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THE WHITE HOUSE

PRESS CONFERENCE  
OF

LAURENCE H. SILBERMAN  
DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

MARTIN R. HOFFMANN  
GENERAL COUNSEL, DEPARTMENT OF DEFENSE  
AND

BYRON V. PEPITONE  
DIRECTOR, SELECTIVE SERVICE

THE BRIEFING ROOM

10:32 A.M. EDT

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

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

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

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

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

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

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

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OVER)

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

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

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

Q Will it resume later?

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

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

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

The President described the Board as broad-gauged.

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

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

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

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

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

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

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

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

Q And would there be any minimum alternative service?

MR. SILBERMAN: There is no stated minimum.

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

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

Q Does a draft evader have to be convicted?

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. HOFFMANN: That is correct.

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

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

Q Who received dishonorable discharges?

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

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

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

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

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

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

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

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

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

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

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

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

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

Q Could you give us some examples of that?

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

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

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

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

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

Q You mentioned 41 percent.

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

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

MR. SILBERMAN: Discharged from prison?

Q Yes, he has served his time.

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

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

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

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

MR. SILBERMAN: It is not contemplated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q Was it ready last Tuesday?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q They don't get any jobs.

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

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

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

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

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

MR. PEPITONE: The employers?

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

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

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

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

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

Q On that point --

MR. SILBERMAN: Yes, Mr. Lisagor?

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

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

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

Q Do you have any idea --

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

Marty, do you want to answer?

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

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

Q What do you mean by that?

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

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

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

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

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

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

MR. HOFFMANN: That is correct.

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

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

Q What was the question?

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

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

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

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

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

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

I will have a second question along that same line.

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

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

Q No other charge?

MR. SILBERMAN: Assuming he commits no other crime.

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

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

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

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

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

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

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

Q By who?

MR. PEPITONE: By me.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q What would the barrier be?

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

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

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

Q Yes; that is, the mitigating factors?

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

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

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

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

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

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

MR. SILBERMAN: What individuals are you referring to?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. SILBERMAN: Point two of which document?

Q It is the Proclamation.

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

Q Yes, could you elaborate on that?

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

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

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

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

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

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

MORE

Q What is the maximum?

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

Q How many is that?

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

Q How about draft evaders?

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

Q Will it be on the internal mult, Jack?

MR. HUSHEN: Yes, it will be.

Q Do you have a list of the members yet?

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

THE PRESS: Thank you, gentlemen.

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