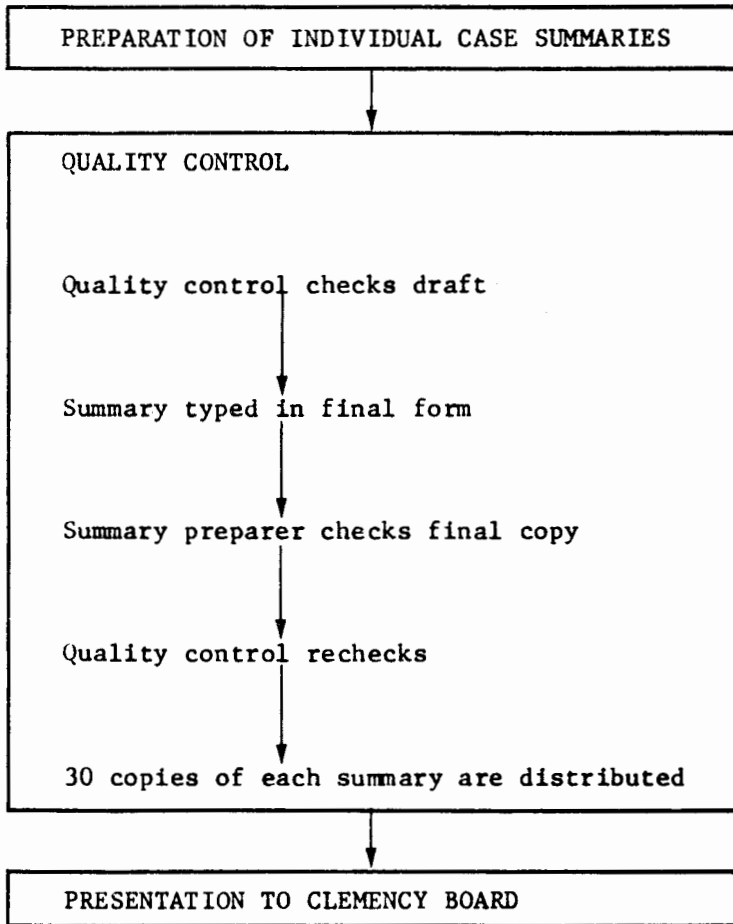


The original documents are located in Box 10, folder “Training Handbook (2)” of the Charles E. Goodell Papers at the Gerald R. Ford Presidential Library.

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IID. Quality Control



II-D-1

THE PRESIDENTIAL CLEMENCY BOARD
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, D.C. 20500

BOARD MEMBERS

Charles E. Goodell, *Chairman*
Ralph W. Adams
James P. DiNapoli
Robert H. Finch
Theodore M. Hesburgh, C.S.C.
Vernon L. Jordan
James A. Mave
Aida Casanis O'Connor
Lewis W. Walt

PHONE: (202) 456-6176

January 15, 1975

MEMORANDUM FOR: Case Attorneys and Secretaries
FROM: Fred Hansen *FH*
SUBJECT: Quality Control Unit - Responsibilities

The purpose of the Quality Control Unit is fivefold:

1. To ensure that all factual material included in a case summary is accurate;
2. To ensure that all factual material included in a mini-summary is accurate;
3. To ensure that there are no typographical, spelling or grammatical errors in case summaries;
4. To ensure that there are no typographical, spelling or grammatical errors in mini-summaries; and
5. To provide uniformity of style and structure for all mini-summaries.

The purpose of Quality Control is not to be the correction service for the case attorneys or the typists. The respective work produced by the case attorneys and the typist is presumed to be error free.

To be able to facilitate the work of the Quality Control Unit it would be helpful if the following steps are taken.

When a case summary has been completed by the case attorney it will be typed, rough draft, double-spaced in the normal manner. Copy will be returned to the case attorney for proofing. When proofed,



a copy will be made and [redacted] copy, original and case file will be given to the Quality Control Unit (my top In-Out mail box).

If any errors are discovered by the Quality Control Unit they and the corrections will be discussed with case attorney. All errors and corrections made by Quality Control will be left to stand unless the case attorney can verify, from the file, the contrary.

At times, Quality Control will not be able to find verification for certain facts from the file. In these cases Quality Control will ask the case attorney for assistance in finding that verification in the file.

Only those corrections which are spelling, typographical or grammatical will not be checked with the case attorney. All other errors and consequent charges will be discussed with the case attorney before the case goes to be typed into final form.

If no factual errors are found the case summary will proceed to be typed into final form.

For everyone's information, a part of the checks made by Quality Control will be to have Neil Broder check all military cases for logical consistency relative to sentence, suspension, time served, etc.

Once the case summary has been typed in final form, Quality Control will check once more to ensure no errors before it is reproduced and readied for Board action.

Procedures to assist Quality Control with mini-summaries will be forthcoming shortly.

II-D-2

THE PRESIDENTIAL CLEMENCY BOARD

OLD EXECUTIVE OFFICE BUILDING

WASHINGTON, D.C. 20500

BOARD MEMBERS

Charles E. Goodell, *Chairman*
Ralph W. Adams
James P. Dougovito
Robert H. Finch
Theodore M. Hesburgh, C.S.C.
Vernon E. Jordan
James A. Maye
Aida Casanas O'Connor
Lewis W. Walt

March 17, 1975

PHONE: (202) 456-6176

MEMORANDUM

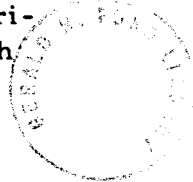
TO: QUALITY CONTROL TEAM
FROM: FRED HANSEN
SUBJECT: PROCEDURE FOR QUALITY CONTROL

When a case summary has been completed by the case attorney it will be typed, double spaced, in the normal manner. Copy will be returned to the case attorney for proofing. When proofed, a copy will be made and both copy and original will be given to Quality Control Unit. Case summary original draft and copy should be attached to the complete case file.

A Quality Control Sign-Off Slip will then be attached to the case summary original draft and will be initialed and dated by Quality Control team leader. The Quality Control Unit will use the case summary original draft copy as its work sheet. Quality Control Unit will mark by check all facts to be verified.

Quality Control Unit will confirm all facts against file, circling the check mark designating correct facts. For errors, lines will be drawn from the check mark to the place where the correct answer is written.

The copy with all facts marked and checked will then be returned to the case attorney by the Quality Control Unit member responsible for doing the checking. All errors will be discussed with the case attorney. All corrections, additions and deletions suggested by Quality Control will be left to stand unless the case attorney can verify or otherwise convince the Quality Control team member that such changes should not be made.



It is most important that any facts not able to be verified by the Quality Control Unit must be verified by the case attorney to the Quality Control Unit. Such verifications can come only from the case attorney producing such facts from the file.

All corrections will then be entered on the case summary original draft. Although the case attorney is responsible for correcting all typographical, grammatical and spelling errors, these kinds of errors should also be checked by the Quality Control Unit team member handling the case. All corrections should likewise be noted on the case summary original draft.

Relative to initial case summaries, Quality Control's purpose is not to edit the summaries for stylistic reasons. Quality Control should be concerned with style only when its quality is so poor as to make it difficult to understand what is being written.

When all changes in the case summary have been made and agreed to by the case attorney and the Quality Control team member, the Quality Control Unit team member responsible for checking the case summary should initial the Quality Control Sign-Off Slip and attach this to the correct case summary original draft and the Quality Control work sheet. This package should then be delivered to me. This Quality Control Unit team member should refile the case file.

The corrected case summary is then reviewed by the team leader for the Quality Control Unit and/or the Executive Secretariat. When this review is completed the original draft will go to the typist for typing in final form. The case attorney will then proof and have corrected any errors contained in the finalized case summary. The Quality Control work sheet, the corrected case summary and the Quality Control Sign-off Slip will be returned to the team leader of Quality Control.

Beyond checking the factual accuracy contained within the initial case summary drafts, Quality Control needs to verify that each of the following category of facts, when appropriate, are either contained within the case summary or it is expressly stated that such information is not available. In those special circumstances such as facts needed for baseline computation or reasons for AWOL for individuals who have served successfully in Vietnam, the case attorney will have to make a special effort, beyond what is contained in the case file, to obtain such information. The list of necessary categories of information are as follows:

1. Total time served (post and pretrial confinement).
2. Alternate Service -- if perform, if performed satisfactorily, and length of Alternate Service.
3. Time served on probation or parole and if entire period satisfactorily completed.
4. Current sentence.
5. Race.
6. Age.
7. Family background and environment.
8. Reason for going AWOL, missing movement, refusing induction or not keeping draft board informed of current address.
9. Prior criminal convictions.
10. False statements to the Presidential Clemency Board.
11. Any use of force collaterally to AWOL, desertion or missing movement.
12. Desertion during combat.
13. Prior refusal to fulfill Alternate Service.
14. Violation of probation or parole.
15. Length of AWOL/UA (total time).
16. Offense.
17. Education and intelligence ratings (military or civilian) and education level.
18. Personal and family circumstances at the time of the offense or afterwards.
19. Mental or physical condition which helps explain offense.



20. Employment and other activities of service to the public since conviction or discharge.
21. Service-connected disability, wounds in combat, or special decorations and commendations.
22. Period of creditable military service.
23. Tours of service in the war zone.
24. Evidence of personal or procedural unfairness.
25. Denial of conscientious objector status on procedural, technical or improper grounds.
26. How applicant came under military or civilian control -- surrender or apprehension.
27. Behavior which reflects mental stress caused by combat.
28. Volunteering for combat or extension of service while in combat.
29. Military conduct and proficiency ratings.
30. Personal decorations for valor.
31. Any other major item included in the case summary, which will probably influence the Board in their decision.

(P)

THE WHITE HOUSE

WASHINGTON

PRESIDENTIAL CLEMENCY BOARD

Old Executive Office Building

Room 460

Washington, D. C. 20500

Dear Sir:

Your application to the Clemency Board has been received. We are sending to you some additional information which will help you understand how we will review your case.

The most important thing that you should look at is the Initial Case Summary. This is a brief statement of the facts of your case and your personal background that has been made from your military records. The summary has been enclosed so that you may see the main tool that the Board will use when we review your case. Like the Board, you and your attorney may also see your entire file.

Please read your summary very carefully. If anything in the summary is wrong or if there is anything you want to explain, please tell the Board. You may also inform the Board of any other information that you think we should consider. If you want to write, please write soon. If we do not receive your comments within twenty days from receipt of this letter, we may have to go on with your case without them.

We have also sent to you the Instructions for preparing summaries. This is what the Presidential Clemency Board gave to its lawyers to tell them how to prepare your summary. We hope that it will explain to you what each item on your summary means.

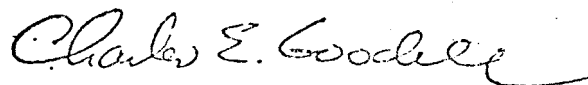
Please remember that there are certain facts in your summary that the Board will not consider because we do not consider them relevant. In order to expedite the processing of your case, however, we decided that substantially all the information from your file should be included in the summary. Some of this information may be either inaccurate or embarrassing to you. Your input, therefore, becomes important if the Board is to consider those facts concerning your case which you believe are important.



The Board suggests that you have an attorney. If you would like the name of an organization that would recommend to you a free attorney, or if you have any questions about the summary of the Presidential Clemency Board, please write or telephone us.

Presidential Clemency Board
White House
Washington, D. C. 20500
Phone: (202) 456-6476

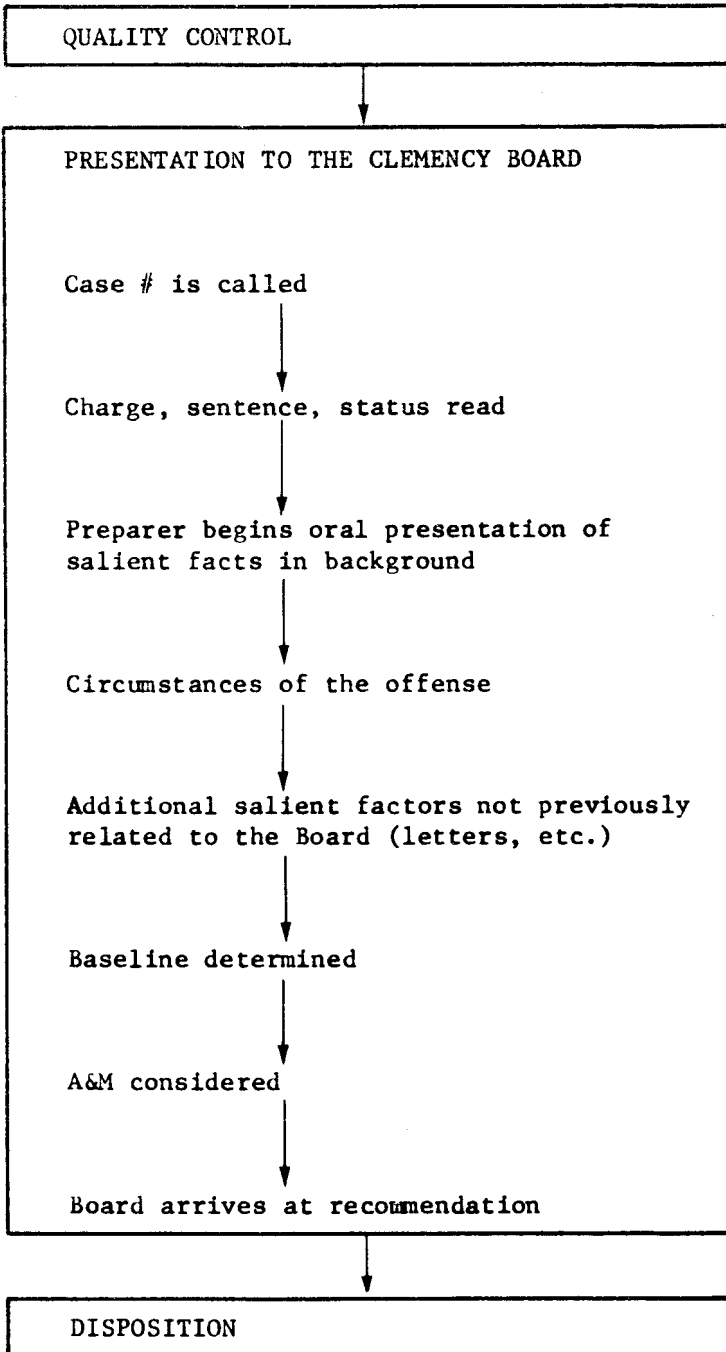
Sincerely,



Charles E. Goodell
Chairman

Enclosures

III.E. Presentation to the Clemency Board



THE PRESIDENTIAL CLEMENCY BOARD
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, D.C. 20500

PHONE: (202) 456-6176

BOARD MEMBERS

- Charles E. Goodell, *Chairman*
- Ralph W. Adams
- James P. Dougovito
- Robert H. Finch
- Theodore M. Hesburgh, C.S.C.
- Vernon E. Jordan
- James A. Mave
- Aida Casanas O'Connor
- Lewis W. Walt

March 13, 1975

MEMORANDUM FOR: Staff Attorneys

FROM: Bob Kodak *RDK*

SUBJECT: Recurrent Problems with Case Presentations

Below you will find listed those problems discussed at the critique sessions following the last Board meeting (March 6, 7 and 8). These sessions will become a regular feature, so while you are attending Board meetings please jot down any problems you see arise and any solutions you can suggest. The noticeable problems from this last meeting were:

1. Letters from the applicant are being overlooked. You should mark the pertinent parts and have the letter attached to the summary to prevent fumbling through the file and wasting time. If no letter, then state that fact.
2. For the future there will be no reference in summaries or oral presentations to Discharge Review Boards.
3. Aggravating and mitigating factor sheets should be filled out beforehand, especially on upgrade cases.
4. Know the reasons for the AMOL -- even if it means writing or calling applicant, or if he has an attorney, his attorney.
5. Baseline -- some people still are not sure on how to figure it out. If you feel you fall into this category please see your team leader.
6. There have emerged two situations where full pardons are being granted. They are to people who have successfully completed 24 months alternate service and those of the Quaker, Muslim or Jehovah's Witness faiths. If you have one of these situations tell the Board first thing so you don't have to waste time going through the entire summary.



7. Don't read the case summary to the Board. Go through the background and hit the highpoints. Pinpoint the aggravating and mitigating factors as they appear in the background. Do the same for the circumstances of the offense, plus go into more detail in this portion of the summary.

8. For Selective Service cases with allegations or evidence of procedural irregularities have all the facts down. Likewise for Vietnam veterans.

9. If a case presents any unusual problems the case attorneys should notify someone of problems well in advance, i.e., the team leader.

10. Speak to entire Board when presenting a case, not just the Chairman.

11. Allow the Chairman to determine the baseline, if possible, but the case attorney should have it ready in case he is requested to do it for the Board.

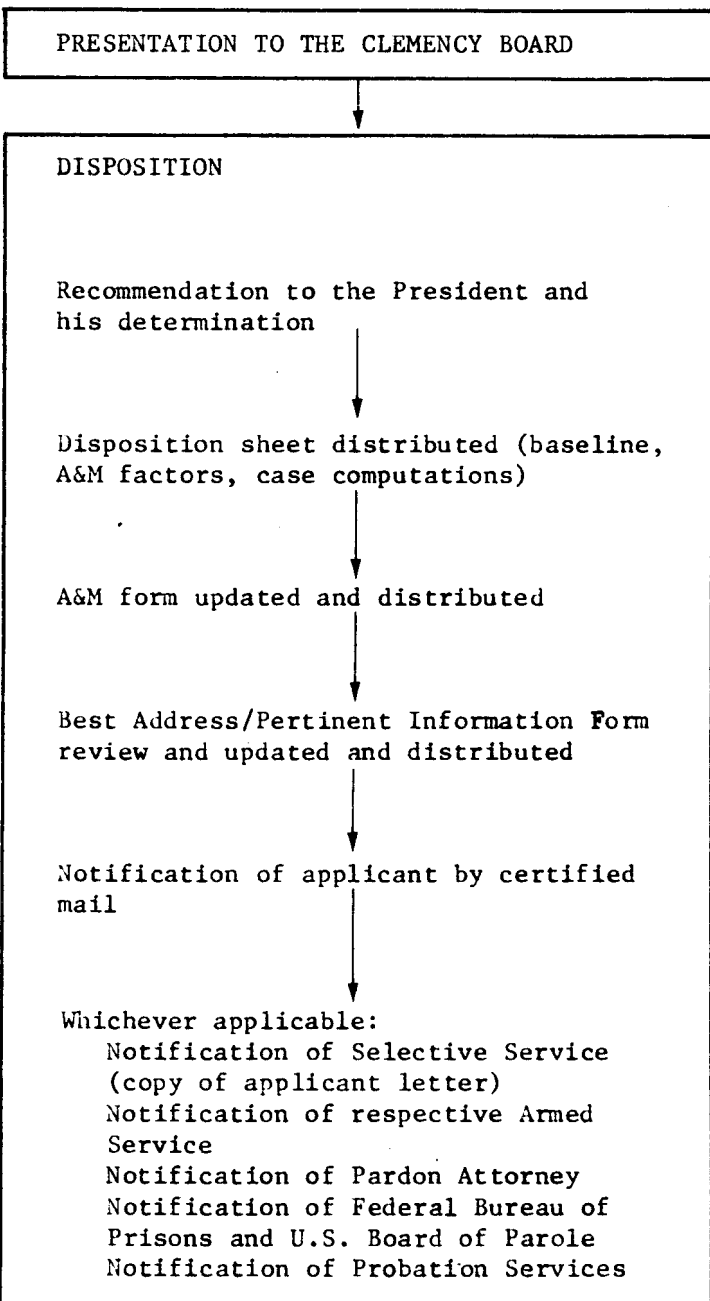
12. After the Board runs through the aggravating and mitigating factors you should suggest those which, in your considered judgment, you feel exist and can be supported by evidence in the file.

13. If you have a character letter to read to the Board please preface your recitation by stating the author's station in life, occupation, relation to applicant, etc., if that fact is known.

14. If your applicant has an Air Medal please tell the Board what unit he served with, i.e., if not Infantry then Air Cavalry.

15. If you have an applicant who allegedly deserted in combat then be ready to explain all the circumstances and factors of the AWOL.

III F. Disposition



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

March 14, 1975

MEMORANDUM FOR: GRETCHEN HANDWERGER
 ROBERT KNISELY
 DAVID HICKMAN

FROM: RAY MITCHELL

SUBJECT: Dissemination of Presidential Clemency
 Board Decisions After Approval by the
 President

To formulate a smooth and orderly flow of information in re decisions of the Presidential Clemency Board subsequent to approval and announcement of these decisions by the President, I have undertaken to outline below the present procedure as I know it. Since this process is presently being performed by several personnel on an ad hoc basis, I suspect the information here outlined is somewhat incomplete and less than totally accurate. Copies of this outline will be furnished to Gretchen Handwerker and Bob Knisely for review and suggestions. After review by the aforementioned staff members, it is recommended that the procedure be finalized in a written standard operating procedure (SOP).

I. General Procedure Subsequent to Board's Decision:

A. "Disposition Sheet"

Thomas O'Hare has the responsibility of completing a "disposition sheet" of Board decisions at the end of each meeting day. The disposition sheet shall include the PCB



case number, base line, aggravating and mitigating factors, decision, PCB case attorney, and any other special notes relevant to a particular case. The information contained in such disposition sheet shall be verified with the notations maintained by Gretchen Handwerger and Chairman Goodell. Copies of the disposition sheet shall be furnished to Ray Mitchell for distribution to PCB case attorneys and the records section no later than two (2) working days after the last day of a Board meeting. Such disposition sheets are to be utilized by the PCB staff to verify records, maintain PCB attorney case dockets, and complete the various forms discussed below.

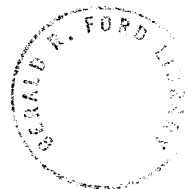
B. "Aggravating and Mitigating Forms"

Upon distribution of the disposition sheet, Ray Mitchell is responsible for ensuring that a separate form, in duplicate, listing aggravating and mitigating factors (A & M), is typed for each case on which the Board rendered a final decision at its last meeting. Upon typing, these forms shall be distributed to the staff team leaders and subsequently to each PCB case attorney for verification. After such verification, the PCB attorney shall sign each A & M form and return one copy to the appropriate team leader for return to Ray Mitchell. The second copy will be placed in the applicant's case file to

be maintained therein. Utilization of such forms thereafter is discussed below.

C. "Best Address/Pertinent Information Forms"

1. The PCB case attorney is responsible for completing "Best Address/Pertinent Information Forms" (BA-PI), in duplicate, for each applicant at the time of the drafting of the initial case summary. Such forms shall be placed in each file when a summary has been completed. Blank copies of such forms shall be supplied to staff team leaders for distribution to PCB case attorneys by Ben Benson.
2. Upon receipt of the "disposition sheet," as discussed above, each PCB attorney shall immediately review the accuracy of the BA-PI form for each case on which the Board rendered a decision during the past meeting. Such review shall include recording of the Board decision in the applicable space provided on the BA-PI forms. One copy of the BA-PI form shall be returned to the case file to be maintained therein. The PCB attorney shall give second copy of the BA-PI form to his team leader. The team leaders are responsible for ensuring that a complete and accurate copy of the



of the BA-PI form for each decided case is furnished to Ray Mitchell.

NOTE: Should PCB case attorneys become aware during the aforementioned process of any reason that necessitates withholding a case from presentation to the President, it is incumbent on such attorney to notify Gretchen Handwerger immediately.

II. Notification Procedure: ↓

A. Individual Applicants

The applicant is notified of the decision of the Presidential Clemency Board via a letter drafted by Gretchen Handwerger. It is my understanding that the notification letter is standardized and contains basic information about the Board's decision and what the applicant is expected to do. I believe the letter is sent to the applicant by "certified mail, return receipt requested." Xerox examples of such letter should be attached to the SOP.

B. Selective Service (Notification to the Selective Service should be sent to the attention of Mr. Barber)

Col. Benson has informed me that no notification or other information need be sent to the Selective Service for those applicants receiving immediate pardon. For those applicants who are required to fulfill a period of alternate service as a

condition of receiving a pardon, the Selective Service is apprised of the Presidential Clemency Board decision by way of copies of the notification letters which are sent to the applicants. From such copies the Selective Service may obtain the name and address of the applicant, the Presidential Clemency Board decision, and the length of the alternate service required.

C. The Respective Armed Services

By a memorandum from Col. Benson dated February 3, 1975, I was informed that the respective Armed Services should be notified of the Board decisions concerning applicants who were discharged under their auspices. To my knowledge, this is not now being done. According to Col. Benson, the process should be as follows:

1. When the Clemency Board reaches a decision on a case, the respective Armed Service is notified by the Board by forwarding a copy of the Board's decision to that Service. No further action is required by the Board.
2. The respective Armed Service will automatically issue a Clemency Discharge Certificate upon receipt of certification from the Selective Service System that the individual concerned has completed his alternate service.



3. In cases where the Board grants an outright

Pardon, the respective Service will issue appropriate certification automatically upon receipt of a copy of the Board's action.

The respective Service shall be notified at the following addresses:

ARMY	Commander Reserve Components Personnel and Administration Center ATTN: AGUZ-PSD 9700 Page Boulevard St. Louis, Missouri 63132
NAVY	Chief Bureau of Naval Personnel (Pers 83) Department of the Navy Washington, D. C. 20370
AIR FORCE	Air Force Military Personnel Center DPM DOP3 Randolph AFB, Texas 78148
MARINE CORPS	Headquarters United States Marine Corps Code: MM Washington, D. C. 20380

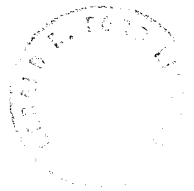
D. United States Pardon Attorney (Attention: Ms. Kathryn
Burnup, Staff Assistant, Office of the Pardon Attorney)

The information needed by the Pardon Attorney is as follows:

Name of applicant; District Court of conviction

for draft evaders or branch of Service for
military offenses; date of conviction; date of
approval by the President; and a copy of master
warrant.

The present procedure utilized by the Pardon Attorney is
to send the aforementioned information along with the
master warrant to the Department of Justice for the
official seal. The master warrant list is then returned
to us. Presently the Pardon Attorney is assuming no
additional duties in this process. I request that we
endeavor to convince the Pardon Attorney to process our
cases as he does other cases of individuals who are routinely
pardoned. This would include the additional duties of notifying
individuals (i. e. , notifying the individual and his attorney
and sending the copy of the master warrant; notifying the
FBI so that the pardon will be reflected in the files; notifying
the U. S. Attorney in civilian cases; or the appropriate
military branch of service in military cases). It should be
emphasized that the aforementioned notification is not now
being performed by anyone and if we cannot convince the
Pardon Attorney to do this, we will be required to notify
these individuals and agencies ourselves.



E. Department of Justice

Aside from the FBI mentioned above, interested agencies within the Department of Justice are the U.S. Board of Parole and the Bureau of Prisons. It is imperative that the Federal Bureau of Prisons be notified of the Board decisions on cases of furloughees. No decision of the Board has yet resulted in less than commutation of the sentence of a furloughee. Accordingly, the Federal Bureau of Prisons must be notified so that they will be aware that such furloughees are no longer within their jurisdiction. This notification should be sent to Mr. Norman Carlson, Director, Federal Bureau of Prisons. Likewise, the U.S. Board of Parole should be advised of the decisions as to those applicants who are under supervision. This notification should be sent to Mr. Joseph Barry, General Counsel, U.S. Board of Parole.

F. The Administrative Office of the U. S. Courts

The U. S. Probation Services which is an agency of the Administrative Office of the U. S. Courts must be apprised of all Board decisions affecting applicants who are under probation supervision. Presently, the notification letter to the applicants instructs them to notify the probation supervisor of the Board's decision. The supervisor can

then verify the Board's decision through the probation services in Washington, D. C. Notification of the Board's decision should be sent to Mr. Mike Keenan, U. S. Probation Services, Washington, D. C.



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): _____

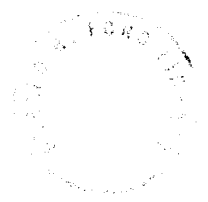
Branch of Service (If Military) _____

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):

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE
WASHINGTON, D.C. 20500

SUMMARY OF DECISION

In deciding how many months of alternative service you must do to receive your pardon, the Presidential Clemency Board made the following calculation:

Starting Point	24 Months
Less Three Times _____ Months Served in Prison	- _____ Months
Less Alternative Service Performed if Entire Period Satisfactorily Completed	- _____ Months
Less Time Served on Probation or Parole if Entire Period is 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	_____ 3 Months

Final Baseline for Determining the Period of Your Alternative Service _____ Months

The factors marked with an "X" below were used by the Board to decide whether to increase the period of your alternative service:

- (1). _____ Prior criminal convictions
- (2). _____ False statement to the Presidential Clemency Board
- (3). _____ Use of force collaterally to AWOL, desertion, or missing movement
- (4). _____ Desertion during combat
- (5). _____ Evidence that you committed your 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). _____ Length of AWOL/UA
- _____ None of the above

The factors marked with an "X" below were used by the Board to decide whether to decrease the period of your alternative service:

- (1). _____ Lack of sufficient education or ability to understand your obligations under the law
- (2). _____ Personal and family circumstances either at the time of your offense or afterwards
- (3). _____ Mental or physical condition
- (4). _____ Employment and other activities of service to the public since your conviction or military discharge
- (5). _____ Service-connected disability, wounds in combat, or special decorations and commendations
- (6). _____ Period of creditable military service
- (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 you acted for conscientious, not for manipulative or selfish reasons
- (11). Voluntarily submitted yourself to authorities
- (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
- (15). Personal decorations for valor
- None of the above

Based on these factors, the Board's decision is that your _____ month baseline should be _____. Therefore, you will be granted your pardon after you perform _____ months of alternative service.

Case Number

Staff Attorney

November 21, 1974

MEMORANDUM TO: The Presidential Clemency Board

FROM: H. Neil Broder
Staff Attorney

SUBJECT: Overview of Military Justice

The purpose of this memorandum is to provide an overview of the court-martial system. In order to facilitate the Board's understanding, the following model case will be traced from its inception through ultimate appellate review.

Private First-Class John F. Ames, 012 34 5678, attached to Headquarters, Service Battalion, Fort Pentagon, Washington, D. C., absented himself without authority on 1 September 1968. On 1 October 1968 he was administratively declared a deserter and dropped from the unit rolls. On 1 June 1972 Private Ames surrendered to military control. He was tried and convicted pursuant to his plea by general court-martial and sentenced to a dishonorable discharge, confinement at hard labor for 12 months, total forfeitures and reduction to pay grade E-1. The convening authority approved the sentence but reduced the confinement portion to 10 months. The U. S. Army Court of Military Review affirmed the conviction and approved only so much of the sentence as extends to a bad conduct discharge, confinement at hard labor for 8 months, total forfeitures for 8 months and reduction to pay grade E-1. Ames has filed a petition for a grant of review before the U. S. Court of Military Appeals.



For purposes of discussion court-martial jurisdiction is assumed. Areas of especial interest to the Board's review of military applicants will be highlighted.

1. Ames surrenders; AWOL charge preferred

Any possible disciplinary/administrative action against Private Ames will be initiated by a review of his service records. Therein entries monitor his total activities. Properly executed entries should reflect (1) the assumption of a status of unauthorized absence on 1 September 1963, (2) an administrative desertion separation on 1 October 1963, and (3) a surrender to military control on 1 June 1972. Based upon this information an investigation will be conducted to determine if sufficient evidence exists to warrant the preferment of charges. Preferment of charges is the military term of art which describes the act roughly equivalent to the filing of a criminal complaint. Prosecutions for AWOL are usually predicated upon service record entries.

Given sufficient evidence for preferment, an individual known as an accuser will sign and swear to a charge of AWOL against Private Ames. The formal written accusation consists of two parts, the technical charge and the specification. The charge and specification lodged against Private Ames will appear as follows:

Charge: Violation of the Uniform Code of
Military Justice, Article 86.

Specification: In that Private First-Class
John P. Ames, U. S. Army, Headquarters,
Service Battalion, Fort Pentagon, Washington,
D. C., did, on or about 1 September 1963,
without authority, absent himself from his
unit, to wit: Headquarters, Service Battalion,
located at Fort Pentagon, Washington, D. C.,
and did remain so absent until on or about
1 June 1972.

The charge will then be incorporated in a document known as the charge sheet.

2. Formal disposition: Trial by Court-Martial

Once preferral has occurred, the charge is subjected to a preliminary inquiry to determine its formal disposition. It is at this time that a decision for non-judicial punishment (NJP), judicial punishment (court-martial), administrative action or no action at all will be made. Charges that are trivial, do not state offenses, are unsupported by available evidence and/or are outweighed by sound reasons for not punishing the accused are dismissed. If the offense is minor the accused's immediate commanding officer may impose non-judicial punishment. The term minor includes misconduct not involving any greater degree of criminality than is involved in the average offense tried by summary (the lowest level of) court-martial. This term ordinarily does not include misconduct of a kind which, if tried by general (the highest level of) court-martial, could be punishable by a dishonorable discharge and/or confinement at hard labor for more than one year.

If trial by court-martial is deemed appropriate, as would in all likelihood be the case with Private Ames, the charge would be forwarded through the chain of command to the officer exercising summary court-martial jurisdiction over the command of which Ames is a member. Before the charge is forwarded Ames will be informed thereof and he will be requested to so indicate on the charge sheet. The charge sheet will also contain a notation if Ames had been permitted, but has elected to refuse, non-judicial punishment. Charges such as the one lodged against Ames which would be tried in all probability by either special or general court-martial, will be forwarded by a letter of transmittal to include (1) a summary of the evidence expected from any source, (2) all available documentary evidence, (3) evidence of admissible prior convictions by court-martial; (4) an explanation of any unusual features of the case, and (5) a specific recommendation as to disposition.

In determining at which level of court-martial Ames should be tried, the officer exercising summary court-martial jurisdiction should consider Ames' character and prior service, as well as all information pertinent to the charge. If it is determined that the offense is so serious that, if convicted, Ames should be punitively separated from the service (dishonorable or bad conduct discharge), then he must be referred to that level of court-martial authorized to award such a discharge.



A general court-martial may adjudge any punishment not forbidden by the Uniform Code of Military Justice. For the Board's purposes, this authority generally includes dishonorable and bad conduct discharges, confinement at hard labor not to exceed three years (legal desertion terminated by apprehension), not to exceed one (1) year (AWOL in excess of 30 days), total forfeitures and reduction to the lowest enlisted pay grade. A special court-martial may adjudge any punishment not forbidden by the Code except death, dishonorable discharge, confinement at hard labor in excess of six months, and forfeiture of pay exceeding two-thirds pay per month for six months. For the Board's purposes, a summary court-martial cannot adjudge death, either type of punitive discharge, confinement at hard labor in excess of one month and forfeiture of pay exceeding two-thirds pay per month for one month, among other punishments. In all cases the jurisdiction of courts-martial is entirely penal and disciplinary. There is no power to adjudge the payment of damages or to collect private debts.

3. Charge referred to a General Court-Martial

Following preferal, investigation and a tentative decision to try Ames by court-martial, the charge must be referred to a duly established court-martial. Referral of charges is the military term of art which describes the act roughly equivalent to the decision to prosecute. Referral is accomplished by means of an endorsement on the charge sheet. When referral occurs the endorsement will refer specifically to the convening order giving existence to the court-martial.

Courts-martial are creatures of statute. They are formally created by a convening order issued by an individual known as the convening authority. A convening order designates the kind of court (for Ames, probably a general court-martial), the time and place it is to meet, a military judge, court members and qualified lawyer counsel to represent both the government and accused such as Ames. Court reporters are also detailed, but they are not listed on the convening order. An enlisted man such as Ames may be tried by a court composed of at least one-third enlisted personnel. Jurisdictional court member minimums for a general court-martial and a special court-martial are 5 and 3, respectively.

Ames will be referred to either a general or a special court-martial. Before such referral, however, certain basic considerations must be met. Among the more relevant ones for the Board's review are that no charge may be referred to a general court-martial until (1) a formal investigation, roughly equivalent to a grand jury proceeding, has been conducted, and (2) the investigation has been considered and reviewed by the staff judge advocate (legal counsel) to the convening authority. Assuming compliance with these fundamental considerations, Ames can be referred properly to a general court-martial. It should be noted that Ames can waive his right to this formal investigation in which event the charge could be referred immediately to a general court-martial. In view of the length of Ames' AWCL, the jurisdictional punishment limitations of a special court-martial and the prima facie case established by the service record book entries, trial by general court-martial seems likely.

4. Ames tried by General Court-Martial; convicted pursuant to his plea; sentenced to a Dishonorable Discharge, confinement at hard labor 12 months, total forfeitures, reduction to pay grade E-1 (Private).

Once referral has been accomplished a trial date is set. At an accused's election he may be tried by judge and court members or judge alone. Court-martial proceedings are divided into two distinct phases. During the findings stage the ultimate issue of guilt or innocence is determined and during the sentencing stage the quantum of punishment is decided. The Manual for Courts-Martial (procedure established by the President) sets forth rules of evidence and all other matter pertinent to courts-martial. An accused in the military is accorded a panoply of rights, including all constitutional rights not expressly inapplicable to the military. The Board should be aware that it is usually during the sentencing stage that an accused will present the circumstances surrounding his offense -- this case an AWCL. This is known formally as an accused's case in extenuation and mitigation. The government's case at this stage is denominated as the case in aggravation. An accused may present his version of events in either a sworn or unsworn statement. The maximum imposable punishment is set by the level of court-martial and the Table of Maximum Punishments, the latter being a formal standard established by the President.



5. Convening authority approves sentence but reduces confinement at hard labor to 10 months.

Following the trial the record is authenticated by the military judge. Non-verbatim and unauthenticated records will not support the imposition of a punitive discharge. Additionally, special courts-martial cannot award a bad conduct discharge unless a military judge has been detailed and qualified counsel represents the accused. Courts failing to meet this standard are known as 'non-BCD specials'. After authentication, the record of trial is forwarded to the convening authority for non-judicial review. There will be only one level of non-judicial review for general courts-martial. There may be two levels of non-judicial review for special courts-martial depending upon the branch of service. In any event, the non-judicial reviewing officers (the convening authority and the officer exercising general court-martial jurisdiction) may approve only such findings of guilty and the sentence or such part or amount thereof, as they find correct in law and in fact and as they in their discretion determine should be approved. Simply stated, they can disapprove the findings and/or the sentence for any or no reason. Such wide discretion may amount, in part, for the significant reductions of original sentences awarded to some of the military applicants.

Critically important for the Board's edification is the standard by which the non-judicial reviewing officers determine what sentence should be approved. Generally speaking, a sentence should be approved which is warranted by the circumstances of the offense and the previous record of the accused. Appropriate action should be taken to approve a less severe sentence when, even though legal, it appears unnecessarily severe. Whether the maximum or a lesser sentence should be imposed depends upon a consideration of all facts and circumstances, regardless of the stage of the trial at which they were established. Accordingly, evidence of other offenses or acts of misconduct which were properly introduced may be considered, as well as evidence properly introduced respecting the character of the accused and the number and character of any previous discharges and convictions. A guilty plea is a mitigating factor. Dishonorable discharges are reserved for those who should be separated under conditions of dishonor, after having been convicted of an offense usually recognized by the civil law as a felony, or of offenses of a military nature requiring severe punishment. A bad conduct discharge is a punishment designed

for bad conduct rather than as a punishment for serious offenses of either a civil or military nature. It is an appropriate punishment for an accused who has been convicted repeatedly of minor offenses and whose punitive separation seems necessary. The nature and duration of any pretrial restraint should also be considered. Unless a non-judicial reviewing officer indicates otherwise, approval of any part of the sentence constitutes approval of the findings of guilty.

6. Execution of Ames' sentence

A non-judicial reviewing officer can order execution of a sentence at the time he approves it, unless it involves a general or flag officer, a sentence of death or dismissal, or an unsuspended sentence of dishonorable discharge, bad conduct discharge or confinement at hard labor for one year or more. Similarly, a sentence extending to a suspended punitive discharge can be executed only to the extent of punishments other than the discharge. These last conditions are relevant for the Board's review as many of the military applicants have adjudged or approved but unexecuted punitive discharges, while others have adjudged, approved and suspended punitive discharges. After final approval by the non-judicial reviewing officer(s), the record of trial is forwarded to the appropriate Judge Advocate General for judicial review by the Courts of Military Review and, in some cases, by the United States Court of Military Appeals.

7. U. S. Army Court of Military Review affirms Ames' conviction and approves only so much of the sentence as extends to a bad conduct discharge, confinement at hard labor for 3 months, total forfeitures for 3 months, and reduction to pay grade E-1.

Review by the Court of Military Review is a matter of right in most cases. In those special courts-martial where a bad conduct discharge is not adjudged, the case is reviewed in the office of the appropriate Judge Advocate General. Accused are assigned free appellate counsel. This first level of appellate judicial review is most significant as the Courts of Military Review decide not only legal questions, but they are also empowered to redetermine facts and to review the propriety of sentences. In this regard, the military appellate courts are quite different from their counterparts in the federal civilian system.



8. Ames files petition for a grant of review before U. S. Court of Military Appeals.

In most cases, review by the U. S. Court of Military Appeals is a matter of discretion. All cases in which the sentence, as affirmed by a Court of Military Review, affects a general or flag officer or extends to death, and all cases reviewed by a Court of Military Review in which the appropriate Judge Advocate General orders review, must be reviewed by the Court of Military Appeals. The overwhelming majority of the cases before the Board appear to fall within the discretionary review category. An accused must petition the high military court in order to obtain further appellate review. Unlike the Courts of Military Review, the Court of Military Appeals cannot redetermine the facts. It is bound by the record as it comes before it. Its decisions are final. Given certain constitutional claims, accused may seek relief in the federal district courts. There is no direct appeal from the Court of Military Appeals to the U. S. Supreme Court.

No sentence extending to death or involving a general or flag officer may be executed until affirmed by both a Court of Military Review and the Court of Military Appeals and approved by the President. No sentence extending to a dishonorable or bad conduct discharge, whether or not suspended, may be executed until affirmed by a Court of Military Review and, in cases reviewed by it, the Court of Military Appeals. This latter condition upon execution is also applicable to those sentences extending to unsuspended confinement at hard labor for one year or more.

9. In the event Ames' petition for review is denied, his sentence will be executed and he will be separated from the Army with a Bad Conduct Discharge. Forfeitures withheld will revert to the Government. In all likelihood Ames' sentence to confinement will have been served completely by the time the Court of Military Appeals acts upon his petition.

The following chart illustrates the general parallels between the court-martial system and the federal civilian criminal system:

<u>Level of Proceedings</u>	<u>Courts-Martial</u>	<u>Civilian Criminal (Federal System)</u>
TRIAL	General court-martial Special court-martial Summary court-martial (Non-judicial punishment; not truly a trial)	Federal District Court
NON-JUDICIAL REVIEW	Convening Authority Officer exercising General Court-Martial jurisdiction	
JUDICIAL REVIEW	Court of Military Review (as of right) U. S. Court of Military Appeals 1. as of right 2. petition for a grant of review	Circuit Courts of Appeal (appeal must be filed) U. S. Supreme Court 1. direct appeal in some cases 2. petition for a writ of certiorari



ISSUANCE AND REVIEW OF DISCHARGES FROM THE ARMED FORCES

There are two categories of discharges used in separating persons from the military service, i. e., punitive discharges and administrative discharges. The two types of punitive discharges are the Dishonorable Discharge and the Bad Conduct Discharge. Punitive discharges may only be issued when adjudged by a court-martial upon conviction of a violation of the Uniform Code of Military Justice.

Pursuant to Article 56 of the Uniform Code of Military Justice, 10 United States Code 856, the President has designated those specific offenses which may warrant a Bad Conduct or Dishonorable Discharge. A listing of those offenses can be found in the Table of Maximum Punishments, paragraph 127c of the Manual for Courts-Martial, United States (1969). An examination of that Table will reveal that the offenses upon conviction of which a court-martial may adjudge a punitive discharge are not those which are normally considered "minor."

Under Article 66 of the Uniform Code of Military Justice, 10 United States Code 866, every trial by court-martial in which the sentence extends to a Bad Conduct or Dishonorable Discharge must be reviewed by an appellate court, the Court of Military Review. Under article 67 the recipient of such a discharge may petition the Court of Military Appeals for further review.

There are three basic types of administrative discharges: Honorable, General, and Undesirable. Issuance of these three types is governed by the provisions of Department of Defense Directive 1332.14, "Administrative Discharges." A general statement of Department of Defense policy with regard to administrative discharges is found in Section V. A. of that Directive, which states: "The Armed Forces have the right and the duty to separate from the service with an appropriately characterized discharge certificate members who clearly demonstrate that they are unqualified for retention. At the same time, such members have rights which shall be protected." Each of the military services has adopted detailed regulations which implement this policy and the procedures contained in the Department of Defense Directive.

The general standards for determining the type of administrative discharge an individual should receive are set forth in Section VI of Department of Defense Directive 1332.14. An Honorable Discharge is a separation with honor, the receipt of which is "conditioned upon proper military behavior and proficient performance of duty with due consideration for the member's

age, length of service, grade and general aptitude." A General Discharge is a separation under honorable conditions which will be issued "when a member's military record is not sufficiently meritorious to warrant an Honorable Discharge as prescribed by the regulations of the service concerned." An Undesirable Discharge is an administrative separation from the service under conditions other than honorable which "may be issued for misconduct, unfitness, or security reasons." These standards have been defined in much greater detail in the regulations issued by the individual services.

Section VII of the Department of Defense Directive lists 11 general grounds upon which a member may be administratively discharged from the Armed Forces: Expiration of enlistment or fulfillment of service obligation, convenience of the government, resignation-own convenience, dependency or hardship, minority, disability, unsuitability, security, unfitness, misconduct, and resignation or request for discharge for the good of the service. An Honorable or, when appropriate, General Discharge may be issued for any of these reasons. The issuing authority for a General Discharge is the Commander exercising Special Court-Martial jurisdiction over the individual, or higher authority.

An Undesirable Discharge may only be issued to an individual who is separated for security reasons, unfitness, or misconduct, or who requests discharge in lieu of trial by court-martial for an offense which could lead to a punitive discharge. The issuing authority for an Undesirable Discharge is the Commander exercising General Court-Martial jurisdiction over the individual, or a general officer in command with a judge advocate on his staff, or higher authority.

Under Section VII.J. of the Department of Defense Directive, there are three instances in which a serviceman may receive an Undesirable Discharge on grounds of "misconduct": (1) when he is convicted by civil authorities of an offense which involves moral turpitude or which is punishable under the Uniform Code of Military Justice by death or confinement for more than one year, or (2) when he has procured a fraudulent enlistment or induction through deliberate material misrepresentation, omission or concealment, or (3) when he has been continually absent without authority for one year or more. Under Section VII.I. of the Directive, a member may receive an Undesirable Discharge on the grounds of "unfitness" for frequent involvement of a discreditable nature with civil or military authorities, sexual perversion, drug abuse, an established pattern of shirking, an established pattern showing dishonorable failure to pay just debts, an established pattern showing dishonorable failure to support dependents or comply with court orders concerning support of dependents, and unsanitary habits.

The Department of Defense is aware that servicemen who have received Undesirable Discharges may encounter difficulty in securing civilian employment. For this reason, the Department has adopted policies and procedures which are designed to protect the interests of the individual and prevent the issuance of undeserved Undesirable Discharges. These procedures are set forth in Section VIII. of Department of Defense Directive 1332.14. It should be noted that the Directive provides that: "No member shall be discharged under conditions other than honorable unless he is afforded the right to present his case before an administrative board with the advice and assistance of counsel and unless such discharge is supported by approved board findings and an approved board recommendation for undesirable discharge." The rights which a serviceman has before such a board are listed in Section IX. C. of the Directive. These include the rights to appear in person before the board (with or without counsel), challenge members of the board for cause, request the appearance of witnesses, submit statements and depositions, and question any witnesses that appear. The only occasions when a member loses his right to a board hearing before receiving an Undesirable Discharge is when he "is beyond military control by reason of prolonged unauthorized absence, resigns or requests discharge for the good of the service, or waives his right to board action in writing."

After an individual has received an other than Honorable Discharge, he may seek to have it changed by applying for relief before either, or both, of two administrative review boards. Pursuant to 10 United States Code 1553, the Secretaries of each of the Military Departments have established discharge review boards which, except for cases involving a discharge which "resulted from the sentence of a General Court-Martial," may "change a discharge or dismissal, or issue a new discharge." A former serviceman can apply to such a board for relief at any time up to 15 years from the date of his discharge. Although an individual may appear before the discharge review board if he so desires, personal appearances are not necessary to accomplish remedial relief. The discharge review board will determine whether the discharge was equitable and properly given. If it does not so find, it will change the character of the discharge.

In addition to the administrative discharge review boards established under 10 United States Code 1553, each of the Military Departments has also established a board for the correction of military records under 10 United States Code 1552. These boards have broad powers to recommend to the Secretary concerned a change in an individual's military records, including his discharge, to correct an inaccuracy or to cure an injustice.

As a related matter, it should be noted that a former serviceman who is not entitled to have his discharge changed by either of these administrative review boards may still be able to obtain some relief under Public Law 89-690, approved by President Johnson on October 15, 1966. By virtue of this law,

a person who receives an Undesirable, Bad Conduct, or Dishonorable Discharge from the military service can apply to the Secretary of Labor for the issuance of an Exemplary Rehabilitation Certificate based on proof of at least three years of successful rehabilitation and exemplary conduct in civilian life subsequent to discharge. Issuance of the Certificate does not operate to change the character of a discharge from an armed force or to restore any veterans' benefits lost thereby, but it does qualify the recipient for certain job counselling and employment placement assistance administered by the Department of Labor and provides tangible proof of rehabilitation. A detailed description of this program may be found at 29 C. F. R. 26.1-26.7.

III - C

THE PRESIDENTIAL CLEMENCY BOARD
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, D.C. 20500

Board Members

PHONE: (202) 456-6176

- Charles E. Goodell, *Chairman*
- Ralph W. Adams
- James P. Donovito
- Robert H. Finch
- Theodore M. Hesburgh, C.S.C.
- Vernon E. Jordan
- James A. May
- Aida Casanova O'Connor
- Jewis W. Walt

November 21, 1974

MEMORANDUM FOR: PRESIDENTIAL CLEMENCY BOARD

FROM: LEGAL STAFF

SUBJECT: BRIEF EXPLANATION OF TERMS, ACRONYMS, AND
ABBREVIATIONS FOUND IN APPLICANT FILES FROM THE
MILITARY SERVICES

The following synopsis of records terminology is submitted
for your information:

- a. ALNAV 83 - Found in upper right corner of case summary, it designates a message/telegram sent by the Secretary of the Navy to all Navy/Marine Corps commands which outlined the Presidential Clemency Program and authorized the release from confinement of qualifying Marine/Navy prisoners.
- b. GCT - The marine Corps' rough equivalent of IQ similar to the Federal Beta IQ score. A GCT of 90-110 is within the average range. The letters stand for General Classification Test score and the figure is formed by averaging three test scores; verbal, arithmetic, pattern analysis, of a battery of several tests given to Marine recruits. This test series is to be distinguished from that initially given to all armed services recruiting applicants which is called the Armed Forces Qualification Test (AFQT) and embodies a different measure of relative intelligence.
- c. Pro & Con marks - Stands for Proficiency and Conduct marks which are the means by which Marines of the first four enlisted grades are rated for performance. Those grades are: E-1, Private; E-2, Private First Class; E-3, Lance Corporal; E-4 Corporal. Higher grades receive fitness reports. Pro and Con marks are based on a 5 point scale subdivided into decimals. Conduct marks can be generally interpreted as follows: 0 to 1.9 - Unsatisfactory, habitual offender during marking period; 2 to 2.9 - Poor. Some disciplinary involvement during marking period but not more than one Summary Court Martial (the



lowest level court) nor more than 2 serious instances of non-judicial punishment; 3 to 3.9 - Fair, meeting minimum standards; 4 to 4.4 - Good, fully honorable conduct; 4.5 to 4.8 - Excellent; 4.9 to 5 - Outstanding. Proficiency marks can be categorized generally with the same superlatives; i.e., 0 to 1.9 - Unsatisfactory, 2 to 2.9 - Poor, 3 to 3.9 - Fair, 4 to 4.4 - Good, 4.5 to 4.8 - Excellent, 4.9 to 5 - Outstanding. Pro and Con marks are generally given every 6 months. Average final marks of 4.0 conduct and 3.0 proficiency entitle a Marine to a fully Honorable Discharge upon normal expiration of his enlistment.

d. G.T. - The Army's rough equivalent of an IQ score. The figure is formed from an average of a verbal ability test and an arithmetic reasoning test scores. The test is very close to an easy college board test. A score of 100 on the G.T. is established as the mean. A score of 85 would be in the lowest quartile and a score of 125 would rank in the 90th percentile.

e. DA/DAPE - HR - Found in upper right corner of some Army case summaries, similar to Nave ALNAV 83; it designates a message/telegram sent from Department of Army, Deputy Chief of Staff for Personnel, Directorate of Human Resources Development. The message ordered the release from confinement of persons who qualified for Clemency Program.

f. AFQT Category - An Armed Forces Qualification Test (AFQT) category is an arbitrary division of mental test results into five percentile ranges for purposes of determining eligibility to enter military service. Those persons who scored in Categories I, II, and III were completely eligible as to mental ability for military service and those in Category V were completely ineligible. Those persons whose scores were in the Category IV range were on the borderline and other criteria of education and other test scores were used to determine eligibility for military service. The AFQT score consists of the same G.T. test scores of verbal reasoning ability added to the results of a spatial reasoning test, divided by three, and then expressed in a percentile rank. The spatial reasoning test requires no reading ability because the directions are read to the examinee. He is then to pick the picture of an object that most resembles an exploded or unfolded figure in the test sample. It is thus possible for a very poor reader or a non-reader to raise his overall score on the AFQT to Category IV by performing well in this test. The AFQT has been replaced by other tests as of 1 July 1973.

g. Conduct and Efficiency Ratings - The Army used these ratings as a part of the enlisted personnel rating system until 15 September 1973. This system has been discontinued, but ratings prior to the discontinuation are still considered valid and are to be used as one of the factors in determining the nature of discharge. These ratings were used in conjunction with other data in determining eligibility for certain personnel actions such as award of the Good Conduct Medal, assignment, promotion, as well as types of discharges. The ratings of conduct and efficiency were to be for designated time spans and on certain events including the day immediately prior to an AWOL period. The ratings used for conduct and efficiency reports were Excellent, Good, Fair, or Unsatisfactory. In actual practice an enlisted man was unlikely to receive less than an excellent rating in conduct and efficiency unless he clearly had some record of some disciplinary action.

h. Enlisted Evaluation System Traits - For grades E-1, E-2, E-3, and E-4 in the Navy five traits are considered for rating periods and for the nature of discharge. The traits considered are Leadership, Performance, Military Behavior, Military Appearance, and Adaptability. The rating scale is on a 4.0 maximum and scored at 0.2 intervals. On a curve the majority of Navy enlisted persons are rated at 3.4 overall. In order to get an honorable discharge, the individual must have a 3.0 military behavior average for all rated periods of time and an overall average 2.7 for all rated traits.

i. GCT Score in Navy - The GCT is the General Classification test that is a part of the Navy Basic Test Battery. It is a test that is supposed to report on a capability for learning and is rated as follows:

Score 64 ↑	High (upper 7% of all examinees)
55-64	Above average (24% of all examinees)
45-54	Average (38% of all examinees)
35-44	Below average (24% of all examinees)
22-34	Low (7% of all examinees)

The GCT score is not intended as a IQ test, but some Navy sources double the GCT score and obtain a figure used as a rough IQ equivalent.



Sources of Data:

1. CPT John Euler's Memo
2. Army Personnel Directorate
3. Army Research Institute for Behavior and Social Sciences
4. Office of Deputy Chief of Naval Operations for Manpower Planning and Programming.

ABBREVIATIONS

ACMR	Army Court of Military Review
AFQT	Armed Forces Qualifying Test
BCD	Bad Conduct Discharge
CA	Convening Authority
CHL	Confinement at Hard Labor
DD	Dishonorable Discharge
GCM	General Court Martial
GT	General Technical
MCM	Manual for Courts Martial
NJP	Non-judicial Punishment (Article 15)
SA	Supervisory Authority
SCM	Summary Court Martial
SJA	Staff Judge Advocate
SPCM	Special Court Martial
TF	Total forfeiture of all pay and allowances
THP	Temporary Home Parole
UCMJ	Uniform Code of Military Justice
USDB	United States Disciplinary Barracks

SOURCES:

1. USDB Clemency Folder
2. Official Military Personnel File
3. Record of Trial (or) Trial Transcript

12/11/74

DISCONTINUANCE OF CODED AND ABBREVIATED INFORMATION
ON DISCHARGE DOCUMENTS

The Department of Defense has recently discontinued the practice of placing certain coded and abbreviated information on discharge documents which are routinely provided to service members at the time of their separation from service. This information never appeared on discharge certificates, but did appear on Reports of Separation, and in some instances, on separation orders.

The coded information included the reason for discharge in the form of a Separation Program Number (SPN) and reenlistment eligibility (RE code). The abbreviated information was the citation of the statute or service regulation which was the basis or authority for discharge.

This method of documenting the reason for separation had been reviewed twice in recent years. In response to requests, Secretary of Defense James R. Schlesinger undertook an additional review of the policy. He was concerned that inaccurate information was resulting in a loss of confidence in discharge policies and procedures by those veterans whose discharges and reasons for separation were favorable and who had no reason to doubt the validity of their separation program number. Therefore, Secretary Schlesinger directed that coded information no longer be included on discharge documents.

The purpose of this change is to insure that all the information on the documents is readily understandable to the veteran, and to avoid the potential of undesirable discrimination against an individual. Undesirable discrimination is not, and was not intended, whatever the circumstances of an individual's separation from active duty. Each individual will continue to have access to a narrative description of the reason and authority for his discharge and reenlistment eligibility, if he wishes to obtain this information.

In addition to the discontinuance of these codes in current and future discharges, procedures are being established for the deletion of this information in the cases of former service members who wish this information to be deleted. In these instances, a new copy of the original form will be provided with the codes deleted. Also, as was previously available, a narrative description of the reason and authority for discharge and reenlistment eligibility will be provided upon the request of a former service member. These procedures are being finalized and the respective Military Service will be ready to process requests by May 1, 1974.



The request should include name, social security number, any military service identification number, dates of service, and a copy of the DD Form 214.

Further information is available at local military personnel offices.

Also, as was previously available on the request of a former service member, a narrative description of the reason for discharge will be provided in response to the veteran's request. The Department of Defense plans to initiate wide ranging information releases to make this change in policy known to veterans. The Department is also requesting the assistance of the Veterans Administration, General Services Administration, Selective Service System, Department of Labor, and over 50 veterans organizations in publicizing this information.



PROCEDURES FOR REQUESTING DELETION OF ABBREVIATED
SEPARATION REASONS FROM DISCHARGE DOCUMENTS

On May 1, 1974, veterans who wish to have their Separation Program Number (SPN), Reason and Authority for discharge, and Reenlistment Code deleted from their copy of the DD Form 214, "Report of Separation From Active Duty," (or from previous editions of the form) may apply to their former service to have the abbreviated codes deleted from their copy of the form. Requests should be mailed to the following addresses:

Army

Commander
Reserve Components Personnel and Administration
Center
Box 12479
Olivette Branch
St. Louis, Missouri 63132

Navy

Chief
Bureau of Naval Personnel (Pers 38)
Department of the Navy
Washington, D. C. 20370

Air Force

*Air Force Military Personnel Center (DPMDR)
Randolph AFB, Texas 78148

*It is preferable that former USAF members make their request through a local base personnel office.

Marine Corps

Commandant
U. S. Marine Corps (MSRB-10)
Headquarters, U. S. Marine Corps
Washington, D. C. 20380



Veterans who wish to have their Separation Program Number (SPN), authority for discharge, and Reenlistment Code deleted from their copy of the DD Form 214, "Report of Separation From Active Duty," (or from previous editions of the form) may apply to their former service to have the codes deleted from their copy of the form. Requests should be mailed to the following addresses:

Army

Commander
Reserve Components Personnel and
Administration Center
Box 12479
Olivette Branch
St. Louis, Missouri 63132

Navy

Chief
Bureau of Naval Personnel (Pers 38)
Department of the Navy
Washington, D. C. 20370

Air Force

*Air Force Military Personnel Center (DPMDR)
Randolph AFB, Texas 78148

*It is preferable that former USAF members make their request through a local base personnel office.

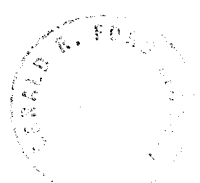
Marine Corps

Commandant
U. S. Marine Corps (MSRB-10)
Headquarters, U. S. Marine Corps
Washington, D. C. 20380

The request should include name, social security number, any military service identification number, dates of service, and a copy of the DD Form 214.

Further information is available at local military personnel offices.

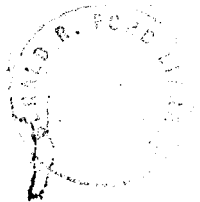
At the time of separation a service member is explained the reason for his discharge. At the same time, he may receive a written description of the reason for his discharge if he wishes. Former service members may also obtain a narrative description of the reason for discharge by applying to the appropriate address above.



§ 1182. Excludable aliens—General classes

(a) Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

- (1) Aliens who are mentally retarded;
- (2) Aliens who are insane;
- (3) Aliens who have had one or more attacks of insanity;



(4) Aliens afflicted with psychopathic personality, or sexual deviation, or a mental defect;

(5) Aliens who are narcotic drug addicts or chronic alcoholics;

(6) Aliens who are afflicted with any dangerous contagious disease;

(7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;

(8) Aliens who are paupers, professional beggars, or vagrants;

(9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. Any alien who would be excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of Title 18, by reason of the punishment actually imposed, or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of Title 18, by reason of the punishment which might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more;

(11) Aliens who are polygamists or who practice polygamy or advocate the practice of polygamy;



(12) Aliens who are prostitutes or who have engaged in prostitution, or aliens coming to the United States solely, principally, or incidentally to engage in prostitution; aliens who directly or indirectly procure or attempt to procure, or who have procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose; and aliens who are or have been supported by, or receive or have received, in whole or in part, the proceeds of prostitution or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution;

(13) Aliens coming to the United States to engage in any immoral sexual act;

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers in the United States who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place to which the alien is destined to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 1101(a) (27) (A) of this title (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted to the United States for permanent residence), to preference immigrant aliens described in sections 1153(a) (3) and 1153(a) (6) of this title, and to nonpreference immigrant aliens described in section 1153(a) (8) of this title;

(15) Aliens who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, are likely at any time to become public charges;

(16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this chapter or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 1252(b) of this title, unless prior to their embarkation or reembarkation at a place outside the United States or their



attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

(18) Aliens who are stowaways;

(19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact;

(20) Except as otherwise specifically provided in this chapter, any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General pursuant to section 1181(a) of this title;

(21) Except as otherwise specifically provided in this chapter, any immigrant at the time of application for admission whose visa has been issued without compliance with the provisions of section 1153 of this title;

(22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

(23) Any alien who has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, or any salt derivative or preparation of opium or coca leaves, or isonipecaine or any addiction-forming or addiction-sustaining opiate; or any alien who the consular officer or immigration officers know or have reason to believe is or has been an illicit trafficker in any of the aforementioned drugs;

(24) Aliens (other than aliens described in section 1101(a) (27) (A) and (B) of this title), who seek admission from foreign contigu-



ous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory line, or if signatory, a noncomplying transportation line under section 1228(a) of this title and who have not resided for at least two years subsequent to such arrival in such territory or adjacent islands;

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and gov-



ernmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv)



sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (G) of this paragraph;

(I) Any alien who is within any of the classes described in subparagraphs (B)–(H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall



be admitted into the United States under (ii) of this subparagraph;

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 786 of Title 50;

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 1227(e) of this title, whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.

Nonapplicability of subsection (a) (25)

(b) The provisions of paragraph (25) of subsection (a) of this section shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alien lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien can read under paragraph (25) of subsection (a) of this section, the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.



Nonapplicability of subsection (a) (1) to (25), (30), and (31)

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraphs (1)-(25), (30), and (31) of subsection (a) of this section. Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 1181(b) of this title.

Nonapplicability of subsection (a) (11), (25), and (28); temporary admission of nonimmigrants; waiver of subsection (a) (26) requirements; parole; bond and conditions for temporary admissions; report to Congress; applicability to aliens leaving territories; reciprocal admission of officials of foreign governments, etc.

(d) (1) The provisions of paragraphs (11) and (25) of subsection (a) of this section shall not be applicable to any alien who in good faith is seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15) (A) (iii) or (G) (v) of section 1101(a) of this title.

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) of this section may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 1228(d) of this title.



(5) The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (28) of subsection (a) of this section.

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26) of said subsection, shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. The Attorney General shall by regulations provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 1227(a) of this title.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

Educational visitor status; foreign residence requirement; waiver

(e) No person admitted under section 1101(a) (15) (J) of this title or acquiring such status after admission whose (i) participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, or (ii) who at the time of admission or acquisition of status under section 1101(a) (15) (J) of this title was a national or resident of a country which the Secre-



tary of State, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 1101(a) (15) (H) or section 1101(a) (15) (L) of this title until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States: *Provided*, That upon the favorable recommendation of the Secretary of State, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: *And provided further*, That the Attorney General may, upon the favorable recommendation of the Secretary of State, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Secretary of State a statement in writing that it has no objection to such waiver in the case of such alien.

Suspension of entry or imposition of restrictions by President

(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

Bond and conditions for admission for permanent residence of mentally retarded, tubercular, and mentally ill but cured aliens

(g) Any alien who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien afflicted with tuberculosis in any form who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an



alien who has been issued an immigrant visa, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion after consultation with the Surgeon General of the United States Public Health Service, may by regulations prescribe. Any alien excludable under paragraph (3) of subsection (a) of this section because of past history of mental illness who has one of the same family relationships as are prescribed in this subsection for aliens afflicted with tuberculosis and whom the Surgeon General of the United States Public Health Service finds to have been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery shall be eligible for a visa in accordance with the terms of this subsection.

Nonapplicability of subsection (a) (9), (10), or (12)

(h) Any alien, who is excludable from the United States under paragraphs (9), (10), or (12) of subsection (a) of this section, who (A) is the spouse or child, including a minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States.

Admission for permanent residence of alien spouse, parent, or child excludable for fraud, misrepresentation, or perjury

(i) Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States, by fraud or misrepresentation, or (2) he admits the commission of perjury in connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States.



June 27, 1952, c. 477, Title II, ch. 2, § 212, 66 Stat. 182; July 18, 1956, c. 629, Title III, § 301(a), 70 Stat. 575; July 7, 1958, Pub.L. 85-508, § 23, 72 Stat. 351; Mar. 18, 1959, Pub.L. 86-3, § 20(b), 73 Stat. 13; July 14, 1960, Pub.L. 86-648, § 8, 74 Stat. 505; Sept. 21, 1961, Pub.L. 87-256, § 109(c), 75 Stat. 535; Sept. 26, 1961, Pub.L. 87-301, §§ 11-15, 75 Stat. 654, 655; Oct. 3, 1965, Pub.L. 89-236, §§ 10, 15, 79 Stat. 917, 919; Apr. 7, 1970, Pub.L. 91-225, § 2, 84 Stat. 116.

Historical Note

References in Text. Section 786 of Title 50, referred to in subsec. (a) (28) (E) and (29), which required registration and annual reports of Communist organizations, was repealed by Pub.L. 90-237, § 5, Jan. 2, 1968, 81 Stat. 766.

1970 Amendment. Subsec. (e). Pub.L. 91-225 inserted cls. (i) and (ii) and reference to eligibility for nonimmigrant visa under section 1101(a) (15) (L) of this title, provided for waiver of requirement of two-year foreign residence abroad where alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion or where the foreign country of alien's nationality or last residence has furnished a written statement that it has no objection to such waiver for such alien, and deleted alternative provision for residence and physical presence in another foreign country and former first and final provisos reading "Provided, That such residence in another foreign country shall be considered to have satisfied the requirements of this subsection if the Secretary of State determines that it has served the purpose and the intent of the Mutual Educational and Cultural Exchange Act of 1961" and "And provided further, That the provisions of this subsection shall apply also to those persons who acquired exchange visitor status under the United States Information and Educational Exchange Act of 1948, as amended."

1965 Amendment. Subsec. (a) (1). Pub.L. 89-236, § 15(a), substituted "mentally retarded" for "feeble-minded".

Subsec. (a) (4). Pub.L. 89-236, § 15(b), substituted "or sexual deviation" for "epilepsy".

Subsec. (a) (14). Pub.L. 89-236, § 10(a), added the requirement that the Secretary of Labor make an affirmative finding that any alien seeking to enter the United States as a worker, skilled or otherwise, will not replace a worker in

the United States nor will the employment of such alien adversely affect the wages and working conditions of individuals in the United States similarly employed and made the requirement applicable to special immigrants (other than the parents, spouses, and minor children of U. S. citizens or permanent resident aliens), preference immigrants described in sections 1153(a) (3) and 1153(a) (6) of this title, and nonpreference immigrants.

Subsec. (a) (20). Pub.L. 89-236, § 10 (b), substituted "1181(a)" for "1181(e)".

Subsec. (a) (21). Pub.L. 89-236, § 10 (c), struck out "quota" preceding "immigrant".

Subsec. (a) (24). Pub.L. 89-236, § 10 (d), substituted "other than aliens described in section 1101(a) (27) (A) and (B)" for "other than those aliens who are native-born citizens of countries enumerated in section 1101(a) (27) (C) of this title and aliens described in section 1101(a) (27) (B) of this title" as the material contained within the parentheses following "Aliens".

Subsec. (g). Pub.L. 89-236, § 15(c), redesignated subsec. (f) of sec. 212 of the Immigration and Nationality Act as subsec. (g) thereof, which for purposes of codification had already been designated as subsec. (g) of this section and granted the Attorney General authority to admit any alien who is the spouse, unmarried son or daughter, minor adopted child, or parent of a citizen or lawful permanent resident and who is mentally retarded or has a past history of mental illness under the same conditions as authorized in the case of such close relatives afflicted with tuberculosis.

Subsecs. (h), (i). Pub.L. 89-236, § 15 (c), redesignated subsecs. (g) and (h) of sec. 212 of the Immigration and Nationality Act as subsecs. (h) and (i) respectively thereof, which for purposes of codification had already been designated as subsecs. (h) and (i) of this section.



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March 21, 1975

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MEMORANDUM

FOR: Summary Writers

FROM: Bob Kodak
Training Officer

SUBJECT: PCB's Resident Experts

The following people have been recognized as experts in the following areas. This list is not exhaustive but is merely an aid to those with problems in the areas listed below.

1. Selective Service Case Law and Precedents - Bill Klein
2. Selective Service Regulations - Col. O. G. Benson
3. Liaison with Federal Bureau of Prisons, Probation, Parole and the U.S. Attorney (including fines imposed by Federal District Court) - Ray Mitchell
4. Federal Criminal Law and Procedure - Tom O'Hare
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 - (a) Navy - Neil Broder
 - (b) Marine Corps - Bruce Heitz
 - (c) Army - Len Dancheck
 - (d) Air Force - Barry Robinson
6. Military Cases Pending Appellate Review - Bob Kodak
7. Immigration Law - Bruce Heitz or Jim Poole
8. Requests for Personal Appearances before PCB - John Lohff
9. Discharge Review Boards - Jim Poole
10. Pardons - Bill Klein



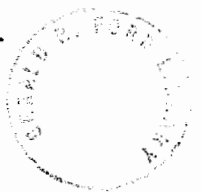
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A.) TO: Pepitone-Selective Service B.) To: Hoffman - D.O.D.
3. Ideas of Presidential Clemency
From: Theodore Marrs To: Bob Finch
4. 30-Day Furlough from Federal Prison. From: Goodell
5. Don't Bypass Military Courts when Dealing with Deserters
From: Sen. John Tower To: President
6. Charter for Presidential Clemency Board. From: Goodell
7. Procedures to be Followed for Unconvicted Draft Evaders and Military Absentees. White House Fact Sheet
8. Executive Orders Re: Function Delegated to Director of Selective Service and Establishment of Clemency Board.

October

1. Meaning of Priority Treatment Classification. From: Lohff To: Baskir
2. Operation of the Armed Forces Clemency Program. To: Board
From: Major Richard Buek
3. Minutes of Oct. 30, 1974 Board Meeting
4. Files and Records - Types and Access. From: Knisely To: File
5. Proposed System for Oral Presentation of Case Summaries to the Board. From: Knisely
6. Due Process for Applicants and Communication with the Outside World.
From: Knisely
7. October Briefings - Naval Annex
From: Capt. Euler To: Gen. Walt
8. Proposed Case Preparation/Recommendation Procedure
From: Capt. Euler To: PC Board
9. Board's Handling of Case Summaries; Process of Recommendation by Staff Board. From: Tropp To: Baskir
10. Tentative Action Taken by the Board on Oct. 23, 1974.
From: Horn To: Goodell
11. Tentative Action Taken by the Board on Oct. 24, 1974.
From: Horn To: Goodell
12. Brief Explanation of Terms, Acronyms, Abbreviations, found in Marine Corps Applicants Military Files and Case Summary.
From: Capn. John Euler
13. Clemency Board Review of Undesirable Discharges Issued by Armed Forces After Sept. 16, 1974. From: Lohff



October cont'd

14. Consideration of Non-Judicial Punishment as Aggravating or Mitigating Circumstances. From: Larry Chaney
15. Military Records: Requisite for File Security. From: Capt. Euler
16. Selective Service Violators not Furloughed under PCB. From: Hickman
17. October 22 Status of Applications. From: Horn
18. Correspondence Procedures. From: Mitchell
19. Proposed Organizational Structural Process. From: Capt. Euler
20. Presidential Clemency Board Fact Sheet.
21. Summaries of Military Furlough Cases. From: Baskir
22. Operation of Presidential Clemency Board (Positions, Duties).
From: Goodell To: John Marsh
23. Summaries of Cases of Individuals on Furlough. From: Mitchell
24. Proposed Administrative Process for Clemency Board. From: Legal Staff
25. Press Release of Oct. 10, 1974 - Inaccuracy. From: Euler and Gordon
26. Proposed Rough of P.C. Board Factors and Guidelines. From: Euler and Gordon
27. Factors Considered by P.C. Board in Recommendations to President on Individual Cases as Proposed by Rick Tropp. From: Tom O'Hare
28. Fact Sheet Information - Suggested Form. From: Klein
29. Letter to Applicant - Re: Factors to be Considered by the Board.
From: Niedermeier
30. Disclosure Under the Freedom of Information Act of Materials in the Possession of P.C. Board. From: Hickman
31. Preparation of Initial Summaries of Cases. From: General Counsel
32. Proposed Organization of Clemency Board. From: O'Hare
33. Possible Staff Organization. From: Foote
34. Possible Staff Organization. From: Gordon
35. Advice Given to Qualifying Marine Prisoners Confined at Leavenworth at Time of President's Proclamation. From: Capt. Euler
36. Staff Organization. From: Klein
37. Possible Stems for Consideration by Presidential Clemency Board.
From: Euler and Gordon
38. Effect of Presidential Pardon on Persons Sentenced Under the Federal Youth Corrections Act. From: Niedermeier
39. Pardon Powers and Benefits. From: Traylor, Pardon Attorney
40. Capitol Hill Briefing of Oct. 3, 1974. From: Euler, Tropp, Foote
41. Briefings - October 1. From: Euler
42. Eligibility for Veteran's Benefits of Clemency Discharge Holders.
From: Foote
43. Coast Guard and Personnel Eligible for Clemency Programs.
From: Gordon
44. Staff Meeting of October 2, 1974. From: Mitchell
45. Addlestone/Schulz Outline of Discharges. From: Foote
46. Organization and Management of the Clemency Board Staff and Paper Flow. From: Tropp
47. Proposed Administrative Process for Clemency Board. From: Tropp

October cont'd

48. Guidelines on Categorization of Cases and on Application of Mitigating and Aggravating Factors. From: Tropp
49. Selective Service Law: Cases and Suggested Criteria. From: Klein
50. Alternatives to Pardon. From: Euler

November

1. Resolution of North Carolina Veterans of Foreign Wars Concerning Benefits Given to People Who Received Ammesty. From: Tropp
2. Contact with Outside Groups. From: Baskir
3. Outline of Presidential Clemency Program and Rationale Behind it.
From: Goodell To: Frank Harrison, Veterans Coalition
4. Case for Conditional Clemency. From: Goodell To: Cabel Tennis,
Dean, St. Mark's Cathedral
5. Over-View of Military Justice. From: H. Neil Broder
6. Analysis of Tentative Board Decisions. From: Strauss
7. Policy Considerations Affecting the Disciplinary/Administration Treatment of Deserters/Unauthorized Absentees. From: Broder
8. Presidential Pardon, What is it, and What are its Consequences.
From: Legal Staff
9. Clemency Discharges. From: Strauss
10. Absences Relating to Vietnam Service. From: Chaney To: Baskir
11. List of Organizations that will Provide Employment to Clemency Applicants. From: Tropp
12. Furloughed Selective Service Violators. From: M. Keenan
13. Legal Propriety of Publically Announcing Clemency Pardons.
From: Baskir
14. Contacts for Possible Research; Passing on Thereof. From: Euler
15. Docket of Civilian Cases, Nov. 6. From: Mitchell
16. Due Process for Applicants and Communication with Outside World.
From: Baskir
17. Position Description of the General Counsel on the PCB - General
18. The Clemency Program: Prognosis and Suggested Organization of Executive Council. From: Klein
19. Comparison of Case Recommendations. From: Klein
20. Clemency Discharges. From: Strauss
21. Communications and Public Affairs Proposal. From: Vinson To: Goodell
22. Analysis of Tentative Board Decisions Nov. 21. From: Strauss
23. Disclosures of Case Information. From: Strauss
24. Decisions on Final Procedures. From: Baskir
25. Covering Memo to Chief Probation Officers - Nov. 27, Jackson, Goodell
26. Implications of the Certificate of Executive Clemency. From: Knisely



December

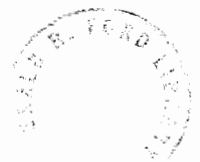
1. Presidential Clemency Board Research Requirements. From: Strauss
2. Information on Clemency Procedures distributed to the Press at Presidential Acceptance of P.C.B. Recommendations. From: Knisely
3. Public Service Campaign. From: Vinson
4. Options for Military Cases. From: Knisely
5. Clemency for Military Cases. From: Baskir
6. Presidential Pardons and Effect Upon Military Offenses and Discharges.
From: Klein
7. Files of the Draft Allocation Program. From: Knisely
8. Alternate Service Information - General Memo.
9. The Presidential Clemency Program. What is it? How does it Work?
General Information
10. Announcements of Grants of Clemency During Christmas. From: Goodell
11. First Recommendations for Clemency: Persons Convicted of Military Offenses; Further Recommendations for Selective Service Cases.
From: Goodell To: President
12. Nature of the Clemency to be Granted Former Servicemen. From: Goodell
To: President
13. Withheld Cases. From: Strauss
14. Additional Lawyer Referral. From: Knisely
15. Military Awards and Decorations. From: Legal Staff
16. Comments upon and Criticisms of the Proposed Rules and Regulations of the Presidential Clemency Board. From: Neil Broder
17. Expungement of Felony Conviction. To: Senator Hart From: Goodell
18. Regulations Issued by the Chairman of the Presidential Clemency Board.
From: O'Hare
19. Some Budget Figures. From: Handwerger To: Goodell
20. Mail Composition. From: Handwerger To: Goodell
21. Blood Donation as a Mitigating Circumstance. From: Goodell
22. Report of the National Advisory Commission on Selective Service - Feb. 1967. In Pursuit of Equity: "Who Serves When Not All Serve?"
From: C. Friedman
23. Information on Clemency Procedures distributed to Press at Presidential Acceptance of P.C.B. Recommendations. From: Knisely
24. Ready Reference on Military Abbreviations and Acronyms. From: Legal Staff
25. Effect of Pardon on Dishonorable Discharge. From: Klein
26. Expungement of Records: Dilemma and Resolution. From: Klein
27. Consultants for the Clemency Board. From: Charles Mott

January

1. Personal Appearance of Applicant Before the Board. From: Hansen
2. Answers to Questions Regarding Various Aspects of Clemency.
From: Goodell To: Strom Thurmond
3. The Impact of the Presidential Clemency Board's Public Information Campaign. From: Vinson To: Marder
4. Presidential Decisions - December 28, 1974.
5. Comments on Clemency Deadline Extension Memorandum to President
From: Tropp To: Jones
6. Elimination of Workers Defense League as Lawyer - Referral Service.
From: Lohff
7. Meeting between Baskir and Cap'n "Dusty" Miller, Conducted on Jan 16, 1975 at Room 3E-966, the Pentagon. From: Poole
8. Clemency Counselling Service in Indiana. From: O'Hare
9. Fairness Doctrine and our TV Spots. From: Tropp
10. Inmates Eligible for Clemency. From: Goodell
11. Extension of Jan. 31 Deadline for Applications to the P.C.B.
From: Goodell To: Ford
12. Unemployed Persons Eligible for Clemency. From: Goodell
13. Four Person Panels - Legality and Advisability. From: O'Hare
14. The Confidentiality of Selective Service Files: From: Poole
15. Upgrading the Discharges of Ex-Servicemen to Whom You Grant Clemency.
From: Goodell To: President
16. Correspondence and other Communications. From: Handwerker To: Baskir
17. Baseline for Servicemen with Undesirable Discharges. From: Strauss
18. Length of Alternate Service for Applicants with Undesirable Discharges.
From: Hickman
19. Seattle Survey of Eligible Ex-Servicemen. From: Strauss

February

1. Memo dated Feb. 19, 1975, Concerning Case Summary Form for Undesirable Discharge. From: O'Hare To: Hansen, Horn, Baskir
2. Three Decisions on Your Clemency Program: 1) Military discharges "under honorable conditions. 2) AWOL offenses should not be part of record if applicant receives clemency. 3) Extend deadline for two months. From: Goodell To: President
3. Reasons for Upgrading Viet-Nam Discharges and Adding Benefits.
To: President From: Walt, Dougovito, Maye
4. Clemency Board Funding Estimates. From: Goodell To: President
5. Proposed Changes in Procedures to Expedite Clemency Board Processing of Applications (Bare Bones II). From: Horn
6. Clemency Board Budget Problems. From: Horn
7. Staff Requirements for the Presidential Clemency Board. From: Goodell
8. Presidential Clemency Board Inaction on Requests for Personal Appearances.
From: Neil Broder, J. Lohff



February cont'd

9. Informational Letter to Senator Philip Hart from Charles Goodell Containing Various Pertinent Bits of Information on Board and Its Operation.
10. Scope of Quality Control Activities for Initial Summaries. From: Hansen
11. Format for Shorter Summary and Recommendation for Possible New Full-Time Board. From: MacQueeney
12. "Bare Bones" PCB Summary Proposed by Charles Craig. From: O'Hare
13. Action on PCB Recommendation to Grant Upgraded Discharges to Five Special Clemency Cases. From: Goodell
14. Resource Requirements for the Clemency Board. From: Baskir
15. Draft Evaders on the Justice Dept. Final List. From: Baskir
16. Use of Board Funds for Public Service Campaign. From: Horn
17. Paper on Background Information Sent to Edward Kennedy Re: Truman's Past WW II Amnesty Board.
18. Figures as of COB, January 31, 1975. From: Handwerger To: Staff
19. Outline of Sealing Issues. From: Strauss To: Tropp, Baskir
20. Scope of Quality Control Activities for Initial Summaries.
From: Hansen To: Baskir
21. Sealing the Records of Persons Granted Clemency.
From: Strauss To: Tropp, Baskir
22. Case Notes. From: Klein To: Baskir
23. Eligibility of Inmate Applicants. From: Strauss To: Baskir, Tropp
24. Expediting the Announcement of Dispositions of Decided Cases.
From: Craig To: PCB
25. Success Rates for Military Discharge Review Boards.
From: Strauss To: Goodell
26. Three Decisions on Your Clemency Program.
From: Goodell To: President

LAWYER REFERRAL SERVICES

New York County Lawyers Association
14 Vesey Street
New York, New York 10007
212/267-6646

For persons with outstanding AWOL offenses:

Clemency Information Center
1100 West 42nd Street
Indianapolis, Indiana 46208
317/635-8259 (accepts all collect calls)

For California and neighboring states:

Los Angeles County Bar Association Clemency Committee
606 S. Olive
Los Angeles, California 90014
213/624-8571

For Arizona and the Southwest states:

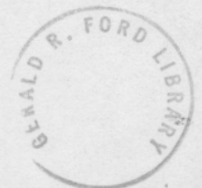
Martori, Meyer, Hendricks, and Victor
Attn: Larry Hammond
26th Floor
3003 N. Central Avenue
Phoenix, Arizona 85012
602/263-8287

OR YOUR LOCAL PUBLIC DEFENDER SERVICE OR LEGAL AID SOCIETY

* * * * *

The Pardon Attorney's address: Pardon Attorney, Lawrence Traylor,
Department of Justice, Washington, D. C. 20530

Current telephone number of Ft. Benjamin Harrison:
317/542-3417, and telephone number for ACLU office of
Ft. Benjamin Harrison: 317/635-8259.



REFERRAL LIST for Upgrading Discharges

Commanding Officer
U. S. Army Admin. Center
The Adjutant General's Office
9700 Page Blvd.
St. Louis, Missouri 63132

Army Discharge Review Board*
Room 1E 479, The Pentagon
Washington, D. C. 20310
OX 5-4682 Statute of Limitations: 15 years from date of discharge

Army Board for Corrections of Military Records
Room 1E 512, The Pentagon
Washington, D. C. 20310
OX 7-4254 Statute of Limitations: 3 years within discovery of
error or injustice--exceptions
allowed with justification

Air Force Discharge Review Board*
Commonwealth Building
1300 Wilson Blvd., Room 903
Arlington, Virginia 22209
OX 4-5249 Statute of Limitations: 15 years from date of discharge

Air Force Board for the Correction
of Military Records
Room 5C 860, The Pentagon
Washington, D. C. 20330
OX 5-2359 Statute of Limitations: 3 years within discovery of
error or injustice--exceptions
allowed with justification

Navy²Discharge Review Board* **
Navy Department, Arlington Annex
Room G711
Washington, D. C. 20370
OX 4-1648 Statute of Limitations: 15 years from date of discharge

Board for Correction of Naval Records **
Department of Navy, Arlington Annex
Washington, D. C. 20370
Statute of Limitations: 3 years within discovery of
error or injustice--exceptions
allowed with justification

Coast Guard*
Boards of Review of Discharges & Dismissals
Coast Guard Headquarters
Washington, D. C. 20590
426-1317 Statute of Limitations: 15 years from date of discharge

* Applicants should apply to the Discharge Review Board first. If the applicant wants to appeal his decision, he can take his case to the Board for Corrections. After 15 years, all cases should go directly to the Board for Corrections.

** This address also applies to Marines.

