

September 24, 1974

SUBJECT:

AMNESTY LOOPHOLE

Was the President aware of the "loophole" when he signed the Proclamation and Executive Order outlining the amnesty procedure?

GUIDANCE: What has been identified as a "loophole" in the President's act of grace towards military deserters was in fact a carefully considered legal decision. ~~The procedures were~~ established by the White House in coordination with Counsel of Justice, Defense, Veterans Administration, the State Department and Selective Service. Within current law, the best available procedure compatible with existing practice for handling deserters was that selected. The deserters commit themselves to acceptance of a period of service and receive an Undesirable Discharge. Then, after satisfactory completion of the service, they will be given a Clemency Discharge. It is correct that there are no teeth in a legal sense to force a deserter to upgrade his Undesirable Discharge.

JGC



September 24, 1974

SUBJECT:

TREATMENT OF ALIENS  
UNDER THE AMNESTY ORDER

Are persons of dual citizenship able to take advantage of the amnesty order?

GUIDANCE: A citizen of the United States whether by birth or naturalization who has become expatriated is an alien and is not within the ambit of the Presidential Proclamation. If he presents himself at a port of entry in accordance with law before January 31, 1975, he should be treated in the following manner, if he claims to be a citizen and his United States citizenship is in doubt:

- (a) At land border points of entry he shall be refused admission and advised when and where he may appear for a hearing before an Immigration judge. He shall not be paroled into the United States.
- (b) At other ports of entry the applicant shall be paroled into the United States and arrangements shall be made for an expeditious hearing before an Immigration judge, since the carrier cannot be ordered to remove the applicant from the United States until the matter of his United States citizenship has been resolved. This policy does not constitute authorization for a carrier to bring persons to the United States without passports or other documents which may be required by law or regulations.
- (c) In cases of a person under either (a) or (b), it will be the policy of the Department of Justice to grant 15 days to the applicant to apply for the amnesty privilege. If he is ultimately found to be a citizen of the United States, the 15 days will run from date of notification that he is a citizen of the United States.

Of course, an alien who has never had United States citizenship and has fled the country to escape the draft is not eligible for amnesty.

JGC



January 9, 1975

SUBJECT:

CLEMENCY BOARD

Do you consider the Clemency program a failure?

GUIDANCE: We don't consider the program a failure because it has or will have granted clemency and or pardons to about 1,000 people who would not have been helped had there been no program.

FYI: 100,000 eligible  
1,000 applications in process  
134 applications completed  
65 decisions by the President  
69 pending decisions by the President

JGC

PRESIDENTIAL CLEMENCY BOARD  
MEMORANDUM

*Amnesty*

TO: JOHN CARLSON  
FROM: NIA NICKOLAS  
DATE: JANUARY 30, 1975  
SUBJECT: Data on Presidential Clemency Board Figures

The Presidential Clemency Board deals only with those individuals CONVICTED of AWOL or SELECTIVE SERVICE VIOLATIONS. The minimum number of potential applicants to the Board's Program is 100,000. Of that 100,000 number of convicted individuals, there are approximately 8700 civilians and the balance of 91,300 are military cases.

The President issued his Proclamation on September 16, 1974.

Total applications between September 16th, 1974  
and January 6th, 1975: 850

Major Press Conference on January 6th, 1975  
which received national coverage in both  
newspapers, radio and television prompted  
immediate increase by January 8th had received: 245 additional  
applications

At this Press Conference we announced the Public  
Service Spots which were received in tv and radio  
studios around the country and probably aired for  
the first time on January 16th. By January 17th, between  
press conference coverage and some airing of spots  
the new number was: 1,700

January 20th Press Conference where we announced  
the tremendous increase in applications and phone  
calls indicated the public was only beginning to  
understand the Program and wanted more information.  
Cancelled Board Meeting and sent Board Members on  
Information Mission to major cities throughout the  
Country. 2,200

Total applications  
received:

Between January 20th and January 24th:	2,600
Between January 27 and January 30th:	4,000

Today we have an estimated 4,000 applications in hand.

There is no way to estimate what number we could expect to receive should the President grant an extension.

The applications currently are coming in at the rate of approximately 300 a day.

*The P. has made 65 decisions  
20 outright pardons  
45 alternate service (3-6 mo.)*

Q. Is it true that the President has acted on only 165 applications for conditional clemency and that more than 200 have been sitting on his desk for sometime awaiting action?

A. All of the applications have been signed and sent back to the Board. There is no backlog at the White House.

Q. Can you explain why, with more than 16,000 applications, only 373 have reached the President's desk?

A. You have to go back to the end of January, when the Board had only about 800 applications, to see why the processing has been slow.

The Board spent February and March publicizing the program, which brought in nearly 20,000 applications. This meant the Board needed additional staff and larger working quarters. This was accomplished by the middle of May and the Board was able to turn its attention to the task of processing all the applications. I am told that they are now capable of processing from 1,000 to 1,200 cases a week and I would look for a steady flow of requests to come to the President's desk.

Q. Is it true that they don't have enough telephones at the Clemency Office?

A. Any questions pertaining to the internal workings of the Board should be referred to Nia Nickolas at 254-5066.

Q. Is the President satisfied with the program?

A. Yes, he still believes that the Program of earned return is the proper way to resolve this very emotional issue. There were approximately 130,000 individuals eligible for some form of conditional clemency.

Of that number, approximately 40,000 were handled by the Department of Defense or the Department of Justice. There were another 90,000 who had been given undesirable discharges. It was necessary for those who sought to have their Undesirable discharge status changed to come forward and apply for clemency and also to be prepared to serve up to two years of alternative service. The fact that some 16 or 17,000 individuals came forward indicates that the program was worthwhile.

September 19, 1975

SUBJECT:   FOUR MEMBERS OF CLEMENCY BOARD  
   SEND MINORITY REPORT TO WHITE HOUSE

Four former board members of the Presidential Clemency Board have sent a report to the White House saying the Board was run by an anti-war majority that took unethical, bordering on illegal, actions to promote amnesty.

What's your reaction to the minority report of the Clemency Board?

GUIDANCE:   It is my understanding that a report of four members of the Clemency Board was sent to the White House a few days ago (titled a Summary Report of the Presidential Clemency Board's Operations). We have not yet had a chance to review the report in any depth.

According to the Federal Advisory Committee Act, the Clemency Board is required to submit a final report on its activities to the President. That report has not yet been received, and therefore, it would be premature for the White House to evaluate or discuss the report of the four former members until we've had a chance to review the Board's report. Since this recent report expresses the views of four members, this will obviously be a part of the final report.

JGC



January 6, 1976

SUBJECT: FINAL REPORT OF THE  
CLEMENCY BOARD

Has the President received the final report of the Presidential Clemency Board?

GUIDANCE: The President has received the final report of the Clemency Board, representing the observations and conclusions of the Board. The report contains an extensive description and analysis of the Board's activities during its year of existence. The final report was submitted to the President pursuant to Section 10(d) of the Federal Advisory Committee Act (5 USC App I) and pursuant to Section 9 of Executive Order 11803, dated September 16, 1974.

Will you make copies of the report available here?

GUIDANCE: Copies of this report may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, DC.

Who can answer follow-up questions on this report?

GUIDANCE: Senator Goodell can answer your questions. His phone number is 659-3650.

FYI: The Presidential Clemency Board was created on September 16, 1974, in order to consider applications for clemency from convicted draft offenders and for servicemen discharged for absence offenses. The Board was officially terminated by the President on September 15, 1975.

JGC

Office of the White House Press Secretary

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THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

When I took office 13 months ago, the status of persons who had evaded military service or had deserted the Armed Forces during the Vietnam conflict remained unresolved. In furtherance of our national commitment to justice and mercy, I established on September 16, 1974, a Program for the Return of Vietnam Era Draft Evaders and Military Deserters, because I believed these young Americans should have the opportunity to contribute a share in the rebuilding of peace among ourselves and with all nations.

As part of this program, I established the Presidential Clemency Board to review the cases of evaders and deserters who had been convicted of these offenses. In addition, other parts of the program were administered by the Department of Justice and by the Department of Defense.

The Clemency Board, under the chairmanship of Charles E. Goodell, has considered approximately 15,500 applications on a case-by-case basis for the purpose of making recommendations to me. As I had intended, the Board gave careful attention to each individual case and did not simply recommend blanket amnesty for whole categories of applicants. The Board has worked diligently to fulfill its very important assignment.

Now that the Presidential Clemency Board has completed its consideration of all its cases, I signed yesterday an Executive Order terminating operations of the Board and transferring to the Attorney General whatever administrative duties may remain to be completed.

I want to thank the members of the Board for their personal contribution and hard work. As a result of their efforts, many deserving young Americans will have been helped to achieve full re-entry into their respective communities.