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THE WHITE HOUSE
WASHINGTON

September 4, 1974

MEMORANDUM FOR: JACK MARSH

FROM: AL HAIG



You may want to touch base with Bill Timmons
on this.



United States Senate

WASHINGTON, D.C. 20510

August 29, 1974

March
Good Thank you etc

The President
The White House
Washington, D.C.

Dear Mr. President:

I want to express again my appreciation for your thoughtfulness in calling me following my speech to the VFW last week. As a one-two combination on the subject of amnesty, I would say that we were less than wholly successful before that particular audience. Yet, I believe the vast majority of Americans around the nation listened with sympathy to your words on this subject. For they too sense that reconciliation is the precondition for the nation to move forward once again.

In continuing our discussion on amnesty, I believe our underlying views are identical as to why some form of amnesty should be extended now. My views on the extent and the type of amnesty which ultimately ought to be extended may differ from yours. However, we both are in agreement that amnesty is extended not to benefit those who were willing to endure jail or exile for their beliefs but to benefit the nation. The balance of competing national interests weighs more heavily on the side of reconciliation than on the side of vengeance. George Washington, both in declining to pursue or punish the thousands of men who deserted his army at Valley Forge and in proclaiming the first official amnesty for participants in the Whiskey Rebellion, established the precedent for such action.

As of last month, I understand that 8,954 young men have been convicted since FY 1964 for what we commonly term draft evasion. All but 120 of them have left federal penitentiaries. An undetermined number still are on probation. Yet all are classified as felons. That brand means a denial of civil rights and a variety of other barriers to reintegration into society including exclusion from public employment, and, in some states, prohibition from even holding a taxi license. Erasing that brand would be a firm step toward removing the barriers to national reconciliation.



Page 2
The President
August 29, 1974

Among that group there are two categories of individuals who have a special claim for such treatment. They are the 3,597 individuals convicted prior to the Supreme Court decision on January 31, 1970 in Gutknecht v. U.S. which held that punitive reclassifications by local draft boards were illegal, and the additional 480, a total of 4,077, who were convicted prior to the June 15, 1970 Supreme Court decision in Welsh v. U.S. which held that conscientious objectors did not have to have a religious basis for their pacifist beliefs. Many of the young men convicted before 1970 fall into those two categories. Yet the Justice Department has testified that it made no effort to inform prisoners of the effect of those decisions and it has described as administratively unworkable a re-examination now for the purpose of striking their convictions.

Beyond those who have been convicted there are, according to the most recent Justice Department statistics, some 2,250 cases which have been reported by the Selective Service System to U.S. attorneys' for investigation, 4,350 additional cases pending indictment as well as 4,060 fugitive cases where criminal charges have been filed.

I believe that these cases can be reduced somewhat using the date of the Vietnam peace agreement to distinguish those whose refusal to comply with regulations of the Selective Service System related to the Vietnam War. Essentially, I would urge that for draft evaders -- where there is not another crime involved -- the balance of interests is such that it is less important to prosecute than it is to prevent continued division within the nation. For that reason, I believe amnesty is desired. Many Americans would accept the hardship and suffering -- even though self-imposed -- which many of these young men already have suffered in defense of deep moral convictions as sufficient. Others, probably a majority, would urge instead that there be a further completion of some form of national service, "earned re-entry" as you described it. While I personally would agree with the former, I believe that a short period of alternate service is the most that should be required of individuals but with flexibility available in the choice of assignments to the individual and similar flexibility available to the administering agency -- which I would urge be a separate, broadly based and broadly representative special commission rather than the Selective Service System -- to reduce the period under special circumstances.



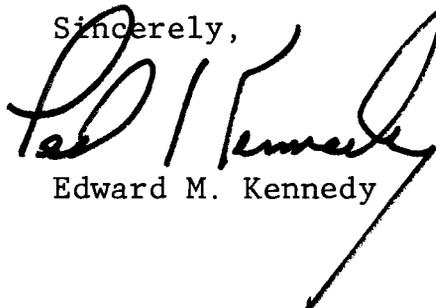
Page 3
The President
August 29, 1974

In the case of deserters, there is a more difficult situation. For the most part, opposition to the Vietnam War prompted young men to refuse the draft. It is not clear that the same high proportion exists among men classified as deserters. For that reason, for deserters, I would urge a case-by-case inquiry and where the record shows a reason other than opposition to Vietnam as being the cause of desertion, then I think the normal military justice procedure -- tempered hopefully by the spirit of reconciliation -- would take place.

There is a final category of individuals I would call to your attention. These are the several hundred thousand men who, during the Vietnam War years, received less than honorable discharges. In some cases, it can be shown that opposition to Vietnam was a major element in their cases. For example, there is some question as to the responsiveness of the military establishment to individuals claiming conscientious objector status during the Vietnam War. The resulting chain reaction of events often times led to the less than honorable discharge. I would hope that a review system might be established where the existence of this factor would warrant a change in their discharge status.

I would hope that these suggestions might be of assistance to you and I would be happy to be of whatever additional assistance you think desirable.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Kennedy", with a long, thin diagonal stroke extending downwards and to the right from the end of the signature.

Edward M. Kennedy

