

**The original documents are located in Box 5, folder “Clemency Program - General (1)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.**

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## Log of Documents

- |    | <u>Date</u> | <u>Item</u>   |
|----|-------------|---|
| 1. | Aug 30      | (a) Ltr to Pres fr: Sec. DOD<br>and AG.<br>(b) Enclosure - Memo   |
| 2. | Aug 30      | Meeting on Kennedy Memo   |
| 3. | Sept 5      | (a) Memo to PWB fr: Hoffman<br>includes drafts of document<br>(b) List of Benefits for Vets.<br>(c) Collection of prior Amnesties |
| 4. | Sept 7      | (a) Memo to PWB from <sup>S. Liberman</sup> Hoffman<br>Pepitov  |
| 5. | Sept        | Draft of Proclamation for<br>Dr. Marris.  |



Friday 8/30/74

MEETING  
8/31/74  
8:30 a. m.

11:50 REMINDER:

You have a meeting with the President at 8:30 a. m.  
tomorrow (8/31) on amnesty.



THE WHITE HOUSE

WASHINGTON


August 30, 1974

MEETING ON LENIENCY

Saturday, August 31, 1974

8:30 a.m. (45 minutes)

The Cabinet Room

From: Ken Cole 

I. PURPOSE

To receive and discuss the recommendations of Saxbe and Schlesinger on leniency for draft evaders and military deserters.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: You asked Saxbe and Schlesinger to present to you their unvarnished views before September 1st. Their report is briefly analyzed at Tab A and attached in full at Tab B. The participants realize this is a discussion session and do not expect a final decision. You may wish to conclude the meeting by saying you want to think about their recommendations over the weekend.

B. Participants: List attached.

C. Press Plan: Announced event. Press photo.

III. SUGGESTED QUESTIONS:

1. What was the process of development in each of your Departments in reaching these recommendations?
2. What Congressional action, if any, will be required to implement the recommendations? What Congressional reaction is anticipated to the proposals?
3. What would be the effect of these recommendations upon our Nation's future ability to raise an Army in time of war?



LIST OF PARTICIPANTS

Department of Defense

Secretary James Schlesinger  
General Counsel Martin Hoffman

Department of Justice

Attorney General William Saxbe  
Deputy Attorney General Laurence Silberman

White House Staff

Phillip Buchen ✓  
Robert Hartmann ✓  
John Marsh ✓  
*JTR*  
*Geoff Shepard*  
Domestic Council Staff

James Cavanaugh  
Geoff Shepard ✓



A



\* DOD + Justice don't have this  
+ preceding ANALYSIS

Attorney General Saxbe is very opposed to amnesty, but recognizes that you are moving in that direction and wants to be supportive. Since most draft evaders now pleading guilty get only suspended sentences, Saxbe advocates the simplest of solutions for draft evaders: essentially a promise to be a good citizen from now on and a grace period of one year to blend back into the community.

\* Secretary Schlesinger recognizes that he has trouble within his own Department since he has never "worn a uniform" He knows he must advocate the toughest option, but as he describes the details, the option becomes more and more lenient. Schlesinger feels we are seeking a political solution to a problem for which there is no legal solution. Basically, he advocates an undesirable discharge, coupled with a confession of desertion and a promise to perform public service.

Both men have considered and rejected establishing an enforceable program of public service employment for evaders or deserters. This rejection is based upon their considered judgment that the administrative chaos and adverse press coverage from the attempted enforcement would far outweigh any advantage to you or the Nation of really knowing whether the promised public service was actually performed.

The possible effect of this upon the Nation's future ability to draft an Army has not received detailed consideration by either individual.

The recommended statement of allegiance and promise of public service is designed to both satisfy the Nation that there will be an "earned re-entry" and to discourage re-entry of the true revolutionaries who might best remain abroad indefinitely.

The choice is essentially whether you agree that this is sufficient, or whether you actually want your Administration to enforce the program and attempt to impose discipline (with the anticipated demonstrations and endless court suits by dissentients) upon a group which is in public disfavor precisely because it rebelled against discipline.



*B*





THE SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

August 30, 1974

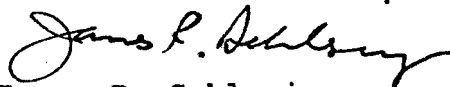
The President  
The White House  
Washington, D.C.

Dear Mr. President:

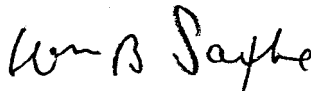
This letter responds to your request that we give you our "unvarnished views" as well as the full spectrum of American opinion on the question of "amnesty" for draft evaders and military deserters. This response has been drafted on the assumption that existing legal structures should be utilized to the maximum in administering a program of earned reentry. We concur that a Presidential initiative addressed to the issue is a timely step in efforts to heal the nation's wounds.

A continuing recognition of a citizen's obligation to serve his country in time of need is a national necessity. A national reconciliation of differences arising from the Vietnam war is also desirable. The program outlined in the attached memorandum attempts to meet those divergent objectives.

Respectfully,



James R. Schlesinger  
Secretary of Defense



William B. Saxbe  
Attorney General



THE SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

MEMORANDUM FOR THE PRESIDENT

SUBJECT: A Program for the Return of Vietnam Era Draft Evaders  
and Military Deserters

I. The Nature and Scope of the Problem

A. Introduction

The program outlined in this memorandum transcends the normal processes of jurisprudence in an effort to reconcile the nation in the aftermath of a lengthy and divisive war.

Refusal to serve one's country has always been viewed as unacceptable. Moreover, both evasion of military service and desertion are potentially grave threats to the national security. In particular, desertion in time of war is a most serious and heinous offense. This program is designed as a unique act of mercy, intended to heal the nation's wounds. In no way is it intended to condone acts of evasion or desertion.

B. Historical Experience with "Amnesty"

A general amnesty for all deserters or draft evaders has never followed an American war. In the past, partial amnesties have typically applied only to those already convicted. There have been about 20 such amnesty or pardons' proclamations in American history. In other instances, clemency has been obtained by draft evaders or deserters through prosecutorial inaction.

None of these instances, where some form of clemency or amnesty was given, provides an exact precedent for deserters or draft evaders from the Vietnam war period. The purpose of the contemplated program for reconciliation in the case of Vietnam war resisters would be to give those individuals an opportunity to "earn their way back" into American society, thereby promoting national reconciliation consistent with maintaining a strong military force and a viable prospect for conscripting armies in future emergencies.



## C. Individuals Potentially Eligible for the Program

### 1. Draft Evaders

There are two groups of draft evaders from the Vietnam war period who may be eligible for the program: those who have been convicted of an offense and those who are under either indictment or investigation. There are approximately 8,700 in the former group and 6,610 in the latter. Only a handful of those convicted of draft evasion are incarcerated today. There are 4,352 alleged violators under indictment and of those, 4,061 are fugitives. Approximately 3,000 of the fugitives are in Canada. An additional 2,258 persons are under investigation for draft evasion. Thus, approximately 15,500 draft evaders will potentially be eligible for the reconciliation program.

Draft evaders acted for a variety of motives. Some acted because of opposition to the Vietnam war. Others may have acted out of dislike for a range of aspects of military service. Those who strongly favor amnesty believe that most draft evaders should be treated as if they acted out of opposition to the war. Those who oppose any lenient treatment tend to emphasize motivations other than anti-war sentiment, and reject attempts to characterize their motivations as expressions of moral principle.

### 2. Deserters

An individual who is absent without leave for 30 days or more is classified as a deserter. There are at present approximately 12,500 Vietnam era military deserters "at large"; approximately 1,500 of these are in Canada. During the Vietnam era, approximately 500,000 incidents of desertion were resolved through the normal processes of the military justice system. Approximately 600 individuals are currently serving sentences or awaiting trial for absence offenses during this same period. Thus, approximately 13,000 unconvicted deserters are potentially eligible for the program. The motives of these deserters varied. As with evaders, those who favor amnesty tend to believe that many of the deserters were motivated by opposition to the Vietnam war. However, the available data indicates that only a small percentage of this group acted for that reason. A profile of the typical deserter indicates that he was an enlistee, a non-high school graduate, was from 18 to 21 years old, was single, and was in one of the four lowest enlisted pay grades.



It should be noted that some of the 13,000 deserters at large have other criminal charges in addition to desertion pending against them. In such cases the other charges would be disposed of as provided by the Uniform Code of Military Justice before the deserter would be considered under the alternate service program.

D. Spectrum of Opinion on Amnesty

The Vietnam war ultimately generated a sharp division in American society based upon fundamental moral and philosophical differences in perceptions of the war. Some groups support blanket amnesty for war resisters. They believe resisters committed no offense and they assert that they provided a moral guide for the rest of society. Others oppose any form of reprieve because they believe evaders and deserters shirked their patriotic duty, and they have concluded that to take the absentees back without punishment would demean honorable military service. Between these two positions lies a wide spectrum of views held with varying degrees of intensity.

Recent public opinion polls indicate that a substantial majority of Americans favor some form of amnesty. Of that group, a majority favor conditional, rather than blanket amnesty.

Congressional proposals mirror this spectrum of opinion ranging from immediate general amnesty for all draft evaders and deserters (Abzug-Dellums) through alternate service for evaders only (Taft) to resolutions opposing any amnesty (Hogan).

In the last analysis, for any program contemplating the return of Vietnam era evaders and deserters to heal the wounds of the Vietnam conflict, as large a majority of Americans as possible must view it as fair and just, considering both the diverse attitudes toward the war and notably, the sacrifices of those who served.

II. The Program

The program outlined in this memorandum assures returning evaders and deserters that they will not be prosecuted for offenses of evasion or absenteeism, if they agree to perform alternate national service. Several elements can be adjusted to realize the appropriate degree of leniency of the program. The key elements are as follows: (1) whether to indict a returning evader; (2) the type of discharge



received by a returning deserter; (3) the nature and length of the commitment to perform alternate service, the degree of latitude in the type of alternate service, and the degree to which this performance will be monitored and enforced; (4) the nature, if any, of a reaffirmation of allegiance, including acknowledgement of absence; and (5) the degree of exoneration which will be afforded upon successful completion of a period of alternate service.

Other variables relate to the scope of the program and the period during which evaders and deserters may apply. It is recommended that only those who committed offenses between the dates of the Tonkin Gulf Resolution (August 4, 1964) and the withdrawal of U.S. forces from Vietnam (March 28, 1973) be included. We also recommend that applications for the program be limited to a period of 120 days commencing 30 days from the date of the proclamation announcing the program.

Taking these variables into account, the program aims to fulfill the objective of giving evaders and deserters an opportunity for an "earned re-entry" into American society. Under the plan, both the returning evader and the returning deserter would execute a formal pledge for alternate service including a form of reaffirmation of allegiance to the United States. The evader would remain subject to indictment until he completes the period of alternate service. The deserter would immediately receive an undesirable discharge from the armed forces. The alternate service program would be monitored by the Director of the Selective Service System.

The concept of alternate service as a condition of "earned return" to U.S. society is derived from Selective Service regulations relating to the program for conscientious objectors. This concept is central to Senator Taft's "earned" immunity proposal.

It should be recognized that a program of this type will create administrative and enforcement problems. If a substantial number of individuals seek alternate service, the Director of Selective Service will need additional funds to assist in the location of appropriate jobs. In most instances, it would be hoped that the individual seeking to qualify would be able to find his own job. The type of qualifying alternate service would, as in the case of the conscientious objector program, be concerned with "the national health, safety, or interest."



The Selective Service would be accorded a wider discretion than the existing guidelines on the type of qualifying service. It should include jobs or service in hospitals, schools, ecology and other community or charitable organizations. The length and/or character of such service, recommended to be 18 months at most, could be reduced in individual cases in consideration of special circumstances.

An evader who successfully completed alternate service would receive a certificate, upon receipt of which the U.S. Attorney would drop draft evasion charges. A deserter would be entitled to have his undesirable discharge marked with an appropriate legend to indicate fulfillment of his commitment upon presentation of the certificate to the concerned military department. No deserter would be eligible for veterans benefits.

Draft Evaders

Military Deserters

- |    |  |   |
|----|--|---|
| 1. | Report to U.S. Attorney  | Report to designated military authority |
| 2. | Reaffirmation of allegiance  | Same                                    |
| 3. | Keep existing indictments on file and require waiver letters from all evaders (including unindicted) pending completion of alternate service   | Undesirable discharge                   |
| 4. | Written agreement with U.S. Attorney to perform alternate service under the supervision of the State Selective Service Director for a period, a maximum of 18 months mitigated in individual circumstances under generalized guidelines. | Same; written agreement received by DoD |



- |      |   |  |
|------|---|--|
| 5.   | Employer or sponsor certification of good performance. Alternate service counseling by State Selective Service Director                 | Same   |
| 6.   | Review of certification by State Selective Service Director and issuance of certificate of satisfactory completion of alternate service | Same   |
| 7.   | Dismissal of indictment   | Undesirable discharge would remain with legend indicating certification of completion of alternate service |
| 8.   | No veterans benefits  | Same   |
| III. | <u>Post Conviction Group (Military and Civilian)</u>  |  |

A three member Clemency Board would be established by Executive Order pursuant to the President's pardon power. The Board would review the records of convicted draft evaders and deserters who apply, and recommend clemency consistent with the President's program. The Board would have authority to issue appropriate guidelines.

With respect to convicted deserters, those who applied could have a dishonorable or bad conduct discharge received for an offense of absenteeism upgraded to an undesirable discharge by action of their service. There following, through Selective Service, they could complete a program of alternate service which would be indicated on the discharge.

The Board would also have discretionary authority to review, under the President's ultimate clemency power, decisions under the program in order to achieve the objectives of the program.



THE SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

August 30, 1974

The President  
The White House  
Washington, D.C.

Mr. Bucher -  
This is the final  
version which  
went to the  
President.

Jon Rose

Dear Mr. President:

This letter responds to your request that we give you our "unvarnished views" as well as the full spectrum of American opinion on the question of "amnesty" for draft evaders and military deserters. This response has been drafted on the assumption that existing legal structures should be utilized to the maximum in administering a program of earned reentry. We concur that a Presidential initiative addressed to the issue is a timely step in efforts to heal the nation's wounds.

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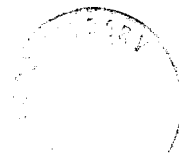
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|----|---|--|
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[9/74?]

Board Members

Presidential Clemency Board

Dr. Ralph Adams, Troy State University, Troy, Alabama  
Mr. James P. Dougovita, Michigan Tech University  
Honorable Robert H. Finch, McKenna, Fitting & Finch, Los Angeles  
Charles E. Goodell, Hydeman & Mason

Father Theodore Hesburg, President, University of Notre Dame  
Mr. Vernon E. Jordan, Exec. Dir. of National Urban League  
Mr. James Maye, Exec. Dir. of Paralyzed Veterans of America, Wash. D. C.

Mrs. Aida Casanas O'Connor, Asst. Counsel to the New York State  
Division of Housing and Community Renewal, New York City.  
General Lewis W. Walt, USMC

Charles Goodell, Chairman



[sept. 1974?]

1. Who should sign off

356-4797  
DOD

% Bob Andrews - river entrance w/ gund  
820 Turkey Run Road, McLean, Va.

DOJ

OLC

John Rose Rm 4236  
DOJ.

OMB

WH

Speech writers

Husken

Cong. Relations

Marsh

Buchen

Hartmann

VA

SS

DOS

NSC

✓ 2. Should release language be put in Fact Sheet?

✓ 3. 31 USC 686

✓ 4. Political Question answers

- 5. Time period to report to US. Atty - Fact Sheet?

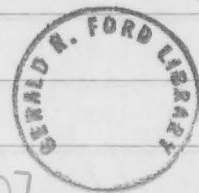
6. WH must direct DOS to use its loan  
expatriation fund or else DOS will go to Hill

✓ 7. Time period to report to SS for alternate  
service

- 8. DOJ, DOD hotlines (Clemency Bd -

✓ 9. Clemency certificate? can it be used?

✓ 10. Should Embassies be mentioned in Fact Sheet





✓ 11. Should "or" be added or deleted  
in Proc. Sec 1 or Exec Order for Pres  
Sec. 2, (v)

12. Sec 5 of Exec Order - delete "then"  
" " " at not to exceed the " awkward

13. Type-0 p. 2 - Sec 7  
p. 3 - branch - no capital right.

14. In the new fact sheet it says Pres.  
has asked suspension of incarceration  
where? - p. 2

15. See chart.

(a) what about Oath?

(b) " " Alternate Serv. re: Board

(c) " " embassies?



[Sept. 1974?]

1. Common system of reporting -
2. hotline
3. Service reqs - exemption - language on hearing
4. emergency certificate -

Capt. William O Miller

- ✓ 5. 15 days to report to US Atty
- ✓ 6. Economy Act
- ✓ 7. release in jail



[Sept. 1974?]

Peptide -

Proc - Director of <sup>the</sup> Selective

Exec Order.

Sec 1: "authorized in Proc"

not the President's Proc

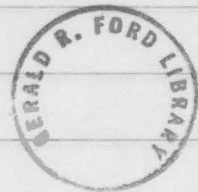
Concoran -

Paul Weiss -

Bill Timins (Powell Moore)

< Exec Order on Tax Returns >

Mailing System



[Sept. 1974?]

1. Issue of Navy / Marine Corps handling  
PB says no, Marsh its up to DOD
2. Changes in language - Proc.
  - ✓ (1) beginning date
  - ✓ (2) additional charges under selective service  
failure to register, <sup>or register</sup> on time  
failure to keep draft board informed of address
  - ✓ (3) delete words "the President's" from Exec. Order
  - ✓ (4) Ted Morris wants to re-write one paragraph  
of Proclamation
  - ✓ (5) Should item on release be put in fact sheet
  - ✓ (6) "immediately" + "before January 31, 1975"  
delete inclusive P. 2  
if before - p. 3

have DOD  
DOS  
do in order

3. Time period to report to Selective Service  
put in Fact Sheet
4. Time period to report to U.S. Attorney / Military
- ✓ 5. Suspension of warrants - not w.H.
- ✓ 6. Evader present himself  
Desert " " or execute agreement
- ✓ 7. w.H. must direct DOS to use its loan  
expatriation fund or else DOS will go to Hill
- ✓ 8. 24 months up in air
- ✓ 9. Some body from Press Office to handle political  
questions technical - Silberman / Hoffman  
political - who?

Conesp. Sec  
Clara Hyatt  
Bob Anderson  
then to Jerry  
Jones  
Pat 2611



mail # 02<sup>Pm</sup>-1024

1872101

Sept. 1974?

VA - Corcoran - How we have been adjudicating cases -  
man who remembered

- effect of discharge on other benefits -  
same as said yesterday -

Schubert - Under Sec of Labor -

language - for statement

option A - statement - G.D. may recommend

option B - pardon ally -

or order language -

Stan  
Ebner  
of OMB

furlough - ? put in fact sheet -

OMB -

The Navy/M.C./A.F. - report by letter / option  
to come in.

Hor

24 but shall be subj to military  
services

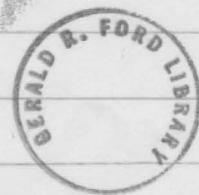


See Wash Post - editorial

Implement - ltr to <sup>Rudy</sup> Hasten  
Committee / Ford Foundation present at  
signing

Copies of pardon regs to Anita  
Pardon Atty -

Statement of Pres. to include recommendation  
of Pres sought.



*Amnesty*

Wednesday 9/4/74

5:45 Mr. Caesar Giolioto, Director of Government Relations of the American Psychiatric Association, called to say they represent 21,000 psychiatrists. They are coming out with a statement this weekend in terms of offering a way to encourage and stimulate their membership to facilitate the use of returning draft evaders to serve. Wanted to talk with whoever was handling amnesty.

232-7878

I checked to see if Dr. Marrs was available; he was not but expected in half an hour. Mr. Giolioto was to call that office directly. Gave Dr. Marrs' secretary the above information.





OFFICE OF THE DEPUTY ATTORNEY GENERAL  
WASHINGTON, D.C. 20530

September 7, 1974

TO: The Honorable Philip W. Buchen  
Counsel to the President  
The White House

Attached is a paper reflecting the resolution by the Department of Defense, the Department of Justice, and the Selective Service System of outstanding issues concerning the President's program of national reconciliation.

We thought it important that our proposed resolution of these issues be brought promptly to the attention of the White House.

A handwritten signature in cursive script, reading "L. H. Silberman".

Laurence H. Silberman  
Deputy Attorney General

A handwritten signature in cursive script, reading "Martin Hoffmann".

Martin Hoffmann  
General Counsel  
Department of Defense

A handwritten signature in cursive script, reading "Byron V. Pepitone".

Byron V. Pepitone  
Director  
Selective Service System





September 7, 1974

DOD-DOJ-SSS Proposed Treatment of Issues Arising  
in the National Reconciliation Program

1. Affirmation of Allegiance. DOD wishes to have the returning deserter sign a short oath of allegiance to the United States of the type originally submitted to the White House. In addition, the deserter would sign an alternate service agreement. DOD has asked DOJ for a legal opinion outlining the risk of litigation arising from possible constitutional challenges to such an oath. This opinion will be prepared by the close of business on Monday, September 9.

The Department of Justice prefers that in the case of draft evaders the alternate service agreement contain an acknowledgement that the agreement itself represents an expression of allegiance to the United States. It is our belief that the differing treatment outlined above can be justified because of the difference between the offenses of draft evasion and military desertion.

2. Definition of Evader. We agree that the Presidential clemency program should be limited to those who evaded the draft or deserted from military service. We would not expand the scope of the program to include those who aided and abetted the offense of draft evasion. We agree that the President's clemency program should be limited to absence or evasion offenses committed by individuals and not be extended to include persons engaged in a collective attempt to undermine the military conscription system.

3. Term of Service. We agree that the basic term of alternate service for draft evaders and military deserters should be fixed at 18 months. In the case of the draft evaders, the Justice Department recommends that the United States Attorney have limited authority to modify the 18 month requirement where mitigating circumstances are shown. In the case of the military deserter, the Defense Department would prefer to have Selective Service System bear the responsibility for any modification of the term of alternate service. However, Selective Service System states that it does not have personnel with the requisite training and experience to perform this task. Therefore, the Department of Defense has expressed its willingness, if the White House so instructs, to have the military



services assume responsibility for modifying the required term of alternate service. It is our joint belief that to require a uniform period of service in all cases without exception could lead to arbitrary and capricious results.

We further recommend that the President's Clemency Board have no discretion to review the terms of alternate service for either draft evaders or military deserters. While it is conceivable that such discretionary authority could be a safety valve for extraordinary cases, it would be far more likely to hamper the ability of the Selective Service System to administer the alternate service program.

4. Selective Service System Authority and Funding to Conduct the Alternate Program. It is recognized by all three agencies that the authority of the Selective Service System to conduct the alternate service may be challenged in the course of the appropriations process. However, the Department of Justice believes there is the requisite legal authority. Under 3 U.S.C. § 301 (1970) the President has authority to delegate functions to the head of any agency in the Executive branch. In this circumstance the President is delegating a program which is an incident of his constitutional pardon power. Further, under 31 U.S.C. § 686 (1970) (The Economy Act) the Departments of Justice and Defense have authority to contract with the Selective Service System for services such as the conduct of the alternate service program. It is our intention to use both sections as authority to operate the program.

Depending upon the number of the participants in alternate service, Selective Service System will require an additional \$1 million-\$3 million annually for the conduct of the program. If necessary, Defense and Justice are prepared to assume by reimbursable contract a proportional share of the cost.

5. Clemency Board Funding, Location and Logistic Support. We agree that the Clemency Board should be housed separately from the Justice and Defense Departments. We also agree that the



members of the Board should be compensated at supergrade level on a per diem basis in order to increase the quality of those willing to serve. For example, the members of the Board might be compensated at a GS-17 level while the Chairman might be compensated as a GS-18. Since the Board is to be a Presidential one, it would seem appropriate that the Board members be compensated from White House funds. However, the staff of the Board might be detailed from the Departments of Justice and Defense.

6. Guidelines for Pardon Recommendations for the Clemency Board. We agree that the Executive Order establishing the Clemency Board should contain the basic guideline that the Clemency Board in the absence of exacerbating circumstances would normally recommend post-conviction applicants for a pardon. The Board would also have the authority, where appropriate, to recommend a pardon conditioned upon a period of alternate service.

We would further recommend that with regard to convicted military absentee offenders the Clemency Board be authorized to recommend to the President that the offender receive not only a pardon for his UCMJ offense but also a substitute administrative discharge for an outstanding punitive discharge. The convicted offender would also have the opportunity to request the concerned military department to substitute an administrative discharge for an outstanding punitive discharge through existing administrative procedures.

7. Extent of Exoneration Afforded to Deserter Upon Satisfactory Completion of Alternate Service. The Department of Defense recommends that a returning deserter be immediately issued an undesirable discharge. Upon satisfactory completion of alternate service, Defense would recommend that the deserter's undesirable discharge be marked with a legend that his alternate service requirement had been satisfactorily fulfilled. The Department of Defense recognizes, however, that a greater number of deserters would be likely to participate in the alternate service program if at the end of it some greater benefits, such as a substitute special leniency discharge were given to them. Although the Department of Justice recognizes that this issue is one principally of concern to the Department of Defense, it believes that the possibility of a substitute special leniency discharge is necessary in order to have an incentive for the deserters' alternate service program.



# Synopsis

Memo: Sept 7

DOD - DOJ - SSS

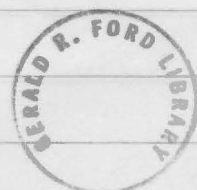
1. Oath of Allegiance/Alternate Service Agreement
  - (a) Deserters -
    - (1) DOD desires deserters sign an oath of allegiance
    - (2) DOD desires deserters sign a separate alternate service agreement
  - (b) Evaders
    - (1) DOJ desires evaders sign a combined alternate service agreement containing an oath
2. Scope of Clemency be defined to
  - (a) The word "evader" should not include those who aided or abetted the evader
3. Term of Alternate Service
  - (a) Deserters -
    - (1) 18 months subj to mitigation
    - (2) DOD desires Selective Service modify term but SS does not have staff - so DOD suggests military services handle
  - (b) Evaders -
    - (1) 18 months subj. to mitigation
    - (2) U.S. Attorneys to have authority to modify term
  - (c) Clemency Board
    - (1) DOD-DOJ-SSS urge that clemency board not have discretion to review terms of service for deserters or evaders



4. Management/Authority to conduct Alternate Service
- (a) The Selective Service System shall have authority to conduct the alternate service program
  - (b) This authority, it is believed, lies in the President's authority to delegate functions to the head of any agency.

5. Clemency Board

- (a) funding + location, generally
6. Pardon Recommendations by Clemency Bd.
- (a) Authority should be granted to:
    - (1) recommend post-conviction pardons
    - (2) recommend pardons conditioned on alternate service
    - (3) recommend that absentees' previously convicted have their discharges



THE WHITE HOUSE

WASHINGTON

MEETING ON LENIENCY

Monday - September 9, 1974

5:00 P. M.

The Oval Office

From: Philip W. Buchen

I. PURPOSE

To discuss the issues raised by your Staff and their concerns of the proposed leniency program as presented by Department of Defense, Department of Justice and Selective Service System.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: You met on Saturday, August 31, 1974, with Saxbe, Schlesinger, their respective Counsels, members of the White House Staff and Domestic Council Staff to discuss the recommendations of Saxbe and Schlesinger.

The participants of this meeting would like to discuss certain issue areas raised by the recommendations of DOD, DOJ and Selective Service.

B. Participants: Philip Buchen, Robert Hartmann, John Marsh, Jay French (Buchen's staff) Ted Marrs of the White House Staff; Geoff Shepard of the Domestic Council Staff.

C. Press Plan: None.

III. ISSUE AREAS:

1. See attached list of issues. (TAB A)
2. See attached chart of program. (TAB B)



1. Term of Alternate Service

Should the length of service, 18 months, which is subject to modification for evaders and deserters, have a minimum requirement of 6 months?

2. Use of term "Deserter"

Should the use of this term in the Proclamation and related documents be defined as "deserters including those who have at anytime administratively been declared deserters during the period from August 4, 1964 to March 28, 1973"? This accomodates post-conviction cases of unauthorized absence.

3. Locations of Return for Evaders

Should U. S. Embassies be allowed to accept return of evaders prevented from returning immediately to the U. S. because of hardship?

4. Effective dates of Amnesty

When should amnesty commence? If amnesty does not commence immediately will evaders and deserters be subject to arrest?

5. Parole

For those presently incarcerated should parole be allowed to obviate the inequity created when those at large return and are allowed to remain free pending alternate service?

6. Type of Discharge for Deserters?

Should a new type of administrative discharge be created rather than utilizing the undesirable discharge with a marginal notation to attract post-conviction cases holding undesirable discharges?

7. Modification of 18 month service term

With respect to the modification for mitigating reasons of the 18 month alternate service term for deserters, DOD and Selective Service disagree on which agency should administer this act.



(TAB B)

AMNESTY PROGRAM

(as proposed by DOD, DOJ, Selective Service)

EVADERS

At Large

1. Report to U. S. Attorneys
2. Sign combined Oath/Service Agreement
3. Alternate Service Term 18 months, subject to modification by U. S. Attorney (no review by Clemency Brd.)
4. Selective Service to administer Alternate Services
5. Indictment dropped

Within Judicial or Punitive Process

1. (a) Report to U. S. Attorneys if indictment pending or prosecution in process  
  
(b) Apply to Clemency Brd. for pardon if post-conviction during parole or imprisonment
2. Those reporting to U. S. Attorneys follow "At Large" procedure. (see column to the left)
3. Those applying to Clemency Board will receive pardon (option available to Board to recommend alternate service)

Convicted and Free

1. Apply to Clemency Board for pardon (option available to Board to recommend alternate service)





## DESERTERS

### At Large

1. Report to Military Department (closest service).

2. Sign Oath.

3. Sign Service Agreement.

4. Receive Undersirable Discharge.

5. Alternate Service Term 18 months subject to modification by SSS.

6. Selective Service to administer alternate service.

7. Undesirable discharge altered in margin.

8. There is proposed a new administrative discharge -- clemency discharge -- as optional with the Service Department.

### Within Judicial or Punitive Process

1. If prior to conviction receive undesirable discharge upon application to his service department. Then apply to SSS for alternate service and thereafter an upgraded discharge.

2. If convicted, apply to Clemency Board for pardon. The Board could recommend alternate service as a precondition. Thereafter deserter applies to service department for upgraded discharge.

### Convicted and Free

1. Apply to Clemency Board for pardon which will be recommended. The Board could make alternate service a precondition.

2. Based on Pardon deserter applies for new discharge. Undesirable with <sup>motivation</sup> ~~motiva-~~ ~~tion~~ or Clemency discharge.



THE WHITE HOUSE

WASHINGTON

MEETING ON LENIENCY

Monday - September 9, 1974

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The participants of this meeting would like to discuss certain issue areas raised by the recommendations of DOD, DOJ and Selective Service.

B. Participants: Philip Buchen, Robert Hartmann, John Marsh, Jay French (Buchen's staff) Ted Marrs of the White House Staff; Geoff Shepard of the Domestic Council Staff.

C. Press Plan: None.

III. ISSUE AREAS:

1. See attached list of issues. (TAB A)
2. See attached chart of program. (TAB B)



*Proc. Friday  
New Monday*

*Handwritten notes and initials on the left margin, including names like 'Saxbe', 'Schlesinger', 'Buchen', and 'Hartmann'.*

1. Term of Alternate Service

Should the length of service, 18 months, which is subject to modification for evaders and deserters, have a minimum requirement of 6 months?

24-6 -

2. Use of term "Deserter"

Should the use of this term in the Proclamation and related documents be defined as "deserters including those who have at anytime administratively been declared deserters during the period from August 4, 1964 to March 28, 1973"? This accomodates post-conviction cases of unauthorized absence.

OK

3. Locations of Return for Evaders

Should U. S. Embassies be allowed to accept return of evaders prevented from returning immediately to the U. S. because of hardship?

yes

4. Effective dates of Amnesty

When should amnesty commence? If amnesty does not commence immediately will evaders and deserters be subject to arrest?

between Friday + Oct 1 - Feb 1

5. Parole

For those presently incarcerated should parole be allowed to obviate the inequity created when those at large return and are allowed to remain free pending alternate service?

Parole - allowed

6. Type of Discharge for Deserters?

Should a new type of administrative discharge be created rather than utilizing the undesirable discharge with a marginal notation to attract post-conviction cases holding undesirable discharges?

Clemency  
discharge  
no complete

7. Modification of 18 month service term

With respect to the modification for mitigating reasons of the 18 month alternate service term for deserters, DOD and Selective Service disagree on which agency should administer this act.

DOD  
will do  
we need agreement  
for jobs - MIA's recognition



(TAB B)

AMNESTY PROGRAM

(as proposed by DOD, DOJ, Selective Service)



EVADERS

At Large

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Within Judicial or  
Punitive Process

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3. Those applying to Clemency Board will receive pardon (option available to Board to recommend alternate service)

Convicted and Free

1. Apply to Clemency Board for pardon (option available to Board to recommend alternate service)

## DESERTERS

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5. Alternate Service Term 18 months subject to modification by SSS.
6. Selective Service to administer alternate service.
7. Undesirable discharge altered in margin.
8. There is proposed a new administrative discharge -- clemency discharge -- as optional with the Service Department.

### Within Judicial or Punitive Process

1. If prior to conviction receive undesirable discharge upon application to his service department. Then apply to SSS for alternate service and thereafter an upgraded discharge.
2. If convicted, apply to Clemency Board for pardon. The Board could recommend alternate service as a precondition. Thereafter deserter applies to service department for upgraded discharge.

### Convicted and Free

1. Apply to Clemency Board for pardon which will be recommended. The Board could make alternate service a precondition.
2. Based on Pardon deserter applies for new discharge. Un-<sup>motivation</sup>desirable with ~~motiva-~~tion or Clemency discharge.



9/9 Meeting w/

PWD  
J Marsh  
JTR  
Ann  
Marrs

re: Ammesty

1. agree on combined oath for evaders
2. term of service 18 months - not less than 6 months

3. C.B. take out, rules/req. how many cases will come up to C.B. is there an exception - president power to pardon advisors. could the parole Bd be expanded?

Do have to publish - no 30 day § 553 B(a) APA - cant be challenge in Fed Reg. No to Pardon Atty -

4. what action could be had for this individual - modify court records? No -

5. evaders? option to allow Marty Hoffman parallel w/ service

6. Deserters min of 6 months mequity w/ those who turned back in and got admin discharge

7. apply special benifit discharge across board to all deserters

8. No 30 day window to come back & go over the bill



JTF action  
clear w/  
DOT-DOD  
Geoff Sheppard  
referen -  
APA  
JTF -  
convicted +  
free evader

343-5840

10. define absenteeism - Andy

JTF  
action DD

absentee related  
offenses

absentees including  
deserters including those ~~which~~ who have at any time  
administratively ~~has~~ been declared deserter <sup>during the time period</sup>

11. ~~90 days from date of Proc~~

to

~~30 d~~

~~120 days - only~~

Proc  
effective

Oct 1 - Feb 1

120 days

12. Military men turn themselves  
into any military installation

13. U.S. Embassies -  
for evaders

14. Life Ins.

15. ~~Parole Bd.~~  
~~Parole Ally -~~

16.



## Meeting In Oval Office

Monday Sept. 9, 1974

Participants: see attached program

1. It was decided that the maximum should be 24 months - min 6 months.  
as a practical matter the Pres. would like 18 months or less.

(a subsidiary matter: in post-conviction cases no minimum should exist to thereby allow those cases where the person has served his sentence)

2. I recommend 24-6 only mandatory for pre-conviction cases - and any alternate service for post-conviction desertionary

2. Soften deserter - to include suggested definition in memo

3. Embassies should be able to accept evaders.

4. Effective dates of amnesty - Oct. - Feb.

5. Use a new clemency discharge

6. Parole - not too important

7. DOD will make modifications

It was further discussed that some





other recognition either in the proclamation or otherwise of MIA's so that they don't feel 2<sup>d</sup> string to evaders.

The President then discussed possible nominees for Clemency Bd.



CHAIR OPTIONS

MILITARY

CLERGY

WOMEN

BLACK

Caleb Boggs

Adm. Zumwalt

Billy Graham

Lucy Benson

Willy Mays

1 Elliott Richardson

3 Gen. Lew Walt

Bishop Sheen

~~████████████████████~~

Buddy Young

Mel Laird

Adm. Arliegh Burke

Dr. Thompson

2 Gladys Fashena \*

2 Hobart Taylor \*

Margaret Chase Smith \*

Gen. Ray Peers

1 Fr. Hesburgh

Sally Jones (DAR)

1 Vernon Jordan

Admiral Zumwalt

Gen. Wheeler

Rabbi Blank

Margaret Chase Smith

3 Howard Bennett \*

James Roche

Gen. Westmoreland

✓ Bishop Browning

1 Edith Green

Curtis Tarr

1 Gen. Gruenther

Gen. Ryan

Bob  
2, Finch

Gen. Winston P. Wilson

2 Gen. J.C. Meyer

*Recent past  
some not  
eligible by law  
votes*

*Physician  
AMA  
lawyer*

\*Physician

\*Lawyers



*9 with 3 panels*

## BUSINESS

John Slezak

Jim Roche

NAB  
Representative

## SPECIAL

Bob Froehlke

John Esty

Will Eble

James Shelburne

## HILL

Mel Laird

~~John Byrne~~

Charles Jonas

Caleb Boggs

3 William Spong

Margaret  
Chase Smith \*\*

High McCullough \*

Larrie Battle \*

JUDGES -  
LAWYERS

Hobart Taylor \*

Bill Darden

Chesterfield Smith

Howard Bennett

Donald Dawson \*\*  
(Truman Democrat)

Morris Leibman

Dave Smith

## EDUCATORS

Ed Shannon

James Shelburne

Ralph Adams

Fr. Hesburgh

Haya Kawa

\* Also Black



VIETNAM VETERANS - YOUTH

✓ James Maye

Dennis Wyant



giving U.D.  
publications - how

Meeting - 9/10/

1. 24-6 - pre-conviction  
no min. - for post-conviction

2. deserters -

Hoffman wants to split -  
deserters by pre conviction  
absentees " post "

3. embassies -

as a practical matter no U.D. until  
he is returned

suppose - a criminal abroad

4. should amnesty begin now  
but administratively  
Sept 13 - to Jan 1 -

5. pardon - parole  
parole -

7. ~~SSS will decide  
if DOD personnel~~

DOD should do -

public <sup>view</sup> service issue

funding

moving people from DOD over

8. contact state

9. meet 5 o'clock Wed -



THE WHITE HOUSE

WASHINGTON

September 10, 1974

MEMORANDUM FOR THE PRESIDENT

THROUGH: WILLIAM E. TIMMONS

FROM: TOM C. KOROLOGOS **TK**

SUBJECT: Deserters/Military Courts/Senator Tower

Senator John Tower (R-Tex), Chairman of the Republican Policy Committee (and our leading Republican spear-carrier on the Senate Armed Services Committee) has asked me to "urge the President... for God's sake... not to by-pass the military courts in dealing with deserters."

He said, "I'm not talking about amnesty for draft dodgers, I'm talking of true deserters who were in the Army and deserted to Canada or somewhere."

He said, "If the President by-passes the military courts there will be a total collapse of military discipline and I hope he realizes this as he decides on this whole matter."

I told him I would pass this on to you.

cc: Phil Buchen ✓  
General Scowcroft



THE WHITE HOUSE  
WASHINGTON

MEETING ON LENIENCY

September 11, 1974  
5:00 p.m.  
The Roosevelt Room

Participants:

John Marsh  
Philip Buchen  
Martin Hoffman  
Lawrence H. Silberman  
Byron Pepitone  
Ted Marrs  
Geoff Shepard  
John Corcoran - VA  
Philip Warman - VA  
Jay French  
Howard Kerr  
General Haig

Robert Andrews DOD-manpower-  
Frederick Smith, Jr. DOS  
Carlyle Maw DOS  
Bruce Fine DOS  
Jonathan Rose  
Bud McFarlane - NSC

Purpose:

General review of the proposed clemency program and its elements. Discussion of certain remaining issues.

Format:

- A: Review of Proposed Clemency Program.
- B: Issues for Discussion.



A. Review of Proposed Clemency Program.

1. Announcement of Clemency as soon as possible.

a. Proclamation effective immediately through January 31, 1975.

b. Administrative time from signing until October 1, 1974; program commences then.

2. Reception of those claiming clemency.

a. Pre-conviction

1. Evaders: report to U.S. Attorneys or U.S. Embassies (only to be given credit).

2. Deserters: report to nearest military installation of same service deserted.

b. Post-conviction

1. Evaders: apply to clemency board.

2. Deserters: apply to clemency board.

3. Processing procedure

a. Pre-conviction

1. Evaders: -- sign combined oath/alternate service agreement  
-- 24 months/6 months  
-- subject to modification by U.S. Attorneys  
-- report to Selective Service  
-- return on completion to U.S. Attorney; charges dropped.





- 2. Deserters: -- sign oath and alternate service agreements
- received Undesirable Discharge
- 24 months / 6 months
- subject to modification by DOD
- report to Selective Service
- return on completion to DOD for Clemency Discharge

b. Post Conviction

- 1. Evaders: -- apply to Clemency Board (parole remains an issue if in jail)
- 24 months / 6 months
- alternate service subject to discretion of Board
- recommendation of pardon

- 2. Deserters: -- apply to Clemency Board (parole remains an issue if in jail)
- 24 months / 6 months
- alternate service subject to discretion of Board
- recommendation of pardon
- apply to DOD for Clemency Discharge

B. Issues for Discussion

1. Receipt by U.S. Embassies of Evaders

a. Should U.S. Embassies receive evaders for the reporting purposes only?

b. If an evader is indigent, how shall his return to a U.S. Attorney be effected?

c. Should any consideration be given family and its return including travel; visas, etc.?

d. Could any disparity of treatment arise between those evaders in Sweden and those in Canada? For example, how is an indigent defined? If the evader must pay his own way, obviously the cost is greater in Sweden.

e. How long should an evader who reports to an Embassy be given to return to U.S.?

*Normal criminal proceeding  
cost of transportation paid  
by U.S. -*

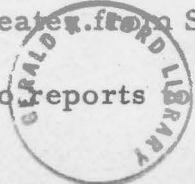
*money problem -  
extradition fund too small  
repatriation " too small  
can be done w/i  
budget*

*restoration of citizenship  
resident aliens*

*Dependents antecedent  
to act -*

*Immigration § 212 A  
Act.*

*Those who lost citizenships*



Options  
1. Play w/ pardon power  
2. Direction to Bur. of Prisons furlough  
3. Direction to C.B. - 1st priority -

2. Parole of Evaders or Deserters in Jail.

a. Can the President direct immediate parole or take some administrative action to effect release of those in jail pending application to Board?

3. Definition of "Deserter."

a. How should the word "deserter" be defined to avoid mislabelling post-conviction absentees?

4. Bypass of Military Courts.

Background: Senator John Tower has indicated his strong concern that if the "military courts" are bypassed in dealing with deserters, military discipline would collapse.

a. Should pre-conviction deserters be brought before military courts?

b. If not, is this concern satisfied because the return program is part of the overall system of military justice?

5. Veterans Benefits under Clemency Discharge.

Background: An Undesirable Discharge allows the VA to determine on an individual case basis which, if any, VA benefits the person should receive. The Clemency Discharge (C.D.) is a new administrative discharge designed for this program. The President has indicated that no benefits should be allowed under the C.D. VA believes there is merit to allowing each case to be determined on an individual basis.

a. Should the VA be directed to determine in each case whether any or all VA benefits should be allowed?

b. Is there a conflict with those deserters who ignore alternate service, and thus keep their Undesirable Discharge, since automatically their benefits may be allowed or disallowed on an individual basis?



7. Other Benefits.

Background: Other federal agencies administer benefits for Veterans, e.g., Departments of Labor, Agriculture, Civil Service Commission, Social Security Administration.

*JTF  
Check V/A  
for other benefits*

- a. What benefits will be allowed under a C.D.?
- b. Should not all benefits relating to a C.D. be at least the same, if not greater, under a C.D. or an Undesirable Discharge?

8. Timetable/Draft of Documents.

- a. Who should draft the documents:
  - 1. Proclamation
  - 2. Executive Order -- Clemency Board
  - 3. Executive Order -- Selective Service/Alternate Service Program
  - 4. *Fact Sheet*

b. Which office will coordinate drafting?

*State -*

c. Timetable for drafts?

d. Timetable for announcement?

9. Next Meeting. *2:00 pm meeting*

a. Should there be a final meeting?

*DOJ  
DOD  
W.H.*

*DOD -  
DOJ will  
rec'd prepare -  
OKC - final  
review -  
2:00 pm -*



How broad should the Clemency Board's ~~power~~ be to handle problems outside of those discussed.

10. Other Selective Service Act Violators

- a. Should an individual who failed to register under the Selective Service Act be considered?
- b. Should an individual who burned his draft card be considered?

11. Other Proposals

- a. Should a Commission be set up to deal with the whole universe of Vietnam War era offenders?

As a matter of logic must we consider whether



to 3 - West  
(sent)

THE WHITE HOUSE

WASHINGTON

September 11, 1974

MEMORANDUM FOR: EXECUTIVE PROTECTIVE SERVICE

FROM: HOWARD J. KERR *HK*  
 CDR, USN.  
 Assitant to John O. Marsh, Jr.

SUBJECT: Clearance for 5:00 p.m.  
Amnesty Meeting in Roosevelt Room

Would you please clear the following people for the 5:00 p.m. Amnesty meeting in the Roosevelt Room, West Wing.

- Lawrence Silberman--Justice
- Robert Andrews--Justice *Defense*
- Byron Pepitone--Justice *Selective Service*
- Martin Hoffman--DOD
- Jonathan Rose-- Justice
- Bruce Fine--Justice
- John Corcoran--VA *General Counsel's Office*
- Philip Warman --VA *General Counsel's Office*
- Bud McFarlane- NSC
- Carlyle Maw -- State Department/Under Secretary for Security Assistance
- Frederick Smith, Jr. --State Department
- Richard Kennedy NSC*

*Justice DOD WH*



THE WHITE HOUSE

WASHINGTON

MEETING ON CLEMENCY

September 12, 1974

2:00 p. m.

Conference Room, Situation Room

Participants:

John Marsh  
Howard Kerr  
General Haig  
Philip Buchen  
Geoff Shepard  
Ted Marrs  
Jay French  
Bob Hartmann

Lawrence Silberman  
Bruce Fine  
Jonathan Rose  
Robert Andrews  
Martin Hoffman  
Capt. William O. Miller  
Arnold Anderson Vickery



Call Roubush - for Meeting

Hoffman  
Silberman  
Papitone  
VA  
STATE

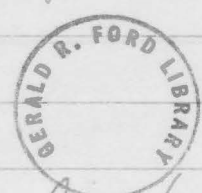
marsh  
Bucher  
Mans  
French

# Briefing Paper for Clemency Meeting 9/11/74

## Items to Cover

1. VA concern about benefits
2. Take opinion of Tower in -
3. Issue how will the ~~B~~ policy on VA benefits affect other benefits?  
 eg. those TBB like job counseling  
 & employment  
 unemployment camp for ex-  
 servicemen.  
 old age & disability ins  
 SSA
4. State  
 Embassies - issue of paying for  
 travel - eg criminal
5. Review -
  - (a) Effective dates of amnesty - <sup>now until Jan 31</sup> admin acts - Jan 31
  - (b) alternate service -  
 pre-conviction 24-6  
 post - 24-0  
 SSS adminis
  - (c) issue of word deserter  
 Hoffman will recommend language
  - (d) Turn in points - US Atty Evade  
 Embassies  
 nearest Desert  
 military base  
 of same service

Other benefits



(1) Travel who pay

Bruce Fine;

p. 2 -

draft evade

"The alternate service shall be in the national health, safety or interest."

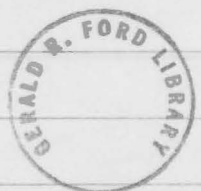
p. 3 desutes

months -

add same sentence

only necessary if Exec Order doesn't contain

---





(e) parole - can and should those in jail - post-conviction be parole'd in.

(f) modification of term -

pre-conviction/evaders - US. Atty

deserters - DOD - mil. ser.

post-conviction - Cheney, Bud.

(g)

issue of who should do this -

Time table

Selection of date for announcement

Who will draft what



9/11/74

Meeting on Leniency - see memo

— 18 year old - who fails to register is covered - he is ~~own~~  
swabber -

— Definition of Deserters -

---

VA -

if separation as a deserter he is statutorily barred  
from benefits -

— "Does not acquire benefits by virtue of CD."



THE WHITE HOUSE

WASHINGTON

MEETING ON LENIENCY

September 11, 1974

5:00 p. m.

The Roosevelt Room

Participants:

John Marsh	Robert Andrews
Philip Buchen	Frederick Smith, Jr.
Martin Hoffman	Carlyle Maw
Lawrence H. Silberman	Bruce Fine
Byron Pepitone	Jonathan Rose
Ted Marrs	Bud McFarlane
Geoff Shepard	
John Corcoran	
Philip Warman	
Jay French	
Howard Kerr	
General Haig	

Purpose:

General review of the proposed clemency program and its elements. Discussion of certain remaining issues.

Format:

A: Review of Proposed Clemency Program.

B: Issues for Discussion.



A. Review of Proposed Clemency Program.

1. Announcement of Clemency as soon as possible.

a. Proclamation effective immediately through January 31, 1975.

b. Administrative time from signing until October 1, 1974; program commences then.

2. Reception of those claiming clemency.

a. Pre-conviction

1. Evaders: report to U.S. Attorneys or U.S. Embassies (only to be given credit).

2. Deserters: report to nearest military installation of same service deserted.

b. Post-conviction

1. Evaders: apply to clemency board.

2. Deserters: apply to clemency board.

3. Processing procedure

a. Pre-conviction

1. Evaders: -- sign combined oath/alternate service agreement  
-- 24 months/6 months  
-- subject to modification by U.S. Attorneys  
-- report to Selective Service  
-- return on completion to U.S. Attorney; charges dropped.



2. Deserters: -- sign oath and alternate service agreements
- received Undesirable Discharge
- 24 months/6 months
- subject to modification by DOD
- report to Selective Service
- return on completion to DOD for Clemency Discharge

b. Post Conviction

1. Evaders: -- apply to Clemency Board  
(parole remains an issue if in jail)
- 24 months/6 months
- alternate service subject to discretion of Board
- recommendation of pardon
  
2. Deserters: -- apply to Clemency Board  
(parole remains an issue if in jail)
- 24 months/6 months
- alternate service subject to discretion of Board
- recommendation of pardon
- apply to DOD for Clemency Discharge

B. Issues for Discussion

1. Receipt by U.S. Embassies of Evaders

- a. Should U.S. Embassies receive evaders for the reporting purposes only?
  
- b. If an evader is indigent, how shall his return to a U.S. Attorney be effected?
  
- c. Should any consideration be given family and its return including travel; visas, etc. ?
  
- d. Could any disparity of treatment arise between those evaders in Sweden and those in Canada? For example, how is an indigent defined? If the evader must pay his own way, obviously the cost is greater from Sweden.
  
- e. How long should an evader who reports to an Embassy be given to return to U.S. ?



2. Parole of Evaders or Deserters in Jail.

1. Pardon  
2. Furlough  
3. Priority

a. Can the President direct immediate parole or take some administrative action to effect release of those in jail pending application to Board?

3. Definition of "Deserter."

a. How should the word "deserter" be defined to avoid mislabelling post-conviction absentees?

4. Bypass of Military Courts.

Background: Senator John Tower has indicated his strong concern that if the "military courts" are bypassed in dealing with deserters, military discipline would collapse.

a. Should pre-conviction deserters be brought before military courts?

b. If not, is this concern satisfied because the return program is part of the overall system of military justice?

5. Veterans Benefits under Clemency Discharge.

Background: An Undesirable Discharge allows the VA to determine on an individual case basis which, if any, VA benefits the person should receive. The Clemency Discharge (C.D.) is a new administrative discharge designed for this program. The President has indicated that no benefits should be allowed under the C.D.

? VA believes there is merit to allowing each case to be determined on an individual basis.

a. Should the VA be directed to determine in each case whether any or all VA benefits should be allowed?

b. Is there a conflict with those deserters who ignore alternate service, and thus keep their Undesirable Discharge, since automatically their benefits may be allowed or disallowed on an individual basis?



7. Other Benefits.

Background: Other federal agencies administer benefits for Veterans, e.g., Departments of Labor, Agriculture, Civil Service Commission, Social Security Administration.

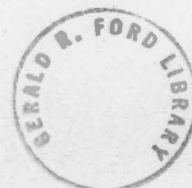
- a. What benefits will be allowed under a C.D.?
- b. Should not all benefits relating to a C.D. be at least the same, if not greater, under a C.D. or an Undesirable Discharge?

8. Timetable/Draft of Documents.

- a. Who should draft the documents:
  1. Proclamation
  2. Executive Order -- Clemency Board
  3. Executive Order -- Selective Service/Alternate Service Program
  4. Fact Sheet
- b. Which office will coordinate drafting?
- c. Timetable for drafts? 1:00 p.m.
- d. Timetable for announcement?

9. Next Meeting.

- a. Should there be a final meeting? 2:00 p.m.

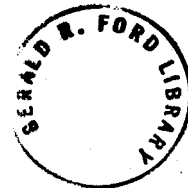


10. Other Selective Service Act Violators

- a. Should an individual who failed to register under the Selective Service Act be considered?
- b. Should an individual who burned his draft card be considered?

11. Other Proposals

- a. Should a Commission be set up to deal with the whole universe of Vietnam War ~~extra~~ offenders?





9/11/74

T. Mark  
Kear  
Jaffe  
Frenel  
Mans

Meeting <sup>Sandy</sup> Jaffe - FAD Foundation  
re: Amnesty -

Jaffe - Atty w/ Foundation - in charge of <sup>gov't</sup> programs  
in law -

They've touched base with  
Zumwalt  
Carnegie Institute

did a paper on amnesty -

— problem in dealing w/ sep. grps - deal w/  
them as a whole. - young people

— what about civil + criminal violations  
of others - opposing the war -

eg A - <sup>opposes war</sup> is drafted, he evades - he is pardoned

B - opposes war, he burns <sup>draft card</sup> ~~flag~~, is prosecuted,  
he's in jail -

Draft card burner -

Those who <sup>willfully</sup> destroyed destroyed federal problems

Get copy of amnesty hearings -

House Judiciary - subcom March 78 for  
3 days

Linkages w/ other VA problems

greater leniency option - range to board

would you have pre conviction before board -  
this is prosecutorial discretion

Do we have a problem that in not using board for  
pre-conviction cases we are using prosecutorial  
discretion which is antithetical to the pre-conviction  
pardon of President Nixon. - Why not a pardon for all?



Should the clemency bd. have authority  
to review other convictions

group that failed to register



THE WHITE HOUSE

WASHINGTON

MEETING ON CLEMENCY

September 12, 1974

2:00 p. m.

Conference Room, Situation Room

Participants:

John Marsh  
Howard Kerr  
General Haig  
Philip Buchen  
Geoff Shepard  
Ted Marrs  
Jay French  
Bob Hartmann

Lawrence Silberman  
Bruce Fine  
Jonathan Rose  
Robert Andrews  
Martin Hoffman  
Capt. William O. Miller  
Arnold Anderson Vickery



Thursday 9/12/74

5:00 Mr. Corcoran of the VA is calling to have an input to the amnesty package. *(It's not too late)* 389-3831

The President wants it clear that the Clemency Discharge not entitle these veterans to veterans benefits. To give VA the legal support we need to guarantee this result we recommend the inclusion of the following sentence:

"Such Clemency Discharge will not affect entitlement to benefits administered by the Veterans Administration."

This sentence is recommended to be added in the proclamation at the end of the first full paragraph, page 3. ~~Also in the~~ numbered Executive Order as a penultimate sentence in ~~paragraph~~ three line 7, page 2

Home: 946-2675



9/14 Meeting -

1. Add "or" in Proc.
2. Phil discusses w/ AG & Sec DOD - that Larry & Marty will brief press & call Bi partisan leadership
3. See Proc - p. 1 - changes
4. hold up p. 2 -

5. →

indent (i)

(ii)

(iii)

6.

his eligibility to part  
may be conditions

- ~~7. Many individuals at present stand convicted of either draft evasion offenses as described above or have violated articles 85, 86, or 87 of the Uniform Code of Military Justice between August 4, 1964 and March 25, 1973 who are presently incarcerated~~

By Executive Order I have this date established a Presidential Clemency Board which will review

