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10000/142/43

TRIAL OF ENEMY TROOPS IN ALLIED MILITARY COURTS
APR. - JULY 1945

FILE CLOSED : 18 July 1945

32



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELL'URBE

IL COMMISSARIO FEDERALE

20/17

SUBJECT: Administration of Surrendered
Enemy Forces in Italy.

ALLIED FORCE HEADQUARTERS.

G4(Gr)/3251/4/A2.

18 Jul 45.

Headquarters, Eighth Army.
Headquarters, No. 1 District.
Headquarters, No. 2 District.
Headquarters, No. 3 District.
GHQ., 2nd Echelon.

19 AUG 1945

1. Reference AFHQ Instructions for the Administration of Surrendered Enemy Forces in ITALY, AG 386.3/163 LOC.O dated 7 July 45, para 5(a)(2).

2. All enemy personnel held in British custody who at the date of the above Instructions were classified as Prisoners of War will remain so classified until further directions are issued by this Headquarters.

AGACM/TP

Adm. Sec. Lt. Col.

A.S. BARSDORE,
Lieut-Colonel, A.A.G.,
for Major General,
IAC, G.1(Gr).

Copy to: Chief Commissioner, Allied Commission.

Commanding General, Fifth Army.

Commanding General, Peninsular Base Section.

1 - SAC, Med.

1 - D SAC, Med

1 - C/S, AFHQ

1 - CAO

1 - A/CAO

1 - C/S HTOUSA

5 - C-in-C Med

5 - HTOUSA PW Comd.

1 - S & T

1 - Surgeon

1 - Medical (B)

1 - Ord (A)

1 - Ord (B)

1 - REEF

LEGAL SUB-COMMISSIO

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Chief Counsel

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1. Reference to the Enemy Forces in ILLAB, AG 386.3/163 LOC.0 dated 7 July 43, para 2(a)(1).

2. All enemy personnel held in British custody who at the date of the above instructions were classified as Prisoners of War will remain so classified until further directions are issued by this Headquarters.

AGdel/AP

A.S. HARRISON,
Lieut-Colonel, A.I.C.,
for Major General,
DAC, G.I.(Br).

Copy to: Chief Commissioner, Allied Commission.

Commanding General, Fifth Army.

Commanding General, Peninsular Base Section.

1 - SAC, Med.
1 - D SAC, Med
1 - C/S, AFHQ
1 - CAO
1 - A/GAO
1 - C/S ITOUSA
5 - C-in-C Med
1 - C-in-C AFHQ
4 - Air C-in-C Med
3 - CG, AFHQ
3 - AFHQ/INTO
3 - CG, AFHQ
3 - Repl & Tng Cond, ITOUSA
3 - CG, AFHQ
2 - C-1 (A)
2 - C-1 (P)
3 - C-2
4 - C-3
3 - C-4 (A)
3 - C-4 (P)
1 - Log Plans
1 - C-4 (Mov & Tn)
2 - C-4 (Maint)
2 - C-4 (AE)
3 - C-5
2 - In-C (A)
2 - In-C (P)
2 - Signals
2 - Liaison
2 - Works

LEGAL SUB-COMMISSIO

1 - ITOUSA PW Cond, ILO

1 - S & T

1 - Surgeon

1 - Medical (B)

1 - Ord (A)

1 - Ord (B)

1 - RHE

1 - Tn (D)

1 - Tn (A)

1 - DRS

2 - FUG (A)

2 - Provost Marshal (P)

1 - JA

1 - DJAG (B)

1 - PLY

1 - Labor

1 - AG Postal

1 - Postal (B)

1 - QM

1 - CWS

1 - Pils Dir

1 - Pils Adv (B)

1 - US POLAD

1 - British Res Min

1 - Hq AFHQ Rome

3 - IESC (MIA)

3 - SHAF

2 - AG Records

1 - AG H & D

AGdel/AP
19 Jul 43
Chief Commissioner
Allied Commission
Peninsular Base Section
AGdel/AP
Legal

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ALLIED FORCE HEADQUARTERS
APO 512APG10 RAS/vfb
: : : : :
: SECRET :
: Auth: SAC, :
: Initials: :
: Date: 7 July 1945 :
: : : : :
7 July 1945

AC 386.3/163 LOG-C

SUBJECT: Administration of Surrendered Enemy Forces in Italy

11 LUG 1945

TO: Chief Commissioner, Allied Commission, APO 324
Commanding General, Fifth Army, APO 464
Commanding General, ITCUSA POW Command, APO 88
Commanding General, Peninsular Base Section, APO 782
Headquarters, Eighth Army
General Officer Commanding, Number 1 District
General Officer Commanding, Number 2 District
General Officer Commanding, Number 3 District1. References

- a. 15th Army Group Administrative Directive Number 3, 18 April 1945, subject: "Control and Administration of Surrendered Enemy Forces".
- b. Eighth Army Administrative Directive Number 2, subject: "Surrender of Enemy Forces".
- c. AFHQ letter, AC 386.3/163 LOG-C, 18 May 1945, subject: "Administration of Surrendered Enemy Forces in Italy".

2. Object - The object of these instructions is to incorporate in one document current policies for the handling of surrendered enemy forces in Italy.

3. Previous Instructions - The instructions contained in references a and b above remain in force except as modified by this letter. Reference c is hereby rescinded and the provisions of this letter substituted therefor.

4. Scope of Instructions

- a. The instructions contained herein are applicable to enemy forces taken or surrendering in Italy.
- b. Enemy personnel, except those of Italian Nationality, taken or surrendering in Austria will be held in that country pending repatriation, and not removed to Italy.

5. Generala. Status of Enemy Forces

All enemy personnel, including those of the Luftwaffe, who had not passed through Army cages before 1400 hours 2 May have been termed "Surrendered Enemy Forces", and have not been regarded as prisoners of war except on the specific authority of AFHQ/ITCUSA.

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SECRETLtr, AFHQ, AG 336.3/163 LUG-O,
dtd 7 July 1945 (Cont'd)

- (2) All enemy personnel remaining in Italy who have been taken and classified as prisoners of war are reclassified as "surrendered enemy forces" retroactive to 2 May 1945 and will be treated as such. Exceptions to this policy will be published separately by AFHQ/AFMUSA as required.
- (3) All personnel of whatever nationality who surrendered or were taken while serving with the enemy will be regarded initially as surrendered enemy forces. Instructions concerning segregation are given in paragraph 7b.
- (4) SS Personnel will be confined separately, and will be classed as recalcitrants (see paragraph 7d below).
- (5) Enemy personnel at present in hospitals will, on discharge, be treated as surrendered enemy forces, and sent to final concentration areas. Those who cannot be disposed of in this manner will be classed as recalcitrants and confined.

b. Policy

- (1) Surrendered enemy forces and prisoners of war will be divided equally between British and US forces. Guard and administrative functions are the responsibility of the force having custody of the surrendered enemy personnel and prisoners of war.
- (2) Insofar as practicable consistent with their employment by the Allied forces, surrendered enemy forces will carry out their own administration and maintenance using their own administrative organizations under Allied supervision. To this end, enemy forces will be formed in 'ad hoc' formations and unit organizations as far as is necessary to enable them to be self-administering. This policy does not absolve Allied military authorities concerned from the ultimate responsibility for the administration of surrendered enemy forces.
- (3) The policy regarding the use of specially qualified technical troops will be furnished as required. Under no circumstances will any enemy personnel be regarded as co-operators.

c. Concentration and Accommodationa. Concentration areas

- (1) The British main concentration area will be as shown at trace at Appendix "D". This does not preclude subsequent removal of enemy personnel to other locations as required.

SECRETLtr, AFHQ, AG 386.3/163 LCG-O,
dtd 7 July 1945 (Cont'd)

- (2) Surrendered enemy forces controlled by the US will be concentrated in an area or areas conveniently sited for supply and administration. Enemy personnel employed by AFHQ major commands will be held in areas conveniently located to places of employment.

b. Scale of Accommodation - Surrendered enemy forces will be accommodated under field conditions. A guide to the British scales of accommodation which will be provided is at Appendix "A". The US scale has been announced in Administrative Memorandum Number 4, Headquarters AFHQ, 20 May 1945, subject: "Scale of Accommodations and Standards of Construction for Enemy Personnel in Labor Camps". In all cases maximum use will be made of enemy stores in accordance with allocations made by AFHQ/AFHQ.

c. Evacuation of Civilians - Civilians within the final concentration area will not be evacuated unless it is essential for their safety, and at the instigation of AG/AFHQ.

d. Buildings

- (1) Buildings, or portions thereof, will not be used for the accommodation of surrendered enemy forces unless surplus to Allied and civil requirements and then only with the authority of the appropriate Allied Military Commander, and with the consent of the Allied Commission.
- (2) Buildings presently used as hospitals for surrendered enemy forces may continue to be so used at the discretion of Allied Commanders.
- (3) Buildings may only be requisitioned if they are to be used for hospitals or offices. Such requisitioning will be subject to the following conditions:
 - (a) There will be no eviction of civilian inhabitants.
 - (b) Permission must previously have been given by the appropriate Allied Commander and by Allied Commission.

e. Action to be taken Prior to Assembly in the Final Concentration Area

Areas

- (1) Primary disarmament of enemy personnel.
- (2) Preliminary concentration and formation of enemy personnel into units for administrative purposes. Such units should be capable of carrying out all internal administration.
- (3) Segregation and dispatch to concentration area of SS and other recalcitrant troops. These will be moved as soon as possible.

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Ltr, AFHQ, AG 386.3/163 LCG-50,
 dtd 7 July 1945 (Cont'd)

(4) Movement of surrendered enemy forces to the final concentration areas.

(5) Administration of surrendered enemy forces.

f. Action to be Taken Inside the Final Concentration Areas

(1) Reconnaissance of the areas and allocation of localities to enemy forces.

(2) Reception and segregation of SS troops.

(3) Reception of surrendered enemy forces other than SS troops.

(4) Provision of guards.

(5) Administration of surrendered enemy forces.

g. Allocation of Responsibilities

(1) The MTOUSA POW Command will be responsible for any action remaining to be taken in accordance with paragraphs 5 and 6a above, and for all surrendered enemy forces and prisoners of war under US control.

(2) Eighth Army will be responsible:

(a) For administering all enemy personnel in hospitals in the Army area.

(b) Arranging for the disposal of all enemy personnel discharged from hospitals in the Army area in accordance with paragraph 5 a (5) above.

(3) The MTOUSA POW Command and 1 District each will be responsible within their own spheres of responsibility for all actions to be taken in accordance with paragraph 6f above.

h. Movement to Main Concentration Areas - Details of movement between the British main concentration area under Number 1 District and the MTOUSA POW Command will be arranged locally by the Number 1 District and the MTOUSA POW Command. Movement between the major commands of MTOUSA and the MTOUSA POW Command will be arranged by the MTOUSA POW Command. Any differences which may arise will be adjusted by AFHQ/MTOUSA.

7. Administration

a. General

(1) The US final concentration areas will be the responsibility of the MTOUSA POW Command.

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SECRETLtr, AFHQ, AG 386.3/163 LOC-O,
dtd 7 July 1945 (Cont'd)

- (2) The British main concentration area will be the responsibility of Number 1 District.

b. Segregation of Enemy Personnel

- (1) Italian Nationals will be concentrated separately. The number so held will be taken into consideration in adjusting the total holdings of enemy personnel by the US and British in accordance with the policy established in paragraph 5 b (1) above.

- (2) As far as practicable other personnel will be segregated by nationalities.

- (3) While the surrendered enemy forces are being held in the concentration areas the following directives will apply:

(a) Russian Nationals

Headquarters MTOUSA letter, file AG 383.7/414 D-O, 31 May 1945, subject: "Disposition of Soviet Citizens" as amended by Headquarters MTOUSA letter, same file and subject, dated 4 June 1945.

AFHQ letters, file CR/3491/2 G-1 (Pr), 6 March, 7 March and 15 March, all 1945.

(b) Other Nationals (exclusive of the Italian Republican Army)

Headquarters MTOUSA letter, file AG 383.6/326 PLC-O, 26 February 1945, subject: "Administrative Instructions for the United States Prisoner of War Enclosures in MTOUSA", Chapter XVIII, paragraph 7.

AFHQ Administrative Memorandum Number 60, 14 December 1944 except:

1. Where specific instructions to the contrary have been issued.
2. Chetniks will be retained in the British concentration area and segregated into a separate enclave, to await disposal instructions which will be issued by AFHQ.

- (4) Separate instructions have been issued regarding the disposal of senior enemy officers.

c. Technical Troops - Technical troops used as such in accordance with paragraph 5 b (3) above will be distributed between the US and British in accordance with instructions from AFHQ/MTOUSA.

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Ltr, AFHQ, AG 386.3/163 LGC-O,
dtd 7 July 1945 (Cont'd)

d. Recalcitrant Enemy Personnel

- (1) Personnel named by Counter Intelligence Staffs as dangerous to security, or who prove troublesome, will be termed "recalcitrant".
- (2) Such personnel will be separated from the remainder of the surrendered enemy forces as early as possible, and held in confinement when specified by AFHQ/TOUSA. They will not be given PW status.
- (3) Recalcitrants will be segregated from any personnel granted PW status by competent authority.
- (4) All SS troops will be considered recalcitrant and treated in accordance with sub-paragraphs (2) and (3) above.

e. Employment - Instructions regarding the employment of enemy forces have been issued separately. (AFHQ letter, AG 386.3/163 GGT-O, 15 June 1945, subject: "Employment of German Prisoners of War and Surrendered Personnel - Priority List Ten).

f. Documentation

- (1) Detailed documentation will be carried out by Allied military headquarters concerned for:
 - (a) Recalcitrant personnel
 - (b) Personnel of Allied nationality.
- (2) Instructions concerning the documentation and maintenance of records for all surrendered enemy personnel held in this theater are contained in AFHQ letter, AG 386.3/163 GIP-O, 13 June 1945, subject: "Instructions for the Documentation of Enemy Surrendered Personnel".

g. Bounds

- (1) Concentration areas will be placed off limits to all Allied military personnel except those concerned in the administration of the areas.
- (2) No fraternization will be allowed between surrendered enemy personnel and Allied or co-belligerent personnel. In their respective areas, FIFTH and EIGHTH Armies, through AEC, will be responsible for insuring that civilians comply with this non-fraternization order. Headquarters Allied Commission will be similarly responsible in other areas.

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Ltr, AFHQ, AG 386.3/163 LOC-O,
 dtd 7 July 1945 (Cont'd)

h. Guards - FIFTH and EIGHTH Armies will be responsible for the provision of guards for enemy forces while under their control. The MTOUSA POW Command and Number 1 District similarly will be responsible for the provision of guards in the concentration areas under their respective jurisdiction. The necessary troops will be allotted by AFHQ/MTOUSA to Number 1 District and the MTOUSA POW Command for this purpose. Arrangements for guarding when enemy forces are employed in accordance with letter referred to in paragraph 7a will be in accordance with paragraph 11 of above reference letter.

i. Discipline -

- (1) Surrendered enemy forces will be responsible for maintaining a high standard of discipline.
- (2) All Allied commanders will insure that the persecution of non-Nazis, non-Germans and non-Fascists is prevented.
- (3) Such summary jurisdiction as may be necessary to maintain discipline in the final concentration areas may be left to enemy commanders within the discretion of Allied commanders concerned. Enemy courts martial may be permitted to function under Allied supervision.
- (4) All crimes, of whatever nature, may at the discretion of the appropriate Allied commanders be tried in AMG courts established for the purpose or by courts martial, notwithstanding any powers of summary jurisdiction which may have been given to enemy commanders.
- (5) Available enemy military police and provost personnel will be distributed as necessary among concentration areas.

j. Maintenance

- (1) Enemy Service Units - Such units as are required to enable forces to maintain themselves will be formed by the headquarters concerned. The MTOUSA POW Command will make available to MTOUSA major commands and Number 1 District such service units as are required, if available, to maintain enemy forces. The obligation of the MTOUSA POW Command to provide enemy service units to Number 1 District ceases when the principal adjustment in holdings of enemy forces by the British and US has been made as provided in paragraph 5 b (1) above. Co-ordination and allocation of enemy service units between the US and British will be the responsibility of AFHQ/MTOUSA.
- (2) Enemy stocks of maintenance supplies - FIFTH and EIGHTH Armies will obtain details of locations and quantities of enemy stocks of maintenance supplies located in their areas. Surrendered personnel required to operate enemy dumps or depots may continue to be so employed subject to the provisions of paragraph 7 a above.

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Ltr, AFHQ, AG 386.3/103 LCC-0,
 dtd 7 July 1945 (Cont'd)

(3) Use of enemy maintenance stocks

- (a) Maximum use of enemy stocks will be made for the maintenance of surrendered enemy forces. Overall allocation of enemy stocks will be the responsibility of AFHQ/AFMUSA.
- (b) Subject to particular circumstances which may arise, Allied stocks of rations (Class I Supplies), Engineer and Ordnance stores (Class II and IV Supplies of all Technical Services) will not be used for this purpose, until enemy stocks have been exhausted.

- (4) Allied assistance in the maintenance of surrendered enemy forces - In the interim stage, pending the locating of enemy stocks and the organization of the necessary service units, Armies, AFMUSA, PGW Command and Number 1 District will perform such maintenance activities for surrendered enemy forces as are necessary.

k. Transport

- (1) In order to economize in motor transport, enemy forces will be maintained as far as practicable by animal transport.
- (2) Animal, in preference to motor, transport will be used for local details within the concentration areas. This is desirable for security reasons as well as to economize on motor fuel and vehicles.
- (3) Subject to the limitations of (1) and (2) above, surrendered enemy forces will be allowed to retain minimum scales of motor transport as laid down by Allied military headquarters concerned. Enemy units required to work under Allied supervision will be allowed to retain such transport and equipment as are necessary to carry out their task.
- (4) Enemy transport units in excess of requirements for enemy administration, may be used in relief of Allied administrative resources and for the movement of civil supplies. Allocation of this transport will be the responsibility of AFHQ/AFMUSA.

1. Rations - Surrendered enemy forces whether fed from enemy or Allied stocks will be provided with a ration of approximately 2000 calorific value. A ration of approximately 2900 calorific value will be allowed for heavy workers. (Heavy workers are those working more than 4 hours daily for the Allied armies). Detailed scales have been issued separately.

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Str, AFHQ, AC 306.3/163 LOG-O,
 dtd 7 July 1945 (Cont'd)

m. Forage - The scale to be issued for captured animals will be as follows:

Animals in work - full scale.

Animals not in work - scale to be governed by the condition in which animals are found. Normally this will be fifty per cent (50%) of usual scale.

n. Surrendered Enemy Material - Separate instructions have been issued in AFHQ letter, file AC 306.3/163 LOG-O, dated 22 June 1945, subject: "Disposition of Captured Enemy Material in Italy".

o. Medical - In view of the danger of malaria:

- (1) Personal and unit anti-malarial precautions will be enforced.
- (2) General anti-malarial precautions throughout the concentration areas will be carried out as required.

p. Welfare - Enemy welfare services may be permitted to function under supervision. No Allied material or entertainment will be provided.

q. Postal Facilities - Initially no postal facilities will be provided for surrendered enemy personnel. Further instructions will be issued later if required.

r. Pay of Enemy Forces - Separate instructions will be issued.

s. Local Purchase and Use of Currency

- (1) Surrendered enemy forces will not be permitted to make any local purchases on their own account. Should it be found economical to supply them with such local products as may not be required for civilian or Allied military use, such products will be purchased by Allied military authorities, in conformity with existing AFHQ/ITCUSA instructions as to method of procuring local resources. For the purpose of accounting, separate records will be maintained of all such purchases.

- (2) Accounts outstanding against the enemy in respect of purchases made previous to surrender will be forwarded to AC/AFG for such investigation or other action as may be considered appropriate.

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SECRETLtr, AFHQ, NO 386.3/103 ICC-O,
dtd 7 July 1945 (Cont'd)

t. Allowance of Rosale/EFI Items - Separate instructions are being issued to provide the minimum allowance of Rosale/EFI items necessary for sanitation and health.

BY COMMAND OF FIELD MARSHAL ALEXANDER:

C. W. Christensen
C. W. CHRISTENSEN
Colonel, AGC
Adjutant General

2 Incls

- 1 - Appendix "A" - Suggested scales of accommodation.
- 2 - Appendix "B" - Trace showing British concentration area for surrendered enemy forces.

DISTRIBUTION:

10 - Each addressee	1 - DELE
1 - SAC, Med	1 - Tn (B)
1 - D SAC, Med	1 - Tn (A)
1 - C/S, AFHQ	1 - DERS
1 - CAO	2 - PUG (A)
1 - A/CAO	2 - Provost Marshal (B)
1 - C/S AFHQ	1 - JA
5 - C-in-C Med	1 - DJAG (B)
1 - COMUSMACV	1 - Pay
4 - Air C-in-C Med	1 - Labor
3 - CG, AFHQ/ITO	1 - AG Postal
3 - AFHQ/ITO	1 - Postal (B)
3 - CG, RMC	3 - QM
3 - Repl & Trng Cond, AFHQ	
3 - CO, RMC	1 - CWS
2 - G-1 (A)	1 - PIs Dir
2 - G-1 (B)	1 - Fin Adv (B)
3 - G-2	1 - US POLAD
4 - G-3	1 - Br Reg Min
3 - G-4 (A)	1 - Hq AFHQ-Rome
1 - G-4 (B)	2 - CZE
1 - Log Plans	3 - LFSC (MILA)
4 - G-4 (Mov & Tn)	3 - SHREF
2 - Q(Maint)	2 - AG Records
2 - Q(AE)	30 - Sources, G-4 Plans
3 - G-5	1 - AG I. & D
2 - Engr (A)	
2 - Engr (B)	
2 - Signals	
2 - Liaison	
2 - Works	
1 - S & T	
1 - Surgeon	
1 - Medical (B)	
1 - Ord (A)	
1 - Ord (B)	

E.C. DISTRIBUTION

CHIEF COMMR.	Copy No. 139
Ex. Commr.	" " 138
C.A. Section	" " 140 & 141
Economic Sec	" " 142
Emilia Region	" " 143
Lombardia Region	" " 144
WMD & IPOW S/C	" " 145
Navy S/C	" " 146
Air Force S/C	" " 147

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APPENDIX "A" to
ltr, AFHQ, AG
306.3/163 LOC-O,
dtd 7 July 1945.

SUGGESTED SCALES OF ACCOMMODATION

(German scales may be used but will NOT exceed those given below).

1. General area to be 50-sq yards per man.
2. Staging Camp or Bivouac scales for all ranks will be all tentage except as follows:

Deep Trench latrine seats.....	5%
Field Urinals 10' long.....	1%
8-ft Double Sided Ablution Benches.....	2%
Kitchen Wash-up Benches.....	1%
Duck Board 6'6" long.....	5%
Incinerator.....	0.1%
Litter Cages.....	1%
Grease Interception Boxes.....	1%
Showers.....	Nil
Mobile equipment to be used.	
Static water reserve storage.....	2-gals
per head	
Water supply to give 5-gals per head per day	
Flyproofed food store and food preparation room, at 1-f-s. per head	

NOTE: Screen surrounds are required to Ablution Benches and to latrines and urinals, and Proof cover is required before October. Water points should be established for mobile showers, near kitchen wash-up in food preparation room and near ablutions.

3. Water supply to be 5-gals per head per day for all purposes with 2-gals per head storage.

4. HOSPITALS IN AREA

Scale as for Bivouac/Staging camps above.

5. VEHICLES

100 - sq yards per vehicle. No hard standings or wash down points will be constructed.

6. ANIMALS

50 - sq yards per animal. No hard standings will be constructed and only the minimum construction to give paddocks and uncovered lines. Water supply - 10 gals per animal per day.

Inclosure #1

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SECRETAPPENDIX "A" (Cont'd)7. DEPOTS AND WORKSHOPS

To be existing covered accommodation where authorized, standing and roads. Covered accommodation will only be used for goods that would deteriorate if stored in the open.

8. ANCILLARY BUILDINGS

Bath-houses, laundries, bakeries, cookhouses, etc, are not authorized for initial occupation to Bivouac/Staging Camp scales in final concentration area.

9. LIGHTING

Lighting will be only that which can be made available from surrendered forces mobile equipment. Firstly for hospitals, secondly Workshops Depots and Offices.

10. TRANSIT CAMPS FOR RECALCITRANT PERSONNEL

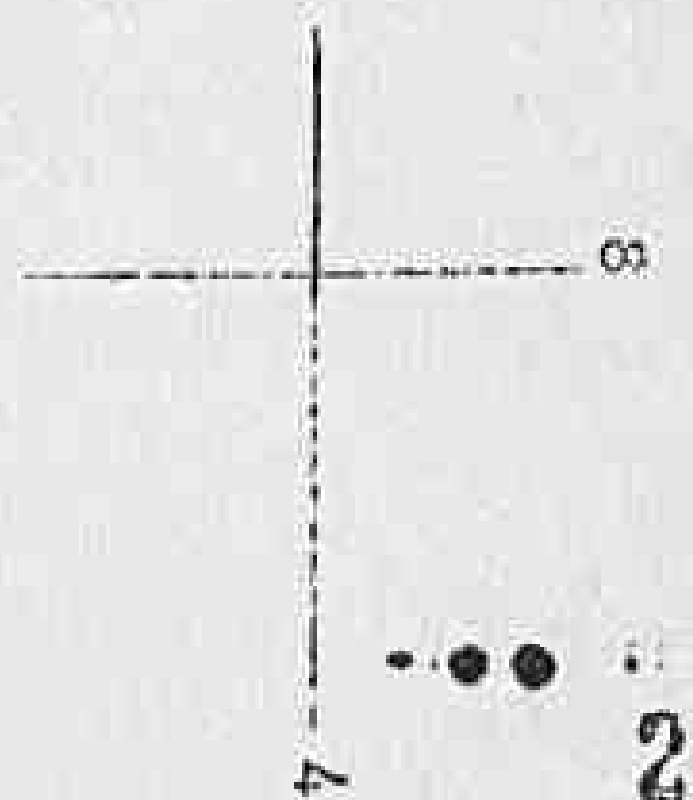
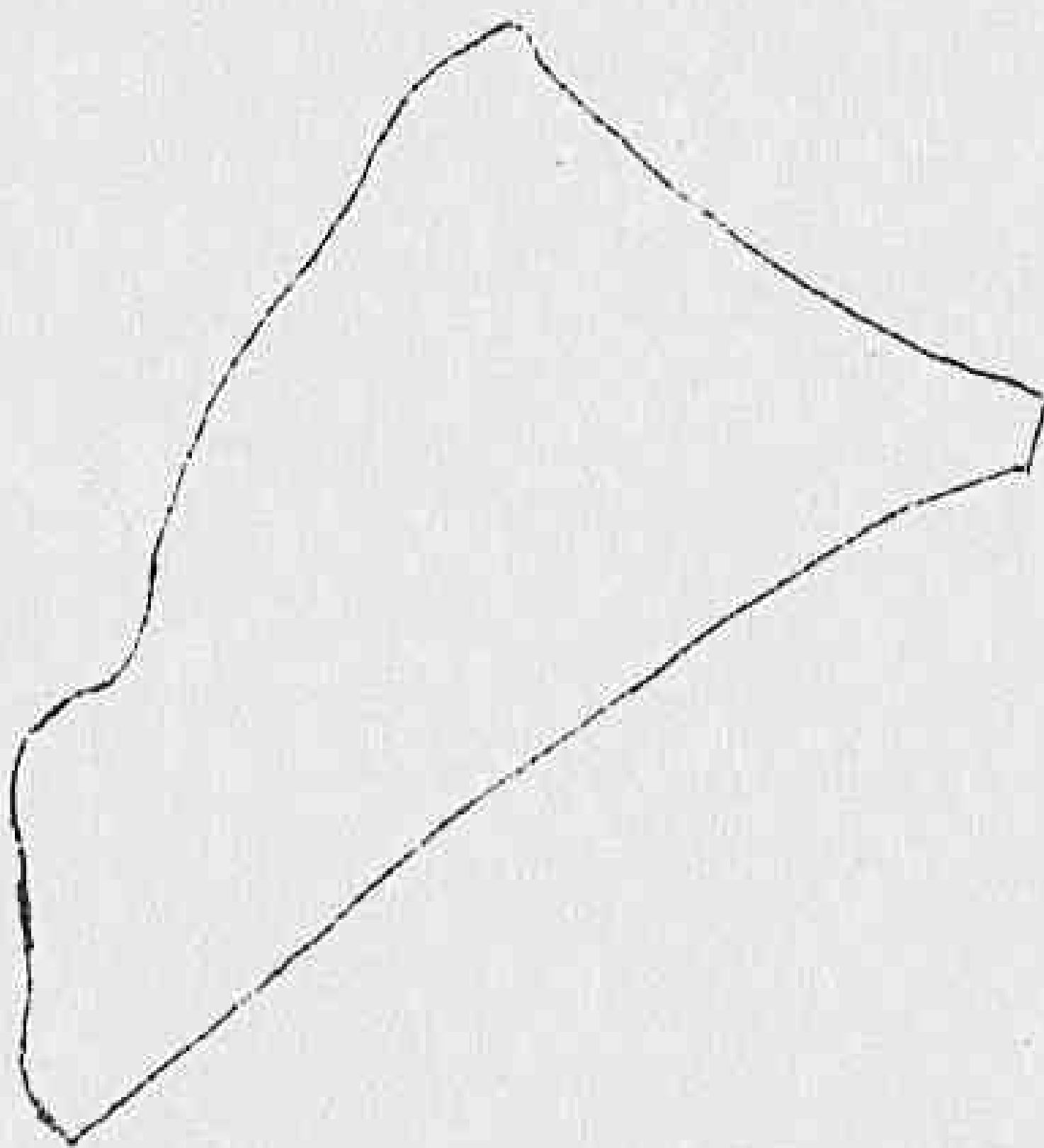
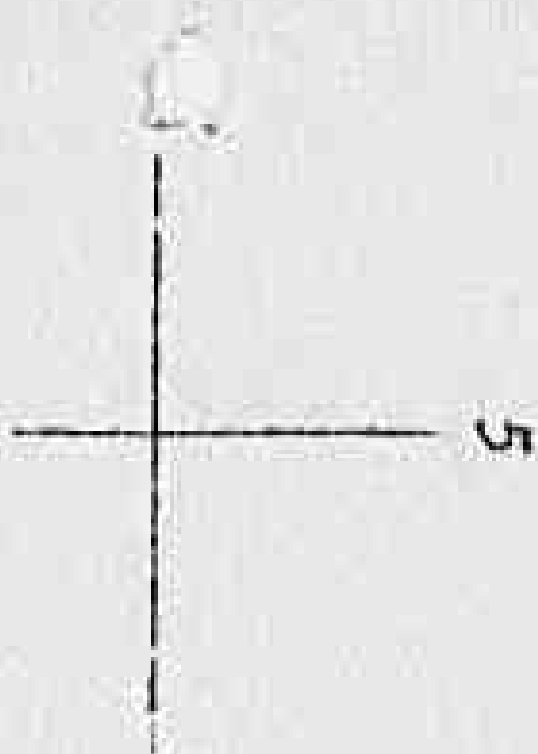
These will be required for 5,000 in British and US areas. They should be constructed to Bivouac/Staging Camp scales and fenced with guard-walks as PW compounds, divided internally into 1,000-man pens.

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TRACE showing BRITISH CONCENTRATION AREA
for SURRENDERED JAPANESE FORCES

Ref Map 1 : 250,000 TRAIT Sheet 19 RAVENNA



APPENDIX "B" to
1st, AFHQ, AG 386.3, J
163 LOG-O, dtd 7 JAN
1945.

Inclusive #2

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TO: AFHQ GEORGE FIVE

1591

21 Jul 55

PRIORITY

CONFIDENTIAL PD

7A
 PARA ONE PD SUBJECT IS DISCIPLINE GIVEN SUPERVISOR PERSONNEL. CMA
 ENCLOSED TO YOUR LETTER OF NINE JULY FOUR FIVE PD

PARA TWO AND GEORGE FIVE FROM ALGER GIVE ADDAS PAREI

PARA TWO PD REQUEST FOLLOWING AGREEMENTS COLON CLAUSE FIVE FIRST LINE
 FOR QUOTE WILL UNQUOTE READ QUOTE MAY UNQUOTE PD AND AT END OF CLAUSE
 QUOTE SUCH OFFENSES WILL BE CHARGED UNDER ITALIAN LAW OR CMA DURING THE
 CONTINUANCE OF MILITARY GOVERNMENT CMA UNDER THE PROCLAMATIONS CMA AS MAY
 BE APPLICABLE UNQUOTE PD

23
 PARA THREE PD CLAUSE SEVEN DASH DELETE SECOND AND THIRD SENTENCES PD
 SUBSTITUTE QUOTE HEADQUARTERS ALGER CMA UNQUOTE IS OF OPINION THAT UPON
 THE FACTS A TRIAL SHOULD NOT BE HELD CMA WILL CONVINCE THE NECESSARY COURT PD
 SUCH COURT WILL PROCEED IN ACCORDANCE WITH THE PROCEDURE LAID DOWN IN
 COORDINATED INSTRUCTIONS FOR ALLIED MILITARY COURTS CMA COPIES OF WHICH
 WILL BE SUPPLIED TO COMMANDERS CONCERNED PD UNQUOTE PD

PARA FOUR PD DELETE AND SUBSTITUTE QUOTE THE DELICATE AREA ON SUB AREA
 COMMANDER CONCERNED WILL BE REQUIRED TO RENDER ALL ASSISTANCE REQUESTED
 BY HEADQUARTERS ALGER PD THIS WILL NORMALLY INCLUDE THE

- 2 -

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11 Jul 45

PRIORITY

DETAILED OF ALL MEMBERS OF THE COURT CHA. OTHER THAN THE PRESIDENT CHA AND
PROSECUTING AND DEFENDING OFFICERS CHA ALL ARRANGEMENTS FOR PROVISION OF
ACCOMMODATION AND COURT CRUISES AND ARRANGEMENTS FOR ATTENDANCE OF WITNESSES
IN DISPUTE

Internal Distribution

Chief Commissioner,
Executive Commissioner,
Legal Sub-Commission.

22

Civil Affairs Section

437

NICHOLAS PIGNINO,
CWO USA
Asst. Adjutant.

CONFIDENTIAL

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

WIM/1rf

Legal S/C (17A)

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9 July 1945

SUBJECT: Discipline German Surrendered Personnel.

TO : Headquarters, Allied Commission, APO 394

(17B)

1. Attached is a draft of a section on disciplinary powers for inclusion in an instruction to be issued on the British side for administration of units formed from surrendered German personnel.
2. The intention of the draft is to provide an immediate workable method of disciplining German service units and yet cut down work for your commission so far as concerns Allied Military Courts.
3. Your comments are urgently requested particularly on paragraphs 5, 7 and 8. As it is desired to issue this instruction by 14 July will you please telegraph immediately any amendments you may wish to suggest.

For the Assistant Chief of Staff, G-5:

H. Y. MERTSCH,

Lt Colonel, R.A.

Incl:
as above

LEGAL SUP COM 1701

CLO

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CLO

21

CONFIDENTIAL

COPY

DISCIPLINE

17B

1. The responsibility for the maintenance of discipline in units into which surrendered enemy personnel are or may be formed rests in the first instance with the enemy officers and NCOs concerned.
2. A German officer appointed to command any such unit may, with the prior approval in each case of the British Officer responsible for administration of the unit, deal summarily with an offence by a German NCO or OR of the unit. His disciplinary powers are limited to the following awards:-
 - (a) Geschwenter arrest for a period not exceeding six weeks; this entails solitary confinement, bread and water and a hard bed, modified on every third or fourth day and may be awarded to ORs and NCOs up to and including the rank of Sergeant.
 - (b) Galanter arrest with solitary confinement, inflicted on NCOs or ORs.
 - (c) Reduction in rank of NCOs.
3. The disciplinary powers of all German Courts Martial over personnel of such units will not be exercised without reference to AFHQ.
4. Subject to the provisions of para 5 below relating to serious offences, officers and NCOs (or NCOs and ORs who for any reason are not dealt with summarily under para 2 above) whose continued presence with the unit is considered detrimental to the maintenance of discipline may be declared to be P.M. If it is desired to take this course the facts will be reported to the Brigade, Area or Sub Area Commander, who, if he decides to make the offender a P.M., will arrange for his transfer to the nearest convenient P.M. camp, and report the action taken to AFHQ 2nd Echelon. If this course is adopted no

20

- NCOs up to and including the rank of Sergeant.
- (b) Gaoler arrest with solitary confinement, inflicted on NCO's or OR's.
 - (c) Reduction in rank of NCO's.

3. The disciplinary powers of all German Courts Martial over personnel of such units will not be exercised without reference to AFHQ.

4. Subject to the provisions of para 5 below relating to serious offences, officers and IOs (or NCOs and ORs who for any reason are not dealt with summarily under para 2 above) whose continued presence with the unit is considered detrimental to the maintenance of discipline may be declared to be P.I. If it is desired to take this course the facts will be reported to the Brigade, Area or Sub Area Commander, who, if he decides to make the offender a P.I., will arrange for his transfer to the nearest convenient P.I. camp, and report the action taken to G-2 and Echelon. If this course is adopted no other disciplinary action will be taken in respect of the offence, but the offender will thereafter be subject to discipline as a P.I.

5. Cases involving the following offences will be tried in Allied Military

Government Courts:-

- (a) Murder or attempted murder.
- (b) Rape.
- (c) Robbery with violence or robbery with aggravation.
- (d) Serious offences against Allied personnel or property.
- (e) Any other case of a serious nature which in the opinion of the Brigade, Area or Sub Area Commander should be so tried.

6. The following powers of supervision and control may be exercised by the

/.....Sheet 4.

-2-

by the British officer responsible for the administration of the unit:-

- (a) To supervise the exercise of the summary powers granted by para 2 above, to attend, or appoint an officer to attend, the hearing of any case and to modify any decision made in pursuance of those powers.
- (b) To order a German Commanding officer to deal summarily with any case in which it is not desirable to proceed in accordance with paras 4 or 5 above.
- (c) To withhold from any member of the surrendered enemy forces for such time as may be considered desirable any benefit or privilege which might otherwise have been granted.

7. Where the officer responsible for administration of the unit considers that a case requires trial by an Allied Military Government Court, he will report the facts to the brigade, area or Sub Area Commander who will if he

decides that such trial is required apply direct to HQ Allied Commission with a full statement of the facts. ⁴⁰⁰ HQ will be required to render all assistance which the facts show to be needed, such as convening the court by the Allied Commission. This will normally include the detailing of necessary court staff. Such court staff should be as self-sufficient as possible, including the court and prosecuting and defending officers, all arrangements for the provision of accommodation and court orderlies and arrangements for the provision of technical aids to be supplied to the court. ⁴⁰⁰ The attendance of witnesses.

8. The file, area or Sub Area Commander concerned must submit a full statement of the facts to the Allied Commission. ⁴⁰⁰ It is required for the area or Sub Area Commander to be requested by HQ A.C. to establish a court. Copies of the Allied Control Committee's decision will normally include the details of all members of the

• **Washburn** is a small town in the northwestern corner of the state, just south of the Canadian border. It is a typical small town with a population of about 1,000 people. The town is known for its historic architecture and its proximity to the Canadian border.

7. When the officer responsible for administration of the unit considers that a case requires trial by an Allied Military Government Court, he will report the facts to the brigade, area or Sub Area Commander who will if he

decides that such trial is required apply direct to Hq. Alliec Commission with

444. The AIC, consistent with its opinion that the bill will be required to render all assistance

upon the fact that a twist should not be held, small concrete

presented by the Allied Commission. This will normally include the details of the various Soviet Governmental activities of the economic death

of members of the Court and prosecuting and defending officers, all arranged-

the procedure has others in consideration and may be

~~entry for review of records and information contained therein, release of records must be supplied to Comptroller General.~~

Account of a journey to the North Pole.

~~The date, name of the vessel, location, and other pertinent information should be entered in the appropriate column of the log.~~

It requires the rendering of assistance requested by the ITC.

established for great counts. Copies of the Allied Control Commission
will be made and included in the determination of all members of the

The right of a citizen to be elected to Congress is constitutionally protected, and Congress will be anxious to guarantee the right of a citizen to be elected to Congress.

Court, other than the President, is presenting & defending effrs.

all arrangements for provision of account priorities & arrangements.

9. The principles of discipline set out above will be made known to all the men on board.

for attendance of subscribers.
GAMMAN PERSONNEL of wife and it will be increased upon them that it is in

1st priority for eventual release and return to their homes.

4002/17
 ALLIED FORCE HEADQUARTERS
 Office of the Chief of Staff

Legal
 4720 (161)
 4 July 1945

SUBJECT: Jurisdiction over Surrendered Personnel.

TO : Headquarters, Allied Commission, APO 394. 10A

1. Reference is made to your letter AC/4002/17/L of 4 June 1945 and to your aide memoire for General Robertson 564/EC dated 5 May 1945.

2. It has been determined that surrendered enemy personnel in this theatre will not as a group, or solely for purpose of trial be accorded the status of prisoners of war. This determination is reflected in the provisions of the agreement of armistice which took effect on 2 May 1945 as well as in all relevant directives of this Headquarters.

3. The burden thrown upon the Allied Commission in executing the directions of this Headquarters' letter of 22 May is fully appreciated. It is hoped that with such assistance and cooperation as may be furnished the difficulties may be overcome. The establishment of MTOUSA Prisoner of War Command to administer surrendered personnel held by U.S. Army should afford material aid. Surrendered personnel under this Command will, in addition to laws and tribunals mentioned in this Headquarters' orders of 19 May 1945 to German Commander-in-Chief, S.W., be subject to trial in U.S. Courts Martial for violations of U.S. Articles of War and laws and usages of war in any case or class of cases in which Commanding General, MTOUSA Prisoner of War Command, so directs. In the case of British held personnel, it is not practicable to provide for any procedures other than those presently authorized. 9A 18

4. In view of the fact that the Combined Chiefs of Staff have approved the policy of dealing with surrendered enemy personnel in Military Government courts it is believed to be inappropriate for this Headquarters to re-consider the question of conformity to the Geneva Convention which you state to be necessary. The other legal difficulties which are suggested in your letter can be disposed of by the issuance of appropriate orders.

By Command of Field Marshal ALEXANDER:

W. D. MORGAN
 Lieutenant General
 Chief of Staff

Second copy of the letter
 Left with office of Executive Commission
 5/7/45

400-117

158

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

4 July 1945

Dear Maurice,

The Chief Administrative Officer yesterday asked me to reply to your P/O letter of 25 June 1945 concerning responsibility of Military Government courts for offences by surrendered personnel.

As you know, reconsideration of this subject was requested by Admiral Stone on 4 June, as a result of which the entire matter was given further careful consideration throughout this Headquarters.

Following that study, the Chief Administrative Officer decided that the only change which could be made was to provide, in respect of surrendered personnel held by MTOUSA PW Command, for an additional remedy by U. S. Courts Martial in cases in which C. G. of such command so directs. Corresponding procedures on the British side are not feasible.

The official letters from this Headquarters on the matter will have reached AICOM in the ordinary course.

Sincerely yours,

LEGAL SUB COM

CIO

DCIO

SA

CD

17

CHARLES M. SPOFFORD,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

Brigadier Maurice S. Lush, CB, OBE, MC.

Ex Com's Dist.

1 - EX. COM

1 - LEGAL S/C (AC/4003/17/6 of 25 June
refuse)

PERSONAL & CONFIDENTIAL

13A

Ref: AG/4002/17/L.25 June 1945.

May I draw your attention to the correspondence ending with our letter AG/4002/17/L of 4 June, addressed to the Chief of Staff, AFHQ. Since then the 88th US Division has instructed the Provincial Commissioner to try a German soldier in BOLZANO for the manslaughter of a Russian refugee. I have managed to get G-5 to instruct 5 Army to have the trial delayed until the staff study which I am told is now proceeding on our letter of 4 June is finished.

In this connection I am told that the staff study is being considered from an Italian-German point of view, but I also understand that JAG, MATOUSA feels that surrendered troops held by American troops should be tried by American court martial, while G-4(B) consider the British courts martial have no jurisdiction.

As to these points, it is fair to point out that Italy is essentially different from Austria, since in Austria German is the local language and the local law is probably the same as German law. If this man is tried under Italian law he will be tried under a law of which he has no knowledge.

We feel strongly that these surrendered German troops should be tried by military courts martial and not by Allied Military courts which are set up to deal with Italy and the Italians and under the Italian law or proclamations issued by the Field Marshal.

16

M. S. LUSH

Lieut. General Sir Brian H. Robertson, Bt,
KCVO, CB, CBE, DSO, MC,
Chief Administrative Officer,
ALLIED FORCE HEADQUARTERS.

Copy to: Office of Executive Commissioner.

12A

G-3, 5 ARMY RPTD AMG BELLARD, AMG 7 NREIR

489

24 JUNE 1945

PRIORITY

PARA ONE PD REFERENCE TRIAL OF SEIPERT FRANK AND FISCHER BY
 AMG COURT FOR MANSLAUGHTER OF RUSSIAN REFUGEE PD

PARA TWO GEORGE FIVE CEA FIVE ARMY RPTD AMG BOLLARD CEA AMG
VERREIN FROM HE ALDON CEA AGED FARRER

PARA TWO PD THE MATTER HAS BEEN REFERRED TO ABLE FOX HOW
 GREEN FOR CONSIDERATION WHETHER SUCH TRIAL SHOULD BE HELD PD

PARA THREE PD PENDING DECISION BY ABLE FOX HOW GREEN WOULD
 BE GRATEFUL IF NIGHTMARE DIVISION COULD AUTHORIZE DEFERMENT
 OF TRIAL

15

Legal Sub-Commission

302

✓ 6-02/17

Legal (11A)

R12/LE/REG/H/08
JUN 20NFTE/6388
JUN 231500B
ROUTINEAMG BOLZANO
AMG VENEZIA, HQ ALCON, C-5 5 ARMY

IN CLEAR.

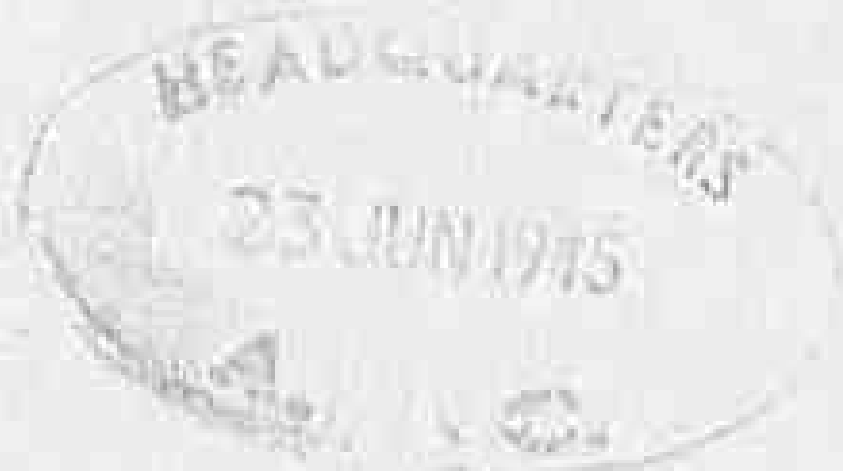
Despite advice given have received orders from 88 Div to try SEIFERT FRANZ a
PW on a charge of manslaughter of a Russian refugee. SEIFERT was driving a vehicle
which ran over the Russian. FISCHER another PW, a passenger in the vehicle is also
detained presumably on a charge of aiding and abetting.

Signed MC BRATNEY

DIST

ACTION: Public Safety
INFO: Chief Commissioner
CA Sec
Legal S/C ←
File 2
Fleet

143



REG. SEC. DIVISION
CLIO
DELO
Chief Counsel
CIO
Isidor K. ...
CL. ...
12 3 JUN 1945

SECRET

10A

AC/4002/17/L

4 June 1945.

SUBJECT: Jurisdiction over Surrendered Personnel.

TO : Allied Force Headquarters, APO 512.
Attn: Chief of Staff.

1. I refer to your letter dated 22 May 1945 enclosing a copy of your letter of 19 May 1945 to the German Commander-in-Chief South West on the above subject.

2. At a recent discussion with the C.A.O. it was agreed that it was most undesirable that German surrendered personnel should be tried by Allied Courts.

3. The principal difficulties are :

- (a) Trials will presumably be held only in serious cases and the powers of punishment of Allied Military Courts are limited to death, fine and imprisonment. In cases where a death sentence is inappropriate the imposition of a fine would be nugatory and out of place and the enforcement, either in Italy or elsewhere, of a long sentence of imprisonment raises considerable problems.
- (b) The accused should be defended by a qualified lawyer. For this purpose an Allied officer will have to be detailed not only to conduct the defence but in the event of conviction to settle the petition for appeal.
- (c) The number of legal officers now in this Commission is already inadequate for present needs and is being constantly reduced. If such personnel as may be available for duty are furnished to assist the Allied Military Courts, it is clear that an additional burden, possibly heavy, will be thrown not only on the Presidents of the Courts and the officers detailed to prosecute and defend but also on the reviewing staff.

13

SECRET

SECRET

-2-

4. There are in addition the following legal considerations:

- (a) It is the considered opinion of the Legal Advisers of this Commission that the only Allied Courts which have jurisdiction over surrendered German personnel are courts constituted in accordance with the Geneva Convention.
AMC Courts are not such courts.
- (b) AMC Courts have no jurisdiction to punish offenders for disciplinary offenses against German military law.
- (c) It is extremely doubtful how far the German troops can be deemed to have knowledge of the Italian Civil Code or even the Allied proclamations unless these are made available in German; this is not practicable, at least in the case of the Italian Civil Code.

5. It is strongly urged therefore that this question may be reconsidered and that in all cases where these troops cannot be adequately punished by their own commanders they be tried in accordance with the Geneva Convention as Prisoners of War.

ES/ Ellery W. Stone

ELLEY W. STONE
Rear Admiral, USNR
Chief Commissioner

112

SECRET

564
SECRETEx. Comm. 689
9A

22 May 1945

SUBJECT: Jurisdiction over Surrendered Personnel.

MAY 25 1945

TO: Commanding General, 15 Army Group.
 General Officer Commanding, 8 Army.
 Commanding General, Fifth Army.
 Chief Commissioner, Allied Commission (Italy) ✓
 General Officer Commanding, No. 1 District.
 General Officer Commanding, No. 2 District.
 Commanding General, Peninsular Base Section.
 (Through Commanding General, AFUSA)

1. Attached is copy of Order dated 19 May 1945 to German Commander-in-Chief, Southwest, concerning disciplinary and other jurisdiction over surrendered personnel.
2. Allied Commanders will require German military authorities to discharge fully the responsibility resting on them for the enforcement of discipline among all surrendered personnel under their command or control.
3. In the event that such disciplinary controls fail to enforce compliance with orders issued by or for the Supreme Allied Commander or other laws or regulations as set forth in the orders mentioned in paragraph 1 above, offenders will be brought before Allied Military Government Courts in accordance with Freeman Memorandum No. 8 dated 6 April 1945 and directive dated 1 May 1945, AG 357/147 GGT-O.
4. Allied Commanders will, upon request of Allied Commission in Italy and where conditions permit, furnish such personnel as may be available for duty on Military Government Courts in Italy. In cases arising in Austria, Allied Commanders will be responsible for provision of required personnel in accordance with existing directives.

By Command of Field Marshal ALKARREN:

217 May 1945
 A. B. MORRIS,
 Lieutenant General,
 Chief of Staff.

SECRET

(FMS Ficklen)

SECRET

19 May 1945

SUBJECT: Jurisdiction over Surrendered Personnel.

TO : The German Commander-in-Chief, U.S.

1. The instrument of surrender of Germany and other forces under your command or control dated 29 April 1945 provides that you will carry out the orders set out in Appendices A, B and C thereof and any further orders of the Supreme Allied Commander, Mediterranean Theatre of Operations and that disobedience of such orders or failure to comply with them will be dealt with in accordance with the accepted laws and usages of war. Appendix A provides in paragraph 16

"The German authority will remain responsible for the maintenance of discipline throughout the German Land Forces as defined in paragraph 1 above. Until such time as this responsibility is taken over by allied troops, i.e., until German troops become prisoners of war, German commissioned officers and military police (Feldzer Gendarmen and Gebirg Feld polizei) will retain their hand weapons."

2. Your responsibility in maintaining discipline among all personnel under your command or control will be exercised by you in accordance with German military law and procedures and, subject to supervision and control by the Supreme Allied Commander or subordinate commanders.

3. In addition, you and all personnel under your command or control will be subject to trial in Allied Military Government Courts for all offences, civil or military, against orders issued by or with the authority of the Supreme Allied Commander, against the Laws and Usages of war, or against the civil code; provided, however, that any such personnel who shall have been declared to be prisoners of war shall be tried in accordance with the provisions of the Geneva convention.

4. You will cause the foregoing to be brought to the attention of your subordinate commanders and all other personnel affected.

by command of Field Marshal ALFRED J. MURPHY:

A. J. MURPHY
Lieutenant General
Chief of Staff

SECRET

SECRET

(8A)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION/lrb.
2 Feb 1945.

AC/4002/17/L.

SUBJECT : Jurisdiction of AMG Courts.

TO : V.P. CA Sec.

1. Reference signal 432 of 30 April from HQ 15 Army Group I have not seen Freeborn Memorandum No. 8.
2. It appears to me that in replying to paras 4 and 5 of your signal 6225 of 27 April HQ 15 Army Group have confused the issue.
3. The fundamental point, however, appears to me to be that of jurisdiction. There can be absolutely no doubt that AMG Courts have, under the Geneva Convention, no jurisdiction to try prisoners of war. The Administrative Directive as it stands contains an instruction that AMG Courts are to try offences by all surrendered troops, including those designated as prisoners of war. This must be wrong.
4. On the broader issue, however, I take the view that a nation cannot "contract out" of the Geneva convention by forcing a defeated enemy to accept the de facto status of a prisoner of war while surrendering the protection afforded by the convention. It is in my view a pure question of law, depending upon the relevant facts in each case, whether or not a member of the armed forces of the enemy has the status of prisoner of war. His having signed, under pressure, a statement "I agree that I am not a prisoner of war" is not, in my opinion, one of the relevant facts which require consideration. I have already expressed the opinion to which I adhere, that if the acceptance of a surrender by a member of the enemy forces amounts to an assumption of complete control over him such member is a prisoner of war.
5. According to my understanding of the scheme proposed in this case, I am of opinion that it falls within this description and confers upon the surrendered troops all rights to which they are entitled under the Geneva convention.

- 2 -

6. I accordingly feel that it would be a breach of this convention for the Allied Commission to allow AMG Courts to try cases against surrendered enemy troops, and I feel that the attention of the Chief Commissioner should be specifically drawn to this aspect of the case. If he agrees with my opinion he will presumably wish to refer the matter to AFHQ.

W. E. Behrens

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

P. S.

7. Since writing the above I have seen Freeborn Memorandum No. 8 and I have received signal CAS 469 of 1 May from HQ, 15 Army Group.

8. Freeborn Memorandum No. 8 merely repeats, in relation to another similar operation, the paragraph which is now under discussion. It does not therefore affect the argument.

9. The signal from HQ 15 Army Group clearly calls for an early decision.

8

SECRET

LHCA 7A

015469

MAY 011915B

D/9353

MAY 020955B

PRIORITY

FOR INFORMATION ONLY

15 ARMY GROUP

ALCOM

SECRET.

Refer to SO 43 of 30 April from FILPOT to ALCOM and your cable 6225 ACCAS.

It is requested that your AC/1002/17/L dated 28 April subject trial of enemy troops in AM courts be rescinded. If further question suggest you refer to FREEDOM by whose authority we are asking you to rescind.

DIST

LEGAL SUB	MISSION
CLO	
DCLO	
Chief	
CJO	
Itali	
CL	

2 MAY 1945

ACTION: CA Sec
 INFO: A/President
 Chief Commissioner
 Legal S/C
 File 2
 Fleet

**SECRET**

SECRET

(6A)

432

APR 30 1850B

1 - MAC 4245

D/9247

MAY 010030B

PRIORITY

15 ARMY GP

ACTION HQ ALGOM TO FOR INFO AFHQ CITE FHGAB, 5 ARMY FORWARD FOR
AMG, MAIN 8TH ARMY FOR AMG, SCAO IV COMPS CITE 0043.

SECRET

Your 6225 ACCAS not to all.

1. We have discussed with AFHQ and do not agree withdrawal
sub para B para 12 our Adm Directive No 3 dated 18 April.

2. Reasons are (A) it is repeat of para 10 (B) Freeborn Memo-
randum No 8 dated 6 April 1945 (B) understand from AFHQ Freeborn
Memo No 8 is to apply to Northern ITALY (C) AFHQ advise us no
difficulty over jurisdiction (D) crimes envisaged include those
against civilians. Your 4th refers (E) suggest policy in your
5th covers different considerations and need not apply to Italians
forming part of German Land Forces.

3. Request you raise any further difficulty direct with AFHQ
copy to us.

6

Dist

Action - C.A. Section 2
Info - A/President
Chief Commissioner
Exec Comm
File

HEADQUARTERS
1 MAY 1945
A. C.

SECRET

(1415)

15 ARMY GROUP CMA FIVE ARMY AND CMA EIGHTH ARMY AND CMA FOR INFO SCAG FOUR
CORPS

6225

27 APR

ROUTINE

SECRET FD

PARA ONE FD SUBJECT IS ONE FIVE ARMY GROUP ADMINISTRATIVE DIRECTIVE NUMBER THREE DATED
ONE EIGHT APRIL FOUR FIVE PARA ONE TWO SUB PARA BAKER FD

PARA TWO FD DISARMED ARMY FORCES MAY HAVE STATUS OF PRISONERS OF WAR EVEN IF NOT
CONFINED IN PRISONERS OF WAR CAMPS AND ALLIED MILITARY COURTS HAVE NO JURISDICTION TO
TRY SUCH CASES FD ALL SUCH CASES MUST BE TRIED BY COURTS MARTIAL ESTABLISHED IN
ACCORDANCE WITH GENEVA CONVENTION FD

PARA TO ONE FIVE ARMY GROUP CMA FIVE ARMY AND CMA EIGHT ARMY AND CMA SCAG FOUR CORPS
FOR INFO FROM HQ ALCON CITE ACCAS PARA

PARA THREE FD EVEN IF SOME MEMBERS OF DISARMED ARMY FORCES DO NOT HAVE STATUS OF
PRISONERS OF WAR IT IS CONSIDERED DOUBTFUL WHETHER ALLIED MILITARY GOVERNMENT COURTS
HAVE JURISDICTION TO TRY PROCLAMATION OFFENCES COMMITTED BY GERMAN SOLDIERS AS THEY
CANNOT BE DEEMED TO HAVE KNOWLEDGE OF A DOCUMENT PRINTED ONLY IN ENGLISH AND ITALIAN FD
PARA FOUR FD FURTHER IT IS MOST DESIRABLE THAT ALLIED MILITARY COURTS WHOSE FUNCTION
IS TO MAINTAIN LAW AND ORDER AMONGST THE CIVILIAN POPULACE SHOULD TRY CRIMES COMMITTED
BY ARMY SOLDIERS WHO ARE MEMBERS OF FORMED UNITS FD

PARA FIVE PD FURTHERMORE IT IS THE POLICY OF ARMS CHARLES BLANT ARMS HORN GEORGE THAT
ALL ITALIAN SOLDIERS WHO HAVE NOT THE STATUS OF PRISONERS OF WAR AND WHO COMMIT
CRIMES SHOULD BE TRIED BY ITALIAN MILITARY JUDICIAL COURTS WHICH WILL BE SET UP
IMMEDIATELY ON LIBERATION PD

PARA SIX PD REQUEST WITHDRAWAL OF PARA UNDER DISCUSSION

How finish

CIVIL AFFAIRS SECTION

525

G.R. UNGER Brig

NICHOLAS FIOMBINO
OWO, USA
Asst Adjutant

File
FROM : COLONEL W. E. BEHRENS

AG/4008/17/L.

(4A)
Gal Sub-Commission,
Headquarters,
Allied Commission,
A. P. O. 394.
27 April 1945.

Dear

Many thanks for yours of 13 April on Prisoners
of War.

We are requesting 15 Army Group to change their
directive. Meanwhile we have refused to try in A.M.G.
Courts any of the persons mentioned in the directive.

An instruction is coming out.

Yours

Wing Comd. H. M. Dickie, R.A.F.,
A.M.G., 5th Army.

(3A)

HEADQUARTERS
AMG FIFTH ARMY
APO 464 US ARMY

HMD/jm

23 April 1945

To: Colonel W.E. Behrens,
Deputy Chief Legal Advisor,
HQ Allied Commission.

Dear B.A.

I have just seen a Top Secret document put out by HQ 15th Army Group and distributed to (inter alios) HQ Allied Commission. It is dated 18th April 1945 and is entitled "Administrative Directive No. 3 - Control and administration of surrendered enemy forces".

Paragraph 12 - Disciplinary measures - contains the following directions:-

"The discipline of the disarmed enemy forces will be maintained at a high level....."

All crimes of whatever nature may at the discretion of the appropriate Allied Commander, be tried in the Allied Military Government Courts notwithstanding any powers of summary jurisdiction which may have been given to enemy Commanders."

As the offenders will presumably be POWs this direction appears to be in direct conflict with Art. 4 of the Consolidated Instructions and the reminder contained in para 6 of CA Directive DP/3A/CA on Defascism³ dated 10th April 1945.

Your comments would be appreciated as a guide to the proper advice to be given to unfortunate PLOs who may be faced with Allied Commanders "exercising their discretion" under this Instruction.

Yours

Hugh

From: W/Cdr. H.M. Dickie, RAF.,
Legal Officer, AMG 5th Army.

2A

SECRETHEADQUARTERS ALLIED COMMISSION
APO 384
CIVIL AFFAIRS SECTION/rlp.
28 April 1945.

AC/4002/17/L.

SUBJECT : Trial of Enemy Troops in AMG Courts.

TO : Regional Commissioners (Attn: Regional Legal Officers),
UMBRIA-MARCHE, TOSCANA, EMILIA, LIGURIA, PIEMONTE,
LOMBARDIA and VENEZIA Regions; SCAOs, 5th and 8th
Armies; Hq IV Corps; Provincial Commissioner (Attn:
Senior Legal Officer), NAPLES Commune.

1. According to Administrative Directive No. 3 recently issued by Hq 15th Army Group, AMG Courts may in certain circumstances be required to try cases against enemy troops.

2. AMG Courts have no jurisdiction to try cases against prisoners of war and it is contrary to the policy of this Commission for AMG Courts to take jurisdiction, in the circumstances envisaged in the directive, against other members of the enemy forces.

3. A request has therefore been made to Hq 15th Army Group for the directive to be modified.

4. Pending further orders from this Commission, AMG Courts will not assume jurisdiction to try members of the enemy forces in respect of any of the normal offences usually tried before AMG Courts. This does not, of course, apply to espionage and similar offences.

By command of Rear Admiral STONE:

G. R. UPJOHN, Brig.,
VP CA Sec, Hq AC.

Copy to: DCCAO, Hq 15th Army Group.

SECRET

(1A)

SEE ALSO TOP SECRET LETTER TO C. A. SEC DATED 25 APRIL 1945
RELATING TO 15 ARMY GROUP AIM DIRECTIVE 3 (File AC/4134/L)

1

1175