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



In my first week as President, I asked the Attorney General of the United States and the Secretary of Defense to report to me, after consultation with other government officials and private citizens concerned, on the status of those young Americans who have been convicted, charged, investigated or are still being sought as draft evaders or military deserters. On August 19, at the national convention of the Veterans of Foreign Wars in Chicago, I announced my intention to give these young people a chance to earn their return to the mainstream of American society so that they can, if they choose, contribute even though belatedly to the building and betterment of our country and the world.

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

I promised to throw the weight of my Presidency into the scales of justice on the side of leniency and mercy, but I promised



also to work within the system of military and civilian law and the precedents set by my predecessors who faced similar post-war situations such as Abraham Lincoln and Harry Truman.

My objective of making future penalties fit the seriousness of each individual's offense and of mitigating punishment already meted out in a spirit of equity has proved an immensely hard and complicated matter, even more difficult than I knew it would be. But the agencies of government concerned and my own staff have worked with me literally day and night in order to develop fair and orderly procedures and completed their work for my final approval over this last weekend. Since I do not want to waste another day on the dilemmas of the past so that we may all get going on the pressing problems of the present, I am today signing the necessary Presidential proclamation and executive orders that will put this plan into effect.

Inasmuch as every conviction of draft evasion and desertion is as different as the individuals involved, I am establishing a Clemency Review Board of nine distinguished Americans whose duty

it will be to assist me in assuring that the government's forgiveness is extended to applicable cases as equitably and as impartially as is humanly possible.

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

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

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

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

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

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

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

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

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

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

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

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

The alternate service shall promote the national health, safety, or interest.

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

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

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



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

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

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

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

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



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

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

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

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

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

I promised to throw the weight of my Presidency into the scales of justice on the side of leniency and mercy, but I promised

also to work within the system of military and civilian law and the precedents set by my predecessors who faced similar post-war situations such as Abraham Lincoln and Harry Truman.

My objective of making future penalties fit the seriousness of each individual's offense and of mitigating punishment already meted out in a spirit of equity has proved an immensely hard and complicated matter, even more difficult than I knew it would be. But the agencies of government concerned and my own staff have worked with me literally day and night in order to develop fair and orderly procedures and completed their work for my final approval over this last weekend. Since I do not want to waste another day on the dilemmas of the past so that we may all get going on the pressing problems of the present, I am today signing the necessary Presidential proclamation and executive orders that will put this plan into effect.

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## Office of the White House Press Secretary

THE WHITE HOUSE

The President today named nine persons to be members of the Presidential Clemency Board:

Honorable Charles Goodell, of the District of Columbia (CHAIRMAN)

From 1968 to 1970 he served as a United States Senator from New York. He is currently in the private practice of law. He was born in 1926 and is a graduate of Williams College and Yale Law School, with a master's degree in government. While at Yale he was a Ford Foundation Fellow. He resides in Northwest Washington.

Dr. Ralph Adams, of Troy, Alabama

Since 1964 he has been President of Troy State University in Troy, Alabama. He was born in Samson, Alabama in 1915 and received his A.B. degree at Birmingham-Southern College and his LL.B., LL.D. and J.D. degrees from the University of Alabama. He also has done postgraduate work at the University of Colorado and George Washington University. He is married to the former Dorothy Kelly and they have three children.

Mr. James P. Dougovita, of L'Anse, Michigan

He presently serves as a teaching aide of minority students in the Department of Technology at Michigan Technological University in Houghton, Michigan. He was born in Menominee, Michigan on December 22, 1945 and received his AAS degree from Michigan Technological University in June of 1973. He and his wife Elaine have one child and live in L'Anse, Michigan.

Honorable Robert H. Finch, of San Marino, California

He is a senior partner in the Los Angeles law firm of McKenna, Fitting, and Finch. He was born on October 9, 1925, in Tempe, Arizona and received his A.B. degree from Occidental College and J.D. degree from the University of Southern California. He is married to the former Carol Crouthers and they have four children.

Rev. Theodore M. Hesburg, C.S.C., of Notre Dame, Indiana

He is the President of Notre Dame University. He was born in 1927. He was a permanent Vatican Delegate to the International Atomic Energy Agency. He has served as Chairman of the U.S. Commission on Civil Rights and as a member of the Commission on All-Volunteer Armed Force.

Mr. Vernon E. Jordan, of White Plains, New York

He has been Executive Director of the National Urban League since January 1, 1972. He is a lawyer by profession and previously was the Executive Director of the United Negro College Fund. He was born on August 15, 1935 in Atlanta, Georgia and received his B.A. degree from DePauw University in 1957. He received his J.D. degree from Howard University Law School in 1960 and was a Fellow at the Institute of Politics at Harvard University and a Fellow at the Metropolitan Applied Research Center. He is married to the former Shirley M. Yarbrough and they have one daughter. They reside in White Plains, New York.

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Mr. James Maye, of Silver Spring, Maryland

Since 1973, he has served as the Executive Director of the Paralyzed Veterans of America, Inc. He was born on January 14, 1943 in Bassett, Virginia and received his B.A. from Bridgewater College and his M.S. from Virginia Commonwealth University. He is married and resides in Silver Spring, Maryland.

Mrs. Aida O'Connor, of New York, New York

She is a practicing attorney at the Two World Trade Center in New York City. She was born in 1922 and received her B.A. degree and LL.B. degree from the University of Puerto Rico. She was awarded her L.L.M. degree from the George Washington University. She is a member of the American Bar Association and the Supreme Court of the United States.

General Lewis W. Walt, of Colorado Springs, Colorado

He is retired from the United States Marine Corp. He was born on February 16, 1913 in Wabaunsee County, Kansas and received his B.S. degree from Colorado State University in 1936. General Walt is married to the former June Burkett Jacobsen and they reside in Colorado Springs, Colorado.

The Board was established today by Executive Order 11803, which was one of the portions of the clemency programs which the President announced today.

The purpose of the Board is to review certain convictions of persons under Section 12 of 6(j) of the military Selective Service Act and certain discharges issued because of certain convictions for, violation of ARTICLE 85, 86, 87 of the Uniformed Code of Military Justice and make recommendations for clemency for persons who make application prior to January 31, 1975.

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

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

SEPTEMBER 16, 1974

Office of the White House Press Secretary

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THE WHITE HOUSE

FACT SHEET

PRESIDENTIAL CLEMENCY BOARD

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

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

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

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

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TOTALLY EMBARGOED  
UNTIL 11:30 A.M. EDT

SEPTEMBER 16, 1974

Office of the White House Press Secretary

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THE WHITE HOUSE

EXECUTIVE ORDER

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

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

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

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

GERALD R. FORD

THE WHITE HOUSE,

September 16, 1974.

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Office of the White House Press Secretary

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THE WHITE HOUSE

EXECUTIVE ORDER

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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 CONVIC-  
TIONS FOR, VIOLATIONS OF ARTICLE 85, 86 OR 87 OF  
THE UNIFORM CODE OF MILITARY JUSTICE AND TO MAKE  
RECOMMENDATIONS FOR EXECUTIVE CLEMENCY WITH RESPECT  
THERE TO

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

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

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

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

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

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

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

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

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

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

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

GERALD R. FORD

THE WHITE HOUSE,

September 16, 1974.

September 16, 1974

Office of the White House Press Secretary

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THE WHITE HOUSE

FACT SHEET

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

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

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

Essential features of the program are outlined below.

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

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

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

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

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

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

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

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

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

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

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

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

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5. Alternate Civilian Service. Determining factors in selecting suitable alternate service jobs will be:

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

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

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

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

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

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SEPTEMBER 16, 1974

Office of the White House Press Secretary

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THE WHITE HOUSE

FACT SHEET

PROCEDURES TO BE FOLLOWED

UNCONVICTED DRAFT EVADER AND MILITARY ABSENTEE

DRAFT EVADER

MILITARY ABSENTEE  
(including Coast Guard)

Report to United States Attorney  
where offense was committed

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

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

Oath of Allegiance to  
United States

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

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

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

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

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

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

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

Dismissal of indictment or  
dropping of charges

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

Clemency discharge substituted  
for undesirable discharge

CONVICTED DRAFT EVADER AND MILITARY ABSENTEE

DRAFT EVADER

MILITARY ABSENTEE  
(including Coast Guard)

Apply to Clemency Board

Apply to Clemency Board

Clemency Board may recommend  
clemency to the President

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

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

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

President may grant clemency

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

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

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Office of the White House Press Secretary

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THE WHITE HOUSE

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

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

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

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

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

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

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

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

more



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

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

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

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

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

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

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

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

more

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

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

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

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

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

GERALD R. FORD

# # # # #



Bob -

We still do not have a firm time for the press conference tonight because of the Jewish holy days which begin at sundown today.

Bill Baroody tried to reach Max Fisher for some guidance, but Max is out of town.

~~11:15~~ The next best time is 4 p.m. today. But I don't know if that will give the President enough time to prepare himself.

Seems to me that it would be better to risk some complaint from the Jewish community than to put the President before the cameras without proper preparation. The President could open ~~the~~ the press conf. with an acknowledge of the Jewish holy days. Jack

I recommend going ahead with the 8:30 time.

To: Chicago Tribune-New York News Syndicate, Inc.  
220 East 42nd Street, New York, N.Y. 10017

HARRIS PUBLIC OPINION ANALYSIS

For Release: Thursday AM, September 19, 1974

Not Before

By Louis Harris

A 56-36 per cent majority of the American people records its approval of "giving amnesty to those who left the country and refused to serve in the armed forces during the war in Vietnam" in exchange for two years of alternative national service at this time.

This marks a sharp increase in sentiment in favor of such qualified amnesty since last January when the public narrowly supported this type of plan, 45-43 per cent.

Blanket amnesty without any service requirement, on the other hand, meets with substantial opposition, 53-37 per cent. Back in January, the public opposed any such unqualified amnesty by an even wider 56-30 per cent.

Earlier this month, a nationwide cross section of 1,527 adults was asked in person:

"Do you favor or oppose giving amnesty to those men who left the country rather than serve in the armed forces during the Vietnam War?"

UNCONDITIONAL AMNESTY

	<u>Favor</u>	<u>Oppose</u>	<u>Not</u> <u>Sure</u>
	<u>%</u>	<u>%</u>	<u>%</u>
September, 1974	37	53	10
Jan.	30	56	14
Feb., 1973	24	67	9
Aug., 1972	27	60	13
June	38	53	9

Support for amnesty without any service requirements has never received the support of anything close to a majority of the public during the past two years. However, back in mid-1972, when the Vietnam War reached the heights of unpopularity, and before the prospect of a negotiated settlement, only a slim majority opposed unconditional amnesty.

(MORE)



Backing for unconditional amnesty then faded just after the peace terms were signed by this country with North Vietnam and prisoners-of-war began to return. Unquestionably, former President Nixon's opposition to amnesty contributed to continued public opposition.

The concept of amnesty with a qualified service requirement in some non-military assignment has always found much more backing from the American people. Periodically, the public has been asked:

"Would you favor giving amnesty to those who left the country and refused to serve in the armed forces during the war in Vietnam, if they had to spend two years in some form of national service other than the military, or don't you feel that would be right?"

#### AMNESTY WITH SERVICE REQUIREMENT

	<u>Favor</u>	<u>Oppose</u>	<u>Not</u>
	<u>%</u>	<u>%</u>	<u>Sure</u>
	<u>%</u>	<u>%</u>	<u>%</u>
Sept., 1974	56	36	8
Jan.	45	43	12
Feb., 1973	43	49	8

The trend on amnesty for those who refused to serve in the armed forces during the Vietnam conflict has moved unmistakably toward a solid majority in favor of some form of national service.

Just after the Vietnam peace signing, only a slim 49-43 per cent plurality opposed this sort of qualified amnesty. Back at the beginning of this year, a narrow plurality emerged for the national service concept.

Now, with the seeming backing of President Ford, a 56-36 per cent majority stands ready to back it. However, there are wide regional and other differences not apparent from these over-all results:

(MORE)

## AMNESTY WITH SERVICE REQUIREMENT

	<u>Favor</u>	<u>Oppose</u>	<u>Not</u> <u>Sure</u>
	<u>%</u>	<u>%</u>	<u>%</u>
<u>Nationwide</u>	56	36	8
<u>By Region</u>			
East	63	31	6
Midwest	61	33	6
South	45	43	12
West	56	37	7
<u>By Education</u>			
8th grade or less	48	39	13
High school	55	37	8
College	61	34	5
<u>By Sex</u>			
Men	54	39	7
Women	58	33	9

In the East and Midwest, the idea of national-service amnesty meets with much wider favor than in the South or West. The South is more closely divided than any other region.

This checks out with previous surveys which have shown the South to be much more sympathetic toward U.S. military operations and less in sympathy with anti-establishment behavior on the part of young people. However, it should be noted that even in the South a slim plurality of 45-43 per cent comes down on the side of qualified amnesty.

Women are more for amnesty than men, just as women are much more opposed to capital punishment than men, and were more opposed to the war in Vietnam than men.

The amnesty idea also finds many more supporters among better educated segments of the public. They are less prone to conclude that when young men are called upon to serve their country they should go into the armed forces without objection. And they are more likely to sympathize with moral objections to war, even to the point of refusing to serve in the armed forces.

The country comes together in the end on the requirement for a period of non-military service. Given this stipulation, which appears to be a key provision of President Ford's own thinking on the issue, there is no longer any doubt that a majority of the American people now favors a policy of reconciliation with its expatriated youth.

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

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

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

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

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

In furtherance of our national commitment to justice and mercy these young Americans should have a second chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an indication 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 likewise unacceptable. 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, as Commander in Chief and pursuant to the pardon power and the duty faithfully to execute the laws provided by Article II, Sections 2 and 3 of the Constitution, do hereby proclaim a program to commence immediately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. Draft Evaders - An individual who allegedly unlawfully failed 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 complete alternate service 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 the Selective Service, and (iii) satisfactorily completes such service. The alternate service shall promote the national health, safety, or interest.

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

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



2. Military Deserters - Members of the military who have been administratively classified as deserters by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964, to March 28, 1973, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice for such absence and for offenses directly related thereto if before January 31, 1975 they execute an agreement with the Secretary of the Military Department from which they are absent, acknowledging their allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service for a period of twenty-four months, which may be reduced by the Secretary of the appropriate Military Department because of mitigating circumstances. The alternate service shall promote the national health, safety, or interest. However, if any such individual has additional outstanding charges pending against him under the Uniform Code of Military Justice, he will be eligible to participate in this program only after a final disposition of the additional charges has been reached in accordance with law.

All such deserters who elect to seek relief through this program will receive an undesirable discharge from military service. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department, the 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 affect entitlement to benefits administered by the Veterans Administration.

3. Presidential Clemency Board - Many individuals at present stand convicted of draft evasion or have received punitive or undesirable discharges from a Military Service for having violated Articles 85, 86, or 87 of the Uniform Code of Military Justice. By Executive Order, I have this date established a Presidential Clemency Board which will review the records of individuals in this category who apply, and recommend to the President that clemency be granted in appropriate cases. 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 affect entitlement to benefits administered by the Veterans Administration.

4. Alternate Service - In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Military Departments, and 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 assure equity between those who served their country when called and those who will serve under this program.

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

EXECUTIVE ORDER

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ESTABLISHING A CLEMENCY BOARD TO REVIEW CERTAIN CONVICTIONS OF PERSONS UNDER SECTION 12 OF THE MILITARY SELECTIVE SERVICE ACT AND CERTAIN DISCHARGES ISSUED BECAUSE OF VIOLATIONS OF ARTICLES 85, 86 and 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 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 prior to January 31, 1975, and who (i) have been convicted of violating Section 12 of the Military Selective Service Act (50 U.S.C. App. §462), or of any rule or regulation promulgated pursuant to that section, for acts committed between August 4, 1964 and March 28, 1973, 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. The Board will only consider the cases of those Section 12 violators who were convicted of unlawfully failing (i) to register or register on time, (ii) to keep the local board informed of his 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 alternate service. However, the Board will not consider the cases of individuals who are precluded from entering the United States under 8 U.S.C. 1182(a)(22).

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 a military service 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 President's 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 incarcerated and have been convicted only of an offense set forth in section 2 of this order, and who have no outstanding detainers.

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 reimbursible basis.

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

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

THE WHITE HOUSE,

EXECUTIVE ORDER

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

By virtue of the authority vested in me as President of the United States, as Commander in Chief and pursuant to the pardon power and the duty faithfully to execute the laws provided by Article II, Sections 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

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

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

THE WHITE HOUSE,

## FACT SHEET

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

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

Essential features of the program are outlined below.

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

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

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

Draft evaders participating in this program will be required to make a written agreement with the U.S. Attorney to perform alternate service, under the auspices of the Director of Selective Service. The agreement will include an acknowledgment that the alternate service indicates allegiance to the United States.

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

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

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

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

4. Unconvicted Military Absentees. Military absentees who have no other pending charges may elect to participate in the program. Those who make such an election will be required to execute a reaffirmation of allegiance and pledge to perform a period of alternate civilian service. Those against whom other charges under the Uniform Code of Military Justice are pending will not be eligible to participate in the program until these other charges are disposed of in accordance with the law. Participants in the program will be separated with an undesirable discharge. Although these discharges will not be coded on their face in any manner, the Veterans Administration will be advised that the recipients were discharged for willful and persistent unauthorized absence. They will thus not be eligible for any benefits provided by the Veterans Administration.

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

5. Presidential Clemency Board. Those already convicted of draft evasion or who were discharged from the military because of a military absentee offense during the Vietnam era may apply for clemency to a nine member Clemency Board, established by Executive Order. The Board will review their records and recommend clemency on a case-by-case basis to the President. In the absence of aggravating circumstances, the Clemency Board would be expected to recommend clemency. When appropriate, the Board could recommend clemency conditioned upon some alternate service.

The Clemency Board could also recommend to the President that a clemency discharge be substituted for a punitive or undesirable discharge in the case of a military absentee.

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

6. Alternate Civilian Service. Determining factors in selecting suitable alternate service jobs will be:

1. National Health, Safety or Interest.
2. Noninterference with the competitive labor market. The applicant cannot be assigned to a job for which there are more numerous qualified applicants than jobs available.



3. Compensation. The compensation will provide a standard of living to the applicant reasonably comparable to the standard of living the same man would enjoy if he were entering the military service.

4. Skill and talent utilization. Where possible, an applicant may utilize his special skills.

In prescribing the length of alternate service in individual cases, the Attorney General, the Military Department, and the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under the law, and such other mitigating factors as may be appropriate to assure equity between those who serve their country when called and those who will serve under this program.

7. No Grace Period. There will not be a grace period for those outside the country to return and negotiate for clemency with the option of again fleeing the jurisdiction.

## FACT SHEET

### PRESIDENTIAL CLEMENCY BOARD

The President has today established by Executive Order a nine member Presidential Clemency Board. The Board will review the records of two kinds of applicants. First, those who have been convicted of a draft evasion offense committed between August 4, 1964 and March 28, 1974. Second, those who received a punitive or undesirable discharge from the military because of a military absentee offense committed during the Vietnam era. The Board will recommend clemency to the President on a case-by-case basis. In the absence of aggravating factors, the Clemency Board would be expected to recommend clemency.

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

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

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

AMNESTY ← *file*

A painful residue of the conflict in South Vietnam is the treatment that should be accorded to individuals who evaded the draft or absented themselves from military service. This, of course, is part of the larger problem associated with mass conscription. A number of proposals have been advanced under calls for "amnesty" for some form of absolution for such individuals. This memo is premised on the assumption that the pressure for action is likely to increase, and will certainly continue. An initiative by the executive might well resolve satisfactorily the issue through a workable plan, including the necessary fairness which will be supported by a majority of Americans. Such action could not only dissipate this nagging issue, but contribute to the "healing" process and foster further an era of good feeling.

Section 1. General

Amnesty is a sovereign act of forgiveness for past misconduct, granted by the state to an individual or class of individuals. The grant may be conditioned upon the performance of an act or acts within a prescribed time (hence the popular term "conditional amnesty"). It has the effect of nullifying existing or potential convictions for specified misconduct as contrasted with pardon or executive clemency which relieves the penalties but leaves convictions standing. In according amnesty prior to trial and conviction for misconduct, of course, the state forgoes its right to try and punish.

Inherent in a grant of amnesty is the need for some mechanism whereby to assure through factual determination that an individual belongs to the class to which the amnesty is offered. Additionally, whenever amnesty is to be conditioned on a degree of repentance or contrition (expressed in taking of an oath, or in some alternate service) there is an additional need to determine the facts in individual cases.

The current estimates of 4,400 fugitive draft evaders and 29,000 military deserters (i.e., with absences of over 30 days) pose a considerable administrative burden in compiling the facts and circumstances for making amnesty determinations. In addition, there are 8,200 evader cases in process or which have resulted in conviction, together with a significant number of convicted military absentees. In these cases, a record exists upon which an administrative board could make a recommendation to the Chief Executive.

With the lapse of time from the Southeast Asia war, national sentiment favoring some sort of amnesty will probably continue to grow. As early as January 1972, 70% of Americans polled favored some sort of amnesty (conditional amnesty having been explained to them) although half of these felt it should wait until the cessation of hostilities and the draft. A blanket amnesty does not seem appropriate, both because of its possible interpretation or because it fails to discriminate among the many and differing situations of individual evaders and absentees, whose derelictions will be weighed against the price paid by the 46,000 dead and the more than 300,000 wounded, captured or missing.



Conditional amnesty, or its equivalent, could be accorded through one (or a combination) of the following methods:

1. Reliance on existing laws and legal process, operating under the umbrella of a declaration of national policy of amnesty. The Attorney General and the military services would be charged to proceed as to all those who surrendered within a specified time, exercising prosecutorial leniency based on individual case circumstances and specified criteria. An Administrative Amnesty Board would be constituted to dispose of existing convictions, or to review the results of post-declaration convictions and process.

2. Declare a national policy of amnesty/clemency and create an administrative process for administration of the policy outside of existing legal process. The declaration would provide for the establishment of an intragovernmental Task Group which would develop the administrative mechanism and criteria, and report to the President within a time certain.

3. Convene the intragovernmental Task Group mentioned in 2 above, and after it had finished its work, declare the policy and proceed immediately to implement it.

The first alternative would appear to be most satisfactory. Little publicity has been accorded to cases already treated by the existing legal systems, which have been handled with a good degree of sensitivity. Start-up time for an amnesty program would be minimized. The public perception of existing legal process would be strengthened. The Chief Executive/Commander-in-Chief would be in a position through an Administrative Clemency Commission to review all of the results.

Section 2. The Current Situation

As of 1 January 1974, data obtained from the Selective Service show that about 7,900 men have been convicted as violators of the Selective Service Act. In addition, about 5,100 were under indictment and another 3,100 under prosecution determination or FBI investigation for a total of about 8,200 cases in process. In addition, it is estimated that there are about 4,400 fugitives of which it is estimated that about 3,000 are in Canada, 500 overseas, and 900 whereabouts unknown.

From 1 July 1966 to 31 December 1973 there were over 500,000 incidents of military desertion, i.e., unauthorized absences of 30 days or more. The number convicted and still incarcerated is available; but nearly 29,000 were "at large" as of December 31, 1973. The majority of these are individuals who have been dropped from the military rolls and technically are deserters. The distribution of lengths of absences,

79  
82  
16.1  
4.4  
20.5

29.



dates of departure and other circumstances can be obtained and analyzed. As of December 31, 1973 there were 2,100 individuals "at large" in foreign countries, of which about three-fourths were in Canada. A rough analysis of these "deserters" or absentees is attached at Tab A.

Historical precedents are of limited assistance in addressing the problem. Past "amnesty" has tended more to executive clemency and prosecutorial inaction than to sweeping executive grants. The legal processes for handling the two categories of individuals are different. Selective Service Act violations are prosecuted by the Department of Justice while military absentees fall within the jurisdiction of the Uniform Code of Military Justice. There are, however, similarities between evaders and absentees in the sense that it is difficult to distinguish between an individual who failed to show up at his scheduled draft reporting date and a draftee who did show up, entered basic training, and left shortly thereafter. It may be only accidental that one individual is in the civil category and another in the military. The end result for two such individuals who otherwise behaved in similar fashion should be as nearly similar as possible.

There are a number of proposals associated with grants of amnesty or executive clemency that deserve consideration. They range from full and complete forgiveness through alternative service to forgiving incarceration but imposing (for the record) convictions and dishonorable discharges.

Whenever an individual already has been convicted under the Criminal Code or the Uniform Code of Military Justice, an Amnesty Commission can operate to recommend executive clemency or a full amnesty. The problem remains in the cases of evaders and absentees, that in order to make a case-by-case evaluation, some fact-determining mechanism must be found. In fashioning an administrative mechanism, the requirements of due process and the current sensitivity to individual rights induce a degree of complexity, even though the basis for the action is executive clemency rather than the exactions of the criminal laws.

It should be noted that there is another potential class of offenders involved in the amnesty problem, those who have been involved in counselling or otherwise aiding defenders, evaders, or deserters in violation of law (18 U.S.C. 1381). In the course of explaining the circumstances attending a period of expatriation or status as a fugitive, the involvement of families and friends is bound to come to light thus posing additional "amnesty" problems.

### Section 3. Alternatives

A quick review of the current situation suggests that three alternative plans might be pursued:

Alternative 1. A national policy of amnesty/clemency could be announced or proclaimed by the President. It would be accompanied by a policy statement which would set forth criteria and guidance for the handling of evader and absentee cases within the framework of existing law. The Attorney General and the Secretarys of the Military Services would be directed to handle all cases in consonance with a policy of leniency which could include such elements as alternative service, consideration of acceptable mitigating circumstances and the like. The President could institute an Amnesty (or clemency) Commission to advise him both with respect to convictions already received and to functions as a safety valve in those post-proclamation cases where convictions resulted.

This alternative sounds more in prosecutorial discretion than amnesty, although it contemplates an amnesty commission which ultimately could act in appropriate cases. There is a wide flexibility in the present system. Individuals would remain free on their own recognizance, having reported to their local U.S. Attorney's office. In the more clear cut cases, prosecution can simply be withheld - even short of an arrest record - in the case of an individual who returns and undertakes some meaningful alternative public service. In more complicated cases, or where the circumstances do not warrant the forgoing conditional amnesty, an exception to usual policy could be made and pleas of nolo contendere allowed by the U.S. Attorneys, with a federal judge then disposing of the case after presenting reports that had been compiled. Trial and subsequent suspension of sentence or grant of pardon are also possible, again depending on the nature of the case.

Under the military system, the Services could be directed to handle amnesty cases as AWOLs rather than deserters. The investigation which usually precedes a court martial could be used to develop facts and circumstances. The convening authority would then decide on disposition based on the Commander-in-Chief's amnesty declaration, proceeding to court martial only in those cases where circumstances warranted.

Such an approach comports with requirements for contrition and recognition of wrongdoing, in the context of submission by the individual to law under sovereign leniency. It deals with the individual in his own community. Flexibility exists in the full range from de facto amnesty (no prosecution) to pure amnesty (absolution of conviction and restoration to full civil rights) in appropriate cases. It obviates the necessity to set up an administrative process for amnesty purposes alone.

Alternative 2. The President could announce a national policy of amnesty/clemency. It would set forth the principal elements such as the degree of "punishment" already suffered by the individual, and introducing the possibility of alternative service or other conditions as predicates for amnesty. The President would empanel a federal task force to develop a detailed plan for the administrative dispensation of amnesty and to report back to the President within 60-90 days. Such a task force probably should be headed by the Justice Department (Deputy Attorney General) with representatives from DoD, Selective Service, State, other appropriate agencies.

This alternative contemplates that a significant administrative mechanism will be desirable (or required) other than the existing legal processes. It also recognizes that, as more is known about the extent and complexion of evaders and absentees as a group, more appropriate administrative criteria and mechanism can be designed. By utilizing a Task Group, the voices of the many differing opinions on the subject could be heard; a controlled national debate might even be possible under its auspices. By using a group of individuals in government, a greater degree of policy control could be exercised to assure a timely and practical result.

Such administrative approach would involve a means of developing the facts of individual cases, which might be as simple as an affidavit swearing that an individual was in the amnestied class and accepting alternative service. Here, as in Alternative 1, the individual seeking amnesty would report to a local authority within a certain time. Arrangements would be made with the appropriate investigating and prosecutorial authorities so that the individuals would be free on recognizance during processing. For more complex situations hearing examiners might be required. These could be drawn from the number of agencies that have hearing examiners around the country. Review boards could either make the determinations or review the initial determinations made by hearing examiners. The process would take the place under the Presidential declaration together with more detailed policy guidelines and criteria. Those who were not accepted for amnesty treatment would revert to the appropriate prosecutorial authorities where, again, a measure of leniency could be administered.

This alternative might afford better comparability in end results for evaders and absentees. It would be more acceptable to those who feel the existing prosecutorial authorities could not make sufficiently sensitive judgments.

Alternative 3. The same objective as Alternative 2 would be pursued, except the proclamation and implementation would follow the work of the Task Group. This approach assumes that additional public debate and inputs are not as necessary as the impetus to be gained from a rapid implementation of a practical, workable scheme for administrative handling of amnesty, once the policy was announced.

Final observations. On the basis of present information, and assuming a fairly rapid implementation of an "amnesty" program would be desirable, Alternative 1 would appear the most desirable. It would capitalize on legal mechanisms already in place. It would avoid creation of administrative mechanisms which would be the subject of legal testing in the courts and therefore a period of uncertainty. It would recognize the efficacy of the existing legal system. It would afford a good degree of flexibility in shaping the program once it is started.

Any alternative selected must look to a good measure of Congressional support to assure general acceptance. Moreover, any dispensation of clemency or amnesty must be designed and administered giving full consideration to its impact on the military services present and future, both in terms of morale, and in terms of requirements to raise and maintain adequate military forces.



A

II Statistics

a. Since 1 July 1966 to 31 December 1973, there have been:  
 503,926 incidents of desertion (unauthorized absence of 30 days or more)  
 28,661 individuals are "at large" as of December 31, 1973

b. Deserters in Foreign Countries (1 July 1966 to 31 December 1973)  
 4,194 have gone to foreign countries  
 1,413 have returned to military control  
 662 have been discharged in absentia (aliens residing in foreign countries and have been absent for more than one year)  
 20 have died in foreign countries  
 2,099 are "at large" in foreign countries

1,587(75.6%) in Canada	86(4.1%) in Mexico
218(10.4%) in Sweden	208(9.9%) in 56 other countries

1,090(26.0%) of the deserters who have gone or attempted to go to foreign countries are aliens (i. e., not United States citizens) who returned to their countries of origin. 660 of these aliens have been discharged in absentia; 242 are "at large".

c. Reasons/Circumstances for Desertion by Those Who Went to Foreign Countries.

- 45.4% no reason stated
- 20.3% aliens (non-United States citizens)
- 9.6% escaped from confinement/under charges/under investigation
- 3.6% Vietnam war
- 4.4% family, financial, personal
- 5.0% inability to adjust to military life
- 2.6% claimed CO or pacifistic beliefs
- 2.3% ordered for entry on active duty, but did not report
- .8% live with an alien spouse
- .5% admitted fear of being killed
- 5.5% other miscellaneous reasons (unrelated to Vietnam war)

