

THE GENERAL BOARD  
United States Forces, European Theater

~~WAR-10~~  
~~2-74/24~~  
~~ETO-100~~  
~~REF-100~~  
44  
25  
4586  
no. 22

THE JUDGE ADVOCATE SECTION

IN THEATER OF OPERATIONS

MISSION: Prepare Report and Recommendations on the Judge Advocate  
Section in Theater of Operations.

The General Board was established by General Orders 128, Headquarters European Theater of Operations, US Army, dated 17 June 1945, as amended by General Orders 182, dated 7 August 1945 and General Orders 312 dated 20 November 1945, Headquarters United States Forces, European Theater, to prepare a factual analysis of the strategy, tactics, and administration employed by the United States forces in the European Theater.

File: 320.2/7

Study Number 82

Property of  
Office of the Chief,  
Military History  
General Reference Branch

TABLE OF CONTENTS

| SUBJECT   | PAGE |
|---|------|
| Chapter 1: Introduction. . . . .  | 1    |
| Chapter 2: Personnel. . . . .   | 10   |
| Section 1 - Personnel of Section . . . . .  | 10   |
| Section 2 - Functions of Section . . . . .  | 13   |
| Section 3 - Personnel Requirements . . . . .  | 16   |
| Section 4 - Replacements . . . . .  | 18   |
| Section 5 - Detail Appointments and Promotion. . . . .  | 19   |
| Chapter 3: Equipment . . . . .  | 22   |
| Section 6 - Office Equipment . . . . .  | 22   |
| Section 7 - Forms. . . . .  | 23   |
| Section 8 - Communications and Transportation. . . . .  | 24   |
| Section 9 - Research Facilities. . . . .  | 25   |
| Chapter 4: Administrative Operations . . . . .  | 28   |
| Section 10 - Office Procedure. . . . .  | 28   |
| Section 11 - Scope of Work . . . . .  | 30   |
| Section 12 - Dealings with the Commanding General. . . . .                                      | 32   |
| Section 13 - Speeding of Courts-Martial Processes. . . . .                                      | 33   |
| Section 14 - Relation between the Judge Advocates of<br>higher and lower Headquarters . . . . . | 35   |
| Chapter 5: Conclusions and Recommendations . . . . .  | 36   |

APPENDICES

|  |    |
|--|----|
| 1. - Present T/O's and proposed T/A's for JA Sections of field force units and operational air force units (with annex). . . . .             | 40 |
| 2. - General Court-Martial cases of field force units and operational air force units . . . . .  | 42 |
| 3. - General Court-Martial cases of Base Sections, Communications Zone and air service force units. . . . .                                  | 44 |
| 4. - Present T/O's and T/A's for JA Sections of European Theater, Base Sections of Communications Zone and Air Force Service Units . . . . . | 45 |
| 5. - Comment of the Chief of Section . . . . .   | 46 |

THE GENERAL BOARD  
UNITED STATES FORCES, EUROPEAN THEATER  
APO 408

THE JUDGE ADVOCATE SECTION IN THEATER OF OPERATIONS

Prepared by:

Colonel Julien C. Hyer, Chief, Judge Advocate Section, The General Board.  
Lieutenant Colonel Burton S. Hill, Judge Advocate Section, The General Board.  
Lieutenant Colonel William M. Moroney, Judge Advocate Section, The General Board.

Principal consultants:

1. General E. C. McNeil, O2 248, The Assistant Judge Advocate General, Branch Office of The Judge Advocate General with the European Theater of Operations.
2. Colonel C. E. Brand, O8 432, Theater Service Forces, European Theater.
3. Colonel Daniel O'Donnell, O 904 811, Branch Office of The Judge Advocate General with the European Theater of Operations.
4. Colonel John F. McCartney, O17 508, US Air Forces in Europe.
5. First Lieutenant John J. Adams, O2 052 353, Seine Section, Communications Zone.
6. Lieutenant Colonel Douglas Robertson, O 169 705, Communications Zone.
7. Lieutenant Colonel Carmon C. Harris, O 345 016, Seine Section, Communications Zone.
8. Major William F. Fratcher, O26 383, Branch Office of The Judge Advocate General with the European Theater of Operations.
9. Lieutenant Colonel Frank McNamee, Jr., O 506 126, 84th Infantry Division.
10. Second Lieutenant Russell S. McKay, O2 028 435, 94th Infantry Division.
11. Captain Patrick H. Ford, O2 032 105, Chanor Base Section, Communications Zone.
12. First Lieutenant Robert F. Hone, O2 051 964, Chanor Base Section, Communications Zone.
13. Major Arnold W. Davis, O 335 510, Fifteenth US Army.
14. Lieutenant Colonel Frank P. Eresch, O 467 963, Assembly Area Command.
15. Lieutenant Colonel Edwin R. Bentley, O 917 595, IX Tactical Air Command.
16. Colonel Frank P. Corbin, Jr., O18 402, XX Corps
17. Captain Charles P. Gotwals, O1 894 379, US Forces, European Theater.
18. First Lieutenant John J. O'Keefe, O1 004 654, United Kingdom Base Section, Communications Zone.
19. Major Joseph W. Bishop, Jr., O2 051 943, US Forces, European Theater.
20. Colonel Julien C. Hyer, O 199 392, Fifteenth US Army.
21. Captain Milton J. Mehl, O1 542 746, Fifteenth US Army.
22. Colonel Claude B. Mickelwait, O10 287, 12th Army Group.

23. Lieutenant Colonel Byrne Bowman, O 348 115, 106th Infantry Division.
24. Colonel Joseph N. Owen, O 485 885, Assembly Area Command.
25. Lieutenant Colonel Burton S. Hill, O 198 908, VIII Fighter Command.
26. Major C. B. Maynard, O 921 595, 12th Army Group.
27. Major Grant J. Williams, O 365 852, Delta Base Section, Communications Zone.
28. Lieutenant Colonel Joseph R. Cumming, O 254 292, 63rd Infantry Division.
29. Major Malcolm A. Crusius, O 521 443, 1st Air Division.
30. Captain John P. Curran, O1 594 116, Chanor Base Section, Communications Zone.
31. Lieutenant Colonel Martin J. Her, O 923 238, 1st Air Division.
32. Lieutenant Colonel Harold D. Shrader, O 355 475, 70th Infantry Division.
33. Lieutenant Colonel Joseph W. Riley, O 919 756, 66th Infantry Division.
34. Lieutenant Colonel Nicholas E. Allen, O26 377, 82nd Airborne Division.
35. Lieutenant Colonel Charles L. Decker, O18 549, XIII Corps.
36. Major R. F. H. Pollock, O26 384, 13th Airborne Division.
37. Major Dudley Porter, Jr., O2 051 913, 100th Infantry Division.
38. Captain Frank R. Bolte, O2 051 883, 75th Infantry Division.
39. Captain Paul S. Daspit, O2 052 023, 78th Infantry Division.
40. Lieutenant Colonel Charles T. Shanner, O 921 227, Seine Section, Communications Zone.
41. Captain John B. Young, O2 052 425, 36th Infantry Division.
42. Colonel Lester A. Pritchard, O350 584, and Major Paul M. Greenwell, O 508 063, Base Air Depot, Air Service Command, US Air Forces in Europe.
43. Captain Charles W. Manning, O2 052 225, 89th Infantry Division.
44. Major Benito Gaguine, O2 051 959, Oise Intermediate Section, Communications Zone.
45. Major Francis J. Gafford, O 509 118, US Forces, European Theater.
46. Colonel Charles E. Cheever, O14 712, Third US Army.
47. Lieutenant Colonel Arthur E. Pierpont, O 356 805, 94th Infantry Division.
48. Lieutenant Colonel Andre B. Moore, O 426 645, XX Corps.
49. Colonel Harold LeMar, O 163 321, Continental Advance Section, Communications Zone.
50. Lieutenant Colonel Henry H. Mize, O 302 121, 12th Army Group.
51. Captain Charles H. Taylor, O2 052 346, 6th Army Group.
52. Colonel Charles X. Fairman, O 118 642, US Forces, European Theater.
53. Colonel E. M. Brannon, O12 292, First US Army.
54. Colonel Richard F. Welch, O 345 668, VII Corps.
55. Lieutenant Colonel Earl H. Marsh, O 261 316, XII Tactical Air Command.
56. Major Robert S. Pasley, O2 051 982, XIII Corps.
57. Major Joseph P. Correia, O 257 795, IX Air Force Service Command.
58. Lieutenant Colonel James M. Wilson, O 912 417, Air Service Command, US Strategic Air Forces in Europe.
59. Lieutenant Colonel J. D. Smith, O 915 645, 83rd Infantry Division.
60. Captain Preston W. Jones, O2 052 209, Oise Intermediate Section, Communications Zone.
61. Captain Louis E. Beckmire, O2 052 156, Oise Intermediate Section, Communications Zone.

62. Major Theodore F. Cangelosi, O 486 185, Branch Office of The Judge Advocate General with the European Theater of Operations.
63. Colonel John M. Pitzer, O26 378, US Forces, European Theater.
64. Lieutenant Colonel Gerald J. McMahon, O 922 297, 9th Armored Division.
65. Captain Ernest May, O 531 664, Fifteenth US Army.
66. CWO Virgil D. LeGette, W2113604, Fifteenth US Army.
67. Colonel H. W. R. Williams, Judge Advocate General's Branch, British Army of the Rhine.

## CHAPTER 1

### INTRODUCTION

1. On V-E Day there were 118 general court-martial jurisdictions operating in the European Theater. With few exceptions the staff judge advocates of these jurisdictions were officers in the Judge Advocate General's Department, and those from the other branches of the service were experienced lawyers who were proficient in military law. The sections of these installations were also composed principally of judge advocate officers, but staff members belonging to other branches were lawyers and had undergone sufficient training in military law to qualify them for their duties. Aside from those Branch Immaterial officers serving in judge advocate sections on V-E Day there were approximately 485 judge advocate officers on duty in the European Theater. Adjustments, promotions, recalls, sickness, the activation of new installations, and kindred causes were responsible for many changes in staff personnel. It is estimated that during the campaign approximately 600 judge advocate officers served in posts throughout the European Theater.

2. They served in the United Kingdom, Belgium, France, Holland, Luxembourg and Germany. They were assigned to the headquarters of Theater, army groups, armies, corps, divisions, air forces and base sections. They likewise were entrusted with responsibilities in connection with Civil Affairs, Military Government and war crimes investigations. They landed on the beaches of Normandy with the invading troops; they proceeded with the liberating forces to Paris, Luxembourg and Liege, and continued on with the victorious drive into the heart of Germany. Many of them were under fire of the enemy's guns. They served as legal advisors to commanders, staff judge advocates, as law members and trial personnel on courts-martial, on Military Commissions, in Military Government Courts, on claims commissions, in G-5 Sections, and in various other capacities requiring judgment and legal skill.

3. Since the judge advocate officer served in so many places in the European Theater from the beginning to the end of the campaign, no discussion of this nature would be complete without a brief history of his participation in it.

4. Early phase. The first contingent of the United States Forces to land in the European Theater of Operations arrived at Belfast, North Ireland, under the command of Major General Russell P. Hartle. This contingent established headquarters at Wilmont House, which was known as "Headquarters United States Army Northern Ireland Forces," and "Headquarters V Army Corps," with Colonel C. E. Brand as Staff Judge Advocate and continued in force until the Services of Supply was formed. When Headquarters, United States Army Forces in the British Isles was activated in February, 1942, in London, Colonel Brand was designated as Acting Judge Advocate on 13 March 1942. He was succeeded on 4 April 1942, by Colonel (now Brigadier General) Edward G. Betts, JAGD, who was assigned as Staff Judge Advocate, later becoming Theater Judge Advocate when the command was converted and redesignated.

5. Meanwhile, air force units had been assembling in England and Headquarters Eighth Air Force was established at Teddington with Lieutenant Colonel William H. Scully, JAGD, as Staff Judge Advocate. Headquarters, Services of Supply, was established in June, 1942 at London, later removing to Cheltenham, Gloucestershire, under the command of General John C. H. Lee with Colonel (now Brigadier General) Adam Richmond, JAGD, as Staff Judge Advocate.

6. The Theater Office. In early summer of 1942, European Theater of Operations, United States Army (ETOUSA), began to function in London with Brigadier General Betts as Theater Judge Advocate. He continued in this capacity throughout the campaign to V-E Day and thereafter. Later, when General Dwight D. Eisenhower was selected as Supreme Commander of the Allied Expeditionary Forces in Europe (SHAEP) and established his headquarters in London, the Theater office continued to exist, in an advisory capacity to General Eisenhower when called upon. Thereafter in January 1944, Theater Headquarters and Services of Supply Headquarters were consolidated. The Services of Supply Staff Judge Advocate became Deputy Theater Judge Advocate and was specially designated as Staff Judge Advocate for Services of Supply.

7. In preparation for the invasion, in the spring of 1944, a forward echelon of Services of Supply was established and a part of the Judge Advocate Section was attached thereto. Colonel Guy M. Kinman, JAGD, was designated as Deputy Theater Judge Advocate in June, 1944, and at the same time Colonel Hardy W. Hollers, JAGD, was named Staff Judge Advocate, Communications Zone (new designation for Services of Supply), succeeding Colonel Albert W. Johnson, JAGD. This echelon arrived on the Continent shortly after D-Day. On 1 September 1944, Colonel Kinman moved the main office of the Theater Judge Advocate to a chateau near Volognes, Normandy, and on 8 September 1944, to the Majestic Hotel, Paris. General Betts and the remainder of his London office moved there on 12 September 1944. From the Majestic Hotel, the Theater Judge Advocate office served Supreme Headquarters Allied Expeditionary Forces and Headquarters Communications Zone until after V-E Day when it was removed with Headquarters United States Forces European Theater (USFET), to Frankfurt-am-Main, Germany.

8. The Branch Office. In June 1942, the Branch Office of The Judge Advocate General with the European Theater (EOTJAG) was established at Cheltenham, England, with Brigadier General Lawrence H. Hedrick, JAGD, in charge. He served in this capacity until 22 June 1943 when he was succeeded by Brigadier General Edwin C. McNeil, JAGD, who continued in this capacity until V-E Day and thereafter. In October 1944, the office was removed to Paris, France at 147 Avenue des Champs Elysees where it remained until after V-E Day, when it removed to St. Cloud, near Paris.

9. Ground Forces. The principal units of the Army Ground Forces operating in the European Theater were two army groups, five field armies with an average of from two to four corps to each army and two or more divisions to each corps. Each of these units had a staff judge advocate and a section as provided for in the tables of organization. One army group, first known as "First U. S. Army Group" was activated in London, England, on 19 October 1943 with Colonel C. E. Brand, JAGD, as its Judge Advocate. He was succeeded by Colonel Homer W. Jones, JAGD, on 4 May 1944, who was in turn succeeded by Colonel Claude S. Mickelwait on 22 June 1944, who continued to serve in this capacity until V-E Day and thereafter. Later, 12th Army Group was created and given general court-martial jurisdiction.

10. The Judge Advocate Section, 12th Army Group, departed from London 1 August 1944 arriving in France on 4 August 1944 and began operations near Periers, France, removing on 5 August 1944 to Laval, France, then to Versailles, France, thence to Verdun, France, and finally on 1 May 1945 to Wiesbaden, Germany, where it was on V-E Day, at which time the Group consisted of the First, Third, Ninth and Fifteenth U. S. Armies.

11. The 8th Army Group was activated about 27 August 1944, at Bastia, Corsica and Colonel David S. McLean, JAGD, was designated as Judge Advocate. It removed thence to St. Tropez, France, later to Lyon and subsequently to Heidelberg, Germany, where it was on V-E Day, at which time the Group consisted of the Seventh U. S. Army and First French Army.

12. Colonel E. M. Brannon, JAGD, Staff Judge Advocate of the First U. S. Army, arrived in France on 12 June 1944, being followed by his executive officer and the remainder of the section on 3 July 1944. After this time the first Army was continuously engaged in operations in France, Belgium, and Germany until V-E Day when the judge advocate section was based near Merburg, Germany, having maintained officers at command posts with the rear echelon of First U. S. Army at Chaufontaine, Belgium, and at Duren, Germany. Colonel Brannon, served as Staff Judge Advocate, First U. S. Army, throughout the entire period.

13. The Judge Advocate Section of the Third U. S. Army left the United Kingdom and closed on the Continent on 19 July 1944. This army went into a period of operations through Brittany and across France until it was semi-permanently based at Esch, Luxembourg, from which place it moved successively to Trier, Frankfurt, Erlangen and finally to Munich, Germany, where it was located on V-E Day. Colonel Charles E. Chcever, JAGD, was Staff Judge Advocate throughout the entire period.

14. The Judge Advocate Section of the Seventh U. S. Army landed in southern France about 22 August 1944, and proceeded with the army rear echelon up the Rhone Valley and took part in the operations in France, southern Germany and Austria, being based on V-E Day at Augsburg, Germany. Colonel Pinckney G. McElwae, JAGD, was the Judge Advocate throughout the entire period.

15. The Judge Advocate Section of the Ninth U. S. Army closed on the Continent late in summer 1944, took part in operations and moved through northern France until it established semi-permanent headquarters at Maastricht, Holland, whence it removed in the latter days of the operations to Munster, Germany, where it was situated on V-E Day. Colonel Stanley M. Jones, JAGD, was the Judge Advocate throughout the entire period.

16. The Judge Advocate Section Fifteenth U. S. Army, arrived on the Continent on 8 December 1944, moving successively from Suijpes, France, to Dinant, Belgium, thence to Bad Neuenahr, Germany, where it was based during the period of operations and assumed its duties in the active occupation of the Rhineprovinz Military District where it was on V-E Day. Colonel Julien C. Ryer, JAGD, was Judge Advocate throughout the period.

17. The various corps, divisions and attached units arrived on the Continent through the beaches and ports on the French-English Channel coast or on the French Mediterranean coast and were moved from place to place in reception areas, training areas and combat areas. Some of them served in as many as two or three different countries where the judge advocate officers readily adjusted themselves to the changes in language, customs, and local conditions.

18. The Air Forces. The Eighth Air Force was activated in the spring of 1942 and arrived in England in the early summer of that year. Lieutenant Colonel William H. Scully, JAGD, was Staff Judge Advocate. Headquarters was established at Taddington, England. VIII Bomber Command was at High Wycombe, VIII Fighter Command at Bushey, VIII Air Force Composite Command at Kerbasic, Northern

Ireland, while the VIII Air Force Service Command and the VIII Air Force Support Command remained at Teddington.

19. In July of 1942, Colonel L. Harbaugh, Jr., JAGD, arrived and became Staff Judge Advocate of the Eighth Air Force, replacing Lieutenant Colonel Scully, who became his assistant. Immediately upon taking office, Colonel Harbaugh commenced laying the groundwork for general court-martial jurisdiction in the subordinate commands above mentioned, and by December of 1942 this task was accomplished.

20. In September of 1943 when the Ninth Air Force moved from Africa to England, where headquarters was established at Ascot, a new installation was formed known as "United States Air Forces in the United Kingdom" under the command of General Ira C. Eaker, which became an administrative headquarters for both the Eighth and Ninth Air Forces. Colonel Harbaugh became Staff Judge Advocate of the new unit, and held this position until 30 December 1943 when it was redesignated "United States Strategic Air Forces" (USSTAF). However, it was not granted general court-martial jurisdiction, and all of its military justice matters continued to be handled by the Eighth Air Force until 23 December 1943 when general court-martial jurisdiction was given the Ninth Air Force, with Colonel Erle McGuffey as Staff Judge Advocate. On this same date authority to appoint general courts-martial was granted to IX Troop Carrier Command, IX Bomber Command, IX Fighter Command, and IX Air Forces Service Command.

21. On 24 February 1944, VIII Bomber Command was formed into the 1st, 2nd and 3rd Bombardment Divisions, (later known as "Air Divisions") each with general court-martial jurisdiction. However, the Eighth Air Force, with its former subordinate commands remained unchanged except that the Support Command merged with the Ninth Air Force. At the time of these changes Lieutenant General James H. Doolittle became Commanding General of the Eighth Air Force, with Colonel James W. Campbell, JAGD, as Staff Judge Advocate. General court-martial jurisdiction had been granted to United States Strategic Air Forces with Colonel Harbaugh remaining as Staff Judge Advocate.

22. In March of 1944 a newly-formed unit known as Base Air Depot Area (BADA) absorbed the VIII Air Force Service Command with Colonel Lester A. Prichard as Staff Judge Advocate, and a new service command was organized for the Eighth Air Force. This left United States Strategic Air Forces and Base Air Depot Area as higher headquarters for the Eighth and Ninth Air Forces.

23. The Eighth Air Force remained based in England throughout the campaign, but when some of its fighter units became stationed on the Continent, VIII Fighter Command established headquarters at Charleroi, Belgium on 19 January 1945, Lieutenant Colonel Burton S. Hill, JAGD, as Staff Judge Advocate of VIII Fighter Command remained with this unit, which later was given general court-martial jurisdiction over all Eighth Air Force units on the Continent.

24. Ninth Air Force moved from Ascot, England, to Chantilly, France, on 16 September 1944. Its Staff Judge Advocate continued to be Colonel Erle McGuffey until late fall of 1944, when he was succeeded by Colonel Guy H. Kinman, JAGD, who served in that capacity until V-E Day and afterwards. The advance headquarters of this unit was attached, tactically, to 12th Army Group throughout

the campaign. After V-E Day the headquarters removed to Bad Kissingen, Germany.

25. In late fall 1944, United States Strategic Air Forces moved from England to St. Germain, France, but Base Air Depot Area remained at Burtonwood, England, with Colonel Lester A. Prichard as Staff Judge Advocate.

26. Service Forces. Colonel Johnson succeeded Colonel Adam Richmond as Staff Judge Advocate of Services of Supply Headquarters at Cheltenham, England. The five base sections in which Great Britain had been divided, known as Central Base Section (comprising an area within a 15-mile radius from center of London), Southern, Western (including Scotland), Eastern, and Northern Ireland Base Sections were given general court-martial jurisdiction.

27. Each of these base sections was provided with staff judge advocates as they became available and exercised individual general court-martial jurisdiction. Several ports were operated under the base section general court-martial jurisdictions in which they were respectively located. Each port had a judge advocate of its own.

28. In January 1944, Theater and Services of Supply Headquarters were consolidated, with General Betts as Staff Judge Advocate. Colonel Johnson was designated as Deputy Theater Judge Advocate, having the additional title of Staff Judge Advocate, Services of Supply, with his office at London. In the spring of 1944, when the invasion was imminent, a section was formed known as Advance Section (ADSEC) with Colonel Edward J. Kotrich, JAGD, as Staff Judge Advocate. It moved to the Continent on 16 June 1944.

29. About 1 August 1944, Normandy Base Section was established with Lieutenant Colonel John E. Blackstone, JAGD, as Acting Staff Judge Advocate. Colonel (then lieutenant colonel) Franklin H. Berry, JAGD, later became the first Staff Judge Advocate. On 20 August 1944 Brittany Base Section (formed from the staff of Eastern Base Section, England) was established at Rennes, France, with Lieutenant Colonel W. F. Butters as its first Staff Judge Advocate.

30. Central Base Section closely followed from England to form Seine Section at Paris with Lieutenant Colonel Vincent A. Miller, JAGD, as Staff Judge Advocate, and by the end of August, Northern Ireland Base Section had moved to France to form Loire Section at Le Mans, France, with Lieutenant Colonel Dean E. Ryman, JAGD, as Staff Judge Advocate.

31. In early September, Western Base Section, England, formed Channel Base Section at Le Havre, France, with Lieutenant Colonel Wilbur F. Coyle, JAGD, as Judge Advocate and in November, Southern Base Section, England, formed Oise Section, France, at Rheims with Lieutenant Colonel Arthur Green, JAGD, as Staff Judge Advocate.

32. As these base section headquarters left England, their old locations became districts with the same designation and continued to operate with their judge advocate officers under United Kingdom Base Section (UK Base) which was in London with Colonel Kotrich as Staff Judge Advocate. This headquarters remained in charge of service forces affairs in the United Kingdom until V-E Day and afterwards. The sections on the Continent operated under Headquarters Communications Zone, Paris.

33. On 1 December 1944, Loire and Brittany Base Sections consolidated, the headquarters remaining at Rennes with Lieutenant

Colonel Dean E. Ryman as Staff Judge Advocate. On 9 February 1945, Normandy Base Section took over the entire Brittany Base Section Area, and the headquarters of Brittany Base Section moved to Dijon, France, as Burgundy District, with Lieutenant Colonel Ryman as Staff Judge Advocate. Burgundy District was absorbed by Oise Section on 6 April 1945, and Lieutenant Colonel Ryman then became Staff Judge Advocate of Oise Section.

34. Each of the Continental ports operated under the base section in which it was located. In practically every case where base sections moved to the Continent, they brought their judge advocate sections and the complete personnel thereof with them, continuing to function in their new surroundings as they had in England, with but little interruption.

35. Accompanying the Mediterranean-French coast invasion, another advance section known as Continental Advance Section (COAAS) followed the 6th Army Group's advance up the Rhone Valley. This section became a part of the European Theater of Operations about 1 February 1945. Colonel Harold D. Le Bar was Staff Judge Advocate of this unit throughout the campaign. It was based for the greater part of the operations at Mannheim, Germany.

36. At Delta Base Section, Marseilles, France, Colonel W. H. Jones, Infantry, was Staff Judge Advocate.

37. The Allied armies. With judge advocate officers having so many duties in connection with the allied military system, it became necessary that they maintain close association with their British, French and Russian corresponding numbers in matters pertaining to military law and justice. This necessitated some knowledge of these foreign legal systems, customs and usages, and a coordination of them with our own. For the purpose of comparative study a brief discussion of these systems is given, showing the duties of the various allied legal officers during the campaign.

38. The British system. In the British Military Justice system two types of courts were maintained during the campaign. These were the general and the field general court-martial. The former was the highest military tribunal, while the latter was similar to our special court-martial, except that its jurisdiction was greater and under some circumstances had the same powers as the general court-martial. The field general court-martial consisted of not less than three officers, and the general court-martial consisted of not less than five, with a judge advocate as one of its members who rules on evidence and advised the court on matters of law. His duties were similar to those of the law member on our general court-martial. The senior member of the British general court-martial was designated the president, although the judge advocate was the senior member and the president very often. Each court also had a "prosecutor" or trial judge advocate and a "defense" or defense counsel chosen from among the officers in the unit from which the general court-martial was convened.

39. The British system provided for no type of summary court although battalion commanders possessed authority to order the confinement at hard labor of enlisted men up to 28 days, together with the forfeiture of certain amounts of their pay. They also had authority to punish officers for minor infractions, but if the offense committed by an officer was at all serious he was tried by a general court-martial.

40. The British corps, under the command of a lieutenant general, was the lowest level to which courts-martial jurisdiction was

granted and to which judge advocate sections were assigned. In corps, the staff judge advocate held the rank of major with one assistant of the rank of captain. These officers were legally trained, and performed the same functions that a staff judge advocate and assistant perform under our system. In addition, the judge advocate section had a staff composed of high-ranking non-commissioned officers and enlisted men, to whom fell the duties of court-reporting, typing, filing and general office work.

41. In armies, commanded by full generals, the staff judge advocate was a lieutenant colonel, and his assistants were a major and a captain. His staff and its duties corresponded largely to those in corps, except that the number of personnel was greater, and there was an office manager usually of the grade of sergeant-major.

42. In army groups, commanded by field marshals, the staff judge advocate held the rank of full colonel or brigadier, and his assistants were a lieutenant colonel, a major, a captain, and a lieutenant, the latter serving as office supervisor. The staff was larger than in subordinate units and more importance was placed upon the selection of the enlisted personnel.

43. Any officer commanding a detachment of corps outside the United Kingdom could convene a field general court-martial, but a general court-martial was convened by only an officer holding a warrant to convene general courts-martial, or authority from the Crown. To convene either type of court an order was issued from headquarters, naming the court members and trial personnel. After the trial of a case the record was reviewed for legal sufficiency by the judge advocate of the corps in which the case arose, but records in general court-martial cases were passed upon by the army group judge advocate, and then sent to The Judge Advocate General in London for final approval. Death sentences and long terms of confinement could be approved by army group commanders after review, but in the case of death sentences corps commanders could exercise the privilege of obtaining the approval of the Crown. In time of peace the Crown must approve all death sentences. Cases proposed for trial by courts-martial were investigated in a manner somewhat similar to our own, and passed on to the corps judge advocate for estimation. In the event he decided upon trial he advised the appropriate convening authority, and thereupon a court was convened, depending upon the type of court required.

44. British judge advocate officers in other respects had somewhat the same duties as our own, except that their scope of endeavor was more limited. Many of their problems in military affairs, claims, legal assistance and kindred subjects were handled by civilians. The British Judge Advocate General is a civilian, and his staff and board of reviews in general court-martial matters were for the most part civilian. In proportion to the size of their armies compared to our own, they had fewer trials, and less emphasis was placed upon minor details in courts-martial matters. There was much less paper-work connected with their system and less forwarding through channels. Consequently, in proportion to the size of their units, the British required fewer judge advocate officers. Their requirements of education, training and experience were exceedingly high. British judge advocates appear to have had more authority in proportion to rank than our own, and were required to handle much less detail. This was cared for to a large extent by the non-commissioned staff.

45. Since the Royal Air Force was a separate branch of the service in the British military set-up, it had a military justice

system of its own, but followed closely the Army system. However, there were relatively few judge advocate officers in the Royal Air Force, and their scope of authority was very broad. The Royal Air Force was comparatively a small branch of the service, and did not maintain installations comparable to corps and armies.

46. The French system. The French military justice system maintained only one type of court-martial, called the "Conseil de Guerre." It tried all types of cases from minor infractions to the highest offenses, for which the death sentence was imposed. However, army commanders were empowered to order confinement at hard labor up to 60 days in the case of enlisted men, and they had authority to punish officers severely. The Conseil de Guerre was relieved of the responsibility of the trial of high crimes such as treason and murder, since such crimes were usually tried by civil tribunals, or partly civil and partly military, depending upon the nature of the offense.

47. The French division was the only unit possessing courts-martial jurisdiction, and maintaining a judge advocate section. The commanding general of a division was the chief legal officer, was known as the "Chef de la Justice," and in him rested the responsibility of administering justice for minor offenses, and convening the Conseil de Guerre for the greater ones. His staff of legal officers was composed of three lawyers, or "avocats" who held commissions in the French Army, and handled all matters pertaining to law. These officers in relation to grade were the "Officier du Corps de Justice Militaire," or the staff judge advocate, of the rank of major, the "Greiffier," or the assistant staff judge advocate, of the rank of captain, and "Commissaire du Gouvernement," the trial judge advocate, of the rank of captain, although he could be a lieutenant.

48. When court-martial charges were prepared, it became the duty of the officier du Corps de Justice Militaire to pass upon their importance and necessity for trial. In the event he decided upon trial it was then the duty of the Greiffier to make up the necessary charges and specifications and to investigate them in somewhat the same manner as is done under Article of War 70 of our system. When the task of the Greiffier was completed the entire matter was turned over to the Commissaire du Gouvernement for trial. At this point the Chef de la Justice convened the Conseil de Guerre, which was composed of five members. In the case of an enlisted man the court consisted of one colonel, acting as chairman, one major, who was assistant chairman, one captain, one lieutenant, and one non-commissioned officer as court members. However, no officer or enlisted man could be tried except by a court composed of personnel of higher rank than his own. By the same convening order, the Commissaire du Gouvernement was appointed trial judge advocate, and in the case of enlisted men some non-commissioned officer familiar with military law was appointed to defend the accused. In the event an officer was being tried, the grades of the entire court personnel were raised in proportion to his rank.

49. After trial, the record of the Conseil de Guerre was reviewed by a board known as the "Conseil de Revision," sitting in Paris. It passed upon the legal sufficiency of the findings and sentence of the court, and in the event of fatal errors it had authority to dismiss the proceedings. However, retrial might be ordered in cases requiring dismissal. The Conseil de Revision was made up partly of civilian and partly of military personnel, but they each held the distinction of being a "judge d'instruction," or examining magistrate.

50. Neither the Justice Militaire, the Greiffier or the Commissaire du Gouvernement had duties beyond those pertaining to military

justice. While the Justice Militaire was legal adviser to the commanding general, or Chef de la Justice, his duties as to military affairs, legal assistance, claims and military board matters were left to others usually not members of his staff. As a matter of fact, all legal matters not pertaining strictly to military law were handled by civilians. The Justice Militaire did not maintain a large non-commissioned staff, and the paper-work of the section was very light. His channels of communication were direct and paper-work became for the most part unnecessary. His duties in connection with court-martial matters were of considerable importance.

51. Commanding generals of armies and army corps sought advice on military matters of lesser importance from the legal sections of nearby divisions, but upon matters of graver import they consulted a judge of the "Ministres de la Guerre," or the War Department.

52. The Russian system. Little information has been available upon the Russian judge advocate system. However, the staff judge advocate, known as the "Military Prosecutor," was not under the full command of his general at division and corps levels, but was answerable principally to the Soviet Supreme Court. He could, however, submit his opinions and decisions to the general in the field. In the event that the general failed to agree with him, the matter was submitted to Moscow.

53. At the army level and above, the staff judge advocate was known as the "Chief Legal Officer," and usually was of the rank of colonel. He had an adjutant who acted both as his secretary and executive officer, and who handled all matters of office routine.

54. Purely military offenses were triable by courts-martial composed of officers or enlisted men of equal rank with the accused. In ordinary cases quick justice was meted out, especially for cowardice or insubordination of any nature. All legal questions of any importance were referred to the administrative heads of the Soviet Army. Little paper-work was indulged in since most matters were taken up and disposed of orally.

CHAPTER 2

PERSONNEL

SECTION 1

PERSONNEL OF SECTION

55. The Staff Judge Advocate. Each of the units in the European Theater of Operations with general court-martial jurisdiction was provided with a staff judge advocate and his assistants. The staff judge advocate was the adviser to the commander and his staff on questions of law and the administration of military justice within the unit. In addition to military justice his duties included military affairs, legal assistance to the personnel of the unit, the supervision of military commissions and in some instances military government court trials, war crimes matters and advice on claims and military government problems.<sup>1</sup> Under his supervision, offenses committed by members of the military establishment in his unit were investigated, charges drawn in conformity with the Articles of War and the rules laid down in the Manual for Courts-Martial, and the processes of trial and punishment pursued to conclusion. In connection with military commissions, military government courts, war crimes investigations and claims matters, the staff judge advocate was called upon to furnish opinions, conduct investigations and perform administrative functions, or to supervise trial processes and review the proceedings. In addition, his advice was sought by his commanding officer and subordinate commanders in the punishment of offenders without formal trial, the granting of clemency, the interpretation of directives of higher headquarters and other phases in which the exercise of command involved legal matters. He occupied a close relationship to his commanding officer and his usefulness was in proportion to the confidence and reliance placed upon him by his chief, which was greatly influenced by his experience, ability and versatility.

56. Judge Advocate Officers.

a. Training. The judge advocate section was usually staffed with officers of the Judge Advocate General's Department. All had legal training, and with few exceptions all were lawyers with experience in the practice of civil and criminal law. Many of them were graduates of the Judge Advocate General's School or the School of Military Government, and some of them of the Army Command and General Staff School. There were lawyers with Reserve commissions, who had prepared themselves for judge advocate work during peace time, and others were lawyers who had received their instruction in judge advocate sections in the United States or in the European Theater and were commissioned or detailed in the Judge Advocate General's Department. However, because of the duration of the war, most judge advocates had become well-trained and experienced by active duty in the field, and were well able to perform their tasks in a creditable manner.

b. Shortage. In the European Theater there was a shortage of judge advocate officers and it was sometimes found difficult to fill the tables of organization positions and to obtain necessary

---

1. FM 101-5, per 37; per 3a, AR 25-5, 7 May 1945.

replacements.<sup>3</sup> Instead of the staff judge advocate being able to select staff members upon whom he was to rely, he was required to accept those who were available at the time. As a result, when experienced men for particular tasks were needed, it was sometimes necessary to accept an officer with little experience, or one whose proficiency was in phases of work other than that of the immediate need. Because of the lack of available judge advocate officers the section chief was often compelled to accept a lawyer from some other branch of the service who was without training or experience in judge advocate work.<sup>3</sup> The success attained by some of these Branch Immaterial officers was a tribute to their earnest application and the ability of the staff judge advocates to train them within a minimum time.

c. Need of Trial Experience. There was a great need for trained officers with trial experience to prosecute and defend courts-martial cases, as well as to review the records. Not only were they required to bring to military justice technical skill to prevent errors in procedure, but also sound and experienced judgment to insure that justice be done. In view of the serious punishment that could be imposed by a general court-martial, it was important that both the prosecution and the defense be handled by men conscious of their responsibility and qualified by trial experience and training in military law to discharge it. The law member, who ruled on evidence and advised the court on military law, was also required to have considerable trial experience and training in military law.

d. Suggested Selection and Training. Generally, however, most judge advocates<sup>4</sup> found the personnel in their sections capable and proficient in the tasks assigned them. To meet the needs of the judge advocate section and to improve the personnel, it has been suggested that the original selection of officers be made more carefully.<sup>5</sup> Emphasis on training in military affairs, principles of military government and military government courts and in the handling of war crimes and prosecution of war criminals has been recommended.<sup>6</sup> The unfamiliarity of many judge advocates with these matters lessened their efficiency in war crimes investigations and prosecutions, and handicapped them when called upon for opinions on military government problems or when needed to supervise such activity. Also, in addition to the training provided by the Judge Advocate General's School, field experience or service in the Office of The Judge Advocate General and in the judge advocate section of a large command, such as service commands, air forces, or armies, was found to be desirable. These factors present, classifications could then be made as to technical and

- 
2. See par 1 (2) Judge Advocate Interviews 1 (par 1 (3) ), 2 (par 1 (1) ), 3, 6 and par 1 (1) Questionnaires 42, 55, 57, 58; par 1(2) Questionnaire 10, 17, 44, 46. References are made to Section I of recorded interviews and answers to the Judge Advocate Questionnaire which are available in the records of The General Board, USFET. Number references relate to the officer so numbered in the list of consultants.
  3. See par 1(2) Interview 2 and Questionnaires 24, 46, 56; par 1(4). Questionnaires 5, 28, 34; par 1(1). Questionnaires 42, 48, 55, 57, 58.
  4. Reference herein to "most judge advocates found," or to "many suggested" or "some recommended" relate to judge advocates consulted whose recorded interviews or answers to the Judge Advocate Questionnaire are available in the records of The General Board.
  5. Par 1(1), Interviews 7, 4 and Questionnaire 12.
  6. Par 1(1,2), Questionnaires 48, 52, 39.

physical fitness for particular assignments.<sup>7</sup> The suggestion has been made that the assignment of an officer be on a temporary basis to a judge advocate section, after such classification has been completed, and that he be permanently assigned only in the event he is acceptable to the chief of section. This would avoid the hazard of an inefficient and uncongenial member of a judge advocate section, and would also protect the officer from being assigned permanently to a post in which he does not fit. Where demands of the theater for judge advocate personnel exceed the supply, the establishment of a Theater Judge Advocate School has been recommended where qualified personnel can be better equipped in the minimum time for service in the theater.<sup>8</sup>

57. Warrant Officers. A considerable part of the credit for the efficient administration of judge advocate sections in the European Theater of Operations should be attributed to the service of warrant officers in handling the paper work and in the training and supervision of enlisted personnel. Frequently, where warrant officers have had legal training they have performed the duties of judge advocate officers in legal assistance work, in preparing advices, reviewing cases and sometimes serving as special defense counsel. Regulations prevent the detail of warrant officers as investigating officers, or to serve courts-martial or military commissions.<sup>9</sup> Although their tasks of administration generally occupy their time, it has been recommended that they be made eligible for such details so that their abilities can be fully utilized when necessary. Likewise, a course of training could well be conducted at the Judge Advocate General's School for warrant officers. Although some judge advocates prefer lawyers for warrant officers in their sections, it was not found that legal training is required.

58. Enlisted Men. The enlisted personnel of the section usually consisted of clerks, stenographers and court reporters. Generally, they were selected because of their ability and training in stenography or law. Most enlisted members of the section were proficient and did satisfactory work. There was a woeful shortage of court reporters and good stenographers.<sup>10</sup> While it is recognized that procurement of this type of personnel was primarily a function of the personnel officer, it became the concern of every judge advocate faced with a heavy load of courts-martial cases, and many found it necessary to use available stenographers for court-reporting work regardless of their capabilities. Considering the experience, technical skill and responsibilities entrusted to court reporters, legal stenographers and enlisted lawyers<sup>11</sup> higher grades for them are believed to be deserved and justified. Because of their importance in military justice matters, the suggestion has been made that sufficient enlisted lawyers, court reporters, stenographers and stenotypers be made available either for a Judge Advocate General's Department enlisted branch, or for assignment to judge advocate sections as enlisted men.<sup>12</sup> The

- 
7. Par 1(1), Questionnaires 2, 20.
  8. Par 1(1), Interview 22 and par 1(2) Questionnaire 10.
  9. Par 3d, Changes 3, 9 May 1944, AR 610-5, 13 Sept 1941.
  10. Par 1(1), Questionnaires 2, 40, 43 and par 1(2) Interviews 2, 4, 7 and Questionnaires 13, 14, 19, 23, 26, 29, 31, 32, 35, 36, 37, 38, 42, 43, 46, 49, 59, 60, 61.
  11. Par 1(2), Questionnaires 5, 23, 24 (par 1(1)), 28, 33, 37, 40, 54, 56.
  12. Par 1(1), Questionnaires 2, 36, 40, 47, 48, and par 1(2) Interview 22 and Questionnaires 10 and 21.

training of such personnel in schools or in the offices of larger commands would assure judge advocate sections of competent clerical and court reporting assistance, and relieve busy units of the task of training personnel. Interpreters assigned to the G-2 section or Military Government were often made available for investigations and trial work. They were not always easily secured, however.<sup>13</sup> It has been suggested that interpreters be trained in legal terms and procedure, and, after selection for their proficiency, be made available to general court-martial jurisdictions as the judge advocate sections of such units move into the foreign field of operations. It was found essential that enlisted personnel of the judge advocate section be trained and kept to a high degree in military proficiency in the handling of all types of weapons in the event they were called upon for actual combat engagement. In the 28th Infantry Division during the "break-through" in Belgium in December 1944, a defense battalion was formed in the rear echelon. Enlisted men of the judge advocate section were included, and three of them, including the court reporter were casualties. There were other similar instances.

## SECTION 2

### FUNCTIONS OF SECTION

#### 59. Military Justice.

a. Personnel for General Court-Martial Cases. The primary duty of the judge advocate was the supervision of the administration of military justice. In this work he had to supervise the drafting and investigation of charges, refer them to the appropriate court-martial or suggest punishment under Article of War 104, obtain and supervise personnel for the proper trial of cases, review records and recommend appropriate action. The judge advocate section was organized and staffed with a view to using personnel assigned to other duties for investigating officers, court members, trial judge advocates, and defense counsel. Officers with legal training and experience who were assigned to other sections or units were sometimes detailed for these assignments. Often, however, when there was a large number of cases, such officers were placed on temporary duty with the judge advocate section to conduct the defense or prosecution of cases.<sup>14</sup> The full-time assignment of such personnel provided a section capable of handling trials regardless of the limited tables of organization. Where such personnel could not be found outside the section, assistant staff judge advocates were sometimes used as law members, more frequently as trial judge advocates, and occasionally as investigating officers or defense counsel. Although Article of War 8 requires the use of a judge advocate officer as law member on a general court-martial, if he is available, in many instances they were not available.

b. Need of Qualified Trial Personnel Assigned in Section. The expectancy that units with general court-martial jurisdiction will have available capable lawyers, experienced in military justice as well as court reporters and interpreters, did not generally materialize

---

13. Par 1(2) Questionnaires 10, 11, 13, 30, 46, 48, 59, 61, but see 25, 28, 47, 57 and Interview 2.

14. Par 1(4) Interview 2 and Questionnaires 27, 28, 32, 39, 41, 42 (par 1(2)), 46 (par 1(2)), 47, 53, 55, 56 (Par 1(2)), 57 (par 1(6)), 60.

in the European Theater. Where the services of legally-trained non-judge advocate officers were obtained, both their regularly assigned work and their military justice duties suffered because of their attempted attention to two tasks. Further, it was too optimistic to expect any officer who assisted with the principal general court-martial functions in addition to his other duties to handle military justice problems with the skill, judgment and thoroughness that was desired. The importance of investigation and trial of cases by competent personnel was frequently neglected by provision not being made for the full-time assignment of experienced personnel to judge advocate sections. In recognition of this, many judge advocates in the European Theater have recommended that judge advocate officers be assigned to duty as investigators, law members, trial judge advocates and defense counsel.<sup>15</sup>

c. Personnel for Inferior Court-Martial Cases. The same need for officers with legal training particularly in military law exists for special and summary courts. It has been suggested that insofar as such personnel are available, they should be detailed to duties, as president, trial judge advocate and defense counsel of special court-martial and summary courts.<sup>16</sup> In this connection, the authorization of legally-trained enlisted men to serve as trial personnel of special courts-martial has also been advocated.

60. Military Affairs. The topic of military affairs includes the legal advice for the commander and other staff officers on questions of law.<sup>17</sup> It involves advice and opinions on the construction of statutes, regulations and directives, the preparation of legal and military documents, matters pertaining to claims, legal assistance to members of the command, the administering of oaths and any other functions with legal aspects. However, where the work load is heavy there is need for assistants with experienced judgment for the research and study required in connection with such opinions, and also a need for adequate research facilities. Because of the importance of this work in all commands, it has been suggested that consideration be given to it in the special training and assignment of personnel.

61. Military Government. While the assistant chief of staff, G-5 section, in the European Theater was charged primarily with the duty of administering its own legal affairs through its legal officers, there were headquarters where the commanding general looked to his staff judge advocate to perform some of these functions, and in other commands the staff judge advocate was sometimes required to render opinions on military government problems and to review records of Military Government courts, as well as to collaborate with Military Government legal officers. It has been suggested that it is unnecessary to have two legal sections in a headquarters and that all legal work should be handled by the staff judge advocate, either by

- 
15. Judge advocates for all positions, see par 1(4) Interview 2 and Questionnaires 11 (par 1(1) ), 12, 16 (par 1(2) ), 17, 27, 38 (par 1(2) ), 33, 39, 40, 42, 43, 44 (par 1(2) ), 48 (par 1(2) ), 55; for law member, trial judge advocate and defense counsel, Interviews 1, 3, 4, 6, 7 and Questionnaires 14, 20, 30 (par 1(2) ), 35, 38 (par 1(2) ), 46 (par 1(2) ), 49 (par 1(2), 8), 53, 54; for trained investigators, Interviews 7, 22 and Questionnaires 8, 21 (par 1(2) ), 24, 61.
16. Par 8, Questionnaires 12, 19, 38 (par 1(2) ), 57.
17. See Board study: Legal Questions Arising in the Theater of Operations.

supervision of Military Government legal officers, or by employing judge advocates with special training for such work in the judge advocate section in order to avoid duplication of work and maintain uniformity.<sup>18</sup> Others consider the functions of military government legal officers essentially different from those usually handled by the judge advocate and recommended a separate legal staff for that function.<sup>19</sup>

62. Spies and War Criminals. In August of 1944, a German soldier in the disguise of a civilian answered an inquiry from our troops within our lines in France with the phrase, "Nichts compree," which brought about his apprehension, trial and execution as a spy. From then to the termination of hostilities, that case and 12 others involving 29 spies or war criminals were tried by military commissions appointed by our armies and processed by judge advocate sections. Five such cases involving seven persons were tried by general military courts appointed by our armies and processed by legal officers of the assistant chief of staff, G-5, and judge advocate sections.<sup>20</sup> The largest number of these cases handled by any army was six military commission cases and three general military court cases. The processing and trial of these were similar to general courts-martial cases and were capable of being handled by the same personnel. Toward the close of the campaign in the European Theater, the investigation of war crimes and preparation of cases against war criminals became an important judge advocate function. Although this is the topic of another study,<sup>21</sup> it has been recommended that provision be made in the judge advocate tables of organization for personnel qualified to administer these functions and that all judge advocates be trained in the subject of war crimes investigations.

### SECTION 3

#### PERSONNEL REQUIREMENTS

##### 63. Unit Judge Advocates.

a. Larger Commands. The general courts-martial jurisdictions granted in the European Theater of Operations were believed necessary. In appendices there are listed the tables of organization, tables of allowance and air force manning tables of judge advocate sections of commands with general court-martial jurisdiction. Recommendations have been made both for and against providing judge advocate sections to wings of air divisions and commands.<sup>22</sup> In size, wings range between eight and twelve thousand personnel, and are usually located at some distance from the judge advocate section of the air division or command. However, it has been urged as desirable that judge advocate work of air divisions and commands with personnel of 30,000 to 50,000 be decentralized and brought to subordinate units by granting general court-martial jurisdiction to wings. This would reduce problems of communication and transportation.

b. Smaller Commands. Many of the judge advocates whose

---

18. Par 2, Sec IV, Questionnaires 22, 48, 49, 53; cf 3, 37, 47, 56.

19. Par 2, Sec IV, Questionnaires 19, 34, 43 (par 1(2), Sec I), 52, 59; cf 46, 54.

20. 12th Army Group, War Crimes Trials Report, 31 July 1945.

21. See Board study: War Crimes and Punishment of War Criminals.

22. Par 8, Questionnaires 29, 31, 55, 25 and Interview 4.

views have been considered in this study have recommended the assignment of a judge advocate officer with an enlisted stenographer to regiments, air force groups, division artillery, combat teams, combat commands, special troop commands or units or commands of comparable size.<sup>23</sup> Some have suggested judge advocates or legally-trained officers for separate battalions. Others have urged the same assignment for units of a size comparable to a brigade. A few others have thought that there should be a legally-trained officer or enlisted man with every unit exercising special court-martial jurisdiction. Under this plan, the commander of each of these smaller units would have an advisor on matters of law, military government, and personal legal problems, as well as a well trained investigator for courts-martial cases, a supervisor of military justice and a claims officer. These judge advocates would be available to the staff judge advocate for use in general courts-martial cases particularly as law members, trial judge advocates or defense counsel. Objection was made by some judge advocates interviewed to having the law member come from the office of the staff judge advocate and pass upon the guilt or innocence of the accused while a member of the staff judge advocate section. Varied views were expressed on the use of trial personnel from the staff judge advocate section.<sup>24</sup> Under the supervision and tutorage of the staff judge advocate, those in smaller units could gain valuable experience and training that would qualify them for more responsible positions when the occasion required. Sometimes, particularly in the air forces, units of the type mentioned were widely separated from the staff judge advocate, and frequently needed immediate legal counsel. However, the most important functions of a judge advocate on the staff of a command at regimental level would be his supervision of trials by inferior courts. The greater percentage of offenses are tried by such courts, and military justice would be well measured by the quality of their work.

c. Temporary Commands. Occasionally temporary concentrations of troops constitute a command larger than those which have judge advocate sections. Such a concentration necessitates an unusual load for the command to which it is attached for general court-martial jurisdiction. It has been suggested that enough judge advocate officers be temporarily attached to such commands or that the judge advocate section of the general court-martial jurisdiction to which the temporary command is attached be augmented to handle the military justice work of the temporary command.<sup>25</sup> Army, air force or theater pools could be provided to supply the necessary personnel. If the regiment, air force, group, or units of comparable size in such temporary commands had judge advocate officers, a judge advocate section for the temporary command could be constituted by these officers.

64. Size of Section. In many instances, it was found that the tables of organization of the various judge advocate sections were

- 
23. Par 8 (regimental and air group level) Interviews 3, 4, 22 (par 1(2), 8), and Questionnaires 13, 19, 20, 24, 35, 36, 39, 55, 56, 57; Interview 2 (Brigade). Questionnaires 10 (par 1(2)), 28 (regiments and separate battalions), 14, 43 (unit with special court-martial jurisdiction), 16 (units with brigadier general), 25 (wings and groups), 29 (AAF stations), 31 (par 1(2)) (wings and AAF stations); of 38 (par 1(2)), 40, 41 (par 1(2)), 42, 46.
24. Par 1(4), Interview 22 and Questionnaires 14, 15, 20, 35 (par 1(2)), 47, 54.
25. Par 8, Interviews 6, 7 and Questionnaires 44, 48.

inadequate to meet the need.<sup>26</sup> Generally, it was recognized that there were not enough legally-trained officers with trial and military law experience available to properly handle the trial of general court-martial cases. With the prescribed tables of organization, and the personnel rule of no-additional-personnel-requests-without-table-of-organization-vacancies, there was little elasticity to permit augmentation of the section. Accordingly, it became necessary to take legally-trained officers from their regularly assigned tasks and place them on a temporary duty basis in the judge advocate section. In airborne divisions, until December 1944, and in armored divisions, provisions were made for only one judge advocate. Not only was this provision inadequate for the administration of military justice, but it left the command without a judge advocate if the one assigned became ill or was absent for some other reason. It is therefore desirable that at least two judge advocate officers be assigned to each judge advocate section.

65. Determination of Size of Section. The determination of the proper size of judge advocate sections in different commands involves so many variables, such as size and allotments, volume of general court-martial cases and functions, that a strictly accurate estimate of personnel adequate for any situation cannot be attempted. It has been suggested as preferable to staff the section with personnel according to an elastic table of organization, adequate for the normal work-load, and provide for the unusual work as it arises with an allotment of additional personnel from pools of judge advocate officers maintained at the headquarters of theater, armies, air forces, or base sections.<sup>27</sup> Provision could be made for these officers to come and go as the work increases or decreases and thus avoid overstaffing with the resultant idleness of personnel needed elsewhere. Some have recommended assignment of judge advocates on the basis of the strength of the organization.<sup>28</sup> Statistics on the number of general courts-martial cases in the various commands per thousand troops are not available except in the air forces. But the fact is known that the work-load of general courts-martial cases fluctuated widely in different units without relation to strength. A command with three times the strength of an infantry division often had the same monthly average of cases. In base sections like London and Paris the number of courts-martial cases was unrelated to the strength of permanent personnel. Also policies within a command as to trial of cases arising in army special troops attached to corps and further attached to division can affect the strength and thereby the needs of the judge advocate section in each. Another suggestion is that sufficient personnel be assigned to any unit to handle the average number of general courts-martial cases per month without regard to strength.<sup>29</sup>

66. Proposed Size.

a. Field Forces and Operational Air Forces Units. Based upon consideration of the present tables of organization of field

---

26. Par 1(2), Interviews 1, 2, 3, 4 and Questionnaires 10, 14, 15, 16, 20, 21, 22, 24, 30, 33 35, 42, 48, 49 (par 1(4) ), 54 (for specialized work), 55, 56, 61; (adequate) 19, 25, 47; adequate for officers 23, 29, 31, 32, 34, 40; cf par 1(2,4) 53, 57, par 1(2,6) 58.

27. Par 1(2), Interviews 6, 7, 48, 53 (par 8), cf 40 (par 1(3) ).

28. Par 1(2), Questionnaires 25,42.

29. Par 1(2), Questionnaire 2.

forces and operational air force units,<sup>30</sup> the volume of work of various types of units and commands thereof,<sup>31</sup> the strength of commands and the recommendations of judge advocates, a proposed table of allotment of personnel for judge advocate sections of field force units and air force units other than air service force commands is included in Appendix 1.<sup>32</sup> This proposed table provides for the minimum personnel necessary to take care of the present duties of the judge advocate section and the trial details of law member, trial judge advocate and defense counsel in general courts-martial cases. Additional allotments of judge advocate personnel and specialists in military government legal work and war crimes investigations should be made by the theater judge advocate as the needs arise. If judge advocate officers are assigned to regiments or air groups or units of comparable size they may be utilized as investigating officers, law members and trial personnel for ground force divisions, air divisions and commands and permit the reduction of the proposed judge advocate section staff in those commands from four to two officers. In higher headquarters of the field forces and operational air forces, which have shifting subordinate commands, there is a necessity that each have sufficient personnel to provide a law member, trial judge advocate and defense counsel for at least one court, even where judge advocates are assigned to some of its subordinate commands. Permanent allotment of an investigating officer is considered an economical use of personnel only in judge advocate sections where the work of the section is sufficient to utilize the full-time services of such an officer.

b. Base Sections and Air Force Service Units. In view of the differences in the monthly number of cases as well as strength, areas and locations of these commands, a proposed table of allotment for them is difficult to determine. An estimate can be made in advance but personnel should be provided on an elastic table of allotment to meet the original needs of the staff section, investigating officer and trial personnel with additional reserve available from theater pools as needed. A minimum of four judge advocate officers is considered necessary for such units having general court-martial jurisdiction.<sup>33</sup>

#### SECTION 4

#### REPLACEMENTS

67. Theater Air Force and Army Pools. A sufficient number of judge advocates was not furnished in the European Theater to establish reserve pools for assignment as replacements or for special tasks. While comparatively few judge advocate officers and enlisted men became casualties, replacements were required in cases of sickness, injuries and sometimes inaptitude. When need for officers became necessary, long delays were involved in getting personnel from the United States. Accordingly, the establishment of pools of judge advocate officers as well as of court reporters and interpreters in

---

30. Appendix 1.

31. Appendix 2.

32. Appendix 1.

33. See Appendix 3 and 4 and per 1(2) (for base sections), Interviews 2, 7, and Questionnaires 2, 17, 24, 30, 40, 44, 60, 61; (for air force service units) Questionnaires 42, 57, 58.

the theater was considered essential to meet emergencies.<sup>34</sup> A suggestion was made that theater, armies and air forces be given bulk allotments for judge advocate personnel for subordinate commands with the right to shift them when necessary.<sup>35</sup> To expedite the assignment or attachment of judge advocate personnel it was suggested that requisition be permitted through technical channels, and also that commanders and section chiefs should not be able to prevent the reassignment of personnel, who were not immediately needed, to other units where the need was urgent.<sup>36</sup>

68. Assignment of Personnel. A number of judge advocates have recommended that combat units have a priority on personnel requisitions over supporting and non-combat forces in rear areas. They reason that personnel sufficient to promptly dispose of cases are more important in combat areas because witnesses may be killed in action or transferred out of the jurisdiction, and unless replacements are received combat officers may be taken from more essential duties. When cases are not promptly disposed of, the advance of the unit may make the trial of certain cases difficult, and necessitate their transfer to rear area jurisdictions. Others considered the volume of work the main criteria in allocation of personnel.<sup>37</sup> However, where volume of work is the same, many recognize that priority should go to combat units. Others recommend that priority should not be arbitrarily fixed, but based more on momentary needs with substantial consideration to the fact that combat units must process cases more rapidly and under greater difficulties than rear area units or sections.

69. Lists of Available Trial Personnel. To meet the occasional heavy demands for competent trial personnel in the theater of operations, it has been generally recommended<sup>38</sup> that higher headquarters distribute to subordinate jurisdictions current lists of competent officers and enlisted men who can be made available on short notice. This personnel can be assigned or attached to any unit for immediate need, and if necessary, later returned to its own organization.

## SECTION 5

### DETAIL, APPOINTMENTS AND PROMOTION

70. Detail in Judge Advocate General's Department. There were many lawyers and others with legal training in the European Theater who desired association with the Judge Advocate General's Department. Some qualified themselves as judge advocates but were never recognized

- 
34. Par 1(3), Interviews 1, 2, 3, 4, 7 and Questionnaires 20, 21, 33, 47, 54, 55, 56, 58; replacements satisfactory 15, 23, 31, 49.
35. Par 1(3), Interview 1 and Questionnaire 40. (Stationary Commands).
36. Par 1(3), Questionnaire 33.
37. Combat unit priority: par 1(3), Questionnaires 13, 16, 20, 25, 35, 48, 59; volume of work priority: Interview 7 and Questionnaires 14, 17, 40, 45, 46, 60, 61; other basis: Questionnaires 12, 54, 55, 23, 27, 39, 47 55, 29, 30.
38. Par 1(5), Interviews 2, 3, 6, 7 and Questionnaires 13, 15, 19, 24, 25, 26, 27, 29, 31, 32, 34, 37, 39, 40, 41, 45, 48, 49, 54, 56, 57, 58, 61; (approval with doubts) Interview 1 and Questionnaires 17, 30, 22, 23, 28, 35, 42, 44, 55; (disapprove as impractical) Questionnaires 33, 46, 53, 59, 60.

by formal detail in the Department. In many instances, valuable legal service was rendered in high positions by such officers. An infantry officer was base section judge advocate and rose to the rank of colonel; a medical administrative officer headed the military justice branch in an army judge advocate section, and an infantry officer was assistant executive of yet another army judge advocate section. It was generally recommended that officers doing judge advocate work, with sufficient competence as judge advocates, be detailed in the Department.<sup>39</sup> Some recommended that detail be made only after completion of the course of training in the Judge Advocate General's School, or upon completion of an equivalent course in a theater school.<sup>40</sup> Others suggested that such officers be given an opportunity in judge advocate sections to qualify themselves for all judge advocate work and be detailed when considered qualified. Though application for detail was encouraged,<sup>41</sup> the prolonged procedure, with delays of four or five months in some instances, was cumbersome and discouraging.<sup>42</sup> To correct this, it has been recommended that detail be made by the theater commander rather than by the War Department, and that when personnel is needed, training be had in a theater school rather than in the United States.

#### 71. Appointments.

a. Officer Candidates. Candidates accepted in the European Theater were returned to the Judge Advocate General's Officer Candidate School in the United States for a course of training. It has been recommended that such a school with a shorter course be established in the theater if personnel are urgently needed, and thereby avoid the delays of transportation. Recission of the directive<sup>43</sup> against letters of recommendation for officers' candidate schools has been recommended. An appraisal of an applicant for such assignment or for detail or direct appointment in the Judge Advocate General's Department requires information from those familiar with the applicant's ability and personality.

b. Direct Appointments. In December 1944, the European Theater headquarters announced that a limited number of enlisted lawyers, who had demonstrated their qualifications by actual service in judge advocate enlisted assignments in the theater, could apply for direct appointments as second lieutenants. Other applicants, not possessing such practical experience, were to be processed as officer candidate applicants.<sup>44</sup> Recommendations for such appointments in the Judge Advocate General's Department were referred to European Theater headquarters for action.<sup>45</sup> The procedure for direct appointments permitted the prompt utilization of qualified enlisted men and was considered an excellent method of meeting the personnel shortages.

72. Promotions. Although the problem of promotion is a matter for consideration elsewhere, a number of judge advocates have recommended a uniform system of promotions, where merit and performance would control rather than tables of organization and fixed periods of

---

39. Par 1(6), Interviews 3, 3, 4, 7, 22 and Questionnaires 26, 29, 31, 49, cf. 58.

40. Par 1(6), Questionnaires 11, 12, 30.

41. Cir 57, WD, 21 Feb 1945.

42. Par 1(6), Questionnaires 14, 33, 37, 40, 42, 44, 47, 48, 55, 57.

43. Sec I, WD Cir 319, 1 Aug 1944.

44. Message form, ETOUSA, file AG 210.1 MPAB, subj: "JA Direct Appointments," 24 Dec 1944.

45. Par 4a, Cir 10, ETOUSA, 27 Jan 1945.

time in grade.<sup>46</sup> If the policy of shifting judge advocate personnel around to meet the varied needs temporarily arising in commands is adopted, the time-in-position rule would affect a large group of judge advocate personnel. It has been suggested that personnel of the Branch Office of The Judge Advocate General with the European Theater, who were promoted by the War Department, and received no credit for overseas time, should have received the benefits of the European Theater promotion policies.<sup>47</sup> It was generally recognized that the Branch Immaterial officers with legal training, who were on temporary duty with judge advocate sections to assist in trial work, were usually overlooked by their own unit commanders as to promotions and had little opportunity for promotion in the judge advocate section.<sup>48</sup> It has been recommended that due and appropriate section allotments be made to reward the meritorious efforts of such officers with a promotion.<sup>49</sup>

---

46. Par 1(6), Questionnaires 14, 15, 20, 45, 48, 55, 56.

47. Par 1(6), Interview 3 and Questionnaire 8.

48. Par 1(4), Interviews 1, 3, 7 and Questionnaires 13, 14, 17, 22 (par 1(6) ), 26 (par 1(6) ), 27, 28, 29, 30, 33, 34, 61 (par 1(6) ), cf 35.

49. Par 1(4), Interviews 2, 3, 4, 6.

CHAPTER 3

EQUIPMENT

SECTION 6

OFFICE EQUIPMENT

73. Typewriters. In the European Theater there was a great shortage of typewriters for judge advocate sections. This shortage was so acute in Seine Section, Communications Zone, that stenographers in the judge advocate's office worked on day and night shifts. It was generally recognized that each typist, stenographer and reporter in judge advocate sections should have a standard typewriter.<sup>1</sup> Not infrequently requisitions were met with out-of-date American and European models. Portable typewriters were considered impractical for speed, precision, and the number of copies required in the section's work.

74. Stenotype Machines and Repair Kits. There were a number of stenographers who used only stenotype machines in taking dictation. These stenographers usually had to use their own machines since few were obtainable from headquarters supply. Replacements, stenotype paper, ribbons and repairs were likewise difficult to obtain.

75. Desks, Chairs and Files. Generally these items were adequately furnished, supplied from captured stocks, or found in buildings used for headquarters. In many instances footlockers and improvised packing boxes were used for book cases, files, and storage of supplies. However, steel filing cabinets with locks and field safes were often required for the large number of secret and confidential papers, but were difficult to obtain.

76. Tentage. Tentage was no problem to stationary units in the base sections and the air forces as buildings were usually obtainable. Occasionally, however, tentage was a problem for forces in the field. In some divisions the judge advocate and inspector general sections were allotted one command post tent which was inadequate to accommodate the personnel of both. At least one command post tent is recognized as necessary for judge advocate sections of divisions and corps, with a small wall tent for the staff judge advocate because of the necessity for privacy.<sup>2</sup> If there are to be increases in division and corps personnel, at least two command post tents and one small wall tent would be necessary. As for armies, since too many command post tents would be necessary for the section, one command post tent and four large wall tents would be preferable.

77. Stoves. Heating equipment provided the judge advocate section was generally considered adequate. A stove should be furnished for each tent and in addition, one or more Coleman gasoline burners for each section in the field would be desirable.

78. Lighting. Where electric lights were not furnished by unit generators or locally, Coleman gasoline lanterns were considered very satisfactory. However, sufficient lanterns should be provided to give good working light for everyone in the section.

---

1. Par 2(1), Questionnaires 10, 16, 20, 23, 25, 28, 36, 39, 47, 54, 55 (on slow process of requisitions), 56, 59.

2. Par 2(1), Questionnaires 20, 23, 33, 35, 56, 59.

79. Flags. It is generally conceded that the display of the national flag adds dignity and impressiveness to trial by court-martial. However, flags were not allotted for that purpose, and were often difficult to obtain. Each judge advocate section should be allotted one national flag for courts-martial use.

## SECTION 7

### FORMS

80. Uniformity. Forms are universally employed in court-martial work to minimize errors and the amount of typing that would otherwise be necessary. While there were numerous variations of these in use, the two most frequently employed were the "War Department" and the "Fort Sam Houston" forms. Since there is no requirement that forms be used, commanders and judge advocates have ordinarily adopted a type of form for their own preference. However, many consider it more desirable to have one official and uniform set in which the best ideas of current forms are consolidated, with instructions on the reverse side. The publication by the War Department of Technical Manual 27-255, Military Justice Procedure, in February, 1945, brought about considerable standardization in the matter of forms, and greatly expedited the processing of courts-martial cases.

81. Charge Sheet. The charge sheet now in use was considered very satisfactory. However, it could be condensed to both sides of one sheet by reduction of the space now provided for charges and specifications, witnesses, and the record of trial by summary court-martial. Where many charges and specifications are involved, an additional page may be stapled or pasted on as is sometimes necessary with the present form. It has been suggested that duplication may be avoided by the combination of the charge sheet and letter of transmittal.<sup>3</sup>

82. Letter of Transmittal. The usual form of the letter of transmittal is generally criticized for not providing sufficient information from unit personnel records concerning the offender, particularly his classification test score, civilian background, military and combat record, and convictions and punishments under Article of War 104.<sup>4</sup> Reasons for the commanding officer's recommendation should also be set forth in this letter.

83. Report of Investigation. The "Fort Sam Houston" form of investigating officer's report was preferred by many because of its spaces for personal data concerning the accused. There were other similar forms in use designed to meet the preferences and requirements of particular commands.

84. Advice. There is no prescribed form for the recommendation for the disposition of charges by the staff judge advocate to the appointing authority. However, experience has shown that a form providing for the inclusion of personal data concerning the accused, as well as a brief discussion of the facts in each case, is preferable. Such information would be helpful in pointing out the reasons for the recommendation of the staff judge advocate.

---

3. Par 2(2), Interview 2.

4. Par 2(2) Interviews 4, 7 and Questionnaires 23, 33, 43, 47.

85. Record of Trial. The use of a printed form for record of trial by general and special courts-martial, though not mandatory, results in the reduction of many errors in form and procedure, and reduces stenographic work. However, some judge advocates prefer to type the record of trial completely, guided either by the "War Department" or "Fort Sam Houston" forms of record of trial. The difference in these forms is slight, but the older "Fort Sam Houston" form is preferred by many as it does not require filling in so many blank spaces, such as showing that the court was sworn and number of members voting on findings and sentences.

86. Review. Before action was taken in general courts-martial cases the record of trial was reviewed by the staff judge advocate to determine its legal sufficiency. A formal review was written by the staff judge advocate containing his opinion as to the weight of evidence and pointing out any errors and irregularities. He also made a specific recommendation concerning the action to be taken, and gave his reasons therefor. Frequently, forms were used for certain pages of reviews for convenience in summarizing personal data and setting out offenses, pleas, findings and sentences. Otherwise there was little need for official forms. However, for better uniformity, there appeared need for an officially prescribed type of review to be adopted by The Judge Advocate General's Department, and used by all staff judge advocates. This would reduce confusion and provide for greater efficiency.<sup>5</sup>

87. New Forms. Whenever instruments become properly standardized, printed forms are recognized as desirable. In view of the frequent use of extract copies of morning report forms in courts-martial cases, it has been suggested that it should be printed on legal-size paper to conform to other court-martial papers, with instructions on the reverse side.<sup>6</sup> A questionnaire form for personal history of the accused has also been suggested.

88. Resupply. Ordinarily forms for court-martial proceedings have been available. Occasionally such ordinary forms as the charge sheet have been difficult to obtain, and units have been obliged to mimeograph their own. Because of the permanent nature of court-martial records, it is desirable that official court-martial forms be printed on durable paper and made available as Class II supplies. In the event of the failure of supply of such forms in the European Theater, topographical units were employed to print them, thereby avoiding the mimeographed variety which did not make good permanent records.

## SECTION 8

### COMMUNICATIONS AND TRANSPORTATION

89. Communications. Generally, communication facilities for judge advocate sections were the same as those available for other sections. At times these facilities were slow and difficult, but usually quite satisfactory and adequate. However, telephone calls to distant units and headquarters many times took hours and sometimes days to complete because of weather conditions or priority of

---

5. Par 2(2) Questionnaires 29, 30, 45, 56.

6. Par 2(2), Questionnaires 32, 17.

operational calls. Occasionally the repeating of the message at intermediate points was necessary. The TWX was usually of great help and satisfactory. Bad communications in some instances caused delays in trials, and sometimes required the personal delivery of messages. The use of message-centers for transmission of correspondence was criticized for delays, and to insure prompt delivery it was often preferable to use hand-delivery or some other method.

#### 90. Transportation.

a. Investigation and Trial Work. Frequently, vehicles of commands were pooled and made available to the sections as needed. Vehicles were in some instances assigned permanently to judge advocate sections, sometimes only during operations, and, in other cases, only when the unit was in the rear areas. However, the judge advocate section in the field had greater need for transportation than was generally recognized. Staff judge advocates frequently had to visit subordinate units. Investigating officers, trial judge advocates and defense counsel were constantly in need of transportation to avoid delays in accomplishing their tasks. For these reasons, it was believed<sup>7</sup> that judge advocate sections of divisions, corps, armies and comparable air installations should have at least one permanently assigned passenger vehicle particularly to handle all Article of War 70 investigations and for trips in connection with courts-martial trials. Two passenger vehicles would have been preferable during the more active periods of operations. If army judge advocate sections are to be augmented beyond their present size, at least three passenger vehicles will be needed. Base sections, air force units larger than those mentioned, which have large areas to cover, required permanently assigned vehicles.

b. Movement of Section. Generally, the movement of sections was the problem of field forces and the facilities were for the most part adequate.

91. Movement into Theater. Ordinarily, few problems arose in movement of sections into the theater. However, the court-martial jurisdiction aboard army transports was not clearly defined in order to avoid misunderstanding. In some instances, a supply of court-martial forms and a small library were carried on transports by judge advocate officers for emergency needs and were used to advantage during the voyage in many cases.

### SECTION 9

#### RESEARCH FACILITIES

92. Field Library. The judge advocate sections in the field were furnished working libraries which reflected considerable thought and judgment in selection. These libraries were generally considered adequate and satisfactory. Armies were able to maintain somewhat larger libraries which were available to lower units nearby, but even their facilities were not always adequate to provide for the movement of a large assortment of books and written material. The military law books of general usage were the Manual for Courts-Martial, 1928, the Digest of Opinions of The Judge Advocate General, 1912-40 with 1941 Supplement and supplementary Bulletins, the Opinions and Digest of Opinions of the Branch Office of The Judge Advocate General with the European Theater, and the following volumes in the field library:

---

7. Par 3(4), Questionnaires 6, 12, 15, 17, 20, 28, 29, 33, 34, 35, 37, 40, 42, 43, 47, 53, 55.

Winthrop - Military Law and Precedents; Copley or Prosser on Torts; Military Laws and 1943 Supplement; U. S. Code and Supplements; or Federal Code Annotated with Cumulative Supplement; Miller on Criminal Law; Wharton on Criminal Law; Wharton on Criminal Evidence; Underhill on Criminal Evidence; Jones' Forms; Black's Law Dictionary; Funk and Wagner Dictionary; Wiener - A Practical Manual of Martial Law; Wheaton on International Law; Willoughby on Constitutional Law; Crawford on Statutory Construction; Robinson on Admiralty; Briggs on Law of Nations; Clark on Contracts; Martindale-Hubbell's Law Digest; JAG School Texts and the Procedural Manual. Need existed for an up-to-date consolidation of War Department and theater policy directives, and also a more comprehensive text on criminal law, evidence, and trial procedure with a cumulative supplement issued at frequent intervals. The Bulletins of The Judge Advocate General were of great assistance to the staff judge advocates, although there was some objection to the brief statements of fact in such digests. Recently, the Branch Office of The Judge Advocate General in the European Theater published full opinions in bound volumes but unfortunately they began too late. These opinions would have been of great assistance to all staff judge advocate sections during the campaign. Staff judge advocates suggested that additions to the field library include the 1921 Manual for Courts-Martial, an annotated edition of the present Manual for Courts-Martial, the American Jurisprudence volume on "Witnesses," an English translation of local laws in the theater of operations; general, legal, medical and appropriate foreign language dictionaries, Comptroller General's Decisions, a book on "Domestic Relations" for legal assistance work, a practical book on International Law dealing specifically with problems encountered in combat and an annotated book with cumulative supplements on criminal law and evidence pertaining to military law.

93. Stationary Libraries. Judge advocate sections of most air force units and the base sections of Communications Zone were sufficiently stationary to maintain complete libraries. The Judge Advocate Office of the Theater maintained a good library containing standard texts, and a fairly complete set of War Department publications. The Branch Office of The Judge Advocate General required a larger and more complete library, but it did not maintain the federal and state reports. The libraries of the Theater and the Branch Office were available to all judge advocate officers for more complete research than was possible in unit libraries, but the location of such libraries in London or Paris was too distant from most field units to make their use practicable. Research personnel in the Theater Judge Advocate Section and the Branch Office, however, were available for opinions, and did furnish units much assistance.

94. Military Law Publications. The publication by the War Department in February 1946, of the Technical Manual on Military Justice Procedure, met a need for uniform instructions and the use of forms in court-martial procedure. At the same time, an annotated Manual for Courts-Martial, and a volume on military law with cumulative supplements, properly prepared and promptly distributed would undoubtedly have increased the efficiency of the judge advocate sections. Also complete and current indices would have facilitated research work considerably. Generally, the military justice circulars published by the Branch Office of The Judge Advocate General in the European Theater were excellent in keeping judge advocates informed on the policies of that office, and were of much assistance in solving the practical problems of military justice. Distribution of Bulletins of The Judge Advocate General's Department was slow and irregular and direct mailing from Washington to each judge advocate would have been more effective.

95. Other Publications. Theater Circulars, General Orders, War Department circulars, regulations and bulletins were very valuable in the working library of judge advocate sections. Prompter distribution of appropriate theater publications could have been made by the Theater Judge Advocate's Office direct to each judge advocate section. Indices of War Department and Theater publications were not sufficiently complete and current. Field Manual 21-6, which listed and indexed most War Department publications, was kept up to date by frequent revisions and included indices of War Department circulars and bulletins. It was a great aid in research work. Theater indices of circulars and general orders could have been more extensive and would have been of greater assistance if published monthly.

## CHAPTER 4

### ADMINISTRATIVE OPERATIONS

#### SECTION 10

##### OFFICE PROCEDURE

###### 96. Records.

a. General Court-Martial Records. The original record of each general court-martial trial was submitted to Theater Headquarters when requiring confirmation under Article of War 48, and in all other cases to The Branch Office of The Judge Advocate General with the European Theater of Operations.<sup>1</sup> Pending advice as to the legal sufficiency of the record, usually a file including a copy of all papers appropriate to the case, except a copy of the record of trial itself, was retained in the judge advocate section. However, upon receipt of advice as to legal sufficiency, such files were generally stripped down to a copy of the general court-martial order and the review to reduce filing space. Experience showed that any requirement to keep copies of all general court-martial records, including the record of trial, would unnecessarily burden files and place more work on court reporters in making extra copies.

b. Special and Summary Courts-Martial Records. Original special court-martial records and copies of summary court records were filed in the judge advocate section after review. Where the sentences had been entirely executed or renitted, such records were usually sent to the inactive records branch of the theater.<sup>2</sup> However, some judge advocates have suggested that only copies of special courts-martial orders and summary court records be retained after review. As the entire special court-martial record appears to have no particular value to the section, its shipment to central storage after review appears justified. Reference to such records is unnecessary in connection with remissions, vacations and suspensions, and the retention of them only serves to make more bulk and weight, particularly for those sections constantly on the move.

c. Correspondence. Ordinarily record copies of correspondence of the judge advocate section were filed with the adjutant general of the command, but in many instances copies were also retained in the judge advocate section for ready reference. In some instances, however, one copy of such correspondence was retained for the adjutant general but kept on file in the judge advocate section to be readily available and to avoid duplication. The latter procedure proved satisfactory, and particularly practicable in smaller mobile commands where space and weight were more important considerations.

97. Combat Location of Section. In units during combat the judge advocate section was invariably located in the rear echelon. Generally, this was considered satisfactory since it enabled the sections' work to proceed with minimum interruption. However, it was usually recognized that the rear echelon should be near enough to permit communication with the forward echelon in the event of

---

1. Par 9a, Sec IV, Cir 76, ETOUSA, 4 June 1945.

2. Par 9b, c, Sec IV, Cir 76, ETOUSA, 4 June 1945.

military justice problems arising. In army and army group headquarters, it has been suggested that a judge advocate and one or two stenographic clerks should be in the forward echelon in order to be readily available for conferences with the commanding general, the staff and subordinate commanders.<sup>3</sup> In the air forces, forward and rear echelons were rarely maintained except in strategic commands, but in those instances the judge advocate section functioned satisfactorily in the rear echelon. Airborne divisions maintained base echelons in which the judge advocate section was located, usually at a considerable distance from actual operations. After several weeks of an operation, the staff judge advocate and a stenographer, with limited supplies and library, moved to the forward echelon. When trials could be held, the assistant staff judge advocate and court reporter would join the forward echelon with the accused and witnesses from the base echelon. Later on, in ground operations, the judge advocate section operated in an administrative echelon which was located 10 to 15 miles to the rear of the forward echelon, but the warrant officer and at least one enlisted man remained at the base echelon with the records and section library and served the base commander in legal matters. Usually, the will of the unit commander governed as to the location of the judge advocate section, and this varied with the staff plans of different units to accommodate the immediate need. It is deemed desirable to prescribe no rigid rule.

98. Witnesses. Varying provisions were made for payment of fees of civilian witnesses in the United Kingdom, liberated countries and occupied countries.<sup>4</sup> Provision was made so that mileage and subsistence would not be paid in occupied countries where transportation, food and lodging were furnished in kind. However, difficulties occasionally arose in feeding German witnesses because use of army food for feeding Germans was prohibited. This caused considerable confusion, and an attempt was made to get an adjustment whereby witnesses of German nationality, called for the convenience of the United States Army to testify at its courts-martial trials, should be fed and provided for just as any other witness. In some jurisdictions, witnesses were fed and housed with army facilities without administrative difficulties, but elsewhere, the quartermaster, the headquarters commandant or the providing officer raised the question and refused to let them mess with the soldiers of his command, or to partake of the food provided for military personnel. It was finally ruled that the witness could be paid as provided by statute and regulations. Still, the matter of food was paramount. The witnesses had the money but could not buy food. Usually, the local burgermeister was called upon to house and feed the witnesses. It was believed to be not at all unreasonable to accommodate witnesses of enemy or former enemy nationality, called for military trials, along with other personnel since these individuals must be away from home and cared for while in enforced attendance on the court-martial. They should be kept as contented and willing as possible in order to obtain the best results from their testifying.

---

3. Par 3(3), Interview 22 and Questionnaires 13, 20, 32, 34 (airborne), 46, 48, 53, 56.

4. Par 5, Sec II, Annex A (as amended by Sec II, Cir 103, USFET, 25 Jul 1945), par 3, Sec II, Annex B, par 3, Sec II, Annex C, Cir 76, ETOUSA, 4 June 1945.

SCOPE OF WORK

99. Trials of Cases Arising in Attached Units. Frequently, units assigned or attached to one headquarters, exercising general court-martial jurisdiction, were further attached to subordinate commands with the same jurisdiction. Occasionally, the question arose as to which command should exercise jurisdiction over them, particularly where the attachment was for tactical purposes, and the attached unit was shifted from one subordinate command to another. Generally, the command to which the unit was attached at the time exercised general court-martial jurisdiction.<sup>5</sup> This, however, raised the question as to what extent higher headquarters should attempt to relieve itself of court-martial jurisdiction over such special troops.<sup>6</sup> However, it appears to be recognized at the present time that so far as court-martial jurisdiction is concerned, a command exercising general court-martial jurisdiction should exercise it over all attached units, with assistance provided by the judge advocate section of higher commands when the cases become too numerous. The following suggestions have been made by judge advocates interviewed: that, considering the proximity of divisions, corps and army headquarters in combat, corps should retain court-martial jurisdiction over attached special troops even though they may be temporarily attached to division, thereby relieving the division which may be in actual combat; that, with reference to the problem of attached units frequently shifted from one general court-martial jurisdiction to another, when cases in attached units are referred for trial, the command referring the cases should also attach the accused and necessary witnesses to its headquarters; that, when a jurisdiction cannot try cases arising in an attached unit, delays be avoided by higher headquarters assuming jurisdiction. This entire matter, however, was usually one for adjustment between judge advocates of various headquarters.

100. Trial without Consent of Commander Exercising General Court-Martial Jurisdiction over Accused.

a. General Order 130. This order of the European Theater, dated 26 December 1944, gave the Commanding Generals of United Kingdom Base, Communications Zone and Eighth Air Force general court-martial jurisdiction over all offenders within their respective designated areas in the United Kingdom. On the Continent, the Commanding General of Seine Section was authorized to exercise command authority for the discipline, the administration of punishment under Article of War 104, and trial by summary, special or general court-martial over military personnel committing offenses within the geographical limits of the section which included Paris and its immediate vicinity. It was also authorized that for the efficient administration of military justice, any officer with general court-martial jurisdiction could exercise general, special or summary court-martial jurisdiction over any individual of another command placed under him, when empowered by the commander of that individual. Further, in exceptional situations, where the nature of the offense, its situs, the residence of prospective witnesses, the

---

5. Par 4(1), Interviews 2, 3 and Questionnaires 2, 13, 14, 23, 25, 28, 30, 31, 32, 33, 40, 46, 53, 56.

6. Par 4(1), Interviews 1, 22 and Questionnaires 20, 34, 35, 36, 48, 54, 55.

remoteness of the accused's commander or similar factors rendered the exercise of such power essential to prompt and efficient trial, the arresting commander could exercise summary court-martial jurisdiction over any individual of another command without reference to the commander of the accused.

b. Special and General Court-Martial Jurisdiction under General Order 130. The transfer of court-martial jurisdiction by mutual arrangement between commanders in the European Theater was generally recognized as necessary in the efficient administration of military justice. The exercise of general and special court-martial jurisdiction without the consent of the accused's commander was approved by some judge advocate officers interviewed<sup>7</sup> and objected to by others.<sup>8</sup> There were those who approved the exercise of such jurisdiction only in special areas such as London and Paris.<sup>9</sup> Those in favor of exercising such jurisdiction reasoned that the responsibility for discipline within an area required that the area commander have authority to determine who would be tried for offenses committed in that area, and that trial should not be delayed with the possibility of dispersion of witnesses until the commander of the accused could be consulted. Those opposed to trial of military personnel without the consent of the soldier's own individual commander, reasoned that the practice of clearing charges with the accused's commander is well-settled<sup>10</sup> and that commanders should be entitled to discipline members of their own command by their own policies and standards of punishment. They further contended that commanders are more familiar with the offender's capabilities and deficiencies which are essential in deciding upon a just disposition of the case. The limitation of disciplinary authority of commanders in areas such as London and Paris to punishment by forfeitures under Article of War 104 with the reference of charges to the accused's commander in the event the accused elects trial, has been suggested. This policy was usually followed in cases involving minor offenses with fairly satisfactory results.

c. Summary Court-Martial Jurisdiction Under General Order 130. The exercise of this jurisdiction without the consent of the accused's commander was approved by many as an expeditious manner of disposing of minor cases.<sup>11</sup> Others, however, objected to it for the same reasons as they had to trials by general court-martial without the consent of the accused's commander.<sup>12</sup> The best supporting argument was the fact that offenses tried by summary court-martial are necessarily minor offenses, such as traffic or uniform violations in which punishments are limited. In Paris, 70 to 100 summary court-martial trials were held daily. However, objections to punishment without consideration of the accused's service and its quality or his reduction in grade, confinement and

- 
7. Par 4(2,4), Interview 4 and Questionnaires 13, 23, 24, 28, 30, 36, 39, 40, 49, 53, 54, cf 16, 48.
  8. Par 4(2,4), Interviews 3, 6, 7 and Questionnaires 11, 12, 14, 15, 25, 27, 29, 31, 32 (except for special courts-martial), 33, 34, 35, 42, 43, 44, 46, 47, 55, 56.
  9. Par 4(2,4), Interviews 1, 22, 2 and Questionnaires 17, 19, 20.
  10. Par 30, MCM, 1938; par 32, TM 27-265, WD, 23 Feb 1945.
  11. Par 4(2,4), Interviews 4, 6, 7, 22 and Questionnaires 13, 17 (London and Paris), 19, 20, 23, 28, 30, 32, 33, 34, 36, 39, 40, 43, 44, 46, 49, 53, 56, cf 16, 48.
  12. Par 4(2,4), Interview 3 and Questionnaires 9, 11, 12, 14, 15, 25, 27, 31, 35, 42, 47, 54, 55.

loss to his unit were made by many judge advocates. It has been suggested that punishments by summary court-martial, without the consent of the accused's commander, be limited to forfeitures,<sup>13</sup> or to forfeiture and confinement with the approval of the accused's commander being secured before being made effective.<sup>14</sup> With such limitation, this type of court could still function expeditiously and effectively and would avoid the abuses to which objections have been directed.

101. Transfer of Cases. Occasionally, it was more convenient for a command near the scene of an offense or close to the residence of the witnesses to try a case and, for the purpose of showing civilians and military personnel in the vicinity that infractions would be promptly punished, it was often desirable. A theater directive required that the trial of such cases should take place in the immediate vicinity of the scene of the alleged offense when practicable.<sup>15</sup> Mutual arrangements between units involved were generally satisfactory. However, to protect against abuses arising out of the transfer of cases to units already overburdened, it was suggested that such transfers be cleared through a headquarters superior to either the transferring or receiving command, and that consideration be given to other factors than merely distance to or from the appropriate place of trial. Many judge advocates have suggested that before turning the case over to another jurisdiction, the transferring command should complete the case as fully as possible unless processing by the receiving command would prevent delays. Generally, the transfer of cases was recognized as a sound policy for expediting trial without inconveniencing either units committed to combat or civilian witnesses living some distance from the accused's command area.

## SECTION 12

### DEALINGS WITH THE COMMANDING GENERAL

102. Access to the Commanding General. Commanding generals dealt with their staff judge advocates on matters of military justice in different ways. Many dealt directly with them in person, allowing them access at any time a matter was considered of sufficient importance to be brought to the commander's attention. Others required the submission of matters of military justice through the assistant chief of staff, G-1. Still others directed that the judge advocate take military justice matters up with the chief of staff or deputy chief of staff, who would present them to the commanding general only in event of disagreement with the judge advocate. As a rule, however, staff judge advocates had direct access to the commanding general, at least on important matters, and were given an opportunity to directly present their views either orally or in writing.

103. Most commanding generals recognized their personal responsibility in these matters, and avoided delays by providing direct contact. Some judge advocates stated that they dealt

---

13. Par 4(3,4), Interviews 6, 7, 22 and Questionnaire 46.

14. Questionnaire 44.

15. Par 6c, ~~ETO~~ SOP No 35, Military Justice Continental Operations, 16 July 1944, rescinded by Cir 76, ETOUSA, 4 June 1945.

satisfactorily through chiefs of staff on military justice matters, but very few recommended routing such items through the assistant chief of staff, G-1. Nevertheless, while the matter of procedure is recognized as one for the personal decision of the commander, it has been recommended as a better policy that the commanding general should obtain his judge advocate's advice on military justice matters first-hand rather than through another staff member. It might be well observed that a healthy precedent was established in this regard by the Supreme Commander affording the Theater Judge Advocate direct access to him on all matters pertaining to military justice.

104. Reference of Cases to Trial. In some jurisdictions, judge advocates were authorized to refer cases to courts-martial without the personal decision of the commander, except in the instance of officers or very serious offenses. In others, the concurrence of the judge advocate and chief of staff or deputy chief of staff or assistant chief of staff, G-1, was sufficient to authorize reference of a case to trial. Elsewhere, the commanding general personally passed on all cases going to general courts-martial and in some instances also on cases for trial by inferior court. However, it is believed that no hard and fast rule can be laid down for this procedure since in different commands the degree of confidence of the commander in his staff judge advocate may warrant different treatment.

## SECTION 13

### SPEEDING OF COURTS-MARTIAL PROCESSES

#### 105. Time Schedules.

a. Delays in General Courts-Martial Cases. Article of War 70 requires that immediate steps be taken to try any member of military personnel who has been accused and placed in arrest or confinement or to dismiss the complaint and release him. When an accused is held for trial, the commanding officer is required to forward charges to the officer exercising general court-martial jurisdiction, and furnish the accused a copy of the charges within eight days after arrest or confinement, if practicable, and, if not, to report the reasons for delay. The suggested time-standard for disposition of charges<sup>16</sup> in summary cases provided for trial and completion of the record within five days after charges were preferred; for special courts-martial within nine days and for reference of charges for trial by general court-martial within seven days after charges were preferred. Provision was made further that, except where military necessity demanded it, an accused should not be brought to trial before a general court-martial within five days after service on him of the charges unless he consented to trial at an earlier date. These standards were made with the recognition that in many cases compliance could not be possible because of unavoidable delays. In the European Theater, a goal of 30 days to sentence and 45 days to action provided by The Assistant Judge Advocate General with the European Theater of Operations<sup>17</sup> was attained by many jurisdictions. However, the average per accused for all jurisdictions in the European Theater from December

---

16. Par 40, TM 37-256, 23 Feb 1945.

17. Ltr, BOTJAG, "Delay in Trials," dated 19 Feb 1945.

1944 to the end of May 1945 was 38 days to sentence and 60 days to action; the field force average was 34 days to sentence and 53 days to action; the air forces average was 38 days to sentence and 56 days to action; the average for the base sections of Communication Zone, during the same period, was 44 days to sentence and 73 days to action.<sup>18</sup> The fact is significant in these figures that the time-standard suggested in the procedural manual for disposition of charges was inappropriate in the European Theater, where every effort was made to speed up proceedings commensurate with the immediate situation existing in each command.

b. Emphasis on Speed. Military trials should be expeditiously processed, particularly in combat units, which are committed or about to be committed, where death of witnesses and movement of units may make the trial involved or impossible. However, it is also desirable that careful investigations be made, and that an accused be afforded an opportunity to prepare his defense. No right of the accused, or any valuable evidence of the prosecution should be sacrificed for speed. It was the opinion of many judge advocates in the European Theater that there was too much emphasis placed on speed in the trying of courts-martial cases.<sup>19</sup> It was generally considered that more emphasis should be placed upon investigation, trial and review within a reasonable time, considering the conditions attendant upon each case, than upon the time-schedule.

c. Distribution of Report of Comparative Time Delays. Delays in a theater of operations can be expected to be greater than in the United States. Combat conditions, absence of witnesses with units at great distances from the place of trial, the difficulty of judge advocates in getting permission to try cases, the need for officers to engage in combat duties rather than in court-martial work, the mobility of headquarters preventing the writing up of records and the failure of communications all contribute to delays which are unavoidable. Also, some units had heavy combat duties while others had few; some had a heavy burden of involved cases for certain periods; others had comparatively few for the same period; some operated at base sections or areas, while others were in forward, reserve or committed areas. The comparative time-delays of each general court-martial jurisdiction set forth in the monthly report distributed by the Branch Office of The Judge Advocate General with the European Theater were of limited significance as comparisons since the situations and types of cases involved in particular units were not explained. In the opinion of many judge advocates, the distribution of this report resulted in a time-contest by the commands to the detriment of the rights of the accused. To de-emphasize speed, it has been suggested that the distribution of the monthly report be restricted to theater, air forces, armies and communications zone, or that the distributed report be limited to a report of the average time-delay of all jurisdictions. Supervision through technical channels could then be had for any delays in excess of the standard, determined on the basis of particular situation existing in each command, or dependent upon the types of cases involved.

---

18. Calculated from memoranda for Staff Judge Advocates ETO, BOTJAG-E, 250.491, Monthly reports delays GCM records received Dec 1944, Jan, Feb, Mar, Apr, May, 1945.

19. Par 6(1), Interviews 3, 4, 7, 22 and Questionnaires 14, 15, 17, 21, 23, 26, 27, 35, 40, 41, 42, 44, 47, 48, 49, 55, 56.

106. Chronology Sheet. The accountability for and explanation of delays required in the chronology sheets, used in connection with all records of trial by general court-martial were considered desirable. However, this is true so long as the accountability and explanations are related to a reasonable time, and not fixed to a time schedule which is unrelated to the types of cases, or the various situations that may, and do frequently, arise in the command.

107. Reports on Persons under Restraint. By frequent checking of the persons under restraint in the command, the staff judge advocate can supervise the processing of charges and avoid unnecessary delays in trials. With reports from subordinate units on all persons in confinement or under any restraint or charges, a judge advocate can anticipate his work-load, arrange for necessary personnel, and better administer the military justice in his unit. In the case of surrender or apprehension of an absentee, it has been recommended that a restraining unit should be required to notify the accused's unit by the promptest means of communication possible, and to furnish competent evidence of accused's return to military control at the same time.

108. Reports to Judge Advocates of Higher Headquarters on Completed and Pending Cases. Many judge advocate officers have recommended monthly reports of pending and completed cases by subordinate commands for the proper supervision of military justice in subordinate commands, and for informing higher commands of the situation of the reporting sections.<sup>20</sup> However, some consider that each general court-martial jurisdiction is absolute within itself on military justice matters, and that next higher command has little justification for checking such procedure. Other judge advocates consider that the benefits derived from such reports do not compensate for the time required of office personnel in preparing them and object to them as a useless and wasteful task.

#### SECTION 14

#### RELATION BETWEEN THE JUDGE ADVOCATES OF HIGHER AND LOWER HEADQUARTERS

109. Scope of Supervision. Under present directives, a staff judge advocate's duties may cover appropriate technical inspection of all judge advocate sections in subordinate units within the limits and in the manner prescribed by his commander. This may include the handling of routine reports direct from corresponding staff officers of subordinate units.<sup>21</sup> Some judge advocates are of the opinion that judge advocates of higher headquarters should have technical supervision of judge advocates of lower headquarters within the chain of command. At the same time, some recommended as little supervision as possible since the unit judge advocate should be responsible to his commanding general only. They feel that if there is requirement of criticism, it should come through command rather than through technical channels. Relations between judge advocates of higher headquarters and lower headquarters were very satisfactory. Frequent visits between headquarters were exchanged for mutual benefit and for the proper dispatch of the matter involved.

20. Par 7(4), Interviews 2, 3, 4 and Questionnaires 11, 13, 21, 23, 23, 27 (par 6(1)), 28, 29, 31, 34, 35, 36, 37, 39, 45; contra questionnaires 12, 14, 16, 17, 20, 25, 33 (par 6(1)), 42, 43, 47, 48, 49, 53, 54, 55, 56.

21. FM 101-5, par 19.

CONCLUSIONS AND RECOMMENDATIONS

110. The tables of organization for judge advocate sections should be increased.

a. Commissioned Officers. Judge advocates were generally capable and proficient in the assignments where they were placed in the European Theater, but there was a marked shortage of them during practically all of the campaign. Not only were greater numbers necessary for the judge advocate sections but there was an absence of a pool where reserve strength could be held for selection when emergency needs and special tasks arose. To handle investigations and the trial work of law member, trial judge advocate and defense counsel with the skill, judgment and thoroughness required in the military judicial system, it is believed necessary that sufficient personnel with legal training and experience, particularly in military law and trial work, be assigned to full-time positions in the judge advocate section for that purpose instead of utilizing the part-time services of any available legal personnel assigned to other duties. In view of the many problems referred to judge advocate sections, the assignment of officers trained in military affairs, military government, international law and war crimes investigations is considered advisable.

b. Warrant Officers. Warrant officers in each judge advocate section are necessary for the handling of the paper work, office administration and the training of enlisted personnel.

c. Enlisted Men. After being trained in the judge advocate section, enlisted men were generally proficient and accomplished the necessary and satisfactory results. There was, however, a deplorable shortage of court reporters, efficient and accurate stenographers, as well as qualified interpreters. It is believed that not enough emphasis was placed upon the screening out of this type of personnel for service in the work to which they were best adapted. It is essential that the staff section administering military tribunals have assigned to it sufficient reporters to handle the trial work. Considering the experience and high technical skill required of court reporters, legal stenographers and enlisted men with legal training, higher grades for enlisted men holding these positions in the judge advocate section are considered necessary.

d. Functions. The duties of the staff judge advocate included advice to the commanding general, his staff officers, and to the members of the unit personnel. He likewise had to do with the administration of legal matters and military justice in all tribunals including the investigation and trial work in courts-martial, military government courts and war crimes cases. Consequently it is believed that all of the legal work and personnel administration having to do with legal matters should be consolidated in the staff judge advocate section to insure higher efficiency, avoid duplication of work, and maintain greater uniformity.

e. Unit Judge Advocates. While general court-martial jurisdiction perhaps should not be granted below division or air force command levels, it is believed that subordinate units should have judge advocate officers where the size warrants it. The assignment of one judge advocate and a clerk-stenographer to units at

the regiment or air group level would serve the needs of the commanding officer, provide legal assistance for the personnel, and expedite the administration of military justice.

f. Size of Section. Generally, the table of organization strength of the various judge advocate sections was inadequate to meet the needs during operations in the European Theater. It is believed that a judge advocate section should be staffed on a more elastic basis with assignment of personnel for the normal work-load considered, with provision made to care for unusual increase in the work as it appears. With available additional personnel in pools at theater, air force, army or base section levels, immediate provision could be made to supply additional help where and when needed. When the work-load decreased this personnel could revert to the pool for service elsewhere. In filling personnel requirements it is considered desirable that first consideration be given to committed combat units where cases must be processed rapidly because of frequent movement, the possibility of dispersion and death of witnesses. To meet emergency demands for competent trial personnel, it is believed desirable that theater, air force and army headquarters should regularly inform subordinate units of available personnel at such higher headquarters who could be called upon for use by subordinate commands when needed.

g. It is recommended that the tables of organization for judge advocate sections functioning in a theater of operations be increased; that more officers be trained in trial and pre-trial procedure, military government and war crimes investigations; and that enlisted men be assigned and trained as court reporters, stenographers and clerks in adequate numbers for the efficient functioning of the judge advocate sections.

111. The tables of equipment of judge advocate sections should be increased.

a. Generally, the office equipment provided was adequate to meet the needs of the section although there were numerous improvisations, use of liberated property and borrowed materials used. There was a shortage of standard, modern, useable typewriters. Portable typewriters while useful in some respects in the field were inadequate for the work of typists and court reporters where numerous carbon copies were required. Stenotype machines were not sufficiently recognized as essential, although many qualified stenographers and court reporters used them. Replacement machines, supplies and repairs should have been available. The tables of equipment for desks, chairs, files, tentage, stoves, lanterns and similar equipment should have been more elastic to provide for additional supplies with the numerical personnel increase of the section. Each judge advocate section should have a national flag for use at courts-martial.

b. Forms. The adoption of one set of standardized official forms would greatly expedite the work of the judge advocate section. There were several different kinds of investigations, references, records and reviews, which confused the judge advocate officer moving from one jurisdiction to another and complicated the attempt at coordination at central headquarters. If a definite uniform system could be installed and made compulsory throughout the Judge Advocate General's Department, it is believed desirable.

c. Communication and Transportation. The arrangements for communications and transportation in the European Theater for judge advocate sections were, in the main satisfactory. However,

the administration of military justice in subordinate units, especially where troops under the general court-martial jurisdiction were scattered over a wide area, made it desirable to have specific transportation assigned to or ear-marked for the judge advocate section, available at all times, to prevent delay in the handling of cases and in the disposition of business.

d. Research Facilities. The standard libraries furnished the various judge advocate sections were helpful and generally useful. The individual judge advocate usually adjusted his library facilities by the addition of his own books or those he secured as he went along. It would have been highly beneficial to have made available a complete research library, including the opinions of all judge advocate boards of review, at central stationary locations, such as base section judge advocate offices, for the use of those located in that particular area. The library of army group, theater, advance section or communications zone should be extensive, complete and accessible to field judge advocates at all times. A research staff of one or more trained lawyers at such headquarters to assist in research for field judge advocates is believed to be helpful. A complete set of federal and state reports, perhaps at the theater judge advocate's office, would be of considerable assistance. It is believed that the judge advocate section library basically should contain: a text on criminal law, evidence and procedure, with cumulative supplements; a digest, in English of local laws operative in the theater of operations; dictionaries of the languages of the theater, together with legal and medical dictionaries; the Comptroller General's Decisions; a text on domestic relations; one on international law, particularly applicable to warfare. All material on military law, including the War Department and theater policy directives, should be consolidated and the statutes relating to the armed forces should be codified. The Manual for Courts-Martial should be revised and more completely annotated. Current indices of War Department, theater and Judge Advocate General's publications should be provided. The distribution of publications used in research work by direct mailing from the office of The Judge Advocate General and from the theater judge advocate would place the unit judge advocate in possession of the research facilities sooner and more certainly than he received them during this campaign.

e. It is recommended that the tables of equipment, together with the library and research facilities, for judge advocate sections functioning in a theater of operations be increased.

#### 112. Emphasis should be placed upon Efficiency of Operation.

a. Office Procedure. The benefit of retaining inferior court-martial records until sentences are executed or remitted is considered doubtful. After these records have been examined for legal sufficiency, it is considered preferable to send them to a central storage file. Sufficient information can always be maintained in the accused's service record, while copies of special courts-martial orders and original summary court records can be kept on file. Provision should be made for the use of army facilities in the feeding and lodging of witnesses summoned to testify at army trials when such procedure is necessary.

b. Scope of Work. General Order 130, European Theater of Operations, 26 December 1944, should be modified to permit exercise of general and special court-martial jurisdiction of offenders of different commands only through agreement of the respective commanders. Concurrent command authority can well be granted

to commanders in certain fixed areas such as London, Paris and Berlin, to impose punishment under Article of War 104 unless the accused desires trial by court-martial. The exercise of summary court-martial jurisdiction without the consent of the accused's commander is not considered advisable unless punishment is limited to forfeiture only. Cases should be processed as fully as possible before transfer elsewhere except where delays may be avoided by the receiving command doing the processing and where the facilities are more available there for the expeditious handling of the case.

c. Contact with the Commanding General. Although it is largely a matter of personal decision on the part of the commander, it is thought advisable that the staff judge advocate should have direct contact with his commanding general in all matters at least affecting military justice. It is not believed that the spirit of the requirement is fully carried out when the staff judge advocate is compelled to proceed through an intermediate source in the expression of his views to the officer exercising general court-martial jurisdiction.

d. Speeding of Court-Martial Processes. Although military trials should be expeditiously processed and the desire to excel in speedy and efficient disposition of cases is a natural one, it is believed that too much emphasis has been placed upon speed and time-competition rather than upon thorough investigation, efficient processing of charges, full opportunity for the defense to be prepared, fair and deliberate trials, and well-considered reviews. It is believed more desirable to proceed carefully and with due regard for the rights of the accused in the disposition of courts-martial cases than to endeavor to meet some low figure of processing set in a jurisdiction where, perhaps, the elements present were entirely different from those existing in other jurisdictions. Staff judge advocates should have prompt reports from units confining prisoners or preparing charges in order to see that there are no unnecessary delays indulged in or injustices done. Reports to judge advocates of higher headquarters on completed and pending cases in subordinate jurisdictions were found helpful in keeping the judge advocate at higher level informed as to the condition of the docket of cases throughout the command.

e. It is recommended that emphasis be placed upon the investigation and processing of charges, the trial of cases and the consideration of reviews within a reasonable time rather than upon speed and time-competition.

APPENDIX 1

PRESENT TABLES OF ORGANIZATION AND PROPOSED TABLES OF ALLOTMENT FOR JUDGE  
ADVOCATE SECTIONS OF FIELD FORCE UNITS AND OPERATIONAL AIR FORCE UNITS

|                  | Inf Div        |    | Armd Div       |    | Abn Div        |    | Corps          |    | Army           |                | Army Cp        |                | Air Comd Air Div |    | Air Force       |                 | Strategic Air Force |                 |
|------------------|----------------|----|----------------|----|----------------|----|----------------|----|----------------|----------------|----------------|----------------|------------------|----|-----------------|-----------------|---------------------|-----------------|
|                  | A <sup>1</sup> | B  | A <sup>2</sup> | B  | A <sup>3</sup> | B  | A <sup>4</sup> | B  | A <sup>5</sup> | B <sup>6</sup> | A <sup>7</sup> | B <sup>8</sup> | A <sup>9</sup>   | B  | A <sup>10</sup> | B <sup>11</sup> | A <sup>12</sup>     | B <sup>13</sup> |
| Colonel          |                |    |                |    |                |    | 1              | 1  | 1              | 1              | 2              | 2              |                  |    |                 | 1               | 1                   | 2               |
| Lt Col           | 1              | 1  | 1              | 1  | 1              | 1  | 1              | 1  | 1              | 3              | 1              | 3              | 1                |    |                 | 3               | 2                   | 2               |
| Major            |                | 1  |                | 1  |                | 1  |                |    | 2              | 2              | 1              | 1              | 1                |    |                 |                 | 2                   | 1               |
| Captain          | 1              | 2  |                | 2  |                | 2  |                | 2  | 2              | 2              |                | 2              |                  | 2  |                 | 2               |                     | 2               |
| 1st Lt           |                |    |                |    | 1              |    |                |    |                |                |                |                |                  |    |                 |                 |                     |                 |
| TOTAL OFFICERS   | 2              | 4  | 1              | 4  | 2              | 4  | 2              | 4  | 6              | 8              | 4              | 8              |                  | 4  |                 | 6               | 5                   | 7               |
| Warrant Officers | 1              | 1  | 1              | 1  | 1              | 1  | 0              | 1  | 1              | 1              | 1              | 1              | 1                |    |                 | 1               | 1                   | 1               |
| Grade 1          |                | 1b |                | 1b |                | 1b |                | 1b | 1c             | 1b             | 1              | 1b             |                  | 1b |                 | 1b              | 1                   | 1b              |
| Grade 2          |                | 1a |                | 1a |                | 1a |                | 1a |                | 3a             | 2              | 1a             |                  | 1a |                 | 1a              | 1                   | 1a              |
| Grade 3          | 1c             | 1b |                | 1b | 1c             | 1b | 1c             | 1b | 3(1a, 1b, 1c)  | 3b             |                | 3b             |                  | 1b |                 | 4b              | 2                   | 3b              |
| Grade 4          |                |    | 2(b,c)         |    |                |    | 2(b,c)         |    | 1              | 1c             | 1              | 1c             |                  |    |                 |                 | 1                   | 1c              |
| Grade 5          | 1c             |    |                |    | 1c             |    |                |    | 1              |                |                |                |                  |    |                 |                 |                     |                 |
| TOTAL EM         | 2              | 3  | 2              | 3  | 2              | 3  | 3              | 3  | 6              | 8              | 4              | 6              |                  | 3  |                 | 6               | 6                   | 6               |
| AGGREGATE        | 5              | 8  | 4              | 8  | 5              | 8  | 5              | 8  | 13             | 17             | 9              | 15             |                  | 8  |                 | 13              | 12                  | 14              |

- A - Present T/O  
 B - Proposed T/O  
 a - Court Reporter  
 b - Stenographer  
 c - Clerks and clerk typists.
- T/O and E 7-1, WD, 13 Jan 1945; see par 1 (2) Interview 1 and Questionnaires 10, 23, 32, 33, 35, 37, 38, 39, 41, 43, 47, 53 (par 8), 59.
  - T/O and E 17-1, WD, 13 Jan 1945; see par 1 (2) Questionnaires 14, 48, 53 (par 8), 56.
  - T/O and E 71-1T, WD, 16 Dec 1944; see par 1 (2) Questionnaires 34, 36, 53 (par 8), 56.
  - T/O and E 100-1, WD, 19 Jan 1945; see par 1 (2) Questionnaires 16, 35, 48, 53 (par 8), 54, 56.
  - T/O and E 200-1, WD, 26 Oct 1944, C 2, 20 Jan 1945; see par 1 (2) Interviews 22 and Questionnaires 20, 21, 22 (par 8), 46, 48, 53 (also pars 1 (4), 8).
  - Functions: Chief of Section (1), Executive (1), Military Justice (1), Military Affairs (1), Assistants and trial personnel (4).
  - Non WD T/O, 12 Army Group Records, 5 May 1945.
  - Functions: Chief of Section (1), Executive (1), Military Justice (1), Military Affairs (2), International Law and Military Government (1), Assistants and trial personnel (2).
  - Annex A. See par 1 (2) Interview 4 and Questionnaires 15, 25, 29, 31, 55.
  - Annex A. See par 1 (2) Questionnaire 58.
  - Functions: Same as footnote 6 less 2 officers for trial personnel.
  - From bulk allotment of personnel.
  - Function: Same as footnote 8 less 1 officer for Military Government.

ANNEX A TO APPENDIX 1<sup>1</sup>

PRESENT TABLES OF ORGANIZATION BULK ALLOTMENT OF AND PERSONNEL ASSIGNED  
TO JUDGE ADVOCATE SECTIONS IN AIR CORDELS, AIR DIVISIONS AND AIR FORCES

|                  | VIII<br>Fighter<br>Comd |   |   | VIII AF<br>Composite<br>Comd |   |   | 1st<br>Air<br>Div |   |    | 2nd<br>Air<br>Div |   |   | 3rd<br>Air<br>Div |    |    | IX Air<br>Defense<br>Comd<br>X |   |    | IX Trp<br>Carrier<br>Comd<br>X |   |   | IX Tac<br>Air<br>Comd<br>X X |   |   | XII Tac<br>Air<br>Comd<br>X |   |    | XIX Tac<br>Air<br>Comd<br>X X |   |   | XXIX Tac<br>Air<br>Comd<br>X X |   |   | 9th<br>Air<br>Div<br>X |   |   | Eighth<br>AF |    |    | Ninth<br>AF<br>X |   |    |   |   |   |   |   |  |
|------------------|-------------------------|---|---|------------------------------|---|---|-------------------|---|----|-------------------|---|---|-------------------|----|----|--------------------------------|---|----|--------------------------------|---|---|------------------------------|---|---|-----------------------------|---|----|-------------------------------|---|---|--------------------------------|---|---|------------------------|---|---|--------------|----|----|------------------|---|----|---|---|---|---|---|--|
|                  | A                       | B | C | A                            | B | C | A                 | B | C  | A                 | B | C | A                 | B  | C  | A                              | B | C  | A                              | B | C | A                            | B | C | A                           | B | C  | A                             | B | C | A                              | B | C | A                      | B | C | A            | B  | C  | A                | B | C  |   |   |   |   |   |  |
|                  |                         |   |   |                              |   |   |                   |   |    |                   |   |   |                   |    |    |                                |   |    |                                |   |   |                              |   |   |                             |   |    |                               |   |   |                                |   |   |                        |   |   |              |    |    |                  |   |    |   |   |   |   |   |  |
| Colonel          |                         |   |   | 1                            | 1 | 1 |                   |   |    |                   |   |   |                   |    |    |                                |   |    |                                |   |   |                              |   |   |                             |   |    |                               |   |   |                                |   |   |                        |   |   |              |    |    | 1                | 1 | 1  | 1 | 1 | 1 |   |   |  |
| Lt Col           | 1                       | 1 | 1 | 1                            | 1 |   | 1                 | 1 | 1  | 1                 | 1 | 1 | 1                 | 1  | 1  | 1                              | 1 | 1  |                                |   |   | 1                            | 1 | 1 |                             |   |    | 1                             |   |   | 1                              | 1 |   |                        |   |   | 1            | 1  |    | 3                | 2 | 2  | 2 | 2 | 1 |   |   |  |
| Major            |                         | 1 |   |                              |   |   | 1                 | 1 | 1  | 1                 | 1 | 1 | 1                 | 1  | 1  | 1                              | 1 | 1  |                                |   |   | 1                            | 1 | 1 |                             |   |    |                               |   |   | 1                              | 1 |   | 1                      | 1 |   | 3            | 1  |    | 3                | 1 |    | 3 | 1 |   | 3 | 1 |  |
| Captain          |                         | 1 | 1 |                              |   | 1 | 1                 | 1 | 2  | 1                 |   |   |                   | 1  | 3  | 3                              | 2 |    | 1                              | 2 | 4 |                              |   |   | 1                           | 1 |    |                               |   | 3 |                                | 3 |   | 3                      | 1 |   | 2            | 3  |    | 1                | 3 |    | 3 | 1 |   | 3 | 1 |  |
| 1st Lt           |                         |   |   |                              |   |   |                   |   |    | 1                 |   |   |                   |    |    | 4                              |   |    |                                |   |   |                              |   | 3 |                             |   |    |                               |   | 1 |                                |   |   | 1                      |   |   |              |    |    | 1                |   |    | 1 |   |   |   |   |  |
| 2nd Lt           |                         |   |   |                              |   |   |                   |   |    |                   | 1 |   |                   |    |    |                                |   |    |                                |   |   |                              |   | 3 |                             |   |    |                               |   | 1 |                                |   |   |                        |   |   |              |    |    | 1                |   |    | 1 |   |   |   |   |  |
| TOTAL OFFICERS   | 1                       | 3 | 2 | 2                            | 2 | 2 | 3                 | 3 | 4  | 3                 | 3 | 3 | 3                 | 5  | 5  | 4                              | x | 6  | 4                              | x | 6 | x                            | x | 4 | 3                           | x | 7  | x                             | x | 4 | x                              | x | 5 | 3                      | x | 4 | 7            | 7  | 7  | 6                | x | 6  |   |   |   |   |   |  |
| Warrant Officers |                         |   |   | 1                            | 1 | 1 |                   |   |    |                   |   |   |                   |    |    | 1                              | x | x  |                                |   |   |                              |   |   |                             |   |    |                               |   |   |                                |   |   | 1                      | 0 | 0 | 1            | x  | 0  |                  |   |    |   |   |   |   |   |  |
| Grade 1          |                         |   |   |                              |   |   |                   |   |    |                   |   |   |                   |    |    | 1                              |   |    |                                |   |   |                              |   |   |                             |   |    |                               |   |   |                                |   |   | 1                      |   |   | 1            |    |    | 1                |   |    |   |   |   |   |   |  |
| Grade 2          |                         |   |   |                              |   |   | 1                 | 1 | 1  | 1                 | 1 |   | 1                 | 1  | 1  | 1                              |   |    |                                |   |   |                              |   |   | 1                           |   |    |                               |   |   | 1                              |   |   | 1                      | 1 | 1 | 1            | 1  | 1  | 1                |   |    |   |   |   |   |   |  |
| Grade 3          | 1                       | 1 | 1 | 1                            | 1 |   | 2                 | 2 | 2  |                   | 1 |   | 3                 | 3  | 1  | 2                              | 1 |    |                                |   |   |                              |   |   | 1                           |   |    |                               |   |   |                                |   |   | 1                      | 2 | 1 | 2            | 1  | 2  | 5                |   |    |   |   |   |   |   |  |
| Grade 4          |                         | 1 | 1 |                              |   |   |                   | 4 | 2  | 2                 | 2 | 2 | 2                 | 2  | 2  | 3                              | 2 |    |                                |   |   |                              |   |   | 1                           |   |    |                               |   |   | 3                              | 1 | 2 | 3                      | 1 |   |              |    |    |                  |   |    |   |   |   |   |   |  |
| Grade 5          | 1                       | 1 |   | 1                            | 1 |   | 3                 | 3 | 3  | 3                 | 3 | 3 | 3                 | 3  | 1  | 2                              |   |    | 2                              | 1 |   |                              |   |   | 1                           |   |    |                               |   |   | 3                              |   |   | 1                      | 1 | 1 | 1            | 1  | 1  |                  |   |    |   |   |   |   |   |  |
| Grade 6          |                         | 1 |   | 1                            | 1 |   |                   | 1 |    |                   |   |   | 1                 |    |    | 1                              |   |    |                                |   |   |                              |   |   |                             |   | 1  |                               |   |   |                                |   |   | 1                      | 1 | 1 | 1            | 1  | 1  |                  |   |    |   |   |   |   |   |  |
| TOTAL EM         | 2                       | 4 | 2 | 3                            | 3 | x | 6                 | 6 | 11 | 6                 | 6 | 6 | 6                 | 8  | 6  | 6                              | x | 8  | 6                              | x | x | x                            | x | x | 3                           | x | 5  | x                             | x | x | x                              | x | x | 6                      | x | 5 | 7            | 6  | 7  | 7                | x | 7  |   |   |   |   |   |  |
| AGGREGATE        | 3                       | 7 | 4 | 6                            | 6 | x | 9                 | 9 | 15 | 9                 | 9 | 9 | 9                 | 13 | 11 | 10                             | x | 14 | 11                             | x | x | x                            | x | x | 6                           | x | 12 | x                             | x | x | x                              | x | x | 9                      | x | 9 | 15           | 13 | 14 | 14               | x | 13 |   |   |   |   |   |  |

A - T/O

B - Bulk Allotment

C - Personnel assigned on 1 June 1945, except VIII Air Force Composite Command (1 Oct 44)

x - Unknown

<sup>1</sup> Figures furnished by Staff Judge Advocate, Hq USAFE, Ltr 12 Nov 1945

APPENDIX 2

GENERAL COURT-MARTIAL CASES OF FIELD FORCE UNITS AND OPERATIONAL AIR FORCE UNITS <sup>1</sup>

June 1944 to May 1945.

| <u>FIELD FORCE UNITS</u>            | Jun | Jul | Aug | Sep  | Oct  | Nov | Dec  | Jan  | Feb  | Mar  | Apr  | May  | Average |
|-------------------------------------|-----|-----|-----|------|------|-----|------|------|------|------|------|------|---------|
| <u>Army Groups</u>                  |     |     |     |      |      |     |      |      |      |      |      |      |         |
| 12 Army Group Cases                 |     |     |     |      | 1    |     |      |      |      |      |      |      |         |
| Special Troops, 12 Army Group Cases |     |     |     |      | 1    | 6   | 4    | 2    | 3    | 2    | 3    | 3    | 3       |
| 6 Army Group Cases                  |     |     |     |      |      |     | 27   | 2    | 2    | 12   | 6    | 0    | 8.2     |
| <u>Armies</u>                       |     |     |     |      |      |     |      |      |      |      |      |      |         |
| Number of units <sup>2</sup>        | 2   | 2   | 3   | 2    | 3    | 3   | 4    | 4    | 5    | 5    | 5    | 5    |         |
| Highest number of cases in one unit | 16  | 4   | 13  | 21   | 19   | 38  | 37   | 107  | 44   | 39   | 40   | 40   | 34.8    |
| Average number of cases per unit    | 11  | 3   | 8   | 19.5 | 11.6 | 20  | 21.5 | 41.7 | 23   | 23   | 23.2 | 22.6 | 19      |
| <u>Corps</u>                        |     |     |     |      |      |     |      |      |      |      |      |      |         |
| Number of units                     | 4   | 4   | 4   | 7    | 7    | 9   | 10   | 13   | 14   | 11   | 13   | 15   |         |
| Highest number of cases in one unit | 3   | 2   | 4   | 6    | 8    | 10  | 9    | 11   | 11   | 15   | 15   | 15   | 9.1     |
| Average number of cases per unit    | 2   | 1.5 | 1.8 | 3.4  | 4.7  | 5.8 | 4.5  | 5    | 5.2  | 8.4  | 5.0  | 6.0  | 4.44    |
| <u>Infantry Divisions</u>           |     |     |     |      |      |     |      |      |      |      |      |      |         |
| Number of units                     | 8   | 9   | 10  | 13   | 16   | 24  | 23   | 30   | 35   | 34   | 39   | 42   |         |
| Highest number of cases in one unit | 14  | 10  | 6   | 6    | 16   | 41  | 36   | 52   | 64   | 44   | 57   | 76   | 35.1    |
| Average number of cases per unit    | 4.6 | 5.2 | 2.2 | 2.5  | 5.3  | 7.8 | 7.7  | 10.4 | 9.3  | 10.4 | 10.7 | 11.5 | 7.3     |
| <u>Armored Divisions</u>            |     |     |     |      |      |     |      |      |      |      |      |      |         |
| Number of units                     | 4   | 4   | 4   | 3    | 5    | 8   | 8    | 9    | 8    | 13   | 12   | 13   |         |
| Highest number of cases in one unit | 3   | 2   | 5   | 6    | 10   | 17  | 12   | 12   | 14   | 16   | 8    | 49   | 12.8    |
| Average number of cases per unit    | 2.5 | 2   | 2.2 | 2.6  | 4.6  | 6.8 | 4.1  | 5    | 6.5  | 4.4  | 3.4  | 9.3  | 4.4     |
| <u>Airborne Divisions</u>           |     |     |     |      |      |     |      |      |      |      |      |      |         |
| Number of units                     | 2   | 1   | 2   | 3    | 2    | 3   | 2    | 3    | 3    | 3    | 4    | 4    |         |
| Highest number of cases in one unit | 15  | 4   | 9   | 9    | 4    | 12  | 8    | 11   | 22   | 18   | 30   | 21   | 13.6    |
| Average number of cases per unit    | 8   | 4   | 5.5 | 7.6  | 3.5  | 6   | 6.5  | 6    | 10.3 | 10.3 | 15.7 | 12.5 | 8       |

1 - Figures are from the monthly Memorandum for all Staff Judge Advocates ETO, by the Branch Office of The Judge Advocate General with the ETO, BOTJAG-E 250.491, dated 1 July 1944 and the first of each month to 1 June 1945 and recording the general court-martial records of cases received in June 1944 and in each month thereafter to and including May 1945.

2 - Units from which no records received not included.

APPENDIX 2 (Cont'd)

| <u>OPERATIONAL AIR FORCE UNITS</u> | Jun | Jul | Aug | Sep | Oct            | Nov | Dec             | Jan             | Feb | Mar | Apr | May | Average |
|------------------------------------|-----|-----|-----|-----|----------------|-----|-----------------|-----------------|-----|-----|-----|-----|---------|
| Hq, Eighth Air Force               | 2   | 3   | 0   | 1   | 0              | 0   | 3               | 1               | 2   | 3   | 4   | 4   | 1.9     |
| VIII Fighter Command               | 9   | 6   | 18  | 10  | 0              | 4   | 2               | 2               | 0   | 1   | 6   | 3   | 5.1     |
| VIII Air Force Composite Command   | 6   | 6   | 6   | 7   | 3              | 1   |                 |                 |     |     |     |     | 4.8     |
| 1st Air Division <sup>3</sup>      | 7   | 12  | 6   | 8   | 16             | 14  | 10              | 10 <sup>3</sup> | 10  | 14  | 7   | 10  | 10.3    |
| 2nd Air Division <sup>3</sup>      | 7   | 5   | 12  | 15  | 12             | 12  | 11              | 10 <sup>3</sup> | 6   | 12  | 7   | 6   | 9.6     |
| 3rd Air Division <sup>3</sup>      | 6   | 2   | 18  | 10  | 9              | 9   | 14              | 8 <sup>3</sup>  | 9   | 9   | 14  | 8   | 9.5     |
| Hq, Ninth Air Force                | 11  | 7   | 2   | 2   | 4              | 4   | 0               | 7               | 5   | 2   | 3   | 0   | 3.9     |
| IX Air Defense Command             |     |     | 3   | 0   | 2              | 8   | 1               | 1               | 11  | 6   | 8   | 4   | 4.4     |
| IX Troop Carrier Command           | 6   | 10  | 11  | 9   | 5              | 15  | 7               | 13              | 7   | 14  | 19  | 19  | 11.2    |
| IX Tactical Air Command            | 3   | 3   | 9   | 2   | 6              | 9   | 9               | 11              | 6   | 2   | 2   | 7   | 5.7     |
| XII Tactical Air Command           |     |     |     |     | 1              | 4   | 3               | 3               | 3   | 5   | 8   | 15  | 3.5     |
| XIX Tactical Air Command           | 13  | 5   | 0   | 5   | 4              | 11  | 6               | 5               | 7   | 6   | 2   | 0   | 5.3     |
| XXIX Tactical Air Command          |     |     |     |     |                |     |                 |                 | 4   | 7   | 9   | 2   | 5.5     |
| 9th Air Division <sup>4</sup>      | 8   | 17  | 8   | 11  | 5 <sup>4</sup> | 9   | 15 <sup>4</sup> | 14 <sup>4</sup> | 6   | 6   | 5   | 7   | 9.1     |

3 - 1st, 2nd and 3rd Bombardment Division were redesignated as 1st, 2nd, 3rd Air Division, respectively, on 24 December 1944 and figures include records of cases in each unit under old and new designation.

4 - IX Bomber Command was redesignated as the 9th Bombardment Division (M) on 30 August 1944. The 9th Bombardment Division (M) was redesignated as the 9th Air Division on 2 May 1945. Figures include records of cases submitted under the three designations.

APPENDIX 3

GENERAL COURT-MARTIAL CASES OF BASE SECTIONS, COMMUNICATIONS ZONE AND AIR SERVICE FORCE UNITS<sup>2</sup>

June 1944 to May 1945

| <u>Base Sections</u>                    | Jun  | Jul  | Aug  | Sep  | Oct  | Nov  | Dec  | Jan  | Feb  | Mar  | Apr  | May  | Average |
|---|------|------|------|------|------|------|------|------|------|------|------|------|---------|
| Number of sections <sup>2</sup>         | 4    | 5    | 4    | 8    | 7    | 8    | 9    | 10   | 9    | 9    | 9    | 9    |         |
| Highest number of cases in one unit     | 61   | 36   | 34   | 35   | 75   | 39   | 40   | 107  | 72   | 115  | 120  | 217  | 79.2    |
| Average number of cases per unit        | 31.5 | 18.8 | 21.9 | 13.8 | 22.6 | 18.8 | 17.6 | 37.2 | 37.3 | 59.1 | 58.6 | 69.7 | 33.9    |
| <u>Air Service Force Units</u>          |      |      |      |      |      |      |      |      |      |      |      |      |         |
| Air Technical Service Command in Europe | 1    | 0    | 2    | 2    | 1    | 2    | 1    | 3    | 7    | 12   | 15   | 15   | 5.1     |
| Base Air Depot Area USSAF in Europe     | 28   | 20   | 23   | 15   | 19   | 18   | 5    | 33   | 25   | 28   | 28   | 16   | 21.5    |
| VIII Air Force Service Command          | 4    | 1    | 1    | 3    | 4    | 11   | 4    | 6    | 9    | 8    | 4    | 4    | 4.9     |
| IX Air Force Service Command            | 21   | 28   | 24   | 2    | 20   | 23   | 15   | 17   | 25   | 19   | 14   | 12   | 18.3    |
| IX Engineer Command                     |      |      | 2    | 7    | 5    | 6    | 5    | 4    | 6    | 0    | 2    | 2    | 3.9     |

1 - Figures are from the monthly Memorandum for all Staff Judge Advocates ETO, by the Branch Office of The Judge Advocate General with the ETO, BOTJAG-E 250.491, dated 1 July 1944 and the first of each month to 1 June 1945 and recording the general court-martial records of cases received in June 1944 and in each month thereafter to and including May 1945.

2 - Units from which no records received not included.

APPENDIX 4

PRESENT TABLES OF ALLOTMENT AND TABLES OF ORGANIZATION FOR JUDGE ADVOCATE SECTIONS OF EUROPEAN THEATER, BASE SECTIONS OF COMMUNICATIONS ZONE<sup>1</sup> AND AIR FORCE SERVICE UNITS<sup>2</sup>

|                  | ETOUSA | UK Base | Seine <sup>3</sup> Sec | Oise Sec | Delta Base Sec | Chanor Base Sec | Advance Sec | CONAD <sup>4</sup> | ATSEC <sup>5</sup> |    |   | BADA <sup>6</sup> ASC USSTAF |    |    | VIII AF Serv Comd |   |   | IX AF Serv Comd |   |    | IX Engineer Comd |   |    |   |   |
|------------------|--------|---------|------------------------|----------|----------------|-----------------|-------------|--------------------|--------------------|----|---|------------------------------|----|----|-------------------|---|---|-----------------|---|----|------------------|---|----|---|---|
|                  |        |         |                        |          |                |                 |             |                    | A                  | B  | C | A                            | B  | C  | A                 | B | C | A               | B | C  | A                | B | C  |   |   |
|                  |        |         |                        |          |                |                 |             |                    |                    |    |   |                              |    |    |                   |   |   |                 |   |    |                  |   |    |   |   |
| Colonel          | 8      | 1       | 2                      | 1        | 1              | 1               | 1           | 1                  |                    |    |   | 1                            | 1  |    |                   |   |   | 1               | x | 1  |                  |   |    |   |   |
| Lt Col           | 7      | 3       | 3                      | 1        | 2              | 3               | 2           | 1                  | 1                  | 1  | 1 | 1                            |    | 1  | 1                 | 1 | 1 | 1               |   | 1  |                  |   | 1  | 1 |   |
| Major            | 8      | 5       | 4                      | 3        | 3              | 8               | 2           | 3                  | 1                  | 2  | 1 |                              |    | 1  | 2                 |   | 1 |                 |   | 3  |                  |   | 2  |   |   |
| Captain          | 8      | 14      | 9                      | 5        | 6              | 9               | 5           | 4                  |                    |    |   | 1                            | 4  | 4  | 1                 |   | 1 |                 |   | 2  |                  |   | 4  | 1 | 1 |
| 1st Lt           | 1      |         |                        |          |                |                 |             |                    |                    |    | 1 |                              | 2  | 4  |                   |   |   |                 |   | 2  |                  |   | 1  | 2 | 2 |
| 2nd Lt           |        |         |                        |          |                |                 |             |                    |                    |    | 1 |                              | 4  | 3  |                   |   |   |                 |   |    |                  | 1 |    |   |   |
| TOTAL OFFICERS   | 32     | 23      | 18                     | 10       | 12             | 21              | 10          | 9                  | 2                  | 4  | 4 | 2                            | 12 | 14 | 2                 | 2 | 2 | 9               | x | 10 |                  |   | 4  | 4 |   |
| Warrant Officers | 6      | 2       | 2                      | 1        | 1              | 1               | 1           | 1                  |                    | 1  |   | 1                            |    |    | 1                 | 1 |   |                 |   |    |                  |   |    |   |   |
| Grade 1          | 4      | 2       | 2                      | 1        | 1              | 2               | 2           | 1                  |                    | 1  | 1 | 1                            | 1  | 1  | 1                 | 1 |   |                 |   |    |                  |   |    | 1 | 1 |
| Grade 2          | 11     | 2       | 7                      | 3        | 5              | 8               | 5           | 3                  | 1                  | 1  | 1 | 2                            | 3  | 2  | 4                 |   | 1 | 1               |   | 1  |                  |   | 2  | 1 |   |
| Grade 3          | 19     | 8       | 7                      | 4        | 6              | 12              | 5           | 3                  | 2                  | 2  | 1 | 1                            | 5  | 5  | 4                 | 1 | 1 | 3               |   | 4  |                  |   |    |   |   |
| Grade 4          | 9      | 7       | 7                      | 4        | 6              | 12              | 4           | 3                  | 2                  | 1  | 1 | 2                            | 2  | 2  | 2                 |   |   |                 |   | 1  |                  |   | 1  | 1 |   |
| Grade 5          | 5      | 6       | 7                      | 3        | 5              | 8               | 4           | 3                  |                    |    | 1 | 3                            | 5  | 3  | 1                 | 2 | 1 | 2               |   | 2  |                  |   | 3  | 2 | 2 |
| Grade 6          |        |         |                        |          |                |                 |             |                    |                    |    | 1 | 3                            | 1  | 2  |                   |   |   | 2               |   |    |                  | 1 |    |   |   |
| Grade 7          |        |         |                        |          |                |                 |             |                    |                    |    |   |                              |    |    |                   |   |   | 1               |   |    |                  |   |    |   |   |
| TOTAL EM         | 48     | 25      | 30                     | 15       | 23             | 42              | 20          | 13                 | 5                  | 6  | 5 | 12                           | 17 | 15 | 12                | 4 | 4 | 8               | x | 10 |                  |   | 6  | 5 |   |
| AGGREGATE        | 86     | 50      | 50                     | 26       | 36             | 64              | 31          | 23                 | 7                  | 11 | 9 | 15                           | 29 | 29 | 15                | 7 | 6 | 17              | x | 20 |                  |   | 10 | 9 |   |

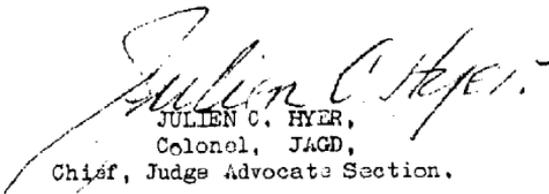
- A - T/O  
 B - Bulk Allotment  
 C - Personnel Assigned on 1 June 1945  
 x - Unknown
- 1 - Tables of Allotment, 8 May 1945, Information received from Judge Advocate Division, USFET.  
 2 - Figures furnished by Staff Judge Advocate, Hq USAFE, Letter 12 November 1945.  
 3 - In addition to its Table of Allotment personnel, Seine Section had on VE Day two judge advocate officers and 108 officers, who were not judge advocates, on detached service to act as trial judge advocates, defense counsel, investigating officers, court members and administrative assistants and 28 enlisted men and 30 civilians.  
 4. Continental Advance Section.  
 5. Air Technical Service Command in Europe.  
 6. Base Air Depot Area, Air Service Command, United States Strategic Air Forces in Europe  
 7. Plus six civilian employees.

COMMENT OF THE CHIEF OF SECTION

The foregoing study on "The Judge Advocate Section in the Theater of Operations," was prepared by the Judge Advocate Section, The General Board, United States Forces, European Theater of Operations. Research was made in the files of the Judge Advocate Section, European Theater of Operations, later designated as United States Forces, European Theater; The Branch Office, Judge Advocate General, European Theater of Operations; and by studying appropriate statutes, policies and legal decisions of higher level headquarters, and implementing War Department and theater regulations, directives and circulars. Source material was also gathered from the answers to questionnaires which were submitted to all judge advocates serving in the European Theater of Operations during the campaign ending V-E Day. Numerous persons who had experience in the European Theater in the various topics embraced within this study were interviewed. Problems were discussed with all members of the Judge Advocate Section of The General Board, each of whom likewise served in the European Theater, and they have concurred in the conclusions and recommendations herein submitted.

In this particular study, Lieutenant Colonel William M. Moroney, JAGD, performed much of the research and original drafting. Prior to his assignment to this task, he successfully completed the prescribed courses in The Judge Advocate General's School and the Command and General Staff School; then served as Assistant Judge Advocate of XVIII Corps (Airborne), arriving on the Continent in August 1944, and later as Assistant Judge Advocate, 12th Army Group.

Lieutenant Colonel Burton S. Hill, JAGD, formerly Staff Judge Advocate of VIII Fighter Command of the Eighth Air Force, serving in England and Belgium, aided in the preparation of this study, compiling the historical data and the comparative relationship with allied armies' military justice sections.

  
JULIAN C. HYER,  
Colonel, JAGD,  
Chief, Judge Advocate Section.