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THE PRESIDENT HAS SEEN...

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON
November 25, 1974

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: *CEG* CHARLES E. GOODELL
SUBJECT: First Recommendations by the
Presidential Clemency Board for
Extension of Executive Clemency

On behalf of the Presidential Clemency Board, I am honored to submit to you recommendations for extension of executive clemency to eighteen draft evaders who were furloughed pursuant to your order. The Board recommends that you extend: 1) unconditional pardon to five individuals; 2) executive clemency to twelve individuals conditioned upon completion of a specified period of alternative service after which they will earn an unconditional pardon, and 3) unconditional commutation of sentence without pardon to one individual.

With respect to the twelve conditional pardons, the following is the distribution of lengths of alternative service:

- 4 applicants for clemency -- 3 months
- 6 applicants for clemency -- 6 months
- 1 applicant for clemency -- 10 months
- 1 applicant for clemency -- 12 months

I recommend that you announce a decision to extend clemency to the first group of eighteen individuals in an Oval Office public ceremony on Friday, November 29. This memorandum explains the substantive and the procedural standards the Board used to reach its recommendations, and describes the message which I believe that you should give on Friday. There are several attachments to the memorandum.

Clemency implementing documents for your signature	Tab A
Presidential Clemency Board Substantive Standards	Tab B

Presidential Clemency Board Procedural Standards	Tab C
Summaries of Background of applicants	Tab D

We will present by Tuesday evening a proposed statement for you to issue during the signature ceremony and a draft press release based upon that statement.

I. In What Format Should You Announce the First Batch of Clemencies?

I recommend that you hold a formal signing ceremony of the executive clemency master warrants in the Oval Office on Friday, November 29, at 10:00 a.m. At that ceremony, I recommend that you make a statement relating the spirit of Thanksgiving to your grants of clemency.

You may want the Board at that ceremony, or perhaps its Chairman, or perhaps its Chairman together with key Congressional supporters of the clemency program.

II. On What Basis Has the Board Reached Its Recommendations?

The Presidential Clemency Board recognized that it is necessary to provide notice to applicants and to maximize public certainty and predictability about the standards it will apply. The Board also recognized that the number of applicants could become substantial only if potential applicants had an idea of how they would be treated. Substantive standards are also necessary to ensure equity and consistency and to ensure that the public perceives the program as fair.

After struggling for the better part of two months, the Board has now reached unanimous agreement on the rules laid out in Tab B. Starting with an alternative service length of 24 months, the Board will reduce that period by three times the amount of prison time served, and on a one-for-one basis for the amount of court-ordered alternative service, probation or parole. The Board also specified the aggravating and mitigating circumstances it will take into account in determining whether an applicant should receive a grant of clemency, and in determining whether his length of alternative service should be greater or less than the mathematically-determined baseline.

Those standards have been submitted to the Federal Register for publication on Wednesday, November 27.

We have also submitted to the Federal Register the procedural standards on which the Board has unanimously agreed to operate. Those standards provide that the applicant is entitled to counsel or other representation in presenting his case to the Board. We will refer him to appropriate volunteer counsel if he is unable to find one or is too poor to hire one. Each applicant is encouraged to submit evidence in order to correct inaccurate, incomplete or misleading information in his files, and is encouraged to submit evidence and testimonials from other people about his case. Each applicant has been made aware of these opportunities, and upon publication in the Federal Register the public will be aware of them.

We believe that this program will be judged not only on the number of people given clemency, and the terms on which clemency is offered, but also upon whether decisions have been made with the fairness and the due process befitting the spirit of the program and the spirit in which you want this Administration to function. We have created a process in which the applicant can truly discuss his case with the Board and perhaps for the first time present to his government the reasons why he acted the way he did. Whether he is granted or denied clemency, we hope that he will believe that he has been treated with fairness and compassion.

III. What Should Your Statement Try to Communicate to the American People, and How Will the Board Follow Up on Your Statement?

The issuance of the first batch of clemency decisions, your statement, and formal publication of the Board's substantive and procedural rules together make Thanksgiving a critical point in the clemency program. Potential applicants will now be able to decide with much more information and with a sense of the tone with which you approach clemency decisions. The rate of applications to the Clemency Board depends in large part on the perception of the events of this week.

The conditions on the basis of which clemency is granted, and how you explain those conditions in your statement, will be critical in shaping America's perception of the program and of those granted clemency under the program. It is important that the American people understand that most of those eligible for this program are not long-haired, well educated, middle-class ideologues who tried to beat the system, but

rather poor and uneducated individuals who were not sufficiently sophisticated to understand their legal obligations or mature enough to meet them.

Over and over again in the cases before the Board, we have found the inarticulate individual whose father died leaving a family without any means of support, or whose mother became acutely ill, or whose wife told him that she was about to leave. All too frequently we have found that if the individual had been educated enough to apply properly through the Selective Service system, he never would have been drafted into the armed forces in the first place. Often, the draft evasions we have seen had nothing at all to do with the Vietnam War. In the case of the Jehovah's Witnesses and some others, it had to do with conscientious objections to participation of any kind in all wars --and even those objectors were usually the poor and the illiterate who just did not know how to pursue their rights properly.

If you can communicate this to the American people in your Thanksgiving statement, these unfortunate individuals will be welcomed back to employment and to a full life in our society. If the American people change their mistaken image of the typical Vietnam-era draft evader, then you will have laid the basis for his reintegration into the community.

The Board will send you a great many more recommendations in December. We will also take steps to maximize public exposure to your grants of clemency and to the Board's rules, and will enlist the assistance of various veterans' organizations, draft evaders' organizations, and lawyers' organizations in that process.

V. Decision on the Board's Recommendations

1. We recommend, after your examination of the case summaries at Tab D, that you sign the implementing documents at Tab A.

Approved _____ Disapproved _____
Amended _____

2. We recommend that you hold a formal signing ceremony of the executive clemency master warrants in the Oval Office on Friday, November 29, at 10:00 a.m.

Approved _____ Disapproved _____
Amended _____

3. We recommend that you issue the summaries at Tab D to the public in conjunction with the signature ceremony.

Approved _____ Disapproved _____

Amended _____

4. Do you want the Board Members in attendance at that ceremony, or the Board's Chairman, or its Chairman together with key Congressional supporters of the clemency program?

Whole Board _____ Chairman alone _____

Congressional supporters _____ You alone _____

PRESIDENTIAL CLEMENCY BOARD
THE WHITE HOUSE

WASHINGTON
November 25, 1974

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: CHARLES E. GOODELL

SUBJECT: First Recommendations by the
Presidential Clemency Board for
Extension of Executive Clemency

On behalf of a unanimous Presidential Clemency Board, I am honored to submit to you recommendations for extension of executive clemency to twenty-five draft evaders who have served partial prison sentences. The Board recommends that you extend unconditional pardon to nine individuals, executive clemency to fifteen individuals conditioned upon completion of a specified period of alternative service by which they will earn their way back to an unconditional pardon, and unconditional commutation of sentence without pardon to one individual.

With respect to the fifteen recommended conditional pardons, the Board recommends the following distribution of lengths of alternative service:

6 applicants for clemency -- 3 months
6 applicants for clemency -- 6 months
1 applicant for clemency -- 10 months
2 applicants for clemency -- 12 months

This memorandum recommends that you announce a decision to extend clemency to the first group of twenty-five recommended individuals in an Oval Office public ceremony on Friday, November 29, explains the substantive and the procedural standards on the basis of which the Board reached its recommendations, and lays out the message which I believe that you should communicate to the American people on Friday. There are several attachments to the memorandum:

Clemency implementing documents for your
signature Tab A

Presidential Clemency Board Substantive
Standards Tab B

Presidential Clemency Board Procedural Standards	Tab C
Summaries of background of applicants	Tab D

We will present by Tuesday evening a proposed statement for you to issue during the signature ceremony and a draft press release based upon that statement.

I. In What Format Should You Announce the First Batch of Clemencies?

I recommend that you hold a formal signing ceremony of the executive clemency master warrants in the Oval Office on Friday, November 29, at 10:00 a.m. At that ceremony, I recommend that you make a statement relating the spirit which Thanksgiving brings to the way in which you hope that the citizens of this country will welcome back the recipients of your grants of clemency.

You may want the Board at that ceremony, or perhaps its Chairman, or perhaps its Chairman together with key Congressional supporters of the clemency program.

II. On What Basis Has the Board Reached Its Unanimous Recommendations?

The Presidential Clemency Board early recognized that there is a need to provide notice to applicants, and to maximize public certainty and predictability, about the substantive standards which the Board will apply to individual cases. The Board recognized that the number of applicants for a grant of clemency could become substantial only if potential applicants were made aware of approximately how their applications would be treated. Articulation of substantive standards was also seen to be necessary in order to ensure equity and consistency in the way that similarly situated applicants are treated, and in order to ensure that the public perceives the program as fair.

After struggling for the better part of two months with what precisely those standards should be, the Board has now reached unanimous agreement on the rules laid out in Tab B. Starting with an alternative service length of 24 months, the Board determined that it would reduce that length in individual cases by three times the amount of prison time served, and on a one-for-one-day basis for the amount of court-ordered alternative service performed and for time served on probation

and on parole. The Board also specified which aggravating circumstances and which mitigating circumstances it will take into account in determining whether an applicant should receive a grant of clemency, and in determining whether his length of alternative service should be greater than or less than the mathematically-determined baseline.

With the submission today of those standards for publication in the Federal Register, the Board considers itself committed to evaluate each application on that basis.

We have also today submitted to the Federal Register for publication the procedural standards on which the Board has unanimously agreed to operate. Those standards include provisions that any applicant is entitled to counsel or non-legal representation in presenting his case to the Board, and that we will refer him to appropriate volunteer counsel if he is unable to find one or is too poor to hire one. Each applicant is encouraged to submit evidence in order to correct inaccurate, incomplete or misleading information in his criminal or military files, and is encouraged to submit evidence--and testimonials from other people--indicating that mitigating factors listed in the substantive rules apply to his case. Each applicant has been made aware of these opportunities, and upon publication in the Federal Register the public will be aware of them.

We believe that this program will be judged by history not only on the number of people given clemency, and the terms on which clemency is offered, but also upon whether clemency decisions have been made with the fairness and the due process befitting the spirit of the program and the spirit in which you want this Administration to function. We have created an open process, one in which the outcast applicant can engage with the Board during the determination of his case, one in which he will feel that he has been heard, and has had an opportunity--perhaps, in his perception, for the first time--to present to his government the reasons which governed the behavior for which he was convicted or discharged. Whether he is granted or denied clemency, and no matter what the conditions, he should understand what it is that has happened to him and how the disposition in his case relates to all other dispositions.

III. What Should Your Statement Try to Communicate to the American People, and How Will the Board Follow Up on Your Statement?

The issuance of the first batch of clemency decisions, your statement, and formal publication of the Board's substantive and procedural rules together make Thanksgiving a critical point in the clemency program. The potential applicants whom we have been unable to reach will now be able to examine their options under the program with much more information and with a sense of the tone with which you approach clemency decisions. The rate of applications to the Clemency Board will either radically accelerate or radically diminish in large part based on potential applicants' perception of the events of this week.

The conditions on the basis of which clemency is granted, and how you explain those conditions in your statement, will be critical in shaping America's perception of the program and of those granted clemency under the program. It is urgent that the American people understand that most of those eligible for this program are not long-haired educated middle-class ideologues who tried to beat the system, but rather poor, uneducated, lower-class individuals who were not sufficiently sophisticated to understand how to make the system work.

Over and over again in the cases before the Board, and in the cases summarized for you in Tab D, we have found the inarticulate individual whose father died leaving a family without any means of support, or whose mother became acutely ill, or whose woman told him that she was about to leave him. Over and over again, we have found that if the individual had been educated enough to apply properly through the Selective Service system, he never would have been drafted into the armed forces in the first place. His draft evasion either had nothing at all to do with the Vietnam War or, in the case of the Jehovah's Witnesses and some others, it had to do with conscientious objection to participation of any kind in all wars--and even those objectors were usually the poor and the illiterate who just did not know how to make the system work as it should have. It is not they who should be ashamed, but rather we--for what we have permitted to be done to them by a conscription system which put a premium upon educated, clever, articulate sophistication in reaching its life and death decisions.

This first batch of cases is a damning indictment of the extent to which the inarticulate, the unsophisticated, the non-college educated never were able to get before the Selective Service System the full hearing which, as American citizens entitled to equal treatment, they deserved. If you can communicate that to the American people in your Thanksgiving clemency statement, then you will have laid the groundwork for these unfortunate individuals to be welcomed back to employment and to a full life in our society. If the American people come to understand that and to change their image of the typical Vietnam-era draft evader, then you will have laid the basis for his reintegration into the community.

In the hope that the events of this week will both encourage potential applicants and modify the attitudes of a significant number of Americans toward them, the Board will now proceed with dispatch to send you several hundred recommendations in December. The Board will also take steps to maximize public exposure to your grants of clemency and to the Board's rules, and will enlist the assistance of various veterans' organizations, draft evaders' organizations, and lawyers' organizations in that process.

V. Decision on the Board's Recommendations

1. We recommend, after your examination of the case summaries at Tab D, that you sign the implementing documents at Tab A.

Approved _____ Disapproved _____

Amended _____

2. We recommend that you hold a formal signing ceremony of the executive clemency master warrants in the Oval Office on Friday, November 29, at 10:00 a.m.

Approved _____ Disapproved _____

Amended _____

3. We recommend that you issue the summaries at Tab D to the public in conjunction with the signature ceremony.

Approved _____ Disapproved _____

Amended _____

4. Do you want the Board Members in attendance at that ceremony, or the Board's Chairman, or its Chairman together with key Congressional supporters of the clemency program?

Whole Board _____ Chairman alone _____

Congressional supporters _____ You alone _____

EXECUTIVE GRANT OF CLEMENCY

UNDER THE AUTHORITY VESTED IN ME BY ARTICLE II, SECTION 2, OF THE CONSTITUTION OF THE UNITED STATES, AND PURSUANT TO THE RECOMMENDATION OF THE PRESIDENTIAL CLEMENCY BOARD, ESTABLISHED BY PROCLAMATION 4313 AND EXECUTIVE ORDER 11803, I HEREBY GRANT A CONDITIONAL PARDON TO THE FOLLOWING PERSONS, SUBJECT TO THE FULFILLMENT OF CONDITIONS SET FORTH IN THE "STATEMENT OF CONDITIONS FOR EXECUTIVE CLEMENCY" ATTACHED HERETO, EXCEPT AS THOSE MAY BE HEREINAFTER MODIFIED BY THE PRESIDENTIAL CLEMENCY BOARD ACTING ON MY BEHALF.

I HEREBY DESIGNATE, DIRECT AND EMPOWER THE ATTORNEY GENERAL, AS MY REPRESENTATIVE, TO SIGN EACH GRANT OF PARDON TO THE PERSONS NAMED HEREIN UPON RECEIPT OF CERTIFICATION FROM THE PRESIDENTIAL CLEMENCY BOARD THAT THE CONDITIONS FOR SIGNATURE OF SUCH GRANT HAVE BEEN FULFILLED.

STATEMENT OF CONDITIONS FOR EXECUTIVE CLEMENCY

PURSUANT TO PRESIDENTIAL PROCLAMATION 4313 AND EXECUTIVE ORDER 11803, A PARDON SHALL ISSUE TO THE PERSONS NAMED HEREIN, SUBSEQUENT TO AND CONTINGENT UPON THE COMPLETION OF THE PERIOD OF ALTERNATIVE SERVICE SPECIFIED HEREIN, UPON CERTIFICATION BY THE PRESIDENTIAL CLEMENCY BOARD.

NAME

PERIOD OF ALTERNATIVE SERVICE

THE PRESIDENTIAL CLEMENCY BOARD SHALL CERTIFY TO THE ATTORNEY GENERAL THE SATISFACTORY COMPLETION OF ALTERNATIVE SERVICE AS SPECIFIED ABOVE.

EXECUTIVE GRANT OF PARDON

UNDER THE AUTHORITY VESTED IN ME BY ARTICLE II,
SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES,
AND PURSUANT TO THE RECOMMENDATION OF THE
PRESIDENTIAL CLEMENCY BOARD, ESTABLISHED BY
PROCLAMATION 4313 AND EXECUTIVE ORDER 11803,
I HEREBY GRANT A FULL AND UNCONDITIONAL PARDON
TO THE FOLLOWING PERSONS:

I FURTHER GRANT A FULL, UNCONDITIONAL COMMUTATION
OF SENTENCE TO THE FOLLOWING PERSONS:

I HEREBY DESIGNATE, DIRECT AND EMPOWER THE ATTORNEY
GENERAL, AS MY REPRESENTATIVE, TO SIGN EACH GRANT OF
PARDON TO THE PERSONS NAMED HEREIN.

B

Part 202. Substantive Standards of the Presidential Clemency Board.

PREAMBLE

It is the intent of the Presidential Clemency Board to provide notice to applicants, and to maximize public certainty and predictability, about the substantive standards which the Board will apply in recommending to the President proposed dispositions of applications for executive clemency under Proclamation 4313 (published in the Federal Register on September 17, 1974). It is further the intent of the Board to ensure equity and consistency in the way that similarly situated applicants are treated.

The Presidential Clemency Board therefore herein publishes the substantive standards to which it has committed itself in the implementation of the clemency program. Applicants for executive clemency under the program are invited to submit evidence suggesting that one or more of the mitigating circumstances listed below apply to their case, or that one or more of the aggravating circumstances listed do not apply to their case. Applicants are also invited to submit letters from third parties containing such evidence, or to ask other people to write directly to the Board on their behalf.

It is contemplated that the Board will weigh the factors listed below in each individual case. It is not contemplated, however, that any one of these factors will necessarily be dispositive of a particular case, and the Board reserves the option of considering other factors in mitigation not listed herein to be dispositive of a particular case.

Section 202.1 Purpose and scope.

This part articulates the standards which the Presidential Clemency Board will employ in deciding whether to recommend that the President grant executive clemency to a particular applicant, and in then deciding whether that grant of clemency should be conditional, and, if so, upon what specified period of alternative service.

Section 202.2 Board decision on whether or not to recommend that the President grant executive clemency.

The first decision which the Board will reach, with respect to an application before it, is whether or not it will recommend to the President that the applicant be granted executive clemency. In reaching that decision, the Board will take notice of the presence of any of the aggravating circumstances listed in Sec. 202.3, and will further take notice of whether such aggravating circumstances are balanced by the presence of any of the mitigating circumstances listed in Sec. 202.4.

Unless there are aggravating circumstances not balanced by mitigating circumstances, the Board will recommend that the President grant executive clemency to each applicant.

Section 202.3 Aggravating circumstances.

Presence of any of the aggravating circumstances listed herein either will disqualify an individual for executive clemency or will be considered by the Board as cause for recommending to the President executive clemency conditioned upon a length of alternative service exceeding the applicant's "baseline period of alternative service," as determined under Sec. 202.5.

Aggravating circumstances of which the Board will take notice are:

- (a) Prior adult criminal convictions.
- (b) False statement by applicant to the Presidential Clemency Board.
- (c) Use of force by applicant collaterally to AWOL, desertion, missing movement, or civilian draft evasion offense.
- (d) Desertion during combat.
- (e) Evidence that applicant committed the offense for obviously manipulative and selfish reasons.

- (f) Prior refusal to fulfill alternative service.
- (g) Prior violation of probation or parole requirements.

Section 202.4 Mitigating circumstances.

Presence of any of the mitigating circumstances listed herein will be considered by the Board as cause for recommending that the President grant executive clemency to a particular applicant, and will in exceptional cases be further considered as cause for recommending clemency conditioned upon a period of alternative service less than the applicant's "baseline period of alternative service," as determined under Sec. 202.5.

Mitigating circumstances of which the Board will take notice are:

- (a) Applicant's lack of sufficient education or ability to understand obligations, or remedies available, under the law.
- (b) Personal and family hardship either at the time of the offense or if the applicant were to perform alternative service.
- (c) Mental or physical illness or condition, either at the time of the offense or currently.
- (d) Employment or volunteer activities of service to the public since conviction or military discharge.
- (e) Service-connected disability, wounds in combat, or decorations for valor in combat.
- (f) Tours of service in the war zone.
- (g) Substantial evidence of personal or procedural unfairness in treatment of applicant by Selective Service System or by a military service.
- (h) Denial of conscientious objector status, of other claim for Selective Service exemption or deferment, or of a claim

for hardship discharge, compassionate reassignment, emergency leave, or other remedy available under military law, on procedural, technical, or improper grounds, or on grounds which have subsequently been held unlawful by the judiciary.

- (i) Evidence that an applicant acted in conscience, and not for manipulative or selfish reasons.
- (j) Voluntary submission to authorities by applicant.

Section 202.5 Calculation of length of alternative service.

Having reached a decision to recommend that the President grant executive clemency to a particular applicant, the Board will then decide whether clemency should be conditioned upon a specified period of alternative service and, if so, what length that period should be.

- (a) The starting point for calculation of length of alternative service will be 24 months.
- (b) That starting point will be reduced by three times the amount of prison time served.
- (c) That starting point will be further reduced by the amount of prior alternative service performed, provided that a prescribed period of alternative service has been satisfactorily completed.
- (d) That starting point will be further reduced by the amount of time served on probation or parole, provided that a prescribed period of alternative service has been satisfactorily completed.
- (e) The remainder of those three subtractions will be the "baseline period of alternative service" applicable to a particular case before the Board, provided that the baseline period of alternative service shall not exceed a judge's sentence to imprisonment in any case, and provided further that the baseline period of alternative service shall be, notwithstanding the remainder of the calculation above, not less than a minimum of three (3) months.

- (f) In exceptional cases in which mitigating circumstances are present, the Board may consider such mitigating circumstances as cause for recommending clemency conditioned upon a period of alternative service less than an applicant's baseline period of alternative service.

- (g) In cases in which aggravating circumstances are present and are not, in the Board's judgment, balanced by mitigating circumstances, the Board may consider such aggravating circumstances as cause for recommending clemency conditioned upon a period of alternative service exceeding, either by three (3) additional months or by six (6) additional months, the applicant's baseline period of alternative service.

C

Part 201 Administrative Procedures

Section 201.1 Purpose and Scope

This subpart contains the regulations of the Presidential Clemency Board, created pursuant to Executive Order 11803 (39 FR 33297) concerning the procedures by which the Board will accept and process applications from individuals who avail themselves of the opportunity to come within its jurisdiction. Certain other matters are also treated, such as the assistance to be given to individuals requesting determinations of jurisdiction, or requesting information respecting those parts of the Presidential Clemency Program which are administered by the Department of Defense and the Department of Justice under Presidential Proclamation 4313 (39 FR 33293).

Section 201.2 General Definitions.

"Action attorney" means an attorney on the staff of the Board who is assigned an applicant's case and is thereafter responsible for all information-gathering and communications concerning that applicant's case from the applicant's initial filing until final disposition has been made by the Board.

"Applicant" means an individual who is subject to the jurisdiction of the Board, and who has submitted an initial filing.

"Board" means the Presidential Clemency Board as created by Executive Order 11803, or any successor agencies.

Section 201.3 Initial Filing.

In order to comply with the requirements of Executive Order 11803 as to timely application for consideration by the Board, an individual must make an initial filing prior to January 31, 1975. The Board will consider sufficient as an initial filing any written communication received from an individual or his representative which requests consideration of the individual's specific case or which demonstrates an intention to request consideration. Oral initial filings will be considered sufficient if reduced to writing and received by the Board within thirty (30) calendar days.

Section 201.4 Application Form.

(a) Upon receipt of an initial filing a member of the Board's staff will make a determination of probable jurisdiction. Applicants who are clearly beyond the Board's jurisdiction will be so notified in writing. An applicant who questions this adverse determination of probable jurisdiction should promptly write the General Counsel, Presidential Clemency Board, The White House, Washington, D.C. 20500, stating his reasons for questioning the determination. The General Counsel of the Board shall make the final determination of jurisdiction.

(b) An applicant who has been notified that probable jurisdiction does not lie in his case will be considered as having made a timely filing should the final decision be that the Board has jurisdiction over his case.

(c) Applicants who are within the probable jurisdiction of the Board will be sent by mail:

- (1) An application form (see appendix "a");
- (2) Information about the Presidential Clemency program and instructions for the preparation of the application form (see appendix "b");
- (3) A statement describing the Board's procedures and method of determining cases.

(d) The applicant will be urged to return the completed application form to the Board as soon as possible. In the absence of extenuating circumstances, completed application forms must be received by the Board within thirty (30) calendar days of receipt. Section 201.5 Assignment of Action Attorney and case number, and determination of jurisdiction.

(a) Upon receipt of all necessary information, the applicant's case will be assigned to an Action Attorney, who will make a preliminary determination of the Board's jurisdiction. If the Action Attorney determines that the Board has jurisdiction over the applicant, a file for the applicant's case will be opened and a case

number for that file will be assigned. With the opening of the file, the Action Attorney shall request from all appropriate government agencies the relevant records and files pertaining to the applicant's case before the Board.

(b) In normal cases, the relevant records and files will include for civilian cases the applicant's files from the Selective Service System and the Bureau of Prisons, and for military cases the applicant's military personnel records, military clemency folder, and record of court martial. Applicants may request that the Board consider other pertinent files, but such applicant-requested files will not be made available to the applicant and his representative as of right.

(c) Where the initial filing contains adequate information, Board staff may assign a case number and request records and files prior to receipt of the completed application form.

(d) If the Action Attorney determines that probable jurisdiction does not exist, he will promptly notify the applicant in writing, stating the reasons therefor.

(e) An applicant who questions this adverse determination of jurisdiction should write the General Counsel of the Board in accordance with the provisions of Section 201.4(a).

Section 201.6 Initial Summary.

(a) Upon receipt of the necessary records and files, the Action Attorney will prepare an initial summary of the applicant's case. The files, records, and any additional sources used in preparing the initial summary will be noted thereupon; no material not so noted will be used in its preparation. The initial summary shall include the name and business telephone number of the Action Attorney who prepared it, and who may be contacted by the applicant or his representative.

(b) The initial summary shall be sent by certified mail to the applicant. The summary will be accompanied by an instruction sheet describing the method by which the summary was prepared, and by a copy of the guidelines that have been adopted by the Board for the determination of cases. Applicants will be requested to review the initial summary for accuracy and completeness, and advised of their right to submit additional sworn or unsworn material. Such additional material may be submitted in any length, but should be accompanied by a summary of not more than three (3) single-spaced, typewritten, letter-sized pages in length. If a summary of suitable length is not submitted with the additional material, the Action Attorney will prepare such a summary.

(c) At any time after the mailing to the applicant of his initial summary, the applicant's complete Board file, and the files from which the summary was prepared, may be examined at the offices of the Board by the applicant, his representative, or by any member of the Board. An applicant or his representative may submit evidence of inaccurate, incomplete, or misleading information in the complete Board file.

(d) An applicant's case will be considered ready for consideration by the Board not earlier than twenty (20) days after the initial summary has been received by the applicant. Material which amends or supplements the applicant's initial summary must therefore be received by the Board within twenty (20) days to insure that it will be considered, unless within that period the applicant requests and receives permission for an extension. Permission for late filing shall be liberally granted, if the request is received prior to Board action.

Section 201.7 Final Summary.

(a) Upon receipt of the applicant's response to the initial summary, the Action Attorney will note such amendments, supplements, or corrections on the initial summary as are indicated by the applicant.

(b) The final summary shall then consist of the initial summary with appropriate amendments and additions, and the summary of the materials submitted by the applicant as described in Sec. 201.6(c).

Section 201.8 Consideration before the Board.

(a) At a regularly scheduled meeting of the Presidential Clemency Board, a quorum of at least five (5) members being present, the Board will consider the applicant's case.

(b) The Action Attorney will present to the Board, a brief statement of the final summary of the applicant's case. The Action Attorney will then stand ready to answer from the complete file any questions from the members of the Board concerning the applicant's case.

(c) At the Board's discretion, it may permit an applicant or his representative to present before the Board an oral statement, not to exceed ten (10) minutes in length. Neither applicant nor his representative may be present when the Board begins deliberations, but should remain available for further consultation immediately thereafter for a period not to exceed one hour.

(d) After due deliberation, the Board will decide upon its recommendation to the President concerning the applicant's case, stating the reasons for its recommendation.

Section 201.9 Recommendations to the President.

(a) At appropriate intervals, the Chairman of the Board

will submit to the President certain master warrants listing the names of applicants recommended for executive clemency, and a list of the names of applicants considered by the Board but not recommended for clemency. The Chairman will also submit such terms and conditions for executive clemency, if any, that have been recommended in each case by the Board.

(b) Following action by the President, the Board will send notice of such action in writing to all persons whose names were submitted to the President. Persons not receiving executive clemency will be so notified.

Section 201.10 Reconsideration.

(a) An applicant may petition the Board for reconsideration of his grant or denial of executive clemency, or of the terms and conditions thereof.

(b) Such petitions for reconsideration, including any supplementary material, must be received by the Board within thirty (30) days of the mailing of the notification in Section 201.9(b).

(c) At a regularly scheduled Board meeting, a quorum being present, the Board will consider the applicant's petition for reconsideration.

(d) In appropriate cases, the Board may permit an applicant or his representative to present before the Board an oral statement not to exceed fifteen (15) minutes in length.

(e) After due deliberation, the Board may either:

(1) as to any person granted executive clemency, let stand or mitigate the terms and conditions upon which executive clemency was granted;

(2) as to any person denied executive clemency, recommend to the President that he grant executive clemency in accordance with such terms and conditions as may be appropriate; or

(3) as to any person denied executive clemency, again not to recommend the applicant for executive clemency.

Section 201.11 Referral to appropriate agencies.

After the expiration of the period allowed for petitions for reconsideration, the Chairman of the Board shall forward for further action to the Secretaries of the Army, Navy, and Air Force, the Secretary of the Department of Transportation, the Director of the Selective Service System, and the Attorney General, as appropriate, the President's determination as to each recipient of executive clemency.

Section 201.12 Confidentiality of communications.

The Board has determined that it will take all steps possible to protect the privacy of applicants and potential applicants to the Presidential clemency program. No personal information concerning an applicant or potential applicant and related to the Presidential clemency program will be made known to any agency, organization, or individual, whether public or private, unless such disclosure is

necessary for the normal and proper functioning of the Presidential
[N.B.] Clemency Board. However, information which reveals the existence
of a violation of law (other than an offense subject to the Presidential
clemency program) will of necessity be forwarded to the appropriate
authorities.

(d) In order to have his case considered by the Board,
an applicant need submit only information sufficient for a determination
of jurisdiction, and for the retrieval of necessary official records
and files. The application form will therefore require the applicant's
name; date of birth; selective service number; military service and
service number, if applicable; information concerning the draft evasion
offenses or absence-related military offenses and the disposition thereof;
and the mailing address of either the applicant or his representative.
If the applicant submits such information as part of his initial filing,
the completion of the application form itself is not necessary.

(d) The applicant will be urged to return the completed appli-
cation form to the Board as soon as possible. In the absence of extenu-
ating circumstances, completed application forms must be received
by the Board within thirty (30) calendar days of receipt.

Section 201.13 Representation Before the Board.

(a) Although an applicant may bring his case before the Board without a representative or legal counsel, each applicant is entitled to representation and will be encouraged to seek legal counsel experienced in military or selective service law. Upon request, Board staff will attempt to refer an applicant to a skilled volunteer representation.

(b) An applicant who does not wish to file his application in person may have his representative do so on his behalf.

Section 201.14 Requests for Information About the Clemency Program.

(a) Upon receipt by the Board of an oral or written request for information or consideration concerning an individual who is clearly beyond the jurisdiction of the Board, a member of the Board's staff shall inform the individual

- (1) that jurisdiction does not lie;
- (2) whether jurisdiction may lie within the Presidential clemency program, and if so, with which agency;
- (3) that in the event the individual prefers not to contact personally such other agency that an Action Attorney will obtain from such other agency information concerning the individual's status with respect to the Presidential clemency program, and provide to the individual that information.

(b) The Action Attorney shall submit to the Executive Secretariat of the Presidential Clemency Board a summary of the communication with, and information provided to, such individuals.

D

Case #2

This applicant is white, and is now in his mid-twenties. He was raised in the Mid-west, in a deeply religious family of Jehovah's Witnesses. After graduating from high school, he devoted two years to full time church work. He married and worked steadily as a carpenter. His draft board granted him conscientious objector status, and he was assigned to work in a hospital. Although he reported there, he refused to work. His religion does not allow him to obey an order from his draft board, because the Selective Service is considered part of the military. He would have performed alternative service if ordered to do so by a Judge. He was sentenced to three years in prison. He has spent almost a full year in confinement.

Disposition: Pardon

Case #6

This applicant is white and the product of a stable and religious home. He was graduated from high school and is married. His draft board granted him a draft deferment as a minister of the Jehovah's Witness faith. Financial problems caused him to leave the ministry briefly, and his draft board re-classified him as a conscientious objector. Based on his religious belief that any cooperation with the Selective Service System is immoral, the applicant refused to comply with his draft board's order to report for alternative service. He was convicted and sentenced to two years in prison, of which he has served eight months.

Disposition: Pardon.

Case #21

This applicant is white, and grew up in the Midwest. He has been an active Jehovah's Witness since the age of nine. His draft board granted him conscientious objector status, but he refused to perform alternative service, since to do so would have compromised his religious beliefs. He was sentenced to three years imprisonment and he has been actively involved in his religion during the 10 months he has spent in prison.

Disposition: Pardon.

Case #7

This applicant is white and married. He was born in the South and is one of eight children. Because he comes from a broken home he dropped out of school in the 11th grade and has had to be self-sufficient since he was very young. He moved often but did not always tell his draft board of his new addresses. He was tried for failing to report his address and pleaded guilty. However, he explained that the draft had ended and he thought it was no longer necessary to contact his draft board. As a result he was given a two year suspended sentence on condition that he work for six months in a non-profit charitable job. He has satisfactorily completed that work.

Disposition: Pardon

CR

Case #9

This applicant is white and in his mid-twenties. He grew up in a large family from Appalachia. He completed junior college, met a Jehovah's Witness missionary, converted, and married her. He then applied for conscientious objector status. His claim was denied because it was made after he received his induction notice. He reported for induction but failed to step forward and take the oath. He turned himself in and stated he would do alternative service. However, he was given a 3 1/2 year sentence. He has now served 11 months.

Disposition: Pardon

OK

Case #15

This applicant is black, and from the South. He has been steadily employed since graduating from high school. His entire family is of the Muslim faith, which prohibits military or alternative service. The applicant reported for induction, but thereafter refused to step forward. He was sentenced to three years in prison, of which he has served five months.

Disposition: Pardon

OK

Case #16

This applicant is white and in his late twenties. He was born in South America to parents who were United States citizens. He finished high school and started junior college. He is married and expecting his second child. He claimed he was against the Vietnam War and all wars, but he was denied his conscientious objector status. When ordered for induction he appeared but refused to step forward. He said he loved his country and would perform alternative service. He was sentenced to two years in prison and has served 8 months.

Disposition: Pardon

Case #20

This applicant is black, grew up in the Midwest, and is the sole support of his mother, who has been a semi-invalid since being severely burned many years ago. He did not finish the tenth grade. On the day prior to his induction date, he requested, but was denied, postponement of induction due to his mother's illness. He failed to report for induction, and was later convicted and sentenced to three years in prison. At the time of sentencing, the applicant said he was willing to join the Army or perform alternative service. During his 13 months incarceration he has participated in an unescorted overnight furlough program.

Disposition: Pardon

AR

Case #5

This applicant is white and single, and from the Midwest. He only completed the 11th grade. Although he applied to his draft board for conscientious objector status, his application was not timely and his draft board denied it. Later, he also tried to disqualify himself from service for an entirely different reason. When ordered to report for induction, the applicant did so, but refused induction on three occasions. He remained in the area and stood trial. He has served one year of a 4 to 6 year sentence under the provisions of the Federal Youth Corrections Act.

Disposition: Executive Clemency, 3 months alternative service.

OK.

Case #17

This applicant is white and in his middle twenties. He was raised in the eastern United States in a closely knit family. The applicant is a college graduate, and has a teaching certificate. He participated in a Peace Corps training program. He was ordered to report for induction but claims that he did not report because there was no draft call that month. He returned to his job, as a substitute teacher, and did not hear again from his draft board. It appears that he never attempted to evade authorities. The applicant stood trial for failure to report for induction and was sentenced to 60 days in prison. He served twenty days.

Disposition: Executive Clemency, 3 months alternative service.

Case #24

This applicant is black and comes from a poor family in the South. His father died when he was an infant and his mother died when he was in his teens. The applicant completed 1 1/2 years of college, but left because of poor grades. He failed to keep his draft board informed of his address. When he was arrested, he claimed he was unsuited for the service and that he did not want to serve because he was afraid he would receive a dishonorable discharge. He was sentenced to three years in prison and has served over 12 months.

Disposition: Executive Clemency, 3 months alternative service.

AR

Case #25

This applicant is black and in his mid-twenties. He completed 3 years of college and then went to Canada because he did not agree with the war in Vietnam. After 18 months, he returned voluntarily "to work things out." A few months later he married his college sweetheart. He says he was told that his case would be dropped if he reported for induction. The draft ended before he could meet this condition. He tried to enlist in the National Guard but was rejected. He was sentenced to 3 years in prison and has served 8 1/2 months.

Disposition: Executive Clemency, 3 months alternative service.

OK

Case #4

This applicant is white and comes from a large family in the Mid-west. His parents were divorced when he was young. He left high school after the 11th grade and went to work as a store clerk. He failed to report for his physical when ordered. Six months later he converted to the Jehovah's Witness faith, and then refused to appear for induction. He was convicted and sentenced to 5 years. He has now served 10 months.

Disposition: Executive Clemency, 6 months alternative service.

OK

Case #8

This applicant, who is white and married, grew up in the Northeast in a large religious family. He moved to California, and attended junior college there. He was ordered to report for induction by his home town draft board, but refused because of his strong feelings against killing. He asserts that five months after that induction notice he filed for conscientious objector status. He worked in a hospital for one and one-half years after the induction notice, until he was tried and convicted for failing to keep his local draft board informed of his current address. He was sentenced to thirty days in jail, to be served on weekends, and has served fourteen days of the sentence.

Disposition: Executive Clemency, 6 months alternative service.

OK

Case #11

This applicant, in his middle twenties, is Mexican. His parents are divorced. He immigrated to the southwestern United States when he was a teenager and completed the 11th grade. He ran away from home. When he returned he found out he was a fugitive because he had failed to report for induction. He turned himself in and was sentenced to a 4 - 6 year term. He served six months in prison. He desires to enlist in the United States Armed Forces and become an American citizen.

Disposition: Executive Clemency, six months alternative service.

PK

Case #13

This applicant is white and was born in the South. He completed high school. He surrendered when he learned that he was charged with failing to keep his draft board notified of his address. He claimed his mother had promised to accept his mail but failed to report her new address to his draft board when the family moved. He was sentenced to 6 months in prison and has now served three.

Disposition: Executive Clemency, 6 months alternative service.

OK

Case #23

This applicant is black, in his mid-twenties and comes from the South. He never knew his natural parents and his step-father died when the applicant was in high school. His step-mother is severely ill and relies upon him for financial support. He lost his college deferment for failing to meet Selective Service requirements. He then applied for a hardship determent based on his step-mother's illness but this was denied. He was sentenced to 3 years in prison and has served 6 months.

Disposition: Executive Clemency, 6 months alternative service.

CK

Case #14

This applicant is white and is from the South. His draft board granted him conscientious objector status and he began alternative service in a hospital. He left this job after conflict with his superior, and was later arrested. He was released on bond, but failed to appear in court. When he was arrested a year and a half later, he was married and steadily employed. He was sentenced to two years in prison, and has served 7 months. His employer has promised to give the applicant his old job back upon his release.

Disposition: Executive Clemency, 10 months alternative service.

OK

Case #18

This white applicant, in his early twenties, was raised in an unstable family environment in the Southeast. He dropped out of school in the eighth grade, and has since held jobs of short duration. He twice failed to report for a pre-induction physical examination. Thereafter he was ordered to report for induction. The applicant failed to report and when located by the F. B. I., a year later, indicated that he had not intentionally evaded the draft. The U. S. Attorney advised him that if he joined the service within a month he would not be prosecuted. The applicant responded that he would rather not serve in the Army and inquired as to civilian service. He then took Navy qualifying tests but was found unqualified for enlistment because of his low test scores and inadequate education. He was thereafter convicted of failing to report for induction and has served 4 days of his 2 year sentence.

Disposition: Executive Clemency, 1 year alternative service.

CP
Case #19

This applicant is white and in his middle twenties. His father died when he was young and he was raised by his mother, during which time the family moved frequently. He only had a 10th grade education. The applicant left home shortly before he was ordered to report for induction. About five years later he was arrested and convicted of failure to keep his draft board informed of his address. He was sentenced to six months in prison, half of which has been served.

Disposition: Executive Clemency, 6 months alternative service.

