

# VIETNAM WAR ERA PARDON INSTRUCTIONS

## *Information and Instructions on Carter Proclamation Certificate Please read carefully before completing the application*

President Carter, by Proclamation of January 21, 1977, pardoned certain persons who, during the Vietnam War era, violated the Military Selective Service Act by draft-evasion acts or omissions committed between August 4, 1964 and March 28, 1973. If you believe your conviction is covered by President Carter's Proclamation and you can provide the required documentation from your criminal case that will enable us to verify that you are covered by the Proclamation, you may obtain an individual certificate of pardon evidencing the fact that this Pardon Proclamation applies to you. The certificate will be issued *only* if you were *convicted* of such an offense. If you were arrested for and/or charged with a Military Selective Service Act violation for an offense committed during the relevant time period, but your prosecution ended in some fashion other than conviction (such as dismissal of charges or an acquittal), you are not eligible to seek a certificate of pardon.

Furthermore, President Carter's Pardon Proclamation applies *only* to violations of the Military Selective Service Act by civilians. If you were a member of the armed forces during the relevant period, and you were convicted for a violation of military law, *your offense does not qualify for treatment under the Proclamation*. A person wishing to seek a presidential pardon for a military conviction may apply for a pardon from the current President under the regular pardon procedure. In addition, the Carter Proclamation *does not apply* to Military Selective Service Act violations involving force or violence, or to offenses committed by agents, officers, or employees of the Military Selective Service system in connection with duties or responsibilities arising out of their employment. Consequently, if you were employed by the Military Selective Service system and your offense involved your official duties, or if your offense involved force or violence, your conviction *was not pardoned by the Proclamation*.

If you believe that you were convicted of an offense that was pardoned by the Carter Pardon Proclamation and wish to obtain a certificate reflecting that the Proclamation applies to you, complete the following application form fully and carefully and submit it with the documentation from your court case. The information we request on the application form is needed to allow us to determine whether you belong to the class of persons pardoned by the Proclamation and are eligible to receive the certificate of pardon. The documents you *must* provide to enable us to determine whether you fall within the class of pardoned persons are (1) *the charging document* (the indictment or criminal information that sets forth the factual basis of the offense) and (2) *the judgment of conviction or the court docket sheet* reflecting the date of sentencing and the sentence imposed for the criminal charge of which you were convicted. Any other court documentation you provide may be helpful, but may not in itself be sufficient to allow us to determine whether you were pardoned. To research whether documents from your prosecution are still available, you should contact the National Archives, whose website is [www.archives.gov](http://www.archives.gov).

We may ask the United States Attorney for the district in which you were convicted to verify the information you provide. Because of the amount of time that has passed since the promulgation of President Carter's Pardon Proclamation, it has become extremely difficult and time-

consuming -- and sometimes impossible -- for Department of Justice and court personnel to locate records of Selective Service Act prosecutions brought during the Vietnam War era. Accordingly, the Office of the Pardon Attorney is no longer able to accept applications for Carter Proclamation pardon certificates unless they are accompanied by official documentation sufficient to permit us to determine whether the applicants meet the criteria of the Proclamation.

If we are able to conclude that the Carter Pardon Proclamation applies to your conviction, we will send you a certificate evidencing your pardon. We will also notify the Federal Bureau of Investigation that your conviction was pardoned by the Proclamation so that the FBI may make the appropriate notation of that fact in its official records.

# VIETNAM WAR ERA PARDON CERTIFICATE PRIVACY STATEMENT

## IMPORTANT NOTICE To Applicants for Certificate of Pardon

*The following notice is provided pursuant to the Privacy Act of 1974 to help you to understand what is involved in requesting a certificate evidencing your pardon under the President Carter's Proclamation of January 21, 1977, and why we need to obtain certain information about you.*

The information that we request from you on the accompanying application form is needed to enable the Attorney General to determine whether you were pardoned by President Carter's Proclamation of January 21, 1977, and, therefore, are eligible to receive a Certificate of Pardon. This is our only purpose in asking you to complete and sign the application. The failure to provide your Social Security number will not prejudice your application for a Certificate of Pardon. However, providing your Social Security number may assist us in processing your application and may assist law enforcement agencies in updating their records to reflect the fact that a pardon was granted.

Our authority for requesting the information solicited in the accompanying application is the United States Constitution, Article II, Section 2 (the pardon clause); Presidential Proclamation 4483, dated January 21, 1977; and Order of the Attorney General No. 1012-83, 48 Fed. Reg. 22290 (1983), as codified in 28 C.F.R. §§ 0.35 and 0.36 (the authority of the Office of the Pardon Attorney).

A record of each Certificate of Pardon will be maintained in the Office of the Pardon Attorney as an official record, together with your application form and any other documents compiled in the course of processing your request. The Pardon Attorney may disclose the contents of such files to anyone when the disclosure is required by law or the ends of justice. In particular, public record documents that may be compiled in the course of processing an application, such as the indictment and judgment order from the criminal case for which pardon is sought, trial or sentencing transcripts, court opinions, and newspaper articles, are generally made available upon request by third-parties (including representatives of the news media) pursuant to the Freedom of Information Act, unless such disclosure could reasonably be expected to constitute an unwarranted invasion of the petitioner's personal privacy. In addition, unsolicited Congressional correspondence is treated in the same manner. On the other hand, non-public documents that may be compiled in the course of processing an application, such as the application form itself, are not generally available under the Freedom of Information Act.

Moreover, in accordance with the ruling by the federal court of the District of Columbia in *Lardner v. Department of Justice*, 638 F.Supp.2d 14 (D.D.C. 2009), affirmed, *Lardner v. United States Department of Justice*, No. 09-5337, 2010 WL 4366062 (D.C. Cir. Oct. 28, 2010) (unpublished), the Office of the Pardon Attorney is obliged to release existing lists of the names of persons who have been denied executive clemency by the President to anyone who requests such records pursuant to the Freedom of Information Act. Given the frequency of such requests, the Office of the Pardon Attorney has started to proactively disclose the names of persons who have been denied executive clemency by the President on our website, in accordance with our Freedom of Information Act obligations.