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FOR IMMEDIATE RELEASE

SEPTEMBER 16, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
UPON SIGNING A PROCLAMATION
ANNOUNCING A PROGRAM FOR THE RETURN
OF VIETNAM-ERA DRAFT EVADERS
AND MILITARY DESERTERS

THE CABINET ROOM

11:21 A.M. EDT

Good morning.

In my first week as President, I asked the Attorney General and the Secretary of Defense to report to me, after consultation with other Governmental officials and private citizens, concerned on the status of those young Americans who have been convicted, charged, investigated or are still being sought as draft evaders or military deserters.

On August 19, at the National Convention of Veterans of Foreign Wars in the City of Chicago, I announced my intention to give these young people a chance to earn their return to the mainstream of American society so that they can, if they choose, contribute, even though belatedly, to the building and the betterment of our country and the world.

I did this for the simple reason that for American fighting men, the long and divisive war in Vietnam has been over for more than a year, and I was determined then, as now, to do everything in my power to bind up the Nation's wounds.

I promised to throw the weight of my Presidency into the scales of justice on the side of leniency and mercy, but I promised also to work within the existing system of military and civilian law and the precedents set by my predecessors who faced similar post-war situations, among them Abraham Lincoln and Harry S. Truman.

My objective of making future penalties fit the seriousness of each individual's offense and of mitigating punishment already meted out in a spirit of equity has proved an immensely hard and very complicated matter, even more difficult than I knew it would be.

MORE



But, the agencies of Government concerned, and my own staff, have worked with me literally night and day in order to develop fair and orderly procedures, and completed their work for my final approval over this last weekend.

I do not want to delay another day in resolving the dilemmas of the past so that we may all get going on the pressing problems of the present.

Therefore, I am today signing the necessary Presidential Proclamation and Executive Orders that will put this plan into effect.

The program provides for administrative disposition of cases involving draft evaders and military deserters not yet convicted or punished. In such cases, 24 months of alternate service will be required which may be reduced for mitigating circumstances.

The program also deals with cases of those already convicted by a civilian or military court. For the latter purpose, I am establishing a Clemency Review Board of nine distinguished Americans whose duty it will be to assist me in assuring that the Government's forgiveness is extended to applicable cases of prior convictions as equitably and as impartially as is humanly possible.

The primary purpose of this program is the reconciliation of all our people and the restoration of the essential unity of Americans within which honest differences of opinion do not descend to angry discord, and mutual problems are not polarized by excessive passion.

My sincere hope is that this is a constructive step toward a calmer and cooler appreciation of our individual rights and responsibilities and our common purpose as a Nation, whose future is always more important than its past.

At this point, I will sign the Proclamation that I mentioned in my statement, followed by an Executive Order for the establishment of the Clemency Board, followed by the signing of an Executive Order for the Director of the Selective Service, who will have a prime responsibility in the handling of the matters involving alternate service.

Thank you very much.

END (AT 11:27 A.M. EDT)

FACT SHEET

PROCEDURES TO BE FOLLOWED

UNCONVICTED DRAFT EVADER AND MILITARY ABSENTEE

DRAFT EVADER

Report to United States Attorney
where offense was committed

Acknowledge allegiance to the
United States by agreeing with the
United States Attorney to perform
24 months alternate service or less
based on mitigating circumstances

Perform alternate service under
the auspices of the Director of
Selective Service

Director of Selective Service
issues certificate of satis-
factory completion of alter-
nate service

Receipt by United States Attorney
of a certificate of satisfactory
completion of alternate service

Dismissal of indictment or
dropping of charges

MILITARY ABSENTEE
(including Coast Guard)

Report as prescribed by
the military department
concerned or for members
of the Coast Guard report
to the Secretary of
Transportation

Oath of Allegiance to
United States

Agree with the concerned
Military Department to
perform 24 months alternate
service or less based
upon mitigating
circumstances

Upon request, Military
Department forgoes prose-
cution, and issues
undesirable discharge

Perform alternate service
under the auspices of the
Director of Selective
Service

Director of Selective Service
issues certificate of satis-
factory completion of alter-
nate service

Receipt of a certificate of
satisfactory completion of
alternate service by the
concerned Military Department

Clemency discharge substituted
for undesirable discharge



CONVICTED DRAFT EVADER AND MILITARY ABSENTEE

DRAFT EVADER

MILITARY ABSENTEE
(including Coast Guard)

Apply to Clemency Board

Apply to Clemency Board

Clemency Board may recommend
clemency to the President

Clemency Board may recommend
clemency to the President,
including substitution of
a clemency discharge for a
punitive or undesirable
discharge

Clemency Board may condition
recommendation of clemency on
period of alternate service

Clemency Board may condition
recommendation of clemency on
period of alternate service

President may grant clemency

President may grant clemency,
including substitution of a
clemency discharge for a
punitive or undesirable
discharge

TOTALLY EMBARGOED
UNTIL 11:30 A.M. EDT

SEPTEMBER 16, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

DELEGATION OF CERTAIN FUNCTIONS VESTED IN THE
PRESIDENT TO THE DIRECTOR OF SELECTIVE SERVICE

By virtue of the authority vested in me as President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Director of Selective Service is designated and empowered, without the approval, ratification or other action of the President, under such regulations as he may prescribe, to establish, implement, and administer the program of alternate service authorized in the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 2. Departments and agencies in the Executive branch shall, upon the request of the Director of Selective Service, cooperate and assist in the implementation or administration of the Director's duties under this Order, to the extent permitted by law.

GERALD R. FORD

THE WHITE HOUSE,

September 16, 1974.

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EXECUTIVE ORDER

DELEGATION OF CERTAIN FUNCTIONS VESTED IN THE
PRESIDENT TO THE DIRECTOR OF SELECTIVE SERVICE

By virtue of the authority vested in me as President of the United States, as Commander in Chief and pursuant to my powers under Article II, Sections 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Director of Selective Service is designated and empowered, without the approval, ratification or other action of the President, under such regulations as he may prescribe, to establish, implement, and administer the program of alternate service authorized in the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 2. Departments and agencies in the Executive branch shall, upon the request of the Director of Selective Service, cooperate and assist in the implementation or administration of the Director's duties under this Order, to the extent permitted by law.



ANNOUNCING A PROGRAM FOR THE RETURN OF
VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The United States withdrew the last of its forces from the Republic of Vietnam on March 28, 1973.

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses. Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

Over a year after the last American combatant had left Vietnam, the status of thousands of our countrymen -- convicted, charged, investigated or still sought for violations of the Military Selective Service Act or of the Uniform Code of Military Justice -- remains unresolved.

In furtherance of our national commitment to justice and mercy these young Americans should have the chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an acknowledgement of their allegiance to the country and its Constitution.

Desertion in time of war is a major, serious offense; failure to respond to the country's call for duty is also a serious offense. Reconciliation among our people does not require that these acts be condoned. Yet, reconciliation calls for an act of mercy to bind the Nation's wounds and to heal the scars of divisiveness.



NOW, THEREFORE, I, Gerald R. Ford, President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, do hereby proclaim a program to commence immediately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. Draft Evaders - An individual who allegedly unlawfully failed under the Military Selective Service Act or any rule or regulation promulgated thereunder, to register or register on time, to keep the local board informed of his current address, to report for or submit to preinduction or induction examination, to report for or submit to induction itself, or to report for or submit to, or complete service under Section 6(j) of such Act during the period from August 4, 1964 to March 28, 1973, inclusive, and who has not been adjudged guilty in a trial for such offense, will be relieved of prosecution and punishment for such offense if he:

- (i) presents himself to a United States Attorney before January 31, 1975,
- (ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service, and
- (iii) satisfactorily completes such service.

The alternate service shall promote the national health, safety, or interest. No draft evader will be given the privilege of completing a period of alternate service by service in the Armed Forces.

However, this program will not apply to an individual who is precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law. Additionally, if individuals eligible for this program have other criminal charges outstanding, their participation in the program

may be conditioned upon, or postponed until after, final disposition of the other charges has been reached in accordance with law.

The period of service shall be twenty-four months, which may be reduced by the Attorney General because of mitigating circumstances.

2. Military Deserters - A member of the armed forces who has been administratively classified as a deserter by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964 to March 28, 1973, inclusive, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice for such absence and for offenses directly related thereto if before January 31, 1975 he takes an oath of allegiance to the United States and executes an agreement with the Secretary of the Military Department from which he absented himself or for members of the Coast Guard, with the Secretary of Transportation, pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service. The alternate service shall promote the national health, safety, or interest.

The period of service shall be twenty-four months, which may be reduced by the Secretary of the appropriate Military Department, or Secretary of Transportation for members of the Coast Guard, because of mitigating circumstances.

However, if a member of the armed forces has additional outstanding charges pending against him under the Uniform Code of Military Justice, his eligibility to participate in this program may be conditioned upon, or postponed until after, final disposition of the additional charges has been reached in accordance with law.

Each member of the armed forces who elects to seek relief through this program will receive an undesirable discharge. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department or Department of Transportation, such individual will be entitled to receive, in lieu of his undesirable discharge, a clemency discharge in recognition of his fulfillment of the requirements of the program. Such clemency discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Procedures of the Military Departments implementing this Proclamation will be in accordance with guidelines established by the Secretary of Defense, present Military Department regulations notwithstanding.

3. Presidential Clemency Board - By Executive Order I have this date established a Presidential Clemency Board which will review the records of individuals within the following categories: (i) those who have been convicted of draft evasion offenses as described above, (ii) those who have received a punitive or undesirable discharge from service in the armed forces for having violated Article 85, 86, or 87 of the Uniform Code of Military Justice between August 4, 1964 and March 28, 1973, or are serving sentences of confinement for such violations. Where appropriate, the Board may recommend that clemency be conditioned upon completion of a period of alternate service. However, if any clemency discharge is recommended, such discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

4. Alternate Service - In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Department, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under law, and

such other mitigating factors as may be appropriate to seek equity among those who participate in this program.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-ninth.

Office of the White House Press Secretary

THE WHITE HOUSE

ANNOUNCING A PROGRAM FOR THE RETURN OF
VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The United States withdrew the last of its forces from the Republic of Vietnam on March 28, 1973.

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses. Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

Over a year after the last American combatant had left Vietnam, the status of thousands of our countrymen -- convicted, charged, investigated or still sought for violations of the Military Selective Service Act or of the Uniform Code of Military Justice -- remains unresolved.

In furtherance of our national commitment to justice and mercy these young Americans should have the chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an acknowledgement of their allegiance to the country and its Constitution.

Desertion in time of war is a major, serious offense; failure to respond to the country's call for duty is also a serious offense. Reconciliation among our people does not require that these acts be condoned. Yet, reconciliation calls for an act of mercy to bind the Nation's wounds and to heal the scars of divisiveness.

NOW, THEREFORE, I, Gerald R. Ford, President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, do hereby proclaim a program to commence immediately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. Draft Evaders - An individual who allegedly unlawfully failed under the Military Selective Service Act or any rule or regulation promulgated thereunder, to register or register on time, to keep the local board informed of his current address, to report for or submit to preinduction or induction examination, to report for or submit to induction itself, or to report

more

for or submit to, or complete service under Section 6(j) of such Act during the period from August 4, 1964 to March 28, 1973, inclusive, and who has not been adjudged guilty in a trial for such offense, will be relieved of prosecution and punishment for such offense if he:

- (i) presents himself to a United States Attorney before January 31, 1975,
- (ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service, and
- (iii) satisfactorily completes such service.

The alternate service shall promote the national health, safety, or interest. No draft evader will be given the privilege of completing a period of alternate service by service in the Armed Forces.

However, this program will not apply to an individual who is precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law. Additionally, if individuals eligible for this program have other criminal charges outstanding, their participation in the program may be conditioned upon, or postponed until after, final disposition of the other charges has been reached in accordance with law.

The period of service shall be twenty-four months, which may be reduced by the Attorney General because of mitigating circumstances.

2. Military Deserters - A member of the armed forces who has been administratively classified as a deserter by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964 to March 28, 1973, inclusive, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice for such absence and for offenses directly related thereto if before January 31, 1975 he takes an oath of allegiance to the United States and executes an agreement with the Secretary of the Military Department from which he absented himself or for members of the Coast Guard, with the Secretary of Transportation, pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service. The alternate service shall promote the national health, safety, or interest.

The period of service shall be twenty-four months, which may be reduced by the Secretary of the appropriate Military Department, or Secretary of Transportation for members of the Coast Guard, because of mitigating circumstances.

However, if a member of the armed forces has additional outstanding charges pending against him under the Uniform Code of Military Justice, his eligibility to participate in this program may be conditioned upon, or postponed until after, final disposition of the additional charges has been reached in accordance with law.

more

Each member of the armed forces who elects to seek relief through this program will receive an undesirable discharge. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department or Department of Transportation, such individual will be entitled to receive, in lieu of his undesirable discharge, a clemency discharge in recognition of his fulfillment of the requirements of the program. Such clemency discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Procedures of the Military Departments implementing this Proclamation will be in accordance with guidelines established by the Secretary of Defense, present Military Department regulations notwithstanding.

3. Presidential Clemency Board - By Executive Order I have this date established a Presidential Clemency Board which will review the records of individuals within the following categories: (i) those who have been convicted of draft evasion offenses as described above, (ii) those who have received a punitive or undesirable discharge from service in the armed forces for having violated Article 85, 86, or 87 of the Uniform Code of Military Justice between August 4, 1964 and March 28, 1973, or are serving sentences of confinement for such violations. Where appropriate, the Board may recommend that clemency be conditioned upon completion of a period of alternate service. However, if any clemency discharge is recommended, such discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

4. Alternate Service - In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Department, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under law, and such other mitigating factors as may be appropriate to seek equity among those who participate in this program.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD

#

ANNOUNCING A PROGRAM FOR THE RETURN OF
VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The United States withdrew the last of its forces from the Republic of Vietnam on March 28, 1973.

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses. Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

Over a year after the last American combatant had left Vietnam, the status of thousands of our countrymen -- convicted, charged, investigated or still sought for violations of the Military Selective Service Act or of the Uniform Code of Military Justice -- remains unresolved.

In furtherance of our national commitment to justice and mercy these young Americans should have a second chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an acknowledgement of their allegiance to the country and its Constitution.

Desertion in time of war is a major, serious offense; failure to respond to the country's call for duty is also a serious offense. Reconciliation among our people does not require that these acts be condoned. Yet, reconciliation calls for an act of mercy to bind the Nation's wounds and to heal the scars of divisiveness.



NOW, THEREFORE, I, Gerald R. Ford, President of the United States, pursuant to my powers under Article II, Sections 2 and 3 of the Constitution, do hereby proclaim a program to commence immediately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. Draft Evaders - An individual who allegedly unlawfully failed under the Military Selective Service Act or any rule or regulation promulgated thereunder, to register or register on time, to keep the local board informed of his current address, to report for or submit to preinduction or induction examination, to report for or submit to induction itself, or to report for or submit to, or complete service under Section 6(j) of such Act during the period from August 4, 1964 to March 28, 1973, inclusive, and who has not been adjudged guilty in a trial for such offense, will be relieved of prosecution and punishment for such offense if he:

- (i) presents himself to a United States Attorney before January 31, 1975,
- (ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service, and
- (iii) satisfactorily completes such service. The alternate service shall promote the national health, safety, or interest.

However, the program will not apply to an individual who is precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law. Additionally, if individuals eligible for this program have other criminal charges outstanding, their participation in the program

may be conditioned upon, or postponed until after, final disposition of the other charges has been reached in accordance with law.

Draft evaders chose not to accept the responsibility of military service when their Nation called. Thus, no draft evader will be given the privilege of completing a period of alternate service by service in the Armed Forces.

The period of service shall be twenty-four months, which may be reduced by the Attorney General because of mitigating circumstances.

2. Military Deserters - A member of the military who has been administratively classified as a deserter by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964 to March 28, 1973, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice for such absence and for offenses directly related thereto if before January 31, 1975 he takes an oath of allegiance to the United States and executes an agreement with the Secretary of the Military Department from which he is absent pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service. The alternate service shall promote the national health, safety, or interest.

The period of service shall be twenty-four months, which may be reduced by the Secretary of the appropriate Military Department because of mitigating circumstances.

However, if a member of the military has additional outstanding charges pending against him under the Uniform Code of Military Justice, his eligibility to participate in this program may be conditioned upon, or postponed until after, final disposition of the additional charges has been reached in accordance with law.

Each such member of the military who elects to seek relief through this program will receive an undesirable discharge from military service. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department, such individual will be entitled to receive, in lieu of his undesirable discharge, a clemency discharge in recognition of his fulfillment of the requirements of the program. Such clemency discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Procedures of the Military Departments implementing this Proclamation will be in accordance with guidelines established by the Secretary of Defense, present Military Department regulations notwithstanding.

3. Presidential Clemency Board - By Executive Order I have this date established a Presidential Clemency Board which will review the records of individuals within the following categories: (i) those who have been convicted of draft evasion offenses as described above, (ii) those who have received a punitive or undesirable discharge from military service for having violated Article 85, 86, or 87 of the Uniform Code of Military Justice between August 4, 1964 and March 28, 1973, or are serving sentences of confinement for such violations. Where appropriate, the Board may recommend that clemency be conditioned upon completion of a period of alternate service. However, if any clemency discharge is recommended, such discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

4. Alternate Service - In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Military Departments, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under law, and

such other mitigating factors as may be appropriate to seek equity among those who participate in this program.

IN WITNESS WHEREOF, I have hereunto set my hand this day of September in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-ninth.

EXECUTIVE ORDER

ESTABLISHING A CLEMENCY BOARD TO REVIEW CERTAIN CONVICTIONS OF PERSONS UNDER SECTION 12 OR 6(j) OF THE MILITARY SELECTIVE SERVICE ACT AND CERTAIN DISCHARGES ISSUED BECAUSE OF, AND CERTAIN CONVICTIONS FOR, VIOLATIONS OF ARTICLE 85, 86 OR 87 OF THE UNIFORM CODE OF MILITARY JUSTICE AND TO MAKE RECOMMENDATIONS FOR EXECUTIVE CLEMENCY WITH RESPECT THERETO

By virtue of the authority vested in me as President of the United States by Section 2 of Article II of the Constitution of the United States, and in the interest of the internal management of the Government, it is ordered as follows:

Section 1. There is hereby established in the Executive Office of the President a board of 9 members, which shall be known as the Presidential Clemency Board. The members of the Board shall be appointed by the President, who shall also designate its Chairman.

Sec. 2. The Board, under such regulations as it may prescribe, shall examine the cases of persons who apply for Executive clemency prior to January 31, 1975, and who (i) have been convicted of violating Section 12 or 6(j) of the Military Selective Service Act (50 App. U.S.C. §462), or of any rule or regulation promulgated pursuant to that section, for acts committed between August 4, 1964 and March 28, 1973, inclusive, or (ii) have received punitive or undesirable discharges as a consequence of violations of Article 85, 86 or 87 of the Uniform Code of Military Justice (10 U.S.C. §§ 885, 886, 887) that occurred between August 4, 1964 and March 28, 1973, inclusive, or are serving sentences of confinement for such violations. The Board will only consider the cases of Military Selective Service Act violators who were convicted or unlawfully failing (i) to register or register on time, (ii) to keep the local board informed of their current address, (iii) to report for or submit to preinduction or induction examination, (iv) to report for



or submit to induction itself, or (v) to report for or submit to, or complete service under Section 6(j) of such Act. However, the Board will not consider the cases of individuals who are precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law.

Sec. 3. The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such clemency should take, including clemency conditioned upon a period of alternate service in the national interest. In the case of an individual discharged from the armed forces with a punitive or undesirable discharge, the Board may recommend to the President that a clemency discharge be substituted for a punitive or undesirable discharge. Determination of any period of alternate service shall be in accord with the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 4. The Board shall give priority consideration to those applicants who are presently confined and have been convicted only of an offense set forth in section 2 of this order, and who have no outstanding criminal charges.

Sec. 5. Each member of the Board, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Board at not to exceed the daily rate now or hereafter prescribed by law for persons and positions in GS-18, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service employed intermittently.

Sec. 6. Necessary expenses of the Board may be paid from the Unanticipated Personnel Needs Fund of the President or from such other funds as may be available.

Sec. 7. Necessary administrative services and support may be provided the Board by the General Services Administration on a reimbursable basis.

Sec. 8. All departments and agencies in the Executive branch are authorized and directed to cooperate with the Board in its work, and to furnish the Board all appropriate information and assistance, to the extent permitted by law.

Sec. 9. The Board shall submit its final recommendations to the President not later than December 31, 1976, at which time it shall cease to exist.

THE WHITE HOUSE,

September 16, 1974.

EXECUTIVE ORDER

DELEGATION OF CERTAIN FUNCTIONS VESTED IN THE
PRESIDENT TO THE DIRECTOR OF SELECTIVE SERVICE

By virtue of the authority vested in me as President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Director of Selective Service is designated and empowered, without the approval, ratification or other action of the President, under such regulations as he may prescribe, to establish, implement, and administer the program of alternate service authorized in the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 2. Departments and agencies in the Executive branch shall, upon the request of the Director of Selective Service, cooperate and assist in the implementation or administration of the Director's duties under this Order, to the extent permitted by law.

THE WHITE HOUSE,

September 16, 1974.

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

ESTABLISHING A CLEMENCY BOARD TO REVIEW CERTAIN CONVICTIONS OF PERSONS UNDER SECTION 12 OR 6(j) OF THE MILITARY SELECTIVE SERVICE ACT AND CERTAIN DISCHARGES ISSUED BECAUSE OF, AND CERTAIN CONVICTIONS FOR, VIOLATIONS OF ARTICLE 85, 86 OR 87 OF THE UNIFORM CODE OF MILITARY JUSTICE AND TO MAKE RECOMMENDATIONS FOR EXECUTIVE CLEMENCY WITH RESPECT THERETO

By virtue of the authority vested in me as President of the United States by Section 2 of Article II of the Constitution of the United States, and in the interest of the internal management of the Government, it is ordered as follows:

Section 1. There is hereby established in the Executive Office of the President a board of 9 members, which shall be known as the Presidential Clemency Board. The members of the Board shall be appointed by the President, who shall also designate its Chairman.

Sec. 2. The Board, under such regulations as it may prescribe, shall examine the cases of persons who apply for Executive clemency prior to January 31, 1975, and who (i) have been convicted of violating Section 12 or 6(j) of the Military Selective Service Act (50 App. U.S.C. §462), or of any rule or regulation promulgated pursuant to that section, for acts committed between August 4, 1964 and March 28, 1973, inclusive, or (ii) have received punitive or undesirable discharges as a consequence of violations of Article 85, 86 or 87 of the Uniform Code of Military Justice (10 U.S.C. §§ 885, 886, 887) that occurred between August 4, 1964 and March 28, 1973, inclusive, or are serving sentences of confinement for such violations. The Board will only consider the cases of Military Selective Service Act violators who were convicted or unlawfully failing (i) to register or register on time, (ii) to keep the local board informed of their current address, (iii) to report for or submit to preinduction or induction examination, (iv) to report for or submit to induction itself, or (v) to report for or submit to, or complete service under Section 6(j) of such Act. However, the Board will not consider the cases of individuals who are precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law.

Sec. 3. The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such

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clemency should take, including clemency conditioned upon a period of alternate service in the national interest. In the case of an individual discharged from the armed forces with a punitive or undesirable discharge, the Board may recommend to the President that a clemency discharge be substituted for a punitive or undesirable discharge. Determination of any period of alternate service shall be in accord with the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 4. The Board shall give priority consideration to those applicants who are presently confined and have been convicted only of an offense set forth in section 2 of this order, and who have no outstanding criminal charges.

Sec. 5. Each member of the Board, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Board at not to exceed the daily rate now or hereafter prescribed by law for persons and positions in GS-18, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service employed intermittently.

Sec. 6. Necessary expenses of the Board may be paid from the Unanticipated Personnel Needs Fund of the President or from such other funds as may be available.

Sec. 7. Necessary administrative services and support may be provided the Board by the General Services Administration on a reimbursable basis.

Sec. 8. All departments and agencies in the Executive branch are authorized and directed to cooperate with the Board in its work, and to furnish the Board all appropriate information and assistance, to the extent permitted by law.

Sec. 9. The Board shall submit its final recommendations to the President not later than December 31, 1976, at which time it shall cease to exist.

GERALD R. FORD

THE WHITE HOUSE,

September 16, 1974.

FACT SHEET

PRESIDENTIAL CLEMENCY BOARD

The President has today established by Executive Order a nine member Presidential Clemency Board. The Board will review the records of two kinds of applicants. First, those who have been convicted of a draft evasion offense committed between August 4, 1964 and March 28, 1973, inclusive. Second, those who received a punitive or undesirable discharge from the armed forces because of a military absentee offense committed during the Vietnam era or are serving sentences of confinement for such violations. The Board will recommend clemency to the President on a case-by-case basis. In the absence of aggravating factors, the Clemency Board would be expected to recommend clemency.

When appropriate, the Board could recommend clemency conditioned upon the performance of some alternate service. In the case of a military absentee, the Board could also recommend that a clemency discharge be substituted for a punitive or undesirable discharge.

The Board has been instructed to give priority consideration to individuals currently confined. The President has also asked that their confinement be suspended as soon as possible, pending the Board's review.

The Board will consider the cases only of persons who apply before January 31, 1975. It is expected to complete its work not later than December 31, 1976.



TOTALLY EMBARGOED
UNTIL 11:30 A.M., EDT

SEPTEMBER 16, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

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FACT SHEET

PROGRAM FOR THE RETURN OF VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

The President has today issued a Proclamation and Executive Orders establishing a program of clemency for draft evaders and military deserters to commence immediately. This program has been formulated to permit these individuals to return to American society without risking criminal prosecution or incarceration for qualifying offenses if they acknowledge their allegiance to the United States and satisfactorily serve a period of alternate civilian service.

The program is designed to conciliate divergent elements of American society which were polarized by the protracted period of conscription necessary to sustain United States activities in Vietnam. Thus, only those who were delinquent with respect to required military service between the date of the Tonkin Gulf Resolution (August 4, 1964) and the date of withdrawal of United States forces from Vietnam (March 28, 1973) will be eligible. Further, only the offenses of draft evasion and prolonged unauthorized absence from military service (referred to hereinafter as desertion) are covered by the program.

Essential features of the program are outlined below.

1. Number of Draft Evaders. There are approximately 15,500 draft evaders potentially eligible. Of these some 8,700 have been convicted of draft evasion. Approximately 4,350 are under indictment at the present time, of whom some 4,060 are listed as fugitives. An estimated 3,000 of these are in Canada. A further 2,250 individuals are under investigation with no pending indictments. It is estimated that approximately 130 persons are still serving prison sentences for draft evasion.

2. Number of Military Deserters. Desertion, for the purposes of this program, refers to the status of those members of the armed forces who absented themselves from military service without authorization for thirty days or more. During the Vietnam era it is estimated that there were some 500,000 incidents of desertion as so defined. Of this 500,000 a number were charged with offenses other than desertion at the time they absented themselves. These other offenses are not within the purview of the clemency program for deserters. Approximately 12,500 of the deserters are still at large of whom about 1,500 are in Canada. Some 660 deserters are at present serving sentences to confinement or are awaiting trial under the Uniform Code of Military Justice.

3. Unconvicted Evader. Draft evaders will report to the U.S. Attorney for the district in which they allegedly committed their offense.

Draft evaders participating in this program will acknowledge their allegiance to the United States by agreeing with the United States Attorney to perform alternate service under the auspices of the Director of Selective Service.

The duration of alternate service will be 24 months, but may be reduced for mitigating factors as determined by the Attorney General.

The Director of Selective Service will have the responsibility to find alternate service jobs for those who report. Upon satisfactory completion of the alternate service, the Director will issue a certificate of satisfactory completion to the individual and U.S. Attorney, who will either move to dismiss the indictment if one is outstanding, or agree not to press possible charges in cases where an indictment has not been returned.



If the draft evader fails to perform the agreed term of alternate service, the U.S. Attorney will be free to, and in normal circumstances will, resume prosecution of the case as provided in the terms of the agreement.

Aliens who fled the country to evade the draft will be ineligible to participate in the program.

4. Unconvicted Military Absentees. Military absentees who have no other pending charges may elect to participate in the program. Military deserters may seek instructions by writing to:

- (a). ARMY - U.S. Army Deserter Information Point,
Fort Benjamin Harrison, Indiana 46216
- (b). NAVY - Chief of Naval Personnel, (Pers 83),
Department of the Navy, Washington, D.C. 20370
- (c). AIR FORCE - U.S. Air Force Deserter Information
Point, (AFMDC/DPMAC) Randolph Air Force Base,
Texas 78148
- (d). MARINE CORPS - Headquarters, U.S. Marine Corps, (MC)
Washington, D.C. 20380

Those who make such an election will be required to execute a reaffirmation of allegiance and pledge to perform a period of alternate civilian service. Those against whom other charges under the Uniform Code of Military Justice are pending will not be eligible to participate in the program until these other charges are disposed of in accordance with the law. Participants in the program will be separated with an undesirable discharge. Although these discharges will not be coded on their face in any manner, the Veterans Administration will be advised that the recipients were discharged for willful and persistent unauthorized absence. They will thus not be eligible for any benefits provided by the Veterans Administration.

The length of required alternate civilian service will be determined by the parent Services for each individual on a case-by-case basis. The length of service will be 24 months, but may be reduced for military service already completed or for other mitigating factors as determined by the parent Service. After being discharged each individual will be referred to the Director of Selective Service for assignment to prescribed work. Upon certification that this work has been satisfactorily completed, the individual may submit the certification to his former Service. The Service will then issue a special new type of discharge -- a Clemency Discharge -- which will be substituted for the previously awarded undesirable discharge. However, the Clemency Discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

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- (a) National Health, Safety or Interest.
- (b) Noninterference with the competitive labor market. The applicant cannot be assigned to a job for which there are more numerous qualified applicants than jobs available.
- (c) Compensation. The compensation will provide a standard of living to the applicant reasonably comparable to the standard of living the same man would enjoy if he were entering the military service.

(d) Skill and talent utilization. Where possible, an applicant may utilize his special skills.

In prescribing the length of alternate service in individual cases, the Attorney General, the Military Department, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under the law, and such other mitigating factors as may be appropriate to seek equity among participants in the program.

6. No Grace Period. There will not be a grace period for those outside the country to return and negotiate for clemency with the option of again fleeing the jurisdiction. All those eligible for the program and who have no additional criminal charges outstanding who re-enter the United States will have fifteen days to report to the appropriate authority from the date of their re-entry. However, this fifteen day period shall not extend the final date of reporting of January 31, 1975 as set forth in the Proclamation.

7. Inquiries. Telephone inquiries may be made to the following authorities:

Evaders:	Department of Justice:	(202) 739-4281
Military Absentees:	U.S. Navy:	(202) 694-2007 (202) 694-1936
	U.S. Marine Corps:	(703) 694-8926.
	U.S. Army:	(317) 542-2722 (317) 542-2791 (317) 542-2482
	U.S. Air Force:	(512) 652-4104
	U.S. Coast Guard:	(202) 426-1830

September 16, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

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[9/2/74]

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- b. NAVY - Chief of Naval Personnel, Arlington Annex, Arlington, Virginia 20370
- c. AIR FORCE - Commanding Officer, Personnel Center, Randolph Air Force Base, Texas 78148
- d. MARINE CORPS - Commandant, U. S. Marine Corps, Arlington Annex, Arlington, Virginia 20380

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EMBARGOED FOR RELEASE
UNTIL 11:30 A.M.

SEPTEMBER 16, 1974

FL
"Amnesty"

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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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.

MORE

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.

MORE

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?

MORE

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.

MORE

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.

MORE

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?

MORE

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.

MORE

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.

MORE

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.

MORE

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 --

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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)