THE GENERAL BOARD

United States Forces, European Theater

THE MILITARY OFFENDER IN THE THEATER OF OPERATIONS

MISSION: Prepare Report and Recommendations on The Military Offender in the 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: 250/2

Study Number 84

Property of
Office of the Chief
Military History
General Reference Branch

TABLE OF CONTENTS

SUBJECT	PAGE
Part One: Offenders and Offenses	1
Chapter 1: Types of Offenders	1
Chapter 2: Types of Offenses	6
Chapter 3: Causes for Offenses	8
Chapter 4: Control and Prevention	14
Part Two: Punishment and Rehabilitation	17
Chapter 1: Punishment	17
Section 1 - General Policies	17
Section 2 - Punishment Short of Court-Martial	18
Section 3 - Punishment by Inferior Courts-Martial	18
Section 4 - Punishment by General Courts-Martial	19
Chapter 2: Confinement and Rehabilitation	22
Section 5 - Confinement	22
Section 6 - Rehabilitation	22
Chapter 3: Conclusions and Recommendations	26

Appendices:	PAGE
1. Analysis of Offenses, Delta Disciplinary Training Center	29
2. Disposition of Cases involving Death Sentence (1 Aug 45), United States Forces, European Theater	34
3. Officer Confinement List, Delta Disciplinary Training Center	35
4. Report of Visit by Chief, Judge Advocate Section, The General Board, United States Forces, European Theater, to Delta Disciplinary Training Center	37
5. Statistical Returns on General Prisoners, Office of the Theater Provost Marshal	44
6. Survey by Theater Judge Advocate Regarding Death Sentences	46
7. Forms and SOP for the Clemency Section, Loire Disciplinary Training Center	47
8. Comment of Chief of Section	50

THE GENERAL BOARD
UNITED STATES FORCES, EUROPEAN THEATER
APO 408

THE MILITARY OFFENDER IN THE THEATER OF OPERATIONS

Prepared by:

Colonel Julien C. Hyer, Chief, Judge Advocate Section, The General Board, United States Forces, European Theater.
*Lieutenant Colonel Andre B. Moore
*Lieutenant Colonel Charles T. Shenner
*Captain Ernest May

Principal consultants:

Brigadier General Edwin C. McNeil, 02 248, Assistant Judge Advocate General, Branch Office of The Judge Advocate General with European Theater.

Colonel Daniel L. O'Donnell, O 904 811, Branch Office of The Judge Advocate General with European Theater.

Colonel Clarence E. Brand, 08 432, Theater Service Forces, European Theater.

Colonel Morris F. Warner, Loire Disciplinary Training Center.

Lieutenant Colonel William F. Burrow, O 906 076, Branch Office of The Judge Advocate General with European Theater.

Lieutenant Colonel John E. Blackstone, O 301 169, Seine Base Section, Theater Services Forces, European Theater.

Lieutenant Colonel Cermon C. Harris, O 345 066, Seine Base Section, Theater Service Forces, European Theater.

Lieutenant Colonel H. L. Peck, Loire Disciplinary Training Center.

Captain Daniel Thaw, MC, Psychiatrist, Loire Disciplinary Training Center.

Officers and inmates of Oise Intermediate Section Guardhouse.

* On duty with Judge Advocate Section, The General Board, United States Forces, European Theater.

THE GENERAL BOARD
UNITED STATES FORCES, EUROPEAN THEATER
APO 408

THE MILITARY OFFENDER IN THE THEATER OF OPERATIONS

PART ONE

OFFENDERS AND OFFENSES

CHAPTER 1

TYPES OF OFFENDERS

1. Basis of the Study. Records of trial of more than 12,000 soldiers by general courts-martial in the European Theater of Operations were received by the Branch Office of The Judge Advocate General before 8 May 1945; other tens of thousands were tried by inferior courts-martial.[1] The causes for this problem population are complex. Many military offenders were good citizens; many came to the Army before their adult lives began. Except for circumstances peculiar to military life in an active theater, they might have lived their span without experience in courts of law.

a. There is deficiency of statistical information for classifying the military offender and the causes of his offense. Nowhere in the European Theater is it possible to study records of special and summary courts-martial. Moreover, the inferior court record is usually of little value to a study of the offender. In the Branch Office of The Judge Advocate General with the European Theater of Operations, the general courts-martial records are being studied by a statistical section. Their incomplete data were not available to The General Board when this study was undertaken.

b. Hence, the findings of The General Board can have little reference to statistics. Their substantial basis is the testimony of experts (judge advocates, psychiatrists, prison officers, clemency officers, etc.) and prisoners themselves, interviewed in the course of the study.

2. The mentally diseased have been few in the European Theater of Operations. They have been processed medically according to the Manual for Courts-Martial and Army Regulations 600-500. In comparatively few cases was insanity seriously urged as a defense. The liberality of the rule of military law on the question of mental responsibility has effectively diverted the mentally diseased offender into medical channels without trial. But many offenders were mentally deficient, psycho-neurotic or psychopathic. They had mental responsibility but not full mental capability.

3. The Mentally Deficient. The majority of soldiers who became military offenders were of below-average intelligence. By the Adjutant General's Classification Test, their mental development had

---

1. See Section 2, Study, The General Board, USFET, "Military Justice Administration in the Theater of Operations."

been arrested before adolescence.[2] The disciplinary training center personnel confirm the Adjutant General's classification. Negro troops, whose intelligence quotient, generally, was below average, were confined in numbers disproportionate to their relative theater strength. Approximately 11 per cent of the United States Forces in the European Theater was Negro. At the Loire Disciplinary Training Center, when visited, 40 per cent of the prisoners were Negroes. Negroes were even more largely represented in the guardhouses. At Oise Intermediate Section Guardhouse 75 per cent of the prisoners were Negroes, and the majority were of sub-normal intelligence. Of the death sentences assessed in the European Theater, more than 40 per cent involved Negro accused. An actual and considerable majority of the violent crimes were committed by Negro troops.

a. The frequent appearance of offenders with mental ages of seven or eight is despite the screening at induction and facilities in the Zone of Interior for reclassification and elimination. It must be conceded that all mental tests are open to error, particularly when the subject accused may be suffering from psychiatric and emotional disorders difficult to diagnose. The subjective character of most psychiatric examinations, complicated by such psychological factors, militates against mechanical accuracy. But, obviously, the mentally sub-standard offender is so numerous as to constitute a special problem and classification.

4. Pre-Induction Criminals. There is a group of offenders who had criminal records in civilian life. They had been guilty of robbery, larceny, burglary and other felonies,[3] and repeated their offenses after induction. In each prison installation visited in the European Theater, there was mention of this category of personnel by each officer interviewed. Most of these officers believe that such personnel have been of little value to the service and are not capable of rehabilitation in the European Theater. It is believed that the added temptations present in the European Theater of Operations made it more difficult for this category of personnel to avoid delinquency than if they had been returned to civil life.

5. Psychopaths and Psychoneurotics. A large percentage of the prison population in the European Theater of Operations may properly be classified as psychopaths and psycho-neurotics.

a. A psychopath is a chronic misbehavior problem. He does not suffer from any real or imaginary ailment. He is the individual who recognizes no compulsion but his own immediate desires, fails to learn from experience, and is not interested in conforming his conduct to the social code. He breaks rules to gain short-time pleasures, has no regard for others or his obligations. His behavior is anti-social and irrational. The psychopath is not insane or mentally deranged. He knows right from wrong, hence is legally responsible for his behavior. Manifestations of psychopathic personality include frequent absence without leave, drunkenness, difficulty in getting along with others, demands for special privilege, general carelessness, poor response to discipline, chronic presence at sick call, lying, malingering, abnormal sex practices, outbursts of temper, brood-

---

2. Col O'Donnell, Chief of the Military Justice Division, SOTJAG, states that a majority of accused in court-martial proceedings had AGCT scores IV - V, and that 58% of all Negro troops were so classified.
3. Eugene S. Sernans, Executive Secretary of the Central Howard Association, a rehabilitation agency, was quoted in "Stars and Stripes," 10 Oct 45, to the effect that 4,441 men went directly from American penal institutions into the military service.

ing, justification of behavior by always blaming others, drug addiction, lack of interest in correction, weak effort in adjusting or learning, complete self-satisfaction,

b. The psychoneurotic does not have any visible symptoms; but he suffers. The neurotic may be detected when he seeks medical aid. He realizes that there is something wrong with him; whereas the psychopath is satisfied with himself and puts the blame on others who he claims are at fault because of interference with his desires and actions.[4] Psychoneurotic condition of military personnel existed before combat, often before induction or enlistment.

c. The true psychopath is not subject to rehabilitation. Often, the psychoneurotic may be rescued by medical or psychiatric treatment.

d. A substantial number of the offenders in the European Theater of Operations are psychopathic. Efforts towards their rehabilitation have not been successful. They include drug addicts,[5] homosexuals,[6] pre-induction criminals, chronic alcoholics and mental deficients. Psychoneurotics often suffered from combat fatigue, cowardice, or what has been described as combat saturation.

6. Combat Aversion Type. The term "combat fatigue" has been publicly accepted as the substitute for the phrase "shell-shock," used in World War I. It does not indicate the whole category under consideration, which includes a large percentage of the soldiers tried in the European Theater for desertion, misbehavior before the enemy and similar offenses. Officers in one disciplinary training center said that approximately 50% of the desertion and AWOL cases among their prisoners involved personnel of this category.

a. The confessed coward who wimply stated that he could not and would not engage in combat was rare in the ground forces. Often he exhibited psychopathic symptoms. The "coward" was found sometimes in the Air Forces. His "fear" reactions abruptly disappeared when grounded or relieved of combat duty.[7] Combat fatigue cases were those who broke under strain after a period of combat. Other combat aversion offenders had served honorably in combat for a time, then decided they had enough.[8] They present no medical symptoms to justify classification as combat fatigue cases. Medical officers call them cases of "combat saturation." One soldier confined in a disciplinary training center under severe sentence had served 279 days of combat with an infantry rifle company in Africa, Sicily, Italy and Southern France. One day he calmly declared he had done his share. Other offenders simply refused combat or deserted combat situations for selfish reasons, lack of moral stamina and character.

---

4. See Military Aspects of the psycopath personality to aid non-medical officers, p 43, Military Review, Sep 45, Vol 25, No 6. Psychoneurosis among combat fliers is one of the topics treated in "Psychiatric Experiences of the Eighth Air Force" by Major Donald W. Hastings and others.
5. Marihuana was obtainable in England and France. Colored troops were most frequently addicted.
6. Also considered as sex criminals.
7. "Psychiatric Experiences of the Eighth Air Forces," supra.
8. This fact was recognized by combat commanders. Gen Bradley said: "Personally, I have always taken the view that every man has a cracking point." (Ltr, Hq 12th Army Gp, file 200.6 (CG), subj: "Case of Pfc Joseph P. Parks, etc., 21 Jun 45.)

b. The imprisoned offenders were found guilty of desertion, disobedience, misbehavior before the enemy in violation of Article of War 75. Of course, they all came from combat units. One disciplinary training center clemency officer[9] estimated that 90% were from infantry rifle companies. Even the heavy weapons and cannon companies of the infantry regiments do not have such sustained combat, prolonged discomforts and high casualties as the rifle companies.

c. Combat aversion became a greater problem in the ground forces after the summer campaign was over. In one division, comitted in July 1944, there was no desertion problem until the following November. The coming of winter, the length of time im combat, the discomforts and increased casualties of fixed position fighting, the knowledge that the war was not going to be won until spring, all contributed to offenses of this character.

d. Considering the number of soldiers committed to combat and the length of time some were in action, the number of soldiers tried for various types of combat aversion was small. One reason for this, no doubt, is the increase in medical service which was made available during this campaign. In November 1944, about 500 soldiers were examined by one division psychiatrist for combat fatigue. More than 400 were given a few days' rest and returned to duty, 36 were evacuated through medical channels. Of 50 marked for court-martial action, re-examination developed that 13 were mentally unfit and these were evacuated. Twelve were acquitted and restored to duty. None of them offended afterward.

7. Chronic Alcoholics. In every prison installation visited, the medical staff indicated that a substantial number of the soldiers incarcerated were chronic alcoholics. Many of these offenders had previous convictions for drunk and disorderly conduct. It is difficult to differentiate the chronic alcoholic from the psychopath who merely shows alcoholism as a symptom of his condition. But the number of chronic alcoholics among military offenders is surprising, in view of the opportunities to eliminate such incorrigibles before their admission to the theater of operations. This may be explained, in part, by the fact that some developed alcoholism in a chronic stage after induction and after embarkation. No matter their source, the members of this group were a serious obstacle to discipline; exerted a demoralizing influence in their organizations; and, being beyond rehabilitation, inevitably became subjects for court-martial action.

8. Sex Criminals. In the European Theater of Operations, the sex criminal was not a significant problem. The policy in the Zone of Interior was to eliminate perverts and homosexuals prior to embarkation. Moreover, the sex opportunities in the European Theater served to minimize such problems.

a. It is not intended to include in this group those soldiers who were guilty of a single crime involving sex, other than sodomy. The average soldier tried for rape in the European Theater of Operations was not what is usually meant by a sex criminal. Many times sex was a factor in crimes along with intoxication; it might be an influence toward looting, desertion or even black market operations; but in these cases, sex was incidental rather than the basic cause for the offense.

[illegible]

---

9. Lt Col Anthony, Loire Disciplinary Training Center.

b. Few sodomists were discovered in the European Theater.[10] The liberal and modern approach to sodomy as a crime adopted by the War Department and incorporated in War Department Circular No. 3, 1944, was of great assistance in the handling of such cases. There was only one aspect of sodomy in the European Theater of Operations which was difficult of solution. The practice of carnal knowledge per os between a man and a woman is accepted in some European countries as normal sex expression. Under the definition of sodomy prevailing in the United States, such a practice is a crime against nature and may be punished as such. Several instances of this practice came to the attention of various judge advocates. Where no violence or coercion was present, the cases were not tried.

9. Female army personnel offenders were a negligible factor in the administration of military justice in the European Theater of Operations. Inferior courts-martial records are not available, but only one enlisted member of the Women's Army Corps and eight officers (Army Nurse Corps and Women's Army Corps) were tried by general courts-martial. In all cases in which confinement was adjudged that portion of the sentence was remitted, as required by War Department policy.[11]

---

10. Dig Op, ETO, indicates fewer than 40 cases of sodomy tried by GCM in both European and Mediterranean Theaters, Vol II, p 545, et seq. On 30 Sep 45 only six were in confinement at Delta Disciplinary Training Center. (Appendix 1)

11. Ltr, IND, AGO, 1 Jun 44, file AG 250.4 (29 May 44) OB--S-A-M, subj: "Confinement and Punishment of Members of the Women's Army Corps."

CHAPTER 2

TYPES OF OFFENSES

10. Military Offenses. Soldier misconduct might be a strictly military offense or an ordinary crime, or both. Among the military offenses, absence without leave[1] and desertion[2] presented the greatest problem. More than 50% of the prisoners at Loire Disciplinary Training Center had been tried for one or the other of these offenses. Next in importance were disobedience, disrespect and insubordination.[3] Third in point of volume is violation of obligations of sentinels.[4] Another frequent offense was misappropriation of government vehicles. This was normally coupled with an unauthorized absence or some other military offense.

a. The clemency officer at Loire Disciplinary Training Center stated that 50% of absence-without-leave offenders came from the combat units, the majority of these from the rifle companies. Twenty-five per cent of the absence without leave and desertion cases came from the service and air forces. The air forces supplied a very small percentage, usually of the highly intelligent but "smart-alec" type. The service force offenders were nearly all Negroes from service units in the rear areas who had been supplied with transportation. They had lower intelligence than offenders generally and responded to a desire for the recreation and comfort which the civilian communities in the rear areas presented. Nearly all of the other 25% of the group in Loire Disciplinary Training Center charged with unauthorized absence came from replacement depots.

b. The authorities at Loire Disciplinary Training Center stated that most of the offenders convicted of disobedience, disrespect or insubordination were of lower intelligence than the average soldier, many of them approaching mental delinquency. In a large number of these cases, there was evidence of inaptitude of a unit officer. In the sentry cases, there was likewise a characteristic substandard intelligence, and the factor of faulty leadership and lax unit discipline. In this category, were relatively few soldiers from the rifle companies. In the motor vehicles cases, there was also the element of faulty leadership and the fact that the accused was usually the assigned driver for the vehicle concerned.

11. Ordinary Crimes. The various forms of assault in violation of Article of War 93 led the list.[5] Following this were the associated offenses of larceny,[6] looting[7] and black market activities.[8] Then, in order, came rape,[9] murder,[10] sodomy and manslaughter.[11] A great number of the offenses which could have been listed in the

---

1. See par 5, Study, The General Board, USFET, "Military Justice Administration in the Theater of Operations."
2. See par 6, ibid.
3. See par 11, ibid.
4. See par 8, ibid.
5. See par 23, ibid.
6. See par 21, ibid.
7. See par 21a, ibid.
8. See par 22, ibid.
9. See par 18, ibid.
10. See par 19, ibid.
11. See par 20, ibid.

categories above or as military offenses were tried by some specification under Article of War 96. For instance, the crime of indecent assault was charged under the 96th Article of War. As confinement installations merely list offenses by Articles of War, the incidence of this offense would not be reflected by statistics.

a. The assault cases nearly all include intoxication in one form or another. Many included the use of souvenir or issued weapons. Some involved hate toward enemy civilians. The looting cases were not great in number and generally arose in the confusion of the combat situation.

b. Black market activities were concentrated in the large populated centers. Many black market offenders were guilty of other offenses, such as desertion or absence without leave. Black markets tempted soldiers to desert and sometimes afforded subsistance.

c. Rape became a large problem in the European Theater of Operations with the Continental invasion. Records at the office of the Theater Judge Advocate show a large increase in rape during August and September of 1944, when the Army broke into Continental France and in March and April of 1945, with the large scale invasion of Germany. Murder increased gradually after the breakthrough in August of 1944, with some acceleration in January and February of 1945, and a sudden large increase in April and May, as so much of Germany was occupied. Manslaughter frequently involved use of foreign weapons retained by soldiers as souvenirs, and more or less, intoxication.

CHAPTER 3

CAUSES FOR OFFENSES

13. Intoxication was the largest contributing factor to crime in the European Theater of Operations. The judge advocates who responded to the questionnaire are of this opinion. Among garrison prisoners in Oise Intermediate Section Guardhouse, Metz, France, it was reported that 60 to 70 per cent of the crimes for which the prisoners were incarcerated involved intoxication. At the disciplinary training centers, officers' estimates of intoxication as a factor in crime varied from 30 to 60 per cent. It is a particularly frequent aspect of crimes of violence and involving the sex motive. Intoxication is a difficult element to isolate from other factors, as the direct or only a contributing cause in the offense. Thus, the fact that the soldier was armed needlessly or with a strange weapon, or that he was absent without leave, or that he had been subjected to poor leadership may have combined with intoxication and resulted in an offense against military law.

a. Quantities of intoxicating liquor were captured and distributed within troop units. In days of thirst, strange beverages were available among the peasants through whose land the troops were moving. Some of them, as raw calvados in Normandy and new schnapps in the Saar Basin, were upwards of 140 proof. Such liquor was successfully used by the troops as fluid for cigarette lighters. Normans were always ready to provide the troops with calvados but unable, because of language difficulties, to explain the necessity for moderation. The average Norman drinks one-half ounce or less of calvados, in a tiny glass, as liqueur. The soldier, not being acquainted with the liquor, consumed an amount which he considered appropriate from his acquaintance with whiskey. Intoxication was not a big problem so long as the soldier had convenient access only to English beer and ale and the diluted "Scotch" of the United Kingdom. Even the wine of France and Germany was several times stronger than the "mild and bitter" of England. The change to the calvados of Normandy was too much and too sudden for many soldiers.

b. Lack of recreational opportunity during combat, the strangeness of the country, and the common emotional stress, all moved the soldier to seek comfort from the bottle. Under mental strain such as prevailed in combat, a soldier becomes intoxicated more readily than when such stress is not present.

13. Combat fatigue was an element in from 20 to 30 per cent of desertion and AWOL cases from ground combat units. Most cases of desertion or absence without leave during combat came from infantry units.[1] Under the tactical situation which prevailed during the fall and winter months of the campaign, it was impossible to keep infantry units out of the line for any appreciable time; hence there was little opportunity for relief of the riflemen. Where the situation permitted withdrawal of units for rest and recreation, combat fatigue was no serious problem. Where the psychiatric and medical service was intelligent and adequate, the problem was reduced. Often, however, the battalion aid station was harrassed by casualties. Some of its

---

1. There was only one conviction of an alleged air force offender against AW 58 to avoid hazardous duty. GCMO 83, Urban, 1st Bombardment Division, Eighth Air Force.

reduced personnel were themselves victims of fatigue. The tired soldier would be given a pill and sent back to the line.

a. Handicap to medical diagnosis and treatment was the length of time between the beginning of the difficulty and its diagnosis. After the soldier cracked, it was often several days before psychiatric examination was made. At that time, the diagnosis was frequently "No significant psychiatric disorder" or "Psychoneurosis, anxiety state, mild." Such a diagnosis usually presented no legal defense and often was dismissed as a basis for evacuation. The fact that by the time psychiatric examination took place, most of the outward symptoms of psychoneurosis of this type were missing, limited the psychiatrist to an examination of the subjective symptoms. The margin of error in such an examination is bound to be large. The fear of malingerers is bound to present at least a mental hazard to the psychiatrist. It is accepted among psychiatrists that when the mental anxiety is too strong for the soldier to overcome, and his belief in the threat to his personal security unconquereable, the only answer is a transfer to non-combat duty. The discovery of this situation presents the principal difficulty. It is hard to discriminate between the actual psychoneurotic, or true combat fatigue victim, and the malingerer who only seeks to avoid the hazards of combat.[2]

14. Faulty Leadership. A considerable percentage of offenses is directly attributable to faulty unit leadership. Most of these were disobedience, disrespect and insubordination; but absence without leave and the unauthorized use of vehicles often resulted from this cause.

a. The most common evidence of faulty unit leadership was presented in disobedience cases, when junior officers had attempted to cope individually with intoxicated soldiers. The Assistant Judge Advocate General said that his office had been receiving too many records of trial involving charges laid under Article of War 64 for willful disobedience of orders committed while the accused was obviously drunk. Common sense and long standing custom of the service alike decry the giving of direct orders by officers to soldiers who are drunk.[3] The failure to utilize non-commissioned officers in such a situation resulted in charges under Articles of War 63 and 64. When an inexperienced junior officer undertook personally and manually to enforce discipline he often found himself in a public disorder whereby a minor incident became a serious offense.

b. Intolerance and impatience sometimes characterized a junior officer's treatment of his men. Tactlessness creates resentment and consequent insubordination. On the other hand, faulty leadership was often manifested by undue familiarity on the part of junior officers, having the effect to encourage neglect of military courtesy and breach of discipline.

c. In offenses involving motor vehicles, there was lack of strict control over the vehicles in the organization, which led to a disrespect for authority. Many soldiers were led to believe that a vehicle was assigned to them. It was an easy step, then, to personalize the use of the transportation. Improper use of unit transportation by unit officers encouraged similar violation by enlisted men.

d. Many cases under AW 86 resulted from laxity of discipline. A great percentage of neglect of sentinel duty was attributable

---

2. See Sec 9, WD Cir 298, 29 Sep 45.
3. ETO Military Justice Cir No 3, 2 Jul 45.

to the lack of formality with which the guard system was maintained. Absence of formal posting of sentries or of guard mount led to the detail of soldiers for guard duty without regard to their capability, mental or physical, to perform the task. Often, soldiers were detailed to this duty who were of the lowest mental group in the organization, or were intoxicated in more or less degree. Sometimes guard rosters were kept so haphazardly that soldiers received an unfair proportion of this onerous task. Instances occurred where soldiers were posted for excessive periods. Most violations of Article of War 86 did not occur in units committed to combat. Obviously, the average accused soldier had not believed his sentry duty to involve security from the enemy.

e. Some troop commanders would absent themselves from their troops for long periods of time and at frequent intervals. This tended to demoralize the men who were entitled to look to the absent commander for leadership.

15. Discrimination and Regimentation. This provoked breach of discipline, sometimes actual crime. The American civilian soldier had been accustomed to a great degree of freedom. He did not bear military discipline easily. Arbitrary privation, disproportionate fatigue, failure of officers to share hardship, had their consequence of insubordination or other misconduct. Soldiers considered themselves victims of discrimination because some type of unit had a better lot than theirs; because their officers had more privileges and better living conditions than their own; because of restrictions that seemed arbitrary, such as "off limits" designation and refusal of passes. Sometimes, officers were housed in luxury while enlisted men lived in discomfort, even squalor. Entire organizations were subjected to indiscriminate, arbitrary restriction. In one instance, offenses in an organization increased 100 per cent during a period of restriction. The intelligent soldier, feeling himself a victim of injustice, would seek transfer, or complain through channels. However, the soldier of marginal intelligence, quick temper, or weak character, would become a disciplinary casualty. In garrison guardhouses especially, many soldiers claim they did not get a "square deal." A majority of these are seeking to justify their misconduct, but a substantial number came from organizations where the factors described existed and contributed to their misbehavior.

16. Lack of Recreational Facilities. Soldiers quartered in larger communities or in rear areas had normal recreational opportunities. This was true, particularly of the air forces, generally of the service forces. But great numbers of the ground forces and some of the service forces were stationed in isolated areas and lived in primitive circumstances. During the early part of the campaign this presented no serious problem. The moving tactical situation, the novelty of the country and the hope of sudden victory, kept the soldier intrigued with his part in the war. As the campaign lengthened, however, and discomforts grew, many soldiers were bored. During the winter months, lack of recreational facilities in so many units caused absence without leave and contributed to other offenses. The shortage of manpower and the unexpected prolonging of the campaign prevented the relief of combat units for any length of time or recreational passes in any great number. The psychiatrist at Loire Disciplinary Training Center stated that some of his prisoners had had no passes or leaves and almost no recreation for six to eight months, and that this was a large contributing factor in absence without leave. An infantry soldier confined in the Cise Intermediate Section Guardhouse, Metz, had been in combat six months, then convicted or absence without leave. When asked the reason for his absence, he

stated: "Well, sir, it was a girl and a good time. I had been up front for six months, had been wounded, and that was the first relaxation I had seen in quite a while. In fact, I had not been out on pass for nine months. When I got back I reported to the depot from the hospital and then I was on shipment to go back to the front, so I decided more or less to take a pass." Absence without leave, especially, increased when an organization remained long in one locality when there was not much recreational opportunity.

17. Civilian Influence. There was financial and social temptation to offense in the European Theater.

a. The black market cases[4] had their origin in seduction of troops by civilians, eager to pay fantastic prices for apparently insignificant bits of army supply. Civil authorities were complacent toward the popular demand. Sometimes the material involved was stuff which the soldier when he first landed on the Continent would have given away if he had been asked for it. It was an easy step from the giving to the selling of such supplies.

b. Many AWOLS began with visits to civilian familites, generally for sex gratification. The hospitable readiness of the French woman to receive the soldier, feed him, and protect him from apprehension, was certainly a factor in protracting, if not initiating, periods of absence.[5] Moreover, there were opportunities for social entertainment in Paris, Brussels, and other large cities that induced absence without leave.

c. Many soldiers assumed loose morels of all European women. This false idea contributed to the prevelence of rape cases in Germany. The German women in such cases were usually too terrified of the armed invader to offer much physical resistance, and their apprent compliance toward the soldier's desire confirmed his contempt for the morality of Europe.

18. The Replacement. A large percentage of the soldiers absent without leave came from replacement centers. In the average replacement depot[6] there was poor food, no recreation, restricted passes. The absence of personal supervision caused the replacement to consider himself only a number on a list. He knew nobody and nobody knew him. He did not have the comradeship or inspiration of unit pride. Many replacements were combat soldiers returning from hospitals. There were those also who were returning from garrison confinement or the disciplinary training centers. The majority were fresh from

---

4. See par 22, Study, The General Board, USFET, "Military Justice Administration in the Theater of Operations."
5. A prisoner at the Oise Intermediate Section Guardhouse, Metz, was absent without leave from January to April, 1945. He was in an infantry organization and had been returned from a hospital to a replacement depot. He stated that he went to town "got drunk, shacked up that night, and just kept on going like that. I did not realize that I had gone AWOL, but then after I did realize it, I thought I would see how long I could do it. I met a lot of the boys and all that stuff. I wasn't too anxious to get back." He and another soldier were living in Epernay, France, with a French family. The soldiers had money and the French family were feeding them well. They were both enjoying sexual relations with women of the family.
6. The Replacement System was renamed Reinforcement System in December, 1944 (GO 132, Hq ETOUSA, 29 Dec 44).

the Zone of Interior, often recently inducted or re-assigned from some other branch to fill the ranks of the depleted infantry. Some had been sent from the Zone of Interior under guard or under suspended or remitted sentence. These had been chronic petty offenders or shipjumpers in the Zone of Interior.

a. The cadre personnel supplied replacement depots was usually inadequate and frequently such as had been found unsuitable to other assignments.

b. For one reason or another, many replacements remained for months in the depots. This was demoralizing. The veterans who were returning to their organizations often "took off on their own," after waiting weeks for transportation. Many of the restored offenders, who might have been able to make a new start had they been quickly reassigned, were unable to withstand the prolonged boredom of delay and the discomforts incident to the replacement system. The fresh recruit, without benefit of comradeship or leadership, was an easy mark for the temptations of Paris, Brussels, or Rheims, with their opportunities for entertainment and black market profits. The Clemency Officer, Loire Disciplinary Training Center, stated that about 25 per cent of the AWOL cases in his installation came directly from replacement depots.

19. Arms and Trophy Weapons. Incidents became serious crimes because the soldier involved was armed. Particularly in the early part of the campaign, many such cases occurred in rear areas. When soldiers in rear areas were disarmed after the summer campaign, frequency of serious crimes declined sharply.

a. Many offenses involved use of souvenir weapons acquired by the troops during the campaign. Soldiers were unfamiliar with these weapons and often so careless in handling them as to occasion accidental injury or death.

20. The Induced Urge to Hate the Enemy. The urge to hate the enemy was part of combat training and orientation. Staff judge advocates were almost unanimous in the opinion that this was not a major factor in crime. It is stated, however, that such feeling was often used as an excuse for misconduct. Nevertheless, it is agreed that the attitude of the unintelligent American soldier toward foreign civilians, particularly enemy civilians, often contributed to offenses. Many American soldiers felt superior to all foreigners. This attitude, when accentuated by the urge to be ruthless toward the enemy, led the unthinking soldier into misbehavior.

21. Domestic troubles sometimes contributed to the creation of the military offender. The psychiatrist at Loire Disciplinary Training Center stated that about ten per cent of the soldiers confined there gave a history of trouble at home. Upon receipt of disheartening family news, the soldier would begin to brood, often drinking to excess. In such a situation he was more liable than before to the direct causes for offense.

22. Improper Assignment. A soldier unsuited to his tasks by nature or training, or whose capacities are not properly utilized, is dissatisfied, often resentful. Moreover, assignment in the European Theater sometimes placed a soldier in the way of temptation he was not equipped to resist. Negroes of poor intelligence were used as truck drivers on long, unsupervised runs. It was not infrequent on a long movement from Brittany to Lorraine to find single trucks manned by one or two negroes in nearly every village or community along the route. Assignment of such personnel to duty in which sense of

responsibility and strength of character must govern their conduct was unwise. Many offenses resulted, particularly in France.

33. Sex and Prostitution. Soldiers in a foreign land, particularly those subjected to the danger of combat, turn to sex expression as a means of escape or recreation. Nearly all the other armies in the world recognize this urge on the part of their soldiers and attempt to control the channels through which it is expressed. The American attitude is that houses of prostitution should not be opened to soldiers.

a. When the German Army occupied a city in France it would organize the cleaner, better equipped houses of prostitution as military establishments. Medical facilities with prophylactic stations would be placed either in or near the houses. Soldiers who entered the establishments would be required to sign before they departed, indicating the name of the girl with whom they had done business, and would be compelled to receive prophylactic protection. This procedure for detecting infected women was coupled with medical inspection of the prostitute. The French Army adopted a similar system in foreign countries; and, in its own country, provided regulated houses of prostitution for its colonial troops. Prostitutes were controlled through military and civilian authorities. Every attempt was made to insure that soldiers would not become infected.

b. The American policy was to make the houses of prostitution unavailable to the soldier, regardless of the efficiency, cleanliness, or controlled condition of the establishment. All such places were placed off-limits. Often military police were stationed at the doors. The benefits of this attempt to control the morals of the American soldier are questionable. It resulted in a donation of the American soldier to the street walker, the "honky-tonk" and the "flop-house." The soldier who sought recreation with a woman in the "off-limits" town usually drank too much, and betook himself to the most crime ridden section of the community. There he often was the victim of foot pads, chiselers and infected whores. In those places, he became acquainted with the local gangsters and was introduced to the black market operators. He was tempted to vice and crime. The high venereal rate among American soldiers makes it doubtful that any tangible, physical benefits resulted from this policy. It is very well to say that he should not seek such vicarious entertainment--that he should spend his time at the Red Cross, at the movie house or the concert; the fact is that he does not always do so.

CHAPTER 4

CONTROL AND PREVENTION

24. The problems of the selective service system in meeting quotas and satisfying local prejudice are recognized and understood. The difficulty in detecting the potentialities of men who passed so hurriedly through induction is appreciated. But it should have been recognized that the army was not a hospital for chronic alcoholics or reformatory for criminals. Actually, good conduct is more difficult for these people, and for mental deficients, in an active theater of operations than in civil life. Of course, there is great pressure on a selective service board to take the bad with the good. This is particularly true in those communities where a large percentage of the population is negro. If selective service boards and induction centers should maintain a high standard of intelligence for the army, the local citizenry would feel that their community was being depleted of is best population, while those of lower intelligence escape military service. The idea that military service is a sacrifice to be required of all of apparently able bodies, without reference to qualities of mind and spirit, was responsible for induction of many undesirables who became disciplinary problems.

25. At Embarkation. Some policies which prevailed at ports of embarkation have been the subject of considerable discussion and criticism by the judge advocates who have served in the European Theater. In several of the East Coast processing centers, it was apparently the policy to send chronic petty offenders and "ship-jumpers" overseas as punishment "in order that they will not avoid combat." Great numbers of such personnel were sent over as replacements or were poured into units which were short of strength when they reached the ports of embarkation. One staff judge advocate who served with an East Coast command stated that in one year, 2,300 such soldiers were sent through that command overseas. The military confinement agencies here are still filled with personnel who came over "under the gun." One officer who was associated with seven to eight hundred court-martial cases in replacement installations stated that 75 per cent of the personnel tried were sent overseas under guard or under suspended or remitted sentences, although the total of such personnel in the replacement centers was a small part of the thousands who were processed. Authorities at the Delta Disciplinary Training Center estimated that 40 to 50 per cent of all those who came overseas in such circumstances became court-martial problems. On the morning this installation was visited, five of the 15 prisoners interviewed by the psychiatrist were offenders when they entered the European Theater. Actually, shipment to Europe was for many offenders no punishment and no sacrifice at all. In a great many cases, such soldiers lived better, received more net pay, and enjoyed more privileges than in the United States. The added temptations in the European Theater were inducements to further misbehavior. It is impossible to know the extent that this policy deterred soldiers about to embark from committing minor violations for the purpose of avoiding overseas service. The over-all results of the policy cannot, therefore, be evaluated.

a. There are some differences of opinion. Some staff judge advocates believe the policy was good. One division staff judge advocate stated that he believed the chronic offenders became better soldiers under fire. Another stated that the policy in general was good; but he believed that such personnel should be carefully screened before assignment to the European Theater, and subjected

to another selective process before assignment to combat units. Another suggested that they should be grouped into special labor battalions for hazardous duty there to perfect their rehabilitation. Another suggested that they should all be sent to rifle companies, but scattered thinly enough to avoid being a problem. Another, who served a considerable time in the Iceland Command, stated that he did not believe they should be sent overseas except in special units under specially trained officers. He suggested that the service of such special units in isolated areas, as Iceland, would be advantageous, because they would have capable leaders, escape the temptations of the European Theater, and avoid the stress of combat. Such a plan would not be without precedent, as it is understood that conscientious objectors were utilized in this way.

b. There is apparently a great difference of opinion between those who believe that chronic offenders should not be permitted to escape the risks of battle and those who give more concern to the effect of such soldiers upon the morale and efficiency of the units to which they are assigned. One compromise suggestion is that such soldiers should not be sent overseas as replacements, but infiltrated into units at ports of embarkation in small enough numbers so that no one unit would have an exceptionally large load. In this way, the burden to any one unit would be minimized, yet the chronic offender would have the benefit of the unit esprit and and opportunity to become acquainted with his comrades before combat.

36. Administrative Discharge. The procedure for the administrative discharge of unfit personnel, commonly known as "Section VIII," was subdivided on 20 July 1944 into Army Regulations 615-368, for "bad habits and traits of misconduct," and Army Regulations 615-369 for "ineptness, non-adaptability or unexplained enuresis." This procedure was widely used in the Zone of Interior. However, in the European Theater of Operations, the practice was curtailed. In some organizations, particularly the ground forces, it was actually unavailable. Criticism of administrative discharges was based on the fear that malingerers, troublemakers, drunkards or guardhouse residents might seek to take advantage of it. Some commanders were reluctant to use this procedure because of the shortage of manpower and the fear of being unable to secure replacements. The replacement might be himself a person suffering from the same disability. Another factor which militated against the use of administrative discharge in the European Theater was the fear that the soldier so discharged even though given the blue discharge "without honor," might receive the same benefits under veteran's legislation as the soldier who performed honorably. Underlying this reluctance to use administrative discharges appeared to be this policy, "Don't let him out--make him serve like anyone else."

a. Most of the staff judge advocates, prison officers and psychiatrists believe that there was great need for the Section VIII process in the European Theater. Many of the mental deficients were not discovered or not eliminated in the Zone of Interior. They could never be useful soldiers. Unless administratively discharged, they were bound to become military offenders and an undue burden upon those endeavoring successfully to discharge the primary military mission in a theater of operations. Had the administrative discharge procedure been used, a great number of such personnel would have been eliminated before they became court-martial accused. Such personnel are not suitable to treatment by rehabilitation agencies.

b. Too often recommendations for general court-martial are indicative of a commander's desire to rid his unit of undesirable personnel. Nearly all judge advocates interviewed had experienced this misuse of the court-martial system.

37. Orientation and Indoctrination. The soldiers who read the material made available and attended the orientation lectures were informed as to the basic reasons for which we fought. They were made acquainted with the geography of the country being entered and taught something of its history.

a. The orientation program included propaganda of hatred towards the Germans. This made it easy for the soldier to justify looting, assault, burglary, robbery and even rape. The theory was that the fighting soldier must hate the enemy. The theory is open to question. Its application complicated the problems of military justice.

b. Orientation did not include a realistic explanation of the potency of calvados and schnapps, nor a matter of fact explanation of the morals peculiar to the country whose geography and history were being explained.

PART TWO

PUNISHMENT AND REHABILITATION

CHAPTER 1

PUNISHMENT

SECTION 1

GENERAL POLICIES

28. "Confinement Should be Avoided." The established policy in the European Theater of Operations was that offenders should be confined only when apparently necessary. Confinement not only immobilized the confined soldier but also those required to guard him. Commanders were directed to suspend confinement in all except extreme cases.[1] Limited facilities were made available for confinement of prisoners. The policy against confinement applied not only to soldiers under sentence but to soldiers awaiting trial. In most jurisdictions, responsibility for the accused soldier rested on his unit commander without facilities for confinement or physical restraint.

29. "Offenders should not escape combat." There was also a policy that offenders should not be permitted to avoid combat. This may have been the basis for the policy under which offenders were sent to the European Theater from the Zone of Interior under suspended or limited sentences, often under guard. Defenders of this policy argue that it dissuaded soldiers from commission of petty offenses to avoid combat service in an active theater.

30. "Policy as to First Offenders." It is said in the Manual for Courts-Martial that a soldier, "if tried at all, should be tried by the lowest court that has power to adjudge an appropriate and adequate punishment."[2] This had led to imposition of the lightest possible punishment on first offenders whose offenses are not so serious as to require general court-martial. Accordingly, the great majority of offenders received company punishment, or a small fine without confinement, for their first military offenses.

31. "Punishment as a Deterrent." Some commanders exercising court-martial jurisdiction believed the primary purpose of punishment was to deter others who might contemplate similar offenses. Most, however, weighed both the necessity for proper punishment for the individual and the exemplary effect of such punishment as a deterrent to others. A few confused these two functions of punishment with the responsibility of the Theater Commander to effect rehabilitation in proper cases.[3]

---

1. Sec II, par 7b, Cir 72, ETOUSA, 9 Sep 43.
2. Par 34, p 23, MCM, 1928.
3. 1st Ind, file AG 250.472 MPGA, Hq ETOUSA, 20 Apr 45. See Appendix 6.

SECTION 2

PUNISHMENT SHORT OF COURT-MARTIAL

32. Quasi-Punishments. In addition to the forms of punishment recognized by the military justice system, there were several other devices which were used to maintain discipline in the various organizations. Some of these devices had the effect of punishment and were often used to deter misconduct.

a. The first of these was the power of transfer. In many organizations, particularly in the rear areas, it was known that if a soldier was guilty of one or more offenses, he would become an infantry replacement. Particularly during the winter campaign, this device was used for disciplinary purposes. The power of reassignment within the organization had its disciplinary effect. In nearly every organization, there were arduous duties, distasteful to the average soldier. They entailed extra hours, uncomfortable situations and unpleasant tasks. Threat of reassignment in these circumstances was a powerful instrument for the maintenance of disciplinary control.

b. The device of transfer and reassignment mentioned above was as applicable to officers as well as enlisted men. In connection with quasi-punishments, mention must be made of reclassification in the case of officers. Although the Army Regulations provide that this procedure is not to be used as a disciplinary measure, it was so applied in the European Theater. Many times, commanding officers displeased with an officer's conduct directed that reclassification be instituted. Sometimes punishment under Article of War 104 accompanied reclassification. However, in some cases where the officer was of field grade, punishment under Article of War 104 was considered useless, and reclassification proceedings instituted without disciplinary action. It is considered unfortunate that reclassification was permitted to acquire a disciplinary aspect. Able officers guilty of no misconduct, but simply misplaced, incurred the odium that had become associated with the reclassification procedure. Reclassification was sometimes recommended simply to effect a change in personnel desired by a commander. Such misuse of reclassification deterred other commanders from using it when it would have been appropriate, to avoid blemish upon a good record.

SECTION 3

PUNISHMENT BY INFERIOR COURTS-MARTIAL

33. Sentences.

a. Because of the policy on confinement, the majority of sentences by inferior courts entailed forfeiture with no confinement executed. It was not infrequent for one soldier to have two or three sentences of forfeiture in operation at the same time.

b. The effectiveness of forfeiture as a means of punishment by inferior court-martial has been criticized. Despite its effect on the expenditures of the soldier, it is said to have had little effect upon his personal life. This may not have been true in organizations like the service or air forces, where the soldier was in a position to spend his money and enjoy it. However, even in such

cases it is believed that the severe restriction of income influenced the participation of some soldiers in such illicit enterprises as the black market. In field units where soldiers were not able to spend their money, forfeiture of pay made no difference in the personal life of the soldier under sentence.

c. In addition to the ineffectiveness of forfeiture as a punishment, there is the question of the effect upon the organization, when the soldier who has been tried by court-martial remains in the organization apparently unaffected by his sentence. The knowledge that inferior courts were only able to impose forfeiture has been suggested as weakening the deterrent effect of the inferior court system as an instrument of justice.

d. Restriction was effective punishment where recreational opportunities were available to the other men of the accused's organization. In isolated situations, however, restriction made little change in the soldier's privileges.

e. Hard labor without confinement was contrary to policy in some commands, generally throughout the ground forces. In any circumstances, it was difficult for a committed unit, or a unit whose mission required the utilization of its personnel, to supply sufficient supervisory personnel to enforce a program of extra duty.

SECTION 4

PUNISHMENT BY GENERAL COURTS-MARTIAL

34. Sentences in General. Sentences of enlisted men to more than six months' confinement included dishonorable discharge and total forfeitures. The years of confinement adjudged ran as high as 75. Sentences from 15 to 30 years were not uncommon. It was standard practice in some commands to impose the maximum prison sentence established by the Table of Maximum Punishments. Longest periods of confinement were adjudged in the divisions. Corps and armies and many service force units were close behind. In the air forces, the confinement periods adjudged were generally less than in the others. The longest periods of confinement for military offenses were adjudged in cases of desertion, disobedience and misbehavior before the enemy, for which the death penalty is permitted. In many of these cases, the sentences included life imprisonment or death. Offenses of a sentinel under Article of War 86 usually resulted in sentences lower than the other capital offenses, but these were often in excess of ten years. It is said that the principal reason for the severity of the sentences was the universal belief on the part of commanders exercising general court-martial jurisdiction that harsh punishment was necessary to enforce discipline. This is another expression of the policy that the deterrent effect of punishment is its most important aspect. With this theory in mind, many commanders encouraged their courts to use the Table of Maximum Punishments as a model. Generally, the periods of confinement adjudged by general courts-martial in the European Theater of Operations during the period of hostilities were much greater than those imposed in the continental United States, either by military courts or by civilian courts for similar offenses.

a. Two grounds of reasonable argument have been offered for these extraordinary sentences: first, their supposed deterrent effect; secondly, that the military offender in time of war finds

his prison a haven of refuge from the hazards of duty.[4]

b. Effectiveness of punishment as a social deterrent is a debatable question of penalogy. When the penalty, as so often in the European Theater, becomes grossly disproportionate to the offense, reasonable men will assume its ultimate commutation. Hence, the deterrent effect, if any is actually incident to harsh punishment, is neutralized.

c. If military service is merely an obligation, not also a privilege, it does indeed seem unjust that "slackers" should escape by the expedient of crime or breach of duty. The Germans adopted an extraordinary device to punish civilians of military age for both their crimes and the consequent evasion of military service. Such offenders were sentenced to terms that should begin at the end of the war. That is, prison terms in such cases were for the "duration" plus the appropriate term of years. This measure appears to deserve consideration of Congress and the State legislatures, for possible application to cases of serious crimes and military offenses in time of war.

35. Uniformity of Sentences. Although the plicy letter of the War Department dated 5 March 1943, subject: "Uniformity of Sentences" was regarded in a few jurisdictions, it was not mandatory that it be observed in overseas theaters. Occasional policy letters, usually regarding the sentence in a single case, were sent to unit commanders. However, there was no directive published in the European Theater of Operations which could serve as a guide to the attainment of uniformity. The Table of Maximum Punishments, together with prior sentences in the same jurisdiction, were the only guides available to courts in the assessment of punishment. There were many general court-martial jurisdictions in the European Theater of Operations. The view of each commander differed from the views of his colleagues. In some of those jurisdictions, the influence of the staff judge advocate was potent. In others, he was merely instructed what to do. In some, the commander gave his courts considerable freedom in assessing punishment; whereas in other commands the courts knew, by one reason or another, the desires of the commander regarding punishment.[5] Consequently, there were many instances of considerable discrepancy in the sentences imposed and approved in the different commands.

36. Effect of the Disciplinary Training Center System. Many of the long sentences may be attributed to the belief of most court personnel and many commanders that the disciplinary training center system would operate to free the accused, regardless of his sentence, within a matter of months. Knowledge of this opportunity for rehabilitation made it easier for courts to assess long sentences of confinement. Commanders would approve sentences upon the reasoning, "Oh, well, he won't serve it anyway."

a. Opportunity for rehabilitation. The disciplinary training center system was known to the troops. Accordingly, many soldiers were disposed to discount the sentence of confinement adjudged by the court. Many accused arrive at the disciplinary training center with the firm belief, that, as a matter of right, they would be restored to duty within six to nine months. In several

---

4. Cf, 1st Ind, Hq ETOUSA, file AG 250.472 MPGA, 20 Apr 45.
5. See par 55, Study, The General Board, USFET, "Military Justice Administration in the Theater of Operations."

commands, an accused who was not ordered confined in a disciplinary training center expressed surprise that he was not entitled as a matter of regulation to this opportunity for restoration.

b. It is interesting to speculate what might have been the effect on sentences had court and reviewing authority personnel known that the rate of restoration was less than 50 per cent of those confined in the disciplinary training centers.[6]

37. Death Sentences. Many sentences of death were adjudged in the European Theater of Operations. Most of these involved the crimes of murder and rape and the military offenses of desertion and misbehavior. A relatively small number of the sentences were executed. Most of these were for the offenses of murder and rape, only one being executed for desertion.[7] Delay between adjudication of the sentence and its execution varied from two months to as high as six or eight months.

a. Effort has been made to determine the opinion of judge advocates and commanders as to the effectiveness of the death sentence. The majority of judge advocates stated that the death sentence, even though executed, created little deterrent effect in their commands. Some expressed the belief that if such sentences were executed in the presence of the command or were given more publicity, some deterrent effect would have resulted. Others have indicated that in their opinion the time between sentence and execution was too long for the deterrent effect to be produced. A few judge advocates were of the opinion that the mere imposition of the sentence of death, even though not subsequently executed, had a beneficial deterrent effect upon the command. One such judge advocate stated his belief the imposition of the death sentence in several cases of desertion in his division directly resulted in a reduction of such offenses. The survey of officers exercising general court-martial jurisdiction conducted by the Theater Commander produced an almost even split of opinion on the same questions.[8] This survey disclosed that commanders of divisions were less ready to recognize the deterrent effect of such punishment than commanders of higher echelons in the ground forces, and that service and air force commanders were similarly reluctant.

b. All judge advocates stated that they believed the death sentence to be justified in cases of murder and brutal rape. Some included misbehavior before the enemy and desertion to avoid hazardous duty as offenses for which the death sentence was appropriate. However, all officers interviewed believed that the limitation of punishment under Article of War 92 to life imprisonment and death in the case of rape was an improper restriction upon courts. The reluctance of a court-martial to convict an American soldier for the rape of a foreign woman which was unaccompanied by brutality and violence is said to be the direct result of the inability to impose moderate punishment. Most judge advocates believed the death sentence justified as a means of eliminating from society the worst class of offenders but that such punishment was of dubious value as a deterrent.

---

6. See Appendix 6.
7. See Appendix 2.
8. See pars 18 and 19, Study, The General Board, USFET, "Military Justice Administration in the Theater of Operations."

CHAPTER 2

CONFINEMENT AND REHABILITATION

SECTION 5

CONFINEMENT

38. Garrison Prisoners. The only facilities for confinement of garrison prisoners were afforded by the organization itself or by the Communications Zone section guardhouses which were in operation in the United Kingdom and on the Continent. The base section guardhouses would not accept garrison prisoners unless they were sentenced to four months or more. For the most part, then, the confinement of garrison prisoners was a unit responsibility. Units smaller than a division usually did not have facilities or personnel to maintain a stockade of their own. If there was such a stockade, it had no training or rehabilitation program. The base section guardhouses were well operated. Life in a base section guardhouse in the European Theater of Operations was not easy. Prisoners interviewed in such installations said that combat service was preferable to life in the guardhouse.

39. General Prisoners. Most general prisoners convicted of ordinary crimes were returned to the United States for confinement in a penitentiary or disciplinary barracks; but this was not always the procedure in cases of assault, larceny, looting, and other relatively minor violations of Article of War 93. The majority of soldiers guilty of military offenses were sent to disciplinary training centers for confinement. Officers sentenced to periods of confinement were returned through the disciplinary training centers to the United States.

SECTION 6

REHABILITATION

40. Garrison Guardhouses. In the base section guardhouses, prisoners received a vigorous program of close order drill, obstacle courses, military courtesy and discipline. A sort of merit system was part of a clemency and rehabilitation program. Prisoners were divided according to their conduct. At the top was an honor company. Usually, prisoners had to make their way up to the honor company before they could be considered for clemency.

a. Inasmuch as garrison confinement is limited to six months (even less for good behavior) clemency had to be exercised early in the confinement period in order to afford the prisoner any substantial relief. Accordingly, most guardhouses began an examination of their prisoners with a view to clemency after a 30-day period had been served, if the prisoner in that time had achieved honor company status. The average guardhouse organization included a clemency committee composed of the commanding officer, the prison officer, and the medical officer. This committee considered a soldier's deportment while in the stockade, the type and circumstances of his offense, his civilian background and his history as a soldier. Since it is believed by most prison officers that even the worst offender can maintain good guardhouse manners for a few months, clemency boards in guardhouses were not too ready to recommend early restoration. If there was doubt that a soldier would

make a successful restoree, he was not released prior to the expiration of his sentence.

b. The clemency and rehabilitation program in many guardhouses has been restricted and hampered by several factors. In the early part of the campaign, the guardhouses were inadequately manned, insufficiently equipped, and in some instances, overstocked with prisoners. In such circumstances, it was impossible to conduct a rigorous training program and difficult to execute a personalized clemency program. The guardhouses were not afforded psychiatric service. Often, the medical officer who served them was simply on temporary duty from another organization for a short period.

41. Disciplinary Training Centers. The disciplinary training centers try to weed out the hopeless prisoners and concentrate upon restoration of the others. The following procedure is typical.

a. When prisoners report to the disciplinary training center, they are interviewed by the psychiatrist. A file of each case is begun. Chronic alcoholics, drug-addicts, habitual criminals, and personnel considered liable to administrative discharge, are marked for evacuation to the United States.

b. The prisoners remaining are placed in appropriate cages of the stockade. Some segregation is attempted, depending upon the facilities available. Sex and habitual criminals are placed in cages separate from the other prisoners. Usually, however, not much more segregation than this can be practiced.

c. The training program is similar to that in base section guardhouses. This program varies with facilities and personnel. As described in one center, it included "such things as military courtesy, customs of the service, guard duty, close order drill, physical drill, manual of arms, map reading, the use of the compass, care and cleaning of the limited amount of equipment which the prisoner has, some road marches, and an indoctrination and education program." The physical program is strenuous. The prisoner's life is without comforts. Normally, he occupies with another prisoner a shelter tent on the bare ground. His drill and exercise program takes place daily from dawn to darkness in all types of weather. He is restricted in the amount of cigarettes and other post exchange supplies he receives, and the number of letters he may write. He never has any privacy. He is required to be constantly alert in matters of discipline and courtesy.

d. A plan like the honor company system of guardhouses is used. Among the prisoners who reach the honor company are those who have shown leadership ability. These are used as temporary prison noncommissioned officers. They receive minor privileges and are given some of the training responsibility. Those who reach the honor company usually receive a few more cigarettes and other supplies and have better living conditions. The policy is to treat the prisoner as a soldier and encourage him to achieve restoration.

e. After 90 days, if the soldier has made the honor company, he may be considered for clemency. Every prisoner must have consideration after not more than six months' confinement. The disciplinary training center board of review comprises a clemency officer, the prison officer and the psychiatrist.[1] If this board recommends

---

1. This manner of processing at Loire Disciplinary Center is shown by Appendix 7.

restoration, and the commanding officer of the center concurs, the recommendation goes to the Confinement and Rehabilitation Division in the Office of the Theater Provost Marshal. The personnel of this Division have had experience in prison management. It is only after approval by this office that restoration may be achieved.

f. It is not easy for a soldier to achieve rehabilitation. The rate of restoration is less than the rate of evacuation to the United States. The care that is devoted to studying a soldier before restoration and the rigor of the training program are reflected in the small number of repeaters among those restored to duty. This was varied from 3% recorded in 1944 to 1.6% recorded in 1945.[2]

g. The prisoners not approved for clemency are evacuated to the United States, either for execution of the dishonorable discharge or for reprocessing in the Zone of Interior.

42. Obstacles to the Rehabilitation Program. No discussion of the disciplinary training center system would be complete without mention of the difficulties attending execution of its program.

a. In the beginning, there was lack of personnel and physical facilities. The commanding officer of one disciplinary training center said that the whole system had suffered because it was not afforded the same opportunities, personnel and equipment as similar institutions in the Zone of Interior. There were never sufficient psychiatrists. At one center, during a rush period, ten psychiatrists were utilized. However, as most of these were present for a short period, their work was not thorough or grounded on the necessary experience. There was never sufficient room or living space to accommodate all the prisoners. In fact, it is admitted that in the United Kingdom at one time, it was necessary to restore some doubtful cases in order to make room for others. Lack of facilities also prevented proper segregation of first offenders and old offenders, and the "ABC" offenders listed in Army Regulations 600-375.

b. Some of the trouble encountered in the disciplinary training center system was due to a lack of appreciation of the program by the prisoners. The average prisoner, when he came to the disciplinary training center, believed that he would be released in six to nine months, as a matter of right, on good behavior. One of the problems of the psychiatrist was to convince the prisoner that he was actually under the sentence approved in his case. It was difficult to make the prisoner appreciate that restoration was not a matter of right, but something he had to earn.

c. Many prisoners were sent to the disciplinary training cneter when there was no real hope for their rehabilitation. This was thought to result from ignorance of judge advocates and commanders as to the disciplinary training center system. The executive officer of one center, who had been there since its organization in the European Theater in the fall of 1944, stated that only two judge advocates and about six commanding officers who were interested in particular cases had visited his installation.

d. Lack of transport for evacuation of prisoners to the United States crowded the centers with serious offenders and diverted the energy of personnel from training of restorable prisoners.

e. It has been stated by one psychiatrist that there was an absence of high level policy with respect to the rehabilitation program. It was said that the absence of such a policy left too much discretion in the hands of the local commander. Some commanders believed that

---

[2]. Appendix 7.

the primary mission of the establishment was punishment, whereas other commanders and psychiatrists believed there was too much emphasis on punishment rather than rehabilitation.

43. Success of the Rehabilitation Program. Despite the obstacles, it was generally agreed by those who had served in disciplinary training centers, and by judge advocates and others interviewed, that the rehabilitation program had a large measure of success. The large number of soldiers restored to duty through this program and the small number of repeaters is direct evidence of this fact. It has been stated, however, by some judge advocates that the operation of a rehabilitation program at this level (that is, for general prisoners) was in its net effect more detrimental than beneficial. It is said by those of this view that the reduction of the deterrent effect of sentences and the incentive to assess excessive sentences which resulted from the disciplinary training center program was not offset by the dubious value of the soldiers restored to duty.

44. Clemency in the European Theater of Operations was exercised by several different agencies in several different ways. In the first instance, the action of the appointing or reviewing authority in reducing, remitting or suspending a sentence was a measure of clemency. Clemency was exercised by the disciplinary training center in its rehabilitation program. In several cases, the Theater Commander of The Assistant Judge Advocate General with the European Theater of Operations interceded with the appointing authority to achieve reduction or other clemency action. It is understood that since the cessation of hostilities, more effort is being devoted to such a program.

a. However, there were gaps in the clemency program. The inability of high authority to direct clemency on the part of the local commander exercising general court-martial jurisdiction hindered achievement of equality and uniformity in sentences. It is for this reason that many judge advocates suggested the centralization of such power to The Assistant Judge Advocate General or the Theater Commander.

b. A matter of special consideration, perhaps more properly undertaken under the subject of rehabilitation, is the question of officer offenders. In one disciplinary training center awaiting evacuation to the United States were 57 officer offenders who had sentences imposed as long ago as March 1945.[3] Some of these officers, particularly those in the lower age brackets who received their commissions through officer candidate school, would be glad of an opportunity to win restoration to duty as an enlisted man. It is felt that some of these officers, if restored after a rehabilitation program, could have been of real value to the service and would have been able to erase the stigma resulting from their sentences. It has been suggested that it was a mistake to close this avenue of rehabilitation to officers.

---

3. See list attached, Appendix 3.

CHAPTER 3

CONCLUSIONS AND RECOMMENDATIONS

45. Elimination of the Unfit. It is apparent that efficiency of operations in the European Theater was impaired, and problems of military justice aggravated, by incapacity of numerous personnel. Their elimination could be accomplished substantially through the process of peace-time conscription. Citizens of military age would be screened in their course of training without the pressure of war-time demands. Adaptability to service would be judged. The disciplinary problems concerning many individuals would be revealed, perhaps solved. A continuous, not improvised, system of selective service would minimize the number of mentally deficient and morally weak who are inducted and sent overseas in the haste of making war.

a. Selection for overseas service should have no reference to color. Eleven per cent of the U. S. Forces in the European Theater were Negroes because this represented the percentage of Negro population.[1] Fifty-eight per cent of these Negroes were poorly equipped for military service according to the Adjutant General's Classification Test. Negro troops were responsible in gross disproportion for crime and indiscipline among U. S. forces.

b. It is not recommended that Negroes be barred from overseas service. That would be manifestly unfair. It is hoped that before Americans are sent overseas to fight again, if ever they must, the standard of intelligence and morality among Negro Americans will be no lower than among White Americans.

c. But until that ideal is realized, selection of Negroes for overseas service should have other basis than the ratio to total population. There should be no other reasons, but the same reasons, for discrimination among Negroes as among their White compatriots.

d. More liberal use of Section VIII procedure for administrative discharge would relieve the armed services of incapable personnel otherwise than by relegation to guardhouses, disciplinary barracks, disciplinary training centers and penitentiaries.

46. Trained Leadership. Peace-time conscription would allow deliberate selection and training of unit leaders. It is recommended that in the selection and promotion of reserve officers, special attention be given to capacity for leadership and maintenance of discipline; and that these problems be given emphasis in officer training courses.

47. Orientation of Troops. U. S. forces came to the continent of Europe without certain practical information that might have reduced the ratio of offense afterward; the high alcoholic content of native brandies, for instance; facts as to chastity among European women; the obligation of an occupying force under international law, to respect family honor and private property. It is recommended that training of troops for overseas service include attention to these and related subjects.

---

1. The World Almanac, 1945, p 491.

48. Recreational Facilities for Troops.

a. Combat fatigue and saturation were significant problems in discipline. It is recommended that study be given to provision for periodic relief and recreation of combat troops in future operations.

b. Replacement and reinforcement depots should have abundant recreational facilities to divert the "lost soul" awaiting assignment.

49. Reassignment. In disciplinary history, it appears often that reassignment of the misplaced soldier might have effected salvage and prevented misconduct. It is recommended that boards of officers be established for reassignment within commands, to function in the same way as administrative discharge boards under AR 615-368 and 369.

50. Replacements. Some soldiers spent almost all of their service in the European Theater of Operations in Reinforcement Depots. These men frequently committed serious offenses and, ultimately, were court-martialed. An arbitrary time that one may be retained at a Reinforcement Depot should be fixed and if a soldier is not assigned within that period he should be entitled to honorable discharge upon his request.

51. Psychiatric Services. It is believed that in diagnosis of neurosis and psychopathy and treatment of prisoners the psychiatrist proved his value to the armed forces. It is recommended that plans for future operations include allowance for adequate psychiatric service in all major commands. Moreover, officers and non-commissioned officers should receive such instruction in psychiatry as would enable them to recognize neurotic and psychopathic symptoms in members of their units.

52. Liquor Control. This is an apparently insoluble problem in civil administration as in military operations. But it is believed that availability of beer and wine in unit-operated canteens might reduce the appetite for harder liquors and effect a reduction of crimes and offenses committed under their influence. Stricter discipline, including prompt and severe punishment of drunkenness among troops, might also reduce incidence of the military offender.

53. Confinement. Forfeitures were inadequate punishment for the minor offender, and did not sufficiently deter further misconduct. It is recommended that in circumstances such as those of the European Theater, an adequate chain of guardhouses be established for confining minor offenders not actually engaged in combat, with such a program of hard labor and hard living as to discourage repetition of delinquency.

54. Rehabilitation, it is believed, should be part of the guardhouse program. Accordingly, it is recommended that garrison guardhouses should be provided psychiatric service for early diagnosis and treatment of prisoners, with a view to elimination of personnel thought liable to become major disciplinary problems.

55. Punishment should be certain, and should fit the crime or military offense. That is, the penalties assessed in military courts of a theater of operations for ordinary crimes should have some relation to the scale of penalties customary in civil jurisdiction; and for military offenses having no connection with

avoidance of hazardous duty, should have like relation to penalties customary in military courts within the Zone of Interior.

APPENDIX 1

ANALYSIS OF OFFENSES

DELTA DISCIPLINARY TRAINING CENTER

HEADQUARTERS

DELTA DISCIPLINARY TRAINING CENTER

APO 772

5 October 1945

TOTAL NUMBER OF GENERAL PRISONERS CONFINED 12 MAY 1945:	51
TOTAL NUMBER OF OTHER PRISONERS CONFINED 12 MAY 1945:	423
TOTAL NUMBER OF GENERAL PRISONERS EVACUATED TO UNITED STATES:	0
TOTAL NUMBER OF GENERAL PRISONERS RESTORED TO DUTY:	220
TOTAL NUMBER OF GENERAL PRISONERS WHO ARE REPEATERS:	53
TOTAL NUMBER OF GENERAL PRISONERS CONFINED TODAY:	2824
TOTAL NUMBER OF OTHER PRISONERS CONFINED TODAY:	1127

FOLLOWING IS A BREAKDOWN OF CRIMES COMMITTED BY GENERAL PRISONERS:

AWOL	859
DESERTION	494
ASSAULT	351
LARCENY & BLACK MARKET	221
INSUBORDINATION	172
RAPE	91
MURDER	88
MISBEHAVIOR BEFORE & RUN AWAY FROM ENEMY	61
SODOMY	24
MANSLAUGHTER	12
OTHERS	151

APPENDIX 1 (Cont'd)

CLASSIFIED CONFINEMENT REPORT

For month ending 30 September 1945

TYPE OF OFFENSE	CLASS "A"	CLASS "B"	CLASS "C"	TOTAL
AWOL	614	4	0	618
AWOL and other offenses	181	67	117	365
Desertion	13	379	0	392
Desertion and other offenses	3	68	18	89
Murder	0	0	13	13
Murder and other offenses	0	0	8	8
Rape	0	0	41	41
Rape and other offenses	0	0	24	24
Manslaughter	0	1	76	77
Manslaughter and other offenses	0	1	0	1
Assault with intent to do bodily harm	0	18	167	185
Assault with intent to do bodily harm and other offenses	0	30	61	91
Drunk on duty	13	2	0	15
Drunk on duty and other offenses	10	11	15	36
Leaving post without proper authority	47	0	0	47
Leaving post without proper authority and other offenses	4	1	1	6
Misuse of Government vehicle	9	3	0	12
Misuse of Government vehicle and other offenses	1	20	14	35
Sleeping on post	38	0	0	38
Sleeping on post and other offenses	1	0	0	1
Breaking arrest and other offenses	1	7	0	8
Breaking restriction	1	0	0	1
Breaking restriction and other offenses	0	3	0	3
Escape from confinement	2	0	0	2
Escape from confinement and other offenses	2	3	1	6

APPENDIX 1 (Cont'd)

TYPE OF OFFENSE	CLASS "A"	CLASS "B"	CLASS "C"	TOTAL
Misbehavior in face of the enemy	2	43	0	45
Misbehavior in face of the enemy and other offenses	0	17	1	18
Neglect	1	2	0	3
Disobedience to a Superior Officer	47	1	0	48
Disobedience to a Superior Officer and other offenses	18	25	16	59
Disrespect toward a Superior Officer	5	0	0	5
Disrespect toward a Superior Officer and other offenses	10	0	0	10
Make and sign a false statement	3	0	6	9
Larceny	0	15	107	122
Larceny and other offenses	0	21	53	74
Black market	0	0	18	18
Cause a mutiny	3	0	8	11
Insubordination	3	4	0	7
Insubordination and other offenses	0	0	3	3
Assault with intent to commit a felony	0	1	0	1
Unlawful entry	1	0	7	8
Unlawful entry and other offenses	0	0	26	26
Fraternization and other offenses	14	0	9	23
Narcotics	0	0	2	2
Bigamy	0	0	1	1
Pillage	0	0	4	4
Pillage and other offenses	0	0	3	3
Acts of scandal and disgrace to the service	0	0	3	3
Attempted rape, lascivious conduct and indecent liberties	0	3	26	29
Carnal knowledge	0	2	11	13
Carnal knowledge and other offenses	0	0	3	3
Sodomy	0	0	6	6
Sodomy and other offenses	0	0	14	14
Unlawfully occupying a room with a civilian woman	0	1	0	1
Marrying without permission and other offenses	0	1	0	1
TOTAL	1047	764	853	2684

APPENDIX 1 (2)

HEADQUARTERS
DELTA DISCIPLINARY TRAINING CENTER
APO 772

23 October, 1945.

ROSTER OF CONDEMNED MEN

	NAME	ASN	OFFENSE	DISPOSITION
1.	APP, Robert N.	13077922	Desertion-AWOL	Firing Squad
2.	ATKINS, Joseph	34627035	Rape	Hanged
3.	AUSTIN, Clayton F.	31352001	Rape	Firing Squad
4.	BISHOP, Albert F.	11014832	Rape	Hanged
5.	BLAKELEY, William J.	33699802	Desertion-Rape Fraternization	Firing Squad
6.	BONNER, Foster	36949648	92nd AW	Firing Squad
7.	BRAZELL, Walter S.	33629631	92nd AW	Firing Squad
8.	BRINLEY, Alfred L.	36698622	Rape	Firing Squad
9.	CARREON, William	36722728	Rape	Firing Squad
10.	COLEMAN, Samuel E.	34900151	Rape	Firing Squad
11.	COPELAND, Dock C.	34099542	Murder	Firing Squad
12.	COPELAND, James	33313284	92nd AW	Hanged
13.	COWAN, M. C.	38510122	Murder	Firing Squad
14.	DAMASO, Mario J.	32961037	Murder	Firing Squad
15.	DAVIS, Henry J.	35923019	Rape-Assault	Hanged
16.	DELOGGIO, Albert L.	33105054	Desertion	Firing Squad
17.	DUNSON, Roy	34552689	Rape	Firing Squad
18.	EDWARDS, Ermon	34957038	Murder	Hanged
19.	FERRARA, Frank	52863204	Desertion	Firing Squad
20.	FOLAND, Earl F.	34725534	Rape-Sodomy-Assault	Firing Squad
21.	GALLON, Ben	34079809	Murder-Rape-Sodomy	Firing Squad
22.	GARNER, Oscar R.	34727911	Rape-Sodomy Assault	Firing Squad
23.	HARVEY, John W.	35727836	Rape	Firing Squad
24.	HAYNES, William J.	32908153	Murder-Attempted Rape	Firing Squad
25.	HICKS, Walter D.	36553611	Mutiny	Firing Squad
26.	HOLT, Milton	34410964	92nd AW	Firing Squad
27.	HOPKINS, Luther F.	20833165	Desertion	Firing Squad
28.	IRVIN, Freddie	33196980	Murder	Firing Squad
29.	JOHNSON, Robert H.	34521411	Rape	Firing Squad
30.	JONES, Daniel	32972815	Mutiny	Firing Squad
31.	KELLY, David	34844030	Rape-Assault	Firing Squad
32.	KELLER, Ralph H.	11072354	Desertion	Firing Squad
33.	KILCREASE, Charlie L.	38080886	Assault on officer	Firing Squad
34.	LAND, Anderson	39109002	92nd AW	Firing Squad
35.	KING, Alvin	34537505	92nd AW	Hanged
36.	LANE, Willie C.	34750115	92nd AW	Hanged
37.	LA ROSE, Frank	39917251	Rape-Assault-Larceny	Hanged
38.	LEWIS, Eugene R.	32191762	Rape	Firing Squad
39.	LILLEY, Franklin O.	12002494	92nd AW	Hanged
40.	LUCERO, Willie M.	38349641	Rape	Firing Squad
41.	MANUEL, Homer E.	35870491	Rape-Sodomy	Firing Squad
42.	McFALLS, Thomas L.	36544071	Desertion	Firing Squad
43.	McKNIGHT, Henry	34952868	Rape	Hanged

ROSTER OF CONDEMNED MEN (Cont'd)

	NAME	ASN	OFFENSE	DISPOSITION
44.	MERCY, C. D.	32389953	92, 93 AW	Hanged
45.	MESA, Treno C.	39278015	92nd AW	Firing Squad
46.	MOEN, Claude M.	6582023	Desertion	Firing Squad
47.	MOORE, Robert L.	33385559	Murder	Hanged
48.	PRIMANO, Peter R.	6991543	Desertion	Firing Squad
49.	QUEEN, James A.	34119125	Rape-Desertion	Hanged
50.	QUINTANILLE, Erivoto	38026245	Desertion	Firing Squad
51.	REID, Chester J.	33120580	Rape	Firing Squad
52.	RICHARDSON, Charles B.	37736706	Murder-Burglary	Firing Squad
53.	ROBBINS, Ellis C.	6668419	Rape-Broke arrest	Firing Squad
54.	ROBINSON, Edward H.	34228693	Murder	Firing Squad
55.	SALTER, Clyde	34440379	Rape-Assault-Robbery	Firing Squad
56.	SCOTT, Frank	34934741	Rape	Hanged
57.	SEBALLOS, Ralph	20846958	Desertion	Firing Squad
58.	SEWELL, Sam H.	35262823	Mutiny	Firing Squad
59.	SHARP, Charles H.	35840566	Rape	Hanged
60.	SHARPTON, Dennis H.	34586746	92nd AW	Hanged
61.	SHERED, James E. Jr.	35658874	Mutiny	Firing Squad
62.	SMITH, Harrison W.	39700975	Mutiny	Firing Squad
63.	STEEN, Leroy	34742616	Murder	Firing Squad
64.	STEIN, Andrew L.	42130187	Desertion	Firing Squad
65.	STEWART, James W.	33745570	92nd AW	Hanged
66.	STRAUSS, Jerome E.	0558371	92nd AW	Firing Squad
67.	SWEENEY, Lester H.	35779783	92nd AW	Hanged
68.	SYDNOR, John W.	33549411	92nd AW	Hanged
69.	SZCZUTKOWSKI, Alfred M.	32092589	Murder	Firing Squad
70.	TAYLOR, Carl H.	32945509	Desertion-Forgery	Firing Squad
71.	TENNIS, Bernard W.	33227644	Desertion-Forgery	Firing Squad
72.	THOMPSON, Robert	34932798	Murder	Hanged
73.	THURSTON, Marvin Jr.	36794262	Murder	Firing Squad
74.	TOMLIN, Ben	38442131	Rape	Firing Squad
75.	VEILIEUX, Joseph D.	11029877	Rape-Assault-Larceny	Hanged
76.	VOTODIAN, Joseph	33833533	Attempted Rape, Assault.	Hanged
77.	WALKER, Francis A.	12201365	Desertion-Forgery	Firing Squad
78.	WATKINS, Webster	36972866	92nd AW	Firing Squad
79.	WEBB, James	32721227	Mutiny	Firing Squad
80.	WEBB, William	14012102	92nd AW	Hanging
81.	WINSTEAD, Curney B.	35577448	Mutiny	Firing Squad
82.	YOUNG, Robert Jr.	34840316	92 & 93 AW	Firing Squad

APPENDIX 2

JUDGE ADVOCATE SECTION
HQ USFET (REAR)

1 August 1945

DISPOSITION OF CASES INVOLVING DEATH SENTENCES
RECEIVED IN THIS OFFICE UNDER AW 48 TO DATE

OFFENSE	NO. CASES	NO. PERSONS		EXECUTED		AWAITING EXECUTION		CONFIRMED IN BOTJAG		COMMUTED		*OTHER DISP.		UNDER REVIEW	
		W	C	W	C	W	C	W	C	W	C	W	C	W	C
RAPE	99[a]	53	88	4	25	0	1	0	3	25	37	10	8	14	14
MURDER	80[b]	33	54	9	24	1	1	2	5	8	7	3	1	10	16
AW 86	2	2	0	0	0	0	0	0	0	2	0	0	0	0	0
AW 75	28[c]	29	0	0	0	0	0	2[d]	0	21	0	5	0	1	0
AW 66	1[e]	0	7	0	0	0	0	0	0	0	0	0	0	0	7
AW 64	34[f]	27	8	0	0	0	0	1[d]	1[d]	24	4	1	1	1	2
AW 58	104	95	15	1	0	0	0	0	0	65	10	5	0	24	5
TOTALS	348	239	172	14	49	1	2	5	9	145	58	24	10	50	44
		411		63		3		14		203		34		94	

3 Officers (w); 1 WO (cld); 407 EM

* 17 Rehearing
10 Mitigated
1 Killed by enemy action
1 Revision
3 Disapproved
2 Legally insufficient

a 1 convicted of rape & AW 64, not included under AW 64.
1 convicted of rape & AW 58, not included under AW 58.
1 convicted of rape & AW 86, not included under AW 86.

b 16 convicted of murder & rape, not included under rape.
2 convicted of murder & AW 58 not included under AW 58.

c 3 convicted of AW 75 & AW 58, not included under AW 58.

d 1 convicted of AW 75 & AW 64, not included under AW 64.
4 forwarded to President for Action.

e Convicted of AW 66 & AW 64, not included under AW 64

f 8 convicted of AW 64 & AW 58, not included under AW 58.

APPENDIX 3

5 October 1945

OFFICERS IN CONFINEMENT
DELTA DTC

	NAME	AW	DATE TRIED	TERM	APPROVED	TIME SINCE TRIED	
1.	Baldock, Harold J.	61	27 Mar 45	5 yr	X	6 mos	8 days
2.	Barnes, Bradley	93,95,96	28 Jul 45	1 yr		2 mos	7 days
3.	Bellon, Joseph B.	85,96	17 May 45	1 yr	X	4 mos	18 days
4.	Boger, Harold C.	93	18 Jun 45	10 yr		3 mos	17 days
5.	Boyd, Melvyn A.	94	26 Mar 45	5 yr	X	6 mos	9 days
6.	Brockman, Charles	84,94	27 Jun 45	1 yr	X	3 mos	8 days
7.	Bradford, Harold W.	92,96	29 Apr 45	Life	X	5 mos	6 days
8.	Bryant, Brown O.	92	5 Jun 45	6 mos		4 mos	
9.	Calvo, John F.	85	27 Apr 45	10 yr	X	5 mos	8 days
10.	Chaddock, William C.	83	31 May 45	10 yr		4 mos	5 days
11.	Daunis, Albert J.	93	7 Sep 45	3 yr			28 days
12.	Dixon, Albert E.	93	25 May 45	10 yr	X	4 mos	11 days
13.	Evans, William J.	61,94	26 Jul 45	20 yr		2 mos	10 days
14.	Finigan, Hal J.	61,95,96	17 May 45	2 yr	X	4 mos	18 days
15.	Francisco, Ralph	61	25 Sep 45	1½ yr			10 days
16.	Fruend, Paul J.	61	23 May 45	5 yr		4 mos	13 days
17.	Gabell, Frank C.	93	25 Sep 45	2 yr			10 days
18.	Garrison, Raleigh A.	93,96	28 Jun 45	10 yr		3 mos	7 days
19.	Gibb, William L.	Unknown	22 Aug 45	1½ yr		1 mos	14 days
20.	Griffith, Fred A.	93,95,96	4 Jul 45	10 yr		3 mos	1 day
21.	Hanegan, John T.	93	31 May 45	3 yr		4 mos	5 days
22.	Hay, Donald G.	96	2 Jul 45	1 yr	X	3 mos	3 days
23.	Hogue, Robert F.	96	12 Jul 45	3 yr		2 mos	24 days
24.	Hollan, Bernard C.	64	20 May 45	20 yr	X	4 mos	15 days
25.	House, Charles F.	93,96	2 Apr 45	15 yr	X	6 mos	3 days
26.	Ingham, Alfred W.	75	26 May 45	10 yr		4 mos	10 days

APPENDIX 3 (Cont'd)

	NAME	AW	DATE TRIED	TERM	APPROVED	TIME SINCE TRIED	
27.	Johnston, Frederick D.	93	21 May 45	5 yr		4 mos	15 days
28.	Juett, William T.	58,94	20 May 45	Life		4 mos	16 days
29.	Kaplan, Carl H.	94,95	28 Mar 45	2 yr		6 mos	7 days
30.	Kooch, Walter	61,94,96	25 Jun 45	5 yr		3 mos	10 days
31.	Lockwood, Boyd G.	58	3 May 45	Life	X	5 mos	2 days
32.	Long, Jed H.	58	3 May 45	Life	X	5 mos	2 days
33.	Mac Dowell, Jay S.	96	19 Jun 45	1 yr		3 mos	17 days
34.	Manly, Robert D.	93,96	19 Sep 45	8 yr			16 days
35.	Mc Corkle, Alfred S.	96	21 Jun 45	3 yr		3 mos	15 days
36.	Morris, Mayfield M.	79,96	28 Jul 45	5 yr		2 mos	8 days
37.	Newman, Harold J.	92,93,96	12 May 45	Life		4 mos	23 days
38.	Noah, Jesse L.	61	24 Aug 45	2 yr		1 mo	12 days
39.	Oldham, Rowland E.	94	7 Sep 45	6 mos			28 days
40.	Pavaltos, August C.	79,96	28 Jul 45	5 yr		2 mos	8 days
41.	Petrie, David M.	Unknown	20 Jun 45	10 yr		3 mos	15 days
42.	Powell, Max	61,85,94,95,96	7 Jul 45	5 yr		2 mos	29 days
43.	Randle, Joe H.	92	30 Apr 45	Life	X	5 mos	5 days
44.	Rhodes, Edgar H.	93	7 Sep 45	3 yr			28 days
45.	Schneeweis, Robert A.	93	23 Jul 45	25 yr		2 mos	12 days
46.	Seder, Donald E.	61,94	21 Apr 45	20 yr	X	5 mos	14 days
47.	Stordeur, Alden L.	93	2 Jun 45	3 yr		4 mos	3 days
48.	Stover, Richard E.	75	24 Apr 45	Life	X	5 mos	11 days
49.	Strauss, Jerome E.	92	27 May 45	Shot		4 mos	8 days
50.	Tanner, Wilbert	85	28 Jun 45	5 yr		3 mos	7 days
51.	Taylor, Sutton F.	94	21 Aug 45	5 yr		1 mo	15 days
52.	Truax, Millard L.	64,96	20 Apr 45	8 yr	X	5 mos	15 days
53.	Truex, Earl V.	96	1 Jun 45	1 yr		4 mos	4 days
54.	Wolfinger, Clarence E.	93,94	2 Aug 45	2 yr		2 mos	3 days
55.	Wood, Edward S.	75	4 May 45	40 yr		5 mos	1 day
56.	Wood, George R.	61,64,96	23 Jul 45	1 yr		2 mos	12 days
57.	Yeomans, Robert B.	93	4 May 45	2 yr	X	5 mos	1 day

APPENDIX 4

Visit of Colonel Julien C. Hyer to the Delta Disciplinary Training Center, Les Milles, Bouches du Rhone, France.

Upon visiting the Delta Disciplinary Training Center with Lieutenant Colonel Shields Goodwin, JAGD, I found the Center located about ten miles from Marseilles. I am convinced that it could well be considered a model institution of its kind at the present time. An inspection of the installation in company with Lieutenant Colonel E. B. Hempsted, Commanding Officer (West Point graduate), revealed several outstanding points:

1. There are approximately 4,000 inmates, well-disciplined, militarily exact and everything but coddled. The buildings are neat, well kept and the entire plant presents a picture of high efficiency.

2. The schedule is very rigid. The prisoners are kept hard at work all daylight hours, seven days a week, and have no recreation except band playing. They march and drill hour after hour, return to their pup-tents to change clothes for next formation and when dark comes, they go to bed. Two to a pup-tent, floored, taken down in daytime. They dress in the open--rain or shine--drill irrespective of weather, have daily religious services available and are as militarily exact as is possible. They "freeze" on approach of an officer or his car 100 yards away, salute at great distances, are severely correct when spoken to and give the impression that they are working and soldiering their best in order to get out.

3. Their clothing and equipment are uniform, well-preserved and worn with strict exactness. The retreat and review held each afternoon--rain or shine--seven days a week, might be equalled at West Point but hardly excelled. The food is excellent, definitely above the regular mess level. Entire plant is clean and well kept and there is no atmosphere of a prison about the institution.

4. The exterior is patrolled after dark by police dogs (they have about 20) vicious, highly trained and well handled. This deters attempts to escape. All Center officers appear to be capable, interested and earnest. There is a noticeable lack of misfits and "fugitives from reclassification boards" among them that you so often see at such places.

5. Work about officers' quarters and mess is done by German PWs. A good band of inmates plays a great deal during the day. Hospital facilities adequate but to be increased--about 125 cases on average. Colds very rare despite pup-tent life. Negro ratio about 25%. No attempt at segregation. Competitive battalion drill at review each day.

6. There is a steady screening and consideration of clemency and men work hard to get out. Prevailing opinion: "If I'd known what this was, I'd never have been here." Condemned men (about 50) wear black uniforms, live in concrete blockhouse, have double-deck bunks. No solitary or isolation for them.

7. Ninety officer detainees (from lieutenant colonel to warrant officer) have separate compound, wall and pyramidal tents, cots, volley ball court, but the same strict discipline, rigid "freezing" and regimentation applies as to enlisted men. Practically all of them are doing duty of some kind.

8. Literacy classes and other feature work is engaged in.

A conference on topics suggested by Lieutenant Colonel Andre B. Moore, (See Annex "A") was held attended by the officers named below and the following information represents the consensus of opinion expressed:

Lieutenant Colonel E. B. Hempated, Commanding Officer,
Major Randolph L. Jones, Executive,
Major Phillip J. Flann, Clemency Officer,
Captain William F. Hamblin, Prison Officer,
Captain Howard F. Drayer, MC, Neuro-psychiatrist,
Lieutenant Colonel Shields Goodwin, Executive, JA Office, Delta Base Section.

1. Statistics: (See Appendix 1)

2. As a result of the interviews it developed that no prisoners are being sent to the States now nor have been because they can't get ships or clearance from USFET. Only three--all officers--were returned and these by air to meet dismissal deadline dates. Other pertinent facts as called for by the outline set down by Appendix "A" follow, numbered in accordance with the outline.

3. Offenders and Offenses.

a. The offenses represented at the Delta Disciplinary Training Center are of two types--military and civilian.

(1) The bulk of minor military offenses among 4,000 prisoner inmates is simple AWOL. Of the major military offenses, various forms of desertion are majority. The majority ratio of military offenses is:

(a) Simple AWOL.
(b) Insubordination.
(c) Desertion.
(d) Sentinel cases.
(e) Miscellaneous.

(2) Civilian Offenses:

(a) Stealing.
(b) Assault.
(c) Rape.
(d) Homicide.
(e) Sodomy.
(f) Miscellaneous.

b. Causes.

(1) The opinions on alcoholism ranged from 30, 40, 50 to 60%. On the question of "new" liquors: calvados, schnapps, etc., it was agreed that special orientation lectures on the new kinds of intoxicants and their relative potency would acquaint soldiers with possibilities and reduce ratio of violations. Psychiatrist pointed out mental strain of combat produced varied and quicker intoxication and "blackout" periods.

(2) As to "combat fatigue", they are agreed thatin desertion and allied cases, 20 to 30% were caused by

this. There has been an appreciable falling off proportionately since end of hostilities. Many of the cases are picked up at disciplinary training centers for first time. Recommend teaching all medical officers symptoms and diagnosis of combat fatigue, and that each examination be made to determine combat fatigue condition--not wait until trial or few days before. Many offenders claim they begged for treatment for combat fatigue but were refused it as malingerers. All officers should be trained to watch for and allow for combat fatigue.

(3) Under "poor leadership", it was thought that lack of age and maturity in a greatly "ballooned up" army was responsible for this but no solution is indicated to apply in an emergency. All agree that large percentage of offenders came from this cause.

(4) "Mental deficiency" is a fault of careless screening at induction centers. While morons and low IQ men can do some work, they should be classified and used where capacity qualifies them. Borderline cases are the problems.

c. Suggestions for controlling causes for offenses.

(1) Four present said Section VIII should be a command function on advice of psychologist while one contended it should be a medical function.

(2) Yes, if you can make them do it. There is where claims, pensions, hospital cases, etc. are begun.

(3) Out of 15 interviewed by clemency officer that morning, five had come overseas "under the gun" and were previous offenders. These officers believe that 40 to 50% of those who came overseas "under the gun" get into trouble overseas.

(4) Yes.

(5) We don't hit hard enough the first time. British give short sentences but when they say "eight days at hard labor", it is hard. These men feel that if we "rapped knuckles hard" first time, wouldn't have later trouble. Many prisoners admit that they got away with the early violation and kept on.

4. Sentences.

a. Theater commander should clearly define policies in one directive and furnish to newcomers to follow. Circular 76 is considered adequate and definite but it came too late. In units, a graduated scale of minor punishments is helpful.

b. No. Some of them are excessive ad absurdum and thereby ineffective.

c. We did not advertise the Disciplinary Training Center or

acquaint officers or enlisted men with how tough it could be, what they could expect there and how effective it was. Training films, posters, lectures and visits should have been used.

d. They understand but more information should be given to commands to impress individuals.

e. This discussion was impracticable. Everyone has his own preference and opinion based on testimony, circumstances and individual involved. Short AWOL should draw "2 for 1" (or two days for every one AWOL). Consensus seemed to be that we did not make good what we did give or make a man do hard labor when we gave it to him. Fewer guardhouses and more concentration of places of confinement with strict programs there would be more effective.

f. This evoked spirited discussion. Some were for "average" rather than "maximum" table. All thought present system of general court-martial voting was inadequate as to sentences. Preferred president of court advising with others and after seeing all personal data, psychiatric report, commanding officer, chaplain, etc., sentencing accused much as a Federal judge does in our U. S. system. However, see no harm in a helpful table giving average, normal mean sentences where no aggravation involved.

g. Only one contended we should use local standard. Four were in favor of the Army's having its own system.

h. No, unanimous.

i. They thought the five and ten more effective. The man with the "hopeless" sentence (1) becomes an automat, (2) tries to escape, (3) is harder to confine, (4) takes chances, (5) breeds mutiny and discontent.

j. Not given enough publicity, too long until confirmed and carried out.

k. Should have been more effective publicity, particularly in guardhouses, stockades, other places of detention. Perhaps pamphlet publicity such as used in VD, etc., would have gotten over the idea and acted as preventative.

5. Confinement.

a. Only sent three since opening. 1,000 were sent from England for all sorts of offenses.

b. Military offense violators.

c. Serious, habitual, alcoholics.

d. Broaden special to one year, accelerate this way and make general court-martial really serious.

e. Emphasize centralized facilities where rigorous punishment, severe conditions and hard work can be effectively used. Perhaps, let service forces make places of confinement and return prisoners to unit when time served.

f. Inconsequential.

g. In many cases, commanding officer promised soldier-

offender if he would get in and fight, he'd forget charges. Man went in, won a couple of battle stars, medals, etc., and then later they got him up, tried him and made him do time. Wrong! A very appreciable number of men at disciplinary training centers had this happen to them. A system of condonation should be worked out whereby if a man is committed to combat, an entry is made on his record dropping the charges.

h. Yes, let the garrison prisoner getas much risk and hazard as any other soldier. Guardhouses are not practical for combat forces below the division level.

i. No, not practical.

j. Many. Repple-depleites have low morale and go AWOL readily.

Note 1. We lacked enough neuro-psychiatrists and medical officers hadn't enough training in the subject. No "treatment" was practiced or attempted. There should be attention by commanding officers, company officers and medicos to likely p/n cases for screening out prior to offenses. Psychiatry is definitely not therapeutic in this war nor is there time for it in the theater of operations. Men swear they are cured, reformed, etc., but they are not.

APPENDIX 4

(ANNEX A)

MEMORANDUM:

TO: Colonel Julien C. Hyer

1. STATISTICS.

The following statistical information while not vital would be of interest if available:

a. Total number of prisoners received to V-E Day.
b. Total number or percentage evacuations to the U. S.
c. Total number of percentage of restorations to duty.
d. Total number or percentage of repeaters.
e. If available, the approximate division of the prison population under each major offense, in sufficient detail to indicate the offenses responsible for the major portion of the prison population.

2. INTERVIEWS.

The Staff Judge Advocate of the Base; the Clemency Officer at the Disciplinary Training Center; the Prison Officer; and the psychiatrists.

3. SUGGESTED TOPICS FOR INTERVIEWS.

a. Discuss the types of offenders in the Disciplinary Training Center, dividing the prison population into categories, in general indicating the sources from which they came and the principal offenses involved.

b. A discussion of the principal causes of offenses. This will, of course, bring on a discussion of alcoholism, combat fatigue, poor leadership, mental deficiency, etc.

c. Suggestions for controlling causes for offenses:

(1) More liberal use of Section VIII procedure.
(2) A more thorough screening process at the induction centers.
(3) The policy of sending offenders overseas as a punishment.
(4) A more liberal policy with respect to the medical disposition of "combat exhaustion" or "combat saturation" cases.
(5) The imposition of more severe and realistic <u>initial</u> punishment, that is, punishment for first offenses inflicted by inferior courts.

4. SENTENCES.

a. Uniformity--suggested means for achieving uniformity in the Theater.
b. Have the large sentences imposed in the Theater achieved a deterrent effect?
c. Has the average soldier's incomplete idea of the Disciplinary Training Center system served to nullify the deterrent effect of severe sentences?
d. Is the average prisoner misinformed as to the Disciplinary Training Center rehabilitation process? Does he believe he

has a right to be restored after six months' good conduct.

e. What do you consider appropriate average sentences for the following offenses:

(1) AWOL under 30 days in non-combat situation.
(2) AWOL over 30 days in non-combat situation.
(3) AWOL under 30 days in combat situation.
(4) AWOL over 30 days in combat situation.
(5) Desertion in non-combat situation.
(6) Desertion in combat situation.
(7) Disobedience to an officer.
(8) Taking a vehicle without authority.
(9) Other common military offenses.
(10) Rape, burglary, and other common civilian offenses.

f. Should our Manual provide a table of "average" or "normal" punishments as a guide?

g. Should we consider the local civilian maximum for a civilian offense?

h. Should the Army maximum for civilian offenses be higher than the Federal laws provide in the U. S?

i. What is the effect on a soldier (as regards his chances for rehabilitation) of a 50-year sentence as contrasted with a 5 to 10 year sentence?

j. Has the death sentence exercised a real deterrent effect in the Theater?

k. Has the average soldier been sufficiently acquainted with general court-martial sentences or should punishment of this type have had more publicity?

5. CONFINEMENT.

a. What general types of prisoners are evacuated to the U. S. at once?

b. What types usually win early restoration?

c. What types rarely win restoration?

d. Is rehabilitation, as set up in the Disciplinary Training Center system, at the proper court-martial level or should we increase our special court-martial jurisdiction, using the Disciplinary Training Center system at this level and reserve general court-martial for "end of the road" cases?

e. How has the elimination of confinement facilities for garrison prisoners affected discipline in the Theater?

f. Do you believe a substantial portion of the prisoners in the Disciplinary Training Center would have been tried by an inferior court had confinement facilities been available?

g. How do you view the theory "Make him fight-In confinement he avoids combat."?

h. In your opinion could garrison stockades been maintained during the campaign near the front lines?

i. What do you think of returning prisoners (market for restoration) to the front lines in organized units, not labor battalions, but as individual units rather than through replacement channels?

j. How many of your prisoners came from replacement installations or because of their position as replacements suffered from a lack of unit esprit?

NOTE 1. In talking to the psychiatrists available at the Disciplinary Training Center, please discuss in addition to the above the psychiatric service in the Theater, principally whether the service was adequate. Pose the large question "Could a substantial percentage of prisoners have been cured of psychiatric disorders and salvaged as soldiers if given psychiatric treatment early in their disciplinary history?" What suggestions can be made to overcome the situation which does not usually provide psychiatric service until the patient is already a serious offender. Thus psychiatry is diagnostic only and not therapeutic.

APPENDIX 5

STATISTICAL RETURNS ON GENERAL PRISONERS
OFFICE OF THE THEATER PROVOST MARSHAL

HEADQUARTERS
THEATER SERVICE FORCES
EUROPEAN THEATER
Office of the Theater Provost Marshal

(Rear) APO 887
28 September 1945

AG 252

SUBJECT: Statistical Returns on General Prisoners.

TO : Theater General Board, APO 408, US Army.
(Attn: Judge Advocate Section, Lt Col Andre B. Moore).

1. In compliance with your verbal request, the following statistics with reference to population of the several Disciplinary Training Centers from the beginning of United States action in Europe until V-E Day are submitted for your information.

a. 1943. Prior to 1 June 1944, the administration and control of clemency of the Training Centers was not within the jurisdiction of this Section. Consequently most statistics for this period are not available. It is known that the General Prisoner Strength as of 31 December 1943 was 291. How many General Prisoners were restored to duty, evacuated to the Zone of the Interior or lost from other causes during this period is not known by this Office.

b. 1944. During the period 1 Jan 1944 through 31 Dec 1944 the Disciplinary Training Centers received 2836 General Prisoners. Of this number 631 were restored to duty either by reason of suspension of the sentences or by remission. 988 were evacuated to the Zone of the Interior for further rehabilitation or further confinement. 47 were transferred to Detachments of Patients and evacuated to the Zone of the Interior through medical channels. 73 were lost by reason of vacation and disapproval of sentences. During 1944, of the 631 Prisoners restored to duty, 17 or 3% were returned as recidivists.

c. 1 Jan 1945 - 31 May 1945. During the period 1 Jan 1945 through 31 May 1945, 5945 General Prisoners were confined. Of this number, 1220 were returned to duty by virtue of suspension or remission of sentence, 1792 were evacuated to the Zone of the Interior, 31 were transferred to Detachments of Patients and evacuated through medical channels and 79 were lost by reason of vacation and disapproved sentences. Of the 1220 returned to duty, 20 or 1.6% were returned to the Training Centers as recidivists.

2. A compilation of the statistics noted in the above paragraph indicates the following:

a. Gains and Losses.

	GAINS	LOSSES		
Date	No of Gen Pris	Restored	Evacuated	Other
31 Dec 1943	291	See paragraph 1a above.		

Date	No of Gen Pris	Restored	Evacuated	Other
1 Jan 44 - 31 Dec 44	2836	631	988	120
1 Jan 45 - 31 May 45	5945	1220	1792	110
TOTALS	9072	1851	2780	230

b. On the basis of the number of General Prisoners per 10,000 members of the military establishment, the following statistics are shown:

DATE	ETO STRENGTH	GENERAL PRISONERS	GENERAL PRIS PER 10,000
Jan 1944	955,744	440	4.6
Feb	1,100,711	522	4.8
Mar	1,213,796	650	5.4
Apr	1,436,886	826	5.7
May	1,541,395	1038	6.7
Jun	1,648,644	895	5.4
Jul	1,770,845	856	4.8
Aug	1,905,261	891	4.7
Sep	2,041,023	1231	6.0
Oct	2,196,785	1352	6.1
Nov	2,588,983	1125	4.3
Dec	2,699,467	1457	5.4
Jan 1945	2,893,000	2376	8.2
Feb	2,952,000	2921	10.0
Mar	3,030,000	3800	12.5
Apr	3,077,000	4254	10.2
May	4,162,072	4144	9.8

c. Recidivists.

Period	No Returned to Duty	No Recidivists	Percentage
1944	631	17	3%
1945	1220	20	1.6%
Total to 31 May	1851	37	2%

It is to be noted that recidivists whose second offense was committed during 1945 may have committed their original offense during 1944 or 1943.

3. Attached are charts indicating the general trend as to population during the period.

For the Theater Provost Marshal:

/s/ F. S. Lee
/t/ F. S. LEE
Colonel, FA
Chief, C&R Division.

Incls: a/s in para 3.

APPENDIX 6

SURVEY BY THEATER JUDGE ADVOCATE REGARDING DEATH SENTENCES

Officers having general court-martial jurisdiction in the European Theater of Operations were polled on the question of the effectiveness of the execution of the death sentence in desertion cases as a deterrent. Their answers may be summarized as follows:

ARMY GROUND FORCE

Yes	No
45	35

ARMY AIR FORCE

Yes	No
4	14

COMMUNICATIONS ZONE AND MISCELLANEOUS UNITS

Yes	No
3	7

THEATER FORCES AS A WHOLE

Yes	No
52	26

(From records in the office of the Theater Judge Advocate, Headquarters United States Forces, European Theater)

APPENDIX 7

FORMS AND SOP FOR THE CLEMENCY SECTION

DOIRE DISCIPLINARY TRAINING CENTER

SECTION VIII

CLEMENCY SECTION

REFERENCES:

1. Article "Military Clemency" by Colonel Marion Rushton, JAGD, from Federal Probation Quarterly, Oct - Dec 1944.

2. Unnumbered Memo, TPM Office, Hq USFET, dated 25 June 1945, subject "Reasons for Recommending Evacuation of General Prisoners in confinement at DTC's".

3. Letter, Office of the Theater Provost Marshal, Hq USFET, dated 17 July 1945, subject "Notes on Rehabilitation Procedure".

4. AR 600-375.

MISSION:

1. To evaluate trainees at this station as to return to duty, further training or evacuation to the United States.

ORGANIZATION:

1. Clemency Officer.

2. Assistant Clemency Officers. (as situation requires.)

3. Chief Clerk.

4. Five (5) clerks; typists and file.

5. Historians; (selected trainees, as required.)

PROCEDURE OF INTERVIEW:

1. For purpose of interview see Mission.

2. As guide for interview see References and Appendix #1.

3. Study result of interview of Trainee by Psychiatrist.

4. Refer to Trainee's 201 file and/or Service Record when necessary.

5. Approach interview from the standpoint that the return of the Trainee to duty will act to the best interests of the Army of the United States and the Trainee. Clemency, further training in this Theater or evacuation to the United States should be recommended as the above mentioned approach requires. Evacuation to the United States may result in further rehabilitation training for the Trainee or execution of D.D. or execution of D.D. and confinement in a U.S. Penitentiary. Above decisions will be made by proper authority in the

PROCEDURE OF INTERVIEW (cont'd):

United States. Disciplinary Training Centers in the United States are equipped to execute a more comprehensive training program than is possible in this Theater.

6. If a difference of opinion exists between the Clemency Officer and the Psychiatrist, a conference on the point in question should be promptly initiated by the Clemency Officer.

7. When necessary to obtain more complete facts or reactions from the Trainee, assistance should be sought from the appropriate Chaplain.

8. Clemency interviews originate as follows. When the General Courts-Martial Order for a General Prisoner, in confinement at this station, arrives, a Processing Sheet is opened.

a. Clemency clerical section supplies information under the following headings.

(1) Heading
(2) Military History
(3) Previous Courts-Martial
(4) Present sentence
(5) Ending

b. Historians supply information under the following headings.

(1) Family history
(2) Personal history
(3) School
(4) Work
(5) Sex Life
(6) Conflict with the Law
(7) Religion
(8) Habits
(9) Medical history
(10) DTC record

c. Psychiatrists supply information under the following heading.

(1) Psychiatric evaluation

d. Medical Officers supply information as to Physical Profile of the Trainee.

e. Clemency Officers supply information under the following heading.

(1) Clemency evaluation.

9. a. A trainee will appear before the clemency Officer for clemency consideration after

(1) Trainees' records have been received and processed by Clemency and Historian sections.

PROCEDURE OF INTERVIEW (cont'd):

(2) Trainee has been interviewed by Psychiatrist and indicated by him as suitable for rehabilitation.

(3) Trainee has been physically profiled.

(4) Trainee has been recommended for clemency by any of the following.

a. The commanding Officer of the Loire DTC.
b. Any member of the Administrative and/or Training Staff of the Loire DTC.
c. Authorized sources from without Loire DTC.

b. All recommendations for clemency will be cleared thru S-3 and thru Prison Officer before being submitted to the clemency Officer.

c. Any trainee not recommended after three (3) months of training will receive special observation from S-3 and the Prison Officer, in order to determine as to whether or not such trainee should be recommended for clemency.

REPORTS:

1. Processing Record. See Psychiatric Section
2. Individual Trainee History & Record Card. Appendx #2
3. Clemency Report, Appendix #3
4. Letter of Transmittal - Clemency, Appendix #4
5. Letter of Transmittal Disposition Board. Appendix #5
6. Assignment Letter, Appendix #6
7. Restoration to Duty Letter. Appendix #7
8. Daily Clemency Report. Appendix #8

DISPOSITION BOARD:

1. Composed of Two (2) Psychiatrists and One (1) Line Officer.

2. Purpose of Board is to reinterview all Trainees recommended for evacuation by Psychiatrist or Clemency Officer of this station.

3. To determine by interview, upon recommendation of the Training Section or Provost Section, as to whether or not a Trainee should be evacuated.

APPENDIX 8

COMMENT BY CHIEF OF SECTION

The foregoing report on "The Military Offender in the Theater of Operations" was prepared in the Judge Advocate Section, The General Board, United States Forces, European Theater of Operations. Research was undertaken at the Branch Office of the Judge Advocate General, Paris; the offices of the Theater Judge Advocate, Theater Provost Marshal, Judge Advocate, Theater Service Forces; Headquarters Seine Base Section, Oise Intermediate Section and other base sections. The disciplinary training centers at Delta and Loire Bases and the garrison guardhouse maintained by Oise Intermediate Section were visited. Judge advocate officers, prison officers, clemency officers, psychiatrists and prisoners were interviewed. A questionnaire was sent to all judge advocate officers serving in the European Theater during the period of operations. Replies were considered in the fact findings and recommendations.

The study was directed by Lieutenant Colonel Andre B. Moore, JAGD, who served as Assistant Staff Judge Advocate, Headquarters Third United States Army, during the preparatory phase in England and the campaign in France; and as Assistant Staff Judge Advocate, Headquarters XX Corps during the campaign in Germany and Austria. Colonel Moore participated in the trial of more than 200 general court-martial cases during the operational period in the European Theater where he spent nearly two of his five years active duty.

The other members of the Judge Advocate Section of The General Board assisted in preparation of the report and concur in the conclusions and recommendations.

Julien C. Hyer.

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