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EMBARGOED FOR RELEASE
UNTIL 11:30 A.M.

SEPTEMBER 16, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

PRESS CONFERENCE
OF

LAURENCE H. SILBERMAN
DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

MARTIN R. HOFFMANN
GENERAL COUNSEL, DEPARTMENT OF DEFENSE

AND
BYRON V. PEPITONE
DIRECTOR, SELECTIVE SERVICE

THE BRIEFING ROOM

10:32 A.M. EDT

MR. HUSHEN: As you know, the President had a bipartisan leadership meeting at 9:00 this morning. It just broke up a few minutes ago, so they met for approximately 90 minutes.

Attending, in addition to the Congressional leaders, were the Chairman and ranking Republican Members of the House and Senate Judiciary Committee, the House and Senate Armed Services Committee, and the House and Senate Veterans' Affairs Committee.

The subject matter, as you also know, is the conditional amnesty proposal that the President will be signing shortly.

In order to help you understand some of the complexities of this program, we have three individuals here to brief you today who helped shape it.

They are Laurence H. Silberman, Deputy Attorney General, Department of Justice; Martin R. Hoffmann, General Counsel to the Defense Department, and Byron V. Pepitone, Director of the Selective Service.

In the meeting this morning there was a lot of give and take, a lot of communication, and I think the President would describe it as a full and frank discussion of the program.

Just before the meeting broke up, the President gave those attending the names of the nine members on the Clemency Board. I have them here now, but I think the best thing to do, rather than run through them, I will Xerox them and have them available at the conclusion of the briefing.

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OVER)

As you know, everything is embargoed, including this session, until the President signs the Proclamation.

Q Jack, one question about the briefing. If the briefing is still going on when the President signs the Proclamation --

MR. HUSHEN: The briefing will end when we are ready to sign the Proclamation.

Q Will it resume later?

MR. HUSHEN: If there are some specific questions, we will try to take them for you, but we don't plan to have it.

Let me quickly run through the names of the nine people. These are in alphabetical order. I will just give you the names. We do have biographical stuff here, too.

Dr. Ralph Adams, James Dougovita, Robert Finch, Charles Goodell, Father Theodore Hesburg, Vernon Jordan, James Maye, Mrs. Aida Casanas O'Connor, and General Lewis W. Walt.

The President described the Board as broad-gauged.

Gentlemen, this is Mr. Silberman, Mr. Hoffmann, and Mr. Pepitone.

MR. SILBERMAN: Gentlemen, you have the fact sheets, and we are available to answer questions, should you have any.

Q Who are the people described as being precluded under certain sections of the U.S. Code?

MR. SILBERMAN: Specifically that refers to individuals who were precluded entry into this country under the Immigration and Naturalization Act. That generally refers to aliens who left the country to avoid the draft, and by law we could not afford the benefits of this program to them.

Q What are some of the mitigating circumstances that would cut the term of alternative service?

MR. SILBERMAN: Well, we would look at a number of factors, both sides of the program. First of all would be the question of extreme hardship to the family as measured at the present.

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Secondly, the question of willfulness of the violation. The draft laws of course are complex, and if an individual would show that he was legitimately in some respects confused, that would be taken into account.

Also, we would take into account what happened to that individual subsequent to his alleged violation.

Q And would there be any minimum alternative service?

MR. SILBERMAN: There is no stated minimum.

Q What happens to a draft evader who has been neither convicted or who has not received a punitive or undesirable discharge, or are there such draft evaders?

MR. SILBERMAN: I think you have the two categories mixed there. A draft evader wouldn't have received any kind of discharge. That would apply to someone who has gone into the military.

Q Does a draft evader have to be convicted?

MR. SILBERMAN: The difference with respect to the operation of the program is as follows: If a draft evader is under investigation for violation of a crime or has been indicted, he would come -- assuming that he accepts the offer the President made -- he would come to the U.S. Attorney and would sign an agreement which would constitute a waiver of his rights to speedy trial to perform alternate service under the auspices of the Director of the Selective Service.

In the event he completes that service, acceptably and satisfactorily, then his case would not be prosecuted.

With respect, on the other hand, to the draft evader who has already been convicted -- and there are some 8,700 in that category -- his recourse would be to the Clemency Boards to seek a recommendation for Presidential pardon.

Q Is there going to be a discretion on the part of the United States attorneys around the country in handling these cases, or will these be handled under the direct supervision of the Attorney General?

MR. SILBERMAN: I suppose the answer to that question is both. There will be central guidelines which will be issued from Washington, as there always is with respect to the prosecution of any matter charged to the U.S. attorneys, a good deal of consultation with Washington, but by the same token they have a measure of discretion.

Q Don't they, as a matter of course, turn this case immediately over to the Selective Service? The fellow comes in, says that he wants clemency, he signs the paper, agrees to alternative service, and then he gets sent to the Selective Service.

The U.S. attorney has nothing to do with selecting the alternative service, does he?

MR. SILBERMAN: The U.S. attorney performs the function under the direction of the Attorney General of setting the term of alternate service and considering whether there are mitigating factors just as we have just discussed.

The selection of the type of alternate service will be done by the Director of the Selective Service and his people.

Q Mr. Silberman, on page 3 of this first release where you speak of the Presidential Clemency Board and Section (ii) here where you say those who have received a punitive discharge from the service, the armed forces, this August 4, 1964 to 1973, are you talking there about the men who were in Vietnam in the war who got bad discharges?

MR. SILBERMAN: Let me defer to Marty Hoffmann, the General Counsel of the Defense Department, to answer your question.

MR. HOFFMANN: The answer is it includes all deserters during the period from the Tonkin Gulf Resolution until March 28, 1973, whether or not Vietnam-related.

Q Well, you say those who have received a punitive or undesirable discharge from service from the armed forces during that time?

MR. HOFFMANN: That is correct.

Q Are you talking about these men who served in Vietnam who got bad discharges in Vietnam?

MR. HOFFMAN: If the bad discharge was by reason of an offense that is categorized as desertion, i.e., being gone from the service for more than 30 days, the answer is yes.

Q Who received dishonorable discharges?

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MR. HOFFMANN: Yes, that is correct. We are only speaking about offenses of absence arising out of periods of absence from the armed forces.

Q Then you go ahead and you say, "However, if any clemency discharge is recommended, such discharge shall not restore benefits."

Aren't you committing the man there? You are making the sentence there before you have even heard whether there were mitigating circumstances or anything?

MR. HOFFMANN: In no case would the upgrading of a discharge of itself entitle an individual to veterans' benefits that he was not already entitled to.

Q I can see in plenty of cases in some of these discharges you might hear the evidence there before this board and you might find there were many of them given when they shouldn't have been given.

MR. HOFFMANN: This, of course, does not disturb the processing that goes on ordinarily with the service boards of review, boards for discharge review, and of course, an individual could come in under the provisions of law as pertains to those Boards and get a review unrelated to the President's program.

Q But you are saying absolutely before you even hear the evidence you are not going to let him have any relief.

MR. HOFFMANN: With respect to the President's program dealing with absence offenses, that is correct.

Q Will you find jobs that will not be competitive with the civilian job markets, and who will supervise the employment for the returnees?

MR. SILBERMAN: Let me turn that over to Byron Pepitone, the Director of the Selective Service.

MR. PEPITONE: The type of job that we have in mind is the type of job that is currently being performed by people who do two years of alternate service as a consequence of having been classified a conscientious objector.

In July of 1972, for instance, there were about 13,000 people working at these jobs, all of which under the existing program are not in competition with the labor market.

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We are talking about jobs with activities and installations which operate for the general public welfare and in behalf of national health and safety.

Q Could you give us some examples of that?

MR. PEPITONE: Yes, I was about to. Forty-one percent, just by way of example, of the people we employed at the time we were at maximum employment, were working in general hospitals and the nature of their duties ran from attendants to counsellors, to people working in the mess, and the general lower scale of jobs which the hospitals and the institutions, such as homes for the aged and children have difficulty in filling.

Q How much is this program going to cost the Government? Do you have any idea?

MR. SILBERMAN: Probably less than a couple of million dollars.

Q What is the standard of pay for those who are serving or will the jobs vary?

MR. PEPITONE: The jobs will vary as they do today. They vary on the basis of the ability that the individual has to offer to the employer. But generally speaking, they are at the lower range of the wage level.

Q You mentioned 41 percent.

MR. SILBERMAN: The gentleman down here has a question.

Q What about a man who has served his time in prison for draft evasion and has been discharged as having fulfilled his obligation to the Department of Justice?

MR. SILBERMAN: Discharged from prison?

Q Yes, he has served his time.

MR. SILBERMAN: He could seek a recommendation for clemency from the Clemency Board.

Q Does he still have to perform alternate service for two years despite the fact that he may have paid his two years alternative service in a penitentiary?

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MR. SILBERMAN: In the hypothetical you gave, it is extremely unlikely. It is possible, however, that an individual may have just been sentenced in which case the Clemency Board might well recommend some period of alternate service.

Q Is it likely that any of these young men will be coming back without serving any time in alternative service? Will they come back with no onus at all?

MR. SILBERMAN: It is not contemplated.

Q On your answer a moment ago you said that the time in prison would be considered. In this it seems to say the time served in the military service would be considered on a month-to-month basis against alternate service. Would that also be true of prison time?

MR. SILBERMAN: Again we are talking about two different categories. With respect to any individual who has been convicted of either the civil criminal process or the military process, his recourse would be to seek a recommendation for clemency from the Clemency Board.

Q Mr. Silberman, is it correct to read this that the evader does not take an oath but that the deserter does take an oath?

MR. SILBERMAN: It is correct to read this as indicating that the deserter takes an oath, and I can let Marty Hoffmann describe that.

The evader signs an agreement with the U.S. attorney, which agreement will state specifically that he acknowledges his allegiance to the United States and its Constitution as part of his agreement to serve alternate service.

Q Mr. Silberman, what proportion of the draft evaders do you contemplate will serve less than 24 months of alternate service and, specifically, when will these general guidelines be publicized, given the fact that the President's spokesmen have said previously that they wouldn't present a situation in which draft evaders would be coming back completely uncertain about what they face?

It appears on the surface that they could serve anywhere from a couple of months to 24 months, and they just don't know what they are going to serve.

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MR. SILBERMAN: Let me answer the question by saying in this fashion, any draft evader would come back with the expectation that he may well be required to serve 24 months. That, in effect, is the President's offer.

Now, if there are some mitigating factors, he will have to present himself to the U.S. attorney and express those. But in terms of fairness, those individuals perceive a 24-month obligation.

Q What proportion of the draft evaders do you contemplate will serve less than 24?

MR. SILBERMAN: I don't think I could possibly answer that question.

Q Mr. Silberman, does the Government take a responsibility here for providing the jobs, too, so that there will be plenty of jobs for everyone?

MR. SILBERMAN: No, we don't think that will be a problem, as Mr. Pepitone stated a moment ago. In the administering of the conscientious objectors' programs, there were sufficient jobs to fill that need. Now that program has tailed off considerably and, indeed, this fits from an Administrative point of view quite nicely.

Q What happens to the deserter and the evader prior to August 4, 1964?

MR. SILBERMAN: They are not covered by this program.

Q Gentlemen, why was this program not announced last Tuesday?

MR. SILBERMAN: I suppose you would have to ask the President that.

Q Was it ready last Tuesday?

MR. SILBERMAN: No, it was not ready last Tuesday. We have been working on a number of perplexing details under the President's direction.

Q One follow-up question. Was there any connection between the delay in the announcement of the program and the reaction of the President's pardon of Mr. Nixon?

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MR. SILBERMAN: I am wholly unaware of any such connection.

Q What is to insure uniform treatment of draft evaders by the various U.S. attorneys?

MR. SILBERMAN: Both the supervision of the Justice Department plus the guidelines which we will issue. Indeed it would be very -- since individuals can present different fact situations -- it would be impossible to construct a program where there would be absolute uniformity. But as I indicated before in my response to the question over here, that the individual who is a fugitive, who may be abroad, should perceive the program as a 24-month obligation.

Q I still don't understand this job business. We have 41 percent working in hospitals. Where would the other 59 percent work, and who is going to find them jobs, and who is going to pay for it?

MR. PEPITONE: Let's try to wrap it up in a complete statement. Many of the young people have found their own jobs in the past but where they have not, the Federal Government has found jobs for them, but with employers other than the Federal Government.

The employer pays the salary. I can give you an example of some of the other types of jobs. We have had them working for Goodwill Industries, St. Vincent de Paul, the Ecology Corps in California doing forestry work, and this type of thing.

And there is a whole wide range of percentages and statistics of which I would talk to you later if you wish.

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Q Mr. Pepitone, do you have some opinion from the analysis from the Labor Department that reassures you that there are jobs for them? The employment situation has changed since 1972.

MR. PEPITONE: The interesting thing about that is that the people who currently hold these jobs are terminating their service. The conscientious objector program is ending, and as Mr. Silberman said, most of these people have a continuing requirement for the talents these people presently deliver. There do not seem to be people knocking at the door for these type jobs.

Q So, you would expect most to be working in hospitals, is that right?

MR. PEPITONE: Almost half, I would think, yes.

Q You say that a person can find his own job?

MR. PEPITONE: We are going to permit him the opportunity to find it. However, that job stands subject to the approval of the system in keeping with guidelines, part of which are mentioned in the fact sheet.

Q Do you think that many employers are going to give these men jobs?

MR. PEPITONE: They give them to conscientious objectors and are glad to have them.

Q How many conscientious objectors were there who will be stepping out of this labor market?

MR. PEPITONE: Approximately 4000 moving out right about now. Last December there were about 9000 employed and a little over two years ago there were over 13,000.

Q If the boys from Vietnam who have bad discharges can't get jobs now, I don't see how in the world you expect private employers to give these fellows jobs.

MR. PEPITONE: I have a hunch we are talking about different kinds of jobs. I am talking about low-paying jobs, that many people don't seek.

Q They don't get any jobs.

Q Do you have a figure on how much they are paid as an average?

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MR. SILBERMAN: I would say they are running at the low end of the minimum wage, but it does depend upon the skill they offer. You have some jobs, for instance, with some of the religious organizations, where people do clerical and menial type tasks where they get \$50 to \$100 a month and room and board. Now, I am talking about some of the church groups and those things.

Q Is the Government going to urge private employers to give these people jobs?

MR. SILBERMAN: Yes. As a matter of fact, we are going to help find their jobs for them, as we do for the conscientious objectors.

Q Mr. Pepitone, is there a list of these people, a grand list of all these people who are involved in that available somewhere? Will you make it public, the names of all the people?

MR. PEPITONE: The employers?

Q No, no, the draft evaders, the deserters --

MR. PEPITONE: I will have to turn that over to my colleagues.

MR. SILBERMAN: With respect to the evaders, we do have a list of the individuals who fall under the various categories; that is to say, there are about 8700 that have already been convicted, and that is a matter of court record, and there are another approximately 4300 who have been indicted, and that is also a matter of court record. There are about 2500 who are under investigation, and we certainly would not make that list available.

Q Mr. Silberman, will the Justice Department keep statistics here in Washington on the types of dispositions of these cases to assure uniformity of treatment.

MR. SILBERMAN: We shall try to keep statistics in that respect, and there will be a reporting system. The fact is that, as with every other matter that is introduced to the U.S. attorneys, there is some measure of discretion that is appropriate.

Q On that point --

MR. SILBERMAN: Yes, Mr. Lisagor?

Q -- is there a provision whereby an evader might appeal to the Justice Department or the U.S. attorneys judgment in the country?

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MR. SILBERMAN: Not a formal mechanism, nor is there with respect to any other matters that the U.S. attorneys are charged with handling. On the other hand, there are cases that do come up to the Justice Department. Incidentally, in that respect, there is a question of procedure.

The evader will be permitted to make a presentation and will be entitled to the right to counsel should he wish it when you come in and talk to the U.S. attorney.

Q Do you have any idea --

MR. SILBERMAN: I am sorry, she had another part of the question.

Marty, do you want to answer?

Q What about the list of deserters? Surely you will make that available, too?

MR. SILBERMAN: I imagine that will be handled pursuant to the present procedures that obtain in the Pentagon.

Q What do you mean by that?

MR. SILBERMAN: I don't know what those are.

Q In other words, you are going to give us a list of the evaders and not the deserters?

MR. SILBERMAN: I am sure that to the extent those lists are made available as a matter of routine, they would be made available in this case.

Q That doesn't answer the question at all. We have a very peculiar situation here now that is not routine.

MR. SILBERMAN: Well, I can check that for you ma'am.

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Q Mr. Hoffmann, there are now as I understand it, 12,500 deserters still at large. Is that correct?

MR. HOFFMANN: That is correct.

Q What percentage of that group faces charges for other crimes besides desertion?

MR. HOFFMANN: The current estimate is about 20 percent.

Q What was the question?

MR. HOFFMANN: The question was, of the 12,500 fugitive deserters -- that is the number you will find in your fact sheet -- how many have other charges pending against them other than an absence offense, and my answer was about 20 percent is our estimate.

Q Mr. Hoffmann, on that point, the 500,000 figure for the deserters -- now, is what you are saying that only action out of 500,000 is pending against 12,500?

MR. HOFFMANN: I don't know. There were a total of 500,000 instances where individuals were absent from their military post for over 30 days. There are presently 12,500 fugitives. Those are people who took off and have not come back, and have not been apprehended.

Q Is that the only people we are really talking about as far as the deserters go?

MR. HOFFMANN: No. We are talking about the fugitive deserters, which is 12,500, and the Clemency Board, you will see in your fact sheet and the Executive Order has jurisdiction over those who have committed and have been court-martialed and discharged for similar offenses, they will review those records and make decisions in those cases equivalent to those the services will be making in the case of the fugitives.

Q I have two questions, please. One, if the man does not fulfill what he has pledged that he would do under that statement, is he subject to a new liability or merely the original charges against him?

I will have a second question along that same line.

MR. SILBERMAN: All right. We will keep you in touch.

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With respect to the draft evader who signs an agreement with the U.S. attorney to perform alternate service, if that individual breaks the agreement, he is subject to prosecution on the underlying charge of draft evasion.

Q No other charge?

MR. SILBERMAN: Assuming he commits no other crime.

Q Now the second question, supposing he comes over here and talks to the Attorney General, the attorney, and does not want to go into the agreement. Is he going to be arrested and charged or be allowed to go back where he came from?

MR. SILBERMAN: Let me answer it this way: We are not affording him an opportunity to come back with immunity to bargain over that matter. Once he submits himself to the jurisdiction of the Federal criminal process, he will, of course, be bound to the impact of that submission.

Indeed, however, we are making some effort to make sure that individuals who cross our borders will be given 15 days' period from the time they cross the border when they will not be served with warrants of arrest to get to the appropriate U.S. attorney's office.

Q I have a question for Mr. Pepitone, another question about those jobs.

I still don't know, I haven't thoroughly read this, but I have glanced through it, and I still don't know what types of jobs and who determines what types of jobs a person can get to perform his alternate service.

What is to prevent a man from coming back and becoming Vice President of his father's company?

MR. PEPITONE: As I said earlier, the determination of the job and its acceptability will match the guidelines and the handout, and will be subject to the rules established under the Selective Service System. His job must be approved.

Q By who?

MR. PEPITONE: By me.

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Q Can any of the Action programs be applied, or are they all ruled out?

MR. PEPITONE: By and large the people we are talking about don't fit the Action programs. We tried the Action programs with the conscientious objectors who were working alternate service and the participation was absolutely minimal.

Q Does the United States attorney refer the evader to his local draft board?

MR. PEPITONE: Negative. He refers him to the State Director of Selective Service in the State of the man's residence.

Q Can you go over for us here when the Clemency Board actually steps in and who decides how long the term of service? Is it the Federal District Attorney that decides that?

MR. SILBERMAN: Well, we are talking again about two different categories, Bob. The U.S. attorney does set the term of alternate service for the individual who is under investigation or under indictment, but not the individual who has already been convicted. His case goes directly, as an exercise of the President's pardon power, to the Clemency Board, which makes recommendations.

In certain circumstances, the Clemency Board might well, as a condition of a recommendation of a pardon or clemency, require some measure of alternate service, but it is not as important on that part of the program as it is with respect to the draft evader prior to conviction or, indeed, as Mr. Hoffmann can explain, the deserter part of it.

Q Sir, let me just follow this up. Suppose that he doesn't agree with what the District Attorney says, he thinks that is not a fair term. Does he then appeal to the Clemency Board?

MR. SILBERMAN: No. What we are dealing with on the prosecutorial side is a question of prosecutorial discretion, and indeed we have analogies to this with respect to pre-trial diversion programs which we have in operation in some parts of the country in which the States have done a great deal of pioneering. When an individual comes into the Federal criminal process and the U.S. attorney makes a judgment that it would not serve the interest of justice to have him prosecuted and incarcerated, he signs a similar type of agreement to perform something or take training in the community.

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In the event that he finishes that acceptably, the U.S. attorney has the discretion to not prosecute the individual.

Q Aren't you asking these men to take a bigger chance by coming back under this program than as a practical matter they take by facing conviction in court, in view of the sentences that are being handed down now?

MR. SILBERMAN: I think your question doesn't touch on what seems to me, as Deputy Attorney General, is the most important aspect of it. One, an individual who comes back under this program can be guaranteed, if he is agreeable to performing alternate service; one, that he will not have a conviction--and that is terribly important--a felony conviction; and, secondly, that he won't be incarcerated.

Q How about the criminal records of those who have already been convicted? Will that conviction be expunged from the records?

MR. SILBERMAN: In the event that the Clemency Board recommends to the President a pardon and then the President accepts the recommendation and grants a pardon, as a matter of Federal law that conviction is erased.

Q Are these interviews with the District Attorney in public? I mean, are they public, and can the press cover them? Is it a public proceeding like a trial?

MR. SILBERMAN: No, it isn't really in the nature of a trial and I have some doubts whether it would be appropriate to throw it open to press coverage any more than the normal discussion between a U.S. attorney and a putative defendant are subject to public scrutiny.

Q Will all the records be public records, however? All the records in the matter?

MR. SILBERMAN: The dispositions, the agreements will be public.

Q How does this compare with past programs after World War II and Korea and so forth?

MR. SILBERMAN: I think the answer to that is -- and we have studied it very thoroughly, the defense in particular has studied it -- after various wars in this country's history, there have been different techniques and different arrangements utilized.

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It is very hard to find a common thread, except for the fact there is often after most wars an attempt on the part of the President to focus attention to a reconciliation process.

Q Is there any barrier here to someone making an arrangement with a relative or a friend to have some kind of a plush job?

MR. SILBERMAN: Yes, I think there is a barrier. It would have to be --

Q What would the barrier be?

MR. SILBERMAN: It would have to be approved by the Director of the Selective Service and, again, as he has said on several occasions, he has a solid practical precedent under which he has operated, and that is the treatment of the conscientious objector.

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Q Mr. Silberman, you passed over very quickly the mitigating circumstances that would be taken into account when setting the term of alternate service. Particularly, could you elaborate and perhaps give us some examples of the second one, which is degree of willfulness, and third, which was very unclear to me, what happened subsequently to the alleged offense?

MR. SILBERMAN: What happened, subsequently to the alleged offense?

Q Yes; that is, the mitigating factors?

MR. SILBERMAN: Oh, yes, I am sorry. The U.S. attorney would see how that individual has conducted himself subsequent to the offense. It may well be, for instance, that even as a fugitive in this country he has performed in a public service fashion.

I don't want to mention any names, but we do have an example that naturally would be something that could be taken into account. The degree of willfulness is something that the criminal justice system always looks at in terms of recommendations of sentences, et cetera, to judges.

Q I know a deserter who works in a hospital in Toronto who has been working there for four years. Would that be taken into account?

MR. SILBERMAN: Let me turn that over to Marty Hoffmann. I don't think it should be precluded.

MR. HOFFMANN: Yes, I think it would be taken generally into account, yes. But again, one would have to realize that he was serving other than the United States and again, the degree of willfulness and the degree of his resolution to come back and submit himself to process here in the United States, I think in the overall would be the most operative aspect of it.

Q Sir, what do you do about the man who is coming for clemency who doesn't have any money to travel and he wants to bring witnesses and evidence and he doesn't have any money. Does the United States provide that?

MR. SILBERMAN: What individuals are you referring to?

Q Say they want to come before the Clemency Board and they want to come there but don't have the money to travel and they don't have any money for witnesses.

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MR. SILBERMAN: Well, the Clemency Board will have to establish its own regulations, but the spirit of the program is such that I think they would be differential to those kinds of concerns. They may well divide themselves up into panels of three.

It is conceivable that they would -- and I don't mean to speak for them, because you would have to ask them as they are appointed -- it is even conceivable that they may hold some proceedings other than in Washington.

Q You see the reasons I ask this is because now these men who come to these boards over at the Defense Department, they don't get travel pay, and money for witnesses, these men who come in to get their discharges upgraded all the time.

MR. SILBERMAN: I think you are talking about two different groups.

Q No, I am not. I am talking about citizens of the United States, the same thing. One man is coming before your Clemency Board and one is going before the board out here in Rosslyn. This man out in Rosslyn doesn't get any money for travel or witnesses. Are you going to let this man over here get some?

MR. SILBERMAN: Just for people from Texas we will pay their way here.

Q Now, don't be funny, Mr. Silberman. Come one, let's answer this.

MR. SILBERMAN: I can't answer it, Mrs. McClendon, because I don't know what the Clemency Board's regulations will be.

Q Isn't anybody telling them what they will be on that?

MR. SILBERMAN: No, sir, no one is telling them. They will be an independent body that will operate under the authority of the President and make recommendations to the President.

Q Mr. Silberman, could you tell me what is to prevent inequalities in the U.S. attorneys from giving alternate services, one attorney in one district giving 12 months and another attorney in another district giving 24? Is there set guidelines?

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MR. SILBERMAN: There are guidelines, but it could be particularly appropriate for a U.S. attorney to treat everybody in the same district two individuals differently, depending on the facts which justify mitigation.

Q That is true, but what is to prevent two equal cases and two U.S. attorneys treating them differently in separate districts.

MR. SILBERMAN: We shall try as we can to avoid that, just as we do with respect to the entire criminal justice system.

Q Could you elaborate on the powers of the Clemency Board in point two here? There are a number of articles on the Uniform Code of Military Justice.

MR. SILBERMAN: Point two of which document?

Q It is the Proclamation.

MR. HOFFMANN: I think you are referring to Articles 85, 86 and 87, is that correct?

Q Yes, could you elaborate on that?

MR. HOFFMANN: These are the standard absence offenses under the Code of Military Justice. They included desertion, absence without official leave and missing movement, which is missing a movement of your unit.

Q What is the nature of the oath that they will be required to sign when the deserters return?

MR. HOFFMAN: The nature of the oath that we have suggested and the President has agreed to is basically a reaffirmation of allegiance. Well, I can read to you the proposal:

"I" so and so "do hereby solemnly reaffirm my allegiance to the United States of America, I will support protect and defend the Constitution of the United States against all enemies foreign and domestic, and will hereafter bear true faith and allegiance to the same. I take this obligation freely and without any mental reservation or purpose of evasion, so help me God."

Q How many people do you think will give themselves up?

MR. HOFFMAN: There is no way we can --

MORE

Q What is the maximum?

MR. HOFFMANN: The maximum would be the maximum number of fugitive deserters that would come in under the President's program.

Q How many is that?

MR. HOFFMAN: The maximum number of fugitives is in your fact sheet. That is 12,500.

Q How about draft evaders?

MR. HUSHEN: We have to put an end to this right now because the President expects to sign that Proclamation. He will read the statement first, which he will be distributing here shortly, and at the appropriate point he will be signing it. My guess would be about 11:22, approximately. You can tell because the sound will be piped in here.

Q Will it be on the internal mult, Jack?

MR. HUSHEN: Yes, it will be.

Q Do you have a list of the members yet?

MR. HUSHEN: We are running that off right now.

THE PRESS: Thank you, gentlemen.

END (AT 11:10 A.M. EDT)

9/25/74 Press Conference of Charles Goodell

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE
PRESS CONFERENCE
OF
CHARLES GOODELL
CHAIRMAN OF THE PRESIDENTIAL CLEMENCY BOARD

THE BRIEFING ROOM

2:45 P.M. EDT

MR. GOODELL: Ladies and gentlemen, the Presidential Clemency Board is holding its first meeting today here in the White House. All nine members are present. We have just been sworn in by the President of the United States and had a half hour or 40-minute session with him discussing our responsibilities, along with the Attorney General and the Secretary of Defense and Mr. Dewhurst, who is standing in for the Director of Selective Service, Mr. Pepitone, who is out of town today.

The President has assigned us a task of monumental proportions and complexities. He is well aware of that and conveyed that to us.

The Presidential Clemency Board carries essentially the responsibility of trying to equalize relative justice. The ideal goal with which we are charged is intrinsically impossible of attainment because we cannot undo the past. We cannot undo the past for those who went to Vietnam, who suffered, or perhaps did not come back.

We cannot undo the past for those who have been in prison who are presented to the Clemency Board.

Under the Proclamation of the President, the first priority for the Clemency Board is the consideration of those who were in prison at the time of his Proclamation. This numbers roughly 103 people in the civil system.

We have been through the Federal court system and we are still in the Federal prison system, in which 84 have been released. There is an 85th who apparently has refused release.

There are an additional 18 who have other convictions, and the Clemency Board is going to take a close look at those convictions. We are being briefed so that if they are closely-related offenses, we may take some action.

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(OVER)

We have not as yet received the briefing from the Defense Department, but I understand there are some 150 individuals who were in confinement at the time, and we will this afternoon concentrate on this group to determine how many are still in confinement.

It is imperative that if we are to succeed on the Clemency Board that we closely relate our activities to those of the Department of Justice, the Secretary of Defense, and the Selective Service Board.

We have a direct jurisdiction, which apparently includes in the civil system and the Federal court system 8700 people who have been convicted and sentenced, not all of whom went to prison.

And in the military we are dealing in a round number of 216,000 discharges that were related to absenteeism in the military. That includes dishonorable discharges, bad conduct discharges, and undesirable discharges.

The largest number, something like 108,000, are undesirable discharges.

We have a board which I think is very well qualified to address these difficult problems, varied background and experiences, but all unanimously committed to the President's purposes. We intend to work very closely with the other agencies and we intend to do our best to make this program work, alleviating the suffering of the past to the degree that it is in our power to do so, and healing the wounds of the country so that we can look forward and forget that past.

I will be glad to answer any of your questions.

Q Mr. Goodell, Mr. Jordan has already issued some veiled criticism of the Justice Department for what he feels is an inadequate plan to notify some approximately 109,000 draft evaders for whom no charges are pending about their rights and the fact that they can come back and that no action be taken against them.

The Justice Department says that they can just send letters to their last known address. How do you feel about this situation, and is that adequate, or are you going to urge some more effective methods even to the point of going into the draft evaders' area such as in Toronto and other places, to let them know that nobody is going to grab them?

MORE

MR. GOODELL: We did question the Justice Department on this point this morning, Mr. Jordan and others. Incidentally, the meetings of the board are open to the press, and we will be resuming our meeting over in the Executive Office Building this afternoon when we finish here.

It is a difficult problem and it is perhaps easy to be quickly critical of the fact that you can't communicate with some 180,000 people. The media can be very helpful in this respect.

For instance, the Justice Department assured us this morning that those who return will not be entrapped, that those who are now underground or overseas may write to the U.S. Attorney or the Justice Department to inquire if they are subject to indictment or indicted.

Many of them do not know whether they are indicted or not. They will be informed if there is an investigation in progress or if there is an indictment pending.

It would appear from our briefing this morning that the large bulk of those who are in the draft resistance category are not under investigation or indictment.

I am informed that there have been a total of 19,271 indictments in this area. The Justice Department this morning estimated that those potentially eligible -- that means those who have indictments against them or ongoing investigations -- number approximately 15,500. That means that a very large number beyond that 15,500 are not subject to prosecution and, therefore, presumably would not, if they came back, have to undertake alternative service.

Included in that 15,500 are the 8,700 cases that have already been prosecuted and are eligible to apply to the Clemency Board. So that reduces the 15,500 to roughly 6,800 who are potentially indictable if they come back.

Now the process of informing these people that they can inquire of the Attorney General of the U.S. Attorney and find out if they are subject to indictments or indicted is very important. We were assured by the Department of Justice spokesman this morning, Mr. Bruce Fine, that any information that comes to the U.S. Attorney or the Department of Justice from such an inquiry will not be used to generate further charges, that individuals who are told that they are not under investigation or are under indictment will not then, when they come back, be subjected to new investigations and perhaps new indictments.

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The process of informing these individuals will be very difficult, and there are a large number. Originally, according to the testimony of the Department of Justice before Congress, there were 206,775 delinquent draft registrants. You can compare that with the 19,271 indicted.

Q What periods does that cover?

MR. GOODELL: That covers the 1964 to 1973 period.

Q What are the figures for those overseas?

MR. GOODELL: I don't have figures for the ones that are overseas.

Q Do I understand you right to say that the majority of American draft resisters who are now out of the country either aren't under indictment and aren't under investigation, and the majority of them therefore won't have to face alternative service when they come home?

MR. GOODELL: That is what we were informed by the Justice Department this morning.

Q And they can come home scot-free?

MR. GOODELL: That is correct. Let me say that I think you can be misled by the 206,000 figure. We have not gotten a breakdown on this yet. It may be that a large number of them have returned over this nine- or ten-year period and accepted induction into the service.

Selective Service, for instance, has informed me that they believe that about 80 percent of them were draft delinquents at one period, but came back a second or third time and ultimately accepted induction.

So we are not sure how many are still out there. The 206,000 is the outside figure of delinquent draft registrants.

Q This morning, sir, you were talking about some 190,000, I thought. Now you got it down a moment ago to 180,000. Is that the approximate ballpark figure of this group that can come home that are not subject to indictments or alternate service?

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MR. GOODELL: If you take the 206,000 and subtract the 19,000, you come to the figures -- presumably 19,000 have been indicted -- you come to a figure roughly in the 187,000 area. Some of those are under investigation, apparently.

Q That is only 15,000?

MR. GOODELL: That is potentially a maximum figure of 6,800, as we understood the figure given to us today.

Q Those under investigation are 6,800?

MR. GOODELL: Those under investigation or pending indictments now. If you are talking of how many of this larger figure never went through the system, we don't know that yet. We have asked for them to give us a full breakdown.

Q If you add the 15,000 under investigation and the 19,000 who were indicted, you come up pretty close to 20 percent of those 200,000.

MR. GOODELL: The two figures are not addable. 19,207 were indicted. I am informed that over the nine- or ten-year period there is roughly a 15 percent conviction rate, so you drop the 19,000 who were indicted to a much smaller number who were actually convicted. And the figure that we are dealing with now who have been through the Federal system is 8,700.

Let me say to you these figures are broad estimates because the Justice Department has not been able to supply us with the breakdown and the details at this point, and we are also requesting the administrative office of the courts to give us their records on this subject.

Q What might be a reasonable figure of evaders or possible evaders at large either overseas or at home who might come home without facing any charges? What do you think would be a reasonably figure, what number?

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MR. GOODELL: We don't have the answer to that. We know from the Department of Justice testimony this morning that roughly 6800 are either under indictment or investigation at this point for draft-related crimes.

That is the figure, presumably, of those who would be susceptible to criminal prosecution if they came back and would be eligible, therefore, to go through the alternate service if they chose.

We just don't know how many out there have never been through the system and are not either under investigation or under indictment. There are a lot of categories, incidentally, in this thing. They may have come back through the service. It may be that the Justice Department decided that they didn't have enough evidence to convict, and I should in fairness point out that there has been reinterpretation of the law by the courts in this ten-year period so some of these total figures were eliminated because the court decisions no longer made them subject to indictment. These are just the big gross figures involved when I am talking about 206,000.

Q Mr. Goodell, in your experience so far with this problem -- and I know you haven't really had too much time to wrestle with it -- but are you satisfied with the amnesty provisions that the President has laid down, or would you prefer wider or narrower rules, and do you think that any legislation will be required for the best solution?

MR. GOODELL: I am satisfied. Let me say that I don't think anybody is completely satisfied. I think that was impossible of attainment. I think the President has come up with a fair program. It might be appropriate, since most of you know me by reputation and my position on the war, for me to state the philosophical framework in which I approached this problem.

I believe that every young man has an obligation to serve his country in the military, provided he is otherwise qualified. And the courts have held that it is constitutional to have peacetime conscription as well as wartime conscription. That obligation is an enduring one.

There were many people whom I respect who found it impossible to discharge that obligation by serving in the military during the Vietnam war, and I respect that.

The President is now offering them an opportunity to discharge their continuing obligation to the country in a completely peaceful, constructive way consistent with their conscience. I think that is fair.

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Q Mr. Goodell, was there any dissention among the members of the Clemency Board, anybody threatening to resign? There was some report out that two of them were.

MR. GOODELL: No, but the press hasn't gotten to them yet. None at all, and a very amicable session, but I should say in fairness to those who may disagree that we were largely being briefed and asking for information today. We have not gotten into the real hard policy questions, which we intend to get into as soon as we have completed the briefings.

Q Mr. Goodell, how often will your board meet, and what sort of staff do you have to work with?

MR. GOODELL: The board will meet as necessary. I think after today's session we will have a great deal of staff work to do to present additional material to the board. We will probably meet for a two-day consecutive meeting the week after next.

As far as the staffing is concerned, we will have a relatively small staff that is hired directly by the Presidential Clemency Board, probably a chief counsel and a deputy chief counsel, a public information officer and perhaps someone to head the staff and one or two special counsel.

The bulk of our staffing will be done through loans of personnel from the Justice Department and the Defense Department. We now have on board eight attorneys on loan from other agencies, and I have set two requirements for these attorneys on loan. One is that they be competent and the second is that they wholeheartedly agree with the President's program.

Incidentally, the staff, how large it may go is unpredictable at this point. The board appeared to agree with my initial statement this morning that we would prefer to expand the staff to a very large number and get the job over with as soon as possible rather than stay down at ten or 15 and go on for two years. So, we may go to 50 or 60 attorneys for a period of time to try to get over the hump.

Q Speaking to that, if I may follow up on that, how long do you expect to be in operation?

MR. GOODELL: We will, as a board, be in operation until 1976.

MORE

Q How could you go on beyond that?

MR. GOODELL: If we go on beyond that, it will have to be because the President feels there is a continuing need. We will be in existence for that period of time, however, because the individuals eligible for clemency can appeal to our board any time before the end of 1976. Appeals to the Clemency Board are not limited by this January 31 timing for those who want to re-enter.

Q Mr. Goodell, do you feel in your own heart -- I understand now you are handling discharges, bad conduct, you mentioned the three categories. You are handling those that are related to desertions?

MR. GOODELL: Yes, absentee related.

Q Now, don't you feel it is unfair for there not to be a Clemency Board for the boys whose administrative discharges and bad conduct discharges were not related to desertion but who nevertheless are in a very bad way for the rest of their lives, can't get jobs and can't get veterans benefits?

MR. GOODELL: The board does not have that responsibility, and we are not going to undertake that responsibility immediately. We have a major job on our hands. There was discussion, however, today with the President about problems that may go beyond the ones that are now assigned to the Justice Department, Defense Department and the Clemency Board, and he indicated that he would want all of us to report to him on those situations for possible continuing action to extend the clemency. There certainly is not enough information in our hands at this point to make any recommendation along those lines.

Q In your discussion with the President on that, then you did include these other men who have become --

MR. GOODELL: There was discussion of those who are beyond the purview of the Executive Order and Proclamation that we are operating under today.

Q Is the board going to be able to set guidelines to assure that one U.S. Attorney in one part of the country doesn't mete out a stiffer sentence, as it were, than another U.S. Attorney in another part of the country? How are you going to handle that?

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MR. GOODELL: The Clemency Board has no official authority over that whatsoever. We did establish, I think, today a cooperative spirit with all of the agencies and the Clemency Board expressed its concern about the uniformity and evenness of this process of negotiating the length of an alternate sentence, and we will stay in continuing relationship with them but we have no official authority to review those cases and they could not appeal to us. That is in the jurisdiction of the Department of Justice.

Q Mr. Goodell, is this your full-time job until the board disbands, and will you be leaving your law firm?

MR. GOODELL: This is not my full-time job except for the last week and probably the next two or three weeks. It is a part-time job. It is a special Government employment on an advisory committee as such, and I intend to continue in the practice of law.

Q Mr. Goodell, could I ask this question now? Does the amnesty board have the authority to wipe the criminal record clean of a person who has been convicted of draft evasion and draft desertion, or whatever, in the civil courts and served his time -- I am sorry, in the civilian criminal courts?

MR. GOODELL: Let me preface that the amnesty board in and of itself has no power. We are an advisory committee and our power is to recommend that the President take action. The President does have that authority, yes. The Board has the charge from the President to make recommendations in those cases and he can, on the recommendations of the Board, give them a full pardon if he feels that is so indicated.

Q In the fact sheet we got, it was plain. you did indeed have the authority to grant or to recommend to the President that he grant changes in the types of discharge and to clear their record as far as military service was concerned. But it wasn't clear to me anyway that you could do this as far as their criminal record was concerned.

MR. GOODELL: We can.

Q How will you handle the problem of the possibility or the prospect of some kind of social stigma attached even to a clemency discharge?

MORE

MR. GOODELL: Well, there has been concern expressed on that point in the board this morning. We did question the Justice Department some on the nature of a clemency discharge. We intend to question the Defense Department on that.

That is an unresolved point. There are those who say a clemency discharge is not going to be that much better than an undesirable or less than honorable discharge.

A great deal of that, of course, will depend upon the reaction of the public generally. If the public regards a clemency discharge as the President has indicated he does, as a completely neutral discharge, not implying any guilt or any wrong or any fault, then a clemency discharge would presumably be far superior to the other discharges that are given to these people under our jurisdiction.

Q Mr. Goodell, a young man who is in Sweden now and is listed as a draft evader is presumably -- or was until the declaration by the President -- is presumably being sought by the FBI as a draft evader. And in line with that, the Customs, the border people, were on the alert to hold him when he showed up at the border.

Can you give us an assurance that when this young man shows up now that he will not be detained and held for the FBI or does he still have to go through that routine?

MR. GOODELL: Is this an individual who wishes to return?

Q I am not talking about an individual case, I only use it as an example covering many.

MR. GOODELL: Your individual example you are talking about is an individual who wishes to return and engage in alternate service?

Q Yes.

MR. GOODELL: I can't give you that assurance because the Clemency Board has no jurisdiction over it, but we were given that assurance emphatically today by the Justice Department.

Q What do you see as the toughest problem facing the board?

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MR. GOODELL: The toughest problem that I think faces the Clemency Board is the large number of military charges and determining how we handle those 180,000 undesirable discharges.

You are all aware, I am sure, that there are multiple reasons why an individual is involved in continuing AWOL or desertion, and the board has to work out some way equitably to distinguish these cases.

We would hope that we can avoid in most cases having to have individual hearings or to break up into panels, but that has not been faced as yet by the Board.

Q Has this program been undermined by the complete pardon to the former President?

MR. GOODELL: I think it proceeds under the shadow of that pardon, inevitably. I don't think it is undermined, no, and I must state to you emphatically that I believe the two things are unrelated, and I am sure that the President did not relate them at all in developing his conclusion in either case.

Q How much will you be getting paid for this job?

MR. GOODELL: The board is paid at a GS-18 level per day that they are working, which I understand is about \$138 a day, and I think those who have expenses, they are paid a per diem of approximately \$25 a day.

Q Mr. Goodell, I believe you said about ten minutes ago that there were more guys overseas, a large number who could come back and would face no prosecution of any kind at all, or have any dealings with the Clemency Board. Did I understand you correctly, and what was that?

MR. GOODELL: Let me clarify that without mentioning any of the gross figures that I used in presenting that. According to the Justice Department testimony this morning, there are 6,800 individuals at large overseas or in this country who are either indicted or potentially indictable. They are under active investigation under circumstances where they feel they probably could convict them.

Q For what offenses, sir?

MORE

MR. GOODELL: These are for draft resistance offenses as indicated in the Executive Order.

We do not know how many more there are out there who have not been through the process or who are not under investigation, or indicted. I gave you the gross figures so that you could get some idea. It is in between there somewhere. We hope to develop those figures very shortly from the Justice Department when we get the breakdowns of the cases themselves.

Q But you are talking about over 180,000?

MR. GOODELL: Let me put it the other way. 206,775 were delinquent draft resisters in this roughly 10-year period.

Q That means draft evaders?

MR. GOODELL: That means draft evaders. That includes a great many who may well have come back at a subsequent period and gone through the system. Selective Service has told me they believe about 80 percent of them have come back and gone through the system. We have not received figures to document that at this point. So the 206,000 is a very gross figure.

Q Can you give us your ball park figure for how many are in Canada, Sweden --

MR. GOODELL: I don't have one, I don't know.

Q Why doesn't the Justice Department just publish a list of the 6,800 names of the people it is looking for and everybody else and, you know, distribute those lists in every post office or every -- you know, send them to Canada, send them to Sweden, and if the guy's name is not on the list, he is free and clear?

MR. GOODELL: I don't know the answer to that. After we get the breakdown and the Board actually meets, that may be a decision of the Clemency Board to recommend such action to the Justice Department.

Let me emphasize the Clemency Board up to this time in terms of its responsibility, first of all has no direct jurisdiction and, secondly, we have not discussed what requests we should make and will make to the other agencies. It is quite conceivable that we would make such a request.

MORE

Q Does the 206,000 include such young men who just failed to register for a couple of months after they were due?

MR. GOODELL: Presumably, it does. It is a classification that is described as delinquent draft registrants. They may have come in a few months later and registered and were subsequently inducted. We were told that a large number over a period of years at least did do this. As I say, we have no documentation of that as yet.

Q The President's son could be in this category?

MR. GOODELL: Yes, he could, I guess.

Q I would be the last to try to come up with another figure, but I know I am confused over this damned thing. You said that 206,000 are potentially, or could be labeled, evaders, but that possibly 80 percent of that figure has gone through the system. In other words, there are about 40,000 people that are actually evaders as such? Is that correct?

MR. GOODELL: You are correct up to that point. Let me emphasize that we have not been given the breakdown on these categories and how many there are in those categories because apparently they don't have them broken down at this point.

They also indicated that some, because of subsequent court decisions, were determined not to be delinquent anymore, that the change in the Selective Service law rendered some of them no longer delinquent and the Supreme Court's decision on conscientious objection rendered some of them no longer delinquent.

So, we just haven't gotten the breakdown. I think you are correct if the 80 percent figure is correct that you are talking about a gross of 40,000 and some others probably got washed out for good and legitimate reasons.

Q But of the 80 percent that have gone through the system, did they get normal discharges, honorable discharges and so forth?

MR. GOODELL: We don't know yet.

Q What does go through the system mean? What do those words mean?

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MR. GOODELL: Go through the system, apparently from the way it was used, was that they came back at some period and accepted induction into the service.

Q Therefore, they were not evaders anymore?

MR. GOODELL: They were no longer evaders.

Q You are talking some raw figures of some 206,000 people, a little bit over that, that you are not sure that you are going to process that many as evaders?

MR. GOODELL: We are sure in the Clemency Board that we are not processing anywhere near -- we are processing 8700. That is a fairly accurate figure of those who have been convicted by the Federal courts and sentenced and are, therefore, under the jurisdiction of the Clemency Board.

Q Those are military people now?

MR. GOODELL: No, those are draft resisters that went through the Federal court system.

Q How does that relate to the 6800?

MR. GOODELL: Well, 8700 have been through the system in the sense of going through the courts and being convicted and sentenced, and they are under the jurisdiction of the Clemency Board. Another 6800 apparently are indictable or have been indicted. That adds up, I believe, to 15,500, which is the figure Justice Department gave us as the total number they feel are potentially eligible for either clemency to the Clemency Board or alternate service through re-entry. Is that clear?

Q Yes.

Q But you still don't know how many Americans fled the country and remain outside the country to avoid military service in Vietnam?

MR. GOODELL: No.

Q You are suggesting, are you not, that at least thousands of evaders, or persons living overseas, exiled or underground here in the country, may not have to be in hiding or remain overseas and could return home without facing charges? Is that what you are saying, thousands at least?

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MR. GOODELL: I am saying that it is probably thousands based on the briefing that we received this morning, but we have not gotten the breakdown on this to be sure how many there would be.

Q If the list were published, like the gentleman asked before, are you also saying as well that names not on that list would not have charges preferred against them if they returned? I am talking about military desertion or evasion related charges. Are you saying that?

MR. GOODELL: Desertion is not included in that statement. The 6800, the 15,500 does not include desertion. That is in a different category. The resisters, the draft resisters, we were told if they are not on that list, whether it is a list or that is their estimate of the total number of 6800, either already indicted or under investigation, potentially indictable, that they can return and they would not be prosecuted. That is what we were told by the Justice Department this morning.

Q So, there are probably several thousand overseas or underground that could return to the United States?

MR. GOODELL: Yes, and they should write to the Attorney General or the U.S. Attorney, and ask if they are on the list.

Q Wouldn't the publication of the list eliminate the need to worry about whether the Justice Department was living up to --

MR. GOODELL: I think you ought to ask that question of the Justice Department; the Clemency Board will certainly evade it.

Q What about the deserters, military deserters as opposed to draft evaders. You are handling those also, aren't you?

MR. GOODELL: We handle them.

Q How many people are you talking about there?

MR. GOODELL: We have not had the briefing from the Defense Department yet. I can tell you what they gave me personally last week: 3500 dishonorable discharges, 33,000 bad conduct discharges and 180,000 undesirable discharges, totaling 216,500.

Now, those are for absence-related offenses. That also includes some number that we have not been told as yet who had additional charges against them.

Q What about the deserter who is now sitting in Sweden or somewhere, has he had one of these things already done to him, or is he pending any kind of a discharge at the time they get their hands on him?

MR. GOODELL: For the most part, I don't believe the deserters have been discharged because when they are discharged the military no longer has jurisdiction over them.

Q Then how many deserters who do not have anything that would put them in one of these three figures?

MR. GOODELL: I don't know. How many are overseas? We have not been briefed on how many estimated deserters there are who have not been through the process at all. I read in the paper the other day I think the figure 12,500 but that is not official from anything that we received today.

MORE

Q Mr. Goodell, these military deserters, when they come back, they will have to make their peace with the military courts, is that correct?

MR. GOODELL: When they come back they go to their service, the Army, Navy, Marine Corps, Air Force, or Coast Guard. The service makes only one -- well, really two basic decisions. One, are there other charges against them; and two, how long will their alternate service be.

There is an agreement signed, they are then given an undesirable discharge and referred to the Selective Service System. If they complete their alternate service satisfactorily, then they are eligible for a clemency discharge.

Q Senator, could I just get one thing straight. When this program was first announced, we were given a total figure of about 28,000, I think -- 15,500 in the draft resistance category, and 12,500 in the military desertion category.

Now is that the 12,500 that you were just talking about? Am I correct in presuming that this total rundown that you just gave us of the three categories has nothing to do with alternative service?

For those people, that is not an option for them; is that right? They are simply asking for an opportunity to present appeal of action taken against them and for you to act on that?

MR. GOODELL: That is correct. The figure of 28,000 would be basically correct if you are talking about those who are in the resistance category, both in the Federal courts and in the military. The deserters who are at large, roughly 12,500; the individuals who for draft resistance reasons are potentially indictable, convictable were 15,500.

But the 15,500 includes 8,700 who have been convicted. Those are now before the Clemency Board. They are not coming to the military or the U.S. Attorney for alternate service. They are coming to us for clemency.

So if you take your 28,000 figure, you are probably down to 19,300 or something of that nature who are now out there eligible for some kind of alternative service, either deserters or in the resistance category.

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Q I am sorry to pursue this further but the thing that I am confused about, when you use this large number of 206,000 or whatever, why would there be some people out there who have not come back through the system, as you put it, and who are not subject to some kind of investigation and prosecution in addition to this 6,800 figure that you are using? Why are we just talking about 6,800 people?

MR. GOODELL: That is what the Justice Department is talking about. They indicated there were some number of individuals who, for whatever reasons, were not indicted or where, after investigation, they felt there was not sufficient grounds to proceed, that they couldn't convict, and that could be in the category of those who did return and accept induction so the prosecutor said, "Go ahead. Serve your time now. We won't pursue it."

It could include those who were affected by the change in conscientious objector status. It could affect those whose status was changed by the change in the Selective Service law.

We have not had a breakdown on those yet. We don't know how many are in those categories. I am sorry. I can't answer how many there are.

Q Even in all these numbers, essentially you are still talking about the same total numbers?

MR. GOODELL: Exactly, but I am trying to give you a gross figure to give you an idea that we break down from there. We are trying to get the detailed breakdown of how many are actually in this category. I think it would be misleading to publish 206,000 as the potential number of people who are out there. It would be grossly misleading.

Q Senator, now that you have got that all cleared up, I wonder if you could give us your personal reaction to the Federal Judge's order freeing Lieutenant Calley?

MR. GOODELL: I have no reaction to that at this point. I haven't gone into it myself and it certainly isn't in our jurisdiction at this stage.

MORE

I do have to get back to the board.

Q Could I just pursue that? Might not that have some effect on the thinking of the board as it approaches seeking justice?

MR. GOODELL: I have no idea whether it will or not.

THE PRESS: Thank you.

END (3:31 P.M. EDT)

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE
PRESS CONFERENCE
OF
CHARLES GOODELL
CHAIRMAN OF THE PRESIDENTIAL CLEMENCY BOARD

THE BRIEFING ROOM

2:45 P.M. EDT

MR. GOODELL: Ladies and gentlemen, the Presidential Clemency Board is holding its first meeting today here in the White House. All nine members are present. We have just been sworn in by the President of the United States and had a half hour or 40-minute session with him discussing our responsibilities, along with the Attorney General and the Secretary of Defense and Mr. Dewhurst, who is standing in for the Director of Selective Service, Mr. Pepitone, who is out of town today.

The President has assigned us a task of monumental proportions and complexities. He is well aware of that and conveyed that to us.

The Presidential Clemency Board carries essentially the responsibility of trying to equalize relative justice. The ideal goal with which we are charged is intrinsically impossible of attainment because we cannot undo the past. We cannot undo the past for those who went to Vietnam, who suffered, or perhaps did not come back.

We cannot undo the past for those who have been in prison who are presented to the Clemency Board.

Under the Proclamation of the President, the first priority for the Clemency Board is the consideration of those who were in prison at the time of his Proclamation. This numbers roughly 103 people in the civil system.

We have been through the Federal court system and we are still in the Federal prison system, in which 84 have been released. There is an 85th who apparently has refused release.

There are an additional 18 who have other convictions, and the Clemency Board is going to take a close look at those convictions. We are being briefed so that if they are closely-related offenses, we may take some action.

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(OVER)

We have not as yet received the briefing from the Defense Department, but I understand there are some 150 individuals who were in confinement at the time, and we will this afternoon concentrate on this group to determine how many are still in confinement.

It is imperative that if we are to succeed on the Clemency Board that we closely relate our activities to those of the Department of Justice, the Secretary of Defense, and the Selective Service Board.

We have a direct jurisdiction, which apparently includes in the civil system and the Federal court system 8700 people who have been convicted and sentenced, not all of whom went to prison.

And in the military we are dealing in a round number of 216,000 discharges that were related to absenteeism in the military. That includes dishonorable discharges, bad conduct discharges, and undesirable discharges.

The largest number, something like 108,000, are undesirable discharges.

We have a board which I think is very well qualified to address these difficult problems, varied background and experiences, but all unanimously committed to the President's purposes. We intend to work very closely with the other agencies and we intend to do our best to make this program work, alleviating the suffering of the past to the degree that it is in our power to do so, and healing the wounds of the country so that we can look forward and forget that past.

I will be glad to answer any of your questions.

Q Mr. Goodell, Mr. Jordan has already issued some veiled criticism of the Justice Department for what he feels is an inadequate plan to notify some approximately 109,000 draft evaders for whom no charges are pending about their rights and the fact that they can come back and that no action be taken against them.

The Justice Department says that they can just send letters to their last known address. How do you feel about this situation, and is that adequate, or are you going to urge some more effective methods even to the point of going into the draft evaders' area such as in Toronto and other places, to let them know that nobody is going to grab them?

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MR. GOODELL: We did question the Justice Department on this point this morning, Mr. Jordan and others. Incidentally, the meetings of the board are open to the press, and we will be resuming our meeting over in the Executive Office Building this afternoon when we finish here.

It is a difficult problem and it is perhaps easy to be quickly critical of the fact that you can't communicate with some 180,000 people. The media can be very helpful in this respect.

For instance, the Justice Department assured us this morning that those who return will not be entrapped, that those who are now underground or overseas may write to the U.S. Attorney or the Justice Department to inquire if they are subject to indictment or indicted.

Many of them do not know whether they are indicted or not. They will be informed if there is an investigation in progress or if there is an indictment pending.

It would appear from our briefing this morning that the large bulk of those who are in the draft resistance category are not under investigation or indictment.

I am informed that there have been a total of 19,271 indictments in this area. The Justice Department this morning estimated that those potentially eligible -- that means those who have indictments against them or ongoing investigations -- number approximately 15,500. That means that a very large number beyond that 15,500 are not subject to prosecution and, therefore, presumably would not, if they came back, have to undertake alternative service.

Included in that 15,500 are the 8,700 cases that have already been prosecuted and are eligible to apply to the Clemency Board. So that reduces the 15,500 to roughly 6,800 who are potentially indictable if they come back.

Now the process of informing these people that they can inquire of the Attorney General of the U.S. Attorney and find out if they are subject to indictments or indicted is very important. We were assured by the Department of Justice spokesman this morning, Mr. Bruce Fine, that any information that comes to the U.S. Attorney or the Department of Justice from such an inquiry will not be used to generate further charges, that individuals who are told that they are not under investigation or are under indictment will not then, when they come back, be subjected to new investigations and perhaps new indictments.

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The process of informing these individuals will be very difficult, and there are a large number. Originally, according to the testimony of the Department of Justice before Congress, there were 206,775 delinquent draft registrants. You can compare that with the 19,271 indicted.

Q What periods does that cover?

MR. GOODELL: That covers the 1964 to 1973 period.

Q What are the figures for those overseas?

MR. GOODELL: I don't have figures for the ones that are overseas.

Q Do I understand you right to say that the majority of American draft resisters who are now out of the country either aren't under indictment and aren't under investigation, and the majority of them therefore won't have to face alternative service when they come home?

MR. GOODELL: That is what we were informed by the Justice Department this morning.

Q And they can come home scot-free?

MR. GOODELL: That is correct. Let me say that I think you can be misled by the 206,000 figure. We have not gotten a breakdown on this yet. It may be that a large number of them have returned over this nine- or ten-year period and accepted induction into the service.

Selective Service, for instance, has informed me that they believe that about 80 percent of them were draft delinquents at one period, but came back a second or third time and ultimately accepted induction.

So we are not sure how many are still out there. The 206,000 is the outside figure of delinquent draft registrants.

Q This morning, sir, you were talking about some 190,000, I thought. Now you got it down a moment ago to 180,000. Is that the approximate ballpark figure of this group that can come home that are not subject to indictments or alternate service?

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MR. GOODELL: If you take the 206,000 and subtract the 19,000, you come to the figures -- presumably 19,000 have been indicted -- you come to a figure roughly in the 187,000 area. Some of those are under investigation, apparently.

Q That is only 15,000?

MR. GOODELL: That is potentially a maximum figure of 6,800, as we understood the figure given to us today.

Q Those under investigation are 6,800?

MR. GOODELL: Those under investigation or pending indictments now. If you are talking of how many of this larger figure never went through the system, we don't know that yet. We have asked for them to give us a full breakdown.

Q If you add the 15,000 under investigation and the 19,000 who were indicted, you come up pretty close to 20 percent of those 200,000.

MR. GOODELL: The two figures are not addable. 19,207 were indicted. I am informed that over the nine- or ten-year period there is roughly a 15 percent conviction rate, so you drop the 19,000 who were indicted to a much smaller number who were actually convicted. And the figure that we are dealing with now who have been through the Federal system is 8,700.

Let me say to you these figures are broad estimates because the Justice Department has not been able to supply us with the breakdown and the details at this point, and we are also requesting the administrative office of the courts to give us their records on this subject.

Q What might be a reasonable figure of evaders or possible evaders at large either overseas or at home who might come home without facing any charges? What do you think would be a reasonably figure, what number?

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MR. GOODELL: We don't have the answer to that. We know from the Department of Justice testimony this morning that roughly 6800 are either under indictment or investigation at this point for draft-related crimes.

That is the figure, presumably, of those who would be susceptible to criminal prosecution if they came back and would be eligible, therefore, to go through the alternate service if they chose.

We just don't know how many out there have never been through the system and are not either under investigation or under indictment. There are a lot of categories, incidentally, in this thing. They may have come back through the service. It may be that the Justice Department decided that they didn't have enough evidence to convict, and I should in fairness point out that there has been reinterpretation of the law by the courts in this ten-year period so some of these total figures were eliminated because the court decisions no longer made them subject to indictment. These are just the big gross figures involved when I am talking about 206,000.

Q Mr. Goodell, in your experience so far with this problem -- and I know you haven't really had too much time to wrestle with it -- but are you satisfied with the amnesty provisions that the President has laid down, or would you prefer wider or narrower rules, and do you think that any legislation will be required for the best solution?

MR. GOODELL: I am satisfied. Let me say that I don't think anybody is completely satisfied. I think that was impossible of attainment. I think the President has come up with a fair program. It might be appropriate, since most of you know me by reputation and my position on the war, for me to state the philosophical framework in which I approached this problem.

I believe that every young man has an obligation to serve his country in the military, provided he is otherwise qualified. And the courts have held that it is constitutional to have peacetime conscription as well as wartime conscription. That obligation is an enduring one.

There were many people whom I respect who found it impossible to discharge that obligation by serving in the military during the Vietnam war, and I respect that.

The President is now offering them an opportunity to discharge their continuing obligation to the country in a completely peaceful, constructive way consistent with their conscience. I think that is fair.

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Q Mr. Goodell, was there any dissention among the members of the Clemency Board, anybody threatening to resign? There was some report out that two of them were.

MR. GOODELL: No, but the press hasn't gotten to them yet. None at all, and a very amicable session, but I should say in fairness to those who may disagree that we were largely being briefed and asking for information today. We have not gotten into the real hard policy questions, which we intend to get into as soon as we have completed the briefings.

Q Mr. Goodell, how often will your board meet, and what sort of staff do you have to work with?

MR. GOODELL: The board will meet as necessary. I think after today's session we will have a great deal of staff work to do to present additional material to the board. We will probably meet for a two-day consecutive meeting the week after next.

As far as the staffing is concerned, we will have a relatively small staff that is hired directly by the Presidential Clemency Board, probably a chief counsel and a deputy chief counsel, a public information officer and perhaps someone to head the staff and one or two special counsel.

The bulk of our staffing will be done through loans of personnel from the Justice Department and the Defense Department. We now have on board eight attorneys on loan from other agencies, and I have set two requirements for these attorneys on loan. One is that they be competent and the second is that they wholeheartedly agree with the President's program.

Incidentally, the staff, how large it may go is unpredictable at this point. The board appeared to agree with my initial statement this morning that we would prefer to expand the staff to a very large number and get the job over with as soon as possible rather than stay down at ten or 15 and go on for two years. So, we may go to 50 or 60 attorneys for a period of time to try to get over the hump.

Q Speaking to that, if I may follow up on that, how long do you expect to be in operation?

MR. GOODELL: We will, as a board, be in operation until 1976.

MORE

Q How could you go on beyond that?

MR. GOODELL: If we go on beyond that, it will have to be because the President feels there is a continuing need. We will be in existence for that period of time, however, because the individuals eligible for clemency can appeal to our board any time before the end of 1976. Appeals to the Clemency Board are not limited by this January 31 timing for those who want to re-enter.

Q Mr. Goodell, do you feel in your own heart -- I understand now you are handling discharges, bad conduct, you mentioned the three categories. You are handling those that are related to desertions?

MR. GOODELL: Yes, absentee related.

Q Now, don't you feel it is unfair for there not to be a Clemency Board for the boys whose administrative discharges and bad conduct discharges were not related to desertion but who nevertheless are in a very bad way for the rest of their lives, can't get jobs and can't get veterans benefits?

MR. GOODELL: The board does not have that responsibility, and we are not going to undertake that responsibility immediately. We have a major job on our hands. There was discussion, however, today with the President about problems that may go beyond the ones that are now assigned to the Justice Department, Defense Department and the Clemency Board, and he indicated that he would want all of us to report to him on those situations for possible continuing action to extend the clemency. There certainly is not enough information in our hands at this point to make any recommendation along those lines.

Q In your discussion with the President on that, then you did include these other men who have become --

MR. GOODELL: There was discussion of those who are beyond the purview of the Executive Order and Proclamation that we are operating under today.

Q Is the board going to be able to set guidelines to assure that one U.S. Attorney in one part of the country doesn't mete out a stiffer sentence, as it were, than another U.S. Attorney in another part of the country? How are you going to handle that?

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MR. GOODELL: The Clemency Board has no official authority over that whatsoever. We did establish, I think, today a cooperative spirit with all of the agencies and the Clemency Board expressed its concern about the uniformity and evenness of this process of negotiating the length of an alternate sentence, and we will stay in continuing relationship with them but we have no official authority to review those cases and they could not appeal to us. That is in the jurisdiction of the Department of Justice.

Q Mr. Goodell, is this your full-time job until the board disbands, and will you be leaving your law firm?

MR. GOODELL: This is not my full-time job except for the last week and probably the next two or three weeks. It is a part-time job. It is a special Government employment on an advisory committee as such, and I intend to continue in the practice of law.

Q Mr. Goodell, could I ask this question now? Does the amnesty board have the authority to wipe the criminal record clean of a person who has been convicted of draft evasion and draft desertion, or whatever, in the civil courts and served his time -- I am sorry, in the civilian criminal courts?

MR. GOODELL: Let me preface that the amnesty board in and of itself has no power. We are an advisory committee and our power is to recommend that the President take action. The President does have that authority, yes. The Board has the charge from the President to make recommendations in those cases and he can, on the recommendations of the Board, give them a full pardon if he feels that is so indicated.

Q In the fact sheet we got, it was plain you did indeed have the authority to grant or to recommend to the President that he grant changes in the types of discharge and to clear their record as far as military service was concerned. But it wasn't clear to me anyway that you could do this as far as their criminal record was concerned.

MR. GOODELL: We can.

Q How will you handle the problem of the possibility or the prospect of some kind of social stigma attached even to a clemency discharge?

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MR. GOODELL: Well, there has been concern expressed on that point in the board this morning. We did question the Justice Department some on the nature of a clemency discharge. We intend to question the Defense Department on that.

That is an unresolved point. There are those who say a clemency discharge is not going to be that much better than an undesirable or less than honorable discharge.

A great deal of that, of course, will depend upon the reaction of the public generally. If the public regards a clemency discharge as the President has indicated he does, as a completely neutral discharge, not implying any guilt or any wrong or any fault, then a clemency discharge would presumably be far superior to the other discharges that are given to these people under our jurisdiction.

Q Mr. Goodell, a young man who is in Sweden now and is listed as a draft evader is presumably -- or was until the declaration by the President -- is presumably being sought by the FBI as a draft evader. And in line with that, the Customs, the border people, were on the alert to hold him when he showed up at the border.

Can you give us an assurance that when this young man shows up now that he will not be detained and held for the FBI or does he still have to go through that routine?

MR. GOODELL: Is this an individual who wishes to return?

Q I am not talking about an individual case, I only use it as an example covering many.

MR. GOODELL: Your individual example you are talking about is an individual who wishes to return and engage in alternate service?

Q Yes.

MR. GOODELL: I can't give you that assurance because the Clemency Board has no jurisdiction over it, but we were given that assurance emphatically today by the Justice Department.

Q What do you see as the toughest problem facing the board?

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MR. GOODELL: The toughest problem that I think faces the Clemency Board is the large number of military charges and determining how we handle those 180,000 undesirable discharges.

You are all aware, I am sure, that there are multiple reasons why an individual is involved in continuing AWOL or desertion, and the board has to work out some way equitably to distinguish these cases.

We would hope that we can avoid in most cases having to have individual hearings or to break up into panels, but that has not been faced as yet by the Board.

Q Has this program been undermined by the complete pardon to the former President?

MR. GOODELL: I think it proceeds under the shadow of that pardon, inevitably. I don't think it is undermined, no, and I must state to you emphatically that I believe the two things are unrelated, and I am sure that the President did not relate them at all in developing his conclusion in either case.

Q How much will you be getting paid for this job?

MR. GOODELL: The board is paid at a GS-18 level per day that they are working, which I understand is about \$138 a day, and I think those who have expenses, they are paid a per diem of approximately \$25 a day.

Q Mr. Goodell, I believe you said about ten minutes ago that there were more guys overseas, a large number who could come back and would face no prosecution of any kind at all, or have any dealings with the Clemency Board. Did I understand you correctly, and what was that?

MR. GOODELL: Let me clarify that without mentioning any of the gross figures that I used in presenting that. According to the Justice Department testimony this morning, there are 6,800 individuals at large overseas or in this country who are either indicted or potentially indictable. They are under active investigation under circumstances where they feel they probably could convict them.

Q For what offenses, sir?

MORE

MR. GOODELL: These are for draft resistance offenses as indicated in the Executive Order.

We do not know how many more there are out there who have not been through the process or who are not under investigation, or indicted. I gave you the gross figures so that you could get some idea. It is in between there somewhere. We hope to develop those figures very shortly from the Justice Department when we get the breakdowns of the cases themselves.

Q But you are talking about over 180,000?

MR. GOODELL: Let me put it the other way. 206,775 were delinquent draft resisters in this roughly 10-year period.

Q That means draft evaders?

MR. GOODELL: That means draft evaders. That includes a great many who may well have come back at a subsequent period and gone through the system. Selective Service has told me they believe about 80 percent of them have come back and gone through the system. We have not received figures to document that at this point. So the 206,000 is a very gross figure.

Q Can you give us your ball park figure for how many are in Canada, Sweden --

MR. GOODELL: I don't have one, I don't know.

Q Why doesn't the Justice Department just publish a list of the 6,800 names of the people it is looking for and everybody else and, you know, distribute those lists in every post office or every -- you know, send them to Canada, send them to Sweden, and if the guy's name is not on the list, he is free and clear?

MR. GOODELL: I don't know the answer to that. After we get the breakdown and the Board actually meets, that may be a decision of the Clemency Board to recommend such action to the Justice Department.

Let me emphasize the Clemency Board up to this time in terms of its responsibility, first of all has no direct jurisdiction and, secondly, we have not discussed what requests we should make and will make to the other agencies. It is quite conceivable that we would make such a request.

MORE

Q Does the 206,000 include such young men who just failed to register for a couple of months after they were due?

MR. GOODELL: Presumably, it does. It is a classification that is described as delinquent draft registrants. They may have come in a few months later and registered and were subsequently inducted. We were told that a large number over a period of years at least did do this. As I say, we have no documentation of that as yet.

Q The President's son could be in this category?

MR. GOODELL: Yes, he could, I guess.

Q I would be the last to try to come up with another figure, but I know I am confused over this damned thing. You said that 206,000 are potentially, or could be labeled, evaders, but that possibly 80 percent of that figure has gone through the system. In other words, there are about 40,000 people that are actually evaders as such? Is that correct?

MR. GOODELL: You are correct up to that point. Let me emphasize that we have not been given the breakdown on these categories and how many there are in those categories because apparently they don't have them broken down at this point.

They also indicated that some, because of subsequent court decisions, were determined not to be delinquent anymore, that the change in the Selective Service law rendered some of them no longer delinquent and the Supreme Court's decision on conscientious objection rendered some of them no longer delinquent.

So, we just haven't gotten the breakdown. I think you are correct if the 80 percent figure is correct that you are talking about a gross of 40,000 and some others probably got washed out for good and legitimate reasons.

Q But of the 80 percent that have gone through the system, did they get normal discharges, honorable discharges and so forth?

MR. GOODELL: We don't know yet.

Q What does go through the system mean? What do those words mean?

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MR. GOODELL: Go through the system, apparently from the way it was used, was that they came back at some period and accepted induction into the service.

Q Therefore, they were not evaders anymore?

MR. GOODELL: They were no longer evaders.

Q You are talking some raw figures of some 206,000 people, a little bit over that, that you are not sure that you are going to process that many as evaders?

MR. GOODELL: We are sure in the Clemency Board that we are not processing anywhere near -- we are processing 8700. That is a fairly accurate figure of those who have been convicted by the Federal courts and sentenced and are, therefore, under the jurisdiction of the Clemency Board.

Q Those are military people now?

MR. GOODELL: No, those are draft resisters that went through the Federal court system.

Q How does that relate to the 6800?

MR. GOODELL: Well, 8700 have been through the system in the sense of going through the courts and being convicted and sentenced, and they are under the jurisdiction of the Clemency Board. Another 6800 apparently are indictable or have been indicted. That adds up, I believe, to 15,500, which is the figure Justice Department gave us as the total number they feel are potentially eligible for either clemency to the Clemency Board or alternate service through re-entry. Is that clear?

Q Yes.

Q But you still don't know how many Americans fled the country and remain outside the country to avoid military service in Vietnam?

MR. GOODELL: No.

Q You are suggesting, are you not, that at least thousands of evaders, or persons living overseas, exiled or underground here in the country, may not have to be in hiding or remain overseas and could return home without facing charges? Is that what you are saying, thousands at least?

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MR. GOODELL: I am saying that it is probably thousands based on the briefing that we received this morning, but we have not gotten the breakdown on this to be sure how many there would be.

Q If the list were published, like the gentleman asked before, are you also saying as well that names not on that list would not have charges preferred against them if they returned? I am talking about military desertion or evasion related charges. Are you saying that?

MR. GOODELL: Desertion is not included in that statement. The 6800, the 15,500 does not include desertion. That is in a different category. The resisters, the draft resisters, we were told if they are not on that list, whether it is a list or that is their estimate of the total number of 6800, either already indicted or under investigation, potentially indictable, that they can return and they would not be prosecuted. That is what we were told by the Justice Department this morning.

Q So, there are probably several thousand overseas or underground that could return to the United States?

MR. GOODELL: Yes, and they should write to the Attorney General or the U.S. Attorney, and ask if they are on the list.

Q Wouldn't the publication of the list eliminate the need to worry about whether the Justice Department was living up to --

MR. GOODELL: I think you ought to ask that question of the Justice Department; the Clemency Board will certainly evade it.

Q What about the deserters, military deserters as opposed to draft evaders. You are handling those also, aren't you?

MR. GOODELL: We handle them.

Q How many people are you talking about there?

MR. GOODELL: We have not had the briefing from the Defense Department yet. I can tell you what they gave me personally last week: 3500 dishonorable discharges, 33,000 bad conduct discharges and 180,000 undesirable discharges, totaling 216,500.

Now, those are for absence-related offenses. That also includes some number that we have not been told as yet who had additional charges against them.

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Q What about the deserter who is now sitting in Sweden or somewhere, has he had one of these things already done to him, or is he pending any kind of a discharge at the time they get their hands on him?

MR. GOODELL: For the most part, I don't believe the deserters have been discharged because when they are discharged the military no longer has jurisdiction over them.

Q Then how many deserters who do not have anything that would put them in one of these three figures?

MR. GOODELL: I don't know. How many are overseas? We have not been briefed on how many estimated deserters there are who have not been through the process at all. I read in the paper the other day I think the figure 12,500 but that is not official from anything that we received today.

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Q Mr. Goodell, these military deserters, when they come back, they will have to make their peace with the military courts, is that correct?

MR. GOODELL: When they come back they go to their service, the Army, Navy, Marine Corps, Air Force, or Coast Guard. The service makes only one -- well, really two basic decisions. One, are there other charges against them; and two, how long will their alternate service be.

There is an agreement signed, they are then given an undesirable discharge and referred to the Selective Service System. If they complete their alternate service satisfactorily, then they are eligible for a clemency discharge.

Q Senator, could I just get one thing straight. When this program was first announced, we were given a total figure of about 28,000, I think -- 15,500 in the draft resistance category, and 12,500 in the military desertion category.

Now is that the 12,500 that you were just talking about? Am I correct in presuming that this total rundown that you just gave us of the three categories has nothing to do with alternative service?

For those people, that is not an option for them; is that right? They are simply asking for an opportunity to present appeal of action taken against them and for you to act on that?

MR. GOODELL: That is correct. The figure of 28,000 would be basically correct if you are talking about those who are in the resistance category, both in the Federal courts and in the military. The deserters who are at large, roughly 12,500; the individuals who for draft resistance reasons are potentially indictable, convictable were 15,500.

But the 15,500 includes 8,700 who have been convicted. Those are now before the Clemency Board. They are not coming to the military or the U.S. Attorney for alternate service. They are coming to us for clemency.

So if you take your 28,000 figure, you are probably down to 19,300 or something of that nature who are now out there eligible for some kind of alternative service, either deserters or in the resistance category.

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Q I am sorry to pursue this further but the thing that I am confused about, when you use this large number of 206,000 or whatever, why would there be some people out there who have not come back through the system, as you put it, and who are not subject to some kind of investigation and prosecution in addition to this 6,800 figure that you are using? Why are we just talking about 6,800 people?

MR. GOODELL: That is what the Justice Department is talking about. They indicated there were some number of individuals who, for whatever reasons, were not indicted or where, after investigation, they felt there was not sufficient grounds to proceed, that they couldn't convict, and that could be in the category of those who did return and accept induction so the prosecutor said, "Go ahead. Serve your time now. We won't pursue it."

It could include those who were affected by the change in conscientious objector status. It could affect those whose status was changed by the change in the Selective Service law.

We have not had a breakdown on those yet. We don't know how many are in those categories. I am sorry. I can't answer how many there are.

Q Even in all these numbers, essentially you are still talking about the same total numbers?

MR. GOODELL: Exactly, but I am trying to give you a gross figure to give you an idea that we break down from there. We are trying to get the detailed breakdown of how many are actually in this category. I think it would be misleading to publish 206,000 as the potential number of people who are out there. It would be grossly misleading.

Q Senator, now that you have got that all cleared up, I wonder if you could give us your personal reaction to the Federal Judge's order freeing Lieutenant Calley?

MR. GOODELL: I have no reaction to that at this point. I haven't gone into it myself and it certainly isn't in our jurisdiction at this stage.

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I do have to get back to the board.

Q Could I just pursue that? Might not that have some effect on the thinking of the board as it approaches seeking justice?

MR. GOODELL: I have no idea whether it will or not.

THE PRESS: Thank you.

END (3:31 P.M. EDT)

