

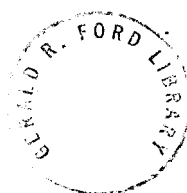
The original documents are located in Box 1, folder “Board - Minutes” of the Charles E. Goodell Papers at the Gerald R. Ford Presidential Library.

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A G E N D A

1. General Discussion
2. Disposition of Cases



THE PRESIDENTIAL CLEMENCY BOARD

OLD EXECUTIVE OFFICE BUILDING

WASHINGTON, D.C. 20500

PHONE: (202) 456-6476

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

MINUTES OF THE OCTOBER 30, 1974 MEETING OF THE PRESIDENTIAL CLEMENCY BOARD

Chairman Charles E. Goodell called the meeting to order at 9:00 A.M. Present were Mr. Maye, General Walt, Mrs. O'Connor, Mr. Dougovito, Rev. Hesburgh, and Dr. Adams. Absent were Secretary Finch and Mr. Jordan.

Mr. Baskir presented a detailed legal memorandum evaluating the due process requirement of the Board. A procedure was adopted for staff presentations and recommendations to the Board.

The Board received a report concerning the number of inquiries made and the number of applications dispatched and returned.

The Board discussed what information should be included in the summaries. The Board implicitly agreed to permit the inclusion of race and I.Q. in the summaries. For the present, records of arrest will also be included in the summaries. It was agreed that mitigating factors and aggravating factors are not to be segregated from each other.

While the Board reaffirmed its previous policy of not soliciting applications, the staff attorneys were instructed to contact each civilian furloughed by the Bureau of Prisons and seek information concerning what course of action he will take regarding his application to the Board for clemency.

The Board considered twenty-one (21) cases heretofore not reviewed.

The Board went into two executive sessions, one in the late morning and one in the middle afternoon.

The Board agreed to meet again on Thursday, November 7; 1974.



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Lewis W. Walt

MEMORANDUM FOR:

CHARLES E. GOODELL

FROM:

ROBERT J. HORN *RJH*

DATE:

NOVEMBER 7, 1974

SUBJECT:

TENTATIVE ACTIONS TAKEN BY THE
BOARD ON OCTOBER 30, 1974

The attached listing is designed to officially record the tentative actions taken with respect to specific cases. These tentative decisions were reached by the Board on October 30, 1974, when an appropriate quorum was always present. Only Secretary Finch and Mr. Jordan were absent.



The following decisions reached by the Presidential Clemency Board on October 29, 1974 are tentative. It is expected that final decisions will be made by the Board when applicants have the opportunity to review their files and furnish whatever additional information they deem appropriate:

Case #	Tentative Board Decision	Date
74-092-TML-C	Clemency	10/30/74
*74-064-MPX-C	Tabled	10/30/74
74-067-MLT-C	Clemency	10/30/74
74-070-MJM-C	Clemency	10/30/74
74-075-PEV-C	Clemency	10/30/74
74-076-PSB-C	Clemency	10/30/74
74-077-PVFL-C	Clemency	10/30/74
74-081-SCI-C	Clemency	10/30/74
74-084-SWC-C	Clemency	10/30/74
74-085-SM-C	Clemency	10/30/74
74-087-SHE-C	Clemency	10/30/74
74-088-SRD-C	Clemency	10/30/74
74-090-TRC-C	Clemency	10/30/74
74-093-WIN-C	Clemency	10/30/74
74-095-WVT-C	Clemency	10/30/74
74-096-WMC-C	Clemency	10/30/74
74-097-WAL-C	Clemency	10/30/74
74-098-WAB-C	Clemency	10/30/74
74-101-WXM-C	Clemency	10/30/74
74-103-WS-C	Tabled	10/30/74

74-104-YFE-C

Clemency

10/30/74

*Staff directed not to initiate any new contacts.

HEC

THE PRESIDENTIAL CLEMENCY BOARD

OLD EXECUTIVE OFFICE BUILDING

WASHINGTON, D.C. 20500

BOARD MEMBERS

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Vernon E. Jordan
James A. Maye
Aida Casanas O'Connor
Lewis W. Walt

PHONE: (202) 456-6476

October 29, 1974

MEMORANDUM TO:

Presidential Clemency Board

FROM:

Thomas O'Hare

SUBJECT:

Youth Correction Act and
Other Federal Sentencing
Alternatives

Federal Youth Correction Act

The Youth Correction Act provides that the trial judge may sentence youthful offenders, aged 18 through 21, at time of conviction to the custody of the Attorney-General. Under such custody, the offender will receive treatment, corrective and preventive guidance and training which is designed to protect the public by correcting their antisocial tendencies. Offenders, aged 22 through 25 at time of conviction, may be given similar treatment as Young Adult Offenders.

Under the Act, the court may impose one of the following sentences:

1. Grant probation by suspending imposition or execution of the sentence.
2. Impose, in lieu of imprisonment, a six year term of treatment and supervision which is usually carried at a special correctional facility.
3. Impose, in lieu of imprisonment, a term of treatment and supervision which exceeds six years but which may equal or be less than the maximum term which could be given to an adult offender convicted of the same offense.
4. Impose any other penalty authorized by law.

A youth offender who has been committed for a period of six years may be conditionally released at any time but he must

be conditionally released four years after conviction and unconditionally discharged six years after conviction. If the offender is sentenced to treatment and supervision for longer than six years, he may be released at any time and must be conditionally released two years prior to the expiration of the maximum sentence. After being conditionally discharged for one year, the offender may be unconditionally discharged at any time thereafter until the date of mandatory discharge. Upon unconditional discharge prior to the expiration of maximum sentence, the conviction shall be automatically set aside and the offender shall be issued a certificate stating that fact.

The court may unconditionally discharge youths on probation at any time prior to the expiration of the probation period. Again, the conviction is automatically set aside and a certificate is issued.

A conditionally released youth offender may be returned to custody for further treatment and supervision. The FBI "rap sheet" for the offender will have a notation showing the conviction set aside.

The Justice Department considers the conviction set aside to be the same as a pardon since all civil rights are restored and criminal disabilities disappear.

The Court of Appeals for the First Circuit has stated that "The clear purpose of the automatic setting aside of a youthful offender's conviction if he responds satisfactorily to treatment under the Youth Correction Act is to relieve him not only of the usual disabilities of a criminal conviction, but also to give him a second chance free of a record tainted by such conviction."

The United States Court of Appeals for the Circuit of the District of Columbia has stated in a footnote: "The provision of the Federal Youth Correction Act, 18 U.S.C. 5021 (1958) appears to provide greater relief than would a presidential pardon of the same offense. The former acts to expunge the conviction and the record while the latter releases the offender from all disabilities imposed by the offense, and restores to him all his civil rights." (Citation omitted - emphasis added)

Another important difference between setting aside a conviction and a pardon is that the offender must accept the pardon while the conviction set aside takes effect automatically.

If it would seem that a youth offender whose conviction has been set aside would receive little, if any, benefit since the disabilities arising from the offense have already disappeared.

OTHER FEDERAL SENTENCING ALTERNATIVES

If a person, convicted of an offense which does not carry a possible death or life sentence, may be granted probation under such terms and conditions which the court deems best. The court may give a split sentence where the offender will serve a term in prison not to exceed six months and will then serve the balance of his time on probation. The total jail and probation time will not exceed five years. As a procedural matter in split sentence cases the judge will impose a jail sentence, then suspend imposition of the sentence on condition that the offender serve the split sentence as described above.

Where an offense is punishable by a fine or imprisonment or both, probation may be granted. Payment of the fine may be imposed as a condition of probation. An offender may be placed on probation for as long as five years, although the maximum sentence for the committed offense may be less than the period of imposed probation.

Courts may revoke or modify any condition of probation. Probation may be revoked when the offender violates the conditions. Then the offender will be jailed for the balance of the originally imposed sentence or any lesser sentence.

If the court, at time of sentencing, suspends imposition of the sentence and then imposes probation, then the court at the time of revocation, could impose any sentence up to maximum allowed for the original offense.

If the term of probation has ended, a person may be arrested for violations of probation conditions at any time within five years after the end of probation. If the probation violation is proved, he will be required to serve the balance of his sentence.

The Attorney-General may order that the offender serve his sentence in a non-federal institution.

A prisoner is eligible for parole if he meets the following conditions:

- a) He is serving a definite term longer than 180 days and
- b) he has served at least one-third of his sentence or

c) if serving a sentence of life or exceeding 45 years, then he has served 15 years.

The courts, in imposing any sentence greater than one year, may set eligibility for consideration for parole at any term of less than one-third of the sentence. The court may sentence the offender to a fixed term of imprisonment, then order that the offender will be eligible for parole at any time which the Board of Parole may determine.

An offender may be committed for a period of study and observation which is deemed to be the maximum sentence. Upon completion of the study the court may affirm the maximum sentence, impose a lesser sentence or grant probation.

A person is eligible for the National Addicts Rehabilitation Act post conviction program if he is a drug addict likely to be rehabilitated and if he has not been convicted of a crime of violence, drug trafficking or convicted of felonies on two separate, prior occasions. Under the program, he shall serve the lesser of the maximum sentence for the crime of which he is convicted or ten years.

November 7, 1974

A G E N D A

1. Old business
2. Cases of 44 furloughed people from whom the Board has received a written application
3. Case of remaining furloughed people who have not sent in an application
4. Cases of people in prison who did not qualify for furlough
5. Other cases



FB

11/13/W

Purple case,

1) 1000 cases, inadeg. info. / $\frac{1}{2}$ no info

2500

1100 8/18

1400 8/25

2) Felony cases - only ones w/ summaries.

3) Sequoia.



MINUTES OF PRESIDENTIAL CLEMENCY BOARD MEETING

JANUARY 9 & 10, 1975

The Presidential Clemency Board met on January 9, 1975, commencing at 9:00 a.m., and on January 10, 1975, commencing at 9:05 a.m.

The following Board members were present on both days:

Mr. Charles E. Goodell, Chairman
Dr. Ralph Adams
Mr. James P. Dougovito
Mr. Vernon Jordan
Mrs. Aida C. O'Connor
General Lewis W. Walt

Father Theodore M. Hesburgh, C.S.C., was present on January 10, 1975, and was absent on January 9, 1975.

Mr. James A Maye and Mr. Robert H. Finch were absent both days.

The following staff attorneys were present both days:

Mr. Lawrence Baskir
Lieutenant Neil Broder
Major Leonard Dancheck
Captain Bruce Heitz
Mr. David Hickman
Mr. William Klein
Mr. Robert Knisely
Captain John R. Lohff
Mr. Ray Mitchell
Mr. Thomas O'Hare
Lieutenant John Poole
Mr. Lewis Puller
Mr. Fred Scott
Captain Mary Slattery
Mr. Roscoe Starek
Mr. William A. Strauss
Mr. Robert D. Kodak

Mr. Richard Tropp was present January 9, 1975.

The following staff members were present both days:

Colonel O. G. Benson
Mrs. Gretchen Handwerger
Miss Nia Nickolas

Mr. Fred Hansen and Mrs. Patricia Horton were present January 9, 1975.

The designated Federal Officer, Mr. Robert J. Horn, was present at all times the Board met.

The meeting was not open to public participation, since personal and sensitive data were being discussed. However, three camera crews, of not more than three persons each, were allowed to photograph the Board in session. This photography was silent and no sound equipment was used. The crews were present during periods of time when recommendations concerning individual cases were not decided upon. The camera crews from NBC News, BBC News, and Newsweek News Service were present.

Mr. Horn reported upon the Minutes of the last meeting, the number of applications received and the number of correspondence received. Mr. Horn noted that a huge increase in the number of requests for applications and other inquiries in the past three days. He attributed this increase in activity due to the press interviews of Chairman Goodell and the public service announcements which were made by Father Hesburgh, Mrs. O'Connor, and General Walt.

The following papers were submitted to the Board:

1. Agenda.
2. Docket I: Military Cases.
3. Minutes of the Presidential Clemency Board Meeting for December 13 and 14, 1974.

4. Memorandum on mail flow and number of applications as January 9, 1975.
5. Docket I: Military Cases as altered.
6. Presidential Clemency Board Work Sheet dated 1/9/75.

Note: Necessarily, the Board has received summaries of the cases on which it makes recommendations to the President. The members of the Board individually and collectively have access to all case files and correspondence. From time to time, correspondence addressed to individual Board members are forwarded to them as such correspondence is received by the Board's staff.

The Executive Secretary of the Board, Robert J. Horn, finds that the summaries are too bulky to attach to the Minutes and since each summary is in its respective case file together with all other pertinent material affecting the individual case, it is not necessary to attach said correspondence, summaries and working papers to the Minutes. Such summaries, case files and correspondence are hereby attached to these Minutes, Minutes of past meetings, and Minutes of future meetings by reference only and no physical attachment is neither necessary nor practical.

On January 9, 1975, the Board with five members present discussed the feasibility of deciding cases with a panel of four members present. It was agreed that cases could be heard and recommendations made to the President by a panel of four members.

If the panel of four members agreed concerning the granting or denying of clemency and unanimously agree to the exact amount of alternate service, then the case would be sent to the President as a Board recommendation. If

one or more members present disagreed on the clemency/no clemency decision or the exact amount of alternate service to be awarded in an individual case, then the case will be brought before the full Board of five or more members. Mr. Baskir stated he wished to check the Advisory Committee Act concerning the four-man panel idea.

The Board discussed future meeting dates. It was agreed that the Board will meet on January 23, 24, and 25, which is Thursday, Friday, and Saturday. The Board will meet every other Thursday, Friday and Saturday. This agreement is tentative depending upon the potential for gathering a quorum on those days. Dr. Adams stated he could not be present for the meeting on February 6, 7, and 8, 1975. Mr. Jordan stated he could not be present for part of the previously described meeting dates in early February.

On January 10, 1975, there was another brief discussion concerning the effect of the spot radio and television announcements.

The Board had a discussion concerning the review of all cases where a straight pardon was recommended (pardons not conditioned on performance of alternate service). It was proposed that the review by military review boards would be automatic but the military board would not be bound to change the nature of the discharge to honorable conditions. It was agreed that the Chairman would present this idea to the President.

The Board discussed whether it should ask the President to extend the part of the Clemency Program administered by the Presidential Clemency Board. Mr. William Strauss, Mr. Thomas O'Hare, and Mr. Lawrence Baskir each reported upon his experiences in diverse sections of the country concerning public understanding of the Presidential Clemency Board's part of the Clemency Program. The consensus is that there is either a lack of

knowledge concerning the Board's part of the Program or there is misunderstanding of the Board's function or jurisdiction. After extended discussion, the Board unanimously recommended that the Chairman ask the President to extend the Clemency Board's part of the Clemency Program. The Chairman stated that he will present the pros and cons of such an extension to the President.

General Walt recommended that if the President extends the Clemency Program in part or entirely, Chairman Goodell should call a meeting of the heads of the veteran organizations prior to the announcement by the President of such extension to explain the reasons for an extension.

The Board had a brief discussion of what baseline figure should be used in making recommendations to the President concerning those military cases with undesirable discharges.

Mr. William Strauss reported that his statistical study of baseline figures for military cases thusfar decided by the Board was between four and five months. He detailed his study further. The Board, upon motion of General Walt, recommended that all the military cases involving undesirable discharges will have a baseline of three months. Then the Board can go up or down as required by the regulations.

The Board agreed not to meet Saturday, January 11, 1975.

This meeting of the Presidential Clemency Board had the advance approval of the designated Federal officer. All prior meetings of the Presidential Clemency Board had the advance approval of the designated Federal Officer.

CASES DECIDED ON JANUARY 9, 1975
(The Term Pardon includes a Clemency Discharge)

<u>CASE NUMBER</u>	<u>AGGRAVATING</u>	<u>MITIGATING</u>	<u>DISPOSITION</u>
74-204-GFA-M	1, 8	1, 2, 14, 6	6 Months A/S
74-166-BCX-M	1, 8, 9	2, 6, 14	7 Months A/S
74-241-NJA-M	9, 5	2, 6, 14	6 Months A/S
74-215-H-H-BDJ-M	8, 9	2, 6, 7, 8	Pardon, No A/S Recommendation: General Discharge plus veterans benefits
74-189-DRO-M	9	1, 2, 6	3 Months A/S
74-293-ADX-M	1, 8, 9	2, 5, 6, 7, 14	Pardon, No A/S Recommendation: General Discharge plus veterans benefits
74-390-JBM-M	1, 8, 9	2, 6, 11	6 Months A/S
74-405-LSR-M	1, 8, 9	1, 2, 6, 7, 13, 15	Pardon, No A/S
74-240-MLO-M	9	1, 2, 6, 11, 14	3 Months A/S
74-246-RWL-M	1, 7, 8, 9	1, 2	3 Months A/S
74-230-LBF-M	1, 8, 9	6, 8	9 Months A/S
74-433-NKL-M	9	6, 8, 10, 11	Tabled
74-446-PRX-M	8, 9	3, 6, 11, 13, 14	Pardon, No A/S
74-226-LGM-M	9	2, 6	6 Months A/S
74-218-JLC-M	9	2, 3, 6	3 Months A/S
74-349-EJM-M	1, 8, 9	2, 6, 11	3 Months A/S
74-454-RDA-M	8, 9	1, 2, 6, 8	Pardon, No A/S
74-420-MEJ-M	9	6, 11	3 Months A/S
74-475-SRX-M	8, 9	2, 5, 6, 7, 11 13, 14	Pardon, No A/S Recommendation: General Discharge plus veterans benefits.

<u>CASE NUMBER</u>	<u>AGGRAVATING</u>	<u>MITIGATING</u>	<u>DISPOSITION</u>
74-130-MBL-M	8, 9	2, 6, 11, 14	Pardon, No A/S
74-410-LMD-M	1, 9	2, 6, 11, 4	3 Months A/S
74-451-PRM-M	1, 8, 9	1, 2, 6, 8, 11	Pardon
74-238-MME-M	1, 8, 9	2, 5, 6, 7, 12, 14, 15	Pardon, No A/S
			Recommendation: General Discharge plus veterans benefits
74-183-CJA-M	9	2, 6, 11, 14	Pardon, No A/S
74-180-CCA-M			Tabled
74-172-BWX-M	1, 8, 9	1, 2, 6, 8, 14	Pardon, No A/S
74-389-KTM-M	9	1, 2, 6, 11	Pardon, No A/S
74-192-DJB-M	1, 8, 9	1, 2, 6, 11, 14	3 Months A/S
74-412-LRM-M	9	2, 6, 14	3 Months A/S
74-473-PRF-M	9	1, 2, 6, 11	3 Months A/S
74-385-HWM-M	8, 9	2, 6	Tabled
74-322-CEE-M	1, 8, 9	2, 6, 8, 14	Pardon, No A/S
74-397-KGA-M	1, 8, 9	1, 2, 3, 6, 8, 11, 14	Pardon, No A/S
74-184-CLW-M	9	1, 3, 6, 8, 14	Pardon, No A/S
74-186-CTE-M	8, 9	1, 2, 6	6 Months A/S

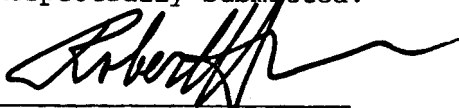
CASES DECIDED ON JANUARY 10, 1975

74-383-HWJ-M	9, 5	3, 6, 8	10 Months A/S
74-306-BCE-M	9	1, 2, 6	3 Months A/S
74-514-JJL-M	9	1, 2, 6	3 Months A/S
74-417-MEX-M	5, 9	2, 6, 8, 9, 14	Pardon, No A/S
74-395-KJFR-M	8, 9	1, 2, 6, 14	3 Months A/S

<u>CASE NUMBER</u>	<u>AGGRAVATING</u>	<u>MITIGATING</u>	<u>DISPOSITION</u>
74-179-CCD-M	9, 9-1/2 yr. AWOL	2, 6, 8, 11, 14	3 Months A/S
74-169-BGF-M	1, 8, 9	1, 2, 5, 6, 7, 11, 12, 14	Pardon, No A/S
74-165-BGL-M	8, 9	1, 2, 6, 8, 11, 14	3 Months A/S
74-456-RML-M	1, 9	2, 6, 8, 14	Pardon, No A/S
74-198-FAE-M	8, 9	1, 6, 8, 14	3 Months A/S
74-259-WDD-M	9	6, 11, 14	6 Months A/S
74-321-BTX-M	8, 9	2, 6, 11	3 Months A/S
74-305-BCX-M	1, 8, 9	1, 2, 6, 7, 8, 11, 14	Pardon, No A/S
			Recommendation: General Discharge plus veterans benefits.
74-222-JCE-M	1, 8, 9	1, 2, 6, 8	Pardon, No A/S
74-512-PBW-M	1, 8, 9	2, 6	Tabled
74-208-GFD-M	1, 8, 9	3, 6	Pardon, No A/S
74-442-PRE-M	1, 8, 9	1, 6	3 Months A/S
74-363-CFE-M	1, 8, 9	2, 6, 11, 14	3 Months A/S
74-406-LDM-M	1, 8, 9	2, 6, 14	4 Months A/S
74-163-BRM-M	8, 9	1, 2, 6, 11, 14	Pardon, No A/S
74-171-BML-M	9	2, 4, 6, 14	Pardon, No A/S
74-233-MPA-M	1, 5, 8, 9	2, 6	6 Months A/S
74-356-FTG-M	1, 8, 9	2, 6, 8, 14	3 Months A/S
74-344-DRL-M	1, 5, 8, 9	6, 11	9 Months A/S
74-353-FAV-M	9	2, 6, 11, 14	Pardon, No A/S
74-299-AJN-M	9	1, 2, 6, 11, 14	3 Months A/S
74-229-LLD-M	1, 8, 9	1, 2, 6, 8, 14	Pardon, No A/S
74-332-CJF-M	8, 9	2, 6, 7, 13, 14	Pardon, No A/S
			Recommendation: General Discharge plus veterans benefits.

<u>CASE NO.</u>	<u>AGGRAVATING</u>	<u>MITIGATING</u>	<u>DISPOSITION</u>
On for Reconsideration			
74-094-WBM-C	5	9, 10	Leave at 3 Months A/S
74-068-MCN-C	None	8, 9	Pardon
74-079-RJL-C	7	1, 2	Pardon
74-076-PSB-C	None	2, 10	Pardon
74-015-BJD-C	5	11	6 Months A/S
74-022-CWE-C	None	10	5 Months A/S
74-070-MJM-C	1	1, 2, 8, 10	Pardon, No A/S
74-055-KSM-C	6	None	3 Months A/S
74-006-BJB-C	1, 7	2	3 Months A/S
74-790-CFX-C	7	1, 2	Pardon, No A/S

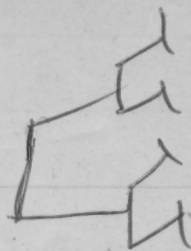
Respectfully Submitted:



Robert J. Horn
Executive Secretary

Note: A/S - Alternative Service

Full Bd mtg
5/23/F



✓ 1) Docket of FB cases.

✓ 2) Names on jackets - storage here.

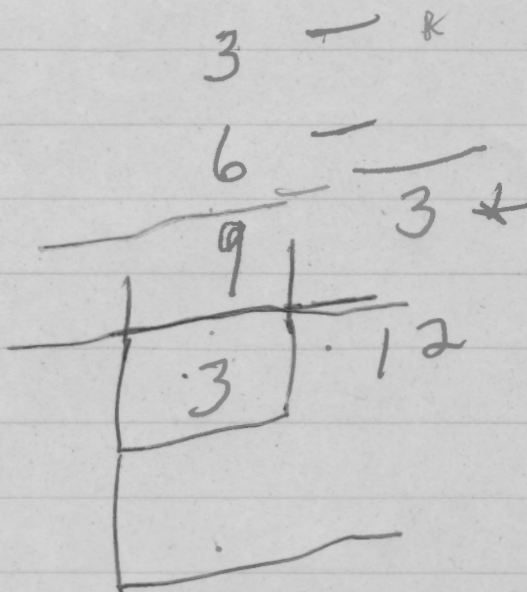
✓ 3) U.D.'s - 3 3-mo increments.
more than 9 mo ⊕ only if alternative
to N.C.

✓ 4) Other crim. convictions.

✓ 5) No mtg Sat. D, E & G - at least 125
cases.

✓ 6) Any probs - see Poole.

✓ 7) Panels for June 2nd wk.



* Dongovito *

* Walt *

* O'Connor

* Meye *

AA Riggs

Vinson *

Palmer *

AA Kaufman *

EA Everhard *

* Craig

AA Morrow *

— Lally

* Ford

— New Member

* Coz,

{ Hesburgh *
Jordan
Adams
}

Adams Th, F, & Sat.
Separate Docket.

4' 75

1500/wk.

100 / panel day.

15 panel days

4 panels / 4 days

1233 summaries to qual control 5/12 wk.
3 panels / 5 days

Panels for Wk of June 2nd

R
Panel ~~S~~ - ~~Morrow~~, Chm
Walt ✓
~~Morrow~~
Lally ✓
f

300 summaries

S
Panel ~~S~~ - O'Connor, Chm ✓
Craig
Vinson ✓
Riggs ✓

400 summaries

T
Panel ~~H~~ - Ford Chm
~~Douguito~~
Douguito ✓
Kaufman ✓
~~New Person~~

Walt & Lally
300-400
✓

U
Panel ~~B~~ - Maye, Chm ✓
Piller ✓
Everhard ✓
New Person.

400 summaries

5/27/95

PCB.

- 1) Spec. Docket for PCB - flagged cases.
- 2) Crim convictions / Standards.
- 3) Heiburng, Overhard, Naye.
- 4) Cases for FOI summaries in advance + panel disposition.
- 5) Interns - 9 on-board w/ no slot,
5 told not to come.

78 on-board.

125 /

125

6) No Clemency.



Sent over to WH -
$$\begin{array}{r} 65 \\ 373 \\ \hline 438 \end{array}$$
 Signed 145

Decided prior to 5/22/95 504 / 150 flagged.
(354) not ripe. o

Decided 5/22/95 mtgs
$$\begin{array}{r} 749 \\ 1187 \\ 504 \\ \hline 1691 \end{array}$$

Change Cert status to K employee.

72nd & Central Pk W -
1 W 72nd St.

EN2-1448

5/21/72. [4:00 P.M. mtg w/ Staff.]

1) Interns

2) Andrew Davis

3) Names on Pres. warrants will be announced publicly.

4) Sat mtgs

5) Bd Law Jn.

6) Work Sheet to applicants. ok to send.

7) Gap for 58 support personnel. 15 on-board.
May 13 - Wise Men recommended 50.
May 23 - went out. Rec'd by May
May 27.

8) Gretchen

9) Summaries for Bd. /

400 sent.

300 ready now. / 400 by 5/30/F.

1000 summaries awaiting typing in final.

Kelly girls. ~~35~~ @ 40 for 2 days @ 40/day - 3200. Approved.
typewriters.

10) Straus - panels DEFG, WXYZ.

FBI
Aggravating & Mitigating
Up & Down



F. B.

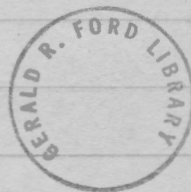
Mtg of 6/4/W.
Opening of Wk.

6/2/M

- 1.) Weak, normal & strong
- 2.) Play novel factual situations for staff. - C.B. Lee Jr.
- 3.) #8 mitigation.
Didn't get help when should have.
Should never have been in the service,
Didn't get leadership
Racial discrimination
- 4.) "Theft by taking"
- 5.) U. D.'s.
- 6.) No explanation for AWOL = W 5
- 7.) Drugs neutral - other evil.
- 8.) A/s period ordered by ct is irrelevant.
- 9.) A/s - when already serving A/s, specify date of completion.
- 10.) Jurisdiction ruled by D.C. & them.
- 11.) Standards on adult convictions. Class A offenders.
- 12.) Panels for wk of 6/8

F. B.
6/7/Sat P.M.

- 1.) Next wk's schedule. 200 summaries/member available.
- 2) 1262 dispositions this week. 360.
- 3) C.O.'s - #10 170 cases. 5 or 6 alterations.
- 4) Leave early. Probs. w/ attys.



F.B.
Wk of 6/2-8
Second Mtg.
6/7/F

- 1) 13 + Cases
- * 2) 6/4 & 6/10 - attendance for reading.
- * 3) Panel schedules for 6/10/95 afternoon?
Summaries in hand on 6/6/F and 6/7/Sat?
- ✓ 4) Mixed U.D.'s & jurisdiction.
- ✓ 5) Standards for Prior Convictions.
- * 6) Notice when have to leave early, (Bd members)
- * 7) Dabled cases disty Referred to FB
- ? * 8) Chm instructed Counsel to flag for him.
- * 9) Rtr must be read.
- * 10) Agg & Mitigating
- * 11) ~~Next week~~ Sat FB mtg.
- * 12) Adjourning panels early & re-scheduling. Jim Poole.
- * 13) Report on panels.
- ✓ Sat 14) No satisfactory reason for the AWOL.
- ✓ 15) C.D.'s min A/S

6/9/71 M 4:00 PM. - Staff mtg.

150 - to docketing

100 - xeroxed, not yet to docketing

150 - on way to xeroxing.
(Danzek - 100)

200 - awaiting xerox

6500 - written

3000 - Bd disposed of.

$$\begin{array}{r} 25 \\ 7 \\ \hline 75 \\ 175 \\ \hline 350 \end{array}$$

Wk ending - Summaries drafted

May 16 - 1233

23 - 966

30 - 956

June 6 - 1200
4355

Bd Dispositions

2900

2500 file requests out.

12,000 files here.

17,800 total applicants.



F. B.
6/17/85

Chronology

1. Bob Horn
2. Panel counsel - precedents.
Knisely
3. Clemency Law Reporter
4. Agg. # 1
5. Agg # 4
6. Agg # 5. 1st: Does it apply on the record.
2nd: W # 5 automatic.



Charles Goodell

PRESIDENTIAL CLEMENCY BOARD

THE WHITE HOUSE

WASHINGTON, D.C. 20500

MINUTES OF THE FULL BOARD: JUNE 17, 1975, MORNING

MORNING SESSION:

MEMBERS IN ATTENDANCE:

Charles E. Goodell, Chairman
Lewis Walt
Joan Vinson
John Everhard
Fr. Theodore Hesburgh

Timothy Craig
Robert Carter
Lewis Puller
Antoinette Ford
Harry Riggs

OTHERS OFFICIALLY IN ATTENDANCE:

Robert J. Horn, Designated Federal Employee

Robert Knisley
William Strauss
Nia Nickolas
Sigmund Berkman
Kathleen Beggs
Stuart Kruter
William Gallo

Jason Marcus
Janet Hartle, Recorder
Arnold Heller
Leonard Dancheck
Charles Goldman
William Klein

James Poole
Frank Lane
Lee Burstyn
M. Bernstein
Pedersen
Ms. Klein

The Chairman opened the meeting at 9:10 am

1. Summary Distribution: The Chairman discussed logistic problems in the distribution of summaries to Board members and that the lack of secretarial help has placed burdens on the staff. It is hoped that these matters can be resolved soon. He reiterated the need to forewarn staff of schedule changes by Panels; at least one will meet on Saturday, June 21.

2. Clemency Law Reporter: The Chairman noted that, while the format and content of the document still needed refinement, the Clemency Law Reporter will give the Board members an overview of decisions and also will keep the attorneys fully informed on policy decisions that will affect their case investigations. Mr. Goodell also pointed out that the CLR is an internal document and not for circulation outside of the PCB.

3. Apprehension: Mr. Craig asked for a clarification of Aggravating # 12 since there had been some confusion regarding the use of force in apprehending at his Panel sessions last week. Only the last qualifying offense counts and some evidence of apprehension is necessary. If the applicant ~~did not willingly~~ evade authorities prior to his apprehension, a weak aggravating # 12 is applied.

*Went to
Reno town
& family*

4. Issues: The Chairman lead a discussion on the following Aggravating Factors:

a. Aggravating #1 - A felony was defined as a crime for which a sentence of one year or more could have been imposed and, for purposes of the PCB, a lower sentence as imposed by a Judge still requires marking Aggravating Factor # 1. In marking this factor, no distinction shall be made regarding whether the offense occurred before or after the qualifying offense for PCB jurisdiction. Non-judicial punishments and misdemeanors shall not be marked. Mr. Everhard pointed out that military definitions may vary from civilian.

Mrs. Vinson raised a related question of the marking of cases where the individual claims to have been given the alternative of prison sentence or enlisting in the armed forces. The Supreme Court has ruled such cases as illegal enlistment. Attorneys should get as much specific information in these cases as possible, checking court cases as needed and available.

b. Aggravating #3 - The Chairman noted that "use of force" is a stronger aggravating factor than "missing movement", Aggravating Factor # 10.

c. Aggravating #4 - "Desertion in Combat". A lengthy discussion involved definition of 'combat zone' and the distinction between AWOL and desertion. General Walt defined desertion as any time an individual left his unit (outside of Saigon) since, by definition, the rest of Viet Nam was a combat zone; the individual was required to return to his unit on schedule or desertion was implied. The question of when to use Aggravating Factor #4 (Desertion) and Aggravating Factor #10 (Failure to Report) was resolved by defining AWOL during combat as desertion. Mr. Everhard supported General Walt by stating that leaving in the face of the enemy is desertion, otherwise it is AWOL by definition.

After further discussion, Mr. Everhard moved that Aggravating Factor #4 shall be marked when an individual absented himself from the combat zone as defined by Executive Order which also includes absenting oneself from Saigon. This motion was seconded and carried by the PCB without dissent. If the applicant absented himself without authorization from somewhere other than Viet Nam Aggravating Factor #4 would not apply, but Aggravating Factor #10 might apply.

d. Aggravating #5 - "Selfish or Manipulative Reasons". The Chairman reiterated the decision at the previous Full Board Meeting that a weak Aggravating #5 should be marked if there is no apparent reason in the records for the qualifying offense. However this "weak" application of Aggravating Factor #5 will not arise if any of the Mitigating Factors 1,2,3, 8, 10, and 12 are present, except in unusual circumstances where these mitigating factors bear no relationship to the qualifying offense.

This "weak" aggravating #5 is a matter of Board discretion and should not be marked by action attorneys.

Fr. Hesburgh noted that AFQT Category IV individuals rarely have the intelligence to be manipulative. Mr. Goodell made the observation that when Mitigating Factor #8 "evidence of unfairness" is marked, the applicant usually, but not always, has received a Pardon without alternative service *on the grounds that he never should have been accepted in the military service.*

e. Aggravating #6 - The Chairman ruled that, in the case of Jehovah's Witnesses, this factor should be marked if reasons other than religious are given, ie. money.

f. Aggravating #7 - "Violation of Probation or Parole". This factor applies to both military and civilian cases. Also it applies to any violation of probation or parole subsequent to a felony or military court-martial conviction, even if the conviction had been for a non-qualifying offense.

g. Aggravating #8 - Non-qualifying (ie, Pre-1964) and unpunished AWOL's are to be counted in applying this factor.

h. Aggravating #9 - "Length of AWOL". The Board members were instructed to mark this factor only for unpunished AWOLs. If earlier AWOLs occurred for which the applicant was punished but remained in the military, these are not to be marked. The attorneys will try to clarify this matter in the summaries.

i. Aggravating #10 - "Failure to Report Overseas". This factor should not be marked if Hawaii or Alaska are involved; mark weak if Germany or Korea was the destination; definitely mark if the failure to report incited a staging point to Viet Nam, (e.g. Okinawa) or any missing movement at all relating to Viet Nam.

6. PCB Standards for V.A. Benefits Recommendations to the President:

The Chairman reminded the Board members that the Executive Order specifically excluded V.A. Benefits to applicants to the PCB. However General Walt and others felt that some cases were so outstanding that the President should be requested to take extraordinary action and upgrade the discharges of these applicants. Therefore, those cases recommended for upgrade to General Discharge and V.A. Benefits should be strong and clean; they should have unanimous Panel recommendations to the Full Board.

For those applicants who are denied this recommendation but who are clearly in need of medical assistance for injuries while in the service, the V.A. advisors to the PCB shall make special effort to obtain medical benefits either through the V.A. or various service organizations.

FULL BOARD: JUNE 17, 1975 AFTERNOON

Members in Attendance:

Charles Goodell, Chairman
Lewis Walt
Lewis Puller
John Everhard
Fr. Theodore Hesburgh
John Kauffmann

Timothy Craig
Robert Carter
Joan Vinson
Antoinette Ford
Harry Riggs
Msgr. Francis Lally

Others Officially in Attendance:

Robert Horn, Designated Federal Employee

Robert Knisely, Counsel
Marie Jordan, Scribe
Jackie Hoover "
Kathy King "
Janet Hartle, Recorder
William Gallo
Stuart Kruter
Xerbert Ross
Feldman

Marie Stack
William Cassedy
Philip Epstein
Edward Fitch
Chauncey Durden
Jeffrey Helewitz
Vita Simon
Daniel Steward

The Chairman opened the meeting at 2:10 pm

1. Clemency Discharge for Undesirable Discharges: The Chairman announced that the President has approved giving Pardon and a Clemency Discharge to applicants who had received an Undesirable Discharge. The Presidents letter to that effect was read into the record. This reaffirmed PCB policy and UDs with such discharges can now be forwarded to the White House for approval.

2. Issues (con't from Morning Session)

Aggravating #12 - "Apprehension of Applicant". Discussion of whether this factor should be marked if the applicant made no attempt to hide his whereabouts, returned home and did not change his name. Is it aggravating if the authorities were remiss in apprehending the applicant? Consensus was that a weak # 12 should be marked if the applicant just returned home and was not apprehended because of official failure; it should be marked strong if the applicant made definite efforts to hide his whereabouts, left his home area, changed his name, etc.

3. Quorum: Since 10 members constitute a quorum, Mr. Everhard raised the question of whether the Chairman would have to vote on those cases presented in the morning when he was absent and only 9 members were present. This will be discussed by counsel and reported to the Board.

4. Mr. Finch has resigned from the Presidential Clemency Board, so the Board now has 18 members.

5. Upgrade Decision Process: Mr. Puller expressed concern that denial of an upgrade recommendation by one Board member was the governing factor in case determination and that he had decided to abstain from voting on upgrades. In the ensuing discussion the consensus was that if the recommendation was mixed and therefore not recommended for upgrade, every effort should be made by the action attorney to notify the applicant of viable alternatives, with particular reference to medical benefits.

Fr. Hesburgh stated his position of recommending upgrades in meritorious cases where an individual had been wounded in the line of duty and asked for a 'principle' of at least medical benefits even if upgrade to a General Discharge is not recommended by the Full Board. He agreed with the General that heroism and extraordinary military presence should be recommended for upgrade and benefits. Fr. Hesburgh further stated that recommendations for other kinds of actions regarding upgrades could be included in the Final Report of the PCB.

6. Expediting Full Board Reviews: Mr. Kauffmann suggested that the case reviews by the Full Board can be speeded up if the Panel members are identified in the Dockets. Mr. Everhard agreed to bring this to the attention of the Chairman.

MINUTES OF THE FULL BOARD June 18, 1975, Morning

MEMBERS IN ATTENDANCE:

Charles E. Goodell, Chariman
John A. Everhard
Lewis B. Puller
Aida C. O'Connor
James Maye
Rimothy L. Craig
Robert Carter
Antoinette Ford

Joan Vinson
Vernon Jordan
Msgr. Francis J. Lally
John Kauffmann
Harry Riggs
Lewis Walt

Others Officially in Attendance:

Robert J. Horn, Designated Federal Employee
Lawrence Baskir, General Counsel
Sigmund, Recorder
Judith Aronoff
Diane M. Bratter
Louis D. Coffelt
Thomas Conway
Morton Foelak
James Hastings
? Hunter
James G. Lindquist
William A. Miner
Bertram Weintraub

1. Presentation of Cases: The Chairman opened the meeting at 9:15 am with the presentation of cases on the Board's docket. The Chairman noted the deficiency on the docket of background information on the cases being brought before the Full Board. In the future, Mr. Goodell stated, the docket shall be marked as to the panel, Chairman and the name of the Board member who referred the case. Also on split decision, the vote of the panel shall be shown.

2. Notation of Reason for Upgrade - Because of the exceptional nature of the recommendation to upgrade to a General Discharge and to grant Veterans Benefits, the Board should state the reasons for the action.

3. Issues Arising from Discussion of Cases - A number of policy issues surfaced as the Board proceeded through its task of reviewing cases.'

A. Mitigating Factor #3 - Mr. Maye expressed concern about the use of mitigating factor #3. It was inappropriate, in Mr. Maye's view, to use mitigating factor #3 because the applicant upon psychiatric examination exhibited erratic or neurotic behavior. The Board should differentiate between neuroses and psychoses and should not apply mitigating factor #3 without knowledge of the severity of the neuroses according to Mr. Maye.

(Mr. Goodell had to leave and asked Mr. Maye to act as Chairman)

B. Issues Raised in Mr. Goodell's Absence - Three policy questions came to the forefront after Mr. Goodell left, however it was agreed that the Board wait for Mr. Goodell's return before reaching a final decision with regard to these issues.

(1) The Need for Unanimity on Upgrade Decisions - Mr. Jordan questioned the Board's rule requiring a consensus in order to recommend a discharge upgrade and veterans benefits. He suggested that a simple majority be sufficient to send upgrade cases to the President, as is done in other cases. General Walt recounted the origins of the upgrade portion of the program which lies outside the President's proclamation. The upgrade recommendation began at his (General Walt's) suggestion to be used for exceptionally meritorious cases. The unanimous agreement was part of the Board's decision from the outset in order to make the strongest possible case for the applicant and also to dampen the opposition to the upgrade procedure from the Department of Defense, and veterans organizations.

(2) Aggravating Factor #11 - There was disagreement among Board members on the guidelines for application of aggravating factor #11, other discharge offenses.

(3) Aggravating Factor #1 - Mr. Jordan objected to the use of aggravating factor #1, other felony convictions for offenses committed after the applicant left the service. Since the Presidential proclamation pertained to actions from "day certain to day certain". Mr. Fort was dissatisfied with information available on the circumstances surrounding the felony convictions and the Board must have the best possible information. General Counsel stated that there was great difficulty in obtaining information, because the Board learned about the post-service felonies through accident either when the applicant mentioned the felonies in a letter or the applicant wrote to the Board on prison stationery. The staff has been calling prisons, judges, and other court officials but the information they obtain is sketchy and the task is very difficult and time consuming. In reply to Mr. Jordan's objection, Mr. Carter expressed the view that an objective review of a case requires that all available information must be taken into account; and the Board has the obligation of the President to find out what kind of people are applying for and receiving clemency.

C. Disposition of Policy Issues - Upon Mr. Goodell's return to the chair the Board acted upon the policy issues.

(1) Aggravating Factor #11 - Mr. Goodell restated the principles for the application of aggravating factor #11 as follows:

The factor applies only to punished offenses in UD Unfitness cases. Summary court-martial convictions and NJPs for non-qualifying offenses are included in its scope. The factor does not apply to UD - Chapter 10, BCD, or DD cases.

The Board concurred.

(2) Mr. Goodell restated the circumstances surrounding the upgrading procedures covering essentially the same facts that General Walt had reviewed earlier.

Mr. Jordan moved that the Board change its rule of unanimity in recommending cases to the President for upgrading dishcharges and granting veteran benefits to one of majority vote, and that two lists of upgrading cases be sent to the President, one would be of those cases in which there was consensus among Board members and a second would be of those cases in which a majority of the Board voted for an upgrade. The second list would show the Board's vote.

Mr. Puller offered an amendment to the motion to substitute a two-thirds vote for a majority.

The amendment carried by an 8-6 vote.

The amended motion was voted upon and passed by 8-6.

The Chairman pointed out that the vote probably will result in the loss of the upgrading portion of the clemency program. General Walt stated that under the new conditions he could not support the upgrading portion of the program. The Chairman informed the Board members of the memorandum General Walt and the Messrs. Dougovito and Maye had written to support the upgrading and which had strongly influenced DOD and veteran organizations to reluctantly go along with the program.

reconsidered
Mrs. Ford asked for reconsideration and the Board recorded the cast vote by an 8-6 majority.

Reasons' new vote } Separate

(3) Other Felony Convictions - Mr. Goodell stated a two part criteria in deciding on cases:

- a. Whether a man is deserving of clemency at all and,
- b. determining the amount of alternative service the man is to serve, if any.

The Chairman said that if the man has committed a heinous offense it is dubious if he should be granted clemency, although he personally does not automatically go to no clemency, and he views a crime against property differently than a crime against person.

The Chairman asked Mr. Baskir to inform the Board of his contacts with the FBI to obtain information whether an applicant had a record or arrests.

Mr. Baskir told the Board that the FBI had the authority to collect "rap sheets" from state and local law enforcement authorities and to distribute them to authorized agencies.

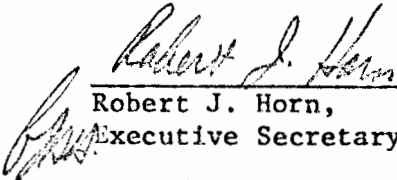
The problem with trying to get information from the FBI are:

- 1) the Board would have to obtain authorization to receive "rap sheets";
- 2) questionable accuracy of information on the "rap sheet";
- 3) FBI will not guarantee accuracy of match without fingerprints;
- 4) two week period, probably longer without fingerprints, to get information from the FBI;
- 5) it is Board's practice to inform the applicant of the facts being used in his case and it is uncertain whether the FBI would permit release of information to applicant;
- 6) if the record is inaccurate the Board may be sued although there was little likelihood that the Board would be held accountable.

The Board voted 11-1 to continue its practice of considering post-military service felonies and marking aggravating factor #1.

4. Use of FBI Information - The Board took up as a separate issue whether the Chairman should seek ways of obtaining information from the FBI. By a vote of 12-0, the Board decided to continue its present practice and not to go to the FBI.

Respectfully Submitted,


Robert J. Horn,
Executive Secretary

ADDENDA

1. Buchen/Goodell letter, 6/12/75
2. Panel S Dockets: for confirmation of cases presented before Joan Vinson (attached to original copy of these minutes)

Bob Kinn

THE WHITE HOUSE
WASHINGTON

June 12, 1975

Dear Chairman Goodell:

On the basis of the recommendations contained in your memorandum dated June 2, 1975, the President has decided that the Presidential Clemency Board may recommend pardons to him in meritorious cases for those applicants to the Board, under the Program for the Return of Vietnam Era Draft Evaders and Military Deserters, who were discharged from the Military Departments for their absentee offenses. The grant of pardons in these cases would be conditioned on the satisfactory completion of any period of alternate service recommended by the Board and approved by the President.

In reaching this decision, the President was aware that to grant pardons to those who received undesirable discharges for their offenses is an unusual exercise of his power to grant clemency. However, the President concluded that in meritorious cases the unique purposes of his Proclamation, to show mercy and to offer these young Americans the chance to contribute a share in the rebuilding of peace, required an unusual exercise of clemency.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Charles E. Goodell
Chairman
Presidential Clemency Board
The White House
Washington, D. C. 20500

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

FULL BOARD MINUTES: June 25, 1975 MORNING

MEMBERS IN ATTENDANCE:

Charles E. Goodell, Chairman	Ralph Adams
Lewis Puller	Theodore Hesburgh
Robert Carter	Aida C. O'Connor
Timothy Craig	John Everhard
Antoinette Ford	Harry Riggs
Francis Lally	Joan Vinson
James Maye	Lewis Walt

OTHERS OFFICIALLY IN ATTENDANCE:

Robert J. Horn, Designated Federal Employee	James Poole
Sigmund Berkman, Recorder	Kathy Russell
Thomas Ainora, Scribe	Gretchen Handwerger
Paul Johnson, Scribe	Edward Cohen
Joseph Asper	Burton Jaffe
Robert Bryant	Wolfgang Neudorfer
James Lindquist	Veronica O'Keefe
Keith McLendon	Llewellyn Woofford
Mark Tessler	

The meeting was opened by Chairman Goodell at 9:15

1. Administrative Matters - Mr. Horn requested that Board members submit all vouchers on Friday, June 27, so that they can go in before the end of the fiscal year. Also, he asked that the withholding tax certificates distributed to the Board members be filled out and returned by June 27.

2. Information on Felonies - Of the first seven cases, the Board had tabled five, requesting that the action attorney obtain additional information concerning the felony convictions involving the applicants. Mr. Horn, Acting General Counsel, asked how long the attorneys should take before bringing the case back to the Board. The Chairman's reply was that the attorneys should return the case to the Board as soon as they have the information or they think they have exhausted all possibilities and are wasting time.

Mr. Everhard suggested that the attorneys contact the military JAGs in respect to crimes committed while the applicants were in the service. Mr. Horn said that the attorneys were already doing so.



3. Mitigating Factor #10 - Mr. Puller raised the question of under what circumstances mitigating factor #10, acting for conscientious reasons, should be marked. Chairman Goodell stated that the Board has not been applying a strict interpretation of conscientious objection (opposition to all wars under all circumstances), but marking mitigating factor #10 if there was evidence of conscience objection to a particular war at a particular time.

The Chairman noted after the Board had voted on one case, that the Board's precedence is to decide pardon without alternative service if it finds that a man is conscientious and marks mitigating factor #10.

4. Aggravating Factor #11 - Discussions and questions regarding jurisdictional questions clarified the use of aggravating factor #11; the Board has jurisdiction in a frequent involvement case, Chairman Goodell stated if there are qualifying AWOLs. Aggravating factor #11 was created to mark the other offenses.

Mr. Poole informed the Board that aggravating factor #11 does not apply in BCD cases.

5. Aggravating Factor #5 - In response to a question from Mr. Poole concerning the marking of aggravating factor #5 in conjunction with mitigating factors #2,3,8,10, or 12, Mr. Goodell replied that aggravating factor #5 could be marked along with any combination of mitigating factors based on the overall record but that there would not be an automatic aggravating #5 under the circumstances.

6. Short Period of Creditable Service - Mr. Goodell pointed out that it has been the practice of the Board to go up an extra three months of alternative service above what the normal decision would be if there were a very brief period of creditable military service.

7. Mr. Goodell left at 12 o'clock and Father Hesburgh chaired the meeting until 12:30 p.m. when the Board adjourned.

*normally,
Based upon no explanation
for AWOL, if any of the above mitigating factors were marked,
Normal max up
is 6 mos.
Add 3*

FULL BOARD MEETING: June 25, 1975 AFTERNOON

MEMBERS IN ATTENDANCE:

Charles E. Goodell, Chairman
John Kauffman
Timothy Craig
Lewis Fuller
Joan Vinson
James Maye
Aida O'Connor

John Everhard
Harry Riggs
Robert Carter
Theodore Hesburgh
Ralph Adams
Lewis Walt

OTHERS OFFICIALLY IN ATTENDANCE:

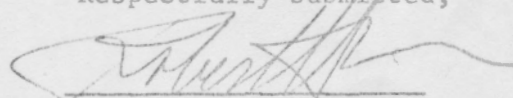
Charles Hilbert, General Counsel
James Poole, Alternate Designated Employee
Marie Jordan, Scribe
Linda Croassmann, Scribe
Janet A. Hartle, Recorder
Warren Young
James Spillane
Edward Cohen

William Minder
Diane Bratter
Marie Stack
Edward Fitch
Carroll
Mark Evans

The Chairman opened the meeting at 2:15 p.m.

1. Presentation of cases
2. Substantive policy issues were not discussed apart from reiteration of conscientious reasons for AWOL prior to the Welsh decision, and the general position of the PBC regarding CO motivation.
3. The Chairman noted that the schedule for the week of June 30 has not yet been finalized since a sufficient number of summaries is not yet prepared. Panel meetings will depend upon the number of prepared summaries; in all likelihood there will be two Full Board days.

Respectfully submitted,



Robert J. Horn
Executive Secretary

CORRECTIONS TO THE FULL BOARD MINUTES OF JUNE 23, 1975 MORNING

The following changes should be noted for the Full Board minutes noted above:

Section #2 - Mitigating Factor #2 - The last sentence should be corrected to read, "The Chairman said that members should mark Mitigating #2 where there is evidence of a high degree of immaturity that contributed to the offense."

Section #3 - Aggravating Factor #11 - The last sentence should be corrected to read, "The Chairman stated that the rule of the Board has been to mark Aggravating #11 only in cases of Undesirable Discharges for unfitness."

Section #4 - Mitigating Factor #10 - The last sentence should be corrected to read, "It would not apply in hardship cases involving sincere attempts to deal with hardship, personal, or family problems which would be marked under #2."

FB

8/26/95

10:30

- 1) Filled cases / this week
- 2) FB referrals.
- 3) 130 Purple Panel.
- 4) 1750 Panel cases
- 5) PCB - Nov.

Senator Goodell

1.

September 2, 1975

The meeting convened at 2:15 p.m. at Camp David Conference Room, beginning with Chapter 7 of the Annual Report.

Present: Chairman Charles Goodell, Aida O'Connor, James May, Antoinette Ford, Lewis Puller, Joan Vinson, James Dougovito, Colonel Riggs, Major Adams (?)

(2 or 3 additional Board members to be identified)

Nia Nickolas, Rob Quartel, Wil Ebel, Chuck Hilbert, Bill Strauss, Ed Cohen, Larry Baskir, Bob Horn, Lenora E. Kimball.

Chairman Goodell took note that a quorum of 10 required to be present.

Request as to number of members' cases available--57 for Friday. Hope to narrow number of full Board appearances. The evaluation is that the issues involved are perfectly appropriate for panel. I hope you will all come and be available every day. We will need at least two days of full Board meetings the following week and perhaps more... one panel of 125 cases will have to meet. We will try to do that panel Saturday if you can come. The following week we will try to keep one. Our thinking is that we can work that one in some time during the week, and that will be our final 125 cases. Roughly this is 15,500 cases--we will have completed the job as far as issuance disposition is concerned. We believe the full Board will go out on September 15. We have not pushed the matter with the White House or Justice Department, largely because there is a greater symbolic value in our going out of business the 15th, and we have finished all but the reconsideration appeals cases. We have sent a memo to the Attorney General, however, indicating that the Board has made itself available on a voluntary basis some time in October to review the reconsideration cases and advise him... and to take care of whatever reconsideration appeals may come in. So we will have a continuing staff, the size of which is undetermined, -- it will be whatever is necessary. All of that should be concluded in the two to six

2.

week period after September 15. It has also been indicated that whatever the plans are of the advisory committee, jurisdiction exists in the Department of Justice. It is very likely that after the 16th there will be no further official action. This makes it more imperative that we finish. Sometimes we are close on a quorum, and we need you here.

3.

Chairman Goodell, presiding:

The record will show we are meeting Tuesday, September 2, with a quorum of eleven present at Camp David. Mr. Baskir will now tell us about the report.

Lawrence M. Baskir: The delay in meeting at 2:25 p.m. instead of 2 p.m. was because of a White House call.

This meeting is called for the presentation of the draft of the report.

Our purpose is to let you know what is in it and let you tell us what you want in the report. I will start by describing the goals the staff thought the report should accomplish. Primarily we saw the draft, and the final report, as an official record of what the Board has done, what happened, so that this would be a record of the past 12 months. There is no other record, of course, at the present time, except in our memories. The major purpose is to describe, as an official record, and to describe, to the public, what the Board did, also to counter the misunderstanding the public has. The report shows what the Board has done; the nature of the people who have applied for clemency, and it can serve as the means of facilitating research in the future. Before this program was announced there was very little information in the public domain as to what past Presidents had done. Conclusions which President Truman had would not cover more than two or three pages when he testified before the Senate as to what his committee had done. A number of research programs are now getting started by professors by University of T . We have written with the aim of first, to provide a number of the answers people will ask in research, also conclusions and analysis of what the Board has learned; also the report will serve as a basis of recommendations to the President as to what we would like to see in the future. Most of you

saw the memo from the President as to the report. There are two provisions made for the report, in the Executive Order and in the Advisory Committee Act. This makes it evident to me that we should report in case the President decides he wants a report.

Member Dougovito: Does he want one now?

Mr. Baskir: That is a hard question to answer. If a Board holds closed hearings, then the Board must present a final report to the public containing such information as it would make public. This Board has held many closed hearings. The Advisory Committee at least suggests--the report can have any content the Board desires to have. This can be a very lengthy report or merely a statement. A young attorney from the White House wrote a memo with the President's initials affixed, saying that we would not release the report ourselves; let the White House determine the parts they want released. I think at this time it is understood that we are to make a final report, and we have an obligation to state what we did, how we went about solving problems. I hope we can keep it a non-controversial and factual report.

I want to show you these charts, which are the foundation of the material gathered for purposes of writing and reporting our legal research. In addition, we did make a survey--we identified a large number of characteristics we thought we should be looking at. The last few pages of the report are a print-out of characteristic statistics, that became the basis of the statistical information. We used the Gallup poll in some respects (Professor Pierson--Clemency); staff members were assigned responsibility for certain chapters. Most chapters were edited for conformity herein by Strauss and Baskir over the last weekend. A complete description of charts is being typed with a discussion as to their use. As to a rundown

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of staff responsibilities, they were shared by Remington, Klein, Craig, Beck, Standard, Terzian, Kobel, Horn, Quartel. The last chapter, the evaluative part, was done by Bill Strauss, who was in charge overall. Lohff, Foote, etc., did some of the considerable amount of work that was to be done.

Your part, the part of the Board, is to tell us what you want in it, what conclusions. There is more we want to put in, such/^{as} footnotes, editing-- but at this point we want to find out what you want in this report.

Query: Is there data verification?

Ans.: There are some points we need to revise. The report was written at the same time that we were sifting through various parts of the data. Some people writing on the report were making statements without having statistical data at hand. What the staff tried to do primarily was to tell what had happened in 12 months. It is largely descriptive. There are analyses of various types, the nature of applicants that have come to the Board; some suggested recommendations that have arisen from staff and other sources; we can give you recommendations from other sources which can be used as a basis for discussions. In another way what we tried to do in the first three chapters is to describe what the Board did, what the Board apparently learned, the nature of the applicants, the nature of running an operation like this, all of which puts the President's program in a nice perspective. At this point I will give the responsibility to Bill Strauss who will go more into detail as to what the report contains. Within a few minutes we should have copies of the Table of Contents for you that will give you a better idea as we go along with the explanation.

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Bill Strauss: This was a program of moderation and one that would not be a one-way need. First, there was a need for the program; second, the President offered clemency, not amnesty; he offered other benefits, but not quite amnesty; third, it was a limited, not a universal program. Jurisdictional limits were set; he did confine the program to specific types of people. In order to put the program behind us as quickly as possible, it had only a six-month period, and by the time it ends will have had only 12 months. What happens next will be decided in the future. It was to be a case-by-case analysis and not a blanket approach. It was approached case-by-case, each case was considered on its individual merits. Finally, it was conditional, not unconditional--clemency. Six principles taken as a group provided a basis for commenting on what we might have learned from the process.

In Chapter I we explain that it was a compromise program, it would have a moderate approach to be compared with the President's Justice program which was announced six weeks after. At the close of the chapters there is a brief discussion explaining just what the relationships are, and it really sets the tone of the report. Chapter 2 for a few pages focuses on the need of binding the wounds of the Vietnam era. There were some wounds and the President saw this program as a means of binding those wounds. By having this program the President came up with a final answer to the clemency program. Its creation by Presidential Proclamation decentralized the program, responsibilities going to four agencies, three of whom, including our Board, are charged with the responsibility of deciding cases. The greatest focus, of course, is on the Board. Discussion of the Board focuses on the diversity of the Board, of the backgrounds of the group, a representative Board which is charged with the responsibilities.

Chapter 2D, Clemency, Not Amnesty.

Attention is given to what the Presidential Clemency Board actually offers

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people; in the Department of Defense and Department of Justice programs the major benefit is the end of a person's fugitive status, and is upon completion of alternative service. We had approximately 270 people released from jail as a result of the clemency program. This chapter focuses on what military applicants received, etc. It discusses the impact of the Presidential Pardon, how it applies to individuals who have not been convicted of crimes, what a pardon actually does for someone--lives are re-organized by pardon. Brief attention is given to applicants such as draft resisters, but who did not appear on the Department of Justice list of 4500 names, and who are now free of any further prosecution. If not done by our program, it was done by another one of the three. The Department of Justice did not issue a report, and there is always the question of how their program affected applicants. A small number were reinstated, some ineligibly³ discharged. There is some discussion as to whether the President should have granted amnesty. Amnesty does not mean much more than clemency. We cannot tell the courts to ignore the existence of past offenses; all he could do was to offer clemency.

Chapter on limits in the universal focus on the jurisdictional program ... what kinds of people, it spells out jurisdictional criteria, and other important issues to be faced. When the President established the program he did not require a test of conscience. He did not say you had to leave the country, that you had to demonstrate you were conscientiously objecting to war.

Ms. Ford: Really, for a period of time at least one person in seven refused to apply because he wanted unconditional pardon. No military people applied; there were 40 military eligible but did not apply, it was thought they did not know of their eligibility. My recollection was that we did look into this.

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Chairman Goodell: Military followed the procedure that in order to be released you had to sign an application if you were in Federal prison, or had a draft conviction, or a military conviction, or were court-martialed. We had 270 total military cases; 102 civilians that were in Federal prison; 40 of the 270 did not apply. We asked the question "why"? They were fearful, did not dare to apply, they ^{had}/but one month to go and did not want to bother. I don't know that we ever got the 40 pinned down, but we did have a report that all had been explained; that some who were permitted to did not apply. They thought that in order to be eligible for the program you had to demonstrate that ^{you}/had conscientious objection, to acknowledge continued allegiance to the United States Government, and were careful to say they were not taking an oath. In both cases it was not a question of eligibility; the test was not whether or not you ^{had}/conscientious feelings. The test is described in terms of the offense committed, not the reason for the offense. You can see how generous the Presidential-drawn line was, only about 25% of our applicants committed offenses because of their opposition to war. This program was mainly for people other than those for whom the program was drawn. How do you describe that 25%?

Mr. Strauss: There are two interesting figures, one Mitigating Factor No.10, definitive reasons (reading from Report page 9, Chapter 3). There are tables that say "Mitigating and Aggravating Factors"; look for the page that has these headings in capital letters and a two to three word description. These tables show the percentage of cases the Board had identified as having Aggravating and Mitigating Factors being present. The first line on the page begins the tables, based on Board dispositions through the 11th of August. Look at Mitigating Factor No. 10--66% of military and less than 5% of civilian. The other statistic is at the very back of the report, Appendix C, three pages from the last page. The table

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at the very back of the report shows the primary reasons for offenses. If you add the following categories together (the first three) will show 472 civilian, 979 military. (Further discussion, questions and answers).

Ways in which statistics were procured, discussion of how decisions were made--primary reasons for the offense/^{secondary reasons,} etc.etc.[cross-talk, more than one person speaking at once ...]

Question: Are the primary reasons based on the fact or applicant's word?

Answer: Based on the summary. Made qualitative analysis and still tried to do it objectively; as it appeared in the summary, not whether the Board accepted it. As it so happened the figures happened to be the same--4.6. In the first sample taken on Tuesday we had only 12% Vietnam veterans; in this sample we have 27%. Forty-five percent of the military applicants had served less than 180 days. The early sample is really not as good a sample as the later ones. Not all cases had been prepared when we did the first sample; we constructed a sample.

Question: Does this mean only 219 people had personal decorations?

Answer: Correction. Discussion of that happened after the sample was made. Twenty-two applicants of our sample, or 2.2%, had bronze stars. The statistics came out after the report was made up, we will go back over it and clear it up.

Query: What is the difference of 7--8%?

Answer: It means that 9 times out of 10 the Board did believe the applicant; out of every 10 times applicant claimed conscientious objection in nine of those cases the Board accepted it.

Chairman Goodell: Military cases get more mixed, civilian cases are usually much more clear cut.

Mr. Strauss: This is not the final form of our data; many of these should be collated, combined; it is raw data and needs to be collated as to what belongs together, what issues are not important. We have only raw data,

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depending on how we coded it.

Question: How about Project 100,000 by McNamara? Those 100,000 that fell into that category to be drafted? Did it concern itself only with the inductees?

Chairman Goodell: My impression was that it was both--AFQT Category 4 as the reason for the offense. The law, of course, was in the kind of case in which the only explanation for somebody's offense was that he was so ill-equipped in terms of intelligence to deal with the service that he went AWOL. We could only find a couple of cases in which there was clear evidence that the applicant had been a 100,000 soldier. The military did not keep very close records, all we know is that he was Category 4. The commanders did not know the identity of Category 4 people so that they would not be treated any differently.

Comments by Bob Horn, Jim Poole, Larry Baskir

Bill Strauss: We took a tally of those who were in 100,000, but only those who were in Project 4.

Chairman Goodell: I think you should eliminate reference to Project 100,000, leave in only Project 4.

Member Puller: I have a question about bronze stars--how many applicants had bronze stars--were they really bronze star recipients?

Bill Strauss: Twenty-seven percent of the Vietnam veterans had the bronze star. They were not called bronze stars in the summaries, they were not really bronze stars--they were campaign stars. The best we can do is focus on the summaries, and this is why it is so important for you to check these.

Chairman Goodell: I think we should delete all reference to bronze stars.

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Mr. Baskir: We could footnote it, in the summary.

Chairman Goodell: I object to that as no one would read the summary.

Colonel Riggs: They are named bronze stars when they are really campaign stars.

Question: What is the source of the other figures?

Strauss: Bob Terzian will be here tomorrow; he worked on that and will give us the source.

Question: Are they from other statistics or are they our own?

Strauss: Some our own, some from outside statistics.

James Dougovito: I believe these should be footnoted.

General discussion of this, some cross-talk, several people at once.

Bill Strauss: We have all the data, if the Board lets us know what it wants.

Member Dougovito: I would like to see the description of a typical military applicant and typical civilian applicant.

Larry Baskir: There is a description of that in Chapter ____.

Member Ford: I have been asking about the number of femal applicants and am wondering if we did break it down statistically.

Bill Strauss: We were talking about that today. There were 6 or 7 women who applied to us; the first one was ineligible.

Member Ford: I think it would be well to mention that some women applied.

Board Member (seated next to Chairman): In terms of Mitigating Factors 15 and 16, how many applicants were there?

Bill Strauss: 4.3% had Mitigating Factor 15, 4.8% had Mitigating Factor 16, 3.8% wounded in combat, i.e., 1/8 of 27; 4 C 12; one in eight wounded in action. If you think it misleading we can change the wording.

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Actually, it is fairly close to the actual percentage. Of 26.4% Vietnam veterans, 3.8% were wounded, one in seven, one in eight. Three percent of all applicants were wounded. These are samples; they are on cases through August 11. The Board found 26 1/2% of the cases through August 11; after all cases are back we will be able to get a print-out of all. On page 9 we have the same factors broken down to show the patterns. That is from our total samples through August 11. We will be able to update all of our dispositions later this month. Veterans benefits cases were by panel only.

[at?]

Part B of Chapter 2 describes the program ~~of~~ definite, not indefinite length. Applications to the program, how many we got, when we got them, how we tried to spread the word about the eligibility criteria, clemency applications. The Department of Defense applications also picked up at the time of our publicity campaign. The Board was fighting misconception.

Chairman Goodell: We have been imprisoned by the original estimates of the Justice Department of our eligible applicants. The Department of Defense gave us an estimate of 250,000 eligible; the following week they reduced it to 110,000 presented as the most reliable figure, and it was given to us as a joke. My feeling is that our eligibles could be anywhere from 80,000 to 150,000.

Bill Strauss: I think I can explain how Department of Defense arrived at these figures; our figure of 111,500 came through the same kinds of calculations. The Department of Defense based it upon the percentage of people with undesirable discharges. Since there was so much uncertainty

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about the question both with the Presidential Clemency Board and the Department of Defense, and since it could be 70,000 or 120,000, we used a nice round figure.

Senator Goodell: I would prefer that it be made clear that these are the best estimates the Department of Defense could make. I think we should say that, and should also say that our eligibles could range anywhere from 80,000 to 120,000.

Bill Strauss: There were reported 600,000 people that went AWOL, reported that 123,000 court-martial charges were filed; of that number 68,000 were court-martialed, 25,000 received discharges with convictions for AWOL ... The figure is based upon 21,000 punitive discharges for AWOL. Everything you look at seems to point at about 20% attrition; also we excluded people who committed felonies. Also, 55,000 of the discharges were in lieu of court-martial.

Turn to page 6, Chapter 12, Section D, in the last paragraph of that page the figure "90,000" is a little more accurate.

Question: Were any closed panels held?

Bill Strauss: The only closed panel was the supplemental.

[at this point so much cross-talk and several talking at once notes are haphazard]

9% of each six months. Half of those were ineligible. Two reasons that it can keep going ... many are just realizing that they were eligible, and many others have been turned down because they did not apply within the restricted time limit.

Question: Without the cut-off date does it mean that we would continue to receive applications?

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Mr. Baskir: It is difficult to say ... 15% of the whole country ... a lot of applicants figured it did not apply to them. The initial impression was a misconception that the clemency program was directed to deserters and those who went AWOL. 95 to 96% said they realized they were eligible within the last week applications were accepted-- all the way through March they did not find out about their eligibility. We could almost tell when a television station was carrying our program because of the telephone calls we received.

There was a rash of phone calls received within a matter of hours after the TV spots. Some of these points are also discussed under Chapter 7. I feel we should be quite explicit about the American Civil Liberties Union advising their inquirers not to apply. We should make a point of stating this in the program report. Historically that fact should be in there, not to re-hash, but because of our difficulties at that time because of ACLU misrepresenting our program. Word went out not to play Presidential Clemency Board spots, especially to ABC and NBC.

Case by case consideration of Board's 16,000 cases.

Chairman Goodell: I believe we should take a break here.

Generally agreed, and at approximately 4:45 p.m. there was a break of 1/2 hour.

Steno was scheduled to remain for one day; so arrangements were made to return to Washington at approx. 5:30 p.m.

Hopefully the tape recorder was in operation for the remainder of the meetings.

Respectfully submitted, October 2, 1975

Lenora E. Kimball

Transcription delayed because of an illness of 11 days' duration.