

NLWJC - Kagan

DPC - Box 057 - Folder-008

Social Security - Nazis

Social Security -
Nazi



SOCIAL SECURITY

Office of the Commissioner

EK -

Do we need to
do anything?

Bruce R -

pk

April 25, 1997

I think have a meeting.
This is a pretty snotty
letter.

MEMORANDUM TO: Bruce Reed

Assistant to the President for Domestic Policy
I think the message here should be for
them to sit down with
SUBJECT: Proposed Legislation Regarding Nazi War Criminals
The Jewish groups
and figure out how to
address their concerns.

I must convey to you in the strongest possible terms that we should proceed to introduce legislation that will deny Social Security benefits to all Nazi war criminals who are denaturalized on the basis of having participated in Nazi persecution. Currently, Nazi war criminals who have been denaturalized, but flee prior to the issuance of a final order of deportation, may continue to collect Social Security benefits. The Social Security Administration (SSA) and the Department of Justice staff have drafted corrective legislation. Such legislation should go forward without delay.

cc: Steve
Wannath

While some groups have contended that such legislation could complicate the Government's ability to track down and successfully prosecute Nazi war criminals in this country, I find that contention difficult to accept. The federal government must pursue denaturalization and deportation against Nazi war criminals without any reference to whether or not they should receive Social Security benefits. Social Security benefits cannot, and should not, be used as a bargaining tool.

The cruelest of ironies is the fact that, come August, SSA could be denying SSI benefits to legal immigrant Holocaust survivors while at the same time paying Social Security benefits to their Nazi tormentors.

I would respectfully request that we meet to discuss this issue as soon as possible. Please contact my office at 202-358-6000 to set up an appointment

Sincerely,

John J. Callahan
Acting Commissioner
Social Security Administration

FACT SHEET

SOCIAL SECURITY BENEFITS AND NAZI WAR CRIMINALS

Current Law and Policy

- Current policy is to remove Nazi war criminals from the U.S. and to deny them Social Security benefits. There is, however, a loophole under current law.
- Since the 1980's, the law has provided that Social Security benefits must be cut off when a final order of deportation is issued against an individual because that individual engaged in Nazi persecution or genocide. This provision of Social Security law is specifically for Nazi war criminals and provides for an earlier cut off than for other deportees, whose benefits are not cut off until they are actually deported.
- Of the 31 living Nazi war criminals who were eligible for Social Security benefits and who have left the United States, only 10 have lost benefits because of the Nazi war criminal provision in current Social Security law. SSA found other grounds to cut off benefits to two additional Nazi war criminals, but they could return to the Social Security rolls.
- As of March 15, 1997, 18 Nazi war criminals (almost 2/3) were being paid Social Security benefits. In addition, 1 Nazi war criminal was eligible, but was temporarily not in pay status on March 15 because he was suspended based on the erroneous information that a final order of deportation had, in fact, been issued.
- These individuals escaped the Nazi war criminal provision in current Social Security law because DOJ did not, or could not, get a final order of deportation. Some of these individuals fled before DOJ could act. Others left without a final order of deportation after having reached settlement agreements with DOJ's Office of Special Investigations.
- The operation of current law results in the U.S. taxpayers subsidizing the retirement of many Nazi war criminals, contrary to the policy that they not receive Social Security benefits.
- DOJ and SSA have been meeting over a period of several months. Both agencies have concluded that the result under current law is inappropriate and that current law concerning receipt of Social Security benefits by Nazi war criminals needs to be strengthened. The agencies have developed a legislative proposal.

Proposal

- DOJ and SSA propose that Social Security benefits be cut off when a federal court denaturalizes someone on the grounds that the person engaged in Nazi persecution. This is an earlier point in time than under current law. This proposal would cut off benefits of those who leave the U.S. before an order of deportation is issued, as well as those who attempt to stay in the U.S. by fighting an order of deportation.

Stephen C. Warnath

04/16/97 01:11:50
PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: SSA benefits and Nazi War Criminals

I held the meeting yesterday with the DOJ, SSA, Neal Sher, former head of DOJ's OSI and representing the American Gathering of Holocaust Survivors, and Doug Bloomfield, representing the World Jewish Congress & World Jewish Restitution Organization. Counsel's Office (Dawn), Public Liaison (Jay Footlik) and OMB (Melinda Haskins & Richard Green) also attended.

In summary, Messrs. Sher and Bloomfield presented a passionate argument that SSA's proposal will hurt prosecutions of Nazi war criminals. They want the status quo left alone and for SSA not to introduce its legislative proposal. They presented the argument that I outlined for you earlier: They deeply believe that some judges will act more sympathetically toward old men who were Nazis if they can argue that not only is the government trying to strip them of their citizenship, but the government is also impoverishing them while they are trying to defend their rights during the judicial process. They think that a single bad outcome in a case could have farreaching implications for other cases. They admit that it is impossible to accurately predict what judges may in fact do, but they hold the view with absolute conviction that this will hurt prosecutions.

Obviously, everyone in attendance agreed that we shared the objective of not wanting to do anything to compromise prosecutions of Nazis. SSA and DOJ explained how they engaged in interagency discussions to reach what they jointly view as a proposal that properly balances SSA's concern about "subsidizing the retirement of Nazis" with enforcement concerns. It is important to note that DOJ concedes that there remains some possible enforcement implications, but again, they believe that this proposal is an appropriate balancing of policy objectives.

In my follow-up with the White House attendees at the meeting, we agree that the specific enforcement concern depends on predictions on what judges may or may not do and therefore does not sound fully compelling EXCEPT that it is impossible to ignore who is raising the concern. These individuals are representatives of those who are the most concerned about and the most effected by this proposal. It gains us very little to close this SSA loophole if taking that action is decried in the strongest possible terms by the victims of those war criminals as undermining their prosecutions.

And make no mistake, Messrs. Sher and Bloomfield were absolutely clear that they and their organizations would protest vociferously. They would protest in the media, and they would protest in Congress. They would make sure that it is known that the President has introduced legislation that would compromise the prosecutions of Nazis.

On the other hand, they said that if SSA is criticized for making such payments they would engage in whatever steps were necessary to explain to the public, to Members of Congress, and to the media that SSA's policies were sound and that anyone promoting an alternative view would be hurting prosecutions. There is already at least one critical article that has appeared (St. Petersburg Times) and SSA has been contacted by a Tampa CBS affiliate for comment. I think that we can anticipate other critical pieces, and it may be picked up by the national press. Cong. Bunning (R-Ky), chair of the Ways and Means Social Security Subcommittee has requested information

about the St. Petersburg story.

Given the foregoing considerations, I think that this is a very difficult issue, but I have to recommend to you that we provide guidance to SSA that the proposal should not go forward. Normally, I would give quite a bit of deference to Justice and SSA for the product of a solid interagency process. Nobody wants to provide benefits to Nazis, ESPECIALLY when some of their victims who are legal immigrants may face benefit cut-offs, but we cannot ignore the absolute conviction of those who we heard from who represent the victims when they say that the President will hinder the prosecutions of Nazis with this proposal.

Dawn agrees with this recommendation based upon her participation in the meeting. Public Liaison agrees.

Let me know what you think.

Thanks Elena.

BACKGROUND: The current law is that SSA benefits must be cut off when a final order of deportation is issued against an individual because that individual engaged in Nazi persecution or genocide. The loophole exists, for example, for a Nazi who flees the country without an order of deportation. Under those circumstances, SSA benefits would continue.

Of the 31 living Nazi war criminal who were eligible for Social Security benefits and who have left the United States, only 10 have lost benefits because of the Nazi war criminal provision in current Social Security law. As of March 15, 1997, 18 Nazi war criminals (almost 2/3) were being paid Social Security benefits. SSA found other grounds to cut off benefits to two additional Nazi war criminals, but they could return to the Social Security roles and the pay status of another one is temporarily suspended.

Social security - nazis

Stephen C. Warnath


04/16/97 05:18:53

PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: SSA benefits and Nazi War Criminals 

There is not a drop-dead deadline to drop a legislative proposal. However, the urgency of deciding arises because the subcommittee Chairman & staff who have been asking SSA as recently as yesterday where they are on solving the problem of Nazi's getting paid. SSA has been putting them off saying that they are continuing to work on the issue. There is a technical mark-up, but this proposal doesn't have to be a technical (in fact it may not be eligible to be a technical). It could be offered later as a stand-alone (or alternatively a member of Congress could offer a bill and we could support that if we chose to) so the 23rd is not magical, but SSA is feeling pressure to get back to the subcommittee Chair fairly promptly.

} when
are
they?

Also pressing is a media inquiry from the Tampa CBS affiliate that SSA has also been holding off for awhile. They want SSA to tell them what it's doing about the problem. SSA anticipates that this may be the beginning of a lot of bad press about how it provides money for the retirement of Nazis.

This is a no-win situation. We are either going to be criticized for paying retirement to Nazis or we will be criticized because at least several major Jewish organizations will charge us with compromising enforcement. There is going to be critical press whatever the decision is. The straight policy call is probably that we should be able to rely upon the Department of Justice to determine the appropriate enforcement assessment and what will or won't damage prosecutions. And DOJ says they have struck the right balance. However, I don't think that the policy determination can be completely divorced from an assessment of the political overlay on this issue.

Let me know how you want to proceed or if I can get you some more information. If you think it would be helpful, I could set up a meeting between these gentlemen and you (and whoever else you think should be invited) so that you can gauge this directly for yourself.

Richardson?
in wife bill.
But OMB has never read
it!!
And drafted as stand-alone.

H. Warner - Manning - w - T. h
know what we're doing to solve
this problem.
G7: think he'll back down if told
why.