# NAVAL CLEMENCY AND PAROLE BOARD

The Naval Clemency and Parole Board is an administrative arm of the Secretary of the Navy. As such, the Naval Clemency and Parole Board assists the Secretary in the exercise of his discretionary and extralegal authority to reduce sentences awarded to members of the Naval Service as a result of a courts-martial. This authority comes from the Uniform Code of Military Justice, Public Law, and military directives. By virtue of this authority, the Secretary, as he deems appropriate, is empowered, with respect to members of the United States Navy and Marine Corps, to decrease periods of confinement, to lessen forfeitures of pay or allowances, to restore personnel to military duty, to substitute a punitive separation for an administrative discharge, or to release Naval prisoners from confinement on parole if their court-martial sentences include a punitive separation and confinement for more than one year.

The Naval Clemency and Parole Board is at the administrative apex of the clemency and parole system within the Department of the Navy. The mission of this Departmental clemency and parole system is to provide a vehicle for the orderly review of court-martial sentences which rise to the threshold of a punitive separation from the Naval Service or to 12 months of confinement or more. Embracing numerous confinement facilities in the continental United States and overseas, the Department of the Navy clemency and parole system is independent of the appellate review process set forth in the Uniform Code of Military Justice.

With certain exceptions, the Secretary of the Navy has delegated to the Naval Clemency and Parole Board the authority to take those actions in clemency and parole matters authorized by law or regulation.

In the matter of innocence or guilt with respect to offenses involved in a courts-martial, the Secretary of the Navy requires the Naval Clemency and Parole Board to accept as final court-martial findings of guilty or not guilty, this is in addition to any related decisions of the Navy-Marine Corps Criminal Courts of Appeals and the Criminal Court of Appeals of the Armed Forces.

The Secretary of the Navy has defined the objectives of review for clemency and parole. These objectives are the preservation of order and discipline, equality in the administration of justice, and the protection of the interest of the United States Naval Service, the individual, and society.

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The Naval Clemency and Parole Board bases its decisions in clemency and parole cases, on the nature and circumstances of the offenses, the military and civilian background of the individual, the comments and recommendations of the principal officials responsible for the court-martial proceedings involved, psychiatric evaluations, and various post-trial considerations such as attitude, conduct and performance, adjustment to confinement, social factors, and the participation and completion of required offense related treatment.

While there is no statutory requirement to afford individuals the opportunity to make personal appearance before the Naval Clemency and Parole Board, the Secretary of the Navy has authorized the Board to conduct personal appearances to receive information not otherwise available from the court-martial order, staff judge advocate review, or mentioned in the Brig's Disposition progress reports.

The NC&PB may entertain personal appearances, caseload permitting. The offender may have a personal representative appear on his/her behalf at the NC&PB hearing at no cost to the government. Unless the offender has been released from confinement on parole or upon completion of service of confinement, the offender may not make a personal appearance before the NC&PB. The NC&PB notifies the offender (via the commanding officer of the brig or other designee) of the date of the hearing, but will, at all times, attempt to accommodate the schedules of personal representatives when necessary. The offender is ultimately responsible for keeping personal representatives informed about the NC&PB hearing date. Although the NC&PB will assist in that regard should the personal representative contact the NC&PB, the NC&PB is not required to provide direct notification of the hearing date to the offender's personal representative. The offender will be provided (by the commanding officer or other designee) the opportunity to sign/forward a Privacy Act Waiver as part of the personal appearance request.

**Victim/Witness Appearances**

The NC&PB may entertain personal appearances, caseload permitting. Victims and/or witnesses may appear before the board in person or have a personal representative appear on their behalf at no cost to the government. The confining institution has primary responsibility for victim/witness notification. Upon notification of expressed interest by the victim and/or witness, the confining institution will inform the NC&PB. The NC&PB will then coordinate with the confining institution and the victim and/or witness regarding the case

review date and time.

**Victim/Witness Options**

Victim, victim's family members, the victim's representatives or witnesses may submit matters in writing, by audio tape, video tape or a combination of any or all of these methods for consideration by the NC&PB. In order to facilitate appropriate consideration of written material, it is recommended that documents be provided to the NC&PB staff at least 4 weeks prior to the Board meeting. NC&PB will conduct hearings that are generally open to the public unless the offender objects, unless the case involves classified material the revelation of which during the hearing may require the hearing to be closed, or for other good cause. At no time, however, are visitors or personal representatives permitted to be present during the deliberations of the NC&PB. Additionally, the presence of individuals during the NC&PB proceedings will be permitted unless the NC&PB, by majority vote, determines that the presence of such persons interferes with the orderly course of the proceedings.
NC&PB hearings are conducted in a non-adversarial and impartial manner. The adjudicatory function of panel members is paramount. Members should avoid conduct, which is or could be construed to be investigatory or prosecutorial. The hearings are conducted with dignity and decorum and with the objective of fairly addressing all the facts bearing on a case.

Members avoid all conflicts of interest by refusing themselves from pending clemency/parole matters in which they were either indirectly or directly involved in a personal/professional capacity. If in doubt as to whether the appearance or reality of an ethical conflict of interest exists in a specific case, the member must seek an advisory opinion from Director, Secretary of the Navy Council of Review Boards, and Legal Counsel.

The Secretary of the Navy directed the Naval Clemency and Parole Board to exercise its best judgment and discretion to apply and relate the Parole Commission guidelines utilizing salient factor scores as frames of reference in arriving at parole decisions which will preserve the unique need of the Naval Service for good order and discipline and, at the same time, help to ensure that those Naval prisoners released on parole will become neither a threat nor a burden to the civilian community into which they are released. The objective of the Secretary of the Navy's policy is to promote greater uniformity and equality in parole determinations, determinations which will neither depreciate the seriousness of the offenses committed nor promote disrespect for the law.

Further, the Secretary of the Navy has provided that, in those

cases in which the Naval Clemency and Parole Board denies parole to a prisoner, the prisoner may file a written appeal to the Director, Secretary of the Navy Council of Review Boards. Parole denials from the Secretary of the Navy can not be appealed.

The five members of the Naval Clemency and Parole Board are senior commissioned officers of the Navy and Marine Corps, with many years of wide and varied experience, who are assigned to different military headquarters and activities in the Washington, D.C. area. One Navy or Marine 0-6/0-5 serves as a permanent voting member of the board as the President. One member is a psychiatrist in the Bureau of Medicine. Another is a military lawyer representing the Staff Judge Advocate General of the Navy. The other members are line officers with extensive backgrounds in a variety of operational commands.

Actively sought for membership on the Naval Clemency and Parole Board are seasoned officers whose personal and professional qualifications and background make them capable of mature and independent judgment first on the adverse impact military and criminal misconduct has on the maintenance of good order and discipline with the Naval Service, and second as to where the best interest of the Naval Service, society, and the individual lie when the Board is faced with a decision whether or not to release a Naval offender into the civilian community on parole prior to the completion of his sentence to confinement.

With a view towards ensuring that Naval prisoners are afforded equal opportunities for clemency and parole, conscious efforts are made to appoint members who are available to meet one day every other week over the full periods of their assignment to military duty in the Washington, DC area.

Given this and specific policy guidance from the Secretary of the Navy, the Board analyzes each case based on its perception of the practical effect particular offenses have had on the maintenance of good order and discipline in the highly dangerous environment within which the operational forces of the Naval Service often must function.

Proceeding on the basis that each member of the Naval Service is accountable for his conduct, each case is examined to determine if the punishment awarded and individual in his court-martial sentence is appropriate for his offenses, this in light of the number of cases the Naval Clemency and Parole Board reviews each year.

Also considered is whether or not the punishment awarded is inconsistent with punishment awarded other members of the

Naval Service similarly situated for offenses committed under substantially similar circumstances.

Having reviewed each case along these guidelines, the Board then determines whether or not there are any compelling reasons to reduce the punishment awarded in a given sentences and to grant or not to grant some form of clemency.

What follows is a collective value judgment of five senior commissioned officers of the United States Navy and Marine Corps who have and extensive professional knowledge of the adverse impact military and criminal misconduct has on the operational forces, as well as the non operational organizations, of the Naval Service. Such collective value judgments seek a high correlation of consistency with the unique needs of the Armed Forces for good order and discipline.

The Naval Clemency and Parole Board projects the positive message the Secretary of the Navy wants the Board to send to all members of the Navy and Marine Corps, i.e., that the maintenance of good order and discipline is central to the successful accomplishment of the critical defense missions assigned to the Navy and Marine Corps in the protection of the United States and the citizens who make up it society.

R. Lamoureux

President

NC&PB