

DOCUMENT RESUME

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[President's Amnesty Program and Subsequent Department of Justice Actions]. GGD-78-39; B-171019. January 13, 1978. 4 pp.

Report to Rep. John T. Myers; by Victor L. Lowe, Director, General Government Div.

Contact: General Government Div.

Budget Function: Law Enforcement and Justice: Federal Law Enforcement and Prosecution (751).

Organization Concerned: Department of Justice.

Congressional Relevance: Rep. John T. Myers.

Authority: Supplemental Appropriations Act [of] 1977 (P.L. 95-26). Military Selective Service Act. P.L. 95-86. Executive Order 11967.

Information was presented on the President's pardon proclamation and subsequent Department of Justice actions in response to a request concerning Department compliance with funding restrictions contained in P.L. 95-26 and P.L. 95-86. The proclamation was immediately effective and entitled individuals did not have to take any action to obtain pardons, but the proclamation excluded persons who committed certain offenses. Procedures established by the Office of the Pardon Attorney do not fall within restrictions of the legislation since they do not involve dismissal of pending indictments or investigations or violations of the Military Selective Service Act. The following Department actions were taken within the scope of the legislation: (1) in compliance with an executive order, orders were given to hold investigations under the act in abeyance and to make no further arrests of fugitives; and (2) to dismiss investigations in which indictments were not issued or were dismissed. About 2,400 indictments were dismissed for violations covered by the executive order. There was no available information on any substantive actions taken after May 4, 1977, with regard to dismissal of pending indictments for violation of the act or termination of investigations of violations between August 4, 1964, and March 28, 1973, but some action may have been taken to close pending cases. (RTW)



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-171019

JAN 13 1978

The Honorable John T. Myers
House of Representatives

Dear Mr. Myers:

This is in response to your October 28, 1977, request for information concerning the Department of Justice's compliance with funding restrictions contained in section 306 of the Supplemental Appropriations Act, 1977 (Public Law 95-26, May 4, 1977), and section 706 of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978 (Public Law 95-86, August 2, 1977).

Both sections state:

"None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses in connection with the dismissal of any pending indictments for violations of the Military Selective Service Act alleged to have occurred between August 4, 1964 and March 28, 1973, or the termination of any investigation now pending alleging violations of the Military Selective Service Act between August 4, 1964 and March 28, 1973, or permitting any person to enter the United States who is or may be precluded from entering the United States under 8 U.S.C. 1182(a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act."

Because the President's pardon proclamation was effective upon announcement and most of the indictments and investigations were dismissed prior to May 4, 1977, the funding restrictions had very little effect on Department of Justice operations. Information on the President's pardon and subsequent Department of Justice actions follows.

GGD-78-39
(18155)

The President's Pardon

On January 21, 1977, the President issued the following proclamation:

"* * * I, Jimmy Carter, President of the United States, do hereby grant a full, complete and unconditional pardon to: (1) all persons who may have committed any offense between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act or any rule or regulation promulgated thereunder; and (2) all persons heretofore convicted, irrespective of the date of conviction, of any offense committed between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, restoring to them full political, civil and other rights."

The proclamation specifically excluded all persons convicted of or who may have committed any offense (1) involving force or violence or (2) arising out of their duties as employees, agents, or officers of the Military Selective Service System.

All individuals specified in the proclamation were pardoned immediately when the President signed the proclamation of January 21, 1977. Because these individuals did not have to take any action to obtain the pardon, it was not necessary for the Department of Justice to establish a program to enable the individuals to do so.

The President's pardon did, however, cause the Department to take certain actions, the majority of which were either not within the scope of sections 306 and 706, or were taken before May 4, 1977, the date on which section 306 of the Supplemental Appropriations Act, 1977 (Public Law 95-26) became law.

Department of Justice Actions
Not Restricted by Public
Laws 95-26 or 95-86

The Office of the Pardon Attorney, Department of Justice, has established procedures by which an individual covered by the President's pardon may obtain a certificate of pardon. This activity does not fall within the restrictions of sections 306 and 706; i.e., the procedures by which individuals may obtain certificates of pardon do not involve the dismissal of a pending indictment or an investigation regarding alleged violations of the Military Selective Service Act. The Pardon Attorney said that although the individual certificates were not necessary for the pardon to be effective, the individual pardoned is entitled to a certificate upon request. As of October 28, 1977,

the Pardon Attorney had received 36 applications for individual certificates of pardon. These certificates are issued after the cognizant U.S. attorney's office verifies the information contained in the applications.

Department of Justice Actions
Within the Scope of Public
Laws 95-26 or 95-86

Actions Taken Prior to May 4, 1977

On the same day the proclamation of pardon was issued, January 21, 1977, the President issued Executive Order 11967 ordering the Attorney General to terminate all investigations of and to cause to be dismissed all pending indictments against individuals covered by the pardon. Compliance with this Executive Order involved both the Director of the Federal Bureau of Investigation (FBI) and the Assistant Attorney General of the Criminal Division.

On January 21, 1977, the FBI Director ordered FBI field offices to hold in abeyance all Military Selective Service Act investigations and to make no further arrests of Military Selective Service Act fugitives. And on January 24, 1977, FBI field offices were instructed to close (1) all Military Selective Service Act investigations in which no indictments had been issued, and (2) all Military Selective Service Act investigations in which indictments had been issued as soon as the indictment was dismissed.

FBI officials said that about 625 Military Selective Service Act investigations falling within the Executive Order were closed; however, about 10 investigations which should have been closed are still open because the judges involved refused to dismiss the arrest warrants for the individuals concerned. The arrest warrants resulted from the individuals defaulting on their bail bonds. The FBI officials did not know if the judges had dismissed the Military Selective Service Act indictments on these cases. These officials said that in addition to these 10 cases some other investigations (they were uncertain of the number) remain open because they involve other violations in addition to the Military Selective Service Act violations; however, the Military Selective Service Act indictments were dismissed in these cases.

On January 25, 1977, the Assistant Attorney General, Criminal Division, directed all U.S. attorneys to move immediately to dismiss all outstanding indictments and to terminate all investigations for violations covered by the Executive Order. A Department official said about 2,400 indictments were dismissed as a result of the Executive Order.

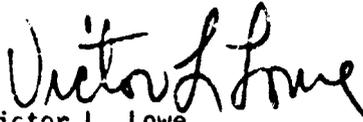
Actions Taken After May 4, 1977

We have found no information that any substantive actions were taken after May 4, 1977, with regard to the dismissal of any pending indictments

for violations of the Military Selective Service Act or the termination of any investigations of violations of the Military Selective Service Act between August 4, 1964, and March 28, 1973. However, given the nature of the judicial process, we believe--and Department officials agree--that some administrative actions could have been taken after May 4, 1977, to close pending cases. The dates when the investigations were terminated, the indictments dismissed, and the cases closed were not available from central records maintained by the Department of Justice. In the absence of this information, it would require an enormous amount of effort to followup at each of the 94 U.S. district courts. Therefore, as agreed with your office, we did not pursue these matters further.

We trust this information is responsive to your request.

Sincerely yours,


Victor L. Lowe
Director