of the Klein team on 6 June and received No Clemency from panel U. Following presentation, telephone conversations with law enforcement officials elicited further information concerning the nature of the applicant's civilian offenses and the case was redocketed. Presented by Mr. Gallo to the Full Board on 8/21, the case received 6 mos.
- ✓ 3266-BJW-M The case was initially given no clemency by panel A on 27 June. Following this presentation the attorney contacted law enforcement officers for further details of the applicants civilian offenses. The case was then redocketed and presented to panel Q on 24 August. It again received No Clemency.
- ✓ 3386-CRB-M It was initially presented by attorney Brackett to panel U on 4 June and received the notation "No clemency, ref. for jurisdiction" I was present at that panel and recall that there was some confusion over the jurisdictional issue. General Walt finally said that he meant the case should have no clemency because we had no jurisdiction. The case was sent to your office for review and the PCB was found to have jurisdiction over it. It was then redocketed and, when presented to panel W on 26 August received 6 mos.
- ✓ 3771-PCA-M Initially presented to panel U on 4 June, the case received No Clemency. The attorney subsequently received additional information from the applicant's parole officer and redocketed the case (a review of the case by Mr. Strauss' office indicated that this additional information should be obtained). When presented a second time, the case received a full pardon from the Full Board on 21 August.
- ✓ 4528-KMX-M The case was initially presented on 22 August and received a pardon from Panel L. For reasons unknown, it was presented a second time ~~on~~ 26 August and received another pardon from panel W. The closeness of the presentation dates militates against any deliberate redocketing attempt and I am constrained to attribute the double presentation to a docketing error.
- ✓ 6728-PDR-M This case was initially presented to panel H on 13 June and received 3 mos. Subsequent to that presentation, there was a telephone conversation with the applicant (24 June) in which additional information was obtained. The case was redocketed and presented to panel S on 26 August, from which it also received 3 mos.
- ✓ 8122-JLX-M Presented to panel X on 24 July by Mr. Quinn, this case received 3 mos. For reasons that cannot be ascertained, the case was re-presented by Mr. Hesse to panel L and received another 3-month recommendation on 22 August. The respective attorneys could not be reached and no new information was found in the case file.
- ✓ 8641-KPS-M This case was given no clemency by panel A when initially heard on 26 June. A series of telephone conversations with prison officials thereafter elicited additional information about the nature of the applicant's offenses, and the case was redocketed. It received 9 mos. when presented to panel T on 26 August.
- ✓ 8713-AJH-M The case received a 9-month recommendation when presented to panel C on the morning of 26 June. For unknown reasons, it was redocketed and presented to panel O on 9 July, where it received another 9 mos. The file itself is unavailable for examination.

PCB Attorney: _____

PCB Case Number (in full): _____

Disposition of case _____

Name of applicant (in full; last name first) _____

LAST FIRST MIDDLE

Best address: _____
(include _____
zip code) _____

Other address (if listed): _____
(include zip code) _____

Best telephone number (with area code): _____

Other telephone numbers (if any--with area code): _____
(identify)

Attorney (if any): _____

Law Firm name (if any): _____

Attorney address (if any): _____
(include zip code) _____

Attorney telephone number (with area code): _____

Branch of Service (If Military) _____

District Court of Conviction (If Civilian) _____

Date of Conviction _____

Is applicant now on parole or probation? _____

If so, give name and address of supervisor _____

If a Senator or Congressman is to be informed of disposition of case, give name and address.

REMARKS (especially if pertinent to contacting applicant either by phone or mail):

✓ 9349-BDL-M This case was presented to panel Ø on 19 August and received a 9-month recommendation. It was heard again by the same panel on 22 August and given another 9-month recommendation. The same attorney made each presentation on the basis of the same summary. The only conceivable explanation for this case's double presentation in so short a time is a docketing error to get it on twice and an attorney under such work pressure that he would neither remember the prior presentation of the case nor annotate the * record at the time of the initial presentation. In any case, identical dispositions make it unnecessary to go further.

9 Sep 75

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions

During the course of our investigations yesterday, I and those working with me on this detail uncovered a total of four double decision cases. A brief synopsis of each case appears below.

✓ 2114-HDL-M. This case was initially presented by Mr. Salmon of the Klein team on 9 July and received a recommendation of 6 mos. from panel N. Subsequent to that presentation, additional information was received which, in the opinion of Mr. Salmon, constituted new and material evidence to be considered by the PCB. The case was accordingly redocketed and reheard by panel O on ~~XXXX~~ 22 August and a pardon was recommended. In view of the fact that the second presentation was made on the basis of additional information, I recommend that we adopt the later recommendation.

✓ 6926-DCE-M. This case was initially presented on 13 June and received a 7-month recommendation from panel H. For unknown reasons it was presented again to panel S on 26 August and again received 7 months. I spoke to the case attorney, Mr. Edward Fitch of the Broder team, and he was unable to tell why two presentations had been made. I noted during the course of our interview that Mr. Fitch had quite a few pending cases and surmised that this case load might have contributed to an inability to keep track of all presented cases. In any case, the identical recommendations would appear to make further action unnecessary.

→ 10262-DSB-M The first presentation of this case on 23 July resulted in a pardon recommendation from panel T. For unknown reasons the case was presented a second time on 22 August and, based on the same summary, received a recommendation of No Clemency from panel L. Miss Arsenault made this investigation and, confronted by such different dispositions from the same summary, made a study of the summary itself. It seems that, while in AWOL status, the applicant attempted to kill his girlfriend, who said she was leaving him, and to commit suicide. A military psychiatrist's report indicated that the applicant had a very violent nature and was prone to fits of rage. His own father indicated that, since his suicide attempt, the applicant's whole personality had changed (grown more violent). In view of these factors, I feel that going with the initial recommendation may not be too wise. The personality and past behavior of the applicant, as described by the military psychiatrist and his father, may cause some future incident which would reflect adversely on the PCB and the President. If nothing else, I would suggest that the case be heard by the Full Board or at least the Purple panel if Full Board consideration is not possible.

12493. This case was presented by Mr. Chott of the Klein team to panel B on 29 July and received 6 mos. It was presented again by Mr. Hart on 21 August to panel J and received 6 mos. again. Mr. Hart was unaware of the prior presentation and Mr. Chott was absent at the time of the second presentation. He informed Mr. Hart of the ~~second~~ first presentation as soon as he learned of the second and they tried, unsuccessfully, to stop implementation of the second panel recommendation. In view of the identical dispositions, I see no need for further action.

PCB Attorney: _____

PCB Case Number (in full): _____

Disposition of case _____

Name of applicant (in full; last name first) _____
LAST FIRST MIDDLE

Best address: _____
(include zip code) _____

Other address (if listed): _____
(include zip code) _____

Best telephone number (with area code): _____

Other telephone numbers (if any--with area code): _____
(identify) _____

Attorney (if any): _____

Law Firm name (if any): _____

Attorney address (if any): _____
(include zip code) _____

Attorney telephone number (with area code): _____

Branch of Service (If Military) _____

District Court of Conviction (If Civilian) _____

Date of Conviction _____

Is applicant now on parole or probation? _____

If so, give name and address of supervisor _____

If a Senator or Congressman is to be informed of disposition of case, give name and address.

REMARKS (especially if pertinent to contacting applicant either by phone or mail):

8 September, 1975

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions

During the past week, there has been greater interest shown by the Board in double decisions, and a series were unearthed. Many were given to you by telephone conversation with Ms. Handwerger. On Friday, I and those working with me discovered an additional two ~~unearthed~~ cases in which more than one disposition occurred. Those cases and an explanation are set out below.

~~XXXXXXXXXXXX~~

14123-TTU-M The first presentation of this case was made on 15 Aug with a summary prepared by attorney SACHS on 19 June. The second presentation was made on 26 Aug with a summary prepared by BOURDINE on 30 July. In each case, a pardon was recommended. I am able to explain this case both by my findings and as the former assistant team leader of both individuals. Mr. SACHS returned to his agency some time ago, leaving several cases in various stages of completion. It was his practice to keep his draft summaries separate from the cases so that he could refer to them easily. After his return, I reassigned most of his incomplete cases to Mr. GOURDINE, who proceeded to either complete summaries or to present those which were completed. Apparently, the case itself had no indication that it had ever been worked, and for one reason or another, the completed summary never got associated with it. By early August, too, many of the Klein team were being detailed elsewhere for varying periods of time, and it is quite possible that when SACHS' summary was returned, it was put in for docketing without anyone knowing exactly where the case was. When it came time to present it, it would have been done with or without the case, and very probably without the knowledge of Mr. GOURDINE. At the same time, Mr. GOURDINE's summary would have been prepared and put in for docketing, without anyone seeing the case in our records as being previously prepared by him. The result was two summaries went to docketing without anyone aware that they were the same case, and two presentations without anyone aware that the case had been presented before. The ~~two~~ identical dispositions appear to require no further action on our part.

10098-GCX-M This case was initially presented to panel X on 10 July and received a pardon. The applicant sent in a letter concerning his AWOLS and circumstances which was not associated with the case file until after the initial presentation. It was decided, after review of that letter, to re-present the case on the possibility that the applicant might be upgraded. The case was heard by panel S on 26 Aug and a straight pardon was again recommended.

CASE ID / CIRCLE OF CARE / (ATTN)	WEEKLY	WEEKLY	WEEKLY	WEEKLY	CURT	WEEKLY
TOTALS						

TOTAL CASES FROM FC	WEEKLY
TOTAL CASES FROM TD	

OFFERS

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

12 Sep 75

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions

During the past 24 hours, the investigations of myself and those working with me on this detail have disclosed two cases in which a double decision was made. A summary of each case appears below.

✓ 6339-SHY-C This case received No Clemency from panel T on 5 June. It was then flagged by Mrs. Ford and docketed for the Full Board on 21 August, where it received a pardon.

✓ 6486-TRD-M This case was presented to panel X and received 3 mos. on 22 July. The attorney was unaware of the prior presentation and had the case redocketed. It was presented to panel M on 19 August and received 6 mos. Following the presentation, the attorney became aware of the double presentations and spoke to his team leader (Kodak) who said he would see Charlie Graham in an effort to have the second recommendation removed.

✓ In addition to these cases, 3216 KKC-M presents a somewhat strange situation. It was heard on 5 June and received No Clemency from panel U. For reasons unknown, it was presented again to the Full Board on 21 August and received a 6-month recommendation. Although I am unable to ascertain the basis for the presentation to the Full Board, I believe that we have no choice but to let the Full Board recommendation stand.

9 Sep 75

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions

During the course of our investigations yesterday, I and those working with me on this detail uncovered a total of four double decision cases. A brief synopsis of each case appears below.

✓ 2114-HDL-M. This case was initially presented by Mr. Salmon of the Klein team on 9 July and received a recommendation of 6 mos. from panel N. Subsequent to that presentation, additional information was received which, in the opinion of Mr. Salmon, constituted new and material evidence to be considered by the PCB. The case was accordingly redocketed and reheard by panel O on ~~XXXX~~ 22 August and a pardon was recommended. In view of the fact that the second presentation was made on the basis of additional information, I recommend that we adopt the later recommendation.

✓ 6926-DCE-M. This case was initially presented on 13 June and received a 7-month recommendation from panel H. For unknown reasons it was presented again to panel S on 26 August and again received 7 months. I spoke to the case attorney, Mr. Edward Fitch of the Broder team, and he was unable to tell why two presentations had been made. I noted during the course of our interview that Mr. Fitch had quite a few pending cases and surmised that this case load might have contributed to an inability to keep track of all presented cases. In any case, the identical recommendations would appear to make further action unnecessary.

→ 10262-DSB-M The first presentation of this case on 23 July resulted in a pardon recommendation from panel T. For unknown reasons the case was presented a second time on 22 August and, based on the same summary, received a recommendation of No Clemency from panel L. Miss Arsenault made this investigation and, confronted by such different dispositions from the same summary, made a study of the summary itself. It seems that, while in AWOL status, the applicant attempted to kill his girlfriend, who said she was leaving him, and to commit suicide. A military psychiatrist's report indicated that the applicant had a very violent nature and was prone to fits of rage. His own father indicated that, since his suicide attempt, the applicant's whole personality had changed (grown more violent). In view of these factors, I feel that going with the initial recommendation may not be too wise. The personality and past behavior of the applicant, as described by the military psychiatrist and his father, may cause some future incident which would reflect adversely on the PCB and the President. If nothing else, I would suggest that the case be heard by the Full Board or at least the Purple panel if Full Board consideration is not possible.

12493. This case was presented by Mr. Chott of the Klein team to panel B on 29 July and received 6 mos. It was presented again by Mr. Hart on 21 August to panel J and received 6 mos. again. Mr. Hart was unaware of the prior presentation and Mr. Chott was absent at the time of the second presentation. He informed Mr. Hart of the ~~second~~ first presentation as soon as he learned of the second and they tried, unsuccessfully, to stop implementation of the second panel recommendation. In view of the identical dispositions, I see no need for further action.

PCB Attorney: _____

PCB Case Number (in full): _____

Disposition of case _____

Name of applicant (in full; last name first) _____
LAST FIRST MIDDLE

Best address: _____
(include zip code) _____

Other address (if listed): _____
(include zip code) _____

Best telephone number (with area code): _____

Other telephone numbers (if any--with area code): _____
(identify) _____

Attorney (if any): _____

Law Firm name (if any): _____

Attorney address (if any): _____
(include zip code) _____

Attorney telephone number (with area code): _____

Branch of Service (If Military) _____

District Court of Conviction (If Civilian) _____

Date of Conviction _____

Is applicant now on parole or probation? _____

If so, give name and address of supervisor _____

If a Senator or Congressman is to be informed of disposition of case, give name and address.

REMARKS (especially if pertinent to contacting applicant either by phone or mail):

2 September 75

TO: Larry Baskir

THROUGH: ;Gretchen Handwerger

FROM: Mike Bernstein, Cleanup Detail

RE: Duplicate Decision, case No. 3456-HDT-M

✓ During my investigations of problem cases on 29 August, I found that there had been duplicate dispositions made in case 3456-HDT-M. Mr. Grafel presented this case initially on 13 June and a pardon was recommended by panel J. It was presented again by Mr. Grafel with the same case summary on 10 July and received a ~~MM~~- 9-month recommendation from panel O. Mr. Grafel has returned to his agency and is therefore unavailable to furnish information, and members of the Hickman team have checked his records without finding any explanation for the second presentation. His records reflect only the initial disposition of 13 June, while the case itself reflects only the 9-month disposition of 10 July. There was no indication of any new information or any other reason to present the case a second time. I must hypothesize therefore that the second presentation was made in error and without checking his records to see that the case had previously been heard. Inasmuch as there was no new information or any other discernable reason for the second presentation, I recommend that we consider the initial disposition as binding.

Case No.: 11091-HLW-M

Chronology:

11 Sep 53	Date of Birth
Feb 71	Quit school during 10th grade
3 Mar 71	Enlistment
14 May 71 - 8 Jul 71	AWOL
9 Jul 71 - 11 Aug 71	Confinement
15 Jul 71	Request for discharge
11 Aug 71	Undesirable Discharge executed
27 Mar 75	PCB Application

Awards and Decorations:

National Defense Service Medal

Prior Military Offenses: None

Sources:

Military Personnel File
Letter from Applicant
PCB Application

2 September 75

TO: Larry Baskir

THROUGH: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail

RE: Double Decisions

During our investigations of this date, I and others on this detail have found a total of four cases in which more than one disposition was made after more than one hearing. A brief discussion of each case appears below.

✓ 1448. This case was initially heard on 11 June by panel H which recommended a pardon and upgrade. It was heard again, on the basis of the same summary and presented by the same attorney, and a straight pardon was recommended on 16 July. It was heard by the special upgrade panel (on the basis of the 6/11 disposition) on 8/12 at which time NO UPGRADE was recommended. The file does not contain any additional information or any other basis for the second (7/16) presentation. Since the final outcome (pardon) was identical, I see no need for further investigation, but surmise that the second presentation may well have been due to a docketing error or an unfamiliarity with docketing procedures.

✓ 6682. This case was apparently heard initially on 20 Jun and awarded 3 months by panel L. Six days later, the same attorney presented it to panel C and it was awarded 9 months. Contact with the team showed that the attorney preparing the summary was away on the 20th and another attorney presented it. When he returned, he was unaware of the prior presentation but saw the notation "3 mos" on the A-M sheet and was somewhat suspicious. He felt, however, that it was better to present the case and assumed that any mistake would be caught later on. In view of the fact that the same case was heard on the basis of the same summary, I believe that we are justified in using the initial recommendation (3 mos.) as determining.

✓ 12294. This case was initially presented on 13 June and received 3 mos. It was presented again by the same attorney (Parker) using the same summary and received a pardon on 27 June. I spoke to Mr. Parker and he indicated that his records showed only the later disposition. He was unable to account for the duplicate presentations and attributed them to a docketing error. In view of the use of the same summary with no additional information or other basis for the second presentation, I believe we should consider ourselves bound by the first one (3 mos.).

✓ 15124. This is a rather interesting case in which additional information worked to the detriment of the applicant. The case was initially presented by attorney Ljelowitz and received a 6 month recommendation on 16 July. Meanwhile, additional information was received showing the applicant was incarcerated for murder (his wife had died after he struck her during an argument) and attempted robbery (he had sought to leave his employer's premises with a diamond ring). With this additional information presented on 19 August, a NO CLEMENCY recommendation was made. I believe that the second presentation was justified by the ~~additional information~~, and the additional information justified the no clemency recommendation. I see no basis for disturbing the last action of the Board and believe that the last action should control.

WEEKLY PROGRESS REPORT

WEEK ENDING _____

(ATTY) (ATL) (TEND) CIRCLE ONE

Essigmann NAME _____

(CASE #) (ATTY) (ATL) CIRCLE ONE	WEEKLY GOAL	WEEKLY PRODUCTION:		CUMULATIVE		COMMENTS
		DRAFT	TO CC	DRAFT	TO Q.C.	

TOTALS						

		WEEKLY CUMULATIVE	
TOTAL CASES FROM CC			
TOTAL CASES TO D/D			

COMMENTS _____

21 Aug 75

TO: Gretchen Handwerger

FM: Mike Bernstein, Cleanup Detail, 4th Floor

RE: Duplicate dispositions of case 3593-JIM-C

?
FB
?
Mr. Baskir was advised today as to the dispositions of the above captioned case. It appears that TWO separate and distinct summaries were prepared at different times by Messrs Weiser and Gaudier of the Hickman team. The case was initially presented to panel S in the basis of the Weiser summary and awarded 3 mos. on 6/5 with no aggravating factors. The case was subsequently reassigned to Mr. Gaudier to rewrite completely due to the poor quality of the original summary. To the best of Mr. Gaudier's recollection, neither he nor the person reassigning the case were aware that it had already been presented. Mr. Gaudier prepared a new summary and presented the case to panel X on 7/24. At that time a pardon was awarded with no aggravating factors.

Ms. Toby Singer of the Strauss staff had a hold placed on this case on the basis of the initial recommendation which deviated from Board policy in awarding alternative service with no aggravating factors. She was unaware of the later presentation and different outcome.

I have advised Mr. Baskir of these facts by memo of this date and recommended that we use the later recommendation (ie. pardon). That recommendation is in line with established Board guidelines and made on the basis of a better summary. In addition, to take the case to the Full Board at this time would be time consuming and, if the Board adheres to its own guidelines, should result in the same decision as rendered on 7/24.

Sen. Goodell

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

September 15, 1975

MEMORANDUM

TO : Board Members & Spouses (friends),
PCB Staff invitees & spouses (friends),

FROM : John H. Kauffman

SUBJECT: Party

Please join me for cocktails and dinner.

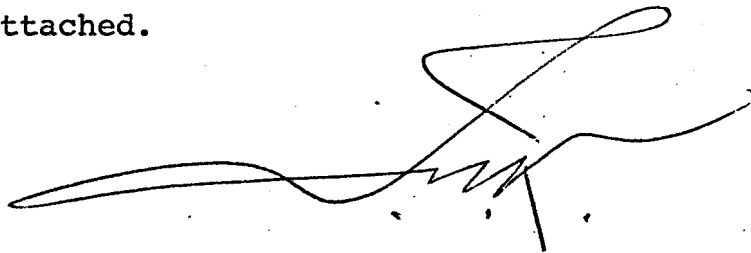
Where: "Cliffhurst"
620 Boyle Lane
McLean, Virginia 22101
703-356-0912

Dress: Informal

When: Monday, September 15, 1975

Time: 6:00 p.m.

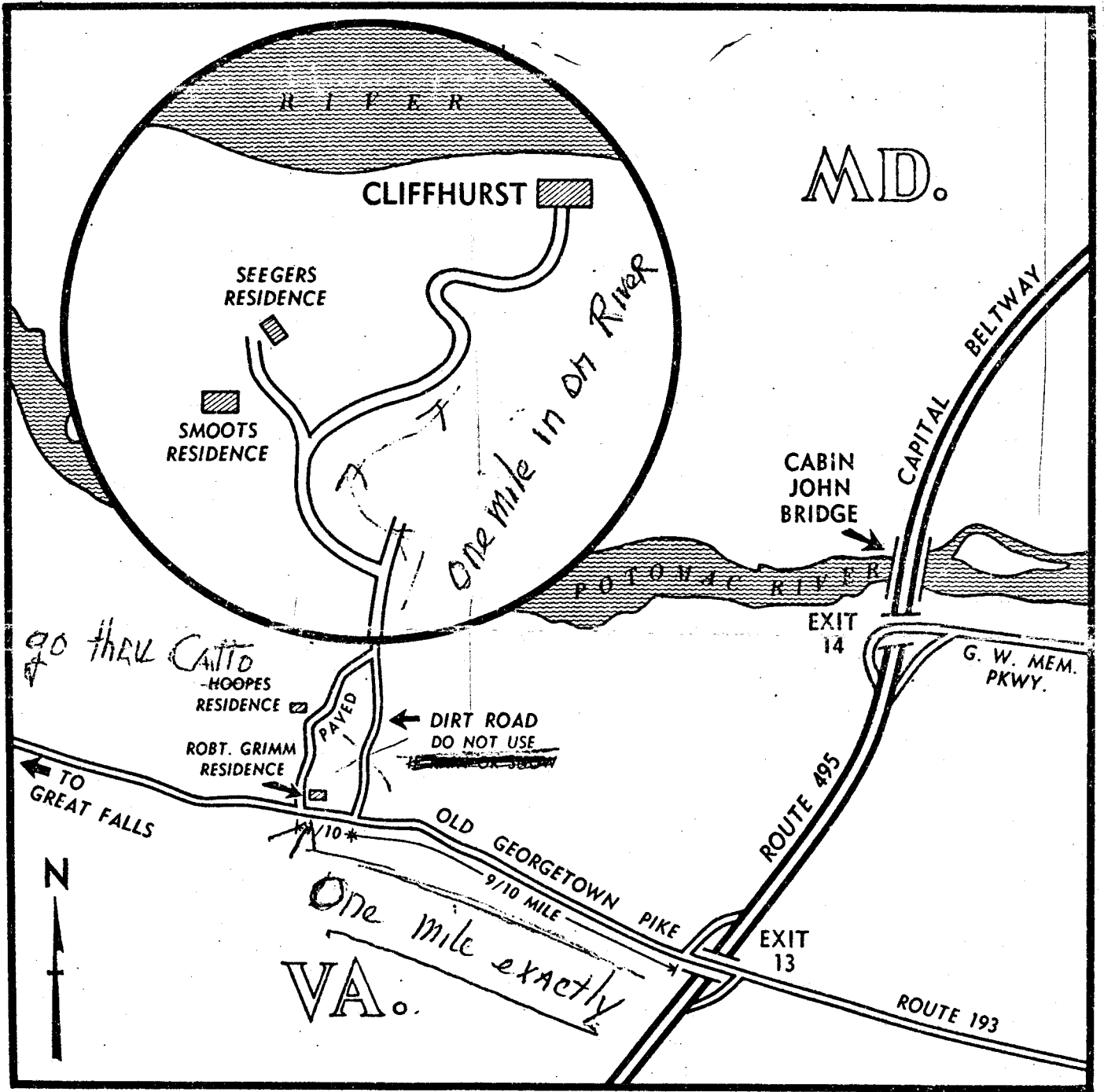
Map attached.



KAUFFMANN

356-0912

DIRECTIONS TO CLIFFHURST, McLEAN, VIRGINIA



C. E. Goodell
Personal & Confidential

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

September 15, 1975

MEMORANDUM FOR:

LAWRENCE M. BASKIR
GENERAL COUNSEL

FROM:

Leland E. Beck *LEB*
Special Assistant for Planning
and Policy Analysis

RE:

Rates of Dissent for Board
Members

Attached is a table of Rates of Dissent for Board Members compiled between March 1, and September 1, 1975. This tabulation covers over 87.5% of all cases heard by the Board, in toto.

In the first column are the dissents by the individual over the number of pardons which resulted. This includes the rate of dissent to pardon dispositions. In the second column are the dissents by the individual over the number of alternative service dispositions which resulted. This includes the rate of dissent to alternative service dispositions. The third column includes the number of times disagreement occurred in a panel on which the individual sat over the number of cases which the individual heard. The percentage included indicates that actual percentage of time when the individual was involved in a panel disagreement, but does not indicate the percentage of time when the individual initiated the disagreement.

The data stands on its own, and I don't think any further analysis is needed.



	(Dissents/Pardons)%	(Dissents/ A/S) %	(Panel Disagreements/Cases Heard) %
Dougovito	(153/716) 21.4%	(110/1035) 10.6%	(359/2183) 16.4%
Craig	(41/1190) 3.4	(50/1614) 3.1	(140/3365) 4.2
Walt	(30/1075) 2.8	(82/1469) 5.6	(219/3221) 6.8
Jordan	(1/97) 1.0	(1/103) 1.0	(6/248) 2.4
Kauffmann	(13/1306) 1.0	(4/1855) .2	(37/3617) 1.0
Adams	(5/981) .5	(10/1136) .9	(18/2420) .7
Everhard	(6/1656) .4	(22/1890) 1.2	(62/4280) 1.4
O'Connor	(4/1345) .3	(38/1692) 2.2	(117/3580) 3.3
Carter	(4/1168) .3	(9/1688) .5	(26/3312) .8
Maye	(2/1041) .2	(2/1102) .2	(17/2526) .7
Hesburgh	(1/471) .2	(0/412)	(4/1057) .4
Ford	(1/924) .1	(18/1318) 1.4	(72/2752) 2.6
Riggs	(1/1467) .1	(20/1857) 1.1	(84/3911) 2.7
Puller	(0/1521) --	(37/1796) 2.1	(104/3870) 2.7
Vinson	(0/1266) --	(31/1750) 1.8	(87/3645) 2.4
Goodell	(0/385) --	(1/367) .2	(12/935) 1.3
Morrow	(0/772) --	(0/952) --	(25/1971) 1.3
Finch	(0/35) --	(0/73) --	(0/142) --