

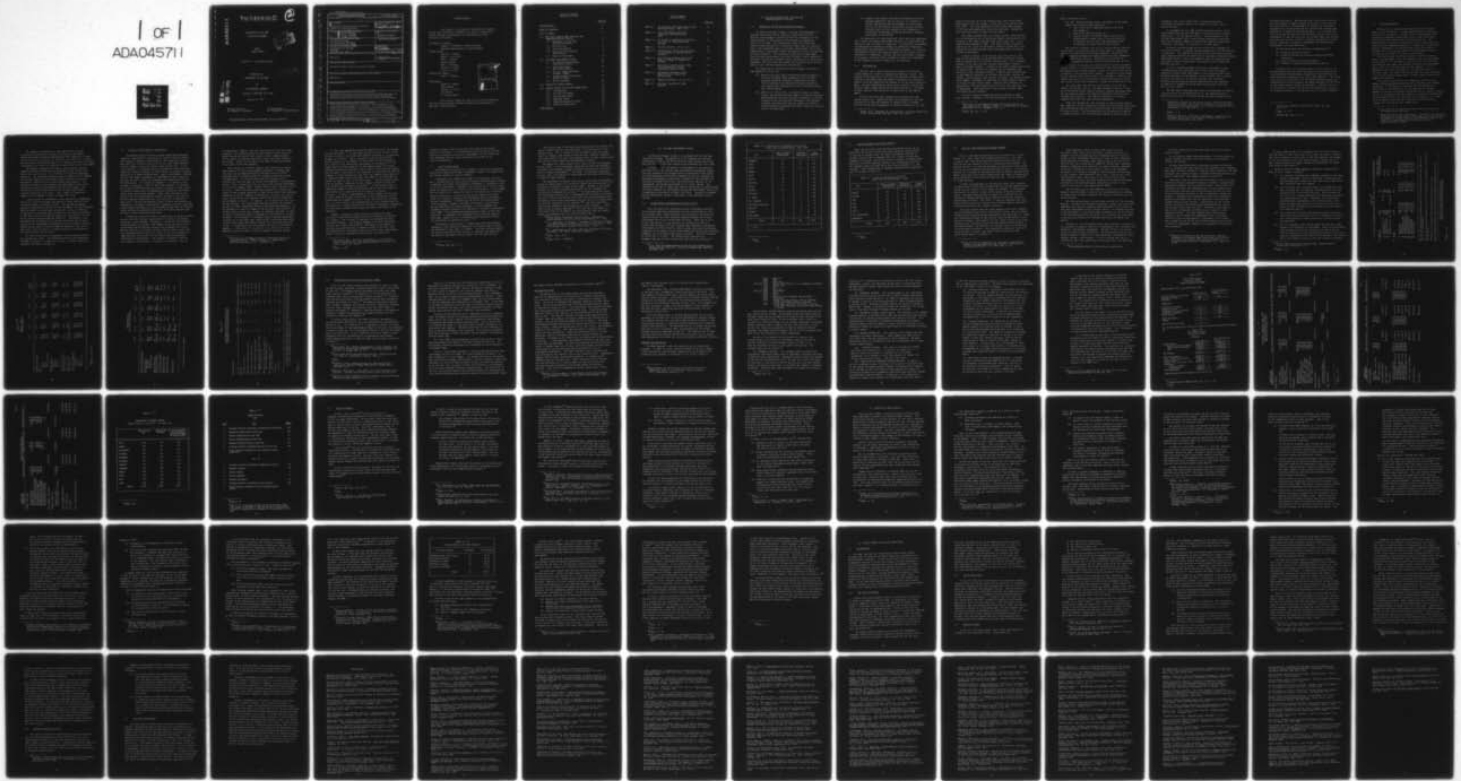
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FINAL REPORT

VOLUME II: LITERATURE REVIEW

SUBMITTED TO
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1.0 MILITARY CORRECTIONAL DOCTRINE AND ADMINISTRATION OF JUSTICE

1.1 Objectives of the Army Correction Program

The Army Correction Program is derived from Department of Defense Instruction 1325.4, aimed at establishing uniform policies and procedures relating to military prisoners and the administration of the places of corrections as mandated by Title 10 U.S. Code. The instruction states that discipline should be administered on a corrective rather than on a punitive basis, and repeatedly refers to military correctional facilities, emphasizing a correctional rather than punitive intent in handling military offenders. The instruction outlines the requirement that military correctional facilities include in their operation, personnel trained for custodial duties, specialists in correctional treatment, and facilities and persons for religious ministrations, medical care, and neuropsychiatric evaluations.

The objectives of the Army Correction Program as stated in Army Regulation 190-47 are:

- (1) Return to military duty the maximum possible number of military prisoners whose sentences do not include a punitive discharge as morally responsible and well-trained soldiers with improved attitudes and motivation toward their obligation to self, the United States Army and the Nation.
- (2) Return to civilian life, or restore to duty, as appropriate, the maximum possible number of military prisoners whose sentences include a punitive discharge, as morally responsible and well-trained individuals with improved attitudes and motivation who are capable of assuming responsibilities associated with their return to civilian life or military duty.

- (3) Identify and release from Army confinement facilities, through separation from the service, or transfer to another appropriate Army confinement or correctional facility or the Federal Correctional system, military prisoners who will not respond or are incapable of effectively responding to Army correctional treatment, retraining, or discipline.

The predecessor of Army Regulation 190-47 was Army Regulation 190-1, which instructed confinement officials to insure that the dignity of the individual is respected. It prohibited overemphasis or preoccupation concerning custody, or permitting repressive regimentation and degradation in handling prisoners. It required correctional officers and other personnel to be trained in the procedures of leadership, custody, and the correctional treatment of prisoners, and to be fully oriented to insure full knowledge of the programs, missions, objectives, and policies.

1.2 Military Law

Military law is that system of law by which the military establishment of a nation is governed in whole or in part. The concept of military law is as old as the earliest military force. Every well-developed state has found it necessary to prescribe special rules for governing the conduct of its military establishment. The most important are those which provide a special and distinct penal system within the military structure -- different in many respects from that which is applicable to the general public.

Distinct military penal systems have existed since the second century A.D. Modern military law originated in the code of articles of Gustavus Adolphus of Sweden (1621), although articles of war were promulgated in England by Richard I in 1190¹

¹Blume, R.M., "Response to Incarceration," Columbia University, Ed.D. Dissertation, New York, 1971, pp. 15-16.

Codes of military law in the United States have traditionally been known as Articles of War, a term used in the United States until 1951. The first American Articles of War were enacted in 1775 and were modeled on the British Articles. Noteworthy revisions were those of 1806, 1916 and 1948.²

The present Uniform Code of Military Justice, which governs all of the Armed Forces of the United States, was enacted by the Congress in May 1950, to become effective 31 May 1951. It was significantly amended in 1968. This legal system of military justice is not a part of the Federal judicial system and is not controlled by constitutional provisions applicable to ordinary criminal proceedings.

A notable feature of the military justice system is that many of the violations of the Uniform Code of Military Justice have no equivalent in a civilian criminal code. It is, perhaps, because of this that military law has established a specific type of offender category - similar to the extra criminal provisions of juvenile law. Within this category are an extremely wide variety of minor and major offenses. Some of these offenses may be described as violations of military discipline, courtesy or custom. Other offenses, more serious in nature, are absence without leave (AWOL), disrespect to superiors and unwillingness, neglect or refusal to obey lawful orders. Many of these offenses if committed by civilians would result in little more than the loss of employment. When committed in the military services they constitute serious offenses.

The most frequently committed military offense is AWOL.³ This offense is defined in the following manner by the Uniform

²Task Force on the Administration of Military Justice in the Armed Forces, "Report, Volume I," (Department of Defense, Washington, D.C.), November 1972, p. 7.

³Blume, Op. Cit., p. 18.

Code of Military Justice:

Art. 86: Absence without leave. Any member of the Armed Forces who, without proper authority--

1. fails to go to his appointed place at the time prescribed; or
2. goes forth from that place; or
3. absents himself or remains absent from his unit, organization or other place of duty at which he is required to be at the time prescribed; shall be punished as a court martial may dictate.

When military offenses are not of a serious nature, administrative means are available and are often used by a commanding officer as a substitute for punitive measures. An Article 15 hearing normally provides the means by which military commanders can deal with minor offenses. The Article 15 received its historical designation from the original Articles of War of 1775.

An Article 15 hearing can impose certain limited punishments without resort to a trial by court-martial when the offender does not demand trial by court-martial in spite of the fact that he has a statutory right to make such a demand. Suspension of punishment can be invoked in the case of most first offenders. However, punishment can consist of correctional custody restriction to specified limits, extra duty, reduction in grade and forfeiture of pay.

On 5 July 1968, the Military Correctional Facilities Act (Public Law 90-337, 10 U.S.C. 951-954) amended Titles 10, 14 and 37 of the United States Code to provide a uniform stationary basis for the administration of military correctional facilities and treatment of prisoners. The 1968 act repealed all previous separate provisions for each military department.

Under the amended law, the Secretary of each military department continues to have authority to establish correctional facilities for confining persons guilty of offenses under the Uniform Code of Military Justice. The law authorizes each Secretary to establish a system of parole, and a correctional system to usefully employ

offenders, with a view toward their restoration to duty, enlistment for future service, or return to civilian life as useful citizens.⁴

To implement the act, DOD issued Instruction 1325.4, which prescribed uniformity but left much to the discretion of service Secretaries. The Instruction states: "The Secretaries of the Military Departments shall issue uniform regulations consistent with the following, subject to limitations imposed by operating conditions, personnel, or facilities in certain areas...."

Provision should be made for the correctional treatment of military prisoners. A general program common to all of the Services is desirable. The program of each of the Services should provide equal opportunities for prisoners and be essentially uniform although operational details (may) vary dependent upon the organizational structure, facilities available, and missions of the respective Military Services....."⁵

In 1974, the GAO reviewed the military confinement system including about 200 confinement facilities around the world, operated by about 6,000 staff members, and involving about 8,500 military personnel in confinement, at an estimated cost in excess of 60 million dollars, to determine whether the individual military services provide uniform administration and treatment of inmates as intended by the Military Correctional Facilities Act of 5 July 1968.⁶

The GAO report concluded that, while the Department of Defense directive calls for uniform policies for the administration of correction facilities, it did not assign oversight responsibility

⁴ Comptroller General of the United States, "Uniform Treatment of Prisoners Under the Military Correctional Facilities Act Currently Not Being Achieved," U.S. General Accounting Office, Washington, D.C., May 1975, p. 5.

⁵ Ibid., p. 6.

⁶ Lowrey, Patrick R., "Military Confinement: Needless Luxury or Viable Necessity?" U.S. Army War College, Carlisle Barracks, Pennsylvania, May 1975

to insure uniformity. GAO asserted that the military services have not adopted a common approach to military corrections and no single office in the Department of Defense has continuing responsibility for assuring that the correctional programs are operated on a common and coordinated basis. It concluded that the aims of the act have not been achieved, since criteria for confinement at the facilities are not uniform among the services and since the services differ in clemency, restoration to duty, parole, reduction in length of confinement for demonstrated achievement, and leave practices.⁷

The GAO report made the following recommendations:⁸

- (1) Establish uniform criteria,
- (2) Establish definitive procedures providing uniform incentives,
- (3) Develop uniform records and reports,
- (4) Establish a research and evaluation capacity.

On 20 May 1974, the disestablishment of the Office of the Provost Marshal General (which had primary staff responsibility for overseeing the confinement program) was completed and the staff functions assumed by other Army staff agencies. The Corrections Division of the Office of the Provost Marshal General was integrated into the Directorate for Human Resources in the Office of the Deputy Chief of Staff for Personnel. Command control of the Disciplinary Barracks and Retraining Brigade was passed to the Commanding General, Training and Doctrine Command (TRADOC).⁹

⁷ Comptroller General of the United States, Op. Cit., pp. i-iii.

⁸ Ibid., p. iii.

⁹ Lowrey, Op. Cit., p. 39.

1.3 The Court-Martial

Military law is administered through judicial tribunals known as courts-martial or through administrative proceedings of an Article 15 hearing. Several kinds of court-martial are convened by commanders authorized to do so under applicable provisions of the Uniform Code of Military Justice. The determination of whether an accused is tried by court-martial rests with the commander empowered to convene the kind of court-martial recommended. The Uniform Code of Military Justice provides for a thorough and impartial investigation before an accused can be brought to trial by court-martial.

The Uniform Code of Military Justice classifies courts-martial by punishment limits into general, special, and summary courts-martial.¹⁰ The general court-martial is of unlimited jurisdiction, may impose any penalty up to and including death, and is used for trying the most serious offenses. It is composed of at least five members. In addition, there is a military judge. Of course, the accused has the right to request trial by the military judge alone, in which case no other court members are present.

The special court-martial is composed of three or more members and may adjudge punishment which includes a bad conduct discharge,¹¹ confinement of not more than six months and a forfeiture of two-thirds pay for not more than six months. Members of general and special courts-martial are usually officers, but if an accused enlisted man requests inclusion of enlisted men, at least one-third of the court must be so composed. As in the case of general court-martial, the accused has the right to request trial by the military judge alone.

¹⁰ Task Force on the Administration of Military Justice in the Armed Forces, Op. Cit.

¹¹ There are five types of discharge: dismissal (for officers), dishonorable and bad conduct discharges, which are imposed as punishment by a court-martial; and honorable, general, and "under less than honorable conditions," which are administrative in nature.

The summary court-martial is the lowest level of court. It consists of one officer, cannot try officers, and cannot impose punishment exceeding confinement at hard labor for 30 days, forfeiture of two-thirds pay for one month, or reduction to lowest enlisted grade (for persons above E-4, a summary court may not impose confinement, hard labor or reduction of more than one enlisted grade).

The members of general and special courts-martial and the summary court-martial officer are appointed by the officer who refers the case to trial. This officer is called the convening authority. The convening authority selects members of his command who are best qualified "by reason of age, education, training, experience, length of service and judicial temperament." The convening authority also announces the appointment of the trial and defense counsel, and designates the military judge. The Provisions of the Military Justice Act of 1968 established a separate judiciary to try cases. Thus, judges no longer are members of the command in which the cases are tried.

A fourth level of punishment is that imposed by a commanding officer or officer-in-charge non-judicially under Article 15 of the Uniform Code of Military Justice. The maximum punishment generally authorized by Article 15 and the Manual for Courts-Martial 1969 (revised) is correctional custody for 30 days, forfeiture of one-half of one months pay per month for two months, reduction to the lowest enlisted grade for persons in the grade of E-4 and below, and one grade for persons above E-4. Considerably less punishment may be imposed by an officer below the rank of major. Certain other punishments are authorized for use against officers. Appeal may be taken to the next superior authority, who must in most cases refer the case to a judge advocate for consideration and advice before taking action.

All convictions must be approved by the reviewing authority who convened the court. The reviewing authority may disapprove findings of guilty -- in whole or in part -- and may reduce the sentence, but cannot increase it.

1.4 Review of Court-Martial Convictions

The Uniform Code of Military Justice establishes mandatory review of court-martial convictions at several different stages. With respect to general courts-martial, the convening authority must refer the record of each trial to his staff judge advocate, who will submit to him his written review of the case. If the case resulted in a sentence, which, as approved by the convening authority, affects a general or flag officer, or extends to death, dismissal of a commissioned officer, cadet or midshipman, dishonorable or bad conduct discharge, or confinement at hard labor for one year or more, it must be reviewed by an appropriate Court of Military Review. This review is automatic -- no appeal by the accused is necessary. Cases in which the sentence, as affirmed by the Court of Military Review, affect a general or flag officer or extend to death are also automatically reviewed by the United States Court of Military Appeals. Other cases reviewed by the Court of Military Review may be further reviewed by the Court of Military Appeals upon petition of the accused on a showing of good cause. Special court-martial cases in which the sentence as approved by the general court-martial convening authority including a bad conduct discharge, are also reviewed by the Court of Military Review and may be reviewed by the Court of Military Appeals upon petition of the accused for good cause.

A different system of review is established for summary courts-martial and those special courts-martial in which a bad conduct discharge is not adjudged. (Generally, the special court-martial convening authority convenes the summary courts-martial as well.) The Uniform Code of Military Justice and the Manual for Courts-Martial provide, with respect to these types of cases, that after the convening authority acts on a case, it will be reviewed by a judge advocate on the staff of the officer exercising general court-martial jurisdiction. This review is automatic, and, as in the general court-martial, no appeal is necessary. There is

no requirement, however, that the record of trial be transcribed verbatim. The convening authority must himself review the case before taking his action, but, unless he has a judge advocate on his staff, he generally would not receive any legal advice at this stage. There is no review by the Court of Military Review or the Court of Military Appeals.

With respect to trials by general court-martial and special court-martial in which a bad conduct discharge is imposed, the Task Force on the Administration of Military Justice (1972)¹² concluded that the present elaborate scheme of appellate review is unnecessary. It uses precious time and resources and is believed, at least by some, to result too frequently in perfunctory action. This is especially true in view of the current requirement for a military judge, lawyer, defense counsel and a verbatim record of trial. A more efficient system which would still protect the rights of the accused, would be to limit the action of the convening authority to one of clemency consideration, and except for capital cases, leave to the trial defense counsel the duty of submitting an assignment of errors -- an appeal -- to an appropriate Court of Military Review. The staff judge advocate would not be required, as now, to submit a detailed review to the convening authority. In the absence of a specific appeal by the accused, there would be no further review of the case, except, as presently provided, in cases in which the sentence affects a general or flag officer or extends to death. This procedure, if adopted, would eliminate unnecessary reviews, and at the same time, would ensure a more detailed review in those cases where the defense counsel felt a genuine issue was raised. It would also serve to decrease the delay in processing appeals -- a delay which is occasioned in no small part by the mandatory review of cases in which no genuine issue was raised.

¹²Task Force on the Administration of Military Justice in the Armed Forces, "Report, Volume II," (Department of Defense, Washington, D.C.), November 1972.

In 1974, Mark Amsterdam raised the question of bail for accused military personnel.¹³ He concludes that the reality of bail in the military is that it has never been granted, and that it is generally thought not to exist. There is nothing in the Uniform Code of Military Justice or the Manual For Courts-Martial which prohibits bail, merely it has never been interpreted to include bail.¹⁴ He argues that since Rule 46(a)(1) of the Federal Rules of Criminal Procedure provides an absolute right to bail in any case not punishable by death, since there is no exception for courts-martial and the language is clear and precise, and since the Federal Rules apply to at least one other area of military law, there is no reason why it should not apply to bail in military cases. The bail system introduces an economic incentive for the alleged criminal to face the trial rather than attempting to elude it. At the present time, a substantial number of Army installations do not have any effective restrictions (e.g. gates with 24-hour sentry) to entries and exits. As such, in the absence of a bail system, the only way to ensure that an alleged criminal who is not released on his own recognizance be brought to trial is to put him in pretrial confinement. In this context, the introduction of a bail system should be considered as a viable alternative to pretrial confinement, especially for those whose release on bail does not impair the safety of the community.

However, protection of Army pretrial prisoners has been set forth in the Interim Change to AR 27-10 which was introduced on 1 January, 1976 in order to implement the Extended Military Magistrate Program. This program empowers a Military Magistrate to order the release from pretrial confinement of any member of the Army upon determination, following review of the case, that continued pretrial confinement does not satisfy legal requirements. He will review all documents and personally interview each

¹³Amsterdam, Mark, "Pretrial Confinement in the Military - Rights and Realities," New England Journal on Prison Law, Vol. I, 1974, pp. 34-68.

¹⁴Ibid., p. 46.

pretrial prisoner within seven days after that person enters pretrial confinement. If he determines that the person confined should be released from pretrial confinement, he will notify the unit commander who will cause the pretrial prisoner to be released immediately.

1.5 Types of Punishment

Army Regulations provide for a number of non-punitive measures which may be administered when a commander's goal is to rehabilitate the soldier engaged in minor misconduct.

A commander may withhold privileges of individuals, such as a pass. By awarding less than excellent conduct and efficiency ratings, a commander may effect the promotion, assignment or retention in the service of an offender. Offenders can receive oral or written reprimands and admonitions for specific acts of misconduct. A unit commander has authority to reduce the rank of individuals for misconduct and/or inefficiency. He may initiate action towards the revocation of a security clearance for individuals who are unreliable and not trustworthy. A soldier may be barred from reenlistment if his character, conduct, attitude, proficiency, or motivation are not consistent with Army standards. A unit commander may recommend reclassification of an individual's military occupational skill (MOS) if his demonstrated performance of duty is less than efficient. A commander must recommend reclassification when an individual commits an act of misconduct which adversely affects his eligibility to perform his skill.¹⁵

Punishment in the military is broken down into three general categories, each separately impacting in an adverse way on either the individual's pay, rank, or liberty. For minor offenses against the Uniform Code of Military Justice, a commander may administer non-judicial punishment or may request trial by court-martial.

¹⁵Lowrey, Op. Cit., p. 17

The Uniform Code of Military Justice specifies the offenses for which a soldier may be court-martialed. The offenses are of two general types. First, crimes of civilian nature, such as murder, rape, and robbery; and second, purely military offenses (normally not crimes under civil law) such as dereliction of duty, absence without official leave (AWOL) and disobedience of orders.

The Manual for Courts-Martial still uses the term "confinement at hard labor" in the prescribed sentencing of convicted offenders. The table of punishments contains frequent references to hard labor with or without confinement.¹⁶ The words "correctional treatment" are not used in the Manual for Courts-Martial and only one reference is made to rehabilitation.

The Department of Defense Instruction states that "confinement should be administered on a corrective rather than punitive basis."¹⁷ No specific reference is made to hard labor. Neither is hard labor defined in the Army regulation which sets out the standards for correctional treatment of prisoners.¹⁸ The same regulation allows for considerable flexibility in employment and training of prisoners, the only limitation being that the "activities established and time allocated to meet these requirements are not to be less arduous than for military personnel not so confined."¹⁹ The same regulation specifically prohibits labor which has no useful purpose -- other than to keep prisoners employed.²⁰ Thus the term "confinement at hard labor" used in the Manual for Courts-Martial does not appear to be in conformance with the spirit of DODI 1325.4.

¹⁶United States Government Printing Office, Manual For Courts-Martial, Revised Edition, Washington, D.C., 1969.

¹⁷U.S. Department of Defense, "Treatment of Military Prisoners and Administration of Military Correction Facilities," DOD Instruction 1325.4, October 1968, para. IIIA1, p. 1

¹⁸U.S. Department of the Army, "Uniform Treatment of Military Prisoners," AR 190-4, June 1969, Chapter 3.

¹⁹Ibid., para. 3-1b.

²⁰Ibid., para. 3-3c(4)(g).

2.0 THE ARMY CONFINEMENT SYSTEM

The Army Confinement system is an integral part of the Army Correction Program. The authority in the statutes for military corrections is Public Law 90-377 Military Correctional Facilities Act (USC 951-954) which was signed by the President on 5 July 1968.

In October 1972, the process of confinement in the Army was modified to form the current Army installation confinement system. This was supposed to be accomplished by elimination of the costly and time-consuming correctional treatment mission at stockades by accelerating movement of post-trial prisoners to the two main correctional treatment facilities; the Disciplinary Barracks at Ft. Leavenworth, and Retraining Brigade at Ft. Riley, Kansas. The intended result was to reduce the scope of operations at installations with small demands for confinement and provide confinement service on a geographical area basis at other facilities. Instead of stockades the new confinement system is described in the remainder of this section.

2.1 Installation Confinement Facilities (ICF's)

ICF's are facilities providing pretrial confinement services for prisoners awaiting court-martial at the installation or trial by a foreign court, short-term post-trial prisoners, and acting as transfer points for other prisoners pending movement to an area confinement facility or correctional facility. There are 16 ICF's in the Continental U.S. and overseas as indicated in Table 2.1. Within these sixteen ICF's are included four transient installation confinement facilities (TICF's) which provide short-term confinement (normally not to exceed 15 days within CONUS and 30 days with overseas commands) for installation and casual prisoners. The total capacity of the 16 ICF's is 1,897. The average daily population in November 1976 was 317 out of which 162 were pretrial confinees.²¹

²¹"U.S. Army Confinement/Correctional Facility Average Daily Population and Capacity", Interoffice Memorandum, ODCSPER, December 1976.

TABLE 2.1 Installation Confinement Facilities²²
 Capacities and Populations - Nov. 1976

ICF	TOTAL PRISONER POPULATION	PRETRIAL POPULATION	TOTAL CAPACITY
Campbell	51	41	179
Hood	59	31	178
Lewis	62	28	273
Meade	17	7	196
Polk*	5	2	51
Riley	20	6	176
Benning	19	6	98
Bliss	14	2	108
Gordon	25	17	175
Jackson*	1	1	126
L. Wood	13	6	164
Ft. Clayton	5	1	27
Schofield Barracks	7	3	55
Berlin*	1	0	16
SETAF*	4	4	10
USA EIGHT	14	7	65
TOTAL:	317	162	1,897
* TICF			

²² Ibid.

2.2 Area Confinement Facilities (ACF's)

These are facilities that provide confinement service on an area basis for military service personnel awaiting courts-martial or trial by a foreign court, for those individuals returned to military control from a 'dropped from roll' status for whom confinement is directed, and for post-trial prisoners, including those post-trial prisoners pending transfer to a correctional facility. All together there are eight ACF's over the continental U.S. and overseas. Their populations in November 1976 and their capacities are illustrated in Table 2.2.

TABLE 2.2 Area Confinement Facilities ²³ Capacities and Populations - 1976			
ACF	TOTAL PRISONER POPULATION	PRETRIAL POPULATION	TOTAL CAPACITY
Bragg	23	6	250
Carson	47	24	152
Ord	35	16	171
Dix	27	11	416
Knox	61	53	162
Sill	22	7	168
Ft. Richardson	5	3	67
Mannheim	132	76	148
TOTAL :	352	196	1,534

²³ Ibid.

2.3 The U.S. Army Retraining Brigade (USARB)

The U.S. Army Retraining Brigade was activated at Ft. Riley, Kansas, on 1 April 1968, and became operational on 1 July 1968. It was at that time called the Correctional Training Facility. In 1972 the CTF was renamed as the U.S. Army Retraining Brigade. Its primary mission is to conserve manpower by restoring military offenders to duty as competent and well motivated soldiers. A corollary mission is to screen out and separate from the Army by administrative means, those who after careful observation and study, are determined to be unsuitable or unfit for military service. It has a capacity of 1,200 trainees.

In 1966, the Department of the Army was faced with a problem of soon having insufficient stockade space in the Continental United States for the steadily rising number of offenders in confinement, principally in pretrial status on the charge of Absence Without Leave. The Department decided to establish a facility with an innovative program combining Basic Combat Training and intensive motivational training. The latter is aimed at changing those attitudes and motivations of trainees that militate against restoration to duty and success after return to service.

The basic premise that the large numbers of military offenders can be restored to duty with a satisfactory success rate was demonstrated by the Army during and immediately after World War II. Under the restoration program in that period, about 42,000 general court-martial prisoners, convicted of civilian crimes as well as military offenses, were restored to duty from the Rehabilitation Centers in the United States, the USDB and its branches, and the Disciplinary Training Centers overseas. The restoration program was successful to the extent, at least, that 90% of those restored did not again become general prisoners.²⁴

²⁴ Special Civilian Committee for the Study of the United States Army Confinement System, "Report," (Department of the Army, Washington, D.C.), May 1970. p. 59.

Army Regulation 190-47 (3 March 1976) specifies that prisoners, other than officer prisoners, without punitive discharges or with suspended punitive discharges who will have six months or less confinement remaining to serve on their sentences after deduction of earnable good conduct time on arrival at the facility will be transferred to USARB for correctional treatment. However, commanders have authority to retain prisoners sentenced to 30 days confinement at hard labor or less if the commander considers it in the best interest of the individual and the Army. It has, however, been observed²⁵ that since 1 January 1975 there have been more than 1,000 prisoners at various installation confinement facilities that were eligible to be sent to the USARB according to the above mentioned regulation but were in fact directly returned to duty bypassing the USARB.

The training cycle at the USARB has a duration of 10 weeks. However, the 10th week is taken up with out-processing of trainees in preparation for their departure for the units to which they are being assigned.

The Army motivational training phase consists of five one-week modules. Prisoners are helped to recognize, control and solve those problems which inhibit successful duty performance and to believe that good performance brings pleasant results. A prisoner must earn a minimum number of points each week to progress to the next module. If the minimum points are not earned, he is placed with a new team, a new group of prisoners at different barracks, and repeats the module.

Analysis of the five modules shows that 23 hours of instruction are provided in subjects such as U.S. Government, race relations, sex education, and monetary management. Another 19 hours are set aside for general group counseling. The remaining instructions encompass physical fitness, drill and ceremonies, marksmanship, field hygiene, marches, and bivouacs. It also includes four days of training on the rifle range where the prisoner uses live ammunition.

²⁵Data gathered directly from various installations.

Military retraining is the final phase of the retraining center program.

As an incentive toward good performance, the Army Retraining Center suspends prisoners' pay forfeitures as they progress through the program.

The Army Retraining Center discharges prisoners eliminated from its program even when they have not completed their sentences. Were these prisoners required to complete their sentences, the Army estimates costs would increase a minimum of \$700,000 annually and that 67 additional staff members would be required.²⁶

Since April 1975 the rehabilitation program of the U.S. Army Retraining Brigade underwent fundamental changes in organization, operating procedures and training activities. Recalcitrant non-restorable prisoners were separated early in the program from those prisoners who were both deserving and desirous of undergoing training and returning to duty as competent, productive soldiers. Gateguards were removed and gates were permanently opened in accordance with the new objective of placing more responsibility on the prisoner. Capitalizing on the "second chance" offered by the Retraining Brigade became the onus of the prisoner rather than the cadre. Prisoners were placed on their honor and remained confined solely by means of self-imposed restraint. Training changed from a BCT-oriented program to one of human self-development with the primary objective being the development of confidence, self respect and a capability and desire to withstand negative peer pressure in favor of independent judgement and acceptable military and social behavior.

²⁶ Comptroller General of the United States, "Uniform Treatment of Prisoners Under the Military Correctional Facilities Act Currently Not Being Achieved," U.S. General Accounting Office, Washington, D.C., May 1975, p. 26.

A survey sampling 40% of the graduates from this new program, who had served in their new units for at least two months, revealed that 96.1% remained on active duty or had been honorably discharged. Of the total sample, 86.6% were rated average or above, and 52.2% were rated outstanding or above average and recommended for promotion ahead of their peers.²⁷

During FY 1975 the USARB underwent extensive reorganization. Some of these changes included:²⁸

- (1) The creation of Headquarters Command, composed of the Headquarters Detachment, Security Detachment, Processing Unit and Discharge Unit placed all cadre and trainee administration functions under one command.
- (2) The Processing unit, organized under the Headquarters Command, provided for the complete in-processing of arriving prisoners prior to entering training. While assigned to this unit, all incoming prisoners were carefully evaluated for approximately one week. Personnel with restoration potential were transferred to the training units, while those prisoners who would not or could not perform satisfactorily were attached to the Discharge Unit for elimination from the service.
- (3) The Correctional Training and Retraining Battalions were redesigned Training Battalions; their independent functions were terminated and a common seven-week training program was developed.
- (4) As of 15 September 1976, further modifications were implemented in the operation of the USARB. Under the new program, each prisoner is processed through a two-week period of initial processing, at the termination of which a decision is made as to whether he/she should be discharged as non-restorable or be allowed to carry on with the retraining program.

²⁷United States Army Retraining Brigade, "Annual Report," Fiscal Year 1976 and 77, p. 2.

²⁸Ibid., p.3.

TABLE 2.3²⁹

FY 76 and 77 POPULATION STATISTICS FOR THE U.S. ARMY RETRAINING BRIGADE

A. OVERVIEW	FY 76	77	CUMULATIVE TOTALS 1 Jul 68 to 30 Sep 76
1. Carry-Over (FY 75)	522	339	41,533
2. Assigned Gains	2,601	484	
3. Total Accountable	3,123	823	
4. Losses	2,784	447	41,157
5. Strength (30 Jun 76)	339	376	
B. LOSSES			
	2,784	447	41,157
6. Reassigned	1,035 (37.2%)	211 (47.2%)	28,396 (69.0%)
7. REFRAD, ETS+	207 (7.4%)	53 (11.9%)	819 (2.0%)
8. Transferred to USDB	3 (0.1%)	0 (0.0%)	438 (1.1%)
9. Dropped From Rolls	20 (0.7%)	5 (1.1%)	1,023 (2.5%)
10. Discharged AR635-200	1,219 (43.8%)*	148 (33.1%)**	9,592 (23.3%)
11. Hardship Discharges	6 (0.2%)	0 (0.0%)	219 (0.5%)
12. Other Discharges	0 (0.0%)	0 (0.0%)	173 (0.4%)
13. EDP Discharges++	290 (10.4%)	28 (6.3%)	396 (1.0%)
14. Miscellaneous	4 (0.2%)	2 (0.4%)	101 (0.2%)

*Of the 1,219 administrative discharges during FY 76, 345 (28.3%) were for Unsuitability and 874 (71.7%) for Unfitness.

**Of the 148 administrative discharges during 77, 62 (41.9%) were for Unsuitability and 86 (58.1%) for Unfitness.

+REFRAD, ETS was included in the "Reassigned" category prior to FY 76.

++EDP Discharges previously included in the "Other Discharges" category prior to FY 76.

Data for this table furnished by Personnel and Administrative Services Division, USARB.

TABLE 2.4³⁰

TRAINEE PROFILE
FY 71 TO 77

	FY 71	FY 72	FY 73	FY 74	FY 75	FY 76 AND 77
<u>Average Age (Mean):</u>	21.0	21.5	21.1	22.3	21.5	21.2
<u>Race:</u>						
Black	25.9%	35.7%	38.0%	39.1%	43.0%	45.4%
White	71.9%	63.1%	60.4%	59.4%	55.4%	53.1%
Other	1.5%	1.1%	1.6%	1.5%	1.6%	1.5%
(Not Indicated)	0.7%					
<u>Marital Status:</u>						
Single	71.6%	74.6%	78.4%	76.7%	77.3%	74.9%
Married	26.2%	22.7%	20.1%	21.2%	20.8%	23.5%
Divorced	2.0%	2.4%	1.4%	1.7%	1.6%	1.6%
Other	0.2%	0.3%	0.1%	0.4%	0.2%	
<u>Average (Mean) Years Formal Education:</u>	10.3	10.5	10.6	10.7	10.8	10.9
<u>High School and GED Graduates:</u>	26.3% (HS Only)	32.5% (HS Only)	47.0%	48.0%	51.0%	52.7%
<u>Religious Preference:</u>						
Protestant	69.5%	69.7%	55.9%	63.8%	64.8%	63.0%
Catholic	19.5%	19.8%	17.8%	21.8%	20.6%	20.9%
Jewish	0.6%	0.3%	0.5%	0.3%	0.1%	0.2%
Other	0.1%	0.7%	1.1%	0.9%	0.7%	0.6%
None Stated	10.3%	9.5%	24.7%	13.2%	14.0%	15.3%

³⁰ Ibid., pp. 10-11.

TRAINEE PROFILE
FY 71 TO 77 (Continued)

	FY 71	FY 72	FY 73	FY 74	FY 75	FY 76 AND 77
<u>Average (Mean) GT Score:</u>	89.0	89.0	91.0	92.0	95.8	97.9
<u>Method Of Entry:</u>						
Enlisted	66.4%	78.0%	90.9%	94.6%	97.5%	98.8%
Inducted	33.3%	21.9%	9.1%	4.6%	1.4%	0.3%
Reserve and NG	0.3%	0.1%	0.0%	0.8%	1.1%	0.9%
<u>Average Remaining Obligation (Months):</u>	Not Recorded	Not Recorded	18.6 (Median)	18.5 (Median)	21.9 (Mean)	20.5 (Mean)
<u>No Prior Convictions:</u>	73.5%	81.5%	86.1%	91.2%	90.4%	92.0%*
<u>Non-BCT Qualified:</u>	17.2%	22.3%	13.0%	2.8%	2.3%	0.8%*
<u>NON-MOS Qualified:</u>	Not Recorded	Not Recorded	30.1%	12.3%	10.3%	2.2%
<u>MOS Qualified:</u>	Not Recorded	Not Recorded	56.9%	87.7%	89.7%	97.8%

*FY 76 data only; 77 not included.

TABLE 2.5 31

COURT-MARTIAL CONVICTION RESULTING IN
ASSIGNMENT TO THE RETRAINING BRIGADE

ARTICLE NUMBER	FY 72	FY 73a	FY 74b	FY 75c	FY 76 & 77c
086 AWOL	67.3%	53.5%	62.6%	36.2%	28.0% (N=1201)
134 General Article	----	----	----	13.3%	17.9% (N=768)
128 Assault (or Aggravated Assault)	----	----	----	9.9%	11.5% (N=495)
092 Failure to Obey Lawful Order	----	----	----	10.6%	9.0% (N=387)
121 Larceny or Wrongful Appropriation	----	----	----	7.0%	8.5% (N=364)
091 Assault, Disobey or Disrespect Toward Warrant Officer or NCO	----	----	----	5.8%	6.6% (N=285)
090 Striking, Assaulting or Disobeying a Superior Commissioned Officer	----	----	----	4.8%	4.2% (N=182)
089 Disrespect Towards a Superior Commissioned Officer	----	----	----	3.0%	2.8% (N=119)
122 Robbery	----	----	----	.9%	1.0% (N=45)
All Others	32.7%	46.5%	37.4%	8.5%	10.5% (N=441)

- a Includes 9.6% whose current convictions are for both AWOL and at least one other offense.
- b Includes 14.4% whose current convictions are for both AWOL and at least one other offense.
- c Reflects percentage of all offenses committed.

2.4 United States Disciplinary Barracks (USDB)

Prior to 1873, Army prisoners were confined in jails or state prisons and were subjected to abuses prevalent in penal institutions of that time, including corporal punishment and slave-type labor under contract systems.³² In addition to civilian facilities 32 stockades were used to incarcerate military prisoners.³³ Prisoners were horribly mistreated, with punishment varying from stockade to stockade and prison to prison.³⁴ The range or spectrum of punishment included "flogging, use of ball and chain, shackling, branding with hot irons, marking with indelible ink, and other forms of corporal punishment."³⁵ Methods of handling prisoners had become so flagrantly inhuman and degrading as to demand attention by the Secretary of War and the Congress.³⁶

To correct these abuses, the USDB, originally designated as the United States Military Prison, was established by Congressional action in 1873. Its location at Ft. Leavenworth, Kansas, utilizing the old buildings of the Quartermaster Depot on the post, was announced in General Orders No. 52 of the Adjutant General's Office, War Department, on 5 June 1874. It was, therefore, the first Federal prison, antedating the U.S. Penitentiaries at Leavenworth and Atlanta, established respectively in 1902 and 1900, by more than a quarter of a century.³⁷

³²Overstreet, Ben, "Recent Developments in the Treatment and Disposition of Military Offenders," The Prison Journal, Vol. XLI, No. 2, Autumn 1961, p. 27.

³³"The United States Disciplinary Barracks," Revised Edition, HQ, USDB, Ft. Leavenworth, Kansas, 1968, p. 1.

³⁴Ibid.

³⁵Shindler, Henry, History of the U.S. Military Prison, Ft. Leavenworth, Kansas, Foreman Army Service School Press, 1911, pp. 1-23.

³⁶Kerrick, Harrison S., "The USDB, Its History, Methods, and Results," Journal of Military Service, Vol. 59, No. 204.

³⁷Special Civilian Committee for the Study of the United States Army Confinement System, Op. Cit., p. 71.

Twice in its history the institution was transferred to the U.S. Department of Justice and used as a prison for civil offenders. It was first transferred in 1895, and was returned to the Army in 1906. In 1915, by Act of Congress, its title was changed from the U.S. Military Prison to the U.S. Disciplinary Barracks. On 21 September 1929, it was again transferred to the Department of Justice. It was reestablished as the USDB on 6 November 1940, and the transfer back to the War Department was completed on 16 December 1940. It has been in continuous operation since that date as a maximum security correctional institution for Army, Air Force and Marine prisoners serving general court-martial and other relatively long sentences.

The Disciplinary Barracks at Ft. Leavenworth, up to 31 December 1968, followed a policy of restoring carefully selected prisoners to duty, and of operating a special training program for that purpose. In peacetime the number usually has been small, but as soon as the U.S. entered World War II, the Disciplinary Barracks stepped up its restoration rate sharply. Prisoners convicted of civil offenses, as well as military offenders, were restored. The restoration program went into high gear in 1944, and after the war ended it continued at an even faster pace.

On 1 July 1968, the Correctional Training Facility at Ft. Riley was established as the Army's principal restoration facility. The Disciplinary Barracks terminated its restoration training program on 31 December 1968.

The U.S. Disciplinary Barracks is the only maximum security type confinement facility for Army, Air Force and Marine prisoners. It has a capacity for 1,250 inmates. Its primary mission is "to provide the correctional treatment and training, care and custodial supervision necessary to return military prisoners to duty as effective soldiers or to civilian life as useful citizens with training in a marketable skill and with improved attitudes and motivation." All facilities of the U.S. Disciplinary Barracks are directed toward the achievement of this mission with particular attention devoted to the individual inmate

and administering treatment according to his individual needs.³⁸

The Physical Plant

The walled area of the United States Disciplinary Barracks consists of approximately 12 1/2 acres and is joined on the north by a five-acre recreation field which is enclosed by a double link fence. The field is equipped with adequate lighting for night recreation. Within the walled area are 26 buildings dating back as early as 1840 and as recent as 1972. The plurality of the original buildings were constructed during the period 1878 to 1963. The main prisoner domicile, known as the "Castle", was constructed during the period 1909 to 1921. The "Castle" consists of eight wings projecting from a center area, which houses the Control Room for the Directorate of Custody. Four of the wings are domiciles for prisoners. The large Consolidated Prisoner Dining Facility covers one floor of the largest wing (5-wing). Below the Dining Facility is the Laundry which employs from 60 to 70 prisoners. This facility takes in laundry from the entire military reservation. Above the Dining Facility is a large gymnasium, used for recreation and also as a movie theater for prisoners. Included in the "Castle" are the offices of the Directorate of Custody, Investigations, the Chaplain Section of the USDB, the Library and the USDB Band. The wall enclosing the yard and buildings varies in height from 15 to 41 feet, with the original section being constructed of native stone quarried by prisoners on the Ft. Leavenworth Reservation. The newer sections, built to enclose the area occupied by the "Castle", are of cast concrete block. Headquarters Company, United States Disciplinary Barracks, is located to the immediate west of the main unit. Family quarters east of the main unit are available for a limited number of married officers and enlisted personnel assigned to the United States Disciplinary Barracks. The cities of Leavenworth, Kansas; Kansas City, Kansas;

³⁸Annual History Summary, United States Disciplinary Barracks, Ft. Leavenworth, Kansas, 1 July 1975 to 30 September 1976, p. 2.

and Kansas City, Missouri are 3, 27 and 35 miles respectively, from Ft. Leavenworth.

The Vocational Farm, located approximately two miles northwest of the main unit, encompasses a total land area of 760 acres. The Farm complex includes swine barns, poultry houses, and other characteristic farm structures. A one-story brick building provides housing, dining and recreational facilities for minimum custody prisoners assigned to the Vocational Farm and the main unit. The proceeds from the sale of plants, flowers, and farm products to the residents of the Post and other authorized personnel provide revenue for the Vocational Training Fund.

The local Parolee Unit is located approximately 3/4 of a mile northwest of the main unit in the area designated as Sherman Heights. This complex consists of a two-story administration building, a two-story 80-man barracks, a two-story 144-man barracks, and a separate kitchen and dining hall. The buildings are all of modern design and have been in use since early 1965, with exception of the 80-man barracks which was completed in May 1971. The complex also includes enlarged inside and outside recreational areas and a picnic ground with appropriate facilities for use by the parolees and their families.

Programs and Operations

The USDB operates a full and extensive set of correctional programs. In order to insure effective operation of this program, a well-structured, time-oriented schedule must be followed. The following time schedule is followed in 3, 4, 6 and 7 wings:³⁹

³⁹ Staff Manual for United States Disciplinary Barracks Personnel, USDB, Ft. Leavenworth, Kansas, February 1975, (USDB Manual 600-1), p. 5.

	0515	Wake Up
	0530	Mess
	0715	Work Call
1120 and	1130	Recall (Work Recall is on staggered schedule)
	1130	Church Call
	1135	Mess
	1245	Work Call
1620 and	1630	Work Recall
	1640	Count
	1700	Mess
	1810	Education Call (Monday and Thursday)
	1815	Recreation
	2100	Lockup (all but 6-Wing; 2200 on Saturday nights and nights before a holiday)
	2235	Lockup and lights out in 6-Wing. Lockup is at 0030 Saturday nights and nights before a holiday.

The minimum B custody domicile evening recreation ends at 2230 and lights are out at 2300. On Saturday nights and nights before a holiday, lights go out at 2300 but TV stays on until the end of the movie which starts at 2230. At the Vocational Farm, lights are turned off at 2230 each night, but on Fridays, Saturdays, and nights before a holiday, the TV remains on until the 2230 movie is over. At the LPU, lights are turned off at 2300 on weekdays, 0100 on weekends, and nights before holidays; the TV in the recreation area goes off at the conclusion of normal programing.

As part of the rehabilitation process for inmates, the custody grade of a prisoner is considered a measure of his/her ability to adjust to the confinement process as well as to exercise increased maturity in his overall functioning. The custody grades are as follows.⁴⁰

(1) MINIMUM A CUSTODY: This custody grade is reserved for trustworthy individuals whose overall adjustment indicates they need relatively little supervision. Minimum A custody inmates are housed at the LPU and the Vocational Farm. An area for visits from family or relatives is available at the LPU and the Farm, and when weather permits, an outside picnic area is available for inmates in minimum A custody. There are many jobs available for inmates in minimum A

⁴⁰ Ibid., pp. 6-8.

custody at Ft. Leavenworth, including such jobs as the golf course, commissary, stables, the Open Mess System, and in conjunction with the Work Release Program, jobs within the local civilian community are available.

(2) MINIMUM B CUSTODY: This custody grade is for individuals billeted inside the walls who are felt to need constant supervision while working outside the walls. An inmate's adjustment to minimum B custody is used as a testing experience for later consideration of A custody status. Minimum B custody inmates are housed in Building 465 or 466. Inmates in minimum B custody are responsible for various details from which minimum A custody inmates are excused.

(3) MINIMUM B CUSTODY (INSIDE ONLY): This category is for inmates allowed quarters in Building 465 or 466, but who have the same security restrictions as medium custody inmates when outside the walls. This custody grade is used when circumstances surrounding the inmate's situation require that he remain in a more controlled setting, or to observe an inmate for a period of time before he is elevated to minimum B custody status.

(4) MEDIUM CUSTODY (C): This custody is for inmates who need continuous custodial supervision. These inmates are domiciled in cell block areas and are controlled in their movements. Movement outside the walls is controlled by the use of handcuffs and is supervised by armed guards.

(5) MAXIMUM SECURITY: This area is reserved for inmates requiring close supervision. It consists of single cells. A special incentives program is conducted in disciplinary segregation in an attempt to alter the behavior of inmates who violate institutional rules. (See Para. 6C(11)(a).)

(6) USDB SYSTEM OF GRADUATED CUSTODY RELEASE: An inmate's ability to manage custody, indicates to him and the institution how he can handle increased personal freedom in preparation for release. It is the goal of the institution to help prepare the inmate for release by allowing him to gradually experience more and more freedom and individual decision-making. In addition to the progression toward less supervisory controls, an inmate moves from the cubicle

in the cell block to private, double or suites of rooms in barracks and is granted more privileges. The Honor Wing quarters are decorated to the individual's taste in furnishings.

(a) Custody Elevations: Movements within domicile areas in medium and maximum custody are controlled by the Director of Custody. After an inmate completes his processing, his adjustment in confinement will determine his next domicile. Inmates who have trouble adapting to confinement are seen by Mental Hygiene personnel, who in turn consult with the Director of Custody, in an effort to work out a living arrangement for an inmate which will enable him to make the best possible adjustment. Elevations to minimum B or minimum A custody are carried out by Assignment Board recommendations, with final approval by the Commandant.

(b) Custody Reductions: An inmate may be reduced in custody through administrative action because he cannot adjust properly in a certain level of custody, or by a Discipline and Adjustment Board because of an infraction of institutional rules. An inmate in minimum A or minimum B custody may request a reduction in custody if he feels unable to cope with certain pressures, such as fear of running away or fear of conflict with other inmates or staff members. In such cases, he is encouraged to "turn his custody in" to insure self-control. An inmate may be recommended for a custody reduction because of a very poor attitude when appearing before a Disposition or Assignment Board.

(c) Additional Aspects of Graduated Release: personal interest, aptitude and developed skills are considered in assignment to vocational and "hands on" training in 59 different trades and occupations. State of Kansas certificates are awarded for course completion and bear no indication that they were earned at the USDB.

In addition to the primary purpose of providing inmates with job skills which can lead to employment, these vocational activities produce revenue for USDB improvements, new training equipment and supplies, and represent substantial savings in work which otherwise would have been contracted out to community businesses. Minimum custody inmates assigned to the vocational farm live on the spacious grounds outside the walled area. Farm production includes poultry, swine, cattle and field crops. The enterprise is intended to be self-supporting. All animals and crops are sold - none are used to supplement the regular Army mess hall meals served throughout all custody levels in the USDB.

The last phase of an inmate's life in the USDB focuses on the assistance offered by the Pre-Release and Employment Placement Branches of the Classification Directorate. In addition to classroom orientations and discussion groups, a roster of job opportunities in the individual's home state and community and agencies which will help him resettle is prepared for every man upon release. This information has been computerized on a nationwide basis.

It is interesting to note that a Civilian Commission⁴¹ appointed by the President in 1970 to investigate conditions in Army confinement installations turned in a report that harshly criticized many Army stockades but praised the general operation of the USDB. The committee was favorably impressed by the administration and operation of the USDB the competency and attitude of its officers and cadre, and the efforts being made to promote the rehabilitation of inmates. Also, the committee recommended the formation of a Corrections Command to centralize the Army Correction Program at the HQDA level.

⁴¹Special Civilian Committee for the Study of the United States Army Confinement System, Op. Cit.

TABLE 2.6 ⁴²

Work Release Program
Statistical Report
Number of Inmates in Program

Report Period FY76 1 July 1975-30 June 1976

	<u>Fiscal Year 76</u>	<u>Since Beginning of Program</u>
No on W/R start of Fiscal Year	5	
Admitted to Program	25	122
Sub-Total	30	
Terminated:		
Expiration of Sentence	3	35
Request of Inmate	1	4
Discharged from job (Laid-Off)	13	16
Violation of Agreement	3	15
Other (Parole)	4	44
Total Termination	24	114
Rehired	2	
End of Fiscal Year Total	8	

No. of W/R placements this Fiscal Year directly related to institutional Training:
11

TABLE 2.7⁴³
Work Release Program
Statistical Report
Financial

	<u>Fiscal Year 76</u>	<u>Since Beginning of Program</u>
Gross Earnings	72,754.65	249,892.70
Federal Income Tax Withheld	8,507.45	27,081.40
State Income Tax Withheld	966.70	2,879.52
FICA	4,132.69	14,109.73
Net Earnings	53,103.67	205,717.91
Sent to Dependents	20,418.82	67,068.28
Misc. (Spent in Community)	17,164.72	40,076.73
Savings Accounts	4,980.00	17,046.56
Savings (Pris. Pers. Dep. Fund)	15,703.32	71,285.21
Deductions:		
Laundry & Cleaning	242.37	766.27
Transportation	2,254.25	3,404.67
Total Deductions:	2,496.62	4,170.94

Present Strength on Work Release as of 16 Aug 76 16

⁴² Annual Historical Summary, USDB, Op. Cit. p. 46.

⁴³ Ibid.

VOCATIONAL TRAINING FUND, USDB
 FORT LEAVENWORTH, KANSAS
 COMPARATIVE BALANCE SHEET

DESCRIPTION	Month Ending 30 Jun 75	Month Ending 30 Jun 76	Month Ending 30 Sep 76
CURRENT ASSETS			
CASH ASSETS:			
Cash in Bank	\$ 2,798.08	\$ 62,724.49	\$ 1,280.75
Savings Accounts	122,339.92	61,313.84	301,238.97
Petty Cash Funds	250.00	250.00	250.00
Change Funds	300.00	300.00	300.00
Accounts Receivables	31,939.60	89,482.43	42,290.86
TOTAL CASH ASSETS:	\$157,627.60	\$214,070.76	\$345,360.58
INVENTORIES:			
Warehouse Stock	\$179,529.11	\$102,764.57	\$159,285.39
Work-in-Process	31,524.42	34,702.98	30,896.18
Finished Goods-Sales Store	441.92	471.71	1,091.65
Livestock - Farm Colony	21,650.00	25,360.00	25,500.00
Poultry & Eggs - Farm Colony	2,614.40	635.60	6,300.00
Grain in Bins - Farm Colony	5,859.50	10,667.45	15,786.85
Field Crops - Farm Colony	25,023.43	17,906.19	16,535.26
Flowers & Plants - Green House	4,688.23	8,471.50	13,598.58
Pottery - Green House	3,481.94	3,455.53	
TOTAL INVENTORIES:	\$274,812.95	\$204,435.53	\$268,993.91
INVESTMENTS:			
Certificates of Deposit	\$169,528.17	\$209,236.45	
Accrued Interest Receivable		491.31	
TOTAL INVESTMENTS:	\$169,528.17	\$209,727.76	-0-

DESCRIPTION
CURRENT ASSETS

Month Ending 30 Jun 75 Month Ending 30 Jun 76 Month Ending 30 Sep 76

PREPAID EXPENSES:

Insurance	\$ 140.00	\$ 912.60	\$ 456.30
Feed & Seed - Farm Colony	147.20	723.55	1,240.12
Fuel	444.87	444.27	323.45
Green House Supplies	7,233.45	7,424.28	6,292.11

TOTAL PREPAID EXPENSES: \$ 7,955.52 \$ 9,504.70 \$ 8,311.98

TOTAL CURRENT ASSEST \$609,924.24 \$637,738.75 \$622,666.47

FIXED ASSETS:

Industrial Equipment	\$112,462.13	\$115,797.15	\$114,707.50
Less Accumulated Depreciation	70,539.11	71,083.25	72,084.04
Farm Equipment	31,579.53	30,600.61	33,478.68
Less Accumulated Depreciation	24,328.21	23,716.27	23,256.32
Furniture & Fixtures	29,524.56	43,676.72	41,836.79
Less Accumulated Depreciation	18,109.48	19,509.06	18,833.51
Vehicle Equipment	56,184.46	54,622.93	58,057.34
Less Accumulated Depreciation	38,268.67	42,981.85	41,596.17

Bldg. & Bldg. Improvements \$106,843.41 \$100,911.95 99,440.63

TOTAL FIXED ASSETS: \$185,348.62 \$188,318.93 \$191,750.90

TOTAL ASSETS: \$795,272.86 \$826,057.68 \$814,417.37

DESCRIPTION LIABILITIES	LIABILITIES AND FUND EQUITY			
	Month Ending 30 Jun 75	Month Ending 30 Jun 76	Month Ending 30 Sep 76	
CURRENT LIABILITIES:				
Customer Deposits	\$ 1,613.20	\$ 1,459.00	\$ 2,747.05	
Accounts Payable	80,695.43	53,385.49	26,309.76	
State Withholding Taxes Payable	205.09		295.63	
Social Security Taxes Payable	157.71	50.06	123.33	
Accrued Salaries & Wages	2,695.92	855.84	2,108.28	
Retirement & Group Insurance	342.50	645.30	535.20	
Accrued Annual Leave Payable	3,453.08	4,184.17	3,534.62	
Accrued Sick Leave Payable		1,951.12		
Combined Federal Campaign			9.00	
TOTAL CURRENT LIABILITIES:	\$ 89,162.93	\$ 62,530.98	\$ 35,662.87	
DEFERRED LIABILITIES:				
Reserve for Grants	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	
Accounts Payable - Deferred	51.56			
TOTAL DEFERRED LIABILITIES:	\$ 25,051.56	\$ 25,000.00	\$ 25,000.00	
TOTAL LIABILITIES:	\$114,214.49	\$ 87,530.98	\$ 60,662.87	
FUND EQUITY:	\$681,058.37	\$738,526.70	\$753,754.50	
TOTAL LIABILITIES AND FUND EQUITY	\$795,272.86	\$826,057.68	\$814,417.37	

TABLE 2.8 ⁴⁵

EMPLOYMENT PLACEMENT BRANCH
 Report Period 1 July 1975 - 30 June 1976

	TOTAL LETTERS SENT	TOTAL LETTERS RECEIVED	OF LETTERS RECEIVED, TOTAL OFFERING POSITIVE ASSISTANCE OR DEFINITE JOBS
JULY	569	192	126
AUGUST	416	167	127
SEPTEMBER	552	174	139
OCTOBER	422	135	119
NOVEMBER	227	147	132
DECEMBER	447	158	146
JANUARY	473	210	196
FEBRUARY	520	186	144
MARCH	824	229	206
APRIL	853	274	189
MAY	551	285	172
JUNE	866	206	125
TOTAL:	6,720	2,363	1,821

⁴⁵Ibid, p. 48.

TABLE 2.9 ⁴⁶

PAROLE ACTIVITIES
FY76

<u>LINE</u>	<u>TYPE</u>	<u>NUMBER</u>
1	On parole from this institution at beginning of Fiscal Year	303
2	Released on parole during Fiscal Year	231
3	Paroles revoked during Fiscal Year	11
4	Paroles suspended during Fiscal Year	16
5	Released from Parole during Fiscal Year	197
6	On parole from this institution at end of Fiscal Year	310
7	Parole Violators reconfined in this institution during Fiscal Year	7

FY7T ⁴⁷

1	On parole from this institution at beginning of period	310
2	Released on parole	84
3	Paroles revoked	0
4	Paroles suspended	2
5	Released from parole	60
6	On parole from this institution at end of period	332
7	Parole Violators reconfined in this institution during period	1

⁴⁶ Ibid, p. 70.

⁴⁷ Ibid, P. 70. Fiscal Year 7T refers to the three months, namely July, August and September of 1976 that had to be carried over as a result of a change that was introduced in the government's Fiscal Year.

2.5 Racial Problems

In 1974, Lowrey reported⁴⁸ that one can find two apparent contradictory perceptions of the military's responsibility for human development. On one side, there are those who perceive the military's role in a traditional sense, as an instrument of foreign policy to deter and defend against attacks on the United States and its allies. From this traditional view, it follows that people, like material, should be procured, managed and separated in light of fluctuating needs for military power in support of changing foreign policy. On the other hand, there is a perception, documented in many independent studies, as well as literary and scholarly efforts, that the military is an agency for education, social reform and domestic action.

Lowrey argues⁴⁹ that any examination of public documents containing functions or objectives of the Army will show that there is a responsibility either implied or assumed for social reform, education and domestic action. He writes that such programs as Project Transition, Project 100,000 and the Alcohol and Drug Abuse Rehabilitation Program were devised with that specific purpose in mind.

In 1971, Charles Moskos observed: Although the military has traditionally served as a career avenue for many working-class youth, its welfare role has never been primary, nor even officially acknowledged.⁵⁰

⁴⁸Lowrey, Op. Cit., pp. 42-43.

⁴⁹Ibid.

⁵⁰Moskos, Charles C., The American Enlisted Man, Sage Foundation, New York, 1970.

In 1972, a study by the Army War College did not consider social reform as a major or secondary task for the Army in the decade of the seventies.⁵¹ However, it did say that:

"The economic attractions of military service to minority groups with limited work opportunities may result in an increased percentage of minority group representatives in the Army."⁵²

Adam Yarmolinsky charges that manpower utilization patterns in the military are reverse that of civilian industry which discourages upward mobility. He states that in the military:

"A task is found for each person rather than a person for each task. In the sense it is a total institution because once admitted, all men have a place. For some, especially those with college degrees, this results in an under utilization of skills and aptitudes. But for persons from the lowest social strata there is a built-in process of upgrading."⁵³

Bernard Beck reports that both Secretaries of the Defense and Labor Departments cite "the unique success of the Armed Services as manpower training and rehabilitation programs."⁵⁴

⁵¹U.S. Department of the Army, Army Tasks for the Seventies, Carlisle, SSI, 1972, pp. 146-174.

⁵²Ibid., p. 149.

⁵³Yarmolinsky, Adam, The Military Establishment, New York, Harper and Row, 1971, p. 325.

⁵⁴Beck, Bernard, "The Military as a Welfare Institution," Public Opinion and the Military Establishment, Beverly Hills, Sage, 1971, p. 137.

In 1971, McCubbin⁵⁵ assessed racial bias at the U.S. Army Correctional Training Facility and found that the influence of a racial bias in determining undesirable discharges and/or USDB assignments was not reflected in the statistics. Rather the data indicate that the percentage of blacks receiving undesirable discharges or assignments to the USDB is consistent with the percentage of blacks in the total CTF population. Furthermore, patterns of a racial bias in individual units, extending over a period of four cycles, do not appear. Therefore, according to McCubbin's study, the assumption that the awarding of undesirable discharges or transfers to the USDB is influenced by a racial bias is unsupported by the facts.

However, in 1972, a special Task Force, appointed to look at the administration of military justice,⁵⁶ reported that black GIs were placed in pretrial confinement at a rate disproportionate to their numbers in the armed forces and their numbers at the military installations participating in the statistical survey. Furthermore, it was found that black GIs served almost five days longer pretrial confinement than whites.⁵⁷

The Task Force concluded⁵⁸ that the military services are influenced by broad societal practice, including racial discrimination. Two types of racial discrimination were identified:

⁵⁵ McCubbin, Hamilton, "Racial Bias at the U.S. Army Correctional Training Facility: An Assessment," Research and Evaluation Division, U.S. Army Correctional Training Facility, Ft. Riley, Kansas, 1971.

⁵⁶ Task Force on the Administration of Military Justice in the Armed Forces, "Report, Volumes I and II," (Department of Defense, Washington, D.C.), November 1972.

⁵⁷ Amsterdam, Mark, "Pretrial Confinement in the Military-Rights and Realities," New England Journal on Prison Law, Vol. I, 1974, pp. 57-58.

⁵⁸ Task Force on the Administration of Military Justice in the Armed Forces, Vol. I, Op. Cit., pp. 2-3.

- (1) Intentional - policy of military authority or action of an individual or group of individuals which is intended to have a negative effect on minority individuals or groups without having such an effect on others.
- (2) Systemic - neutral practices or policies which disproportionately impact harmfully or negatively on minorities.

Greater societal racism was identified as the most potent pre-service factor affecting the administration of justice and respect for law by minority servicemen. Other pre-service factors identified include educational, economic, and language disadvantages, as well as coerced induction in lieu of a civilian jail term.

Post-entry or military environment factors which were felt to be correctable included unfairness in testing, assignment and promotion practices, minority officer shortage, insufficient funding and support for DoD equal opportunity and human relations' programs, unfairness and the perception of unfairness concerning military justice.

Other practices which adversely influence military minority attitudes include off-base housing and recreation segregation, over-regulation of individual personal appearance and group expression, policies which impose unnecessary restrictions that communication be conducted in the English language only, peer group pressure resulting in social polarization and reverse discrimination.

It was felt that perceptions of unfairness are as corrosive an influence on the attitudes of servicemen toward the military justice system as is actual unfairness, and must be dealt with.

In the Army, where blacks comprise 21% of the population at the installations reporting, they accounted for 26.1% of reported incidents. When type of offense is controlled, blacks were involved in 35.2% of the incidents describing major military or civilian offenses, and 31.4% of the incidents describing confrontation or status offenses.⁵⁹

⁵⁹ Ibid., p. 25.

Ninety-eight (47.3%) of a random sample of 207 servicemen imprisoned at the USDB were black enlisted men (blacks represented 13.1% of all enlisted men in the armed forces as of 30 June 1972). Black prisoners had received longer sentences to confinement at hard labor (2.9 years) than white (1.9 years) and had a larger percentage of sentences including total forfeitures (84.7% to 76.0%) and dishonorable discharges (58.2% to 43.8%). Black prisoners also had slightly higher percentages of prior Article 15's (65.3% to 57.3% for whites), summary courts-martial (11.2% to 8.3% for whites) and special courts-martial (21.4% to 19.8% for whites).⁶⁰

A recent article in the Washington Post⁶¹ reported that:

- (1) Compared to the 11% blacks in the total population, the Army was 21.3% black, a new high, on 30 June, the end of Fiscal Year 1976.
- (2) Blacks accounted for 29% of July's enlistments and 30% in August, according to latest Army figures. These rates are pushing the black total toward 30%.
- (3) An important factor behind the high black enlistments is the jobless rate among young blacks, almost twice that for young whites.
- (4) Many young blacks, evidently have decided they have a better chance of finding a rewarding career in the Army than in civilian industry.
- (5) Statistics show blacks are qualifying in increasing numbers for highly technical jobs. For example, the percentage of blacks going into the field of field artillery missiles rose from 15.2% to 23.4% between Fiscal Year 1974 and Fiscal Year 1976.

⁶⁰ Ibid., p. 32.

⁶¹ "Black Ratio in Army is Highest Ever." Washington Post, Washington, D.C., October 17, 1976, p. A-2.

3.0 RESULTS OF PRIOR STUDIES

Since the early 1940's, various research activities have been undertaken to predict the potential AWOL offender. All three major branches of the service have, at one time or another, devoted major research projects toward this end. Various measurements of personality and background characteristics, designed to predict military delinquency on the part of specific individuals were generally inefficient. The best instrument, developed by the Behavioral Science Research Laboratories in 1969, would screen out a disproportionately large number of non-offenders in order to identify a small number of early offenders.

Overall results confirm the basic assumption that AWOL behavior can be better understood in terms of the interaction of individual, situational and leadership variables, than in terms of any single variable.⁶²

Men in low AWOL-rate units have had considerably more positive experiences in the Army. They are often interested in their work, and are working in their MOS. Their work is perceived as important to their unit and to the Army, and the quality of their performance has been recognized and rewarded with promotions.⁶³

Leaders who are effective in reducing AWOL are not the stereotyped, rigid authoritarians. Rather, they are well-liked by their men, concerned about their men's problems and are instrumental in developing information communication within the unit. They take an active part in the problem-solving process, and their response is to intervene before a violation occurs.

⁶²Fraas, Dr., "A Prototype for Research Operations in Military Delinquency," Correctional Training Facility, Ft. Riley, Kansas, November 1971, p. 46.

⁶³Ibid., p. 47.

Two situational variables stand out as critical in understanding AWOL behavior.⁶⁴

- (1) Personnel turbulence can undermine all efforts at AWOL prevention.
- (2) Meaningful work is another critical element. Work that is interesting, challenging, and rewarding pays dividends.

Basic to any investigation is the understanding that AWOL rates and rejection percentages vary according to the situation at the moment. Thus, in times of peace, the military can afford to be much more selective with regard to manpower. Qualifications -- whether expressed or implied -- may be raised. As a result, military performance is enhanced and delinquency rates drop. On the other hand, military conflicts dictate an increase in military manpower. Standards are either dropped or loosely adhered to so that individuals are accepted into the services who, in times of peace, might well have been rejected on any of several grounds.

During the decade of the 40's (World War II) a dozen articles on military corrections led up to the peak year of 1945 which recorded 21 publications. This tapered off over the succeeding three years with the end of the decade indicating a void of interest. Following the outbreak of the Korean Conflict, the early 50's produced one study per year until mid-decade. At that time, researchers associated with the Air Force 3320th Retraining Group began frequent publications which continued through the quiet years of the early 60's. With the outbreak of hostilities in Viet Nam and its concomitant heavy drafting of manpower, interest increased dramatically resulting in the publications of nearly 10 articles each year commencing in 1963 and extending up to the early 70's.⁶⁵

⁶⁴ Ibid.

⁶⁵ Fox, Sullivan, and McCubbin, "Literature Review: Research on Military Offenders, "U.S. Army Correctional Training Facility, Ft. Riley, Kansas, November 1970, p.1.

From a detailed perusal of abstracts, several impressions result.⁶⁶

- (1) It appears that each decade repeats, either in whole or part, the research of the previous decade.
- (2) The long effort at initial prediction of who will become a military offender has been abandoned with the recognition of situational determinants.
- (3) Emphasis has shifted to professionally rehabilitating the offender by means of problem solving and counseling, while at the same time screening out those who are unsuitable or incapable of adjusting.
- (4) The overall impression is that the military deviance problem will not be totally eliminated but merely lie dormant, depending upon manpower requirements in times of conflict.

While it is not particularly useful to summarize the findings of each military correction study which has been completed, some of the more important and more recent studies are discussed below.

In 1962, a study⁶⁷ attempted to determine if behavior measured by the Minnesota Multiphasic Personality Inventory (MMPI) and sampled when a prisoner entered the USDB would predict subsequent disciplinary difficulties.

Data were gathered during the period of March, April, and May, 1961, from about 1,200 records of prisoners available at the USDB. Represented by these records were about 850

⁶⁶Ibid, pp. 1-2.

⁶⁷Jones, Adrian Harold, "A Study of Disciplinary Offenders in the United States Disciplinary Barracks," The Council for Research and Evaluation, U.S. Disciplinary Barracks, Ft. Leavenworth, Kansas, 1962.

prisoners in confinement and about 350 who had been released within the previous four months. Complete data were available on 945 prisoners and these were divided at random and matched on the variables of age and GT score.

The analysis of variance for matched groups was applied. On 5 of the 8 clinical scales tested, the mean scale score of the disciplinary group differed from the mean scale score of the model group more than could be expected by chance alone.

The author concluded behavior measured by the MMPI and sampled when a prisoner enters the USDB predicts subsequent disciplinary difficulties.⁶⁸

In 1968, an analysis⁶⁹ was done of FL Form 740, "Release Interview Form," an attitude questionnaire administered to prisoners leaving the USDB. Prisoners tended to find that they could make the most significant contacts with their job supervisors. Data suggested that prisoners are initially impressed with their counselors, but as time passes they feel less positive and more neutral about them.⁷⁰

A 1968 follow-up study of those individuals restored to military duty after being confined at the U.S. Disciplinary Barracks was conducted.⁷¹ The study, covering a 26-month period of time, was able to determine restoration success

⁶⁸Ibid., pp. 64-66.

⁶⁹Von Holden, Martin H., "Analysis of Attitudes Expressed by Prisoners Leaving the U.S. Disciplinary Barracks," The Council for Research, Evaluation, and Staff Management, U.S. Disciplinary Barracks: Ft. Leavenworth, Kansas, February 1968.

⁷⁰Ibid., p. 39.

⁷¹Von Holden, Martin H., and Kroll, J.L., "Restoration Success: A Follow-up Study," (Council for Research, Evaluation and Staff Development, United States Disciplinary Barracks, Ft. Leavenworth, Kansas, November 1968.

rates for No-Discharge, Punitive Discharge, and Suspended Punitive Discharge prisoners based on information provided by the commanding officer of each restoree. Some of the major findings were the following:⁷²

- (1) Prisoners with AWOL offenses, or in the No-Discharge category, had a successful restoration rate around 50%.

Prisoners with felonious or violent crimes, and with punitive discharges, when restored, had a successful restoration rate around 85%.

At the end of 12 months after restoration, 50% of the successfully restored prisoners had been promoted to a rank of E-4 and 20% had attained a rank of E-5. Over 80% of the successfully restored group received excellent conduct and efficiency ratings.

- (2) Factors which distinguished between restoration success and restoration failures were educational level, age, emotional stability as determined by Army psychiatric profile, clemency action, length of confinement at the USDB, length of prior military service, types of confining offenses, and favorable attitude and motivation toward restoration.

Factors which did not distinguish between restoration successes and restoration failures in the present study were GT scores, MMPI high points, enlisted versus drafted status and unfavorable attitude toward restoration.

- (3) Predictions of restoration success and failure varied with the discharge categories of the prisoners, but in general was above the chance level. Most predictions for punitive discharge prisoners were highly accurate. The unanimous vote of a Disposition Board correctly predicted 71% of the successful restorees and 68% of the failure restorees in the No-Discharge sub-sample. The

⁷² Ibid., p. 102.

Commandant's initial predictions were 64% accurate for successes and 75% accurate for failures for No-Discharge prisoners, but his final vote reflected the utilization of Army regulations, severely limiting the types of No-Discharge prisoners who can be administratively separated. Thus, the entire group of initially predicted failures (No-Discharge prisoners) was finally returned to duty, where only 25% succeeded. This indicates that the Commandant was very accurate in those he predicted would fail, but he was unable to prevent these individuals from returning to duty.

The psychiatric recommendations and unanimous Disposition Board recommendations were most accurate in the prediction of restoration failure. They predicted 63% and 61%, respectively, of all those individuals in the No-Discharge category who failed.

Some of the conclusions⁷³ reached were that:

- (1) This study supports the concept of restoring individuals to duty who have been rehabilitated at the USDB. It proves very clearly that a man ought not to be denied restoration solely on the basis of his type of confining offense, if there are sufficient indications that he has good military potential. Thus, the highest restoration success (100%) was seen among that small group of restorees convicted of the crimes of indecent assault, assault, and manslaughter. Although the type and nature of the offense frequently offers a compelling statement about a man's personality, nevertheless to adhere rigidly to a blanket refusal to consider a man for restoration solely on the basis of his offense is to ignore all that we have learned about rehabilitation over the past 50

⁷³Ibid., p. 103.

years. The circumstances of the offense, the man's prior service record, present confinement record, and present evidence of maturation and rehabilitation should all be given sufficient consideration.

- (2) This study supports the 1965 Office of the Provost Marshal General Study which indicated the excellent restoration success rate of punitive discharge prisoners. It compared this high rate of success for the punitive discharge prisoner with the mediocre success rates for the No-Discharge prisoners, many of whom are poorly motivated. Most of these No-Discharge prisoners have gone AWOL repeatedly, have had two or three special courts-martial and have made clear their negative attitudes toward the Army. The United States Army Retraining Brigade at Ft. Riley, Kansas is undertaking the difficult job of dealing with the poorly motivated No-Discharge prisoner. In a similar manner, it is recommended that the punitive discharge prisoner should be restored to duty when all indications suggest their ability to serve honorably.

It was concluded that the USDB staff can accurately predict restoration success and failure and is in the best position to evaluate a prisoner's military restoration potential. In the same light, those prisoners who are clearly incorrigible and interfere actively with the rehabilitative processes of the USDB should be transferred to a Federal facility, irrespective of their length of sentence.

A 1969 study⁷⁴ found two factors which have a significant effect on AWOL rates of the graduates of the then Correctional Training Facility (which was renamed the U.S. Army Retraining

⁷⁴ Bogard, McCubbin, and Connolly, "The Influence of Assignment and Military Occupational Specialty on the Rates of AWOL Recidivism. A Preliminary Report," U.S. Army Correctional Training Facility, Ft. Riley, Kansas, November 1969.

Brigade in 1972):

- (1) Assignment of CTF graduates to different military installations.
- (2) Lack of military occupational specialty (MOS) by some CTF graduates. Findings indicated that the post to which a CTF graduate is assigned upon leaving the CTF is an important factor in predicting success or failure of the graduate. The three factors most influencing this outcome were: the reputation of the post, the type of reception received by the CTF graduate and the continued treatment there.

A random sample of 1,194 military offenders was conducted in 1970 in order to evaluate the influence of the correctional program.⁷⁵ Major findings were that the majority of trainees completed the CTF program, the majority of graduating personnel reported for subsequent duty, and the majority are currently serving in a positive duty status.⁷⁶

The CTF program was seen as an integration of three functions:

- (1) A screening or selective process, which removes from the service those individuals who lack the qualities necessary for successful military performance.
- (2) Providing basic military and motivational training to CTF personnel so they will be sufficiently prepared to continue their military service.
- (3) Realizing the objective of return to duty in every possible case.

⁷⁵Bogard, McCubbin, and Fox, "Military Offenders Sent to the U.S. Army Correctional Training Facility: A Follow-up Study," U.S. Army Correctional Training Facility, Ft. Riley, Kansas, January 1970.

⁷⁶Ibid., p. i.

It was concluded that the subsequent performance of the individual after he completes CTF training is responsive to a variety of factors which may have a significant effect. The quality of leadership the individual receives, the prevailing philosophy of the receiving military installation and the nature of the assignment given the individual have all been shown to be contributing factors - critical factors - to the quality of sustained military performance.⁷⁷

The performance of CTF personnel at Advanced Individual Training (AIT) installations was examined in 1970. Findings indicated:⁷⁸

- (1) Of 406 CTF graduate studies, 388 (96%) reported to the installation for assignment.
- (2) Of a total of 243 men who went AWOL from the installation, 61 (25%) left the base without staying a full day.
- (3) Of the men who went AWOL, over half (53%) left within a period of three days after reporting.

These findings suggest that, in all probability, the initial reception and leadership provided these individuals was a contributing factor to their abortive behavior. Once the trainee presents himself at the installation, the responsibility for his success or failure in the program must be assumed mostly by the installation itself. That such discouraging results are not inevitable was borne out by the wide variations in report in -- and performance rates claimed by different AIT installations across the country.

A 1970 study examined the operation, adequacy and management of the correctional treatment program at the Army Stockade, located

⁷⁷ Ibid., p. 3.

⁷⁸ McCubbin, Fox, and McGillen, "Performance of CTF Graduates at AIT Installations, A Discussion," U.S. Army Correctional Training Facility, Ft. Riley, Kansas, January 1970, p. i.

at Ft. Dix, New Jersey and compared the findings with the doctrine contained in Army Regulations.⁷⁹ In general, it was determined that the correctional treatment program was of some benefit to the Ft. Dix offenders.

Prisoner data showed that the average length of sentence was only 46 days. Of the more than 400 officers and enlisted men assigned to the stockade staff, fewer than half of these men had received any formal correctional training prior to being assigned. Prisoner employment opportunities were limited by lack of space for work shops, an unusually high number of personal appointments and the short-term sentences. Employment generally consisted of repair and maintenance of the facility and garden projects.

In 1970, McCubbin, Fox, and Connolly did a study of trainee evaluations of the then CTF program and their perceptions of the AWOL problem.⁸⁰ The trainees of the Sixth Correctional Training Unit indicated a positive evaluation of the total CTF Program; they felt CTF was helpful to them in returning to the Army and to civilian life. Although there were varying reactions, the trainees cited adjustment to the military, military problems, family problems, and personal problems as the major causative factors for AWOL:

⁷⁹ Casey, Andrew M., "A Study of the Correctional Treatment Program at the Ft. Dix Stockade," Sam Houston University, Huntsville, Texas, December 1970.

⁸⁰ McCubbin, Fox and Connolly, "AWOL Factors and Trainees' Evaluations of the CTF Program," Research and Evaluation Division, U.S. Army Correctional Training Facility, Ft. Riley, Kansas, December 1969.

TABLE 3.1 ⁸¹
 Trainees' Reasons For AWOL Behavior

Trainees Reasons	Frequency	Percentage
Maladjustment to military	10	22.2%
Military problems	10	22.2%
Problems at home	13	28.9%
Personal reasons	12	26.7%
Financial problems	0	0.0%
	—	—
TOTAL:	45	100.0%

A report completed in 1971 by James C. Berbiglia describes a three-part investigation which was conducted with the use of a personality inventory, the Taylor-Johnson Temperament Analysis, in the early identification of potential AWOL's.⁸² The author felt he identified a distinct pattern of traits in those men confined to the Post Correctional Facility as AWOL's.

The main value of the study probably is its documentation of results obtained when:

- (1) Personal problems of soldiers are systematically elicited,
- (2) They are followed up with competent counseling,
- (3) There is command support for the program.

⁸¹ Ibid., p. 1.

⁸² Berbiglia, James C., "The AWOL Syndrome, A Study in the Early Identification of Potential AWOLs by the Use of the Taylor-Johnson Temperament Analysis Leading to the Development of a Preventative Program," Psychological Publications, Inc., Los Angeles, 1971.

Another 1971 study⁸³ - this one by Robert Blume - followed a group of military inmates from the initial stage of their rehabilitation to 60 days after their return to duty. The research presented an opportunity to determine what occurred to military prisoners when they were released from their imprisonment.

The objectives of the research were to analyze the relationship between inmate background characteristics, attitudes towards the Army and the then U.S. Correctional Training Facility (CTF), degree of social interaction, and post-release performance.

The background records were obtained directly from military records and files. Inmate attitudes toward the Army and the CTF were obtained from the response to a 31-item questionnaire that was administered to the inmates during their seventh week of training. Measures of social interaction were obtained from the last three questions of the same questionnaire. The determination for post-release performance was based upon reports obtained from the commanding officers of the units to which the inmates were subsequently assigned. The definition for successful and unsuccessful performance was based upon the following criteria:

- (1) Whether the inmate reported to his duty station.
- (2) Whether the inmate maintained an active duty status for 60 days.
- (3) Whether the inmate was recommended for or received a court-martial or premature discharge within 60 days.
- (4) Whether the inmate was reincarcerated within 60 days.

It was determined that very few restorees who lacked an MOS were successfully returned to duty. The acquisition of an MOS provided an inmate with an even chance for successful restoration. It was learned that inmates with less than a high school education performed more successfully than high school graduates. Non-whites

⁸³Blume, R.H., "Response to Incarceration," Columbia University, Ed.D. Dissertation, New York, 1971.

succeeded at a higher rate than white inmates when restored to duty.⁸⁴ Very few inmates with an admitted history of civilian convictions were successfully restored to duty. Those who denied civilian criminality had an even chance for successful restoration. It was noted that previous military convictions did not relate to subsequent performance. It was concluded that a history of previous military convictions impeded an inmate's subsequent performance less than a history of civilian criminality. It was reported that a positive relationship existed between trainee attitudes toward the Army and subsequent performance. No relationship was established between expressed attitudes toward the CTF and post-release performance. It was established that the inmates with higher rates of interaction, had the least chance for successful restoration. Social isolates at best, however, had only an even chance for a successful return to duty.⁸⁵

The variables that appeared to have some effect upon successful performance were MOS, attitude toward the Army and to a lesser extent, civilian criminal history.⁸⁶

In 1972, a follow-up survey of 12,140 individuals entering the then Correctional Training Facility between 1 July 1969 and 1 January 1972 was completed.⁸⁷ Of this total, 9,784 (80.6%) completed the CTF program and were reassigned. Of the 9,784 graduates, subsequent status or type of discharge was determined for a total of 9,228 (94.3%). A total of 73.8% were separated from the service at the time of the study. 21.9% were on the rolls and another 4.3% were listed as DFR. Of the 9,228 graduates for whom subsequent status was verified, 2,000

⁸⁴ Ibid., pp. 1-2.

⁸⁵ Ibid., p. 3.

⁸⁶ Ibid., p. 86.

⁸⁷ Fox, Nicholson and Gooch, "Subsequent Performance of 9,228 Graduates of the Correctional Training Facility," U.S. Army Correctional Training Facility, Ft. Riley, Kansas, November 1972.

(21.6%) were serving in an honorable status. Another 2,529 (27.4%) had already received honorable discharges or discharges under honorable conditions. Taken together, these figures reflect a restoration rate of 49.1% of the CTF graduates. However, of the 6,809 graduates separated from the service 4,280 (62.9%) received less than honorable discharges or discharges under less than honorable conditions. Analysis of the total graduates separated from the service reveals that (1) the recidivism rate for men assigned to AIT was 77.7% compared to 53.0% for those released to conventional assignments, (2) a higher percentage of white trainees were assigned to AIT as compared with the percentage of black trainees so assigned, and (3) black graduates had uniformly higher honorable discharge rates, regardless of reassignment, than their white counterparts.⁸⁸

The many previous research and evaluation studies of various aspects of the Army Corrections Program do not lend themselves to the synthesis of any reliable mosaic of the Army Correction Program. Their focus and scope are too diverse to attempt any such effort. Perhaps the most useful theme, pattern or trend that is discernible from these studies is the demonstrated willingness of Army personnel to take a critical look at what they are doing and to question the appropriateness of the goals of the Army Correction Program and the effectiveness of their efforts.

⁸⁸Ibid., p. 1.

4.0 RECENT TRENDS IN CIVILIAN CORRECTIONS

4.1 Introduction

For some time now the correctional field has been highly controversial, in terms of its basic objectives, strategies and organizational structure. In the last 10 years we have witnessed an apparent reversal in policy with respect to adult offenders -- from one designed to minimize the role of imprisonment in correctional institutional settings to a sterner policy, at least for chronic offenders -- which has brought the size of prison populations to an all time high. Various legislative proposals, either already enacted or under active review in some states, which provide for fixed sentences, are indicative of this changed attitude. At the same time there has been a continued trend towards reduced reliance on large institutions in favor of both diversionary policies and increased use of community-based facilities.

4.2 The Call For Reform

Across the United States, critics of correctional policy can be found in colleges and universities, in government, in a wide array of community groups, and in the correctional agencies themselves. From these critics come proposals that range from eliminating the prisons to redesigning them. There are two distinct schools of thought followed by major critics of correctional agencies. The first group tends to favor drastic action -- either the total elimination of the prison, or a vast depopulation under which only the small minority of offenders considered dangerous would be in prison. These reformers consider most offenders to be victims of a socio-economic system that harshly discriminates against the poor and minorities.

The second group has begun to re-examine the fundamental precepts underlying the whole system of criminal sanctions, from probation to prison to parole. They contend that for the last

150 years the major thrust of the American criminal justice system has been to try to reform, rehabilitate, or treat the criminal offender. They assert that there is no evidence that rehabilitation programs work. They believe that those who commit crimes should be punished, not treated, and that punishment should be approximately equal for all those convicted of the same crime. Because of these beliefs, they have proposed the elimination of large institutions and their replacement with smaller, more humane institutions, the abolition of the indeterminate sentence and the parole board, and the adoption of a flat sentencing system.

4.3 Correctional Goals

In the last 200 years correctional objectives have changed several times, but the main goals can be summarized as retribution, restraint, rehabilitation, and reintegration, with two or more of these goals sometimes simultaneously pursued. Rehabilitation of prisoners by education, vocational training, and counseling (also frequently referred to as treatment) received growing emphasis during the twentieth century. It began in the late 1900's but was limited until the 1930's because the majority of prisoners were put to work in prison industries. With the advent of the Depression, laws were passed restricting convict labor and banning interstate commerce of prison-made goods, and more inmates were available to pursue the programs of rehabilitation. Thus, the last 40 years have seen a major emphasis on treatment programs in prisons, with the more recent addition of reintegration goals, including parole and community facilities such as halfway houses.

4.4 Emerging Trends

In the last few years several basic trends have become discernable in the corrections field. Among these are:

- The idea of flat sentencing,
- The abolition of parole boards,
- The "Justice" model, and
- The use of community correctional facilities.

One of the first attacks on the rehabilitation model of corrections and one of the first proposals for a system of flat sentencing was offered in 1970 in Struggle For Justice.⁸⁹ The authors reasoned that if prisons must exist, then prison sentences should be exactly equal for all those convicted of the same crime, and the real reason for the prison sentence should be stated -- punishment. Soon after this, the idea of flat sentencing began to be discussed in correctional and sociological literature.

Critics vary in their responses to flat sentencing. Many correctional administrators consider the idea unwise and denounce it as a throwback to the first half of the nineteenth century when such fixed terms were generally imposed. Norval Morris,⁹⁰ Dean of the University of Chicago Law School, suggests that instead of flat sentences, a more narrow range of sentencing options be available and that the parole board set a definite date for release soon after an offender enters the institution.

Probably the best known proponent of the flat sentencing concept is Dr. David Fogel.⁹¹ Flat sentencing is the heart of his "Justice" model for corrections. Fogel's plan would group crimes in five different categories, with each category carrying a fixed term, ranging from two years for minor offenses to 25 years for murder. Judges could raise or lower the fixed term by as much as 20%, depending on circumstances spelled out in

⁸⁹ American Friends Service Committee, Struggle For Justice, Hill and Wang, New York, 1971.

⁹⁰ Morris, Norval, "Critics of Corrections Speak Out," Correction Magazine, March 1976, p. 22.

⁹¹ Fogel, David, We Are the Living Proof, The W. H. Anderson Co., Cincinnati, Ohio, 1975.

the law. Only offenders dangerous to the public would be imprisoned. The rest would be fined, conditionally released, placed on probation, or diverted to halfway houses or other community programs.

Fogel maintains that his program would drastically reduce the prison population by vastly expanding the number of community programs available to local courts. Critics, however, charge that his plan would double the number of people currently in prisons, because many who are now sentenced to probation would automatically go to prison. In addition, some worry that flat sentencing plans may be drastically altered by state legislatures and result in more people, not fewer, going to prison.

Currently, Maine has a fixed sentencing law which has been in effect since March of 1976. In addition, a fixed sentence law has been enacted in Indiana, to be effective in July of 1977. At least 10 other states are actively considering such legislation. Three general approaches are being taken:

- (1) With the legislative method, the legislature fixes penalties statutorily, with limited allowance for judicial discretion in aggravating or mitigating circumstances.
- (2) With judicial definite sentencing, the legislature permits more judicial discretion in the selection of a definite sentence by establishing a statutory maximum.
- (3) The administrative approach narrows discretion by establishing definite parole release dates within specific ranges according to the offense and characteristics of the offender.

With the use of a flat sentencing system, a parole board then becomes superfluous, since the length of sentence will have already been set by the legislature or the judge. So there is already a movement to abolish the parole board and/or

parole supervision. For instance, Maine would abolish its parole board and have no formalized post-release supervision. Work release and other temporary release programs will be more intensively and extensively employed. In Illinois, post-release reintegrative programs and services will be available on a voluntary basis and parole counselors will be redeployed to provide post-release services as well as to serve as staff for a statewide probation system.

The Committee for the Study of Incarceration formed in 1972 issued a final report, Doing Justice,⁹² written by Andrew Von Hirsch, Professor of Criminology, Rutgers University. The report quickly disposes of the rehabilitative model and uses punishment as its rationale. It proposes to do away with the indeterminate sentence and the parole board, and suggests a schedule of flat sentences ranging in length from one to five years. The sentences would cover all crimes except murder. Imprisonment would be reserved for only the most serious crimes, and others would receive one of many proposed lesser punishments, such as stiff fines, intensive supervision in a redesigned probation system, or periodic imprisonment on evenings or weekends.

Most of the prison reformers who are active today do not make serious claims that their programs for change will significantly reduce crime. They justify them on the grounds that they are more fair and more just than the existing system. However, James A. Wilson and Ernest van den Haag⁹³ do claim that crime can be reduced significantly through the reform of the criminal justice system. They are for increased incarceration, proposing short fixed sentences of one or two years in length for most serious crimes and community alternatives that provide close supervision for those committing lesser crimes.

⁹² Von Hirsch, Andrew, Doing Justice, The Choice of Punishments, Hill and Wang, New York, 1976.

⁹³ Wilson, James and van den Haag, Ernest, Thinking About Crime, Basic Books, Inc., New York, 1975.

Meanwhile, Dr. Robert Martinson⁹⁴ believes that any redesign of the correctional system that does not address the issue of reducing crime is irresponsible, and proposes that the probation and parole systems be completely redesigned so that their only function is surveillance. He suggests that if 80% of the inmates in prisons were released and 80% of the prison budgets, and a portion of the police budgets were diverted to funding field supervision, there would be enough money to provide almost one-to-one supervision of offenders in the community. He believes that reformers should not be looking for ways to change or redesign the prison, but for new ways to restrain the offender while keeping him in the community.

Aside from the crucial issues of who should be imprisoned and for how long, correctional administrators have continuously focused their attention on upgrading the rehabilitative programs available to inmates within the prison system so as to better prepare them for successful reintegration into society upon release. Over the past two years, the U.S. Department of Justice, Law Enforcement Assistance Administration, has stimulated efforts to revitalize and reform the prison industry programs of state correctional systems. Several states have undertaken the task of redesigning their prison industry systems in the image of the free enterprise systems. Major changes have been introduced into the prison routine so as to encourage inmates to put in a full day of productive work in return for a full days wage. Inmates now compete for jobs and are hired/fired by the prison industry manager instead of the prison classification committee. Inmate workers who successfully adjust to the demands of a free enterprise-type of prison industry are able to earn the minimum wage, or in the case of Minnesota, the prevailing wage, and receive job placement assistance upon release from prison. In turn the inmate workers are expected to

⁹⁴ Martinson, Robert, Dr., "What Works? Questions and Answers About Prison Reform," The Public Interest, No. 35, Spring 1974.

to meet a number of financial responsibilities by deducting from their earnings payments for taxes, partial reimbursement of the state for the cost of custody, family assistance support payments and/or victim restitution payments.

To foster the development of this real world work environment inside the prison, several states have recently changed their laws governing the use of inmate labor and the sale of inmate-made goods on the open market within the state. In some states, private industry is encouraged to set up shop inside the prison, pay prevailing wage rates and provide jobs for inmate workers upon release. Six state legislatures have recently authorized the sale of inmate-made goods and service in the open market. The Canadian Penitentiary has just recently introduced an 80-man pilot factory at its Joyceville Institution which will pay its inmate workers up to the Federal minimum hourly wage for work in a productive, commercial industry environment. The pilot plant is intended as a first step toward revamping the entire prison industry program of the Canadian Penitentiary Service so as to provide a demanding, realistic work environment which will better prepare the inmate for the outside world of work upon release.

4.5 Community-Based Facilities

The apparent failure of conventional prisons and the high cost of inmate maintenance in these institutions has caused correctional reformers to place more emphasis on the roll of small community-based facilities. The National Advisory Commission on Criminal Justice Standards and Goals⁹⁵ recommended transfer of most adult inmates from the large existing state institutions to community-based programs.

⁹⁵ National Advisory Commission on Criminal Justice Standards and Goals, Corrections, U.S. Department of Justice, Washington, D.C., 1973.

Community correctional centers, although varying widely in specific characteristics, can be classified into two major categories:

- (1) Pre-release centers are usually small facilities (100 residents or less) in which inmates stay for the final parts of their sentence and participate in a wide range of community-release programs. This is pre-parole with residents still serving their sentences while living in the facility. These centers are normally state-funded and publicly operated facilities.
- (2) Halfway houses are often similar to the pre-release or community correctional centers except that residents have already been paroled and are living at the facility as a condition of that parole. Halfway houses are usually (but not always) operated by private organizations under contract with a state department of corrections.

4.6 Pretrial Alternatives

In recent years, studies have shown wide discrimination in pretrial incarceration and the ability to be released on bail. Probably the most influential development in American bail history began in New York City in 1962 when the Vera Institute, a private organization, established the Manhattan Bail Project. A judge agreed to have New York University law students interview pretrial prisoners on factors believed indicative of their not fleeing to avoid trial. The students assigned a specified number of points to a prisoner for each favorable characteristic, such as stability of employment, marriage, children, and no prior criminal record. Interview responses were checked by telephone. A randomly selected half of those with scores above a certain minimum were recommended for release on recognizance instead of bail. The results showed that 98.4% of those released on recognizance appeared for trial

compared to 97.0% of those in the control group who posted bail. This concept of release on recognizance has spread until it is now available in jurisdictions all over the United States.

Pretrial confinement can be avoided also by giving the accused a summons to appear in court at a certain time, instead of arresting him. The use of a summons in lieu of arrest was tested by the Vera Institute in the Manhattan Summons Project. In New York City police stations where this was first tried for two years, over 1,000 arrestees were experimentally released by the police with a summons to appear in court, and 97.5% showed up.

Another innovation in the pretrial area which goes even further is pretrial release. This concept was tested in Washington, D.C. under the sponsorship of the National Council on Children and Youth, and in New York City by the Vera Institute. This program was geared to release people who had been arrested, but who had not gone to trial yet. A person could be released with the consent of the prosecuting attorney, if he met certain criteria concerning background and criminal record. The person was released for 90 to 180 days to go to school, attend training classes, or go to work. Intensive counseling and other services were also made available. If at the end of the specified time period, the person was doing well and had remained out of trouble, then the prosecuting attorney would dismiss the pending charges and while the person would still have an arrest record, he would have no conviction record. Research results have shown this to be both an effective and cost-effective alternative, and its use has spread across the country.

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