

ACC

10000/142/887

DIS
DEC

10000/142/887

DISPOSAL OF MILITARY CRIMINALS
DEC. 1944

FILE CLOSED 26 December 1944

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

26 December 1944.

AC/4178/L.

SUBJECT : Disposal of Military Criminals.

TO : HQ, RAAC.

1. Reference your 4459 of 22 December 1944, the Chief Legal Advisor of the Legal Sub-Commission is at present in America. In his absence the Deputy Chief Legal Advisor will be pleased to attend the conference at your Headquarters at 1100 hours on Friday 29 December 1944.

2. You are no doubt aware that Allied Military Courts have no jurisdiction to deal with "members of the Allied Forces". This has been construed to include "organised contingents of armed forces of the United Nations (such as French, Poles or the Tito-Slav) who are under the command of the Commander-in-Chief Italy".

3. The question of the trial of deserters from the Royal Navy was discussed with an officer of the Royal Navy at this Sub-Commission last week. It was stated that deserters from the Royal Navy ceased in law to be members of the Royal Navy and could, therefore, be regarded as civilians. In such a case they would be subject to the jurisdiction of Allied Military Courts. It was pointed out by this Sub-Commission, however, that any trial held by Allied Military Courts of such personnel would have to be tried under Italian law. While this would not present any difficulty in most cases it should be borne in mind that the death penalty cannot be awarded under Italian law for offences of the type now under consideration. A sentence of imprisonment would necessarily raise the question of where that imprisonment was to be served. If the convict is to be transported to England for imprisonment there presumably approval of the necessary authorities will have to be obtained.

W. E. REIDEMIS.
Colonel,
Deputy Chief Legal Advisor.

WES/vow.

0583

24 DEC 1944

HQ ROME AREA ALLIED COMMAND
APO 794 US ARMY

26 DEC 1944

Ref: 4A59

22 Dec 44

Subject: Disposal of Military Criminals

AFHQ G-1(Br)
HQ No 3 District
Canadian Section GHQ 1st Echelon
Commodore I.M. Palmer D.S.C. RN. HQ A.C. (Rep C-in-C Med)
HQ Allied Commission Civil Affairs Sub-Commission

Copy to: DPM R.A.A.C.

1. A considerable number of men are held in custody at present in Rome charged with, or suspected of, complicity in a series of gang crimes committed in Rome and elsewhere over a period of months. These men belonged to four gangs, and so far as is known include deserters of absentees from units of the US, British and Canadian forces. It is believed that there is one deserter from the Royal Navy. There are believed to be deserters from the French forces. A number of Italian civilians are concerned. It is likely that charges preferred will include burglary, House-breaking, Robbery with Violence, Armed Robbery and in some cases Murder.

2. These men were all arrested by Allied and Civil police agents operating from Rome. The cases being of great complexity and very closely interwoven, will require the attendance of an enormous number of witnesses.

3. These factors, in my view, make it highly desirable that these persons shall be brought to trial at the same place and as nearly as possible at the same time. This will involve the setting up of a number of courts convened by different authorities. It is considered, that if possible Rome would be the most suitable scene for the trials.

4. The Commanding General Rome Area has general court martial powers and can assume jurisdiction over these cases involving U.S. Army personnel. But the Deputy Commander Rome Area has powers to convene courts martial for the trial of British soldiers only who are assigned or attached to units assigned or attached to R.A.A.C. These difficulties can be got over by attaching the accused British soldiers to units in R.A.A.C. A further limitation in the case of British troops is that any charge for which the death penalty might be imposed must be dealt with by Commander 3 District. This, however, presents no difficulty.

5. Cdn Sec 1st Echelon has intimated that no difficulty will be encountered in the setting up of a court to try the Canadian soldiers concerned, when the time is opportune. It seems, however, that there are likely to be complications in respect of the persons of the Royal Navy concerned.

6. It appears, that before courts can be set up, a great deal of preliminary work will require to be done, and it is considered that the best method would be to

CA Sec 1A
6375

HQ Allied Commission Civil Affairs Sub-Commission

Copy to: DPM R.A.A.C.

1. A considerable number of men are held in custody at present in Rome charged with, or suspected of, complicity in a series of gang crimes committed in Rome and elsewhere over a period of months. These men belonged to four gangs, and so far as is known include deserters of absentees from units of the US, British and Canadian forces. It is believed that there is one deserter from the Royal Navy. There are believed to be deserters from the French forces. A number of Italian civilians are concerned. It is likely that charges preferred will include burglary, House-breaking, Robbery with Violence, Armed Robbery and in some cases Murder.
2. These men were all arrested by Allied and Civil police agents operating from Rome. The cases being of great complexity and very closely interwoven, will require the attendance of an enormous number of witnesses.
3. These factors, in my view, make it highly desirable that these persons shall be brought to trial at the same place and as nearly as possible at the same time. This will involve the setting up of a number of courts convened by different authorities. It is considered, that if possible Rome would be the most suitable scene for the trials.
4. The Commanding General Rome Area has general court martial powers and can assume jurisdiction over these cases involving U.S. Army personnel. But the Deputy Commander Rome Area has powers to convene courts martial for the trial of British soldiers only who are assigned or attached to units assigned or attached to R.A.A.C. These difficulties can be got over by attaching the accused British soldiers to units in R.A.A.C. A further limitation in the case of British troops is that any charge for which the death penalty might be imposed must be dealt with by Commander 3 District. This, however, presents no difficulty.
5. Cdn Sec 1st Echelon has intimated that no difficulty will be encountered in the setting up of a court to try the Canadian soldiers concerned, when the time is opportune. It seems, however, that there are likely to be complications in respect of the persons of the Royal Navy concerned.
6. It appears, that before courts can be set up, a great deal of preliminary work will require to be done, and it is considered that the best method would be to establish in Rome a committee to study the best means to be employed and to set up machinery. It is suggested that the composition of this committee should be as follows:-

Chairman:	Deputy Commander RMAC	
	A Staff Officer Representing C-in-C Mediterranean	1
	A Staff Officer (Br) from AFHQ	
	A Staff Officer (Br) from 3 District	
	A Staff Officer (US) from R.A.A.C.	
	A Staff Officer (Cdn) from Cdn Sec GHQ 1st Echelon	
	Asin Officer of the Legal Sub-Commission of the A.C.	
	Reps of Provost Marshal R.A.A.C.	

...../2

6944

- 2 -

7. It is proposed that this committee should be set up to make a preliminary study of the matter, without waiting for the completion of the police enquiries, and that it should meet at this HQ at 1100 hours on Friday 29 Dec 44.

8. May confirmation be made by signal ?

AL/ag

AL/ag

ALBAN LOW
Brigadier
Deputy Commander
Rome Area Allied Command

0585