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[ca. Oct. 1976]

CARTER'S STATEMENT ON AMNESTY

"Well, I think it's very difficult for President Ford to explain the difference between the pardon of President Nixon and his attitude toward those who violated the draft laws. As a matter of fact now, I don't advocate amnesty, I advocate pardon. There is a difference, in my opinion, and in accordance with the ruling of the Supreme Court and in accordance with the definition in the dictionary.

Amnesty means that what you did was right. Pardon means that what you did, whether it's right or wrong, you are forgiven for it. And I do advocate a pardon for draft evaders. I think it's accurate to say that 2 years ago, when Mr. Ford put in this amnesty that three times as many deserters were excused as were the ones who evaded the draft.

But I think that now is the time to heal our country after the Vietnam war. And I think that what the people are concerned about is not the pardon or the amnesty of those who evaded the draft, but whether or not our crime system is fair.

We have got a sharp distinction drawn between white collar crime. The bigshots who are rich, who are influential, very seldom go to jail. Those who are poor and who have no influence quite often are the ones who are punished. And the whole subject of crime is one that concerns our people very much.

And I believe that the fairness of it is what is the major problem that addresses our leader, and this is something that hasn't been addressed adequately by this administration.

But I hope to have a complete responsibility on my shoulders to help bring about a fair criminal justice system and also to bring about an end to the divisiveness that has occurred in our country as a result of the Vietnam war."



[Nov. 1976]

THE WHITE HOUSE
WASHINGTON

MEMORANDUM TO: DICK CHENEY
FROM: JIM CANNON
SUBJECT: Viet Nam Draft Prosecutions

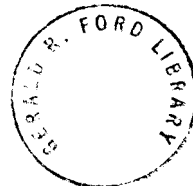
Two years ago the President created a clemency program under Executive Order 11804 (September 1974) to give draft evaders and military deserters an opportunity to earn back a good record.

Attached at Tab A is a chart showing the latest statistics of enrollees in this program.

During the campaign the President restated his position:

"I am against an across-the-board pardon of draft evaders or military deserters."

Governor Carter stated his intention to pardon draft evaders during the campaign, and has since stated that he would issue the pardon within a week after he takes office.



The election of Governor Carter has prompted confusion in Federal prosecution. Although the Attorney General is formally committed to carrying out the President's policy, we believe that some U.S. attorneys around the country are no longer doing so.

I raise the question of whether it serves a useful purpose to continue to prosecute draft evaders during this transition period.

We have three options:

1. Maintain our present position, as consistent with the President's directive.
2. Quietly, without any announcement, suggest the President direct Attorney General Levi and Secretary Rumsfeld to discontinue further prosecutions.
3. Announce publicly the prosecutions are being suspended during the transition period.

THE WHITE HOUSE

WASHINGTON

November 13, 1976

MEMORANDUM FOR: JACK WATSON

FROM: JACK MARSH

You should be aware of the attached memo from the Director of the Selective Service raising certain questions as to the status of the Alternate Service work program pursuant to the Clemency program initiated in the Fall of 1975.

For your information, we are also bringing this to the attention of Philip Buchen, Counsel to the President, for guidance on the status of the program.





OFFICE OF THE DIRECTOR

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM

7TH FLOOR
600 E STREET, N.W.
WASHINGTON, D. C. 20435

ADDRESS REFLECTS
THE DIRECTOR OF SELECTIVE SERVICE

NOV 18 1976

November 9, 1976

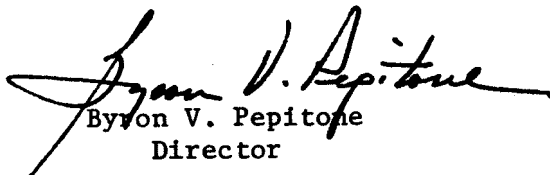
MEMORANDUM FOR THE HONORABLE JOHN O. MARSH, JR.

SUBJECT: The President's Clemency Program

My responsibility for the alternate service work phase of President Ford's clemency program under Executive Order 11804, and public inquiry as to its continuation, prompt this memorandum. Specifically, the press, at least one TV station and an individual now participating in the alternate service work program have inquired as to the conceptual relationship between the clemency program and the pronouncements of the President-elect concerning blanket pardon for persons who violated the Military Selective Service Act during the Vietnam era.

There are over 300 persons either at work or scheduled to commence work in the alternate service program who, upon successful completion of such work, will have the outstanding indictments against them dismissed in accordance with agreements they have reached with U. S. Attorneys. These individuals are the only ones whose inquiries are my concern. Attached are the current statistics concerning the numbers and categories of all participants in the alternate service work program of President Ford's clemency program.

This memorandum is provided in accord with my conversation with Mr. Rourke on November 8, 1976.


Byron V. Pepitone
Director

Attachment

The following chart presents the statistics as of November 2, 1976 for military deserters and draft evaders who enrolled with the Selective Service System.

<u>Status</u>	<u>Totals</u>	<u>DOD(1)</u>	<u>DOJ(2)</u>	<u>Presidential Clemency Board (PCB)</u>		
				<u>Total PCB</u>	<u>CAG(3)</u>	<u>AWOL(4)</u>
Enrolled	8,464	4,545	704	3,215	144	3,071
Completed	1,579	396	174	1,009	85	924
At Work	1,239	611	293	335	18	317
To Be Placed	420	85	51	284	7	277
Terminated	5,226	3,453	186	1,587	34	1,553

- (1) - Military deserters
- (2) - Indicted draft evaders
- (3) - Convicted draft offenders
- (4) - Discharged AWOL offenders

The Selective Service System's responsibility in support of President Ford's clemency program began when a deserter or evader enrolled in the program. In the case of the evader the System enrolled a total of 848 persons, of which 216 have completed their alternate service obligation; 311 are currently at work; 58 are awaiting placement on a job; and 220 enrollees have terminated from the program.

REQUEST

THE WHITE HOUSE
WASHINGTON

November 15, 1976
1976 NOV 15 PM 4 23

MEMORANDUM FOR:

JIM CANNON

FROM:

PAT ~~McKEE~~

SUBJECT:

Amnesty.

The attached is the President's position on amnesty. The subject came up in the first debate in Philadelphia. Also attached is what Jimmy Carter had to say on the subject at that time.

Attachments

ISSUE: AMNESTY

Administration Position

The President has said, "The amnesty program that I recommended in Chicago in September of 1974 would give to all draft evaders and military deserters the opportunity to earn their good record back. About 14-to-15,000 did take advantage of that program. We gave them ample time.

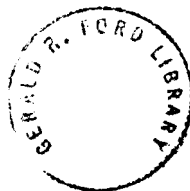
"I am against an across-the-board pardon of draft evaders or military deserters.

"Well, Mr. Carter has indicated that he would give a blanket pardon to all draft evaders. I do not agree with that point of view. I gave in September of 1974 an opportunity for all draft evaders, all deserters, to come in voluntarily, clear their records by earning an opportunity to restore their good citizenship. I think we gave them a good opportunity. I don't think we should go any further."

Presidential Documents
Vol. 12, No. 39, p. 1371.

Administration Actions

In September of 1974, a clemency program was instituted until January 31, 1975, and was then extended for another two months. This program permitted those individuals who fell within either of the above categories the right to return to this country by accepting an obligation for some service other than military. While the President hoped all would take advantage of this move, unfortunately, only about 21,500 did seek the opportunity. At the present time, there are no plans to reinstitute the Clemency Board or to take any other action.



PBM
11/15/76

I have consistently stated that I am against an across-the-board pardon for Vietnam-era draft evaders and military deserters. The amnesty program that I established two years ago gave these evaders and deserters an opportunity to earn their good record back. In light of the fact that President-elect Carter has stated his intention to pardon these individuals, however, I do not believe it serves the national interest to continue to prosecute them during this transition period. I have, therefore, instructed Secretary of Defense Rumsfeld and Attorney General Levi to cease further processing of outstanding Uniform Code of Military Justice and Selective Service Act prosecutions against Vietnam-era military deserters and draft evaders, subject to speedy trial requirements, during the remainder of my Administration.



RDP
11-19-76

THE WHITE HOUSE
WASHINGTON
November 24, 1976

Amnesty file

MEMORANDUM FOR: DICK CHENEY
FROM: JIM CANNON
SUBJECT: Viet Nam Draft Prosecution

In September, 1974 the President created a clemency program under Executive Order 11804, to give draft evaders and military deserters an opportunity "to earn their return to the mainstream of American society." The clemency program encouraged a respectable number of deserters and evaders to accept the President's offer (Tab A).

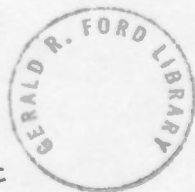
During the campaign the President restated his position: "I am against an across-the-board pardon of draft evaders or military deserters." During the campaign, Governor Carter stated his intention to pardon draft evaders and has since stated that he would issue such a pardon within a week after he takes office.

The election of Governor Carter has brought about some inequity in Federal government actions. Although the Attorney General is formally committed to carrying out the President's policy, there is evidence that some U.S. attorneys around the country have eased up on their efforts to prosecute these cases.

I raise the question of whether it serves a useful purpose to continue to prosecute military deserters and draft evaders during this transition period when Carter plans to pardon all.

There are three options:

1. Maintain our present position, as consistent with the President's directive.
2. Quietly, without any announcement, the President could direct Attorney General Levi and Secretary Rumsfeld to discontinue further prosecutions.
3. The President could announce publicly that prosecutions are being suspended during the transition period.



Administration of Gerald R. Ford

PRESIDENTIAL DOCUMENTS

Week Ending Friday, September 20, 1974

Emergency Assistance for Alaska

Announcement of Emergency Declaration and Authorization of Federal Assistance Because of the Loss of Power Generating Capability for Kodiak. September 14, 1974

The President today declared an emergency for the State of Alaska because of the impact of the loss of power generating capability. The President's action will permit the use of Federal funds in relief efforts in designated areas of the State.

The emergency situation in the city of Kodiak resulted from a fire which severely damaged large generators belonging to the Kodiak Electric Authority, and the subsequent loss of a United States Coast Guard generator which had been assisting in supplying power to the city. The President's declaration of an emergency will allow the Federal Government to provide supplementary generators to temporarily restore power to the affected community until permanent restoration of power is accomplished.

Federal relief activities in Alaska will be coordinated by the Federal Disaster Assistance Administration, Department of Housing and Urban Development, under the direction of Administrator Thomas P. Dunne. Mr. Dunne will designate the specific areas within the State eligible for Federal assistance.

Mr. William H. Mayer, Regional Director for Federal Disaster Assistance, HUD Region 10, will be designated as the Federal Coordinating Officer to work with the State in providing Federal emergency assistance under the Disaster Relief Act of 1974, Public Law 93-288.

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

The President's Remarks Announcing the Program. September 16, 1974

Good morning:

In my first week as President, I asked the Attorney General and the Secretary of Defense to report to me, after consultation with other Governmental 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 Veterans of Foreign Wars in the city of 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 the betterment of our country and the world.

I did this for the simple reason that for American fighting men, the long and divisive war in Vietnam has been over for 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 existing system of military and civilian law and the precedents set by my predecessors who faced similar postwar situations, among them Presidents Abraham Lincoln and Harry S 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 very 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 night and day in order

to develop fair and orderly procedures and completed their work for my final approval over this last weekend.

I do not want to delay another day in resolving the dilemmas of the past, so that we may all get going on the pressing problems of the present. Therefore, I am today signing the necessary Presidential proclamation and Executive orders that will put this plan into effect.

The program provides for administrative disposition of cases involving draft evaders and military deserters not yet convicted or punished. In such cases, 24 months of alternate service will be required which may be reduced for mitigating circumstances.

The program also deals with cases of those already convicted by a civilian or military court. For the latter purpose, 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 of prior conviction 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.

At this point, I will sign the proclamation that I mentioned in my statement, followed by an Executive order for the establishment of the Clemency Board, followed by the signing of an Executive order for the Director of Selective Service, who will have a prime responsibility in the handling of the matters involving alternate service.

Thank you very much.

NOTE: The President spoke at 11:21 a.m. in the Cabinet Room at the White House.

For related releases, see the following four items.

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

Proclamation 4313. September 16, 1974

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

*By the President of the United States of America
a Proclamation*

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

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses.

Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

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

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

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

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

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

(i) presents himself to a United States Attorney before January 31, 1975,

(ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service, and

(iii) satisfactorily completes such service.

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

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

[Filed with the Office of the Federal Register, 12:47 p.m.,
September 16, 1974]

Presidential Clemency Board

Executive Order 11803. September 16, 1974

ESTABLISHING A CLEMENCY BOARD TO REVIEW CERTAIN CONVICTIONS OF PERSONS UNDER SECTION 12 OR 6(j) OF THE MILITARY SELECTIVE SERVICE ACT AND CERTAIN DISCHARGES ISSUED BECAUSE OF, AND CERTAIN CONVICTIONS FOR, VIOLATIONS OF ARTICLE 85, 86 OR 87 OF THE UNIFORM CODE OF MILITARY JUSTICE AND TO MAKE RECOMMENDATIONS FOR EXECUTIVE CLEMENCY WITH RESPECT THERETO

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

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

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

SEC. 3. The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such clemency should take, including clemency conditioned upon a period of alternative 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.

[Filed with the Office of the Federal Register, 12:47 p.m.,
September 16, 1974]

NOTE: The White House announced the appointment of the following persons as members of the Presidential Clemency Board:

- DR. RALPH ADAMS, 59, educator, has been president of Troy State University in Troy, Ala., for 10 years. He is a graduate of Birmingham-Southern College with LL.B. and J.D. degrees from the University of Alabama, and a brigadier general, Air National Guard of Alabama.
- JAMES P. DOUGOVITA, 28, is a full-time teaching aide of minority students in the department of applied technology, Michigan Technological University. Mr. Dougovita is a veteran and has been awarded the Combat Infantryman Badge, Silver Star, Bronze Star, Purple Heart, and is now a captain in the Michigan National Guard.
- ROBERT H. FINCH, 51, is a lawyer and partner in the firm of McKenna, Fitting & Finch in Los Angeles, Calif. He was formerly Secretary of Health, Education, and Welfare and Counselor to President Nixon.
- CHARLES E. GOODELL, 48—Chairman—is a former Senator from New York who is currently in the private practice of law. He was a Ford Foundation Fellow at Yale and was a graduate of Williams College.
- REV. THEODORE M. HESBURGH, 57, is president, University of Notre Dame, and holds honorary degrees from numerous colleges and universities. He is a permanent Vatican delegate. He has served as Chairman of the U.S. Commission on Civil Rights and as a member of the Committee on an All-Volunteer Armed Force.
- VERNON E. JORDAN, 39, is executive director of the National Urban League, an organization concerned with the advancement of the minority groups. Mr. Jordan is a lawyer by profession and served previously as the executive director of the United Negro College Fund, director of the voter education project, Southern Regional Council, and as Attorney-Consultant in the U.S. Office of Economic Opportunity.
- JAMES MAYE, 31, is executive director of Paralyzed Veterans of America in Washington, D.C. He is a graduate of Bridgewater College, Bridgewater, Va., and received his master's degree from Virginia Commonwealth University.
- AIDA CASANAS O'CONNOR, 52, is a woman lawyer with a master of laws degree from George Washington University, Washington, D.C. She is a member of the Bar of the State of New York, the Supreme Court of Puerto Rico, U.S. District Court of Puerto Rico, and the Supreme Court of the United States. Presently she is assistant counsel to the New York State division of housing and community renewal in New York City.
- GEN. LEWIS W. WALT, USMC (Ret.), 61, retired after 34 years in the Marine Corps and is a veteran of the Second World War, the Korean and Vietnamese wars. He was an Assistant Commandant of the Marine Corps. He has received the Navy Cross, Silver Star, Legion of Merit, Bronze Star, the Purple Heart, and numerous other military decorations.

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

Executive Order 11804. September 16, 1974

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.

[Filed with the Office of the Federal Register, 12:48 p.m.,
September 16, 1974]

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

*Fact Sheets Concerning the Program.
September 16, 1974*

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 30 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.

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, Ind. 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, Tex. 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.

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 15 days to report to the appropriate authority from the date of their re-entry. However, this 15-day period shall not extend the final date of reporting of January 21, 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: (202) 694-8526

U.S. Army: (317) 542-3417

U.S. Air Force: (512) 652-4104

U.S. Coast Guard: (202) 426-1830

PROCEDURES TO BE FOLLOWED

UNCONVICTED DRAFT EVADER AND MILITARY ABSENTEE

DRAFT EVADER

- Report to United States attorney where offense was committed
- 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
- Perform alternate service under the auspices of the Director of Selective Service
- Director of Selective Service issues certificate of satisfactory completion of alternate service
- Receipt by United States attorney of a certificate of satisfactory completion of alternate service
- Dismissal of indictment or dropping of charges

MILITARY ABSENTEE (including Coast Guard)

- Report as prescribed by the military department concerned or for members of the Coast Guard report to the Secretary of Transportation
- Oath of allegiance to United States
- Agree with the concerned military department to perform 24 months alternate service or less based upon mitigating circumstances
- Upon request, military department forgoes prosecution and issues undesirable discharge
- Perform alternate service under the auspices of the Director of Selective Service
- Director of Selective Service issues certificate of satisfactory completion of alternate service
- Receipt of a certificate of satisfactory completion of alternate service by the concerned military department
- Clemency discharge substituted for undesirable discharge