

Opinion No. 42-4010

February 2, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. John F. Sturgeon, Chairman Gray County Local Board No. 1 Selective Service System Pampa, Texas

{*154} In your letter dated January 29, 1942, you state that Clarence Arnold, a paroled prisoner from the New Mexico Penitentiary, wishes to be inducted into the armed forces of the United States, and that under Order No. 2684, dated January 8, 1942, the New Mexico Penitentiary granted him a suspension of civil custody to be effective during the period of his military service with the armed forces. You state that the parents of this selectee are wondering whether the time which he serves in the United States' armed forces, under the suspension of civil custody, will be credited upon his term which he is serving under the parole.

In Opinion No. 1653, this office has previously held that a prisoner on parole is still in legal custody, and during the time he is on parole, he is serving his sentence.

In line with this ruling, the selectee above mentioned will also be given credit upon his sentence for the time which he spends in the armed forces of the United States, under the order of suspension of civil custody. If, during that time, he should complete his sentence, he may make application to the Board of Penitentiary Commissioners to set in motion machinery for the restoration of his civil rights.

Trusting that the foregoing sufficiently answers your inquiry. I am,