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presidential documents

Title 3—The President

PROCLAMATION 4313

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 acknowledgment 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 immedi-



THE PRESIDENT

ately 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 pre-induction 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 Jus-

tice, 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.

Amel R. Ford

[FR Doc.74-21742 Filed 9-16-74;12:47 pm]

EXECUTIVE ORDER 11803

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 Articles 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 of 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.

Gerald R. Ford

THE WHITE HOUSE,
September 16, 1974.

[FR Doc.74-21743 Filed 9-16-74;12:47 pm]



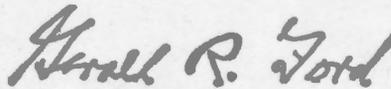
EXECUTIVE ORDER 11804

**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.

[FR Doc.74-21744 Filed 9-16-74;12:48 pm]



SEP 17 1974

MEMORANDUM FOR The Secretaries of the Military Departments

SUBJECT: Implementation of Presidential Proclamation No. 4313
of September 16, 1974

For the purpose of implementing Presidential Proclamation No. 4313
of September 16, 1974, the following instructions are provided:

1. Return to Military Control

- a. Military absentees seeking the benefits of the President's program will be required to return to military control as a condition of participation.
- b. The Secretaries of the Military Departments will establish and announce procedures whereby absentees may make initial contact with military authorities by mail or telephone to establish their eligibility for the program and obtain reporting instructions.

2. Centralized Clemency Processing Center

- a. The Secretary of the Army shall designate a centralized Clemency Processing Center to be utilized by all Services. The Army will provide facilities, medical, communications and logistic support for all Services on a reimbursable basis.
- b. Each Military Service will establish a Clemency Processing Unit at the site designated by the Secretary of the Army which will be responsible for the administrative processing of its own returnees.



3. Returnee Processing

- a. An enlisted member who meets the eligibility criteria established in the Proclamation (Enclosure 1) will be provided the opportunity to request discharge for the good of the service in accordance with the provisions of DoD Directive 1332.14 (Paragraphs VII. K. and VIII. D. 5).

The minimum requirements for the issuance of such a discharge under this program will be in accordance with DoD Directive 1332.14, as follows:

- (1) The member submits a resignation or a request for a discharge for the good of the service;
- (2) The member's prior conduct, which is the basis of his eligibility for the program, renders him triable by court-martial under circumstances which could lead to a punitive discharge.
- (3) No formal charges and specifications will be necessary, but the member must be advised that his prior conduct is characterized as a willful and persistent unauthorized absence;
- (4) The member has been afforded an opportunity to consult counsel and certifies in writing his understanding that he will receive a discharge under other-than-honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof;

The request for discharge will specifically indicate that it is submitted pursuant to the Presidential Proclamation. All requests submitted by eligible members will be approved. The separation will be under conditions other than honorable unless otherwise directed. (See Paragraph V. A. 5., DoD Directive 1332.14).



- b. Officer and warrant officer personnel who meet the eligibility criteria established in the Proclamation will be provided the opportunity to tender a resignation in lieu of trial by court-martial. The letter of resignation will indicate that it is submitted pursuant to the Presidential Proclamation.

The minimum requirements for the acceptance of a resignation under this program will be as follows:

- (1) The member's prior conduct, which is the basis of his eligibility for the program, renders him triable by court-martial under circumstances which could lead to a dismissal;
- (2) No formal charges and specifications will be necessary, but the member must be advised that his prior conduct is characterized as a willful and persistent unauthorized absence;
- (3) The member has been afforded an opportunity to consult counsel and certifies in writing his understanding that he will be separated under other-than-honorable conditions and that he understands the adverse nature of such a separation and the possible consequences thereof.

All resignations meeting the foregoing requirements which are submitted by eligible officers and warrant officers will be approved. The separation will be under conditions other than honorable unless otherwise directed by the Secretary concerned.

- c. Members eligible for participation in this program who are currently awaiting trial will be provided the opportunity to request discharge or tender a resignation as appropriate. Any such member who is in confinement will be released therefrom.



d. Members returning to military control and who are eligible to participate in the program will not be placed in confinement.

4. Former members punitively discharged pursuant to sentence of a court-martial or separated with an undesirable discharge

Former members who:

- have been dismissed from the service or discharged with a dishonorable or bad conduct discharge pursuant to the sentence of a court-martial imposed upon conviction of an absentee offense (10 U. S. C. § 885, 886, and 887) or other purely military offense directly related thereto committed during the qualifying period, or
- were separated with an undesirable discharge based on an act or acts committed during the qualifying period which rendered the member subject to trial by court-martial for an absentee offense (10 U. S. C. § 885, 886, and 887) or other purely military offense directly related thereto

may apply to the Presidential Clemency Board prior to 31 January 1975 for an examination of their case. The Board will be empowered to recommend to the President that a Clemency Discharge be issued and to qualify such recommendation with a requirement for alternate service in appropriate cases. The Military Departments will not participate either in this review process or in monitoring performance of alternate service.

5. Members or former members serving a sentence to confinement

A member or a former member serving a sentence to confinement based upon conviction of an absentee offense (10 U. S. C. § 885, 886, and 887) committed during the qualifying period or other purely military offense directly related thereto may apply to the Presidential Clemency Board prior to 31 January 1975 for an examination of his case. The Board will be empowered to



recommend clemency in such cases. Where a member or former member makes such an application, and where his sentence to confinement is based solely on qualifying offenses, his sentence to confinement should be suspended pending the Board's review.

6. Alternate Service

- a. The period of alternate service for military members who apply under the President's program will be determined in individual cases by the Secretary of the Military Department concerned or his designee. The period will be indicated in the agreement signed by the individual as a condition of eligibility for the President's program. The period of alternate service will normally be twenty-four (24) months, but may be reduced in appropriate cases. Factors which will be considered in determining the existence of an appropriate case are as follows:
- (1) length of satisfactory service completed prior to absence
 - (2) length of service in Southeast Asia in hostile fire zone
 - (3) awards and decorations received
 - (4) wounds incurred in combat
 - (5) nature of employment during the period of absence
 - (6) such additional guidelines as experience indicates appropriate and which are promulgated by future memorandums
- b. Members separated under this program will be notified that they must report to their State Director of Selective Service within 15 days of the date of receipt of discharge to arrange for performance of alternate service.

7. Members against whom other offenses are pending

Members who would otherwise be eligible for consideration under the Proclamation, but against whom other offenses under the



Uniform Code of Military Justice are pending, will not be eligible to participate in the foregoing programs until the final disposition of such other offenses in accordance with the law and Service regulations.

8. Members who fail to meet the eligibility criteria

Members who fail to meet the eligibility criteria or fail or refuse to execute the required documents, or decline to submit requests for discharge or letters of resignation, as appropriate, remain subject to trial by court-martial or administrative disposition in accordance with existing law and regulation.

9. Records and accounting

- a. Statistical records accounting will be accomplished in accordance with the provisions of DoD Directive 5000.12M, Manual for Standard Data Elements, 1 March 1970, as changed. The appropriate computer designators for Separation Type and the specific Separation Reason as noted below will be entered on Service retained copies of DD Form 214. The reason for separation shall be "Separation for the good of the service by reason of a willful and persistent unauthorized absence, pursuant to Presidential Proclamation No. 4313 abbreviation SEP-PRES PROC, data code NL. The copy for Veterans Administration and the Selective Service System will contain only the narrative type of separation and reason for separation. All copies of the DD Form 214 will have entered in the remarks section the following statement:
"Subject member has agreed to serve _____ months alternate service pursuant to Presidential Proclamation No. 4313."
Those military services which have not implemented Change 10 to DoD Directive 5000.12M will establish appropriate documentation and accounting procedures consistent with the respective type of separation and the exact wording of the reason for separation.
- b. Military Departments will establish procedures to recognize the alternate service by issuance of the Clemency Discharge certificate DD Form 1953 (Enclosure 2) which is established



by this memorandum pursuant to Presidential Proclamation No. 4. Such certificates will be issued only upon receipt of certification of satisfactory completion of alternate service by the Selective Service System. Procedures should also include issuance of a DD Form 215, "Correction of DD Form 214, Armed Forces of the United States Report of Transfer or Discharge," reflecting the reason for separation as stated above and noting the issuance of the DD Form 1953 (Enclosure 2). The DD Form 215 should be included in the master military personnel record.

- c. Service Secretaries will submit reports on a monthly basis at the end of each calendar month to OASD(M&RA)(MPP) by the 10th of the following month. Reports will include information specified in Enclosure 3.

10. Public Affairs Guidance

Because of the overriding national interest in the President's announcement on clemency procedures for draft evaders and military deserters, the Assistant Secretary of Defense (Public Affairs) is responsible for direction and coordination of all public affairs activities concerning deserters, discharges and clemency. Maximum information will be disseminated to the public while at the same time giving due consideration of the rights of the individual. The Clemency Processing Center (CPC) will be manned by representatives of all the Military Departments, and the CPC information chief will report directly to the ASD(PA) for all public affairs matters.

Public affairs guidance, recommendations and accompanying Service implementing instructions to all commands, will be coordinated in advance with OASD(PA).

James R. Ables

Enclosures



Enclosure 1

Conditions of Eligibility Pursuant to Presidential Proclamation No. 4313

1. Unauthorized absence in violation of Article 85, 86, or 87, or other purely military offense directly related thereto under the Uniform Code of Military Justice, commenced during the period August 4, 1964, through March 28, 1973.

2. Other pending offenses under the Uniform Code of Military Justice have been finally disposed of in accordance with law.

3. The member reported to military authorities in a manner prescribed by the Military Department concerned not later than 31 January 1975.

4. The member has executed a statement or statements reaffirming his allegiance and pledging to perform a specified period of alternate service.

Attached to this enclosure are form statements for use by the Military Departments in securing the reaffirmation of allegiance, admission of absence, and pledge to perform alternate service. These forms may be modified or combined with other documents for ease of administration provided the substantive content is retained.



Attachment to Enclosure 1

PLEDGE TO COMPLETE ALTERNATE SERVICE

On or about _____, I voluntarily absented myself from my military unit without being properly authorized in contravention of the oath taken upon entering the nation's military service. Recognizing that my obligations as a citizen remain unfulfilled, I am ready to serve in whatever alternate service my country may prescribe for me, and pledge to faithfully complete a period of _____ months service.

REAFFIRMATION OF ALLEGIANCE

I, _____, 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 without any mental reservation or purpose of evasion.



CLEMENCY DISCHARGE

FROM THE ARMED FORCES OF THE
UNITED STATES OF AMERICA

THIS IS TO CERTIFY THAT

WAS DISCHARGED FROM THE
UNITED STATES

ON THE DAY OF

THIS CERTIFICATE IS ISSUED ON THE DAY OF
IN RECOGNITION OF SATISFACTORY COMPLETION OF ALTERNATE
SERVICE PURSUANT TO PRESIDENTIAL PROCLAMATION NO. 4313
SEPTEMBER , 1974.



* UNCLASSIFIED *

DEPARTMENT OF ARMY
PENTAGON TELECOMMUNICATIONS CENTER

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TO ALARACT

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UNCLAS

ALARACT 024/74

SUBJ: IMPLEMENTATION GUIDANCE FOR THE PRESIDENT'S PROGRAM FOR THE RETURN OF MILITARY DESERTERS

1. REF: PRESIDENT'S PROCLAMATION OF 16 SEPTEMBER 1974.

2. THIS MESSAGE PROVIDES POLICY GUIDANCE FOR THE IMPLEMENTATION OF THE PRESIDENT'S PROGRAM AND IS EFFECTIVE UPON RECEIPT. THE SECRETARY OF THE ARMY DESIRES THAT THE PROGRAM BE FULLY SUPPORTED IN THE SPIRIT AS WELL AS THE LETTER OF THE PROCLAMATION.

3. THE GENERAL CONCEPT OF THE PROGRAM IS AS FOLLOWS:

A. THE DESERTER WILL BE ENCOURAGED TO MAKE INITIAL CONTACT WITH THE RESPECTIVE SERVICE CLEMENCY INFORMATION POINT BY REGISTERED MAIL OR TELEPHONE AND WILL RECEIVE REPORTING INSTRUCTIONS.

B. THERE WILL BE A JOINT CLEMENCY PROCESSING CENTER LOCATED AT FT BEN HARRISON, IND, FOR THE PROCESSING OF RETURNEES FROM ALL SERVICES.

C. PERSONNEL ELIGIBLE FOR THE PRESIDENT'S PROGRAM ARE THOSE INDIVIDUALS CARRIED ADMINISTRATIVELY AS DESERTERS WHO MEET THE FOLLOWING CRITERIA.

(1) THE LAST PERIOD OF ABSENCE BEGAN ON OR BETWEEN THE DATES OF 4 AUGUST 1964 AND 28 MARCH 1973.

(2) THERE ARE NO MILITARY OFFENSES PENDING OTHER THAN VIOLATION OF THE UCMJ, ARTICLE 85,86, AND 87 OR MILITARY OFFENSES DIRECTLY RELATED THERETO.

D. THE ENLISTED DESERTER WILL BE GIVEN THE OPPORTUNITY TO APPLY FOR AN UNDESIRABLE DISCHARGE AFTER HE AGREES TO THE PERFORMANCE OF ALTERNATE SERVICE AND SIGNS A REAFFIRMATION OF ALLEGIANCE.

E. THE OFFICER DESERTER WILL BE ALLOWED TO RESIGN IN LIEU OF TRIAL BY COURT-MARTIAL AFTER HE AGREES TO THE PERFORMANCE OF ALTERNATE SERVICE AND SIGNS A REAFFIRMATION OF ALLEGIANCE.

F. THE REQUIRED PERIOD OF ALTERNATE SERVICE WILL BE DETERMINED BY

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* UNCLASSIFIED *

DEPARTMENT OF ARMY
PENTAGON TELECOMMUNICATIONS CENTER

- THE JOINT ALTERNATE SERVICE BOARD ON A CASE BY CASE BASIS.
4. AT NO TIME WILL THE DESERTER WHO IS ELIGIBLE FOR THE PROGRAM BE PLACED UNDER GUARD OR IN CONFINEMENT UNLESS HE COMMITS AN OFFENSE SUBSEQUENT TO HIS RETURN TO MILITARY CONTROL.
 5. SPECIAL INSTRUCTIONS ON THE RETROACTIVE APPLICATION OF THE PRESIDENT'S PROGRAM WILL BE SENT BY SEPARATE MESSAGE TO INCLUDE INSTRUCTIONS ON THE RELEASE OF THOSE NOW IN CONFINEMENT.
 6. IN THE EVENT A DESERTER WHO MEETS THE CRITERIA OF PARAGRAPH 3C TURNS HIMSELF IN AT A MILITARY INSTALLATION DAD/MARC/MISSION THE FOLLOWING WILL APPLY:
 - A. NOTIFY THE RESPECTIVE SERVICE CLEMENCY INFORMATION POINT BY THE MOST DIRECT MEANS AVAILABLE, AS TO THE INDIVIDUAL'S NAME, GRADE, SSAN/ SERVICE NUMBER, DATE HIS UNAUTHORIZED ABSENCE BEGAN, DUTY STATION AT TIME ABSENCE BEGAN, AND PLACE AND DATE OF BIRTH. THE RETURNEE WILL COMPLETE A RECORD OF EMERGENCY DATA (A COPY OF THE RECORD OF EMERGENCY DATA SHOULD BE FORWARDED WITH THE INDIVIDUAL TO THE PROCESSING CENTER). THE RESPECTIVE SERVICE CLEMENCY INFORMATION POINT WILL PROVIDE REPORTING INSTRUCTIONS. THE RESPECTIVE POINTS ARE AS FOLLOWS:
 - (1) ARMY. US ARMY CLEMENCY INFORMATION POINT, FT BEN HARRISON, IN, 46216 (COMMERCIAL PHONE (317) 542-3417. AUTOVON 699-3417).
 - (2) NAVY. CHIEF OF NAVAL PERSONNEL (PERS 83). DEPARTMENT OF THE NAVY, WASHINGTON, DC 20320. (COMMERCIAL PHONE (202) 694-2007. AUTOVON 224 2007).
 - (3) MARINE CORPS. HEADQUARTERS, US MARINE CORPS (CODE NCTV, WASHINGTON, D.C. 20380. (COMMERCIAL PHONE (202) 694-8526. AUTOVON 224 8526)
 - (4) AIRFORCE. U.S. AIR FORCE CLEMENCY INFORMATION POINT (AFMPC/ DPMAC) RANDOLPH AIR FORCE BASE, TX 78148. (COMMERCIAL PHONE (512) 652-4104. AUTOVON 487-4104).
 - B. THE DESERTER WILL NOT BE ISSUED UNIFORMS EXCEPT FOR MAINTENANCE OF BASIC HEALTH AND WELFARE PURPOSES.
 - C. ELIGIBLE DESERTERS RETURNING TO MILITARY CONTROL WILL NOT BE REQUIRED TO CONFORM TO MILITARY STANDARDS OF APPEARANCE AND WILL BE TREATED WITH COURTESY COMMENSURATE WITH THE PRESIDENT'S PROCLAMATION.
 - D. IF THE RETURNING DESERTER ARRIVES WITH DEPENDENTS, INSTALLATION PERSONNEL SHOULD ASSIST IN THE LOCATION OF NON-GOVERNMENT ACCOMMODATIONS.
 - E. IF THE RETURNING DESERTER AND/OR HIS DEPENDENTS ARE IN NEED OF IMMEDIATE MEDICAL CARE, SUCH CARE SHOULD BE PROVIDED.
 - F. THE RESPECTIVE SERVICE CLEMENCY INFORMATION POINT WILL PROVIDE



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INSTRUCTIONS FOR THE HANDLING OF SPECIAL CASES.

7. ALL DESERTERS WHO DO NOT MEET THE CRITERIA OF PARAGRAPH 3 WILL BE PROCESSED IN IAW CURRENT PROCEDURES.

8. PUBLIC AFFAIRS GUIDANCE

A. BECAUSE OF THE OVERRIDING NATIONAL INTEREST IN THE PRESIDENT'S ANNOUNCEMENT ON CLEMENCY PROCEDURES FOR DRAFT EVADERS AND MILITARY DESERTERS, THE ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS) IS RESPONSIBLE FOR DIRECTION AND COORDINATION OF ALL PUBLIC AFFAIRS ACTIVITIES CONCERNING DESERTERS, DISCHARGES AND CLEMENCY. MAXIMUM INFORMATION WILL BE DISSEMINATED TO THE PUBLIC WHILE AT THE SAME TIME GIVING DUE CONSIDERATION OF THE RIGHTS OF THE INDIVIDUAL. THE CLEMENCY PROCESSING CENTER (CPC) WILL BE MANNED BY REPRESENTATIVES OF ALL THE MILITARY DEPARTMENTS, AND THE CPC INFORMATION CHIEF WILL REPORT DIRECTLY TO THE ASD (PA) FOR ALL PUBLIC AFFAIRS MATTERS.

B. ALL PERSONNEL WHO WILL HAVE DIRECT CONTACT WITH DESERTERS MUST HAVE AN UNDERSTANDING OF POSSIBLE PUBLIC AFFAIRS PROBLEMS AND A THOROUGH FAMILIARIZATION WITH PUBLIC AFFAIRS GUIDANCE CONTAINED HEREIN. ACCORDINGLY, THE RESPONSIBLE COMMANDER SHALL INITIATE PROCEDURES FOR BRIEFING SUCH PERSONNEL.

C. THE INTERVIEWING AND PHOTOGRAPHING OF DESERTERS BY NEWS MEDIA AFTER THEIR RETURN TO MILITARY CONTROL IS PERMITTED UNDER THE FOLLOWING CONDITIONS.

(1) THE DESERTER GIVES HIS PERSONAL CONSENT. DESERTERS SHOULD BE ADVISED THAT THEY DO NOT HAVE TO AGREE TO SUCH INTERVIEWS AND PHOTOGRAPHS.

(2) THE INTERVIEW/PHOTOGRAPHING DOES NOT INTERFERE WITH THE EFFICIENT AND ORDERLY PROCESSING OF THE DESERTER.

D. MILITARY PERSONNEL AND PUBLIC AFFAIRS OFFICERS SHOULD NOT ATTEMPT TO PROVIDE OFFICIAL COMMENTS OR SPECULATION.

E. QUERIES REGARDING THE NUMBER OF DESERTERS PROCESSING THROUGH AN INSTALLATION MAY BE ANSWERED, HOWEVER, THE NAMES OF DESERTERS MAY NOT BE RELEASED WITHOUT THEIR PERSONAL CONSENT.

F. QUERIES RECEIVED CONCERNING DRAFT EVADERS WILL BE REFERRED TO THE DEPARTMENT OF JUSTICE (AC 202-739-4281).

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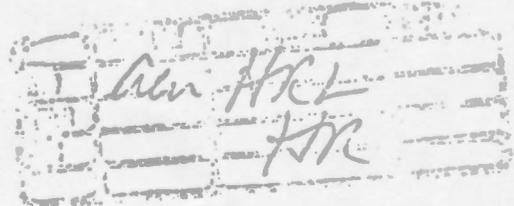
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JNCLAS SJA PASS TO SUBORDINATE COURT MARTIAL JURISDICTION
SUBJECT: RETROACTIVE APPLICATION OF THE PRESIDENT'S PROGRAM FOR
MILITARY DESERTERS

1. THE FOLLOWING INFORMATION AND GUIDANCE ARE PROVIDED TO ASSIST IN PROCESSING CASES WHICH MAY HAVE BEEN DISPOSED OF, OR UPON WHICH DISPOSITION HAS BEEN INITIATED, PRIOR TO THE EFFECTIVE DATE OF THE PRESIDENT'S PROGRAM.
2. JURISDICTIONS PROCESSING COURT-MARTIAL CASES IN WHICH CHARGES HAVE BEEN REFERRED OR ARE BEING PREPARED SOLELY FOR THE OFFENSES OF DESERTION (ARTICLE 85, UCMJ), ABSENCE WITHOUT LEAVE (ARTICLE 86), OR MISSING MOVEMENT (ARTICLE 87), OR OTHER PURELY MILITARY OFFENSES DIRECTLY RELATED THERETO, OCCURRING DURING THE PERIOD 4 AUGUST 1964 THROUGH 28 MARCH 1973, WILL TAKE ACTION AS INDICATED HEREIN.
3. CHARGES REFERRED OR BEING PREPARED - NO REFERRAL FOR TRIAL:
 - A. ALL PROCESSING OF CHARGES FOR OFFENSES LISTED IN PARAGRAPH 2 ABOVE WILL BE SUSPENDED FOR A REASONABLE PERIOD OF TIME (NOT TO EXCEED 2 WEEKS) FOR THE PURPOSE OF AFFORDING THE INDIVIDUAL ACCUSED THE OPPORTUNITY TO PARTICIPATE IN SUBJECT PROGRAM.
 - B. UPON RECEIPT OF A WRITTEN REQUEST FROM THE INDIVIDUAL FOR DELAY IN HIS CASE TO PARTICIPATE IN THE PROGRAM, THE PROCESSING OF CHARGES WILL BE SUSPENDED PURSUANT TO 3A ABOVE AND THE INDIVIDUAL ACCUSED WILL BE RELEASED FROM ANY PRETRIAL CONFINEMENT AND TRANSFERRED TO FORT BENJAMIN HARRISON, INDIANA, FOR PROCESSING BY THE CLEMENCY PROCESSING CENTER. CHARGE SHEETS AND ALLIED PAPERS RELATING TO THE CASE WILL BE TRANSMITTED TO THE OFFICE OF THE STAFF JUDGE ADVOCATE, FORT BENJAMIN HARRISON, FOR DISPOSITION. THE SJA, FORT BENJAMIN HARRISON, WILL BE ADVISED BY ELECTRICAL MESSAGE OF THE TRANSMISSION OF THE CHARGE SHEETS AND RELATED DOCUMENTS.
4. IN THE CASE OF INDIVIDUALS AGAINST WHOM CHARGES AS ENUMERATED IN PARAGRAPH 2 4A HAVE BEEN REFERRED AND REFERRED FOR TRIAL, THE INDIVIDUAL ACCUSED MAY ALSO PARTICIPATE IN SUBJECT PROGRAM UPON HIS



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PENTAGON TELECOMMUNICATIONS CENTER

WRITTEN REQUEST TO PARTICIPATE AND FOR A DELAY IN HIS TRIAL. UPON RECEIPT OF SUCH A REQUEST, THE CHARGES SHOULD BE WITHDRAWN FROM THE COURT TO WHICH THEY HAVE BEEN REFERRED IN ACCORDANCE WITH PARAGRAPH 56, MCM, 1969 (REV) AND FORWARDED WITH RELATED DOCUMENTS (TO INCLUDE A DETAILED STATEMENT OF THE REASON FOR WITHDRAWAL OF CHARGES TO THE SJA, FORT BENJAMIN HARRISON AS INDICATED IN PARAGRAPH 33 ABOVE. THE INDIVIDUAL ACCUSED SHOULD BE RELEASED BY THE CONVENING AUTHORITY (C/A) FROM ANY CONFINEMENT AND TRANSFERRED TO FORT BENJAMIN HARRISON FOR PROCESSING BY THE CLEMENCY PROCESSING CENTER.

5. IN THE CASE OF INDIVIDUALS WHO HAVE BEEN CHARGED WITH AN OFFENSE SPECIFIED IN PARAGRAPH 2 ABOVE, WHOSE CHARGES HAVE BEEN REFERRED FOR TRIAL, AND WHOSE TRIAL HAS PROCEEDED TO ARRAIGNMENT, THE ACCUSED MAY PARTICIPATE IN THE PROGRAM. UPON THE RECEIPT OF A WRITTEN REQUEST FROM THE ACCUSED FOR WITHDRAWAL OF THE CHARGES AND A DELAY FOR THE PURPOSE OF BEING ALLOWED TO PARTICIPATE, THE CONVENING AUTHORITY SHOULD WITHDRAW THE CHARGES FROM THE COURT TO WHICH THEY HAVE BEEN REFERRED IN ACCORDANCE WITH PARAGRAPH 56, MCM, 1969 (REV), CAUSE THE ACCUSED TO BE RELEASED FROM CONFINEMENT (IF APPLICABLE), AND TRANSFERRED TO FORT BENJAMIN HARRISON FOR PROCESSING BY THE CLEMENCY PROCESSING CENTER. THE COURT-MARTIAL CHARGES AND ALL REQUIRED DOCUMENTS AND RECORDS, TO INCLUDE A DETAILED STATEMENT OF THE REASONS FOR WITHDRAWAL OF THE CHARGES, SHOULD BE FORWARDED TO THE SJA OFFICE, FORT BENJAMIN HARRISON, AS OUTLINED IN PARAGRAPH 3 ABOVE.

6. INDIVIDUALS WHO HAVE BEEN TRIED AND CONVICTED BY COURT-MARTIAL FOR AN OFFENSE OR OFFENSES LISTED IN PARAGRAPH 2 ABOVE, AND WHO ARE IN CONFINEMENT, WILL BE RELEASED FROM CONFINEMENT IN THE FOLLOWING SITUATIONS:

A. AN INDIVIDUAL DESCRIBED IN 6 ABOVE WITH AN ADJUDGED (EITHER EXECUTED OR UNEXECUTED) PUNITIVE DISCHARGE WILL BE RELEASED FROM CONFINEMENT UPON HIS APPLICATION TO THE PRESIDENTIAL CLEMENCY BOARD PRIOR TO 31 JANUARY 1975 FOR AN EXAMINATION OF HIS CASE.

B. IF AN INDIVIDUAL AS DESCRIBED IN 6 ABOVE IS IN CONFINEMENT AND HAS NO DISCHARGE ADJUDGED, HE WILL BE RELEASED FROM CONFINEMENT UPON HIS APPLICATION TO THE PRESIDENTIAL CLEMENCY BOARD PRIOR TO 31 JANUARY 1975 AND RETURNED TO DUTY.

C. IN ALL SUCH CASES (PARA 6, ABOVE) THE EXECUTED PORTION OF ANY SENTENCE TO CONFINEMENT WILL BE SUSPENDED BY A SUPPLEMENTARY COURT-MARTIAL ORDER.

7. INDIVIDUALS WHO HAVE BEEN TRIED AND CONVICTED FOR AN OFFENSE OR OFFENSES LISTED IN PARAGRAPH 2 ABOVE, WHO HAVE BEEN SENTENCED TO BE DISCHARGED BUT WHO ARE NOT IN CONFINEMENT AND WHO ARE AWAITING



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THE COMPLETION OF APPELLATE REVIEW, MAY APPLY TO THE PRESIDENTIAL CLEMENCY BOARD PRIOR TO 31 JANUARY 1975 FOR AN EXAMINATION OF HIS CASE.

B. THE FOREGOING SHALL NOT APPLY TO CASES INVOLVING INDIVIDUALS WITH OFFENSES IN ADDITION TO THOSE LISTED IN PARAGRAPH 2.

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SUBJ: RETROACTIVE APPLICATION OF THE PRESIDENT'S PROGRAM FOR
MILITARY DESERTERS

FOR SJA. PASS TO SUBORDINATE COURT-MARTIAL JURISDICTIONS

A. DA MSG DTD 162351Z SEP 74, SUBJ AS ABOVE.

1. DUE TO TRANSMISSION ERROR, CHANGE PARAGRAPH 6C FROM "EXECUTED
PORTION OF ANY SENTENCE" TO "UNEXECUTED PORTION OF ANY SENTENCE".

2. ADD PARAGRAPH 9. "FORMER MEMBERS WHO:

A. HAVE BEEN DISMISSED FROM THE SERVICE OR DISCHARGED WITH A
DISHONORABLE OR BAD CONDUCT DISCHARGE PURSUANT TO THE SENTENCE OF
A COURT-MARTIAL IMPOSED UPON CONVICTION OF AN ABSENTEE OFFENSE (10
U.S.C. SEC 885, 886, AND 887) OR OTHER PURELY MILITARY OFFENSE
DIRECTLY RELATED THERETO COMMITTED DURING THE QUALIFYING PERIOD, OR
B. WERE SEPARATED WITH AN UNDESIRABLE DISCHARGE BASED ON AN ACT OR
ACTS COMMITTED DURING THE QUALIFYING PERIOD WHICH RENDERED THE
MEMBER SUBJECT TO TRIAL BY COURT-MARTIAL FOR AN ABSENTEE OFFENSE
(10 U.S.C. SEC 885, 886, AND 887) OR OTHER PURELY MILITARY OFFENSE
DIRECTLY RELATED THERETO MAY APPLY TO THE PRESIDENTIAL CLEMENCY
BOARD PRIOR TO 31 JANUARY 1975 FOR AN EXAMINATION OF THEIR CASE
THE BOARD WILL BE EMPOWERED TO RECOMMEND TO THE PRESIDENT THAT
A CLEMENCY DISCHARGE BE ISSUED AND TO QUALIFY SUCH RECOMMENDATION
WITH A REQUIREMENT FOR ALTERNATE SERVICE IN APPROPRIATE CASES. THE
MILITARY DEPARTMENTS WILL NOT PARTICIPATE EITHER IN THIS REVIEW
PROCESS OR IN MONITORING PERFORMANCE OF ALTERNATE SERVICE. THE
FOREGOING SHALL NOT APPLY TO CASES INVOLVING INDIVIDUALS WITH
OFFENSES IN ADDITION TO THOSE LISTED IN PARAGRAPH 2."

3. IN PARAGRAPH 6C DELETE THE WORD "SUPPLEMENTARY".

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TO RUCLAIA/CDR, TRADOC FT MONROE VA
INFO RUWTFHA/CMDT, USDB, FT LEAVENWORTH, KS
BT

UNCLAS

SUBJ: RELEASE FROM CONFINEMENT PURSUANT TO APPLICATION TO
PRESIDENTIAL CLEMENCY BOARD

A. DA MSG DTD 162351Z SEP 74, SUBJ; RETROACTIVE APPLICATION OF THE
PRESIDENT'S PROGRAM FOR MILITARY DESERTERS

1. THE RECORDS OF ALL ARMY INMATES AT THE USDB SHOULD BE
SCREENED TO DETERMINE THOSE INDIVIDUALS WHO ARE PRESENTLY
IN CONFINEMENT SOLELY UPON CONVICTION FOR THE OFFENSES OF
DESERTION (ARTICLE 85, UCMJ), AWOL (ARTICLE 86, UCMJ),
MISSING MOVEMENT (ARTICLE 87, UCMJ), OR OTHER PURELY MILITARY
OFFENSE DIRECTLY RELATED THERETO, IF THE LAST SUCH OFFENSE
WAS COMMITTED DURING THE PERIOD 4 AUGUST 1964 THROUGH 28 MARCH
1973. THOSE INDIVIDUALS ARE ELIGIBLE TO PETITION THE
PRESIDENTIAL CLEMENCY BOARD, OLD EXECUTIVE OFFICE BUILDING,
THE WHITE HOUSE, WASHINGTON, D.C. 20500, FOR EXECUTIVE
CLEMENCY UNDER THE EXECUTIVE ORDER OF SEPTEMBER 16, 1974
"ESTABLISHING A CLEMENCY BOARD TO REVIEW CERTAIN CON-
VICTIONS 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."

2. ELIGIBLE INDIVIDUALS, AS DETERMINED IN PARAGRAPH 1
ABOVE, SHOULD BE INFORMED OF THEIR ELIGIBILITY TO APPLY FOR
EXECUTIVE CLEMENCY AND THAT THEY WILL BE RELEASED FROM
CONFINEMENT ON TEMPORARY HOME PAROLE IAW PARAGRAPH 3-5, AR 190-
4, UPON THEIR SUBMISSION OF AN APPLICATION TO THE PRESIDENTIAL
CLEMENCY BOARD. PENDING RECEIPT OF DETAILED INFORMATION
FROM THE PRESIDENTIAL CLEMENCY BOARD REGARDING THE FORMAT FOR
APPLICATIONS, USE OF THE FOLLOWING FORMAT IS SUGGESTED:
"PRESIDENTIAL CLEMENCY BOARD

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DEPARTMENT OF ARMY
PENTAGON TELECOMMUNICATIONS CENTER

OLD EXECUTIVE OFFICE BUILDING
THE WHITE HOUSE
WASHINGTON, D. C. 20500
GENTLEMEN:

I WAS TRIED BY A (TYPE) COURT-MARTIAL AT (PLACE)
ON (DATE). I WAS CONVICTED OF (STATE ALL OFFENSES AND
DATES). THE COURT-MARTIAL SENTENCED ME (TO BE DISCHARGED
FROM THE SERVICE WITH A (TYPE OF DISCHARGE) DISCHARGE), TO
BE CONFINED AT HARD LABOR FOR (YEARS) (MONTHS),
(TO FORFEIT ALL PAY AND ALLOWANCES) (TO FORFEIT PAY
PER MONTH FOR (NUMOER) MONTHS), (AND TO BE REDUCED TO
(STATE RANK AND GRADE TO WHICH REDUCED).
(THE CONVENING AUTHORITY APPROVED MY SENTENCE ON (DATE).)
(IN HIS ACTION ON (DATE) THE CONVENING AUTHORITY APPROVED
ONLY SO MUCH OF THE SENTENCE AS PROVIDES FOR (SET FORTH
ACTION OF CA).) (THE CONVENING AUTHORITY HAS NOT TAKEN
HIS INITIAL ACTION IN MY CASE). I HEREBY REQUEST THAT
THE PRESIDENTIAL CLEMENCY BOARD REVIEW MY CASE, AND URGE
THAT THE BOARD RECOMMEND CLEMENCY TO THE PRESIDENT.
THIS INITIAL REQUEST FOR CLEMENCY IS SUBMITTED IN ORDER
THAT THE CLEMENCY BOARD MAY CONSIDER MY CASE AT ITS
EARLIEST CONVENIENCE. IF ADDITIONAL INFORMATION IS
REQUIRED, OR A SPECIFIC PROCEDURE FOR APPLYING TO THE
BOARD IS ESTABLISHED, PLEASE CONTACT ME AT MY PERMANENT
HOME ADDRESS: (SET FORTH PERMANENT HOME ADDRESS). I
FURTHER REQUEST THAT AN INFORMATION COPY OF ALL CORRES-
PONDENCE BE PROVIDED TO THE COMMANDANT, U.S. DISCIPLINARY
BARRACKS, FORT LEAVENWORTH, KS 66027.
SINCERELY,

(NAME, RANK, SSAN)"

THE APPLICANT SHOULD ALSO BE ADVISED OF HIS RIGHT TO
INCLUDE ANY OTHER STATEMENT HE WISHES IN HIS APPLICATION.
3. INDIVIDUALS RELEASED ON TEMPORARY HOME PAROLE AS
A RESULT OF THIS PROGRAM SHOULD BE RELEASED INITIALLY FOR
A 30-DAY PERIOD. THOSE RELEASED SHOULD BE ADVISED, HOWEVER,
THAT THE PERIOD OF TEMPORARY HOME PAROLE MAY BE EXTENDED
TELEPHONICALLY FOR ADDITIONAL 30-DAY PERIODS AS REQUIRED
FOR THE BOARD TO COMPLETE ITS ACTION UPON AN APPLICATION.
THE INDIVIDUAL RELEASED SHOULD BE ADVISED EITHER OF THE
TOLL-FREE NJMBER WHICH HE MAY TELEPHONE, OR OF THE NUMBER
WHICH HE MAY CALL COLLECT, FOR AN EXTENSION OF HIS PERIOD

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OF PAROLE.

4. IF AN INDIVIDUAL DOES NOT WISH TO APPLY TO THE CLEMENCY BOARD, HE SHOULD BE REQUIRED TO EXECUTE A STATEMENT TO THAT EFFECT, ACKNOWLEDGING THAT HE MAY CHANGE HIS MIND AND SUBMIT AN APPLICATION AT ANY TIME PRIOR TO 31 JANUARY 1975.

5. IT IS REQUESTED THAT YOU ALSO SCREEN YOUR RECORDS TO DETERMINE THE NAME OF EVERY INDIVIDUAL WHO HAS BEEN RELEASED FROM CONFINEMENT ON EXCESS LEAVE TO AWAIT COMPLETION OF APPELLATE REVIEW AND SUBSEQUENT EXECUTION OF A PUNITIVE DISCHARGE. EACH SUCH INDIVIDUAL WHO WAS CONVICTED OF AN OFFENSE AS SPECIFIED IN PARAGRAPH 1 ABOVE, SHOULD BE ADVISED OF HIS RIGHT TO PETITION THE PRESIDENTIAL CLEMENCY BOARD PRIOR TO 31 JANUARY 1975 FOR REVIEW OF HIS CASE. A COPY OF THAT LETTER MUST BE PLACED IN THE 201 FILE OF EACH INDIVIDUAL SO ADVISED.

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DCSLOG	ACSI	1	CHIEF OF STAFF		COORDINATION	CONTACT OFFICER	
COA	AC3C-E		SECRETARY OF THE ARMY			LTC Johnson	
CRD	TAG		S OF A				

REFERENCE SYMBOL: **DAPE-HRL**
 SUBJECT: **Implementation Guidance, Disposition of Deserters Returned to Military Control Under Presidential Program of Reconciliation**
 DATE: **13 SEP 1974**

IMPLICATIONS (Implications checked are involved in this action, are discussed below or in a separate inclosure, and have been considered in final recommendation.)
 ARMY PROGRAM MANPOWER SECURITY CONGRESSIONAL
 BUDGET PUBLIC RELATIONS MORALE LEGAL NONE

PURPOSE To forward a proposed LOI to implement the President's Proclamation of Clemency for U.S. Army deserters.

DISCUSSION.
 1. The unique and sensitive nature of the President's Proclamation requires the establishment of specific policy to ensure that implementation will be both within the law and in keeping with the spirit of the Proclamation.
 2. The concept and responsibilities for program implementation are contained on pages 1-3 of the cover letter at Red Tab A.
 3. The proposed LOI has been coordinated with OCLL, OASA (M&RA), and Office of the Army General Counsel.

RECOMMENDATION: That CSA approve the proposed LOI at Red Tab A.

COORDINATION:
 DCSLOG - Concur LTC Cofani TSG-Concur, LTC Ellingson CAR-Concur, COL Williams
 COA-Concur, LTC Brown TJAG-Concur, COL Tenhet OCE-Concur, LTC McMullen
 ACSI-Concur, LTC Watson TIG-Concur, LTC DCSOPS-Concur, LTC Fields
 TAG-Concur, COL Minix NGB-Concur, Mr. Hill MILPERCEN-Concur,
 CCH-Concur LTC Alexander CINFO-Concur, COL Chase LTC Barnhart

FOR THE DEPUTY CHIEF OF STAFF FOR PERSONNEL:

M.C. Ross

M. C. ROSS
 Major General, GS
 Director of Human Resources
 Development

1 Incl
 as



APPROVED - OCSA
 18 SEP 1974

William J. Barnhart
 WILLIAM J. BARNHART
 LTC, GS
 Assistant to Director
 of the Army Staff



DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
WASHINGTON, D.C. 20310

HQDA Ltr

REPLY TO
ATTENTION OF:

DAPE-HR DAAG-AMO-P

18 September 1974

SUBJECT: LOI - Implementation of Presidential Proclamation No. 4313,
16 September 1974

SEE DISTRIBUTION

1. References:

- a. Presidential Proclamation #4313 (Annex A).
- b. Memorandum, OSD, 17 September 1974, subject as above (Annex B).
- c. DA Message 161901Z Sep 74

2. PURPOSE. To provide policy guidance on the President's Program for the return of Army deserters.

3. GENERAL. In order to provide an opportunity for deserters to work their way back into American society, the President has announced a program of clemency. The Secretary of the Army desires that the program be fully supported in the spirit as well as the letter of the proclamation. The Army will establish a Joint Clemency Processing Center at Fort Benjamin Harrison, Indiana, 46216, to be used by all services. Each military service will establish its own clemency processing unit at Fort Benjamin Harrison.

4. CLEMENCY PROGRAM.

a. ELIGIBLE PERSONNEL: All individuals who are carried administratively as deserters (i.e. in an AWOL status for a period longer than 30 days) and who meet the following criteria are eligible under the President's Proclamation.

(1) The last period of absence began on or between the dates of 4 August 1964 and 28 March 1973.

(2) There are no military charges pending for crimes other than violation of the UCMJ, Articles 85, 86, and 87 or other pending military offenses directly related thereto.

DAPE-HR DAAG-AMO-P

SUBJECT: LOI - Implementation of Presidential Proclamation No. 4313,
16 September 1974

b. PROCEDURES FOR RETURN TO MILITARY CONTROL:

(1) The deserter will be encouraged to make initial contact with the U.S. Army Clemency Information Point (USACIP), FT Benjamin Harrison by registered mail to determine his eligibility for the Program. A reply will be sent indicating his eligibility and with reporting instructions if he is eligible. If he is not eligible, he will be told why (e.g., his date of desertion is other than the required period/he has other charges pending) and receive instructions on how to return to military control under the normal procedures.

(2) In the event the deserter turns himself in at an Army installation/activity, the personnel at the installation/activity will contact the USACIP by phone to determine eligibility. If eligible, the individual will receive reporting instructions. If not, he will be processed IAW the present system.

(3) At no time will the deserter who is eligible for the Program be placed under guard or in confinement unless he commits an offense subsequent to his return to military control.

5. INDIVIDUAL OPTIONS.

a. Eligible enlisted deserters will be given the opportunity to request discharge for the good of the service.

b. Enlisted deserters will also be given the opportunity to apply for and in certain cases be restored to duty.

c. Eligible officer deserters will be given the opportunity to tender a resignation in lieu of trial by court-martial. All such tendered resignations will be accepted.

d. Any deserter who refuses to accept the terms of the President's Program will be processed in accordance with the present system.

6. ALTERNATE SERVICE. The required period of alternate service will be determined by the Joint Alternate Service Board on a case by case basis, at FT Benjamin Harrison. After the individual successfully completes his alternate service, he will be entitled to receive a Clemency Discharge Certificate.

7. RETROACTIVE APPLICATION (See Annex D).

DAPE-HR DAAG-AMO-P

SUBJECT: LOI - Implementation of Presidential Proclamation No. 4313,
16 September 1974

8. RESPONSIBILITIES.

a. DCSPER, DA will exercise staff supervision of the President's Program.

b. Commander, TRADOC will administer the Joint Clemency Processing Center at FT Benjamin Harrison.

c. Commanders, FORSCOM, US Army Communications Command and Health Services Command will support Commander, TRADOC as required.

d. Commander, US Army Intelligence Agency. See Annex E.

e. CDR, MILPERCEN will maintain a program monitoring point within US Army Enlisted Records Center (USAERC) on a 24 hour basis, to:

(1) Respond to inquiries from the field concerning the initial processing of individuals eligible for participation in the program, prior to the individual's movement to the Clemency Processing Center.

(2) Maintain statistical data on individuals in the program, for HQDA.

(3) Submit end of month status report to DAPE-HR no later than the 8th of the following month (for format see Inclosure 3 to Annex B).

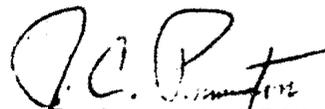
g. The Commander, FT Benjamin Harrison, Indiana, is hereby authorized to accept resignations and accomplish discharges of all eligible members under this program. An eligible member who satisfies the procedural requirements of this program may be immediately discharged under other than honorable conditions notwithstanding the current directives and regulations concerning administrative discharges and resignations issued by the Department of the Army.

9. DETAILED GUIDANCE.

A. Direct coordination between CDR, TRADOC and Program representatives from the US Navy, US Marine Corps, and US Air Force is authorized.

b. See Annexes

BY ORDER OF THE SECRETARY OF THE ARMY:



J. C. PENNINGTON
Brigadier General, USA
Acting The Adjutant General

9 Incls

1. Annex A - Presidential Proclamation No. 4313

2. Annex B - Secretary of Defense Memorandum, 16 Sep 74

DAPE-HR DAAG-AMO-P

SUBJECT: LOI - Implementation of Presidential Proclamation No. 4313,
16 September 1974

3. Annex C - Personnel
4. Annex D - Retroactive Application
5. Annex E - Intelligence
6. Annex F - Law and Order
7. Annex G - Information
8. Annex H - Joint Alternate Service Board
9. Annex I - Procedures to Recognize Alternate Service (to be published).

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ANNEX A

PRESIDENTIAL PROCLAMATION NO. 4313, 16 Sep 1974



ANNEX A

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 4313

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 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. (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.

GERALD R. FORD

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ANNEX B

SECRETARY OF DEFENSE MEMO 17 Sep 74



SEP 17 1974

MEMORANDUM FOR The Secretaries of the Military Departments

SUBJECT: Implementation of Presidential Proclamation No. 4313
of September 16, 1974

For the purpose of implementing Presidential Proclamation No. 4313
of September 16, 1974, the following instructions are provided:

1. Return to Military Control

- a. Military absentees seeking the benefits of the President's program will be required to return to military control as a condition of participation.
- b. The Secretaries of the Military Departments will establish and announce procedures whereby absentees may make initial contact with military authorities by mail or telephone to establish their eligibility for the program and obtain reporting instructions.

2. Centralized Clemency Processing Center

- a. The Secretary of the Army shall designate a centralized Clemency Processing Center to be utilized by all Services. The Army will provide facilities, medical, communications and logistic support for all Services on a reimbursable basis.
- b. Each Military Service will establish a Clemency Processing Unit at the site designated by the Secretary of the Army which will be responsible for the administrative processing of its own returnees.



3. Returnee Processing

- a. An enlisted member who meets the eligibility criteria established in the Proclamation (Enclosure 1) will be provided the opportunity to request discharge for the good of the service in accordance with the provisions of DoD Directive 1332.14 (Paragraphs VII. K. and VIII. D. 5).

The minimum requirements for the issuance of such a discharge under this program will be in accordance with DoD Directive 1332.14, as follows:

- (1) The member submits a resignation or a request for a discharge for the good of the service;
- (2) The member's prior conduct, which is the basis of his eligibility for the program, renders him triable by court-martial under circumstances which could lead to a punitive discharge.
- (3) No formal charges and specifications will be necessary, but the member must be advised that his prior conduct is characterized as a willful and persistent unauthorized absence;
- (4) The member has been afforded an opportunity to consult counsel and certifies in writing his understanding that he will receive a discharge under other-than-honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof.

The request for discharge will specifically indicate that it is submitted pursuant to the Presidential Proclamation. All requests submitted by eligible members will be approved. The separation will be under conditions other than honorable unless otherwise directed. (See Paragraph V. A. 5., DoD Directive 1332.14).



- b. Officer and warrant officer personnel who meet the eligibility criteria established in the Proclamation will be provided the opportunity to tender a resignation in lieu of trial by court-martial. The letter of resignation will indicate that it is submitted pursuant to the Presidential Proclamation.

The minimum requirements for the acceptance of a resignation under this program will be as follows:

- (1) The member's prior conduct, which is the basis of his eligibility for the program, renders him triable by court-martial under ~~the same conditions~~ which could lead to a dismissal;
- (2) No formal charges and specifications will be necessary, but the member must be advised that his prior conduct is characterized as a willful and persistent unauthorized absence;
- (3) The member has been afforded an opportunity to consult counsel and certifies in writing his understanding that he will be separated under other-than-honorable conditions and that he understands the adverse nature of such a separation and the possible consequences thereof.

All resignations meeting the foregoing requirements which are submitted by eligible officers and warrant officers will be approved. The separation will be under conditions other than honorable unless otherwise directed by the Secretary concerned.

- c. Members eligible for participation in this program who are currently awaiting trial will be provided the opportunity to request discharge or tender a resignation as appropriate. Any such member who is in confinement will be released therefrom.



d. Members returning to military control and who are eligible to participate in the program will not be placed in confinement.

4. Former members punitively discharged pursuant to sentence of a court-martial or separated with an undesirable discharge

Former members who:

- have been dismissed from the service or discharged with a dishonorable discharge pursuant to the sentence of a court-martial imposed upon conviction of an absentee offense (10 U. S. C. § 885, 886, and 887) or other purely military offense directly related thereto committed during the qualifying period, or
- were separated with an undesirable discharge based on an act or acts committed during the qualifying period which rendered the member subject to trial by court-martial for an absentee offense (10 U. S. C. § 885, 886, and 887) or other purely military offense directly related thereto

may apply to the Presidential Clemency Board prior to 31 January 1975 for an examination of their case. The Board will be empowered to recommend to the President that a Clemency Discharge be issued and to qualify such recommendation with a requirement for alternate service in appropriate cases. The Military Departments will not participate either in this review process or in monitoring performance of alternate service.

5. Members or former members serving a sentence to confinement

A member or a former member serving a sentence to confinement based upon conviction of an absentee offense (10 U. S. C. § 885, 886, and 887) committed during the qualifying period or other purely military offense directly related thereto may apply to the Presidential Clemency Board prior to 31 January 1975 for an examination of his case. The Board will be empowered to



recommend clemency in such cases. Where a member or former member makes such an application, and where his sentence to confinement is based solely on qualifying offenses, his sentence to confinement should be suspended pending the Board's review.

6. Alternate Service

a. The period of alternate service for military members who apply under the President's program will be determined in individual cases by the Secretary of the Military Department concerned or his designee. The period will be indicated in the agreement signed by the individual as a condition of eligibility for the President's program. The period of alternate service will normally be twenty-four (24) months, but may be reduced in appropriate cases. Factors which will be considered in determining the existence of an appropriate case are as follows:

- (1) length of satisfactory service completed prior to absence
- (2) length of service in Southeast Asia in hostile fire zone
- (3) awards and decorations received
- (4) wounds incurred in combat
- (5) nature of employment during the period of absence
- (6) such additional guidelines as experience indicates appropriate and which are promulgated by future memorandums

b. Members separated under this program will be notified that they must report to their State Director of Selective Service within 15 days of the date of receipt of discharge to arrange for performance of alternate service.

7. Members against whom other offenses are pending

Members who would otherwise be eligible for consideration under the Proclamation, but against whom other offenses under the



Uniform Code of Military Justice are pending, will not be eligible to participate in the foregoing programs until the final disposition of such other offenses in accordance with the law and Service regulations.

8. Members who fail to meet the eligibility criteria

Members who fail to meet the eligibility criteria or fail or refuse to execute the required documents, or decline to submit requests for discharge or letters of resignation, as appropriate, remain subject to trial by court-martial or administrative disposition in accordance with existing law and regulation.

9. Records and accounting

- a. Statistical records accounting will be accomplished in accordance with the provisions of DoD Directive 5000.12M, Manual for Standard Data Elements, 1 March 1970, as changed. The appropriate computer designators for Separation Type and the specific Separation Reason as noted below will be entered on Service retained copies of DD Form 214. The reason for separation shall be "Separation for the good of the service by reason of a willful and persistent unauthorized absence, pursuant to Presidential Proclamation No. 4313 abbreviation SEP-PRES PROC, data code NL. The copy for Veterans Administration and the Selective Service System will contain only the narrative type of separation and reason for separation. All copies of the DD Form 214 will have entered in the remarks section the following statement:
- "Subject member has agreed to serve _____ months alternate service pursuant to Presidential Proclamation No. 4313." Those military services which have not implemented Change 10 to DoD Directive 5000.12M will establish appropriate documentation and accounting procedures consistent with the respective type of separation and the exact wording of the reason for separation.
- b. Military Departments will establish procedures to recognize the alternate service by issuance of the Clemency Discharge certificate DD Form 1953 (Enclosure 2) which is established



by this memorandum pursuant to Presidential Proclamation No. Such certificates will be issued only upon receipt of certification of satisfactory completion of alternate service by the Selective Service System. Procedures should also include issuance of a DD Form 215, "Correction of DD Form 214, Armed Forces of the United States Report of Transfer or Discharge," reflecting the reason for separation as stated above and noting the issuance of the DD Form 1953 (Enclosure 2). The DD Form 215 should be included in the master military personnel record.

- c. Service Secretaries will submit reports on a monthly basis at the end of each calendar month to OASD(M&RA)(MPP) by the 10th of the following month. Reports will include information specified in Enclosure 3.

10. Public Affairs Guidance

Because of the overriding national interest in the President's announcement on clemency procedures for draft evaders and military deserters, the Assistant Secretary of Defense (Public Affairs) is responsible for direction and coordination of all public affairs activities concerning deserters, discharges and clemency. Maximum information will be disseminated to the public while at the same time giving due consideration of the rights of the individual. The Clemency Processing Center (CPC) will be manned by representatives of all the Military Departments, and the CPC information chief will report directly to the ASD(PA) for all public affairs matters.

Public affairs guidance, recommendations and accompanying Service implementing instructions to all commands, will be coordinated in advance with OASD(PA).

James R. [Signature]

Enclosures

Conditions of Eligibility Pursuant to Presidential Proclamation No. 4313

- 1. Unauthorized absence in violation of Article 85, 86, or 87, or other purely military offense directly related thereto under the Uniform Code of Military Justice, commenced during the period August 4, 1964, through March 28, 1973.**
- 2. Other pending offenses under the Uniform Code of Military Justice have been finally disposed of in accordance with law.**
- 3. The member reported to military authorities in a manner prescribed by the Military Department concerned not later than 31 January 1975.**
- 4. The member has executed a statement or statements reaffirming his allegiance and pledging to perform a specified period of alternate service.**

Attached to this enclosure are form statements for use by the Military Departments in securing the reaffirmation of allegiance, admission of absence, and pledge to perform alternate service. These forms may be modified or combined with other documents for ease of administration provided the substantive content is retained.



PLEDGE TO COMPLETE ALTERNATE SERVICE

On or about _____, I voluntarily absented myself from my military unit without being properly authorized in contravention of the oath taken upon entering the nation's military service. Recognizing that my obligations as a citizen remain unfulfilled, I am ready to serve in whatever alternate service my country may prescribe for me, and pledge to faithfully complete a period of _____ months service.

REAFFIRMATION OF ALLEGIANCE

I, _____, 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 without any mental reservation or purpose of evasion.



CLEMENCY DISCHARGE

FROM THE ARMED FORCES OF THE
UNITED STATES OF AMERICA

THIS IS TO CERTIFY THAT

WAS DISCHARGED FROM THE
UNITED STATES

ON THE DAY OF

THIS CERTIFICATE IS ISSUED ON THE DAY OF
IN RECOGNITION OF SATISFACTORY COMPLETION OF ALTERNATE
SERVICE PURSUANT TO PRESIDENTIAL PROCLAMATION NO. 4313
SEPTEMBER ..1974.



REPORTING REQUIREMENTS

I. Number of applicants for President's Program

A. Number accepted and processed

1. type of separation (Manual for Standard Data Elements)
2. character of discharge
3. length of alternate service
 - a. None
 - b. 6-12
 - c. 13-18
 - d. 19-24
4. race/ethnic group (Manual for Standard Data Elements)
5. date of absence by year.

B. Number pending

C. Number not accepted

1. Reason not accepted

- a. Offense not within period
- b. Other offenses pending
- c. Failed to execute required statements
- d. Other

2. Disposition

- a. Referred to trial by court-martial (GCM, SPCM, Summary)
- b. Administrative separation
- c. Article 15



d. Reprimand

e. No action/returned to duty

f. Other

D. Number processed in medical channels

II. Number of absentees from the period 4 August 1964 to 28 March 1973
who return to military control but do not apply for President's Program



ANNEX C

PERSONNEL

1. General. Individuals returning will be in varying stages of dress and grooming. Although attitudes and verbal expressions may be anti-military in nature, military personnel will be courteous and tolerant to the extreme. Additional charges of misconduct for minor offenses will not be brought against individuals during the acceptance and processing period. Care will be exercised to insure that the rights of the Program participants are protected.

2. Eligibility. The offer of clemency is extended to individuals who deserted during the period cited. The only offenses to be included under the program are desertion, absent without leave (AWOL) or missing movement (Articles 85, 86, and 87 of the Uniform Code of Military Justice and other purely military offenses directly related thereto). Other offenses will be disposed of pursuant to the Uniform Code of Military Justice; however, the appropriate convening authority may elect to dismiss all other charges and allow the individual to participate in the President's program. If the other charges are not dismissed, and the individual is to be tried by court-martial, he may be tried for all offenses, to include the desertion, AWOL, or missing movement. The convening authority may also elect to process the individual for an administrative discharge, under current procedures, rather than proceed to trial by court-martial. The Presidential offer extends through 31 January 1975.

3. Options. An individual who inquires, either by mail or by reporting to the military/other U.S. government authorities, as to his status concerning eligibility for program participation will be given the following options:

a. If eligible, separation from the Army with an undesirable discharge for enlisted members and resignation in lieu of trial by court-martial for officers (see Appendix 2, Separations), and when requested, consideration of enlisted members for restoration to active duty (see Appendix 3, Restoration).

b. If ineligible, e.g., faces other charges, resolution of all charges will be in accordance with existing procedures.

4. Identification of Deserters and Their Status.

a. CDR, MILPERCEN, in conjunction with TAGCEN and other field operating agencies will conduct a records screening to identify individuals who:

(1) are presently carried as deserters

(2) were carried as deserters but were discharged in absentia between 4 August 1964 and 30 March 1968,



(3) were reserve component personnel at the time of desertion. A list and machine record cards containing the names and personal identifiers (including SSAN, date and place of birth) of each Army deserter who will be considered for participation in the program will be provided to USACIDC.

b. USACIDC, upon receipt of the machine record cards, will accomplish records checks through the DOD investigative files, which include all criminal files. USACIDC will prepare a Machine Records Listing reflecting those individuals who are not subjects of Army criminal files requiring further action, and a separate listing of those individuals who were subjects of Army criminal investigations at the time of their desertion. USACIDC will provide these listings and copies of CID and Military Police case reports, if applicable to the CDR, USAERC, Fort Benjamin Harrison, IN.

c. The U.S. Army Clemency Information Point at the U.S. Army Enlisted Records Center, Fort Benjamin Harrison, Indiana, 46249 will provide the status of eligibility of individuals for participation in the program to military/U.S. Government activities world-wide. The Center will respond to telephonic inquiries 24 hours per day for the duration of the program (Autovon 699-3417; Commercial 317-542-3417). In the case of individuals who wish to participate in the program and who call directly to the Clemency Information Point, written confirmation of their eligibility will be immediately mailed to the individual.

d. CDR, MILPERCEN will provide USACIDC a listing of those individuals who return to military control. This information will be used to delete entries from the National Crime Information Center Computer and to document disposition of offender information on those investigations which have not been adjudicated or finalized.

5. Medical.

a. At the central processing center, a type "A" Medical Examination will be given to each returnee as prescribed by Chapter 10, Appendix IV, AR 40-501. The original copy of the medical examination will be made a permanent part of the member's personnel record. The examining facility will retain a duplicate copy of reports for a period of one year.

b. It is essential that during the conduct of the medical examination prior to separation of persons requesting reconciliation, a determination be made as to whether or not a disabling condition was incurred or service aggravated while the member was entitled to basic pay. These determinations must be made and completely processed at the time of separation to preclude the costly and time-consuming future application to Army Board of Correction of Military Records (ABCMR) for medical disabilities.

c. Individuals identified as drug dependent will not be afforded the 30-day treatment program IAW, DA Circular 600-85 unless specifically requested.

d. Returnees will remain under the control of the processing center commander (administrative channels) unless admitted to a medical treatment facility for disposition through medical channels.

e. Dental care will be provided returnees as prescribed by Chapter 10, AR 40-3. The following considerations relative to the degree of entitlement will apply: degree of acuteness of conditions for which treatment is sought or provided; the probable degree of impact on the Army's mission effectiveness; and age-related disease susceptibility.

6. Uniform and Appearance. Individuals participating in subject program who elect discharge will not be required to wear the military uniform or conform to military standards of dress and appearance during the processing period. Therefore, as an exception to AR 700-84, these individuals will not be issued military clothing unless it is determined that the individual does not possess adequate personal clothing to insure maintenance of his basic health and welfare. In those cases so determined, a temporary issue of clothing will be made UP AR 700-14. Clothing so issued will be recovered at the time the discharge procedure is completed. Those personnel who are accepted for restoration, or who remain under military control beyond the processing period for resolution of charges will be issued clothing UP AR 700-84 and will comply with existing uniform and appearance regulations.

7. Processing Procedures.

a. Military activity other than Ft Benjamin Harrison having initial contact with returnee:

(1) Immediately contact the U.S. Army Clemency Information Point, Fort Benjamin Harrison, Indiana, to determine status and eligibility for participation in the program. Individuals with letters of confirmation of eligibility from the Joint Clemency Processing Center will be processed without contacting the U.S. Army Clemency Information Point.

(2) Execute a new DA Form 41 (Record of Emergency Data) on each person requesting participation in the program as soon as he returns to military control. The form should be completed prior to movement to the central processing center since there may be cause to notify the next of kin of a change in status either while the person is enroute to the processing center or during processing.

(3) Advise individual of eligibility.

(4) If individual is ineligible to participate in the program, and he has presented himself to military authorities, he will be processed in accordance with existing procedures.

(5) If individual is eligible, issue PCS orders using this letter as authority and a Government travel request from the point that military control was regained to Fort Benjamin Harrison, Indiana, for processing under the Presidential Program of Clemency. The words "Returned to Military

Control" and an effective date must be included in the orders. Movement Designator Code ZAE5 will be used on all PCS orders and a Government travel request. In addition, PCS orders will contain the following statement: "Shipment of dependents and personal property is not authorized by these orders".

b. Joint Clemency Processing Center (Fort Benjamin Harrison).

(1) For individuals seeking instructions, reply with appropriate letter as at Appendix 1.

(2) Complete a new DA Form 41 "Record of Emergency Data" if not already done and accomplish final physical evaluation.

(3) No eligible member who requests separation under the President's Program may be referred for physical disability processing unless CDR, Fort Benjamin Harrison, determines that the disability was the cause or substantial contributing cause of the member's desertion, or that the disability was a direct result of an injury, disease or wound sustained in combat against the enemy.

(4) Provide counsel for each individual as to his rights and entitlements under the clemency program prior to executing the statements. Group counseling will suffice unless individual counseling is requested. However both the returnee and the designated counsel must sign the request documents.

(5) Have individuals complete the statements required by the Presidential Proclamation/SECDEF Memorandum (all members complete statement at Tab A, Appendix 5. Enlisted also complete statement at Tab B and officer also complete statement at Tab C).

(6) Have individual applying for restoration also complete application at Tab D, Appendix 5.

(7) Process for:

a. Separation IAW Appendix 2, and upon member's request for restoration IAW Appendix 3, or

b. Resolution of charges and separation IAW the UCMJ and current procedures.

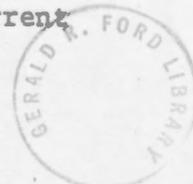
8. Travel and Transportation Entitlements.

a. Member travel will be determined as outlined in Appendix 4.

b. Travel of dependents and shipment of household goods will be determined as outlined in Appendix 4.

c. Under the current provisions of the Joint Travel Regulations (JTR), which are based on law:

(1) Deserters themselves have no personal property shipping entitlements.



(2) Dependents who were with a member at the overseas duty station from which he deserted may be provided transportation of personal property under certain restricted circumstances (see Appendix 4).

(3) The benefits cited in (2) above cannot be extended to the dependents of a member who deserted from a CONUS duty station.

(4) The point at which a deserter returns to military control, e.g., CONUS or overseas, has no bearing on shipping entitlements.

d. Following return to military control and subsequent discharge, the personal property shipping entitlements of a former deserter will be based on whether or not he was discharged under honorable conditions. If honorable, shipping privileges will be the same as for any other separated member of the same rank. However, if separation is under other than honorable conditions, no shipping entitlement will exist.

e. A consolidated extract of appropriate entitlement regulation policy statements is provided at Appendix 4 as a ready reference.

9. Finance and Accounting.

(1) The accounting classification normally used for return of deserters is a cost-charge situation reimbursable by the individual to the government.

(2) Transportation costs from point of return to military control to the separation point, except in those cases where the individual surrenders himself to his former duty station from which he commenced unauthorized absence, will be recouped up to, but not to exceed, the amount of pay and allowances due the individual and will be reimbursed to the special reimbursement account established (Appendix 6). In cases where transportation costs exceed reimbursements, the excess costs will be absorbed. Individual member transportation costs from separation point to home of record or place of entry on active duty will be determined as outlined in Appendix 3.

(3) Installation Finance Offices, other than Fort Benjamin Harrison, are not authorized to make partial payments of accrued pay and allowances to returnees. Fort Benjamin Harrison Finance Office is authorized to advance up to \$30.00 in health and welfare payments.

(4) Fort Benjamin Harrison Finance Office will maintain summary cost data on all MPA expenditure and reimbursement transactions related to pay and allowances and PCS costs of personnel returning under the Program.

(5) Special accounting procedures for travel costs and recoupments are contained in Appendix 6.



b. OMA Costs.

(1) Commands will absorb incremental costs within existing fund availability. Costs incurred from inception will be tracked for reimbursement purposes. Formal and additional guidance on reporting reimbursable costs will be forwarded separately.

(2) If required, payment for materiel or services furnished by the Indiana National Guard at Camp Atterbury, Indiana, will be accomplished under the automatic reimbursement procedures shown in AR 37-108. Transactions must be preceded by an agreement between TRADOC (for the Department of the Army) and the State Adjutant General for Indiana (for the Indiana National Guard). The agreement will be in writing and should be specific as to materiel or services to be furnished, rates or estimated rates to be charged, method of financing and address of office which will make payment. Department of the Army will reimburse the Indiana Army National Guard for any required maintenance, repairs and operational costs.

(3) UP AR 725-50, TRADOC will request a project code for the purpose of documenting the requisitioning, accounting and movement of supplies and equipment required in support of the program.

6 Incl

Appendix 1 (Letters of Instruction/Notification)

Appendix 2 (Separation)

Appendix 3 (Restoration)

Appendix 4 (Entitlements)

Appendix 5 (Statements)

Appendix 6 (Finance and Accounting)

Appendix 7 (Religious Ministries and

Chaplain Support)



Appendix 1 (Letter of Instruction/Notification) to Annex C (Personnel)

LETTERS OF INSTRUCTION/NOTIFICATION

1. Letter to individuals not eligible for participation in Program (Tab A).
2. Letter to individuals eligible for participation in Program (Tab B).



Tab A (Letter to individuals not eligible for participation) to Appendix 1
(Letter of Instruction/Notification) to Annex C (Personnel)

From: The Secretary of the Army

To:

Subject: Eligibility to participate in the Program established by
Presidential Proclamation 4313 of 16 September 1974.

Ref: (a) Your letter/telephone conversation of _____

1. Upon receipt of reference (a), your request to participate in the program established by Presidential Proclamation 4313, a review of your service records was conducted to determine whether or not you are eligible to participate in the program. From this review, it appears that you are not so eligible.

2. Your ineligibility for this program is due to the reason that

You are advised, therefore, that you will be processed in accordance with current procedures and that you should return to military control. Upon return you will be processed in accordance with current procedures, which may include trial by court-martial.

BY ORDER OF THE SECRETARY OF THE ARMY:

CF:
CDR, MILPERCEN
ATTN: JCPC
Fort Benjamin Harrison, IN 46216



Tab B (Letter to individuals eligible for participation) to Appendix 1
(Letter of Instruction/Notification) to Annex C (Personnel)

From: The Secretary of the Army

TO:

Subject: Participation in the program established by Presidential
Proclamation 4313, 16 September 1974

Ref: Your letter/telephone call of _____.

1. By reference (a) you have requested to participate in the program established by Presidential Proclamation 4313 of 16 September 1974. A review of your service records indicates that you are eligible for this program. Accordingly, you are directed to proceed and report to Ft Benjamin Harrison, IN (located in Indianapolis IN) on or about _____.

2. Upon reporting, you will be given the opportunity to request a discharge for the good of the service in accordance with existing Department of Defense regulations, to reaffirm your allegiance to your country, and to pledge to perform alternate service for a period not to exceed 24 months. Prior to undertaking these obligations, you will be afforded an opportunity to consult with military lawyer-counsel, who will advise you regarding the adverse nature and effect of receiving an undesirable discharge. Upon completion of the foregoing procedures, to include a medical examination, you will be given an undesirable discharge. Upon reporting, should you refuse to execute any of the above documents, i.e., the request, reaffirmation or pledge, you shall not be eligible to participate in the Program and shall be processed in accordance with current procedures, which may include trial by court-martial.

3. Presidential Proclamation 4313 further provides that those servicemen who satisfactorily complete an assigned period of alternate service of not more than 24 months will be issued a Clemency Discharge Certificate. Your period of alternate service under the Presidential Proclamation will be determined in accordance with the following factors:

(a) The length of satisfactory service completed prior to unauthorized absence;

(b) Length of service in Southeast Asia in hostile fire zone;

(c) Awards and decorations received;

(d) Wounds incurred in combat.

In addition, you will be given the opportunity to provide such statements



and affidavits regarding your employment or your conduct in the community during the time of your unauthorized absence. This will also be taken into account in determining your period of alternate service.

4. In the event you do not have sufficient funds to defray cost of transportation to Fort Benjamin Harrison you will immediately report to the nearest Army activity and present a copy of this letter at which time you will be furnished transportation on a reimbursable basis. No dependent facilities are available at Fort Benjamin Harrison.

5. You will keep the original of this letter in your possession at all times until it is presented to the Joint Clemency Processing Center at Ft. Benjamin Harrison, IN.

BY ORDER OF THE SECRETARY OF THE ARMY:

CF:
CDR, MILPERCEN
ATTN: JCPC
Fort Benjamin Harrison, IN 46216



APPENDIX 2 (Separation Policy) to Annex C (Personnel)

SEPARATION POLICY

1. Enlisted Personnel.

a. Upon completion of required processing and statements, all eligible enlisted members will be reduced to the lowest enlisted grade, discharged and furnished an Undesirable Discharge Certificate (DD Form 258A).

b. In exceptional cases, such as exemplary combat service in Vietnam or extenuating circumstances concerning the absence, the Commander, FT Benjamin Harrison, after review of the case and determining that better than undesirable discharge may be warranted, may withhold execution of the discharge and forward the case with appropriate recommendations to HQDA, ATTN: DAPE-MP, for decision. In such cases, members may be released in an excess leave status to return to home of record pending decision and have copy of approved discharge mailed.

c. For those individuals applying for restoration, execution of the discharge will be suspended pending decision on the application. If the application is disapproved or withdrawn by the member, the discharge will be executed. If the application is approved, the discharge will remain suspended under terms of restoration policy, at Appendix 3, and suspension made a matter of record in member's field 201 file.

d. The authority for discharge is Presidential Proclamation No. 4313 of September 16, 1974 and Secretary of Defense Memorandum, Subject: Implementation of Presidential Proclamation No. 4313 of September 16, 1974. The reason for discharge shall be "Separation for the good of the Service by reason of a willful and persistent unauthorized absence, pursuant to Presidential Proclamation No. 4313, abbreviation: SEP-PRES PROC.

e. The reason and authority, abbreviated SEP-PRES PROC and DOD Memo, and SPD will be included in Item 9c of all copies of DD Form 214 which are retained by the Army. The narrative reason for separation shall be included in the remarks section of all copies of DD Form 214 provided the Veterans Administration and Selective Service. All copies of DD Form 214 will have entered in the remarks section the following statement: "Subject member has agreed to serve _____ months alternate service pursuant to Presidential Proclamation No. 4313."

f. The Separation Program Designator (SPD) will be provided by separate message.

2. Officer Personnel

a. Upon completion of required processing and statements, all eligible commissioned and warrant officers resignations in lieu of trial by court -martial will be accepted. They are to be furnished a Discharge Certificate (Under Other Than Honorable Conditions) DD Form 794A.

b. In the preparation of separation orders, the standard order formats (TC 350 for Regular Army Officers; TC 351 for Reserve Officers) will be followed. The "Authority" lead line will include Presidential Proclamation No. 4313 and Sec Def Memo Subject: Implementation of Presidential Proclamation No. 4313, 16 Sep 1974." Authority lead lines will also include "By Direction of the President" for officers and "By Direction of the Secretary of the Army" for warrant officers.

c. Preparation of DD Form 214 will be accomplished as described in le above. Additionally, Item 9a of all copies of DD Form 214 will read, "Discharge" and Item 9e will read, "UNDER OTHER THAN HONORABLE CONDITIONS".

d. The Separation Program Designator (SPD) will be provided by separate message.

APPENDIX 3 (Restoration Policy) to Annex C (Personnel)

RESTORATION POLICY

1. Enlisted members eligible to participate in the clemency program will be afforded an opportunity to apply for restoration to serve in the Army. Applicants will complete separation processing, at Appendix 2, while their applications are being processed. The period of service will be a minimum of two years. The undesirable discharge of those members restored will be suspended and upon completion of the required period of service, they will be awarded the discharge warranted by their military records during that period of service. If they are discharged for cause during that period, they will receive no better than an undesirable discharge. The statement agreeing to alternate service will be voided for these members restored to active duty.

2. A board of officers will be convened by Commander, TRADOC to consider an individual's application for restoration to active duty. The board will consist of: one colonel and one lieutenant colonel with recent command experience, one command sergeant major and one captain recorder. Guidance to the board of officers hearing restoration cases is at Tab A to this appendix.

3. The criteria which each applicant must satisfy to be considered by the board are as follows:

- a. Must voluntarily apply for restoration.
- b. Must have served in Vietnam and have been awarded a decoration.
- c. Must meet enlistment criteria for prior service personnel without waiver in the areas of age, citizenship, mental requirements, education, medical and dependents as in AR 601-210.
- d. Must have had no prior court martial convictions during previous service.
- e. Must have had no conviction for civil offenses during the period of desertion which would preclude enlistment under AR 601-210.
- f. Must have at least two years service remaining until ETS or agree to extend for a period of two years following restoration.
- g. Must agree to enter under same condition as RA unassigned.
- h. Must agree to enter at grade E1 (board of officers considering restoration will have authority in exceptional cases to restore individuals in grade E2 or E3).

Tab A (Guidance to Board of Officers) to Appendix 3 (Restoration Policy)
to Annex C (Personnel)

GUIDANCE TO BOARD OF OFFICERS

The following instructions provide guidance to the board of officers meeting to consider requests for restoration of individuals who deserted during the period 4 August 1964 through 29 March 1973.

1. The objective of the board is to determine if the applicant can make a useful contribution to the Army and if restored to duty that such action would not be prejudicial to good order and discipline.

2. The provisions of AR 15-6 will not apply to the board proceedings. Individuals seeking restoration will not have the right to counsel and the burden of proof rests with the applicant.

3. In deciding each case, the board will consider all available records and the testimony of the individual. Their deliberations will include at a minimum the following considerations:

a. Individual's past service, including:

(1) Length of service

(2) Entire disciplinary record

(3) Combat record

(4) Awards, decorations, commendations, etc.

(5) Conduct and efficiency ratings

(6) Grades held

b. Individual's motivation to serve in the Army and sincerity of that motivation.

c. Potential for further satisfactory military service.

d. Extenuating circumstances which may have contributed to desertion.

4. The board will ensure that any applicant appearing before it meets the current age, citizenship, mental, medical and dependent criteria established for enlistment of prior service personnel in the Army.

5. For those individuals whom the board decides to restore, a recommendation will be made as to the MOS in which restored.

6. The board has the authority in unusual cases where restoration in grade E2 or E3 is indicated appropriate, to make such a finding.

7. All findings and recommendations of the board are final and not subject to review or appeal.

8. Individuals restored to duty will be reported with appropriate recommendations to the CDR, Military Personnel Center for assignment/training.

Appendix 4 (Entitlements) to Annex C (Personnel)

TITLEMENTS

POLICY

REFERENCE

Travel of Member
designated processing
te

A. From oversea to CONUS: Travel of a member to a designated processing site in CONUS from an oversea location (embassy/military installation) will be accomplished in accordance with the provisions of paragraph M5400. JTR

Para M5400, JTR

TITLEMENTS

Separation Travel

POLICY

MEMBER:

- A. A member separated from the service under honorable conditions is entitled to mileage to his home of record or place of entry on active duty, at the election of the member.

REFERENCE

Para M4157, JTR

TITLEMENTS

Transportation of
Personal Property for
Deserters

POLICY

- A. Household Goods: Transportation of HHC at government expense is not authorized for deserters, except when dependent travel is authorized under para M7103-2-8, JTR.

REFERENCE

JTR, para M8015-5
M8303-1

APPENDIX 5 (Statements Required for Program Participation) to Annex C
(Personnel)

STATEMENTS REQUIRED FOR PROGRAM PARTICIPATION

1. All individuals participating in the program of clemency will complete and sign the statement of allegiance to the United States and agreeing to alternate service (Tab A).
2. Personnel being separated will complete the following additional statements:
 - a. Enlisted members Request for Discharge for the Good of the Service (Tab B).
 - b. Officer members resignation in lieu of trial by court-martial (Tab C).
3. Personnel applying for restoration must complete the application for restoration (Tab D).

Tab A (Reaffirmation of Allegiance Agreement to Alternate Service) to
Appendix 4 (Statements) to Annex C (Personnel)

REAFFIRMATION OF ALLEGIANCE AND PLEDGE TO COMPLETE ALTERNATE SERVICE

DATE: _____

I, _____, do hereby solemnly reaffirm my allegiance to the United States of America. I will, support, protect, and defend the Constitution of the United States of America 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.

I further acknowledge that on or about _____, I voluntarily absented myself from my military unit without being properly authorized, in contravention of the oath taken upon entering the nation's military service. Recognizing that my obligations as a citizen remain unfulfilled, I am ready to serve in whatever alternate service my country may prescribe for me, and pledge to complete faithfully a period of _____ months' service.

Witness:

Tab B (Enlisted Statement - Request for Discharge for the Good of the Service) to Appendix 4 (Statements) to Annex C (Personnel)

Enlisted Returnees

**ENLISTED STATEMENT - REQUEST FOR
DISCHARGE FOR THE GOOD OF THE SERVICE**

DATE: _____

1. I, _____ SSN _____, hereby voluntarily request discharge for the good of the service pursuant to the provisions of Presidential Proclamation No. 4313, 16 September 1974. I understand that my absence is characterized as a willful and persistent unauthorized absence which renders me triable under the Uniform Code of Military Justice and could lead to the imposition of a bad conduct or dishonorable discharge. I am making this request of my own free will and have not been subject to any coercion whatsoever by any person.
2. Prior to completing this form, I have been afforded the opportunity to consult with military counsel. I understand that I have the right to consult with civilian counsel retained at my own expense. I have been fully advised by counsel as to the nature of the offenses for which I may be tried and the maximum permissible punishment which may be imposed.
3. I understand that I will be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I have been advised and understand the adverse nature of such a discharge and the possible consequences thereof. In this regard, I acknowledge that, as a result of the issuance of such a discharge, I will be deprived of all service benefits, that I will be ineligible for all benefits administered by the Veteran's Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life because of an undesirable discharge.
4. I understand that within 15 days of the date of receipt of the Undesirable Discharge Certificate, I must report to my State Director of Selective Service to arrange for performance of alternate service. I further understand that satisfactory completion of such alternate service will be acknowledged by issuance of a Clemency Discharge certificate. I realize, however, that such certificate will not alter my ineligibility for any benefits predicated upon my military service.
5. I understand that, once my request for discharge is submitted, it may not be withdrawn unless the withdrawal is approved by Commander, Fort Benjamin Harrison, Indiana.

6. I hereby acknowledge receipt of a copy of this request for discharge and of all inclosures submitted herewith.

(Signature of member)

7. Having been advised by me of the nature of the offenses for which he may be tried; the maximum permissible punishment which may be imposed; the possible consequences of an undesirable discharge; the nature and effect of his pledge to perform alternate service; and of the procedures and rights available to him, _____ voluntarily executed the request for discharge for the good of the service.

(Signature of counsel)

Tab C (Officer Statement - Resignation in Lieu of Trial by Court-Martial to Appendix 5 (Statement) to Annex C (Personnel)

Officer Returnees

OFFICER STATEMENT - RESIGNATION
IN LIEU OF TRIAL BY COURT-MARTIAL

DATE: _____

1. I, _____, _____ SSAN _____, hereby voluntarily tender my resignation from the Army in lieu of trial by court-martial pursuant to the provisions of Presidential Proclamation No. 4313, 16 September 1974. I understand that my absence is characterized as a willful and persistent unauthorized absence which renders my triable under the Uniform Code of Military Justice and could lead to dismissal from the Army. I do not desire to appear before a court-martial or board of officers. I have not been subjected to coercion with respect to this resignation and have been advised of and fully understand the implications of this action.
2. Prior to submitting this resignation, I have been afforded the opportunity to consult with military counsel. I understand that I have the right to consult with civilian counsel retained at my own expense. I have been fully advised by counsel as to the nature of the offenses for which I may be tried and the maximum permissible punishment which may be imposed.
3. I understand that if this resignation is accepted, I will be discharged under other than honorable conditions.
4. I further understand that because my resignation will be accepted under other than honorable conditions, I will not be entitled to compensation for unused accrued leave, severance or readjustment pay (as appropriate), and that I will be barred from all rights under laws administered by the Veterans Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law.
5. I understand that within 15 days of the date of receipt of my discharge certificate, I must report to my State Director of Selective Service to arrange for performance of alternate service. I further understand that satisfactory completion of such alternate service will be acknowledged by issuance of a clemency discharge certificate. I realize, however, that such certificate will not alter my ineligibility for any benefits predicated upon my military service.
6. I understand that, once my resignation is tendered, it may not be withdrawn unless the withdrawal is approved by Commander, Fort Benjamin Harrison, Indiana.

7. I hereby acknowledge receipt of a copy of this resignation and of all inclosures submitted herewith.

(Signature of Member)

8. Having been advised by me of the nature of the offenses for which he may be tried; the maximum permissible punishment which may be imposed; the possible consequences of a discharge under other than honorable conditions; the nature and effect of his pledge to perform alternate service; and of the procedures and rights available to him, _____ voluntarily executed the request for resignation in lieu of trial by court-martial.

(Signature of Counsel)

Tab D (Application for Restoration Statement) to Appendix 5 (Statements)
to Annex C (Personnel)

APPLICATION FOR RESTORATION TO ACTIVE DUTY

DATE: _____

I, _____, have been advised of the alternatives made available to me by the Department of the Army in implementation of Presidential Proclamation No. 4313, 16 September 1974. I have decided that it is in my best interests to request restoration to active duty. I acknowledge that this request is made voluntarily, that it is not the result of coercion, force, or threat of harm, and that it is made after consultation with counsel, _____. I understand and agree to each of the following:

a. That I will be restored at grade E-1 unless a recommendation is made for restoration in a higher grade.

b. That all assignments will be in accordance with the needs of the Army, notwithstanding any promises of training or assignment previously made to me either orally or in writing.

c. That I will not be permitted to reenlist prior to completion of the period for which I am restored except upon approval of the Secretary of the Army.

d. That upon restoration a suspended undesirable discharge will be placed in my Field 201 file. I understand that such action is part of the Reconciliation Program and I do not wish to appear before a board of officers in connection therewith. I understand that if, after restoration, I am administratively separated for cause prior to completion of the period for which I am restored, this suspension will be vacated and the discharge will be executed. If I am not administratively separated for cause prior to such time, I will be issued such discharge as reflects the character of my service from the date of restoration.

e. That upon approval of this application and restoration to active duty any agreements or statements previously made by me concerning alternate service shall be considered void and of no effect.

f. That I may withdraw this application at any time prior to my restoration to active duty.

Accordingly, I agree:

(To be used if the applicant enlisted and the unfulfilled portion of that enlistment is two years or more).

_____ to complete the term of service for which enlisted.

(To be used if the applicant enlisted and the unfulfilled portion of that enlistment is less than two years)

_____ to complete the term of service for which enlisted and that, upon approval of this application and restoration to active duty, this document will constitute an extension of my enlistment for such period which, when added to the unfulfilled portion of my enlistment, amounts to two years.

(To be used if the applicant was inducted)

_____ to complete the term of service for which inducted and that, upon approval of this application and restoration to active duty, this document will constitute consent to remain on active duty for such period which, when added to the unfulfilled portion of the period for which inducted, amounts to two years.

(Signature of Member)



Appendix 6 (Finance and Accounting) to Annex C (Personnel)

FINANCE AND ACCOUNTING

MILITARY PERSONNEL COSTS

1. In order to readily identify costs incurred in support of the clemency program, separate PCS accounting classifications will be established. All PCS transportation charges associated with this program, to include separation travel, will be charged to the following upon allotment account classification:

2152010 01-4607 P1495 S99999

Recoupment of transportation costs from the point of return to military control to the separation point, except in those cases where the individual surrenders himself to his former duty station from which he commenced unauthorized absence, will be reimbursed to the following account number:

2152010 01-C930 P1495 S99999

Reimbursement will not exceed the amount of pay and allowances due the returnee.

2. The above accounting classification represents a change to AR 37-100-75 and will be disseminated by separate HQDA message.

3. Only transportation charges authorized by Appendix 4 (Entitlements) will be charged to the open allotment established above.

RELIGIOUS MINISTRIES AND CHAPLAIN SUPPORT

1. PURPOSE. This appendix outlines DA policies for religious ministries and chaplain support of Presidential Proclamation #4313.
2. OBJECTIVE. To provide religious ministry to individuals and families administering and using the Clemency Program.
3. GENERAL POLICIES.

a. So far as practicable, the Clemency Program staff and the returning deserters will be provided opportunities to receive the ministrations of their own religious faith in such ways and on such occasions as are appropriate to their respective denominational requirements. The responsible chaplain will accomplish this objective through the cooperative efforts of other chaplains, civilian clergymen or authorized lay leaders.

b. All religious services will be under the supervisions of and scheduled by the responsible chaplain.

c. Chaplains will be available to provide individuals and families who desire it, spiritual support through interviews, guidance and counseling.

d. Communications between an individual and a chaplain, will be governed by the rules of confidentiality cited in paragraph 151b(2) manual for courts-martial, United States 1969 (Revised Edition).



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ANNEX D

RETROACTIVE APPLICATION

1. The following information and guidance is provided to assist in processing cases which may have been disposed of, or upon which disposition has been initiated, prior to the effective date of the President's Program.

2. Jurisdictions processing court-martial cases in which charges have been preferred or are being prepared solely for the offenses of Desertion (Article 85, UCMJ), Absence Without Leave (Article 86), or Missing Movement (Article 87), or other purely military offenses directly related thereto, occurring during the period 4 August 1964 through 28 March 1973, will take action as indicated herein.

3. Charges preferred or being prepared - no referral for trial:

a. All processing of charges for offenses listed in paragraph 2 above will be suspended for a reasonable period of time (not to exceed 2 weeks) for the purpose of affording the individual accused the opportunity to participate in subject program.

b. Upon receipt of a written request from the individual for delay in his case to participate in the program, the processing of charges will be suspended pursuant to 3a above and the individual accused will be released from any pretrial confinement and transferred to Fort Benjamin Harrison, Indiana, for processing by the Clemency Processing Center. Charge sheets and allied papers relating to the case will be transmitted to the Office of the Staff Judge Advocate, Fort Benjamin Harrison, for disposition. The SJA, Fort Benjamin Harrison, will be advised by electrical message of the transmission of the charge sheets and related documents.

4. Charges referred for trial - trial has not commenced: In the case of individuals against whom charges as enumerated in paragraph 2 have been preferred and referred for trial, the individual accused may also participate in subject program upon his written request to participate and for a delay in his trial. Upon receipt of such a request, the charges should be withdrawn from the court to which they have been referred in accordance with paragraph 56, MCM, 1969 (Rev) and forwarded with related documents (to include a detailed statement of the reason for withdrawal of charges) to the SJA, Fort Benjamin Harrison, as indicated in paragraph 3b above. The individual accused should be released by the convening authority (C/A) from any confinement and transferred to Fort Benjamin Harrison for processing by the Clemency Processing Center.

5. Charges referred for trial - accused has been arraigned: In the case of an individual who has been charged with an offense specified in paragraph 2 above, whose charges have been referred for trial, and whose trial has proceeded to arraignment, the accused may participate in the program. Upon the receipt of a written request from the accused for withdrawal of the charges and a delay for the purpose of being allowed to participate, the



convening authority should withdraw the charges from the court to which they have been referred in accordance with paragraph 56, MCM, 1969 (Rev), cause the accused to be released from confinement (if applicable), and transferred to Fort Benjamin Harrison for processing by the Clemency Processing Center. The court-martial charges and all required documents and records, to include a detailed statement of the reasons for withdrawal of the charges, should be forwarded to the SJA office, Fort Benjamin Harrison, as outlined in paragraph 3 above.

6. Accused convicted and in confinement: Individuals who have been tried and convicted by court-martial for an offense or offenses listed in paragraph 2 above, and who are in confinement, will be released from confinement in the following situations:

a. An individual described in 6 above with an adjudged (either executed or unexecuted) punitive discharge will be released from confinement upon his application to the Presidential Clemency Board prior to 31 January 1975 for an examination of his case.

b. If an individual as described in 6 above is in confinement and has no discharge adjudged, he will be released from confinement upon his application to the Presidential Clemency Board prior to 31 January 1975 and returned to duty.

c. In all such cases the unexecuted portion of any sentence to confinement will be suspended by a court-martial order.

7. Individuals who have been tried and convicted for an offense or offenses listed in paragraph 2 above, who have been sentenced to be discharged but who are not in confinement and who are awaiting the completion of appellate review, may apply to the Presidential Clemency Board prior to 31 January 1975 for an examination of his case.

8. Former members punitively discharged pursuant to sentence of a court-martial or separated with an undesirable discharge. Former members who have been dismissed from the service or discharged with a dishonorable or bad conduct discharge pursuant to the sentence of a court-martial imposed upon conviction of an absentee offense (10 U.S.C. sections 885, 886, and 887) or other purely military offense directly related thereto committed during the qualifying period, or were separated with an undesirable discharge based on an act or acts committed during the qualifying period which rendered the member subject to trial by court-martial for an absentee offense (10 U.S.C. Sections 885, 886, and 887) or other purely military offense directly related thereto may apply to the Presidential Clemency Board prior to 31 January 1975 for an examination of their case. The Board will be empowered to recommend to the President that a Clemency Discharge be issued and to qualify such recommendation with a requirement for alternate service in appropriate cases. The Military Departments will not participate either in this review process or in monitoring performance of alternate service.



9. The foregoing shall not apply to cases involving individuals with offenses in addition to those in paragraph 2.

ANNEX E

INTELLIGENCE POLICY

1. Essential Elements of Information (EEI). See AR 381-130 and applicable DIA ICR's.

2. Intelligence Acquisition Tasks. Orders to subordinate and attached units: CDR, US Army Intelligence Agency:

a. Conduct interviews and debriefings of US Army deserters who have voluntarily returned to US control under the Clemency Program and who consent to such interview and debriefing. Special emphasis will be placed on debriefing personnel who deserted in or are returning from Southeast Asia so as to obtain all possible information on service members still listed as PW or MIA in that area.

b. Conduct liaison with appropriate federal agencies concerning the clemency program.

c. Provide such other services and support as may be directed by Headquarters, Department of the Army.

3. Conduct of Intelligence Debriefings.

a. All personnel who are interviewed under the provisions of this program will be advised of their rights under Article 31, UCMJ, their right to consult with counsel and to refuse the interview or debriefing, before they are asked any questions by or allowed to make any statements to counterintelligence personnel. However, it should be made clear to all returnees that the sole purpose of returnee interviews is to acquire information of casualty or counterintelligence interest. The individual returnee's behavior or possible misconduct, or the misconduct of other returnees, are not at issue, nor is the returnee to be considered the subject of a counterintelligence investigation.

b. Intelligence debriefing of US Army deserters conducted pursuant to this program will be accomplished only by trained counterintelligence agents. Debriefers will be selected on the basis of experience, maturity, and overall professional knowledge. If possible, returnees from SEA should be debriefed by personnel who participated in Operation HOMECOMING-PW debriefings.

4. Documents and/or Equipment Required.

a. Maps:

(1) Joint Operations Graphic (Ground), Series 1501, scale 1:250,000, maps covering the Republic of Vietnam and 150 kilometers of adjoining

areas of Cambodia, Laos and North Vietnam.

(2) Other maps as required.

b. Photos:

(1) DIA Publications DI-367-2-72 and DI-367-3-72, "Prisoners of War and Missing in Action in Southeast Asia (U)," Vols I and II.

(2) DIA Publication DI-365-5-72, "Unidentified US Prisoners of War in Southeast Asia (U)."

(3) TAGO Publication "Summary of Incidents of Prisoners of War and MIA/Missing US Army Personnel" dated 5 April 1974, (distributed to DA Staff only).

5. Reports and Distribution.

a. All messages and reports generated pursuant to this program will bear the nickname "CLEMENCY". If such messages are classified by originators, classification will be based solely on content.

b. Any information pertaining to US Army personnel who are listed as PW/MIA in Southeast Asia will be reported by IMMEDIATE electrical message to HQ USAINTA with info to HQDA (DAMI-DIO-HP), HQDA (DAAG-CA), and DIA (DI-6A4). Format and general reporting procedures will be as specified in USAINTC OPLAN 107-72.

c. All reports of interview will be prepared on DA Form 341 and forwarded through appropriate channels to HQ USAINTA. Reports will, as a minimum, bear the caveat FOR OFFICIAL USE ONLY.

6. Miscellaneous.

a. Intelligence debriefers will perform debriefings on Army personnel in coordination with the appropriate commander or team chief charged with overall processing responsibility at the particular site.

b. Intelligence debriefings should be integrated into the processing routine and be conducted in a low-key unostentatious manner. Great care should be taken to avoid giving the impression that returnees are being harassed by Military Intelligence.

ANNEX F

LAW AND ORDER POLICY

1. General.

a. There will be no confinement for personnel participating in this program (see eligibility criteria, para 3, basic letter). In the event a returnee has outstanding charges in addition to Articles 85, 86 and 87, UCMJ, and other military offenses directly related thereto, he should be handled under present UCMJ procedures. However, military police visibility should be kept to the minimum necessary since the individual is voluntarily returning to an administrative-type processing point under Presidential promise of no confinement for Articles 85, 86 and 87.

b. Deserters not falling within the provisions specified by the Presidential clemency offer will be handled IAW the UCMJ and AR 630-10.

c. To assure uniformity, all personnel returning under this program will be reported by the central processing point to the US Army NCIC Control Terminal, USACIP.

d. Disturbances/demonstrations will be handled routinely IAW established contingency plans. Such plans will include measures to protect returnees from retaliatory acts by personnel serving on active duty.

e. Military police will coordinate with SJA personnel on handling of returnees.

f. Personnel returning under the Clemency Program who become involved in another offense during processing will be handled IAW normal UCMJ and military police procedures. Local commanders must use discretion in defining unacceptable conduct (see paragraph 1, Annex C - Personnel).

2. Procedures.

a. The USACIP will query the FBI NCIC to verify status as a deserter; locate any unresolved civilian or military charge; determine status of any extradition information to include FBI and USACIDC special interest; provide notice to other appropriate law enforcement agencies of voluntary return and whereabouts; and clear from NCIC after coordinating with USACIDC-CRD.

b. Verification of personnel returning, who are not entered in NCIC, will be performed through administrative review of all available records by the Absentee and Deserter Division, US Army Enlisted Records Center.

c. The USACIDC, on receipt of machine records cards of the names and personal identifiers, to include SSAN, date and place of birth, of

each Army deserter eligible for the program, will accomplish records checks through the DOD investigative files which include all criminal files. The USACIDC will prepare a Machine Records Listing reflecting those individuals who are not subjects of Army criminal files requiring further action and a separate listing of those individuals who were subjects of Army criminal investigations at the time of their desertion. The USACIDC will provide these listings and copies of CID and military police case reports, if applicable, to CDR, USAADCEN, and CDR, USAERC, Fort Benjamin Harrison, IN.

d. The USACIP will provide USACIDC a listing of those individuals who return to military control. This information will be used to delete entries from the National Crime Information Center relating to other criminal offenses when appropriate and to document disposition of offender information on those investigations which have not been adjudicated or finalized.

e. Information obtained during interviewing or debriefing at the processing center that pertains to criminality involving US Army personnel or activities will be provided to USACIDC.

f. The USACIDC will interview those individuals under military control who are subjects of pending Army criminal investigations. All reasonable investigative leads pertaining to these investigations will be exhausted prior to the release of the individual from the US Army.

g. The USACIDC will provide normal criminal investigation support in accordance with AR 195-2.

h. Personnel returning to military control under the Clemency Program, who are apprehended for desertion by civil police, will be picked up by military authorities and allowed to proceed IAW instructions issued by the CDR, USAERC (USACIP), Fort Benjamin Harrison, IN. Individuals who are apprehended by civil authorities, who have not previously requested clemency, will be picked up by military authorities and advised that they may request participation in the Presidential Proclamation on their delivery to a major CONUS installation manned by active duty personnel. If the individual does not desire to participate in the Clemency Program, he will be processed in accordance with current regulations.

i. Deserters returning to CONUS from foreign countries with instructions issued by CDR, USAERC (USACIP), Fort Benjamin Harrison, IN, will be allowed to proceed IAW those instructions. Deserters returning to CONUS from foreign countries without such instructions will be reported to CDR, USAERC (USACIP) by the military authority first having knowledge of the individual's return. Such personnel will be assisted in their efforts to return IAW the spirit of the Clemency Program.



ANNEX G

INFORMATION POLICY

1. Purpose. This annex outlines DA policies and public affairs guidance for the return of Army deserters as provided by a national program of clemency.

2. Objective. To provide maximum information to the public and internal audience about the return of Army deserters without jeopardizing the individual deserter's right to privacy.

3. General Policies.

a. Because of the overriding national interest in the President's announcement on clemency procedures for draft evaders and military deserters, the Assistant Secretary of Defense (Public Affairs) is responsible for direction and coordination of all public affairs activities concerning deserters, discharges and clemency. Maximum information will be disseminated to the public while at the same time giving due consideration of the rights of the individual. The Joint Clemency Processing Center (JCPC) will be manned by representatives of all the Military Departments, and the JCPC information chief will report directly to the ASD (PA) for all public affairs matters.

b. The return of Army deserters will generate national, international and internal news interest. Consistent with the policies expressed herein, all personnel involved with the processing of deserters must clearly understand the need for PA activities to be carried out promptly, efficiently and candidly.

c. The news media have a right and a responsibility to gather information related to deserters. This must be respected at all items. Prompt and accurate responses to news queries and requests will be forthcoming whenever possible, consistent at all times with the paramount need for consideration of the deserter's right to privacy.

d. Personal consent of the deserter must be received prior to any interview or press conference. The deserter, as is the case for any other serviceman or woman, has a right not to be interviewed if he so chooses. The reason for this refusal is his personal right and need not be divulged.

e. News media representatives will be afforded equal treatment. Equal access to the story is a basic principle of DOD PA policy.

f. To facilitate the flow of information concerning the processing of deserters, Directorate, Defense Information Office of the Assistant Secretary of Defense, Public Affairs, Autovon 22-75131 is the public affairs contact point.



g. All deserters will receive a public affairs briefing as part of their in-processing. They should be advised of their right to decline being photographed and interviewed.

h. All personnel who will have direct contact with the deserters must have an understanding of possible PA problems and a thorough familiarization with PA guidance contained herein. Accordingly, the responsible commanders shall initiate procedures for briefing such personnel.

i. Public information releases to the media should include advising individuals to bring their military ID card and any other military records in their possession when reporting to military authorities.

j. The interviewing and photographing of deserters after their return to military control is permitted under the following conditions:

(1) The deserter gives his personal consent.

(2) The interview/photographing does not interfere with the efficient and orderly processing of the deserter.

4. Specific Policies and Procedures.

a. A DOD Spokesman at the Joint Clemency Processing Center will be designated by ASD (PA).

b. Public affairs officers should avoid becoming involved in speculating or interpreting DA, DOD or national policies on clemency.

c. The photographing of facilities prior to the processing of deserters is permitted. The photographing of the actual processing should be coordinated in advance to prevent the photographing of deserters who do not want to be photographed.

d. Questions regarding DA/DOD policies on this subject that cannot be answered using the answers at Appendix 1 will be referred to DAIO-PI, Autovon 22-72351/72352.

e. Queries regarding the number of deserters processed through an installation may be answered. However, the names of deserters may not be released without their personal consent.

f. Deserter interviews conducted at their request will not be allowed to interfere with their orderly processing. Government facilities may be utilized for these interviews.

g. Queries received concerning draft evaders will be referred to the Department of Justice (telephone (202 739-4281)).

h. Questions and answers for use by information officers on responding to queries are contained at Appendix 1.

1 Incl
Appendix 1 (Questions and Answers)



Appendix 1 (Questions and Answers) to Appendix G (Information Policy)

QUESTIONS AND ANSWERS OF DESERTERS/DRAFT EVADERS

1. Q. How does the Army intend to implement the President's Program on Clemency?

A. Initial contact to be made by mail or phone to the Clemency Information Point, Fort Benjamin Harrison, IN. All deserters are to return to military control at Fort Benjamin Harrison and will be processed there in the shortest period possible. The Army intends to execute the program in the spirit as well as to the letter of the Proclamation.

2. Q. How long will the processing take?

A. In the no complications case, about 4 days to a week.

3. Q. What is the estimated cost per deserter of the processing?

A. We have not yet calculated any figures for this.

4. Q. Does the deserter have any alternative to receiving a discharge? If so, what?

A. Yes, he may apply for restoration to duty or he may choose to let his case be handled "normally." A special board has been established to consider each case. Among the criteria required for restoration is receipt of an award while in Vietnam.

5. Q. What is a restoration board and how does it operate?

A. It is the board appointed by CDR, TRADOC that determines who may be restored to duty. It considers all aspects of the individual's past record and future potential.

6. Q. Why is the Army processing all the deserters at Fort Benjamin Harrison, Indiana?

A. That is where the Clemency Information Point is located and where the records are maintained. Additionally, the Finance Center is located there. All in all, it is the location that will provide the fastest processing of returned deserters.

7. Q. How does the President's program on clemency differ from what would normally happen to the deserter upon his return?

A. It prevents any confinement. It greatly speeds the discharge procedure. It provides an opportunity to have the effect of an other than Honorable Discharge mitigated by public service.



8. Q. Will the Army Process draft evaders? If so, where?

A. No.

9. Q. Will Camp Atterbury be used in processing deserters?

A. Possibly. If the facilities at Fort Ben Harrison become crowded, Camp Atterbury will be used.

10. Q. What happens to the deserters who do not fall under the criteria of the President's Program?

A. They will be processed in accordance with the law and current Army regulations.

11. Q. How does the Army feel about this program?

A. The Services have been consulted throughout and they support the President's decision.

JOINT ALTERNATE SERVICE BOARD

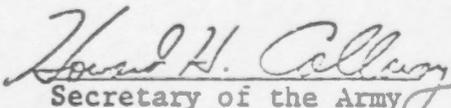
MEMORANDUM OF AGREEMENT

FROM: Secretaries of the Military Departments

TO: Joint Alternate Service Board

SUBJECT: Delegation of Authority

1. Pursuant to the authority contained in paragraph 6, Secretary of Defense Memorandum of 17 September 1974 (Subject: Implementation of President's Proclamation No. 4313) a Joint Alternate Service Board is hereby established.
2. The Board collectively is hereby designated as the representative of each of the service Secretaries for the purpose of determining the period of alternate service for members who qualify for the President's Program. The Board will consist of one colonel/captain from each of the military services to be appointed by the military chief of each service.
3. The Board will be guided by the following:
 - a. The Presidency of the Board shall be shared in such a manner that the President of the Board shall be a member of the same service as the member whose case is being considered.
 - b. In case of a tie vote, the vote of the President shall prevail.
 - c. The procedures under which the Board will operate in determining the periods of alternate service shall be determined by the Board; such procedures shall be consistent with Presidential Proclamation No. 4313 and the Secretary of Defense Memorandum dated 17 September 1974.


Secretary of the Army

Howard H. Callaway

Secretary of the Navy

J. William Middendorf

Secretary of the Air Force

John L. McLucas

