

The original documents are located in Box 1, folder “Alternatives to Pardon” of the Charles E. Goodell Papers at the Gerald R. Ford Presidential Library.

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THE PRESIDENTIAL CLEMENCY BOARD


OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, D.C. 20500

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Charles E. Goodell, *Chairman*
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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

PHONE: (202) 456-6476

October 9, 1974

MEMORANDUM TO: CHAIRMAN GOODELL
FROM: GENERAL LEWIS WALT 
SUBJECT: Proposed rough of Presidential
Clemency Board factors/quidelines

I concur with the position of the staff attorneys as reflected in the memorandum from Captain Euler and Captain Gordon regarding publication of proposed guidelines.



MY POSITION IS:

This Board cannot be allowed to become a wailing wall. We cannot allow ourselves to become overly lenient with those who broke the law. There are no "good law breakers" or "bad law breakers" -- only mitigating and aggravating matters concerning them. They are not defendants and this Board does not represent them alone.

We must not lose our objectivity. We are a "Clemency Board" not "Pardon Board". We are working for the President and representing all the people in an attempt to heal the "wounds" left by a very misunderstood and unpopular war. These "wounds" are associated, not only with those thousands who broke the laws of our Nation to avoid service to our Country but also with those millions of veterans who faithfully served our Country, many thousands of them sacrificing their well being and the families of the tens of thousands more who lost their loved ones.

The President has given us guidelines -- within those guidelines we must find a "medium". We must search each man's record. We must consider matters of mitigation and matters of aggravation. We must make our decisions with unemotional objectivity and be prepared to defend them from all angles of attack. We must constantly keep in mind, the long range effects of our decisions and the irreparable damage which could be done to the effectiveness of Selective Service and the discipline of our Armed Forces.

A handwritten signature in black ink, appearing to read "Lyndon B. Johnson", with a long, sweeping horizontal stroke extending to the right.

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October 29, 1974

MEMORANDUM FOR:

PRESIDENTIAL CLEMENCY
BOARD

FROM:

CAPTAIN JOHN EULER *JLE*

SUBJECT:

Alternatives to Pardon

The fundamental question with which this Board is faced is the operative definition of the word "clemency" and specifically whether it is intended that a Presidential Pardon is the form of clemency generally to be granted. There is argument on both sides of the question. Without attempting to address the basic issue, which is one for determination by the members, this memorandum is an attempt to set forth some clemency alternatives to a full Presidential Pardon should it be determined that a Pardon is to be recommended in only a limited number of cases.

It should first be noted that a Presidential Pardon is available for military as well as civilian court convictions. Therefore, if this Board decides to recommend a Pardon in a few cases of exceeding merit, it may wish to also consider some military cases for such action in order to equalize potential remedial action for all applicants. In other words, to say that a Pardon is only available to the civilian applicant may appear to unfairly shut part of the door to the serviceman.

If it is determined that the possibility of a full Pardon is available to both the civilian and military applicant, the question must be asked, "What is available to the civilian applicant other than a full pardon?" Short of a Pardon, a military applicant may be awarded a Clemency Discharge. It follows that his civilian counterpart should also have available some form of clemency short of a Presidential Pardon. It is suggested that this Board could promulgate a document



entitled Certificate of Executive Clemency which would be roughly equivalent to a Clemency Discharge. The phrase "Executive Clemency" is derived from Executive Order 11803 which established this Board. Such a certificate if awarded would advertise to society that the civilian possessor thereof, like the military clemency discharge recipient, took advantage of the President's program, performed his part of the bargain and is entitled to be received in good faith as a law-abiding member of the community who has chosen to re-enter the mainstream of American society and deserves a chance to do so. It is submitted that such a certificate would stand a fair chance of having a substantial remedial effect on a recipient's personal well being.

The question must be faced as to what real worth is such a piece of paper? The answer is that it will carry whatever intrinsic value that Americans choose to give it. Such is now the case with the Clemency Discharge. The hope must be, as it is with the President's entire program, that society will receive clemency recipients, both military and civilian, in a spirit of good will and with a sense of welcoming them back.

The advantages of utilizing a Certificate of Executive Clemency scheme may be:

1. The Board is possessed of a greater range of options or clemency tools and thereby has greater flexibility.
2. The addition of the Executive Clemency Certificate adds conceptual balance to the program and equalizes the quality of remedies available to civilian and military applicants.
3. The potentially disruptive issue of "wholesale pardons or no," is avoided while permitting the continued availability of the Pardon recommendation.

The disadvantages appear to be:

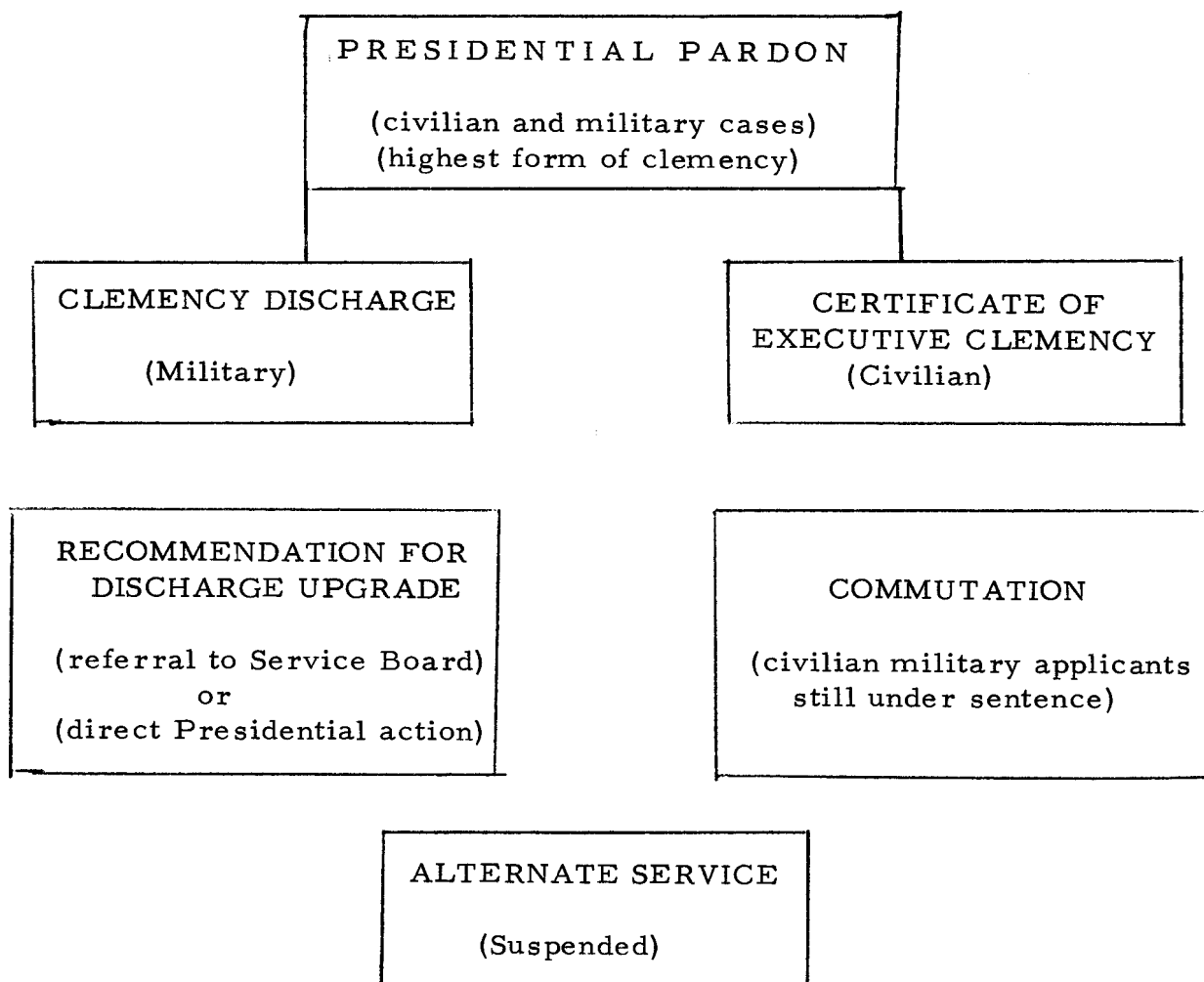
1. The Certificate of Executive Clemency may be attacked as of questionable real worth or a meaningless gesture.
2. The scheme may differ from some conceptions of what the President intended and thereby be unpalatable to some points of view.



Other options apparently open to the Board short of Presidential Pardon are:

1. Commutation of sentence.
2. Referral to a military applicant's respective Discharge Review Board for consideration of upgrading a given discharge.
3. Presidential upgrading of discharge. (This author recommends No. 2 above over this option.)
4. Suspension of an awarded period of alternate service conditioned on good behavior.

Should this Board adopt a form of clemency denoted as Executive Clemency, the attached diagram would generally denote clemency options available. It should be noted that Rick Tropp originally pointed out the majority of these options in his memorandum of 4 October 1974 concerning guidelines and categorization of cases.



MEMORANDUM
OF CALL

TO:

Sen. Goodell

☐ YOU WERE CALLED BY—

☒ YOU WERE VISITED BY—

Bab K

OF (Organization)

☐ PLEASE CALL —→

PHONE NO.
CODE/EXT.

☐ WILL CALL AGAIN

☒ ~~IS~~ WAITING TO SEE YOU *Pdo.*

☐ RETURNED YOUR CALL

☐ WISHES AN APPOINTMENT

MESSAGE

Urgent.

RECEIVED BY

W

DATE

10/30

TIME

2:00

STANDARD FORM 63
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

GPO : 1968-O-48-16-80341-1 332-389

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