# AMERICAN PRISONER OF WAR POLICY AND PRACTICE FROM THE

# REVOLUTIONARY WAR TO THE WAR ON TERROR

A Dissertation

by

PAUL JOSEPH SPRINGER

Submitted to the Office of Graduate Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

May 2006

Major Subject: History

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# ABSTRACT

American Prisoner of War Policy and Practice from the Revolutionary War to the War

on Terror.  (May 2006)

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American prisoner of war (POW) policy consists of repeated improvisational efforts during wartime followed by few efforts to incorporate lessons learned.  As such, in every war, the United States has improvised its system of POW maintenance and utilization.  At no time prior to World War II was the United States military prepared to capture and maintain the prisoners taken in any American conflict.  The United States has depended upon reciprocal treatment of enemy prisoners and threatened retaliation for mistreatment of American captives in every war.  It has also adhered to accepted customs and international law regarding prisoners, providing housing, food, and medical care to POWs at least the equal of that given to American prisoners.  However, the U.S. military has often sought the most expedient methods of maintaining prisoners, a practice that has led to accusations of neglect.

In the nineteenth century, American wars were typically fought upon the North American continent and were limited in scope, which facilitated the maintenance of enemy prisoners and eased the improvisation of policy and practice.  In the twentieth century, the United States participated in conflicts in Europe, Asia, and the Middle East,

complicating POW issues.  World War II and subsequent conflicts show a radical

departure from earlier wars, as the army planned for the capture of enemy troops and

was better prepared to maintain them.  However, the War on Terror represents a return to

improvisation, as a lack of planning and a failure to follow established policies

contributed to allegations of mistreatment in Iraq and Guantanamo Bay.

Dedicated to my wife, Victoria,

without whom I would have neither the curiosity to

research nor the courage to write.

## ACKNOWLEDGMENTS

In any academic endeavor of this magnitude there are intellectual debts too numerous to mention. I am particularly thankful for the guidance provided by Professor Brian M. Linn. At times, he served as editor, motivator, challenger, and confessor. This dissertation would not exist without his tireless hours of work. The committee members complemented and bolstered his comments, and thus I express a special gratitude to Professors Joseph G. Dawson, III, Jonathan Coopersmith, David Vaught, and James Burk. Each fulfilled a special role in the production of this work.

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Emotional support for six years of doctoral study came from uncountable individuals, but I am especially indebted to my fellow graduate students at Texas A&M, who proved to be lifelong friends as well as scholarly colleagues. In particular, Christopher Mortenson always knew the answers to my questions and maintained a steady balance at the most chaotic moments. I only hope I can provide equal service as he nears completion of his dissertation.

Of course, the greatest support I have received has been the love of my family. No one has been more patient or long-suffering than my wife, Victoria, without whom I would have no reason to write. The credit for this dissertation belongs to each of these individuals, the errors are mine alone.

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**CHAPTER I**

**INTRODUCTION:  AMERICAN POW POLICY AND PRACTICE**

For over two centuries, United States prisoner of war (POW) policy has gradually evolved in response to wartime conditions.  American planners have typically struggled to react to the capture of enemy troops.  In no major conflict has the United States been prepared for the number of enemy prisoners taken.  As a result, American treatment of enemy prisoners has often been improvised.  World War II and subsequent conflicts show a radical departure from earlier wars, in that the U.S. Army devoted considerable effort to planning and preparation for POW operations.  The changing American concept of humanitarian behavior has guided the improvisation of American POW operations.  Efforts to remain economically efficient influenced policy, as did reactions to enemy treatment of American POWs.  Essentially, the United States has often conceded the initiative to the enemy in regard to POW policy.

The U.S. military has failed to incorporate POW lessons from each conflict, and has thus been unprepared for an influx of prisoners in each war.  The problems have been compounded by the use of poorly-trained units for guarding and maintaining POWs, and by efforts to conserve resources used for the maintenance of prisoners.  Typically the government has exercised little oversight over POW treatment and has turned over control of POWs to offices and organizations that only exist in wartime.  In peacetime, the military has made little effort to prepare for POW operations.

This dissertation follows the style of the *Journal of Military History.*

Policy and practice are intertwined throughout the history of American treatment of POWs.  Policy is theoretical; it creates guidelines for practices in the field which may not be applicable to every battlefield situation.  It can exist without practice, as in the case of peacetime planning for the capture of prisoners of war or in the development of international law.  Examples of policy guidelines include "Instructions for the Government of Armies of the United States in the Field" (1863) and the Geneva Convention Relative to the Treatment of Prisoners of War (1929).  Practice is grounded in reality, it often does not follow prescribed policies.  In the absence of clearly defined policies, practice can essentially replace policy.  This was clearly demonstrated during the Mexican War, when generals Zachary Taylor and Winfield Scott both commanded armies that captured enemies without clear directives from the War Department about how to treat Mexican prisoners.  At times in American history, policy and practice have come into conflict, when field commanders have deliberately ignored instructions regarding prisoner of war treatment.

Few attempts have been made to address the entire history of POW policy within the United States, although hundreds of works have addressed the events of a single war, or the experiences of a single captive.  This approach has been misleading when applied to POW policy over time, because many of the authors began with the assumption that POW practices during a single conflict can be explained without the context of earlier and later wars.  While standards of treatment have evolved, many of the fundamental

decisions regarding the treatment of captured enemies were made over two hundred years ago and the underlying principles of POW treatment remain unaltered.

Three principles of American treatment of POWs are consistent from the Revolutionary War to the War on Terror. The first principle is depending upon reciprocal standards of POW treatment, including the threat of retaliation upon enemy prisoners for perceived mistreatment of American prisoners. The United States has treated enemy prisoners in each war at least as well as the treatment received by American prisoners. The second principle is a general attempt to adhere to accepted customs and international law regarding war. The third principle is one of general expediency. American treatment of enemy prisoners has often been dictated by doing what is quickest, simplest, or cheapest to maintain POWs at an acceptable level.

This study is organized chronologically, with one chapter devoted to each major war or significant period in POW affairs. Contained within each chapter is a review of the historiography of POWs for the war being discussed. Chapter I, in addition to providing an introduction to the argument of the dissertation, includes a general literature review and a brief discussion of American POW practices prior to the Revolutionary War. Chapter II discusses the American Revolution and efforts by the Continental Congress and Lieutenant General George Washington to create a consistent policy regarding POWs during the war. Despite the internecine nature of the conflict, American treatment of British prisoners was surprisingly lenient, particularly when the British behavior toward rebellious colonists is considered. The War of 1812, the subject

of Chapter III, was another war against Great Britain; it was punctuated by threats of reprisals against prisoners for perceived mistreatment of POWs by the enemy; the virtual collapse of the War Department; and the establishment of a functional exchange cartel for officers and enlisted personnel.

Chapter IV discusses the Mexican War, and the difficulties faced by American commanders in the first war fought by the U.S. Army almost entirely on foreign soil. The most notable prisoner issue of the war, the execution of U.S. deserters caught fighting for Mexico, will receive special consideration. Chapter V argues that the American Civil War was a major turning point in the history of POW treatment by the United States. More than four hundred thousand prisoners were taken in the war, and fifty thousand died in captivity due to the neglect of Union and Confederate officials. The Civil War is particularly interesting because Americans were both the captors and the captives, and yet prisoners were treated worse in that war than in any other American conflict. Chapter VI details the changes in American policy and practice from the Civil War until World War I, including the Spanish-American War, the Philippine War, and American participation in international efforts to ameliorate the conditions faced by prisoners of war. In World War I, the United States fought as part of an alliance, and was forced to cooperate in forming POW policies.

Chapter VII begins with a discussion of the changes wrought by the Geneva Convention of 1929. This multinational agreement heavily modified international law regarding prisoners and the changes were reflected in some nations' treatment of

prisoners during World War II.  The chapter also compares the treatment of German and Italian prisoners taken in the European Theater with the treatment of Japanese prisoners taken in the Pacific Theater.  Prisoner of war labor was the dominant issue of the war for American policies.  Soon after the war, the Geneva Convention of 1949 modified international law for the final time.  This convention governed American treatment of Korean and Vietnamese prisoners, discussed in Chapter VIII.  In Korea, enemy prisoners were confined in a huge island prison at Koje-Do and no effort was made to exchange the prisoners or utilize their labor potential.  In Vietnam, the U.S. military turned prisoners over to the government of South Vietnam for confinement, and again used island prisons to hold thousands of prisoners in a single location.  This system was repeated in the Persian Gulf War as a way of reducing the logistical difficulties of American units fighting overseas.  Chapter IX discusses the Gulf War of 1990-91 and the treatment of prisoners captured in the War on Terror and the Iraq War.  These wars represent a departure from the policy of adherence to international law regarding prisoners.  Chapter IX draws conclusions regarding American POW policy and practice, and offers observations about United States approaches toward the issue of POWs in future conflicts.

The issue of prisoners has had a tremendous impact upon each of the wars in which the United States has fought, yet prisoners are often overlooked by works discussing the strategy and outcome of each war.  When historians or analysts discuss captured troops, it is often in the context of atrocities or maltreatment allegedly

committed by an enemy holding American prisoners. Rarely has any example of American malfeasance received more than cursory mention, with the exception of works discussing the experience of prisoners during the Civil War.[1] There are relatively few works devoted to a study of prisoner of war policies, much more common are works describing the actual practice of keeping prisoners, typically a series of anecdotes from a single war or the memoirs of a former prisoner. Quite often, prisoners' journals and diaries are published long after the end of captivity, occasionally after the death of the author. In most cases, the journals are valuable to understand the conditions faced by prisoners, and provide a way to evaluate wartime conditions.

In 1922, J. Fitzgerald Lee produced a brief article, "Prisoners of War," to argue the proper methods that should be followed by the United States for POW treatment during future wars. Lee's work was a response to the huge armies of World War I, and the tremendous problems associated with the capture of tens of thousands of prisoners. He argued that without a well-planned system, nations would continue to be overwhelmed by massive captures in future wars, and needless suffering among captives

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[1] One important exception arose in James Bacque, *Other Losses: The Shocking Truth Behind the Mass Deaths of Disarmed German Soldiers and Civilians Under General Eisenhower's Command* (New York: Prima Publishing, 1991), in which Bacque accused Dwight D. Eisenhower of deliberately mistreating German prisoners in 1945, leading to the deaths of hundreds of thousands of prisoners. This assertion was countered by Günter Bischof and Stephen E. Ambrose, eds., *Eisenhower and the German Prisoners of War* (Baton Rouge: Louisiana State University Press, 1992), and will be considered further in Chapter VII.

would be the inevitable result.[2]  Lee's work was followed by Herbert C. Fooks's

*Prisoners of War*, a study of the international treatment of prisoners throughout history.

Fooks organized his work topically, beginning with a definition of prisoners of war and

ending with the liberation of prisoners.  His work suggested that Hague Convention of

1907 had provided insufficient protection for prisoners during World War I, and should

be replaced by a more comprehensive document.[3]  William Flory's *Prisoners of War,*

which provided a basic discussion of the evolution of international law regarding

prisoners, focused almost entirely upon the United States and Western Europe.  Flory

urged the Allied nations of World War II to realize the importance of POW issues and to

plan a system capable of holding millions of captured enemies.  Like Lee, Flory believed

that the problems faced in wartime were aggravated by the lack of planning for

prisoners.[4]

In 1955, Lieutenant Colonel George G. Lewis and Captain John Mewha

produced *History of Prisoner of War Utilization by the United States Army 1776-1945*

for the Department of the Army.  This work was the one of the first general histories of

American POW policy, with a special emphasis upon the labor potential of captive

enemies.  Fully two-thirds of the work was dedicated to World War II, due to the fact

that prior to 1943 the most common use of prisoners was for exchange, not for labor.

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[2] J. Fitzgerald Lee, "Prisoners of War," *Army Quarterly* 3 (1921-22): 348-56.
[3] Herbert C. Fooks, *Prisoners of War* (Federalsburg, MD: J. W. Stowell, 1924), 20-21.
[4] William E. S. Flory, *Prisoners of War: A Study in the Development of International Law* (Washington, DC: American Council on Public Affairs, 1942).

Lewis and Mewha argued that such exchanges often proved detrimental to American war efforts, while the use of prisoners for labor was extremely useful and even vital to the national economy. The authors concluded that American POW policy had never been adequately defined prior to an American conflict, and that POWs have never been fully utilized as a labor force. Further, they believed that the U.S. government should plan an efficient labor system for prisoners of future conflicts.[5]

Immediately after the Vietnam War, A. J. Barker argued that modern war, involving the struggle for survival of competing ideologies, had complicated the problems of POWs and reduced the humanitarian component of POW care. Barker's *Prisoners of War* noted that with the rise of total warfare, the definition of a prisoner of war has become a major problem for powers at war. In Barker's view, the participation of guerillas and freedom fighters had virtually nullified older definitions of POWs, and the perception of wars as matters of national survival ensures that attempts to regulate the conduct of warfare, through international agreements like the Geneva Conventions, became obsolete during conflicts. Barker pointed to World War II as the watershed event, when wanton violations of POW agreements occurred. He argued that the decline of POW treatment was simply one symptom of a general rise of barbarity during wartime. One major reason for the abuse of POWs was the failure of the principle of reciprocity after 1941. As Western powers have engaged Asian cultures, threats of

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[5] George G. Lewis and John Mewha, *History of Prisoner of War Utilization by the United States Army, 1776-1945* (Washington, DC: Government Printing Office, 1955).

reprisal have lost meaning, because "During World War II it became apparent that countries like Japan and the Soviet Union were not interested in Japanese or Russians who became prisoners of war."[6]  In fact, these nations maintained an interest in their prisoners as agents of the war removed from the battlefield.  Barker's work is extremely useful as a demonstration of the continuity of POW affairs.  It is organized by events experienced by almost every POW, such as the moment of capture, interrogation, relationships with guards, and repatriation.

Howard S. Levie's *Prisoners of War in International Armed Conflict* contained a detailed legal evaluation of POW issues.  The work included a brief discussion of the historical precedents of POW treatment, but focused primarily upon an examination of the Geneva Convention of 1949 and its applications in modern warfare.  Unlike Barker, who considered international agreements regarding prisoners to be virtually obsolete, Levie viewed the Geneva Convention as a vital document addressesing almost every potential POW situation to arise in modern war.  Levie's work explained how the provisions of the Convention are to be put into practice.  He did not attempt to draw conclusions about the history of American POW policy, preferring instead to create a set of guidelines to drive policy in the future, in the hopes of alleviating the suffering of the prisoners of modern war.[7]

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[6] A. J. Barker, *Prisoners of War* (New York: Universe Books, 1974), 207.
[7] Howard S. Levie, *Prisoners of War in International Armed Conflict*, Naval War College International Law Studies 59 (Newport, RI: Naval War College Press, 1977).

Richard Garrett's *P. O. W.* examined the treatment of POWs from the Hundred Years War to the Vietnam War, drawing conclusions about the experiences of POWs over the centuries.  Organized chronologically, it focused primarily upon the affairs of the United States and Europe, but does not present an argument about the history of POWs in general, save that their lot in life was and is uniformly unpleasant.  He described the experiences of prisoners in different wars primarily through anecdotal evidence, and revealed that even as the size and scope of war broadened, the nature of prisoner operations from the perspective of the captive remained remarkably similar.[8]

The significance of this dissertation within the literature of POW history is twofold.  It is the first work since 1955 to present a comprehensive treatment of American policy and practice toward prisoners, with the goal of examining changes over time rather than focusing upon a single war.  It is also the first work to compare the stated goals of the United States regarding prisoners with the actual treatment received by captured enemies.  All previous works have either focused entirely upon one war or one aspect of POW treatment, or discussed only the experiences of a few prisoners without any attempt to examine the "big picture" of American policy.

Prior to the seventeenth century, prisoners were typically killed or sold into slavery, depending on the whim of the battlefield victors.  Prehistoric societies almost always executed captured foes, rather than spend their meager resources maintaining

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[8] Richard Garrett, *P. O. W.*  (London: David & Charles, 1981).

enemy warriors who contributed nothing to the captors' economy.[9] Some Native

American tribes used capture as a means of increasing tribal numbers, through the

process of forced adoption. Others took captives for ransoms or for ritual torture and

execution.[10] In time, practices shifted throughout the world, so that prisoners were

typically enslaved rather than executed. The Greeks kept physically healthy prisoners

for the slave markets or allowed captives to ransom themselves. The Romans used

prisoners for labor, rowing galleys or in gladiatorial contests. The Romans rarely

allowed ransoms, as freed prisoners might again fight against the empire. In the Middle

Ages, captured common soldiers still risked death or enslavement, but knights and

nobility protected themselves with a code of chivalry that required participants to treat

prisoners kindly and allowed them to ransom themselves. This behavior did not extend

to wars fought with non-European populations; the Crusaders and their foes continued to

kill and enslave prisoners.

In 1625, Dutch jurist Hugo Grotius codified the rules of warfare for the benefit of

all nations in *De Jure Belli ac Pacis* (*The Laws of War and Peace*), and offered a more

humane set of principles regarding POWs. He drew primarily upon Greek and Roman

philosophers, with occasional references to later events and practices. Grotius sought to

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[9] Lawrence H. Keeley, *War Before Civilization* (New York: Oxford University Press, 1996), 83-88.

[10] June Namias, *White Captives* (Chapel Hill: University of North Carolina Press, 1993), 3-5; J. Norman Heard, *White into Red* (Metuchen, NJ: Scarecrow Press, 1973), 1-2; Kathryn Zabelle Derounian-Stodola and James Arthur Levernier, *The Indian Captivity Narrative, 1550-1900* (New York: Twayne Publishers, 1993), 2-8.

establish the rights of nations to make war, and the responsibilities they bear as

belligerents.  His ideas publicized the plight of prisoners of war, but his suggestions for

POW treatment were not universally accepted and they proved to have a limited impact

on European practices.  Likewise, prisoners could expect few comforts from their

captors, and had no right to expect ransom or exchange.   Grotius' work was the first

real codification of the customs of warfare that specified when prisoners could be taken,

and how they should be treated if taken.[11]  He argued that prisoners were at the complete

mercy of their captors, and could be killed or enslaved at will, as the act of taking

prisoners was a kindness, not a legal requirement.  However, Grotius argued that by

enslaving prisoners, the captor would benefit by sparing their lives.  He felt that

Christians should not enslave other Christians, in the case of war between Christian

nations, ransom should be the norm.  Once a prisoner was taken, he was to be protected

from harm, severe punishment, and excessive labor.  In nations which did not allow the

enslavement of prisoners, Grotius recommended exchanges or ransoms to free prisoners.

The right of ransoms could be transferred between individuals or nations.[12]

The growth of national armies in the seventeenth century complicated the

situation of POWs.  At the end of the Thirty Years War, the Treaty of Westphalia in

1648 provided that all POWs should be released and repatriated, without ransom or

compensation.  However, the use of ransom remained a popular practice well into the

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[11] Hugo Grotius, *De Jure Belle ac Pacis*, trans. Francis W. Kelsey (1625; reprint, 1925),
bk. 3, chap. 4, pt. 10-12, <http://www.lonang.com/exlibris/grotius/index.html>
[12] Ibid., chap. 7, pt. 1, 2, 5, 9; chap. 14, pt. 3-5, 9; chap. 21, pt. 25.

eighteenth century. Numerous attempts were made to specify a ransom for each military

rank to simplify the process of regaining troops through payments. Simultaneously,

exchanges became more common, as belligerents began to forego the ransoms of

prisoners of equal rank. Paroles became somewhat common during the seventeenth and

eighteenth centuries, though they were reserved exclusively for officers. By giving his

parole, an officer could be released to his own lines, to await formal exchange at a later

date. The officer gave his oath not to participate in the conflict in any manner until

properly exchanged. The parole system required mutual trust, but offered the economic

benefit of not forcing captors to maintain their prisoners until exchanges could be

effected.

The ideas of Grotius were expanded and modified by French jurist Emmerich de

Vattel, who published *The Law of Nations* in 1758. Like Grotius, Vattel sought to

codify international law, with a particular emphasis upon the laws of war. Regarding

POWs, Vattel disagreed with Grotius on several major points. Vattel believed that a

surrender must always be accepted, unless the enemy was guilty of an enormous breach

of the laws of war.[13] He provided guidelines for the proper treatment of prisoners, and

argued prisoners should not be executed or enslaved unless guilty of a crime. They

could be confined, but must be well-treated; if a captor could not feed or guard them,

they must be released on parole. Vattel argued that the state was bound to procure the

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[13] Emmerich de Vattel, *The Law of Nations or the Principles of Natural Law* (1758), bk. 3, chap. 8, pt. 140-41, 149-154; chap. 18, pt. 287-94, <http://www.lonang.com/exlibris/vattel/index.html>

release of its prisoners held be the enemy, either through exchange, ransom, or as an article in the treaty of peace.  In his discussion of rebellions and civil wars he argued all belligerents were bound by the laws of war as if separate nations.

As the concepts of exchange and parole became more common, institutions were created to oversee the POW system during wartime.  During the Seven Years War (1756-63) England and France established a series of cartels, agreements that allowed prisoners to be exchanged on a rank-for-rank basis.  The cartels established commissions of representatives from each belligerent to keep records of prisoners captured, paroled, and exchanged by each side.  Both sides presumed that at the end of the conflict the nation with the balance of prisoners remaining after all exchanges were completed would be paid a ransom for the remaining prisoners.  The cartel systems of the war were clumsy and required equal numbers of prisoners at specific ranks in order to function, but they demonstrated that enlisted personnel as well as officers could be exchanged during a conflict.  Not surprisingly, the priority for exchange remained with officers, privates were often an afterthought within the cartel system.

European ideas about the treatment of POWs were transplanted to the New World by the colonial powers.  The cartels created in Europe during the Seven Years War were applied to fighting in North America, although with less regularity.  Warfare in the colonial era did not closely resemble the European style of war, and the roles of colonial militias and native allies often complicated matters.  The native allies recruited by European powers did not adhere to the rules of European warfare, and refused to be

bound by the European system.  Likewise, Europeans and colonists did not view native enemies as equal opponents, and rarely treated them as POWs.

The distinction between civilized and savage warfare is important to any discussion of American POW policy and practice.  Grotius and Vattel each argued that the rules of warfare only applied to conflicts between civilized enemies.  If an enemy did not follow the accepted rules and traditions of war, European armies did not feel restrained in their methods of warfare.  Generally, the accepted rules of POW treatment were only applied between forces of European descent.  Europeans who surrendered to native allies could not expect quarter, even when the allies were commanded by European officers.[14]  Members of colonial militias, when captured by fellow Europeans, were often not considered worth holding for exchange, and were often paroled to return to their homes and remain out of the fighting.

The legacy of European POW practice is clearly visible in the American Revolutionary War.  During that conflict, American commanders operated under the assumption that POWs should be protected from the ravages of war, and maintained in anticipation of exchange with the enemy.  Although Americans fighting for the cause of independence were not immediately viewed as legal combatants by the British, the

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[14] For a discussion of the colonial unwillingness to take prisoners, and to kill noncombatants as well as enemy warriors, see John Grenier, *The First Way of War: American War Making on the Frontier, 1607-1814* (New York: Cambridge University Press, 2005), 29-52, 128-30; Douglas Edward Leach, *Flintlock and Tomahawk: New England in King Philip's War* (New York: MacMillan, 1958), 224-26; Robert Rogers, *Journals of Major Robert Rogers* (London: J. Millan, 1765), 40-46.

existing system of POW captures, paroles, and exchanges was eventually applied to the war by both sides.  This created a precedent that has impacted American POW policy for over two centuries.  The practice of implementing POW policies has changed, as should be expected with the changes in technology and society, but the underlying principles of American policy have remained consistent, striking a balance between humanitarian principles and political expediency.

**CHAPTER II**

**STRUGGLING INTO EXISTENCE: THE AMERICAN REVOLUTION**

American prisoner of war policy during the Revolutionary War changed

constantly throughout the conflict.  Congress issued contradictory orders which were

often ignored by field commanders and state governments.  This created a poorly

functioning system that made no attempt to utilize the labor or intelligence value of

prisoners.  Exchanges remained limited, unequal, and tedious throughout the war, and

often involved efforts by individual states to redeem their own captives for British

POWs, regardless of Congressional wishes.  Enemy prisoners became victims of the

system, although the situation faced by American prisoners remained at least equally

unpleasant.  The plight of prisoners influenced the outcome of the war, and was a factor

in the British decision to seek a treaty and conclude the conflict.

American policy toward British prisoners of war consisted of a series of

improvised measures created by Congress, influenced by the commander in chief of the

Continental Army and individual state governments.  Although Congress was not

regarded as the supreme authority within the confines of each individual state, it served

as a unifying body, attempting to create a coherent POW policy that coincided with the

war aims of the individual states.  Lieutenant General George Washington was under the

command of Congress, but was given great leeway in the daily operations of POW

policies.  His role was vital, particularly because he remained in command for the entire

war, while the membership of Congress changed.

The improvisational nature of American prisoner of war policy during the war is

unsurprising, given that the Continental Army did not exist prior to the outbreak of

fighting, and that Congress was ill-prepared to direct a war against Great Britain.

Although specific policies and practices were improvised during the war, a few guiding

principles consistently influenced American treatment of British prisoners. Congress

emphasized frugality in regard to POWs while adhering to the "recognized principles of

humanity."[1] Congress gave repeated instructions to Washington to seek an exchange

cartel for prisoners based on British recognition of U. S. sovereignty. For most of the

war, the British refused to create a general cartel, precisely to avoid this recognition.

Thus the actual practice of prisoner exchange relied upon negotiations for specific

exchanges, not on a set of mutually recognized policies.

The issue of prisoners received scant attention from Congress in the early years of

the war because no true Congressional military force existed to govern prisoners.

Further, colonial militia forces had almost no history of taking prisoners and maintaining

them for the duration of a conflict.[2] Colonial units facing the British Army were much

more likely to feel bound by the laws and customs of war between civilized armies than

when facing Native Americans in the field, and Washington mandated humane treatment

of prisoners by American forces.

A wide variety of American units took enemy prisoners during the war. The

skirmishing of land forces and by the naval forces in service of the United States

provided a steady stream of prisoners. Private American vessels (privateers) accounted

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[1] The first Congressional mention of the importance of economy when caring for enemy prisoners came on 4 January 1776, in reference to prisoners held in Trenton, New Jersey. *Journals of the Continental Congress, 1774-1789*, ed. Worthington C. Ford et al. (Washington, DC: Government Printing Office, 1904-37), 4:30-32. (Hereafter cited as *JCC*)

[2] For a discussion of colonial approaches to warfare with Native American populations, see Grenier, *First Way of War*, 1-52.

for a great number of prisoners, particularly after Congress enacted bounties for enemy captives. The major American mass captures of enemy forces occurred at Saratoga, 17 October 1777, and Yorktown, 19 October 1781. In these two campaigns, thousands of POWs were taken, rapidly taxing the ability of the Americans to supply and maintain them. Naturally, the British also took prisoners on a consistent basis, including captures at sea. The majority of Americans captured at sea were privateers, not members of the Continental Navy. Like the American forces, the British took large numbers of prisoners on two occasions, once during the series of battles near New York in 1776 and secondly at the surrender of Charleston on 12 May 1780. Although exact numbers are unreliable, it is likely that the British maintained a favorable balance of prisoners during the first year of the conflict and for a brief period in 1780-81. At all other times, the Americans probably held more enemy captives.[3]

Most of the works discussing the Revolutionary War contain at least some mention of POW issues, though few pay significant attention to prisoner affairs.[4] The most common topic is the treatment of American POWs, with particular emphasis given to the prison hulks that housed naval personnel and civilians. Herbert Aptheker argued that hundreds of Americans died because "the notorious corruption of 18th century British

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[3] George Adams Boyd, *Elias Boudinot: Patriot and Statesman, 1740-1821* (Princeton: Princeton University Press, 1952), 34, 45-46. If civilians and privateers are counted, the British held more captives than the Americans for almost the entire war. However, during the war, the term "prisoner of war" was understood to refer only to individuals captured while fighting with land forces. "Marine prisoners," as naval captures were called, were accorded an entirely different status by both the British and the Americans.
[4] Among the works which summarize the POW situation are Carl Berger, *Broadsides & Bayonets: The Propaganda War of the American Revolution* (San Rafael, CA: Presidio Press, 1976); John Tebbel, *Turning the World Upside Down: Inside the American Revolution* (New York: Orion Books, 1993); and Henry Steele Commager and Richard B. Morris, eds., *The Spirit of Seventy-Six: The Story of the Revolution as Told by Participants* (1958; reprint, New York: Da Capo Press, 1995).

officialdom combined with typical aristocratic contempt and hatred for rebellious

provincials to produce an inferno for the victims."[5]  A common theme of the numerous

prison narratives of Americans held by the British is the accusation of deliberate poor

treatment.[6]  Biographies of individuals associated with POW operations, such as Elias

Boudinot, who served as the American commissary of prisoners for twelve months, have

also provided an interesting view of the creation of POW policy.[7]

    Most of the secondary works dealing exclusively with POWs during the

Revolution argue that American treatment of British prisoners was better than that given

to American POWs, but they typically utilize only American sources.[8]  Often, the authors

analyze only a single aspect of the POW experience, without a discussion of the "big

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[5] Herbert Aptheker, *The American Revolution, 1763-1783* (New York: International Publishers, 1960), 115.

[6] Some of the more well-written narratives include Ethan Allen, *A Narrative of Colonel Ethan Allen's Captivity*  (1779; reprint, Burlington, VT: H. Johnson, 1838); John Blatchford, *The Narrative of John Blatchford*  (1865; reprint, New York: New York Times, 1971); Christopher Hawkins, *The Adventures of Christopher Hawkins*  (1864; reprint, New York: New York Times, 1968); Charles Herbert, *A Relic of the Revolution* (1847; reprint, New York: New York Times, 1968); and Israel R. Potter, *The Life and Remarkable Adventures of Israel R. Potter*  (1824; reprint, New York: Corinth Books, 1962).  Works discussing the prison narratives of the Revolution include Larry G. Bowman, *Captive Americans: Prisoners During the American Revolution* (Athens: Ohio University Press, 1976); Francis D. Cogliano, *American Maritime Prisoners in the Revolutionary War: The Captivity of William Russell*  (Annapolis, MD: Naval Institute Press, 2001); Sheldon S. Cohen, *Yankee Sailors in British Gaols: Prisoners of War at Forton and Mill, 1777-1783*  (Newark: University of Delaware Press, 1995); and Robert John Denn, "Prison Narratives of the American Revolution" (Ph.D. diss., Michigan State University, 1980).

[7] Adams, *Elias Boudinot*, 33.  Washington to Boudinot, 1 April 1777, *The Writings of George Washington from the Original Manuscript Sources, 1745-1799,* ed. John C. Fitzpatrick, 39 vols (Washington, DC: Government Printing Office, 1931-44), 7:343.

[8] Gerald O. Haffner, "The Treatment of Prisoners of War by the Americans During the War of Independence" (Ph.D. diss., University of Indiana, 1952); Charles H. Metzger, *The Prisoner in the American Revolution* (Chicago: Loyola University Press, 1971).

picture," or discuss Americans held by the British without mention of British prisoners.[9]

The primary exceptions concern British prisoners taken at Saratoga and held in captivity

for years despite a surrender agreement that promised them the opportunity to return to

England immediately.[10]

Of works devoted to the general history of prisoner of war affairs, Lewis and

Mewha argue that prisoners during the Revolutionary War were primarily used for

exchange purposes, but that they also served as potential tools of retaliation.[11]  Barker

and Levie provide a brief overviews of the major events but do not attempt to analyze the

war or the policies created.  Garrett focuses most of his chapter on the war to the

experiences of a few Americans held by the British, and argues that British and German

prisoners lived in "a far from intolerable situation," establishing a virtually autonomous

thriving community in Virginia and Maryland.[12]

The British treatment of prisoners was a determining factor in the treatment of

prisoners by American captors.  In addition to their usefulness for exchange purposes,

British prisoners taken during the Revolutionary War were often viewed as a tool of

retaliation, to prevent British commanders from treating captured Americans as

treasonous subjects of the crown.  Washington first threatened retaliation in an 11 August

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[9] Betsy Knight, "Prisoner Exchange and Parole in the American Revolution," *William and Mary Quarterly* 48 (April, 1991): 201-22; Rembert Patrick, "British Prisoners of War in the American Revolution" (M.A. thesis, University of North Carolina, 1934).
[10] Richard Sampson, *Escape in America:  The British Convention Prisoners, 1777-1783* (Chippenham: Picton Publishing, 1995); Harry M. Ward, *Between the Lines: Banditti of the American Revolution* (Westport, CT: Praeger, 2002); George W. Knepper, "The Convention Army, 1777-1783"  (Ph.D. diss., University of Michigan, 1954); William M. Dabney, "After Saratoga: The Story of the Convention Army"  (Ph.D. diss., University of New Mexico, 1954).
[11] Lewis and Mewha, *Prisoner of War Utilization*.
[12] Barker, *Prisoners of War*, 10-12; Levie, *Prisoners of War*, 5-6; Garrett, *P.O.W.*, 48.

1775 letter to General Thomas Gage, in which he noted that "I shall regulate my Conduct towards those Gentlemen, who are or may be in our Possession, exactly by the Rule you shall observe towards those of ours, now in your custody."[13]  This letter, dated shortly after Washington assumed command, showed that he would base his initial POW policy decisions upon the behavior of the British toward American prisoners, but also leave all blame for mistreatment with the enemy.  He soon wrote to Congress, requesting instructions for the care and subsistence of captured enemy soldiers, because he believed their numbers would rise quickly.  In the same communication, Washington recommended moving prisoners inland, away from the centers of British power in the colonies.[14]  Much of Washington's knowledge of the British treatment of prisoners was provided by Elias Boudinot, who conducted an extensive investigation and tour of the confinement facilities in New York.[15]

Although the United States naturally had an interest in regaining its citizens made prisoners by the enemy, there was a certain reluctance by both sides to actually agree to exchanges.  The majority of prisoners held by the British had been captured aboard privateering vessels, and while American citizens, these prisoners were not in the direct service of the Continental forces.  Also, enlisted personnel of the Continental Army captured by the British had often enrolled for a short period of service.  In comparison, most army prisoners held by the United States were British regulars who served for an

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[13] Washington to Gage, 11 August 1775, Fitzpatrick, *Writings*, 3:416-17.

[14] Washington to the President of Congress, 17 November 1775, Fitzpatrick, *Writings*, 4:73.

[15] For a discussion of Boudinot's findings, consult David L. Sterling, "American Prisoners of War in New York: A Report by Elias Boudinot," *William and Mary Quarterly* 13 (July 1956): 376-93.

indefinite period, typically for life.[16]  Because both sides agreed that all exchanges

should be on a rank-for-rank basis for officers, and a man-for-man basis for enlisted

personnel, the British would gain much more from any exchange.  Any British prisoners

sent back to the British army were likely to return to service within North America.

Conversely, any American privates freed by exchange would most likely be near the end

of their enlistment, or would return to privateering.  Unlike the enlisted ranks, American

officers did not join the military for a fixed period, therefore Congress placed great

emphasis upon the exchange of officers, and avoided the discussion of exchanging

privates whenever possible.  The problems of exchange were exacerbated by

Washington's insistence that American prisoners should be exchanged by date of capture,

so that those held longest would be released first.  Officially, he based this policy upon

humanitarian principles, but there was a very practical component as well.  If Washington

agreed to seek the exchange of specific individuals regardless of the duration of captivity,

he would be inundated with requests for special exchanges and privileged treatment.

Instead, he quickly made it known that he would refuse all requests for prisoners to be

exchanged out of order.[17]

The relationship between Congress and the states caused serious difficulties.  On

9 April 1776, Congress requested that each state make lists of all prisoners they held and

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[16] For a discussion of British recruitment practices during the war, see Edward E. Curtis, *The Organization of the British Army in the American Revolution* (1926; reprint, New York: AMS Press, 1969), 54-60.  All recruits, voluntary or impressed, served for a period of three years or the duration of the war, at the discretion of the crown.

[17] Washington still received dozens of such requests, but each was rejected out of fairness to all prisoners held by the enemy.  For Washington's explanation, see Washington to Joseph Spencer, 2 September 1777, 9:161; Washington to John Beatty, 23 December 1779, 17:306-07, both in Fitzpatrick, *Writings*.

also that suppliers be paid on a regular basis for rations given to POWs.[18] Congress

asked individual states to cease exchanging POWs within their power, as individual state

exchanges undermined the power of Congressional representatives to negotiate a general

exchange cartel. For the most part, individual states ignored Congress, and exchanged

prisoners captured by their state militia forces for their citizens held by the British.

These exchanges were often very unequal, with the British almost always receiving more

prisoners. Washington repeatedly requested that all prisoners be considered as a group to

be exchanged against all American prisoners by date of capture, but he did not have the

power to prevent the states' exchanges.[19] Many of the state exchanges included a desire

to regain politically well-connected officers.

On 21 May 1776, at the request of Washington, Congress created a set of general

POW regulations. These rules were modified over the course of the war, but the spirit

behind them remained fairly consistent. All prisoners held by the United States received

rations equal to those issued to American troops. This policy departed from the British

practice of issuing a two-thirds ration. Camp commanders segregated officers from

privates, and all officers received parole unless specific orders were given for

confinement. All American units under Congressional control were to strictly observe

surrender terms. Where possible, a British agent supplied British POWS, although any

prisoners out of the reach of a British agent were to be supplied by Congressional funds.

The families of any British prisoners could live with the POWs, and received food and

supplies in the same manner as the prisoners. Enemy prisoners could hire themselves out

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[18] *JCC* 4 (1776), 264.

[19] Washington to Nicholas Cooke, 3 March 1777, 6:242; Washington to Israel Putnam,
25 January 1778, 10:348-49; Washington to John Beatty, 29 December 1779, 17:306-07;
Washington to Thomas Sim Lee, 4 May 1780, 18:328-29; all in Fitzpatrick, *Writings*.

to private citizens within the locale of their confinement to support their families.  No enemy POWs or deserters could enlist into American service.[20]  Congress provided a standard form for paroles and reimbursement for the cost of lodging officers.

Despite Washington's request to appoint a commissary of prisoners, Congress left the day-to-day operations of POW care to the Continental Army and the states. David Franks was approved as the British agent for prisoners and tasked with obtaining supplies for British prisoners at the expense of their government.  Given the Congressional desire for economic frugality, it is surprising that Washington's request, on the grounds of both improving prisoner treatment and saving expenses, was not acceded to until 1777, when Washington was able to offer the position to Elias Boudinot.  Boudinot, a former member of Congress, was given the power to appoint deputies to provide necessary assistance, and granted control of all British prisoners regardless of location.[21]

In May and June of 1776, Congress issued regulations designed to increase the number of British prisoners in American hands.  There were simply not enough British prisoners to compel the British commanders to exchange captured Americans or to improve the treatment of American prisoners.  Congress mandated that any individual taken in arms upon a prize vessel, regardless of what vessel made the capture, was to be considered a POW.  These prisoners were to be delivered to a U. S. marshal in any state, where they were held on an equal basis with other prisoners.  Also, Washington was to employ native allies as he saw fit, and Congress offered a bounty of one hundred dollars for British officers and thirty dollars for a private upon delivery to the Continental Army.

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[20] *JCC* 4 (1776), 370-73.
[21] Washington to the President of Congress, 11 May 1776, 5:35;  Washington to Boudinot, 1 April 1777, 7:343; both in Fitzpatrick, *Writings*.  *JCC* 7 (1777), 289; *JCC* 8 (1777), 491-92.

Washington was not allowed to exchange any prisoners without permission from

Congress, which still held hope of a general cartel.[22]  After the  number of naval captures

increased, on 5 August 1776, Congress voted to allow the navy and individual privateers

to enlist any naval prisoners held by any state.  Remaining naval prisoners were to be

held by the states and exchanged for American prisoners from privateering vessels or the

Continental Navy.  British and German soldiers were still not allowed to join the

Continental Army, and exchange of American seamen for British land prisoners was

prohibited.  On this last point Congress would maintain its resolve for most of the war.[23]

On 30 July 1776, Washington requested a definition from Congress of who

should be considered a POW, including the status of sailors on merchant vessels flying

the British flag.  Initially, naval prisoners were only accorded POW status if captured on

an enemy war vessel.  In 1777, Congress declared any British subject serving as an

officer, master, or mariner on any vessel, including merchant ships, to be a POW if taken

by any American vessel.  As with the decree of 21 May 1776, these prisoners could be

delivered to any state as ordinary POWs.  In 1781 Washington redefined prisoners of war

to include only individuals taken in arms, and never civilians or members of militia

captured unarmed.  He wished to ensure that British commanders could not kidnap

unarmed militiamen for the purpose of exchanging them for British POWs.[24]

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[22] *JCC* 5 (1776), 452-58.

[23] *JCC* 5 (1776), 630-32.  Washington considered the possibility of enlisting enemy prisoners to be of dubious value, Washington to Pennsylvania Council of Safety, 12 January 1777, Fitzpatrick, *Writings,* 6:504.

[24] Washington to the President of Congress, 30 July 1776, 5:355; Washington to Abraham Skiner, 17 February 1781, 21:236-37; both in Fitzpatrick, *Writings*.  *JCC* 9 (1777), 776-77.

On 17 October 1777, Lieutenant General John Burgoyne surrendered his forces to Major General Horatio Gates.  At the stroke of a pen, the United States gained nearly 6,000 prisoners, almost half of them German mercenaries.[25]  The Articles of Convention signed by Burgoyne and Gates specified that the prisoners were to be immediately marched to Boston, where British transports would be allowed to embark them for Great Britain.  On the march, the enemy soldiers would be provisioned by the Continental Army, at the same ration received by American soldiers.  All expenses for the subsistence of prisoners would be paid by Britain prior to the embarkation of the Convention troops. After reaching Europe, the Convention troops would not be eligible to serve in North America for the remainder of the war, unless exchanged for American POWs.[26]

The improvisational nature of Congressional POW policy can be seen in the fate of the so-called "Convention Army."  Congress was immediately critical of the terms granted to Burgoyne, and soon accused the British of breaking the Convention because they did not surrender all of the weapons and supplies mentioned in the agreement.  No regimental colors had been surrendered, and the muskets turned over to American forces

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[25] Paul Nelson puts the exact number at 5,791 prisoners, including 3,379 British and Canadian troops and 2,412 German troops, Paul David Nelson, *General Horatio Gates: A Biography* (Baton Rouge: Louisiana State University Press, 1976), 142.  Harry M. Ward claims the actual number of Germans was 2,492, for a total of 5,871 POWs, Harry M. Ward, *The American Revolution: Nationhood Achieved, 1763-1788* (New York: St. Martin's, 1995), 251.  Sampson points out that four different returns exist for the British prisoners, with the numbers ranging from 2,923 to 3,198 soldiers, Sampson, *Escape in America*, 192.  According to Washington, the total number of prisoners was 5,740, see Washington to Landon Carter, 27 October 1777, Fitzpatrick, *Writings*, 9:451-55. Washington put the total losses caused the British by Burgoyne's campaign at 9,583 killed, captured, or deserted.
[26] Samuel White Patterson, *Horatio Gates: Defender of American Liberties* (New York: Columbia University Press, 1941), 175-83; Nelson, *Horatio Gates*, 142-52.

were both few in number and unfit for service.[27]  Washington informed Congress and

Gates that the departure of the prisoners should be delayed, if possible, to prevent the

troops from reaching England before spring.  If the troops were allowed to depart before

the end of the year, they might replace garrisons which could then be sent to America in

time for the campaign season of 1778.  On 8 January 1778, Congress voted to prevent the

Convention Army from embarkation on the grounds that it had not received notification

of the ratification of the Convention by Great Britain.  On this point, Congress could not

be budged, for a ratification of the agreement by the British government would implicitly

recognize the United States as a sovereign power.  Britain steadfastly refused to provide a

ratification, and Congress was provided with a convenient excuse to keep the Convention

prisoners within America.[28]

On 6 December 1777, Congress discussed the response of General William Howe

to Washington's request for exchanges to commence.  Howe insisted on a distinction

between military prisoners and civilians held by the British authorities, allowing major

differences in the treatment of each group. Congress wished all captives to be treated in

the same humane fashion.  In the preliminary negotiations at Amboy, New Jersey,

Washington indicated his willingness to enter into an exchange in any format Howe

desired.  Two months later, Washington reported to Congress that a man-for-man and

rank-for-rank exchange system had been created, later called the Amboy Convention.

Negotiators created a composition system, allowing the exchange of officers and enlisted

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[27] *JCC* 9 (1777), 948-52, 1059-64; *JCC* 10 (1778), 44-45, 52-21.

[28] Sampson, *Escape in America*, 82-88.  On page 86, Sampson argues that "Congress had no sound or honest case for their action, and the 'stain' on their history remains."  For Washington's argument, see Washington to Horatio Gates, 14 November 1777, Fitzpatrick, *Writings*, 10:61-63.

men of different ranks through a table of equivalencies. On 26 February 1778, Congress announced its eagerness for an exchange, yet blocked the ratification of the agreement until Britain agreed to pay all outstanding costs of upkeep for British prisoners. Congress ordered all states to forward accounts for prisoner upkeep, and also demanded receipts from the quartermasters, provost marshals, and commissaries of prisons. The deadline for the receipt varied by location, with the latest deadline set at 1 June 1778. Even if the British agreed to the Congressional demands, no exchange would occur prior to the summer of 1778. By delaying exchanges, Congress kept exchanged British troops from augmenting the forces already in North America in time for any summer offensives. For the next two years, Congress insisted upon a general settlement of debts prior to the exchange of prisoners.[29]

When British commissioners refused to give in to the Congressional demands for payment of prisoners' expenses, the exchange negotiations halted. Further complicating the issue, Congress demanded that any payments be made in specie, to prevent inflated continental currency from being used to discharge the debts, and removed David Franks as agent for British POWs, as he "has abused the confidence reposed in him by Congress" by attempting to pass information across British lines.[30] Britain refused to appoint a different agent, and the lack of an agent caused great suffering among the British POW population. On 7 November 1778, Congress ordered that the Commissary General of Prisons reduce the rations issued to British prisoners to match the rations given to American prisoners held by the British at New York. Without an advocate in

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[29] Washington to William Howe, 10 February 1778, Fitzpatrick, *Writings*, 10: 444-46. *JCC* 10 (1778), 197-98, 203, *JCC* 12 (1778), 1240; *JCC* 18 (1780), 1028-31.
[30] *JCC* 12 (1778), 1032-33.

Congress, the prisoners and their needs were ignored in the ongoing diplomatic struggle.[31]

In the same resolution blocking the exchange, Congress again forbade the Continental Army from enlisting or drafting any British prisoners or deserters. Many states ignored Congressional prohibitions and enlisted enemy prisoners in state regiments destined for continental service. In Washington's opinion, deserters were unlikely to remain more loyal in American service, and prisoners of war would return to the British at the earliest opportunity. In a letter to William Heath, Washington observed, "If we would wish to reinforce the Enemy with the whole of Mr. Burgoyne's Army, we can not pursue a mode that will be more effectual or more certain, than to enlist it into our service; but it may be done with less injury by sending them the Men, unarmed, without clothes and without paying them an exorbitant bounty." To prevent the practice, he recommended that recruiters be forced to pay for the losses caused by the desertion of any POWs they enlisted.[32]

Prisoner negotiations also revealed the need for Congress to change POW policies during the war. Through the end of 1779, British negotiators continued to refuse to even discuss the payment of outstanding prisoner upkeep debts and Congress continued to withhold permission for a general exchange. But in November of 1779, the Board of War reported that individual states were exchanging prisoners without the sanction of Congress. The Board requested that states stop these exchanges, on the grounds that each

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[31] *JCC* 12 (1778), 1111-12.

[32] Washington to Heath, 29 April 1778, Fitzpatrick, *Writings*, 11:320-22. Heath was the senior officer in Massachusetts, where the practice was especially prevalent. Washington also wrote to government officials in the state, attempting to end the practice. Washington to Jeremiah Powell, 2 May 1778, 11:424; Washington to Board of War, 19 September 1778, 12:470; both in Fitzpatrick, *Writings.*

local exchange undercut American repayment demands. The states ignored the Congressional request, and continued to negotiate exchanges for their own citizens.[33] In early 1780, Congress was finally forced to drop the demand for payment of debts prior to exchange, and on 13 January 1780, it renewed Washington's power to exchange prisoners as he saw fit. To assist him, it called for a new series of prisoner lists to be prepared by each state, to facilitate a general exchange of prisoners. To stop the individual state exchanges, Congress ordered all POWs delivered to the control of the Commissary General of Prisoners. In return, Congress agreed to allow any prisoners captured by militia forces to be exchanged for American prisoners from the same state, when possible. To augment its claim to enemy prisoners, Congress agreed to pay all upkeep, transport, and delivery costs for enemy POWs, by reimbursing states for any expenditures made. All exchanges were still required to be soldier-for-soldier and sailor-for-sailor; no interservice exchanges were allowed. Because the British government refused to discuss debts incurred by British prisoners, Congress ordered that all prisoners allowed on parole had to pay their own personal upkeep costs before being exchanged. If the British government refused to pay for its prisoners *en masse*, perhaps individual soldiers would pay their own debts in the hope of exchange.[34]

On 12 June 1780, the city of Charleston, South Carolina was surrendered to the British by Major General Benjamin Lincoln, and 245 officers and 2,326 enlisted personnel were made prisoners, radically altering the POW balance. Prior to the fall of Charleston, British prisons in New York and Long Island held only 270 officers and 450

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[33] *JCC* 15 (1779), 1288; Washington to John Beatty, 30 October 1779, 17:45-48; Washington to Francis Lewis, 19 February 1780, 18:26, both in Fitzpatrick, *Writings*, 18:26.
[34] *JCC* 16 (1780), 47-52.

privates from the Continental Army.  After the fall of Charleston, British commanders

began to press the issue of general exchange, with the balance of prisoners no longer in

favor of the Americans, Washington informed Congress that he opposed a general

exchange.[35]

Washington's aversion to exchange was primarily related to the possible return of

enlisted men to the British army.  On 10 July 1780, he explained his opinion of prisoner

exchanges to Congress.  An exchange of officers, he believed, was worth pursuing

because both sides would gain equally from the exchange, and the officers would no

longer suffer in captivity.  An exchange of privates, however, while sparing the prisoners

further hardship, would damage the American military position because he anticipated

taking the offensive.  Because the United States could not afford to augment British

manpower, Washington recommended sending supplies through the lines to Americans

prisoners and halting exchange negotiations until after the campaign season.  Congress,

after considering the issue, instructed Washington to attempt a rank-for-rank general

exchange of officers on 7 August 1780.  After further consideration, Congress informed

Washington that he could exchange officers by rank or by composition as he saw fit.

Exchange was to be limited to officers only, chosen by length of captivity, and the first

offer should be to exchange officers of the Convention Army, not militia officers.

Washington immediately ordered Abraham Skinner, a deputy commissary of prisoners, to

agree to a British request to a general exchange of officers.  To delay any exchange of

privates, Skinner requested a complete list of American enlisted personnel held by the

British, including their corps and regiment.  In response, the British insisted that any

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[35] *JCC* 17 (1780), 753-54.

exchange include both officers and enlisted personnel, a proposition which Washington regarded as completely unprecedented and unwarranted.[36]

On 7 November 1780, Congress ordered Washington to exchange all Americans held by the British, including parolees, parole violators, captured militia, Canadian hostages, and all American forces captured at Charleston for members of the Convention Army and any other British prisoners available, rank-for-rank and man-for-man. When equal exchanges were not possible, the system of composition negotiated at Amboy in March of 1778 could be employed. Congress ordered that all expenses associated with British prisoners again be tallied, with the cost of upkeep for American prisoners in British hands deducted from the total, and the remaining debt to be presented to British commissioners. If the British still refused to pay, Washington could offer exchange with the retention of British hostages to guarantee eventual repayment of the debt. If necessary, Washington could offer an exchange of hostages as surety that Convention troops and their exchanges would not be used in the field prior to 1 May 1781. The British commissioners argued that the Convention troops had never been prisoners of war and should have been returned four years prior, they saw no reason to trade Americans for troops unlawfully held.[37]

Despite the differences in opinions, the negotiations resulted in substantial exchanges, and on 7 November 1780, Washington was able to report to Congress that almost every American prisoner held in New York City had been exchanged, primarily for officers of the Convention Army. The British government had concluded that the

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[36] Washington to the President of Congress, 10 July 1780, 19:147-50; Washington to Skinner, 12 July 1780, 19:159-61; Washington to Skinner, 24 July 1780, 19:248-50; all in Fitzpatrick, *Writings. JCC* 17 (1780), 704-06.
[37] *JCC* 18 (1780), 1028-31.

Convention Army would never be sent to England without an exchange of prisoners, and decided to make the necessary agreements to regain their forces. Of the American POWs held at New York, every private and all but 50 officers were exchanged.

Regardless of Congressional orders, Washington refused to exchange Convention privates for Americans captured at Charleston before ascertaining the total number of prisoners held by the British in the South. Instead, he suggested trading all of the remaining American officers at New York for John Burgoyne, who remained on parole in England, and allowing Nathanael Greene handle any negotiations involving the Charleston prisoners. Washington, alarmed by reports that Burgoyne was in ill health, noted that "his death would deprive us in exchanges of the value of 1040 private men or officers equivalent, according to the tariff which as been settled." Washington ordered Skinner to seek the exchange of Burgoyne, as the British were unlikely to offer much in exchange for a corpse. The British refused to exchange Burgoyne by composition, and because they did not hold an American of equivalent rank, Burgoyne could not be exchanged.[38]

The Congressional argument for exchanging the Convention prisoners stated that Burgoyne broke the Convention immediately after it was signed, and therefore the United States was not bound to release the prisoners. Congress wished Washington to quickly exchange the Convention troops because Convention prisoners were constantly escaping their confinement, traveling to New York, and being re-drafted into new regiments to face American troops in the field. Officially, such behavior was forbidden by the second,

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[38] Washington to the President of Congress, 7 November 1780, 20:314-15; Washington to Board of War, 7 November 1780, 20:316; Washington to the President of Congress, 16 April 1781, 21:474-75; all in Fitzpatrick, *Writings*.

third, and ninth articles of the Convention, but in practice, neither side had faithfully adhered to the spirit or the letter of the document, and thus the British had few qualms about using escaped Convention prisoners within their ranks. To prevent such duplicity, Congress ordered all Convention prisoners to be placed in close confinement to prevent desertions and escapes. British officers of the Convention Army, whether on parole or not, were ordered to Simsbury, Connecticut, with the implied threat of imprisonment within abandoned mines, previously a form of confinement almost exclusively reserved for Loyalists. German members of the Convention Army were allowed to stay in Virginia, with officers allowed parole within Frederick County, and privates confined to barracks near Winchester.[39]

On 28 July 1781, a Congressional Committee reported that American prisoners in New York, primarily seamen captured aboard privateering vessels, continued to languish in terrible conditions. The British intent, according to the report, was to encourage enlistments in the Royal Navy. Congress considered such conditions tantamount to murder, and threatened reprisals against British prisoners if the conditions were not alleviated.[40] To prevent American deserters from joining the enemy, Washington announced on 4 October 1781 that any captured in enemy lines at Yorktown would be

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[39] *JCC* 19 (1781), 274, 299-302. Roger Kaplan has noted that the British practice of interrogating all prisoners who escaped American captivity and reached the British lines represented a major source of intelligence during the war. Roger Kaplan, "The Hidden War: British Intelligence Operations during the American Revolution," *William and Mary Quarterly* 47 (January 1990): 115-138.

[40] *JCC* 21 (1781), 829-31. For a discussion of British recruitment of American prisoners, see Philip Ranlet, "British Recruitment of Americans in New York during the American Revolution," *Military Affairs* 48 (January 1984): 26-28.

immediately hanged.[41]  Two weeks later, Congressional threats of POW reprisals gained

new weight with the surrender at Yorktown of over seven thousand British and German

prisoners under Lord Cornwallis.  Shortly after the surrender, Washington noted that the

United States held a balance of prisoners sufficient to free all POWs held by the British,

and recommended to Congress that the new supply of prisoners not be squandered on

exchange for American privateers.[42]  He became annoyed when Congress publicly

ordered him to create a full, general exchange of all prisoners, after secretly ordering that

Cornwallis be held back from exchange.  This order forced Washington to either reveal a

secret decision of Congress to the enemy or be accused of treating falsely regarding

prisoner exchanges.[43]

Despite frequent threats of retaliation, actually punishing enemy prisoners for

mistreatment of American prisoners proved extremely rare.  One exception was ordered

on 3 December 1781, after the British authorities had ignored numerous complaints about

the treatment accorded Henry Laurens, a former president of Congress.  After his capture

at sea, Laurens was imprisoned in the Tower of London and threatened with execution

for treason.  Congress was further infuriated by reports of American prisoners being

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[41] "General Orders," 4 October 1781, 23:171; "General Orders," 3 November 1781, 23:320-23; both in Fitzgerald, *Writings*.  The second contains a summary of the courts-martial of American deserters captured during the surrender of Yorktown.  Nine were hanged, fourteen were given 100 lashes, and three were granted POW status.

[42] Washington to Nathanael Greene, 24 October 1781, 23:260-61; Washington to Greene, 31 October 1781, 23:311, both in Fitzpatrick, *Writings*.  Washington recommended that sailors captured by American privateers be exchanged for privateers held by the British.

[43] Washington to the President of Congress, 18 February 1782, 24:4-6; Washington to the President of Congress, 20 February 1782, 24:9-12; "Instructions to Brigadier General Henry Knox and Gouverneur Morris," 11 March 1782, 24:55-59; all in Fitzpatrick, *Writings*.  Washington complained that privateers were releasing prisoners rather than delivering them to continental control, and forbade Knox and Morris from agreeing to any exchange of British soldiers for American seamen.

imprisoned in English dungeons. The secretary of war was ordered to imprison British officers of high rank, including those on parole, and to send British prisoners to confinement in the notorious Simsbury mines, abandoned shafts used to house prisoners in horrid conditions. All officers allowed to return to England on parole, Burgoyne included, were recalled to North America immediately. Secretary of War Benjamin Lincoln also ordered all British enlisted POWs in America sent to Lancaster and Pennsylvania, to be placed in close confinement for the prevention of desertions and escapes. German prisoners were allowed to remain in frontier towns, as they were considered much less of a security risk, and had proven much more tractable to their captors.[44]

Congress ordered the massive retaliatory efforts to compel the British to exchange Laurens for Burgoyne. Britain did not consider Burgoyne to be a prisoner of war, under the terms of the Convention of Saratoga, and in any event, Burgoyne had been allowed to return to England on parole. Instead, the British government offered to exchange Cornwallis, still on parole in New York, for Laurens. When the offer of Burgoyne for Laurens was rejected, Congress exempted Cornwallis from exchange in any form.[45] It was unlikely that the British would ever agree to the Burgoyne-Laurens offer, because such an agreement would essentially force Britain to release Laurens and receive nothing in return. Laurens assured his captors that Congress would agree to the offer of Cornwallis, and he was released from the Tower and allowed to assume ambassadorial

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[44] Washington to Moses Rawlings, 12 December 1781, Fitzpatrick, *Writings,* 23:383-84. For a comparison of the German and British prisoners in Pennsylvania, and how they were perceived by the American inhabitants of the area, see Laura L. Becker, "Prisoners of War in the American Revolution: A Community Perspective," *Military Affairs* 46 (December 1982): 169-73.
[45] *JCC* 21 (1781), 1150-51; *JCC* 22 (1782), 76-77.

duties in London.  On 25 September 1782, Congress was notified that Laurens had

negotiated for his own release, in exchange for Cornwallis, despite the express wishes of

Congress.  Further, Benjamin Franklin, while serving as Minister to France, had agreed

to the exchange, forcing Congress to choose between disavowing the power of its most

famous citizen and reversing its threat to hold Cornwallis indefinitely.  Washington

became incensed by the behavior of Congress, and demanded to know why Laurens had

been released in Britain and allowed to resume his duties, while Cornwallis was expected

to remain on parole.  In response, Congress asserted its authority to approve exchanges,

but allowed the matter to drop, and Cornwallis was duly exchanged.[46]

While the Laurens situation was being negotiated, Washington was again given

the power to negotiate a cartel regarding prisoners, on 18 February 1782.  In this

instance, Congress ordered Washington to seek a cartel of exchange which would include

provisions regarding the safekeeping and treatment of all prisoners, land or sea, and to

exchange captured citizens.  Naturally, Congress expected Washington to make another

attempt to settle past POW accounts for the upkeep of enemy prisoners, however, all

previous resolutions regarding exchange were repealed, meaning that Congress would no

longer formally insist upon the payment of prisoner accounts before any general

exchange.  In fact, Washington had virtually universal control over prisoner negotiations,

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[46] *JCC* 23 (1782), 463-64, 606-08, 852-53.  Washington to Benjamin Lincoln, 18 August 1782, 25:35-37; Washington to the President of Congress, 28 August 1782, 25:72; both in Fitzpatrick, *Writings*.  While serving as a minister to France, Franklin took great interest in the situation of American prisoners, particularly those held in Britain.  On his own initiative, he repeatedly attempted to negotiate exchange cartels, with no more success than Washington's representatives in America.  For a complete description of Franklin's efforts, see Catherine M. Prelinger, "Benjamin Franklin and the American Prisoners of War in England during the American Revolution," *William and Mary Quarterly* 32 (April 1975): 261-94.

with the lone exception that Cornwallis could not be exchanged. Political pressure regarding exchange continued to mount, with states clamoring for Congress to make a general exchange agreement, even if not on optimal terms. To assist in the exchange negotiations, Congress announced a bounty of eight dollars for captured enemy deserters delivered to state control, to increase the available number of prisoners for exchange. States would pay the bounty to individuals, along with reasonable charges for upkeep and transportation, and secure the prisoners until reimbursed by Congress. Washington asked Congress whether he should agree to exchange American sailors for British soldiers if doing so would cause Britain to settle past debts for prisoner upkeep. He remained uncertain of the relative importance of financial concerns compared to rescuing Americans from captivity, in part because Congress seemed to shift its focus often.[47]

To increase the efficiency of prisoner affairs, the activities of the commissary of prisoners and all his deputies were placed under the control of the secretary of war, who was also given direct control over the security and safekeeping of enemy prisoners. This reassignment of the commissariat was necessary because other departments often failed to respond to requests made on behalf of prisoners. In an effort to save expenses, Congress repealed all resolutions and appointments regarding the commissary prisoners in July, 1782, effectively disbanding the department altogether, although Washington was empowered to appoint a temporary commissary as necessary.[48]

Throughout 1782, Congress returned to the matter of American prisoners enlisting in the enemy's forces. In particular, a large number of American naval prisoners had

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[47] Washington to the President of Congress, 28 August 1782, Fitzpatrick, *Writings*, 25:72; *JCC* 22 (1782), 76-77, 154-56.
[48] *JCC* 22 (1782), 178, 372-73.

enlisted in the Royal Navy. In a similar situation, many German prisoners had expressed

a desire to enlist in the Continental Army, or at least remain within the United States after

the war, and in the meantime hire themselves out as laborers near their confinement

locations. Washington felt German prisoners could prove useful to the army, and he

urged the secretary of war to allow German prisoners to enlist for three years. For their

service, on 15 May 1782, Washington recommended a bounty of one hundred acres,

received at the end of enlistment, and a guarantee of American citizenship.[49] On 5 June

1782, the secretary of war was authorized to recruit among German prisoners, with a

bounty of eight dollars given to any new recruit. The former prisoners were to be treated

as any new recruit in all respects, and would be counted against state recruiting quota.

Washington was given direct control of any prisoners successfully recruited, to place

them as he saw fit. While Germans were being granted new opportunities, on 7 June

1782, the secretary of war was ordered to call in all British prisoners working with

American citizens, and to cancel all future work permits. Congress believed that the

work program offered too many opportunities for escape. Most German prisoners had

proven disinterested in returning to British service, but many British escapees had

successfully reached their lines and joined new regiments.[50]

　　After canceling the work permits of all British prisoners, Congress again pressed

demands for payment for POW upkeep costs. If Britain refused to pay past subsistence

bills, the secretary of war was authorized to reduce rations given to enemy prisoners,

although prisoners were to be kept healthy. Congress also planned to reduce any other

costs associated with enemy prisoners, where possible. Washington was ordered to make

[49] *JCC* 22 (1782), 274-76.
[50] *JCC* 22 (1782), 321, 372-73.

a final demand for payment to Sir Guy Carleton, in New York, although Congress

considered it unlikely that Britain would reverse its course and pay the demanded sums.

Washington was re-authorized to make any partial exchanges, but no general officers

were to be exchanged by composition.[51]

Just two weeks after revoking the parole of all prisoners and canceling work

permits, Congress reversed itself and again opened the possibility of employing British

prisoners.  On 21 June 1782, Congress created a new POW labor system, designed to

reduce escapes by relying upon the financial interests of employers.  Any British prisoner

could be hired, if the prospective employer deposited twenty French guineas into the

Bank of North America.  At the end of six months, the POW could sign an oath of

allegiance and become a citizen of the state of his choice.  Any prisoner who wished to

labor but not obtain citizenship could hire himself out for a duration of one year, with a

bond of forty French guineas paid by the employer.  Congress hoped to reduce the costs

of prisoners by allowing them to hire themselves out and provide for their own upkeep,

while using the employers to maintain the security of the prisoners.  By insisting on

foreign currency, Congress could avoid the problems associated with wartime inflation,

and increase the supply of specie available for Congressional expenditures.[52]

In many locations, employers ignored prohibitions against hiring enemy

prisoners.  Deputy commissaries of prisoners were court-martialed in York, Lancaster,

and Reading, Pennsylvania for allowing British prisoners to work without a bounty paid

by the employers.  On 3 July 1782, Congress concluded that any work programs would

lead to additional enemy escapes, but no plan existed to reduce the problem.  For this

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[51] *JCC* 22 (1782), 323-24, 335-36, 337.
[52] *JCC* 22 (1782), 343-44.

reason, the secretary of war was again ordered to recall all British prisoners and place them in close confinement. On 11 December 1782, another new labor policy was created, requiring a bond of one hundred pounds in Pennsylvania currency for any prisoner to be employed. Employers were also required to pay four dollars per month to the government, in addition to any wages paid to the prisoner, for the privilege of hiring any enemy POWs.[53]

Through the end of 1782 and the first half of 1783, Congress considered the idea of a general exchange of prisoners. In July 1782, Congress announced it was always prepared for a general exchange on just terms. At that time, the United States held more prisoners than the enemy, and thus a complete exchange could be an appealing proposition for the British. However, the legislature undertook negotiations to free all American prisoners on a man-for-man basis, rather than a complete exchange of all prisoners. Congressmen blamed the failure of negotiations for complete exchange on "the predetermination of Sir Henry Clinton to regain his captive soldiers, without regard to the enormous debt which had accrued and is daily increasing for their subsistence." Congressional negotiators also recognized that Britain "is now disabled by the loss of a veteran army which cannot easily be replaced." By retaining the extra British prisoners, Congress might force a British payment for the subsistence of prisoners.[54]

After exchanging all American land forces in British hands for British soldiers, Washington proposed to Carleton an exchange of British soldiers for American sailors, with the caveat that British soldiers exchanged for sailors would not be eligible to serve in any capacity for twelve months. Washington argued that captured privateers in British

[53] *JCC* 23 (1782), 373-74, 785.
[54] *JCC* 23 (1782), 555-59.

hands were not directly engaged in the public service, and would not necessarily return to their previous activities.  On the other hand, British soldiers, if exchanged, could be employed immediately in North America, or sent to aid operations in the West Indies, hurting the interests of American allies.  Naturally, Washington attached a demand for subsistence repayments prior to the repatriation of British prisoners.  Not surprisingly, Carleton refused the conditions offered by Washington, but did agree to appoint commissioners to negotiate a general cartel.[55]

Washington named representatives to meet with the British emissaries, but the general cartel meeting was a dismal failure, in large part because the British commissioners were not given the power to bind Great Britain to any agreement beyond equal exchanges of prisoners, and again refused to even discuss the matter of subsistence accounts.  As a result, on 16 October 1782, Congress again ordered all partial exchanges to cease, and directed the secretary of war to further reduce the costs of upkeep for enemy prisoners in any way possible.[56]  Rather than a general cartel providing for the exchange for all prisoners, the commission could only agree to release all captured medical and clerical personnel, and make them exempt from capture in the future.[57]  Shortly after the failure of the cartel commission, Congress ignored its own dictates, and asked Washington to obtain the exchange of two American officers on 5 November.[58]  Carleton was displeased by the failure of the cartel commission, and blamed the failure on the American negotiators' insistence upon repayment of subsistence debts.  Washington described Carleton's response of 3 November as having "used an asperity of language so

[55] *JCC* 22 (1782), 421-22; *JCC* 23 (1782), 555-59.
[56] *JCC* 23 (1782), 660-61.
[57] *JCC* 23 (1782), 661.
[58] *JCC* 23 (1782), 713.

much the reverse of his preceding correspondence that many regard it as portending a

revival of the war against the U.S." He forwarded Carleton's letter to Congress, and

included the suggestion that the United States should be more flexible in its demands.[59]

On 18 February 1783, Congress relented and renewed Washington's power to effect

exchanges when convenient. For the first time in the war, Congress also granted the

power to make exchanges to the secretary of war, in the belief that a different

representative might have greater success in negotiations with Britain.[60]

In March of 1783, the Supreme Executive Council of Pennsylvania petitioned

Congress to liberate all Pennsylvanians held by the British. The Congressional response

pointed out the logistical complications, particularly given the American practice of

exchanging prisoners by date of capture rather than by state of origin.[61] Despite the

practical difficulties, in April of 1783 Congress extensive debated a proposal to free all

enemy prisoners without exchanging them for Americans. Certain members of Congress

believed the war was effectively over, and that housing and feeding enemy prisoners was

a waste of funds. They argued that the ratification of the provisional peace treaty, which

included the release of prisoners by each side, mandated that the United States release its

captives. Other representatives pointed out the potential security hazards inherent in a

proposal to release thousands of enemy troops with no conditions upon the release. After

two days, Congress decided that releasing all enemy POWs was premature and

inadvisable. The primary argument against a general release of prisoners was economic:

releasing the prisoners would probably reduce the impact of reimbursement demands

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[59] *JCC* 23 (1782), 848.
[60] *JCC* 24 (1783), 140.
[61] *JCC* 24 (1783), 184.

presented to the British peace commissioners.[62]  With the ratification of the Treaty of

Paris, all prisoners held by both sides were freed.  In an incident that summarizes the

entire POW experience of the war, on 1 July 1783, Washington wrote an extensive

apology to Lieutenant Theodore Gebhard of Brunswick, explaining that Gebhard and the

prisoners under his command had been liberated months earlier, but not notified of the

change in their status.[63]  Gebhard's situation illustrates the fact that even after all of the

negotiations for exchange and demands for POW lists, the American system was still so

disorganized that it could overlook an entire unit of enemy prisoners.

The American prisoner of war policy of the Revolutionary War was a constantly

changing series of orders from Congress, often completely ignored by the individuals and

states tasked with their implementation.  The system often functioned poorly, and any

efforts made to utilize prisoners for any purpose other than exchange proved mostly

counterproductive.  Throughout the war, humanitarian and economic concerns clashed,

and together worked to ensure that exchanges were limited, unequal, and extremely time-

consuming.  Enemy prisoners endured difficult conditions while in captivity, but were

not subjected to worse circumstances than the members of the American military in the

field.  There were certainly inequalities in the system, but for the most part, enemies were

well treated.  The United States had lived up to Washington's decision to treat prisoners

with decency and humanity, and at no time did the conditions employed by the United

States approach the horrors of captivity reported by prisoners of the British.  Although

the methods were improvised, all of the goals of Congress and Washington with regard to

POW policy were eventually achieved, at least in part due to the influence of prisoner

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[62] *JCC* 24 (1783), 958, 959-60.
[63] Washington to Gebhard, 1 July 1783, Fitzpatrick, *Writings*, 27:41.

negotiations, and while the prisoner issue did not determine the outcome of the war, the sheer number of prisoners taken by the United States influenced the British decision to end the war. The American military almost completely forgot the lessons learned about POW policy, including how to house, feed, and maintain the health of prisoners. In the three decades between the Treaty of Paris and the new outbreak of war with Britain in 1812, the experiences of prisoners during the Revolution were left behind. The result was that at the beginning of the War of 1812, POW policies had to again be created anew, and in many cases the early mistakes of the Revolution were repeated in the later war.

# CHAPTER III

## THE FIRST DECLARED WAR:  THE WAR OF 1812

As the first declared war fought by the United States, the War of 1812 forced the

creation of a cohesive policy for dealing with captured enemies.  Prior to the outbreak of

war, no formal international law existed that governed the capture and maintenance of

prisoners of war.[1]  Rather, most nations formed their prisoner policies based primarily

upon expediency or arrangements created after the outbreak of hostilities.  The conduct

of American military forces was governed by articles of war approved 10 April 1806, but

the articles made no mention of POW treatment.[2]  Anthony Dietz argued that the greatest

significance of the War of 1812 regarding prisoners was the fact that both the British and

American governments tailored their policies to fit agreements made during the war.[3]  In

reality, the United States improvised practices throughout the war with little thought to

international law, beyond the threat of retaliation for the mistreatment of American

POWs.

Like earlier and subsequent American conflicts, POW practice during the war was

largely improvised by the federal government and the army.  Participants in the war were

too far removed from the Revolution to personally remember the practices of the earlier

war, and the virtual dissolution of the peacetime army in the intervening decades meant

that the lessons of the Revolutionary War would have to be relearned in the latter

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[1] The only American diplomatic effort involving prisoners of war prior to 1812 was the Treaty of Amity and Commerce, signed by the U.S. and Prussia in 1785, which contained provisions regarding the treatment of prisoners in the event of a future conflict between the nations.  The British often sought to apply precedents from the Napoleonic wars to the conflict with the U.S., but had only limited success.

[2] *U.S. Statutes at Large* 2 (1806): 359-71.

[3] Anthony Dietz, "The Prisoner of War in the United States During the War of 1812," (Ph.D. dissertation, American University, 1964).

conflict. One of the most rapid and important changes during the war was the centralizing of POW operations. Other issues included the employment of prisoner of war labor, the concentration of prisoners, and the refusal to repatriate POWs against their will at the end of the war. Local American commanders created a strict policy of retaliation for the mistreatment of American prisoners held by enemy forces. Each of these topics played an important role in shaping American POW policy for the next two centuries.

British practice in the War of 1812 was similar to the Revolution, and Great Britain, which had been engaged in war on the European continent for much of the preceding decade, was able to incorporate American prisoners into a prison system that already held seventy thousand French prisoners by 1812. During the war, American policy developed to address many specific issues, including the use of native allies, the role of captured privateers, and the status of slaves taken by the enemy.

Despite the large number of prisoners taken relative to the size of the armies engaged, and the importance of the POW question to the eventual peace treaty, most works discussing the War of 1812 see the POW problem as a minor issue, if it is discussed at all. Often, prisoner issues are lumped into discussions of the British practice of impressments, despite the fact that impressed seamen were not considered prisoners of war, and captured enemies were never impressed into the Royal Navy.[4] Many of the

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[4] Works discussing the War of 1812 have long considered the POW issue to be of minimal importance. The following works do not mention prisoners, even when discussing the Treaty of Ghent: Henry Adams, *The War of 1812* (New York: Charles Scribner's Sons, 1891); John R. Elting, *Amateurs, To Arms! A Military History of the War of 1812* (Chapel Hill, NC: Algonquin Books, 1991); J. C. A. Stagg, *Mr. Madison's War: Politics, Diplomacy, and Warfare in the Early American Republic, 1783-1830* (Princeton: Princeton University Press, 1983); James Ripley Jacobs and Glenn Tucker,

standard works on the war completely ignore POW issues. One significant exception is Donald Hickey's *The War of 1812: A Forgotten Conflict*, which devotes nearly a chapter to POW issues, and provides a detailed summary of major events in prisoner negotiations and retaliatory measures, but does not address the overall American policy regarding captured enemies.[5]

One of the problems faced by the United States in the War of 1812 was the sizeable percentage of Americans in 1812 who had been born in Great Britain. Just as many Americans during the Revolution had maintained loyalty to the British crown, American leaders were faced with the possibility of a large "fifth column" within the United States. A system was quickly instituted to keep track of the numerous "British subjects," loosely defined as any recent immigrant to the United States, or any individual who had not renounced British citizenship. United States Marshals of every military district received orders to complete pre-printed forms, sent for the same purpose, to individually identify and maintain a watch over these potentially disloyal citizens. The forms, serving as a rudimentary form of visa, included a physical description of each

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*The War of 1812: A Compact History* (New York: Hawthorn Books, 1969); Francis F. Beirne, *The War of 1812* (New York: E. P. Dutton & Co., 1949); Reginald Horsman, *The War of 1812* (New York: Alfred A. Knopf, 1969); Alfred Thayer Mahan, *Sea Power in its Relations to the War of 1812,* 2 vols. (Boston: Little, Brown, and Company, 1905); Harrison Bird, *War for the West, 1790-1813* (New York: Oxford University Press, 1971); and Robin Reilly, *The British at the Gates: The New Orleans Campaign in the War of 1812* (New York: G. P. Putnam's Sons, 1974).

[5] Donald R. Hickey, *The War of 1812: A Forgotten Conflict* (Urbana: University of Illinois Press, 1989), 175-180. Another monograph containing a detailed discussion of prisoner issues is Allan Everest's *The War of 1812 in the Champlain Valley*, which discusses the prisoner of war issue in great detail, but like Hickey, focuses primarily upon diplomatic activities concerned with the fate of a few prisoners of war, rather than the situation of all prisoners or American policy toward British prisoners in general. Allan S. Everest, *The War of 1812 in the Champlain Valley* (Syracuse, NY: Syracuse University Press, 1981), 79-86.

subject, his or her location, and a provision that the document required renewal on a

monthly basis for the duration of the war.[6]

     According to English common law in 1812, all individuals born as British

subjects remained so for the duration of their lifetime, regardless of residence or any

naturalization processes in other territories. Thus allegiance was set at birth, and could

not be changed under any circumstances. By this reasoning, any Irish immigrants to the

United States who took an active part in the war were guilty of treason against the crown.

The American position was that a naturalized citizen was equal to the same legal

protections as a native-born citizen, and all naturalized Americans were free of any legal

obligations to their birthplace.[7] The issue was certainly important, given the large

number of sailors upon American vessels who were not born within the United States.[8]

     Impressment presented a significant problem for U.S. merchant shipping prior to

the war. The Royal Navy sought to reclaim British deserters serving on American ships

by stopping and searching American vessels at will. As many as 25,000 British citizens

served on American merchant ships in the early 19th century. Estimates of impressments

suggest that up to 6,000 sailors were removed from U.S. merchant ships in the decade

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[6] Both unused and used forms of this type can be found in Box 18, Entry 127, RG 94, National Archives. The forms were used with varying success by individual marshals, some of whom took no interest in the matter, while others kept very meticulous records.

[7] For a more thorough discussion of the British argument, and the American legal response, see Ralph Robinson, "Retaliation for the Treatment of Prisoners in the War of 1812," *American Historical Review* 49 (October 1943): 65-70; Rising Lake Morrow, "The Early American Attitude Toward Naturalized Americans Abroad," *American Journal of International Law* 30 (October 1936): 647-63.

[8] In a case study of naval vessels at New York Station, Christopher McKee has found that more than half of the enlisted personnel in January of 1808 were not born in the United States. Christopher McKee, "Foreign Seamen in the United States Navy: A Census of 1808," *William and Mary Quarterly* 42 (July 1985): 383-93.

prior to the war.[9]  It is certain that some American sailors were mistaken for deserters

and forcibly taken into the Royal Navy.  The most notorious incident regarding

impressments occurred on 22 June 1807, when the *HMS Leopard* demanded to search the

*USS Chesapeake*.  When the *Chesapeake* refused to submit to the search, the *Leopard*

opened fire, forcing the American ship to surrender.  After a thorough search of the ship,

four sailors were taken from the *Chesapeake* as deserters.  In 1811, two of the sailors

were returned to the U.S. after almost four years of captivity.  Of the other two sailors

taken, one, a British sailor, was executed for desertion, and the other, an American, died

in a hospital in Halifax.  The *Chesapeake-Leopard* Affair incited popular support for a

war against Britain, and was a major precipitating factor in the conflict.[10]

Prior to the outbreak of war, sailors from the U.S. and Britain often shifted

allegiances.  During the war, they were routinely offered the opportunity to switch sides

rather than become a prisoner of war.  On May 17, 1813, Colonel Thomas Barclay,

British agent for prisoners of war, complained to Stephen Decatur that some British

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[9] Hickey, *War of 1812*, 11-16.  For a discussion of the diplomatic importance of the
affair, see Anthony Steel, "Impressment in the Monroe-Pinkney Negotiation, 1806-
1807," *American Historical Review* 57 (January 1952): 352-69.  See also Lawrence S.
Kaplan, "Jefferson, the Napoleonic Wars, and the Balance of Power," *William and Mary
Quarterly* 14 (April 1957): 196-217.

[10] For more detailed discussions of impressments and the *Chesapeake-Leopard* Affair,
consult Daniel A. Frater, "Impressment in the 18th Century Anglo-American World"
(Master's thesis, Queens College, New York, 1995); Scott Thomas Jackson,
"Impressment and Anglo-American Discord, 1787-1818" (Ph.D. diss., University of
Michigan, 1976); David Scott Thompson, "'This Crying Enormity': Impressment as a
Factor in Anglo-American Foreign Relations" (Master's thesis, Portland State University,
1993); and James F. Zimmerman, *Impressment of American Seamen* (New York:
Columbia University Press, 1966).  Bradford Perkins has argued that the actual number
of British sailors aboard the *Chesapeake* may have been as high as 150.  Bradford
Perkins, "George Canning, Great Britain, and the United States, 1807-1809," *American
Historical Review* 63 (October 1957): 4; Anthony Steel, "Anthony Merry and the Anglo-
American Dispute about Impressment, 1803-6," *Cambridge Historical Journal* 9, no. 3
(1949): 331-51.

prisoners had taken service upon American ships. Barclay remarked, "It is unnecessary, I feel assured, for me to make any remarks on the impropriety of one nation taking the prisoners of war, subjects of another nation into its service."[11] Decatur's somewhat bemused reply noted that this was not within his jurisdiction but he also pointed out "after the crew of the United States late Brig Nautilus were on board the Africa as prisoners of war many of them were tampered with & solicited to enter the British service & that five of them were actually entered & employed."[12] Decatur then referred Barclay to the offices of John Mason, the American Commissary General of Prisons and Prisoners.

During the War of 1812 American forces captured a total of 15,508 British prisoners. Only 5,765 of these prisoners were taken on land, most of them by the United States Army and the militia which supported it. The great majority of the land captives were taken on the Canadian frontier, although a substantial number of prisoners were taken at Fort George, New York in 1813 and at New Orleans in 1815. The remaining 9,743 prisoners were captured aboard ships: 1,485 on the Great Lakes; 2,905 at sea by public vessels; and 4,842 by privateers. A remarkable number of British prisoners were described in naval records as "retaken in Am. ship," suggesting that they were captured while manning prizes taken by British ships. Of particular interest was the decision to turn all naval prisoners over to the control of the army.[13] Although the War Department

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[11] Thomas Barclay to Stephen Decatur, 17 May 1813, Doct. # 4, Box 12, Entry 127, RG 94. Barclay complained that British prisoners served aboard several American ships, some of which were vessels of war.

[12] Stephen Decatur to Thomas Barclay, New York, 21 May 1813, Doct. #4, Box 12, Entry 127, RG 94.

[13] Although all prisoners were delivered to the control of the War Department, specifically the Commissary General of Prisons and Prisoners, some of the most detailed

maintained less detailed records of prisoners captured, a compilation of prisoners captured at sea and on land near the Canadian frontier is still in existence. This roster contains less individualized information than the final Navy version, but it serves the useful purpose of confirming much of the data from the naval records.[14]

After the disastrous Battle of Queenston Heights on 13 October 1812, a large number of American personnel were taken prisoner, including then-Lieutenant Colonel Winfield Scott. The men were placed upon boats to Halifax, the central British prisoner of war depot in Canada. During the trip, British officers mingled with the American captives and singled out those with a distinct Irish accent. Twenty-three men were pulled from the American prisoners, to be sent to England to face trial for treason. Arguments and appeals to the contrary were useless, including those presented by the ranking American, Scott. The plight of these "Irish traitors" occupied Scott's thoughts for the remainder of the war, and he used all of his influence in an attempt to win their freedom, or at the very least save them from the gallows.[15] Scott was released on parole, and immediately informed Secretary of War John Armstrong of the plight of the prisoners.

records of British prisoners taken during the war can be found in records maintained by the Navy Department. Unlike the Army, the Navy preserved a complete list of all British POWs held in the United States, compiled in 1818 using the scattered records which existed at the time. A two-volume list of prisoners was created, organized by the first letter of the prisoner's last name. Each entry contained the prisoner's full name, when and where the prisoner was captured, where the prisoner was held, his rank and unit, the capturing unit, and the date and method of disposal. Navy Department, "Register of British POWs in the United States, July 1812—March 1815, v. 1," Entry 402, RG 45, National Archives.

[14] Navy Department, "Military & Naval Prisoners Canadian Frontier," Doct. # 300, Box 18, Entry 127, RG 94. This roster contains the name, rank, unit, capturing party, date of capture, custody location, and manner of disposal for each prisoner, and is organized in a vaguely alphabetical fashion.

[15] Winfield Scott to the Secretary of War, 30 January 1813, Doct. # 10, Box 1, Entry 127A, RG 94.

On 2 July 1813, Sergeant Henry Kelly, one of the Irish-Americans singled out, complained to Armstrong about the mistreatment the twenty-three men had suffered and included a list of grievances held by the prisoners and a roster of the men involved.[16]

On 1 May 1813, Armstrong ordered Major General John Dearborn, commanding American forces on the Niagara frontier, to hold twenty-three British soldiers as hostages for the safety of the accused Irish traitors. These prisoners were confined at Greenbush Cantonment, New York. A list of the hostages was quickly forwarded to the British, in the interest of preserving the safety of any prisoners belonging to American forces.[17] The predictable British response was to place forty-six American officers in close confinement against the safety of British officers held as hostages. In an almost comical series of events, each side escalated, placing more officers and enlisted personnel into confinement as hostages.[18] Neither the United States nor Great Britain showed any sign of compromise about the being held as hostages until the American agent for prisoners in

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[16] Henry Kelly to John Armstrong, 2 July 1813, Doct. # 24, Box 1, Entry 127B, RG 94.

[17] Navy Department, "List of 23 British Soldiers held by the United States of America, as Hostages for 23 American Soldiers sent to England for trial," n.d, Doct. # 298, Box 18, Entry 127, RG 94. See also Navy Department, "List of 39 British officers, Prisoners of War," 28 February 1814, Doct. # 299, Box 18, Entry 127, RG 94. By the time this list had been made, four officers had already escaped custody. Navy Department, "Descriptive List of Twenty Three Hostages, British Prisoners of War to the United States," 12 August 1814, no doct. #, Box 18, Entry 127, RG 94. This contains physical descriptions and biographical data for each hostage prisoner.

[18] One such confinement order issued by the British is found in George Glasgow to Winchester, 29 October 1813, no doct. #, Box 19, Entry 127, RG 94. This particular order placed 46 officers and NCOs into close confinement as hostages against the safety of 23 British soldiers in similar confinement. Not all of the hostages were forced to remain in close confinement. Officers of both sides were often allowed to give their parole in exchange for a certain degree of liberty, most commonly remaining under house arrest. "Sworn statement of Brigadier General William H. Winder to remain in a certain house and area of Beaufort," 17 December 1813, Doct. # 295, Box 18, Entry 127, RG 94. Other such statements exist for officers of lower ranks at the same location, and were usually dependent upon the attitude of the confining officer. Similar considerations were given to British officers held by American captors.

London, Reuben G. Beasley, informed Secretary of State James Monroe that the Irish captives were treated in the same manner as all other American prisoners. Beasley's letter was received 27 June 1814, and prompted Monroe to send Colonel Tobias Lear to meet with Colonel Edward Baynes to finalize a new exchange agreement, by which the hostages held by each side were returned to their normal POW status, eventually paroled and returned to their homelands.[19] Twenty-one Irish captives returned to the United States on 9 July 1815; the remaining two prisoners died while in captivity.[20]

Despite the mutual decision to release hostages from close confinement, some prisoners remained held in such a manner. On 9 August 1814, Barclay informed Mason that several British officers still held as hostages were expected to be made available for exchange. Barclay warned that "double the number of American Prisoners will once more be placed in a similar state of confinement in retaliation for these men" if they were not made immediately available.[21] Despite efforts by both sides to ameliorate the conditions of captivity, the threat of retaliation remained constant for both sides.

On 28 September 1814, Mason wrote James Prince, the marshal of Massachusetts charged with maintaining British prisoners in that state, that 100 American seamen and 59 American soldiers had been deported to England from Canadian prisons on the charge

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[19] *American State Papers: Foreign Relations*, 3:726-30. Well after the conclusion of the war, the issue of the "Irish traitors" remained unsettled. In a brief letter to Winfield Scott, Stephen Pleasanton of the Treasury Department vowed that if the men taken for trial by Great Britain had not received the rations due to all prisoners by the Cartel of 12 May, the Treasury Department would seek redress for the prisoners in question from the government of Great Britain. General Scott was assured that the topic would be introduced at the upcoming conference to discuss the costs associated with prisoner upkeep on each side. Stephen Pleasanton to Winfield Scott, 11 July 1817, Doct. # 185, Box 10, Entry 127, RG 94.
[20] Robinson, "Retaliation," 69-70.
[21] Thomas Barclay to John Mason, 9 August 1814, Doct. # 3, Box 12, Entry 127, RG 94.

of being English subjects. In the same letter, Mason ordered Prince to place six British naval officers and ten sailors into extremely close confinement in retaliation for British confinement of the officers and crew of a privateering vessel.[22]

Near the end of the first year of war, British and American representatives met to discuss prisoners of war. Both sides argued that the conditions faced by prisoners of war would be best ameliorated by a policy of rapid exchange of prisoners. American and British representatives held a conference at Halifax to discuss an exchange of captured naval personnel. The agreement was signed 28 November 1812, and allowed a complete exchange of all prisoners captured at sea. The Halifax negotiations served as the basis for a broader agreement. In early 1813, representatives of each government met again, at American insistence, to discuss prisoners taken in land engagements. The American representative at the meeting was Commissary General of Prisons and Prisoners Jon Mason, while Great Britain was represented by Barclay. Because of the success of the naval exchange, the new discussions were expected to rapidly conclude.

After weeks of negotiation, the Cartel for the Exchange of Prisoners of War, often called the Cartel of 12 May 1813, was signed by Barclay and Mason. The simple provisions of the Cartel concerned only the welfare of prisoners of war. The first article stated that all prisoners, regardless of where captured, would be treated "with humanity conformable to the usage and practise of the most civilized nations during war." All prisoners were to be exchanged on a rank-for-rank or equivalency basis without delay.

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[22] John Mason to James Prince, 28 September 1814, Doct. # 34, Box 19, Entry 127, RG 94.

Rank equivalencies were provided for all conceivable prisoners held by either side.[23]
The system was adapted for naval use, and it was considered acceptable to exchange
naval personnel for land forces, a major departure from Revolutionary War practices.[24]
The estimated values of personnel greatly differ from the Revolutionary War, with the
values given to high-ranking officers significantly reduced.  These alterations made
exchanges considerably easier.

      In theory, the new exchange equivalency system should have worked extremely
well, particularly when compared to the older practice of rank-for-rank exchanges.[25]  The
emphasis upon exchange within the Cartel of 12 May should have created a system
capable of returning captured troops in a short period of time.  In reality, however, the
system proved unworkable, largely due to the inefficiency of the men appointed as agents
of exchange, and the slow bureaucratic methods of keeping accurate records of each
prisoner and his exchange.

      Despite its functional problems, the table of equivalencies remained an unchanged
part of American prisoner of war policy through the Civil War, when the last non-
battlefield, routine exchanges of prisoners involving the United States occurred.  Records
pertaining to the War of 1812 contain hundreds of exchange accounts, typified by the

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[23] "Cartel for the exchange of prisoners of war between Great Britain and the United
States of America," 12 May 1813, Doct. # 190, Box 10, Entry 127, RG 94.The rank
equivalencies established by the Cartel were as follows:  Commanding General, 60
enlisted men; Major General, 40 men; Brigadier General, 20 men; Colonel, 15 men;
Lieutenant Colonel, 10 men; Major, 8 men; Captain, 6 men; Lieutenant, 4 men; NCO's, 2
men, and enlisted personnel on a man-for-man basis.

[24] "Equivalent Rank according the the Cartel of the 12th of May," Doct. # 43, Box 18,
Entry 127, RG 94.  This item, a small card, appears to have been a reference sheet for
American officers who might be in a situation allowing an exchange.

[25] Captures at sea, Detroit, and Queenston quickly gave the British a numerical advantage
in prisoners held which was maintained throughout the war. *Annals of Congress*, 13th
Cong., 1st sess., 1804-07.

exchange of Scott and twenty-one other American officers, on 22 December, 1812 for three British officers, 15 non-commissioned officers, and 141 privates.[26] Scott's exchange demonstrated the utility of converting the value of each rank to a single commodity. Small-scale exchanges were common, but mass paroles of regulars were unusual during the war, as each side typically held prisoners for exchange via a formal cartel. The slow speed of communications, coupled with the large number of prisoners and considerable variety of locations in which they were kept led to great difficulty in maintaining accurate records of British prisoners of war. Further complicating the issue was the number of individuals released at sea, and those who were never properly registered with a district marshal or a British sub-agent for prisoners of war.[27]

According to the Cartel, any warship commander could approach a prisoner depot under flag of truce and demand an exchange of prisoners. If a certain prisoner was demanded, he could not be held back without good and sufficient cause for such detention. Lists of prisoners were to be prepared and exchanged by the agents for prisoners at each depot, to facilitate the exchange process.[28] The only provision for

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[26] John Graham, "Account of the Exchange," 22 December 1812, Doct. # 322, Box 19, Entry 127, RG 94. In the exchange, the Americans consisted of one brigadier general, three colonels, four lieutenant colonels, one major, ten captains, one lieutenant, and two second lieutenants, for a total rank equivalency of 185 privates. The exchanged British consisted of three lieutenants, nine sergeants, six corporals, two drummers, and 139 privates, for an equal exchange value.

[27] George Barton to John Mason, 10 December 1814, no doct. #, Box 2, Entry 127, RG 94. Barton, an appointed agent of the British government, requested that Mason loan his office the returns of all district marshals under Mason to create a master list of all prisoners taken throughout the war. Such a master list was not finished until May 9, 1818, and was completed under the direction of the Navy Department. For orders regarding the creation of the list, see T. T. Gantle, "Copy of Circular to the Marshals of the United States," 22 August 1815, Doct. # 38, Box 1, Entry 127A, RG 94, and R. Rush, "Circular," 8 May 1817, Doct. # 40, Box 1, Entry 127A, RG 94.

[28] "Cartel for the exchange of prisoners," Articles 8-13, quotation is from Article 8.

stopping exchanges was in Article 14, which stated, "If either nation shall at any time have delivered more prisoners than it has received, it is optional with such nation to stop sending any more prisoners on credit until a return shall be made equal in number to the balance so in advance."[29]

Specific exchange locations were agreed upon by each side, and cartel ships flying flags of truce were to be allowed into the designated harbors for the purpose of exchanges. The expenses of cartel ships were generally shared between the American and British governments. The standard rule of conflict was that the nation receiving its captured soldiers would bear the costs of their return, although the actual practice often relied upon agreements for individual ships. One example was a proposal from Mason to Barclay to exchange via cartel all American prisoners at Halifax taken in Quebec for an equivalent number of British prisoners taken in Canada. The British were to outfit a vessel and transport the Americans to Salem, Massachusetts, where the British vessel would receive British prisoners and supplies at the expense of the American government. In the same letter, Mason suggested an exchange of prisoners from the vicinity of New Orleans for those held by the British in Nassau, with the two governments equally splitting all of the expenses incurred.[30]

Cartel ships required a great deal of preparation prior to embarkation, consequently each side was well aware of when and where a cartel was due. Individuals used this knowledge to request the inclusion of certain individuals on board particular cartel ships. The motivation and reasoning behind each request varied greatly, but almost

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[29] "Cartel for the exchange of prisoners," Article 14.
[30] John Mason to Thomas Barclay, 10 November 1813, Doct. # 88, Box 17, Entry 127, RG 94.

all were granted "in the spirit of decency and common humanity."[31]  At times, each side

attempted to keep certain individuals, usually officers considered exceptionally effective.

Sir George Prevost's subordinates advised him not to exchange William Winder, an

extraordinarily skilled commander whose services to the United States would prove

invaluable.

Officers received preferential treatment for exchange.  Dozens of letters were

exchanged between Mason and Barclay proposing individual exchanges of certain

officers.  Typically, one or the other would send a list of officers he wished exchanged,

and ask for the demands of the other side in exchange.  By the end of 1813, the system

had engendered sufficient trust that Mason felt comfortable requesting the release of

Samuel Cooper Hixon from his parole without providing an exchange.  On December 22,

1813, Mason asked Barclay "simply to discharge from parole a released man on

credit."[32]

The Cartel carefully defined prisoners and the manner of their confinement.  Only

combatants in the direct service of the enemy nation could be held as prisoners of war.

All non-combatants, including medical and religious personnel, as well as passengers on

merchant ships, all females, and boys under twelve years of age were to be released

immediately without any exchange value.  Early in the war, captures of vessels at sea

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[31] Thomas William Moore to John Graham, 17 February 1813, Doct. # 77, Box 18, Entry 127, RG 94, has an example of such a request, in this case hoping that Lieutenant Heyman, confined in Petersbugh, Virginia, could be sent to Bermuda via a the cartel ship *Bostock*, recently arrived in New York with 400 American prisoners for exchange. Another example is found in Thomas Barclay to John Mason, 7 December 1813, Doct. # 82, Box 6, Entry 127, RG 94.  For a more uncommon example, see Joseph Bloomfield to Richard Bache, no doct. #, Box 5, Entry 127, RG 94, in which President Madison ordered the release of certain British officers to the nearest British outpost on Lake Champlain.
[32] John Mason to Thomas Barclay, 22 December 1813, Doct. # 93, Box 17, Entry 127, RG 94.

often included sailors from neutral nations, who were often released under the condition that they no longer serve in the enemy's forces.[33]  In future captures, noncombatants were not to be imprisoned, but rather released as soon as possible.  Lawful prisoners were to be held at designated prisoner of war depots, limited to six locations in British territory and seven locations in the United States.[34]

The Cartel also specified that each nation was to provide its captives a daily ration of one pound of beef or twelve ounces of pork, one pound of bread, and four ounces of peas, six ounces of rice, or a pound of potatoes to each man.  Each prisoner was also to receive a small allowance of vinegar and salt.  Each government was to clothe its own prisoners by appointing agents to oversee the needs of prisoners held by the enemy.[35]  A system of parole was included in the agreement, and each side swore that paroled prisoners would not be allowed to serve again in any capacity until a proper exchange had been completed.

To increase the number of British POWs, the U.S. offered a cash bounty for all prisoners of war brought in by privateers.  Prior to that time, most privateers released their captives on a neutral shore rather than bear the burden of their sustenance.  The bounty was first approved 3 August, 1813, and was for $25 per prisoner.  On 19 March, 1814, the bounty was increased to $100 per prisoner, as the lower bounty had proven

[33] In one interesting case, James Monroe wrote to the marshal of Boston requesting the discharge of five Russian sailors, who were taken on board the British merchant vessel the *Mary* and held captive in Boston.  Monroe ordered the marshal to deliver these unnamed sailors to the Russian Consul in exchange for a declaration of Russian citizenship for the men, to avoid any unpleasant consequences from the Russian empire. James Monroe to the Marshall of the U.S., 17 September 1812, Doct. # 4, Box 20, Entry 127, RG 94.
[34] "Cartel for the exchange of prisoners," Article 3.
[35] "Cartel for the exchange of prisoners," Articles 5-7.

ineffective in producing substantial numbers of new captives.  The prisoners were to be

delivered to a district marshal, whose receipt allowed the privateer captain to apply for

the federal bounty.  Privateers applied to numerous offices in the hopes of obtaining

bounties, but the most common recipient of bounty applications was Mason.[36]  Bounties

were to be paid for any British sailors held as prisoners of war, but were expressly

forbidden for any captured slaves, who were to be sold for the benefit of the privateer's

crew.[37]  Once a bounty was applied for, the application could not be withdrawn, as the

United States was desperate for prisoners to balance the number taken by Great Britain.

After applying for a bounty, privateers could not agree to a private ransom offer from

their captives, and were thus encouraged to deliver as many prisoners as possible to the

district marshals.[38]

   While the increased bounty turned captured British sailors into a valuable

commodity, the bounty offer made no mention of standards of treatment.  The original

bounty of $25 was not sufficient to offset the cost of maintaining prisoners on

privateering vessels.  The $100 bounty made it fiscally possible for a privateering crew to

profit by keeping prisoners.  The authority of the U.S. Navy and its regulations did not

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[36] For an example of such an application, see Winslow Lewis to John Mason, 23
November 1814, no doct. #, Box 611, Entry 464A, RG 45, National Archives.  Lewis
served in the capacity of "Agent for the private armed schooner David Porter," in this
case demanding $200 for the delivery of two prisoners.  See also J. Pleasonton to John
Mason, 3 December 1814, no doct. #, Box 611, E 464A, RG 45, referring to receipts for
nine prisoners delivered to different marshals, all captured by the privateer *Sabine*.
[37] John Mason to the Secretary of the Treasury, 17 December 1814, no doct. #, Box 611,
Entry 464A, RG 45.
[38] John Mason to John Gooding, 6 December 1814, no doct. #, Box 611, Entry 464A, RG
45.  Gooding, a lawyer, had requested Mason to release the brother of his client, David
McCaughan, after having the vessel *Sabine* relinquish its claim to a bounty.  Mason
refused the request, on the grounds that to grant it would force an American citizen to
remain in captivity who could be exchanged for the prisoner.

extend over private vessels, and the treatment of British sailors by privateers varied widely and prompted numerous allegations of mistreatment. One of the most notorious incidents, according to British prisoners confined aboard the prison ship at Charleston, occurred at the hands of the crew of the *Decatur*. Upon capturing the *Dominica*, American sailors abused the crew of the British ship, confining them in irons on deck during many days of "wet weather," refusing calls for quarter, and attacking individuals who had surrendered their arms. The marshal of South Carolina investigated the affair, and many prisoners alleged inhumane treatment. Interestingly, one prisoner testified that he could not have received better treatment at the hands of the Americans, "except to the plundering of the best part of my cloths [sic], money, my watch, gold chain, and 4 seals I have nothing to complain for." No record exists as to the results of the investigation, but it is unlikely that the alleged perpetrators received any punishment.[39]

The great majority of British prisoners were held in camps scattered throughout the various states. However, in a practice dating back to well before the American Revolution, both the British and the Americans also used prison ships. The advantage of shipboard prisons revolved upon the ease of preventing escapes. The United States relied primarily upon privately owned vessels for prison ships, leasing the ships on a daily or monthly basis. As late as February, 1814, Michael McClary, the Marshal of New Hampshire, asked Mason if the prison ship at Portsmouth should be rented at two dollars

[39] The allegations of mistreatment are found in Thomas Wake to William J. P. Nicholls, 19 October 1813, Doct. # 311, Box 19, Entry 127, RG 94. The positive testimony is found in the testimonial of E. K. Lindo, Charleston, 27 October 1813, no doct. #, Box 19, Entry 127, RG 94.

per day, or simply bought outright for the sum of $1200.[40] Conditions on the ships varied: McClary noted that prisoners under his care had received bedding but not blankets, as he was unsure of his responsibilities for prisoner comforts.[41]

By sending prisoners to many locations, the United States prevented a British attempt to free a large number of prisoners with a single attack. However, dispersing captives to a number of holding sites vastly increased the problem of security. Prisoner escapes were often attempted, with varied results. In one interesting case at Camp Scioto, Ohio, two British prisoners attacked a sentinel while attempting to escape their prison compound. The sentinel shot and killed one of the attackers, and stabbed the other with his bayonet. A court of inquiry was convened to investigate the death, hoping to forestall any British retaliation. After two days of testimony the court determined that the sentinel had committed no offense by shooting James Price during an escape attempt. A copy of the trial record was forwarded to Mason, "that you may with the greater facility, be able to justify the act, if necessary to the British Government."[42]

A particularly thorny problem arose due to the differing views held by Britain and the United States regarding slavery and the service of soldiers and sailors of African descent. Although slavery remained legal in both Britain and the United States, the nature of slavery in each location was quite different. Many sailors of African descent served in the Royal Navy, and as a result, no small number were captured by American forces. The 124 men of African descent captured with British ships at sea were

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[40] Michael McClary to John Mason, 21 February 1814, Doct. # 17, Box 15, Entry 127, RG 94.

[41] Ibid.

[42] Lawrence Williams to John Mason, 23 February 1814, Doct. # 58, Box 12, Entry 127, RG 94. Williams, the Deputy Marshal of Ohio, had ordered the investigation one month earlier.

maintained on separate lists from white sailors.  On the lists, 47 were noted as slaves and 3 were specified as "mullattoes."[43]

Simultaneously, the British routinely raided the coastline of the United States, often capturing and retaining slaves.  Frequently slaves were offered an opportunity to serve in the Royal Navy, especially when slaves were captured by the British while taking an American vessel.  This *de facto* freeing of slaves by British captains infuriated slaveowners.  Furthermore, "the British officers in command at Halifax had separated from other prisoners, and refused to give up or exchange as prisoners of war, Slaves captured on the high seas in one of our vessels."[44]  Mason charged that the British captains on the coastline of the United States "were in the constant habit of receiving the slaves of our citizens on board British ships of war."[45]  These captains refused to return American "property" and tended to either employ the slaves aboard ship or transport them elsewhere in the British territories.  As a result, Mason ordered all deputy marshals to retain any slaves captured at sea, regardless of ownership, to hold back from exchange against the return of American-owned slaves.  Slaves captured by privateers, however, were ruled by Southern courts to be the property of the capturing vessel, and were sold as prizes for the enrichment of the crew.[46]

To the eternal frustration of Mason and other American officials, slaves taken by the British were almost never returned, even after the end of hostilities.  According to

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[43] Ibid.

[44] John Mason to Anthony St. John Baker, 18 July 1815, Doct. 212, Box 11A, Entry 127, RG 94.  Mason claimed that the United States retained no "blacks or people of colour" captured during the war with the exception of former slaves, who were returned to captivity upon capture.

[45] Ibid.

[46] John Mason to Secretary of the Treasury, 17 December 1814, no doct. #, Box 611, E 464A, RG 45.

English law, slaves who set foot in England were immediately made free. British authorities were unwilling to return freedmen to the status of slavery, regardless of American views on the matter. Despite the inclusion in the Treaty of Ghent of a provision forbidding the carrying off of private property, slaves were not returned to American custody. Eventually, the tsar of Russia offered to mediate the issue, and the final decision about slaves taken in the War of 1812 was made on 11 September 1822. A claims board decided the average value of the slaves taken and a definitive list of missing slaves was made by American and British representatives. Negotiations over reparations dragged on for several more years, with the British government agreeing to pay $1,204,960 by 1 August 1827, rather than return the freed slaves. This amount was considerably less than that sought by American negotiators.[47]

Specific complaints regarding captured black seamen can be found in a letter from Barclay to Mason referring to earlier messages sent to Mason requesting the release of "16 Black men captured by the Holkar American Privateer and carried into New London."[48] Barclay also mentioned "some Black Persons, Passengers in the British Sloop Hussar, captured by an American Privateer, and then, and still Prisoners in Savannah, these are also Non-Combatants."[49] In Barclay's opinion, each of the above groups of captives should have been freed by the Cartel of 12 May and allowed to leave American captivity at their earliest convenience. After two weeks of inaction, Barclay again wrote to Mason, requesting the release of non-combatants, including "the four

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[47] Arnett G. Lindsay, "Diplomatic Relations between the United States and Great Britain Bearing on the Return of Negro Slaves, 1783-1828," *The Journal of Negro History* 5 (October 1920): 391-419.

[48] Thomas Barclay to John Mason, 3 July 1813, no doct. #, Box 6, Entry 127, RG 94.

[49] Ibid.

black men who were manumitted by Mr. Dugan, and captured with Mr. Caruthers, particularly when you consider that a very large proportion of the American prisoners brought here in the *Magnet* were people of colour."[50]

Undoubtedly, the location where black prisoners were confined had a certain effect upon their treatment. The Marshal of South Carolina, Morton Waring, was accused by a British agent for prisoners of war, James Dick, of treating black prisoners inhumanely. In his own defense, Waring argued that the white British prisoners were the main source of difficulty in the prison, not the conduct of himself or the guards. In Waring's opinion, prisoners were to be kept "stirring as much as possible, this I knew would contribute to their health, Negroes in general are slothfully disposed," thus the prisoners were ordered to undertake a number of mundane tasks, including cleaning the prison itself. Furthermore, Waring stated, "Since the release of the white Prisoners of war, I have never had any communication with Mr. Dick as British Sub Agent." Waring's defense proved effective in court, as the Judge of the District of South Carolina, John Drayton, stated that Waring "is too much of a gentleman to use any such [harsh treatment] towards them [the prisoners]."[51]

Another important aspect of the War of 1812 was the nature of the enemy forces. The United States and Great Britain each employed Native American allies in a form of quasi-coalition warfare. However, the Indian allies had a much harsher view of how prisoners of war should be treated. Those who survived to be taken prisoner by native

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[50] Thomas Barclay to John Mason, 19 July 1813, no doct. #, Box 6, Entry 127, RG 94.
[51] James Dick to Anthony Thomas Baker, 17 July 1815, Doct. # 30, Box 8, Entry 127, RG 94, and Morton A. Waring to John Mason, 24 August 1815, which includes South Carolina District Court finding of John Drayton, 24 August 1815, Doct. #31, Box 8, Entry 127, RG 94.

allies could expect harsh treatment: nine soldiers taken prisoner at Fort Dearborn on 15

August 1812 complained they had "remained prisoners with the Indians upwards of nine

months, suffering every hardship that human beings do endure from Cold, Hunger &

Fatigue."[52]  Robert Quimby notes that a group of American soldiers surrendered at the

River Raisin near Frenchtown on 22 January 1813, with the understanding that all

American POWs would be held by the British.  The non-ambulatory POWs were left

under the "guard" of British native allies.  Some of these prisoners were killed outright,

while others were placed in the Frenchtown villagers' homes, which were subsequently

set on fire by the native allies.  Approximately sixty American prisoners were killed in

the "River Raisin Massacre."[53]  Other Americans captured at the River Raisin proved

more fortunate, and were ransomed from their Native American captors by the United

States government.  Still other individuals were purchased by local inhabitants, with the

intention of reimbursement.[54]

Not surprisingly, the British and American forces chose to treat captured Native

Americans differently than captured Caucasian troops of the enemy.  Even after the

formal acceptance of the Cartel, the prisoner situation in the west depended upon the

independent decisions of commanding officers.  In one interesting case, a white British

army captain was captured while fighting with a unit of Native Americans.  Captain

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[52] Joseph Bowen and eight other soldiers to Colonel Lewis, 28 March 1814, Doct. # 3, Box 19, Entry 127, RG 94.  For more information on the surrender of Fort Dearborn, see Milo M. Quaife, "The Fort Dearborn Massacre," *Missouri Valley Historical Review* 1 (March 1915): 561-73.

[53] Robert S. Quimby, *The U.S. Army in the War of 1812: An Operational and Command Study,* 2 vols.  (East Lansing: Michigan State University Press, 1997), 137-38; John K. Mahon, *The War of 1812* (Gainesville: University of Florida Press, 1972), 130-31.

[54] Roger Vose[sp?] to John Mason, 15 February 1814; John Graham to John Mason, 10 November 1813; Lewis Cass to the Secretary of War, 21 October 1813; all found in Doct. # 4, Box 1, Entry 127A, RG 94.

Lorimier, who was held with the other members of his unit, announced to his captors that he was "un savage," causing Brigadier General John Boyd, commander of Fort George, to decide "his treatment should be the same as the others."[55]  Major General Francis Rottenburgh, the commanding general of the British Army of the Centre, complained that confining a British officer with his Native American troops was not an act of civilized warfare.  After Rottenburgh's protest, Lorimier was moved to confinement with other British officers.[56]

Lorimer's case was a small part of a series of letters between Boyd and Rottenburgh, in which Rottenburgh wished to exchange American and Indian prisoners for British soldiers and Indian ally prisoners held in the area.  However, Boyd notified Rottenburgh on 4 September 1813, "The powers with which I am vested do not extend to the exchange of prisoners of war."[57]  The question of exchange rested with the President, the Secretary of State, or the commander of American forces in the field.  In the same letter, Boyd noted in regard to Indian prisoners, "They receive such treatment as the customs of war & the feelings of humanity dictate; and I cannot for one moment believe that any Americans in your possession will be placed in a situation likely to subject them to an usage that shall be in violation of both, & may lead to the most painful retaliation."[58]  The ever-present threat of retaliation remained in the letters between

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[55] John R. Boyd to Francis Rottenburgh, 25 August 1813, no doct. #, Box 4, Entry 127, RG 94.

[56] John R. Boyd to Francis Rottenburgh, 13 August 1813, no doct. #, Box 4, Entry 127, RG 94; Rottenburgh, to 23 August 1813, no doct. #, Box 4, Entry 127, RG 94.

[57] John R. Boyd to Francis Rottenburgh, 4 September 1813, no doct. #, Box 4, Entry 127, RG 94.

[58] Ibid.

Rottenburgh and Boyd, and also certainly resonated in the minds of all officers and enlisted personnel so unfortunate as to be captured by the enemy.

The two men with the greatest impact upon American POW policy during the war were John Mason and Thomas Barclay. Mason was the American Commissary General of Prisoners for almost the entire war, Barclay served as an agent for British prisoners for the first two years of the war. They maintained a steady correspondence throughout the war, discussing issues of mutual importance in regard to the British troops confined within the United States. The letters remained polite, but the men disagreed on virtually every aspect of POW treatment. In particular, Barclay was infuriated by the American decision to spread captives to a very large number of locations, a decision which inevitably made his duties more difficult. In a scathing letter to Mason, Barclay argued, regarding British prisoners, "they should be placed in regular established places, and not scattered over the whole United States, or permitted to go at large, or seduced into the American service."[59]

On 1 February 1814, Barclay submitted to Mason a list of proposed amendments to the Cartel of 12 May. A major portion of the amendments revolved around the question of rations issued to prisoners of war by the capturing nation. In his letter, Barclay reminded the United States of both the superior experience of Great Britain regarding prisoners of war, and also of the fact that the majority of British attention remained in Europe. Barclay also accused the United States of moving too slowly to fulfill its commitments under the cartel.[60] Barclay stated that the British government had

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[59] Thomas Barclay to John Mason, 13 July 1813, Doct. # 169, Box 6, Entry 127, RG 94.
[60] Thomas Barclay to John Mason, 1 February 1814, Doct. # 69, Box 12, Entry 127, RG 94. For an examination of British exchange policies of the eighteenth century, see Olive

shipped American prisoners to the United States in good faith immediately after signing

the document, while the United States had used the same time to attempt the recruitment

of British prisoners held in prison camps.[61]

Although Barclay and Mason's relationship was for the most part amicable,

American officials viewed the British agent with some suspicion throughout the war,

quite possibly with good reason. He was ordered to move from Harlem to Bladensburg

in early 1814, to speed communications with the American government. His home in

Bladensburg was visited by a number of British officers during the Chesapeake

campaign, and numerous sources have suggested that he provided whatever intelligence

he possessed, in violation of his duties as agent for prisoners of war. After being forced

to move to Bladensburg, Barclay tendered his resignation as British Agent for Prisoners

of War. He was promptly replaced by George Barton, whose correspondence with

Mason remained extremely cordial throughout the remainder of the war. Barton

remained in his position for only a few months, and the final situation requiring his direct

intervention was the disposal of prisoners held after the Battle of New Orleans. These

prisoners, taken after the Treaty of Ghent had officially ended the war, remained in a

form of diplomatic limbo for months, awaiting the decision of where and how they

should be sent away from the United States. Barton showed a great deal of concern for

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Anderson, "The Establishment of British Supremacy at Sea and the Exchange of Naval
Prisoners of War, 1689-1783," *The English Historical Review* 75 (January 1960): 77-89.
Anderson argues that British policy was to refuse mass exchanges unless the Royal Navy
faced an extreme need for manpower, and to ignore agreements to exchange prisoners
when it was to Britain's advantage to refuse exchanges.
[61] Thomas Barclay to John Mason, 13 July 1813, no doct. #, Box 6, Entry 127, RG 94.

the welfare of prisoners under his care, and remained calm in his letters to Mason, in spite of the extremely slow workings of American bureaucracy.[62]

At all American prisoner depots, agents were appointed by the British to oversee the care of British POWs within the United States. Similar positions were created to ensure the safety and good health of captured American troops held by the British. These agents drew upon the capturing government for funds to clothe and provision their charges. Each nation expected that the costs for prisoners would be included within any peace negotiations at the close of the war. In reality, British agents often drew loans from individual Americans serving as marshals of posts holding prisoners. These marshals were authorized to charge the U.S. government a commission of 2.5 percent on any sums advanced to British prisoners, an option used almost exclusively by officers. The government paid James Prince, the marshal of prisoners in Massachusetts, a net profit of over $4,800 from 1812 to 1814 for what amounted to a part-time career. It requires very little imagination to understand why the secretary of war was inundated with requests for appointments to the position. The most important qualification for the post was the ability to loan large sums of money to the bankrupt American government, which was often slow in repaying its debts. According to the final accounting maintained in the records of the Treasury Department, as of 1 September 1815, Prince was due $92,674.52.[63]

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[62] George Barton to John Mason, 8 March 1815, no doct. #, Box 2, Entry 127, RG 94. See also George Barton to John Mason, 29 June 1815, no doct. #, Box 2, Entry 127, RG 94.

[63] Department of the Treasury, "Copies of Marshals Accounts, Accounts of James Prince, Marshal for Prisoners, Massachusetts, 1812-1815," Entry 315, RG 217.

Exacting payment from the United States government could become a very frustrating process for many of the marshals. W. B. Irish, the marshal of Pittsburgh, repeatedly complained that he had received no money for the upkeep of British prisoners in his care, and noted that he had "frequently had to borrow 4 & 5 hundred dollars of my friends," in addition to building a barracks for the guards and prisoners.[64] The system for payment remained quite unclear, with marshals requesting payment from many sources, including Mason, Monroe, Armstrong, and occasionally President James Madison. As Marshal Michael McClary of New Hampshire noted in one letter, "as the prisoners are now delivered over the cost of their maintenance and all other charges it is expected will be paid."[65] Not only had the marshal advanced funds to feed and house the prisoners, he had also paid the bounty authorized to privateer vessels to obtain the prisoners captured at sea and brought to Portsmouth. This letter, like many others of its kind, went unanswered by Monroe or his staff. By 30 April 1813, the owner of the ship, who had still not been paid, threatened to remove the ship from Portsmouth. McClary's financial woes continued for years, as late as 1817 he wrote to Stephen Pleasonton requesting payment for his services regarding British POWs. Pleasonton disallowed half of the accounts forwarded by McClary, largely on the grounds that they represented double charges. According to McClary, after the double charges were removed the government remained in his debt for over $865, almost three years after the end of the war.[66]

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[64] W. B. Irish to John Mason, 10 April 1814, no doct. #, Box 8, Entry 127, RG 94.

[65] Michael McClary to James Monroe, 15 October 1812. Doct. # 42; and Michael McClary to James Monroe, 27 November 1812; both in Box 15, Entry 127, RG 94.

[66] Michael McClary to Stephen Pleasonton, 17 November 1817, no doct. #, Box 15, Entry 127, RG 94.

Prince, McClary, Melville, and the other marshals illustrate a number of important points within the American prisoner of war policy. The system of maintaining prisoners through the use of civilian agents allowed the military establishment to utilize its manpower on the battlefield rather than at the prison compound. Prisoners in the War of 1812 were held in a number of different locations, preventing the possibility of a single swift British raid to free prisoners from American control. However, at each location for prisoners, the POWs were held in a fairly close concentration. This "concentrated dispersal" allowed American leaders to minimize the number of United States personnel needed to guard prisoners and lessened the impact upon local economies, while still spreading the British prisoners to a number of locations.[67]

The requirements of confinement regarding British prisoners were fairly straightforward. A list of "Rules and Regulations" posted at Frederick Town, Maryland on 14 September 1814 contained a list of guarantees by the American government, particularly that "The prisoners will receive kind treatment." In exchange, each prisoner was prohibited to "pass the limits prescribed him, but by permission of an officer of the guards." Furthermore, prisoners were banned the use of "abusive language, obscenity, disobedience of orders, drunkenness, fighting...and other acts of insubordination." The prisoners were ordered to rise daily at sunrise, to wash themselves and clean their barracks before breakfast. The dinner meal was served daily at one o'clock, and the prisoners were to be in bed by seven o'clock. The prisoners were allowed a certain degree of self-regulation, as they were allowed to "divide themselves into messes, as may be convenient and agreeable to them and shall designate one person as head of each

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[67] For a thorough list of detention facilities, see Dietz, "Prisoner of War," 145-49.

mess." Spiritous liquors were specifically forbidden to the prisoners without the explicit

permission of the marshal. Other regulations included a daily sick call, a provision that

the prisoners would launder their own clothes twice per week, and a promise that "The

Ear of the Marshal will be open to all reasonable complaints and remedy promptly

afforded. . . . The unreasonable will be disappointed."[68]

Guard regulations at Frederick Town were also clearly enumerated. The

necessary force was determined to be two commissioned officers, two corporals, and

forty privates, with half of the force on duty at all times. The guards' orders allowed

only four prisoners to be allowed out of confinement at any given time, to be guarded at

all times by an armed soldier. Of particular interest is the final order, that "No soldier

must leave camp, but with leave of a Commissioned Officer, nor must any man abuse a

Prisoner or strike him on any occasion, but such as the Laws will justify, as in the

defense of his person, the prevention of escapes & preservation of the peace."[69]

An attached note to the commander at Frederick Town established the rations to

be given to the prisoners on a daily basis. Each prisoner was to receive one half pound of

fresh or salted meat; one and one half pounds of wheaten bread; one half pint of peas or

one pound of potatoes; and one tablespoon of salt per day. Disorderly prisoners were

subject to confinement or two-thirds ration for no more than ten days. The commander

of the prison was to furnish clothing, blankets, beds, wines, spirits (despite their

prohibition), sugar, molasses, tea, coffee, and camp kettles to the prisoners, with the

eventual cost of the items to be paid by the British government. The regulations were in

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[68] "Rules and Regulations," Frederick Town, MD, 14 September 1814, Doct. # 4, Box 11A, Entry 127, RG 94.
[69] Ibid.

strict compliance with the Cartel of 12 May, although actual practice may have varied somewhat from the prescribed regulations.[70]

The conduct of American captors toward British prisoners of war varied by locale, and depended primarily upon the disposition of individual American commanders of POW locations.  Overall, POW treatment appears to have been fairly lenient, and British officers in particular were pleased by the conditions of their captivity.[71]  The commander at Pittsfield, Major Thomas Melville, announced in a letter to Prevost that "the American Government will pride itself on giving the examples of liberality to its enemy."  Melville complained that the British decision to ship all American forces captured in North America to Halifax, resulting in serious overcrowding and poor living conditions, was an inhumane decision which could prompt American retaliation against British prisoners.[72]

Due to Melville's compassion and leadership, the prison at Pittsfield was probably one of the best locations at which a British prisoner could hope to be held. Melville's recordkeeping was very meticulous, as shown by a list of expenditures made

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[70] Ibid.

[71] In one interesting case, two hostage prisoners of war requested that "Major Melville [the American deputy marshal of Pittsfield, MA] will accept the tribute of their unfeigned acknowledgement for the very Gentlemanly & humane treatment which Major Melville has uniformly manifested towards them in the exercise of his official duties as Marshal and Agent of Prisoners of War."  "Testimonial of Lt. Col. Grant and Major Powell (Hostage Prisoners of War)," 8 May 1814, no doct. #, Box 20, Entry 127, RG 94.  Grant also wrote a personal letter to Major Melville attesting that Pittsfield prison was well-kept, and requesting that Melville continue to act as the POW agent for British prisoners confined at the prison, C. W. Grant to Thomas Melville, 7 May 1814, Doct. # 48, Box 20, Entry 127, RG 94.  Another testimonial to Melville's conduct, written by six officers confined at Pittsfield, was sent to Thomas M. Moore, Agent for British Prisoners of War, 12 December 1813, no doct. #, Box 20, Entry 127, RG 94.

[72] Thomas Melville to George Prevost, 7 January 1815, Doct. # 112, Box 20, Entry 127, RG 94, and Thomas Melville to George Prevost, 7 January 1815, Doct. # 113, Box 20, Entry 127, RG 94.

by the prison for the upkeep of the hundreds of British POWs held in 1814. For the

months of September through November, Melville spent almost $15,000 on rations for

924 British prisoners, and close to $20,000 to clothe the same prisoners in preparation for

the winter.[73] Melville acted as both warden of the prison and agent for the prisoners kept

within Pittsfield, appealing directly to Prevost for payment, in specie, of debts assumed

while caring for POWs.[74] The "Pittsfield Cantonment," consisted of two barracks, each

with twelve rooms and two stories. Each room was designed to house twenty prisoners,

with individual bunks provided. Officers were housed in ten double rooms in the

officers' quarters, with two mess rooms and a separate kitchen. A hospital and guard

house completed the buildings of the compound, which was located a few hundred yards

from the village of Pittsfield.[75]

     The Pittsfield location was fairly typical of the prison compounds utilized by the

United States during the war, and could not hold more than several hundred prisoners at

any time. Colonel Elisha Jenkins, who inspected a number of such compounds in 1813,

notified Armstrong that the prisons were adequate to the provisions of the Cartel of 12

May, and recommended that the regulations to be observed regarding prisoners of war be

formally furnished to the officers at each camp. Jenkins was critical of the decision to

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[73] Thomas Melville, "Abstract of Supplies made and to be made to British Prisoners of War," 27 November 1814, no doct. #, Box 20, Entry 127, RG 94. The total spent on "Supplies made" for rations was $14,655.75, and allotted for "Supplies making by Approximations" for clothing was $19,827.30.

[74] One excellent example of these requests can be found in Thomas Melville to George Prevost, 24 November 1814, requesting the sum of $7,500 and reiterating a request for $16,000, placed in an earlier correspondence., no doct. #, Box 20, Entry 127, RG 94.

[75] Thomas Melville to Elisha Jenkins, 13 July 1813, Doct. # 114, Entry 127, Box 4, RG 94.

house prisoners at Greenbush, New York, as "the inhabitants . . . are whigs, almost to a man," and might prove quite sympathetic to the British prisoners confined in the area.[76]

British practice, in contrast with that of the United States, was to consolidate American prisoners at a few locations. The British maintained thousands of prisoners taken in Europe during the Napoleonic Wars, and thus American prisoners were only a small minority of the total prisoners in custody from 1812 until 1815. Halifax was the most common destination for American prisoners, particularly those captured upon the Canadian frontier. As late as January 1, 1815, Halifax held almost 2000 American prisoners. By March 26 of the same year, this number had dwindled to 420, with the difference caused almost entirely by prisoner exchange.[77]

According to most reports, both British and American prisoners received for the most part, ample food, adequate clothing, and enough blankets for at least a minimum of comfort while detained as prisoners of war. However, in the fall of 1814 a very disturbing report surfaced concerning prisoners held by the British at Melville Island. The American Agent for Prisoner of War, John Mitchell, notified John Cochet, a British captain at Halifax, that prisoners had found tobacco, dirt, and ground glass in their bread rations. After a number of communications, Cochet informed Mitchell that the foreign substances had been removed from the bread ration, but that the prisoners could not expect any better treatment until officially exchanged, suggesting that the British wished

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[76] Elisha Jenkins to John Armstrong, 13 July 1813, no doct. #, Box 4, Entry 127, RG 94.
[77] Jesse Williamson to Sutherland & Grant, 26 March 1815, Doct. # 4, Box 13, Entry 127, RG 94. The document contains a bill for the cost of rations provided to American prisoners, with a daily tally of prisoners present and rations issued. The bill was to be paid by the United States to Williamson, the "United States Agent for the Exchange of American Prisoners of War."

to exert all possible pressure for exchanges.[78]  Donald Hickey has argued that the British made captivity deliberately hard upon maritime prisoners, in the hopes that captured Americans would enlist in the Royal Navy in exchange for their release from prison.[79]

Prisoner exchanges during the War of 1812, begun in 1812 and officially sanctioned by the Halifax agreement and the Cartel of 12 May, were in practice extremely complex and slow-moving affairs.  British attempts to facilitate exchanges continued throughout the duration of the war, but were often stymied by the United States.  On 25 January 1814, Prevost proposed a general exchange of all non-hostage prisoners.[80]  Prevost's suggestion was almost a complete reversal of the Cartel of 12 May, and a great departure from previous British policies.[81]  The willingness to meet at any place upon the lines is of special interest, as it signified a compromise from the previous British insistence upon cartel ships for the delivery of prisoners of war to exchange depots.

An exchange agreement was created according to Prevost's suggestions, and was signed on 16 April 1814 by Brigadier General William H. Winder and Colonel Edward Baynes.  This agreement included provisions to release all prisoners held by each side, regardless of rank, and to hold neither side responsible for any financial obligations to the other.  All prisoners released by the agreement were to be considered exchanged and available for duty on 15 May 1814.  The agreement, as negotiated by Winder, who was in fact a former prisoner of the British, was rejected by President Madison, on the grounds

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[78] John Mitchell to John Cochet, 15 September 1814; Mitchell to Cochet, 16 September 1814; Cochet to Mitchell, 17 September 1814, no doct. #'s, Box 7, Entry 127, RG 94.
[79] Hickey, *War of 1812*, 177.
[80] "Copy of Sir George Prevost's proposition," 25 January 1814, no doct. #, Box 14, Entry 127, RG 94.
[81] Anderson, "Establishment of British Supremacy."

that the hostages should all go free as well, and modifications to the agreement were made and approved on 16 July 1814.  Although each side had formally agreed to exchange all prisoners of war, the actual practice of exchange was an extremely time-consuming and difficult business.  There was virtually no possibility that the prisoners would all return to their respective homes in less than one month.[82]  According to the convention, all prisoners with the exception of the twenty-three "Irish traitors," twenty-three British soldiers initially held as hostages, and forty-six American officers and non-commissioned officers held as hostages at Halifax were to be released.[83]

One of the most fundamental uses of prisoners of war is as a potential source of intelligence regarding the enemy's location, intent, and armament.  The War of 1812 was certainly no exception to the ages-old custom of questioning prisoners of war.  During the war, the most useful sources of information often proved to be British deserters rather than members of units captured on battlefields.  For obvious reasons, officers were a much more valuable source of information than enlisted personnel.  However, the military leaders of the United States did not neglect the possibility of extracting useful information from individual soldiers, and regular reports of interrogations flowed into the hands of the commissary general of prisoners, the secretary of war, individual commanders, and the secretary of state.  An excellent example of the interrogation of

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[82] "Convention between Brigadier General W. H. Winder, and Colonel Edward Baynes on the part of Sir George Prevost," 15 April 1814, no doct. #, Box 10, Entry 127, RG 94; "Colonel Lear's Amendments to the foregoing made and confirmed July 16th, 1814,"16 July 1814, no doct. #, Box 10, Entry 127, RG 94; "Brigadier General W. H. Winder's Convention," 15 April 1814, and "Colonel T. Lear's Amendments to Brigadier General W. H. Winder's Convention," 16 July 1814, Doct. # 26, Box 1, Entry 127A, RG 94.
[83] Robinson, "Retaliation," 68-69.  See Anderson, "The Establishment of British Supremacy," for a discussion of the rarity of a complete exchange involving British forces.

prisoners comes from the "Examination of British Deserters" received by American commanders shortly after the burning of Washington. In this brief document, Robert Gardner detailed the size of the British force, its origins, its intentions, and the general condition of the men within the force, all garnered from the brief interrogation of a number of British soldiers who deserted the British Army.[84]

After the Battle of New Orleans, Major General Andrew Jackson arranged a battlefield exchange of prisoners with the British Commander, General John Lambert, but this agreement was sent to Washington for authorization prior to the release of the captives. Four hundred sixty six men were returned to the British, in exchange for Americans held throughout the Caribbean, primarily at Nassau.[85]

Despite the focus upon the rapid exchange of prisoners, cartel ships continued to sail for several months after the end of the war, with prisoners becoming increasingly anxious to return to their homes. In one incident, prisoners aboard an American cartel ship, the *Mary Ann*, mutinied while returning from Plymouth, England to Norfolk, Virginia. The prisoners revolted due to the poor rations provided for their voyage, and refused to continue until their situation was improved. Further angering the passengers, the number of prisoners placed upon the *Mary Ann* was lower than the number intended for exchange, without explanation from the British captors.[86] Possibly the worst aspect of the journey for the returning prisoners was the destination, almost none of the

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[84] Robert Gardner, "Examination of British Deserters," 30 August 1814, no doct. #, Box 19, Entry 127, RG 94. The examination estimated that 6,000 British troops had attacked, including four regiments of infantry, one thousand marines, two hundred sailors, and a rocket company of forty men, supported by only two or three small fieldpieces.

[85] Disslissis [spelling unclear] to John Mason, 24 March 1815, Doct. # 41, Box 15, Entry 127, RG 94.

[86] Ebenezer Learned, "Public Instrument of Protest," 9 June 1815, Doct. #'s 25-30, Box 5, Entry 127, RG 94.

prisoners were from Virginia.  According to testimony from the master of the *Mary Ann*, on 2 June 1815, the prisoners seized control of the ship and set a new course for New York.  Upon arrival, the American crew discovered many small articles missing from the ship after the prisoners disembarked.[87]

Although exchange policies were designed to send prisoners back to their home countries as rapidly as possible, the actual practice of the War of 1812 was to hold prisoners for a fairly long duration, with the exception of immediate battlefield exchanges.  As has been noted, hundreds of prisoners were still held by each side for months after the signing of the Treaty of Ghent.  The result of this prolonged captivity was occasionally deadly, as shown in the case of the Dartmoor Prison riot of April 6, 1815, in which five American prisoners were killed and thirty four were wounded by British guards.[88]  Dubbed the "Dartmoor massacre" in the United States, this unfortunate incident marked the last significant event in the prisoner of war history of the War of 1812.

Retaliatory measures by the United States primarily consisted of holding British prisoners as hostages against the safe treatment of American citizens.  These hostages were typically confined in city or county jails, rather than in specially constructed federal prisons.  This lessened the expense of maintaining the hostage prisoners, but also

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[87] Learned, "Public Instrument." Doct. # 26.

[88] For more on the Dartmoor prison riot, see Charles King to J. Q. Adams, 26 April 1815, Doct. # 77, Box 9, Entry 127, RG 94, and Charles King and Francis Seymour Larpent, "Report on the Investigation at Dartmoor Prison," 26 April 1815, Doct. # 18, Box 9, Entry 127, RG 94.  See also Charles Andrews, *The Prisoners' Memoirs or Dartmoor Prison* (New York: Self-Published, 1815); *Horrid Massacre at Dartmoor Prison* (Boston: Nathaniel Conerly, 1815); Reginald Horsman, "The Paradox of Dartmoor Prison," *American Heritage* 26 (February 1975): 13-17; John Melish, *A Description of Dartmoor Prison, with an Account of the Massacre of the Prison* (Philadelphia: Self-Published, 1815).

presented a potential conflict of interest between individual states and the federal

government. This conflict erupted in Massachusetts in early 1814, when the state

legislature passed a law ordering all British POWs held in city or county jails to be freed

unless removed by the president within ten days. This law was not well received by the

marshal of Massachusetts, James Prince, who protested that the British prisoners had

never been placed into a county jail "without first ascertaining from the County Officer

that the interest of the county will not be impacted by their confinement therein." Prince

advised Mason that the United States should consider removing prisoners altogether from

state control, although he did not offer any suggestions of practical alternatives.[89]

British troops placed in close confinement complained to Barclay that their health

was in great danger due to their situation, in which they were not provided soap, clean

clothes, or the necessities of life. Particular emphasis was placed upon the lack of

tobacco in their confinement. The prisoners noted, "we at all times consider it not

consistent with the character of a British Soldier to complain, we cannot help it at this

time," and expressed the belief that the fault lay not with the United States, but rather

with the British government, which had not maintained enough interest in the prisoners to

see to their needs.[90] According to the letter, no British agent had been seen by the

prisoners for four months, and during the previous visit, each prisoner had been given a

single dollar to use for purchasing their necessary supplies beyond rations.

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[89] James Prince to Caleb Strong, 4 February 1814, Doct. # 33, Box 19, Entry 127, RG 94, and James Prince to John Mason, 4 February 1814, Doct. # 32, Box 19, Entry 127, RG 94.
[90] Anthony Walsh to Thomas Barclay, 12 April 1814, Doct. # 26, Box 10, Entry 127, RG 94.

In one of strangest incidents of the war pertaining to prisoners, John Smith, the marshal of Pennsylvania, was forced to write a letter to Mason, dated 29 April 1814, explaining the escape of nineteen officers held in close confinement in Philadelphia. These officers were part of the series of retaliatory measures adopted by Britain and the United States, and should have received extra attention from their captors.[91] Despite the obvious importance of maintaining a close watch on men held in close confinement, the guard complement for the prison was reduced to four men, apparently without notifying the marshal. The officers were able to procure a saw in some unknown manner to cut the iron bars covering the third story mess window. The men then created a rope ladder from bed sheets and climbed to the ground on the night of 24 April 1814.[92]

During the War of 1812, the United States made a deliberate effort to utilize POW labor. Individual British prisoners were allowed on an infrequent basis to practice some form of trade or craft, often for their own financial benefit. This practice allowed vital skills to be utilized by local areas, while also motivating prisoners to contribute their labor to the enemy. At times, American captors compelled prisoner labor, rather than simply allowing it to occur. Barclay's letter of 26 May 1814 asked Mason to investigate the case of two British prisoners taken from the prison at Pittsfield, Massachusetts by Melville, the deputy marshal of the post. Barclay complained that Melville removed the two prisoners and "either employed them himself, or suffered them to be employed by some of his friends as Servants or laborers."[93] The crux of the matter, to Barclay, was whether or not the prisoners had been returned to their regiment to be exchanged

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[91] John Smith to John Mason, 29 April 1814, no doct. #, Box 16, Entry 127, RG 94.
[92] Ibid.
[93] Thomas Barclay to John Mason, 26 May 1814, no doct. #, Box 6, Entry 127, RG 94.

together. The notion that employing prisoners for labor was not allowed by international law did not seem to occur to Barclay, who was quick to complain of any real or perceived insult to the honor of captives under his nominal care. Although no international law specifically allowed the use of prisoner of war labor, it can be inferred that the use of captives for labor was acceptable, provided that the labor force was not withheld from exchange with other prisoners, and that officers were not forced to work.

The prisoner of war bureaucracy established by the United States was hindered by the slow speed of communications, and the unwillingness of individual commanders to overstep their responsibilities. As of 25 February 1815, a number of British officers remained confined in Raleigh, North Carolina, despite the end of the war and the nearby presence of their own ships, immediately off the American coastline. George Barton was forced to ask Mason to direct the Marshal of North Carolina "to permit all British officers in his custody to avail themselves of any opportunity to join their ships, which may present itself prior to the sailing of a cartel from Wilmington."[94] The United States adopted a system of maintaining prisoner agreements to a very strict interpretation, even when simpler and more humane solutions were presented. The policy of returning all prisoners through proper channels remained in force for over one century, through the end of World War II, and was not ended until the armistice talks of the Korean War.

At the end of the war, the Commissary General of Prisoners was required by the Treasury Department to create a final account of all appropriations for the care and safekeeping of British prisoners. The United States Congress had appropriated $100,000 on 6 July 1812, for the Commissary General. This was followed by an appropriation of

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[94] George Barton to John Mason, 27 February 1815, no doct. #, Box 7, Entry 127, RG 94.

$150,000 on 3 March 1813, an additional $400,000 on 24 March 1814, and a final

$500,000 on 16 February 1815.  When other expenses were added to the initial

appropriations, the total bill for prisoner of war maintenance amounted to $1,194,425.32,

submitted for payment to the government of Great Britain.[95]  This bill was

counterbalanced by British costs for the upkeep of American prisoners of war, and would

remain the subject of diplomatic negotiations for years to come.

The legacy of the prisoner of war decisions made during the War of 1812 lasted

through World War II.  The most important decisions made during the war, and

consequently the longest lasting effects of the war with regard to POWs, were the

decisions to practice strict retaliation for the actions of the enemy; the collective dispersal

of prison compounds; the use of prisoner labor; and the creation of a single POW

command structure to house and care for all prisoners, whether captured on land or at

sea.  These aspects of prisoner policy, with modernization and some modifications,

remained the foundation of American prisoner of war practice for over a century.

The prisoner of war decisions of the War of 1812 had proved to have a great

impact upon the Civil War and the World Wars of the twentieth century.  However, these

decisions did not have a significant effect upon the prisoner of war policy implemented in

the first conflict involving the United States to follow the War of 1812.  In the Mexican

War, the United States radically altered its policy to suit the needs of a small army on

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[95] Treasury Department, "Statement of the appropriations for the safe keeping & accommodation etc. of prisoners of war," n. d., no doct. #, Box 18, Entry 127, RG 94. Beyond the initial appropriations, the statement contains the total bills presented by individual marshals, the cost of cartel ships, and the interest due on Treasury Notes used to finance the care of prisoners.

foreign soil, surrounded by a hostile population.  The lessons of the War of 1812 would

not be truly implemented by the War Department for another fifty years.

**CHAPTER IV**

**PRISONERS ON FOREIGN SOIL: THE WAR AGAINST MEXICO**

Between the end of the War of 1812 and the beginning of the Mexican War, American military planners devoted little or no time to learning the lessons of the War of 1812 about POWs. The wartime army was rapidly reduced in size, and most army regulars were sent westward for frontier duty. Officers educated at the United States Military Academy received scant training in the laws of war, and what they learned revolved around the definition of a just war, not ethical battlefield behavior.[1] Cadets read excerpts from Grotius and Vattel, and discussed the customs of civilized warfare, but received no practical training regarding the capture and maintenance of prisoners of war.

International law on prisoners did not change significantly during the first half of the nineteenth century, although practices in Europe became less humane during the Napoleonic Wars, when the sheer number of prisoners led to deplorable conditions in England and on the continent. At the beginning of the wars, in September 1793 and May 1794, the French revolutionary government "prohibited ransoming of prisoners, and ordered that all émigré prisoners, and later British, Hanoverian, and Spanish captives as well, be shot as an 'example of the vengeance of an outraged nation.'"[2] Some commanders on each side maintained earlier customs, refusing to execute prisoners, but

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[1] James L. Morrison, Jr., *"The Best School in the World": West Point, the Pre-Civil War Years, 1833-1866* (Kent, OH: Kent State University Press, 1986), 91-93.

[2] Quote is in Michael Howard, George J. Andreopoulos, and Mark R. Shulman, eds., *The Laws of War: Constraints on Warfare in the Western World* (New Haven, CT: Yale University Press, 1994), 88; see also Alfred Vagts, *A History of Militarism,* rev. ed. (New York: Meridian Books, 1959), 113-14; John A. Lynn, *The Bayonets of the Republic* (Urbana: University of Illinois Press, 1984), 97-118.

the number of prisoners taken on each side overwhelmed the systems designed to

maintain them.[3]  Prisoner exchanges rarely occurred, and no exchange cartels were used

during the conflict.  Most enlisted captives were forced to wait for an end to the conflict.

In the decades after the Congress of Vienna in 1815, when the wars officially ended, very

little effort was made by any of the belligerents to evaluate prisoner practices.

American prisoner of war policy during the Mexican War differed significantly

from previous experiences.  No single POW policy governed the behavior of American

commanders in the field-each commander established his own policy.  The problems

associated with holding prisoners while occupying foreign territory with a relatively

small military force caused Major Generals Winfield Scott and Zachary Taylor to release

captured enemies on parole.  This policy saved the personnel and expense associated with

maintaining prisoners, but on numerous occasions paroled individuals were found again

fighting against American troops.  Occasionally, high ranking officers were detained, or

even shipped to the United States to prevent their return to the battlefield, but for the

most part American troops quickly released any prisoners taken.  Related to the question

of prisoners of war in Mexico was the problem of desertion from the American army, and

how to handle deserters caught fighting for the enemy.  Near the end of combat

operations, American policy underwent a radical change, as President James K. Polk

ordered Scott to end mass paroles, and American troops began to hold significant

numbers for a protracted period.

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[3] For a description of one of the worst continental prison compounds of the war, see
Denis Smith, *The Prisoners of Cabrera: Napoleon's Forgotten Soldiers, 1809-1814*
(New York: Four Walls Eight Windows, 2001).  For French prisoners in Britain, see
Gavin Daly, "Napoleon's Lost Legions: French Prisoners of War in Britain, 1803-1814,"
*History* 89 (July 2004): 361-80.

Pinpointing the exact number of prisoners taken in the war is virtually impossible,

due to the lack of accurate record-keeping by the American forces, and the decision to

release almost all of the prisoners on parole.  However, it is certain that the armies under

Taylor and Scott each captured a sizeable number of prisoners in several battles.  By

comparison, the Mexican Army captured a relatively small number of American troops.

At no time in the war did Mexico have more than a few hundred American POWs, and

American prisoners were quickly freed through the use of battlefield exchanges.  Unlike

the War of 1812, the United States maintained a positive balance of captures in Mexico.

Many of the standard works discussing the war give no mention of prisoners,

despite the capture of thousands of Mexican soldiers in both the northern and southern

theaters of the war.  Often, prisoners are simply dismissed within lists of enemy

casualties at specific battles, with no reference to the disposition of Mexican POWs.[4]

The only captives to generate a significant body of literature were the San Patricio

Battalion, comprised largely of deserters from the U.S. Army.  Most historians who

mention Mexican prisoners argue they were insignificant to the outcome of the war, and

did not represent a substantial percentage of the forces engaged.  Individual diaries and

memoirs occasionally mention prisoners, but do not consider them a central theme of the

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[4] Works that ignore or marginalize POWs during the Mexican War include Otis A.
Singletary, *The Mexican War* (Chicago: University of Chicago Press, 1960); Horatio O.
Ladd, *History of the War With Mexico* (New York: Dodd, Mead, & Co., 1882); John
Edward Weems, *To Conquer a Peace: The War between the United States and Mexico*
(Garden City, NY: Doubleday, 1974); Cadmus M. Wilcox, *History of the Mexican War*
(Washington, DC: Church News Publishing Co., 1892); Philip Berry, *A Review of the
Mexican War on Christian Principles* (New York: J. S. Ozer, 1849); John Porter Bloom,
"With the American Army Into Mexico, 1846-1848" (Ph.D. diss., Emory University,
1956); Robert S. Ripley, *The War with Mexico,* 2 vols (New York: Harper and Brothers,
1849); Lewis and Mewha, *Prisoner of War Utilization*, 25-26.

war.[5] One rare exception is George Wilkins Kendall's *Dispatches from the Mexican War,* which often refers to POWs, including lists of captured officers. Kendall was frequently critical of the POW decisions made by Scott in his advance upon Mexico City, particularly when discussing the fate of the San Patricio Battalion.[6] Unit histories also rarely discuss POW issues, unless the unit being described had a specific connection to prisoners.[7]

Some of the issues of prisoner of war treatment followed precedents created during the War of Texas' Independence (1835-36) and the skirmishes that followed between the Republic of Texas and Mexico. Texan leaders considered Mexican soldiers taken prisoner to be hostages rather than POWs, useful bargaining chips in the political fight for independence. By December 1835, the Texan forces held over one thousand POWs, most taken at the siege of San Antonio. These captives were freed, without giving their parole, when the Texan forces were unable to guard and feed them. The Mexican treatment of captured Texans was radically different: Santa Anna ordered that no prisoners be taken at the Alamo on 6 March 1836. On 27 March, he ordered the

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[5] For examples, see Robert Ryal Miller, *The Mexican War Journal and Letters of Ralph W. Kirkham* (College Station: Texas A&M University Press, 1991); Frederick Zeh, *An Immigrant Soldier in the Mexican War,* eds. William J. Orr and Robert Ryal Miller (College Station: Texas A&M University Press, 1995); and Robert Ryal Miller, *Shamrock and Sword* (Norman: University of Oklahoma Press, 1989).

[6] George Wilkins Kendall, *Dispatches from the Mexican War,* ed. Lawrence Delbert Cress (Norman: University of Oklahoma Press, 1999)*,* 382-88.

[7] One example of this relationship is contained in Randy W. Hackenburg, *Pennsylvania in the War with Mexico* (Shippensburg, PA: White Mane, 1992), 40, 54-55. The 2nd Pennsylvania Regiment was detailed to guard prisoners captured at Cerro Gordo, and was not included in the Battle of Molino del Rey due to its guard duties. Contemporary accounts within the work suggest the soldiers of the guarding regiment were frustrated by not being allowed to join in the assault upon the city, and viewed guard duty as something of a punishment detail. In each case, the guard duty lasted a few days at most, as prisoners at each location were paroled *en masse*.

execution of all prisoners taken at Goliad: of the 445 prisoners, 342 were executed. The remainder escaped by running away at the commencement of the executions. The Texans took their revenge at San Jacinto on 21 April 1836, where they "clubbed, knifed, and shot the wounded."[8] After the executions, Sam Houston retained 730 Mexican prisoners, including President Santa Anna. The prisoners were sent to Galveston to work on fortifications, or were assigned to individual citizens as laborers. Negotiations to exchange prisoners dragged on for months, and the last Mexican prisoners did not leave Texas until May 1837.[9]

In the five years following its War of Independence, Texan forces launched two major excursions into Mexico, both of which failed. The first was an attack on Santa Fe, begun 12 June 1841, launched in the belief that local civilians would prefer to be part of the Republic of Texas rather than Mexico. The Texans were intercepted and disarmed by Mexican Regulars, then sent to Mexico City for imprisonment. The Mexican response was to attack San Antonio, capturing the city on 5 March 1842 and again on 11 September 1842, in each case taking prisoners before withdrawing across the Rio Grande. The second Texan attack was undertaken by three hundred volunteers who ignored Sam Houston's order to remain north of the Rio Grande. Anticipating plunder, they attacked the city of Mier, where they were captured by two thousand Mexican troops on 25 December 1842. The captives marched to Perote, where they spent two years performing forced labor. These prisoners viewed themselves as prisoners of war,

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[8] Margaret Swett Henson, "Politics and the Treatment of the Mexican Prisoners after the Battle of San Jacinto," *Southwestern Historical Quarterly* 94 (October 1990): 193.

[9] Ibid., 189-90. Santa Anna left in December of 1836, when he was sent to Washington, DC to discuss the question of Texan Independence with Andrew Jackson. Kenneth Rueben Durham, Jr., *Santa Anna: Prisoner of War in Texas* (Paris, TX: Wright Press, 1986), 63-91.

as they had been organized by the Texan government, but they were considered bandits

by the Mexican government. "Since no declared war existed, they hardly viewed the

Texans as prisoners of war…The observance of international law then becomes a matter

of perspective."[10]  The prisoners attempted a mass escape on 11 February 1843, of the

176 recaptured, seventeen were executed as a warning to the remaining prisoners.[11]

Within the Texas legislature, several motions were made for an attack to free the

prisoners at Perote, but the prisoners were held until September of 1844, when British

and American diplomats requested their release.[12]  Once freed, many of the Texan

prisoners became Texas Rangers, and volunteered their service during the Mexican War.

In every theater of the war, Texas volunteers, especially Texas Rangers, earned a

notorious reputation for brutality to prisoners and civilians.[13]

Prior to the declaration of war, Taylor took interest in the issue of POWs.  On 24

April 1846, he sent a party of dragoons to observe Mexican movements near the Rio

Grande.  Commanded by Captain T. B. Thornton, the unit was ambushed and

approximately fifty soldiers surrendered.  The American prisoners were immediately sent

to Matamoras, where they received exceptional treatment before being sent to the interior

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[10] William Preston Stapp, *The Prisoners of Perote*, ed. Joe B. Frantz (Austin: University of Texas Press, 1977), xviii.  For two other works describing the Texan prisoners held at Perote, see Joseph D. McCutchan, *Mier Expedition Diary: A Texan Prisoner's Account,* ed. Joseph Milton Nance (Austin: University of Texas Press, 1978); and Samuel H. Walker, *Samuel H. Walker's Account of the Mier Expedition*, ed. Marilyn McAdams Sibley (Austin: Texas State Historical Association, 1978).  For a discussion of the expeditions from the Mexican perspective, see M. A. Sanchez Lamego, *The Second Mexican-Texas War 1841-1843* (Hillsboro, TX: Texian Press, 1972).

[11] Sam W. Haynes, *Soldiers of Misfortune: The Somervell and Mier Expeditions* (Austin: University of Texas Press, 1990), 123-27.

[12] Stanley Siegel, *A Political History of the Texas Republic, 1836-1845* (Austin: University of Texas Press, 1956), 214, 217; Stapp, *Perote*, xix.

[13] Stephen B. Oates, "Los Diablos Tejanos!" *The American West* 2 (Summer 1965): 44-50; Walker, *Mier Expedition*, 10.

of Mexico. Generals Pedro de Ampudia and Mariano Arista housed and fed the officers

of Thornton's command, who reported great satisfaction with the accommodations.[14]

After the battles of Palo Alto on 8 May and Resaca de la Palma on 9 May 1846,

Taylor was able to exchange sufficient prisoners to obtain the release of Thornton's

command. Before the exchange, the wounded among Taylor's prisoners were sent to

Matamoras, after the exchange, the remaining prisoners were released upon parole. A

few of the highest-ranking officers refused to give their parole, and were sent to New

Orleans to be held for the duration of the war. Taylor requested instructions for handling

prisoners who refused to give paroles, and asked that they be well-treated, as freed

Americans reported excellent conditions in the hands of the Mexicans.[15] Secretary of

War William L. Marcy commended Taylor for his decision to parole the POWs, and

conveyed the approval of President Polk as well.[16]

As Taylor moved deeper into Mexico, Polk began to view prisoners of war as a

way to "conciliate the inhabitants, and to let them see that peace is within their reach the

moment their rulers will consent to do us justice."[17] Through Marcy, Polk ordered

Taylor to counteract the attempts of Mexican newspapers to "prejudice and exasperate

the minds of the people against us," by practicing kindness toward the populace and

captured enemy troops.[18] Polk also ordered Taylor to interact with Mexican officer

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[14] Taylor to the AG, 26 April 1846; Taylor to the AG, 3 May 1846; Thornton to W. W. S. Bliss, 27 April 1846; W. T. Hardee to Taylor, 26 April 1846; all found in *Messages of the President on the Subject of the Mexican* War, 30th Cong., 1st Sess., 1848, H. Exec. Doc. 60, Serial 520, 288-92. (Hereafter cited as H. Doc. 60)

[15] Taylor to the AG, 12 May 1846, H. Doc. 60, 297. The officers sent to New Orleans included General La Vega and a few members of his staff.

[16] Marcy to Taylor, 9 July 1846, H. Doc. 60, 333.

[17] Ibid., 333.

[18] Ibid.*,* 334.

POWs as much as possible, and to convey the wish of the U.S. government to begin peace negotiations, but not to actually open any negotiations. He was to inform the Mexican commanders of the willingness of the United States to create an "honorable peace, whenever such shall be their wish."[19]

Taylor acknowledged the president's wishes, but complained that the use of volunteers made conciliatory efforts difficult, because these uncontrollable troops continually committed excesses against the enemy citizens and property.[20] Exasperated by the atrocities committed by Texans, he eventually requested that no more Texan troops be sent to augment his force in northern Mexico.[21] Mark Nackman notes, "In the field, the Texans who went on expeditions in search of Mexican guerrilla parties almost never took prisoners. Having hunted them down they simply shot them on the spot."[22] Rangers routinely abused and murdered Mexican civilians, even citizens serving as guides and interpreters were not safe from the Texas cavalry units.[23]

During negotiations with Ampudia regarding the surrender of the city of Monterey, Taylor demanded that the town's garrison surrender as POWs. The garrison was to be paroled and sent to the interior of Mexico to await exchange, which would increase the balance of prisoners in favor of the United States without the necessity of feeding and protecting the prisoners.[24] Mexico, which did not hold a significant number of American captives, could not exchange the Monterey defenders. To avoid an

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[19] Ibid., 333.

[20] Zachary Taylor to James K. Polk, 1 August 1846, H. Doc. 60, 336-38.

[21] Zachary Taylor to the AG, 16 June 1847, H. Doc. 60, 1178.

[22] Mark E. Nackman, "The Making of the Texan Citizen Soldier, 1835-1860," *Southwestern Historical Quarterly* 78 (January 1975): 243.

[23] Frank S. Edwards, *A Campaign in New Mexico with Colonel Doniphan* (Philadelphia: Carey and Hart, 1847), 155.

[24] Taylor to Ampudia, 24 September 1846, H. Doc. 60, 348-9.

American attack upon the lightly defended city, Ampudia agreed to Taylor's demands.[25]

A few weeks after the surrender of Monterey, Taylor discovered that a few Americans

POWs had been moved to San Luis de Potosi, and requested that the men be released and

returned to American lines for exchange against an equal number of the men paroled at

Monterey.  General Antonio Lopez de Santa Anna quickly acceded to the request, and

provided money and supplies for the men to travel from to Monterey.[26]  After the Battle

of Buena Vista, Taylor again negotiated a battlefield exchange, receiving Americans

captured both before and during the battle in exchange for a mass parole of Mexican

POWs.[27]

Scott utilized Mexican prisoners primarily for exchange, and sought to use them

as a means to end the captivity of any Americans held by the enemy.  For example, after

the battle at Cerro Gordo on 18 April 1847, approximately three thousand prisoners were

held for one day before being paroled.[28]  Following American victories at Contreras on

19 August 1847 and Churubusco on 20 August 1847, Scott again held approximately

three thousand prisoners.[29]  Of these prisoners, most of the Mexican officers gave their

parole not to fight against the United States for the duration of the war, and were

[25] Robert S. Ripley argues that the final terms of capitulation at Monterery allowed the garrison to retire to the interior without giving paroles, and that they were not considered POWs.  Ripley, *War with Mexico*, 1: 237-46.

[26] Taylor to Santa Anna, 5 November 1846, and Santa Anna to Taylor, 10 November 1846, H. Doc. 60, 437-8.

[27] Ripley, *War With Mexico*, 1: 379-80.

[28] Hackenburg, *Pennsylvania in the War*, 40.  Other estimates place the number captured at Cerro Gordo as high as 6,000 POWs, see J. Jacob Oswandel, *Notes of the Mexican War, 1846-47-48* (Philadelphia: n.p. 1885), 129; Miller, *Mexican War Journal*, 4; Kendall, *Dispatches*, 212.  Cress notes that the official U.S. count was 199 officers and 2,837 enlisted men taken prisoner., and that another 1,000 POWs probably escaped U.S. custody before they could be processed.

[29] Miller, *Shamrock and Sword*, 92.  Miller's number of prisoners is supported by other sources, such as Kendall, *Dispatches*, 332, 343-44.

released. Most of the enlisted soldiers, including those wounded in the battles, were immediately released, although a small number were held as POWs and confined in several locations, to await exchange for the approximately two hundred American POWs held in Mexico City, many initially captured in the northern theater of the war. The American prisoners had been well fed and housed, but they had also been subjected to public ridicule by being paraded through the streets of the capital.[30] Despite the large American advantage in captured troops, and the thousands of paroled Mexican soldiers awaiting exchange, some American soldiers had been held back from exchange.

The number of prisoners taken rose rapidly in the autumn of 1847, during the battles for Mexico City. At Molino del Rey on 8 September 1847, the Second Pennsylvania Regiment was unavailable for battlefield duty because it had been detailed to guard two thousand Mexican POWs during the battle.[31] In the battle, another seven hundred prisoners were taken. At Chapultepec Castle on 13 September 1847, more than eight hundred Mexican soldiers were captured. Like those taken the previous month, most of these prisoners were released after an oath not to bear arms for the duration of the war.[32] Once American POWs were released, Scott, like Taylor, typically paroled enemy prisoners *en masse*. The last POWs taken by the United States during the war were captured with the fall of Mexico City, where Scott's forces captured almost one thousand more prisoners.[33]

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[30] Miller, *Mexican War Journal*, 52.

[31] Hackenburg, *Pennsylvania in the War,* 54.

[32] Miller, *Shamrock and Sword*, 114. Kendall puts the number captured at nearly one thousand men, including fifty-three officers. See Kendall, *Dispatches*, 372-76.

[33] Kendall lists the ranks and numbers of prisoners taken, including 5 generals, 3 colonels, and 100 lower grade officers, with 800 enlisted personnel, Kendall, *Dispatches*, 387-88.

Despite the practical difficulties associated with the upkeep and security of prisoners, on 31 May 1847 Scott was ordered to end his policy of complete paroles, and to detain officers of the Mexican Army, either in Mexico or the United States.[34]  Scott's orders to keep POWs in captivity may have been provoked by reports of the American POWs kept in Mexico City in violation of previous exchange agreements.  During the assault upon Mexico City, captured Mexican privates were not paroled, they were instead sent to Tampico, while officers were confined at Toluca.[35]  The decision to retain POWs in captivity upset some Mexican leaders.  Archbishop Manuel Posada y Gardu repeatedly asked Winfield Scott to parole all Mexican prisoners of war, but Scott pointed out that many prisoners taken at Veracruz and Cerro Gordo had rejoined the Mexican Army in violation of their parole.

Scott's biographer Arthur Smith believed Mexicans violated their paroles under orders from their political leadership, and that many of the parole violators did not understand the legal meaning of their paroles.[36]  Henry Halleck noted in 1861 that the Mexican government attempted to annul the paroles of captured Mexican troops, and to force paroled soldiers to reenter the ranks.  In response, Scott threatened to hang any soldier retaken after violating his parole.[37]  Regardless of the reasoning behind parole violations, Scott did release five hundred POWs on 22 December 1847, after asking Posada to use the Catholic Church to guarantee the paroles.  Scott wished the church to

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[34] W. L. Marcy to Winfield Scott, 21 April 1848, H. Doc. 60, 1233.  Marcy cites a previous letter, from himself to Scott, in which the president ordered Scott to end the parole of Mexican officers.
[35] Ripley, *War with Mexico*, 2:160-61.
[36] Arthur D. Howden Smith, *Old Fuss and Feathers: The Life and Exploits of Lt.-General Winfield Scott* (New York: Greystone Press, 1937), 271.
[37] Henry W. Halleck, *International Law; or, Rules Regulating the Intercourse of States in Peace and War* (New York: D. Van Nostrand, 1861), 438-39.

refuse absolution to any parole-breakers, and also wished to use an oath of the church to enforce the paroles.[38]  Posada entered the prisons to explain the purpose and rules of paroles to the POWs, and personally administered the parole oaths to the prisoners.[39] The last Mexican POWs were released on 1 June 1848, when Major General Butler issued General Order Number 116, freeing all prisoners.[40]

The major exception to the general release of forces fighting for the Mexican Army involved a group of deserters from the U.S. Army.  Desertion was a major problem during the war, and a larger percentage of U.S. regular forces deserted in the Mexican War than in any other conflict.  Out of approximately 40,000 regulars, 5,331 deserted, with a particularly high number of immigrants among the ranks of the deserters.[41]  With such high desertion rates, the army was forced to address the issue in such a way as to discourage further desertion.  One way the U.S. discouraged desertion was to severely punish captured deserters.  Another way was to prosecute Mexican citizens who encouraged American soldiers to defect or at least leave their present service.  One example occurred on 19 June 1847, when Martin Tritschler, of Puebla, was executed after a military court found him guilty of "persuading or endeavouring to procure soldiers to desert the Army of the United States."[42]

Hundreds of immigrant deserters were enticed to join the Mexican Army, and were organized into a unit called the San Patricio Battalion.  The San Patricios

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[38] Miller, *Shamrock and Sword*, 122.

[39] Ibid., Bauer, *The Mexican War,* 336-37.

[40] Miller, *Shamrock and Sword*, 128.

[41] Peter F. Stevens, *The Rogue's March* (Washington, DC: Brassey's, 1999), 2-3.  In particular, the Irish were viewed as likely deserters.  Approximately 20% of Irish soldiers deserted during the war.

[42] General Orders No. 187, Puebla, 24 June 1847, found in Vol. 22, Entry 134, RG 94, National Archives.

participated in a number of engagements, but were most notable during the advance upon

Mexico City. The San Patricios are an important part of POW policy because their

situation was similar to that of the "Irish Traitors" of the War of 1812. However, in the

Mexican War, the United States found itself in the position occupied by Great Britain

during the War of 1812. Mexico argued that the San Patricios had taken service with the

Mexican government, and that they were entitled to the legal status of prisoners of war.

The Irish sailors taken to Great Britain as traitors three decades earlier were arrested on

the basis of their nationality rather than their previous service, while the San Patricios

deserted the United States Army during wartime, and enlisted in the service of an enemy

government. As such, they were subject to a much harsher sentence than were the Irish

sailors of the War of 1812. The San Patricios who deserted after the declaration of war

faced the ultimate punishment, over seventy were executed after military trials in August

1847. Those who deserted prior to the declaration of war were branded on the cheek or

hand and released.

The campaigns to invade and conquer California and New Mexico were

undertaken with little oversight from the War Department. In each location, a small

American force moved in and established limited control over the territory. Each area

was difficult to completely subdue, as each contained guerrillas who fought against

American occupation. American commanders were forced to improvise POW policies

for each location, with vastly different results. In California, captured guerrillas were

well-treated. After early successes, American troops in Los Angeles were forced to

retreat.[43]  Prior to withdrawal, American and Californian commanders drafted an

agreement to exchange all POWs, and excuse any past behavior by freed prisoners.  After

fighting resumed in the area, Californian guerrillas surrendered to John C. Fremont, on

16 January 1847, under an agreement that all POWs on both sides would again be

released, and all Californians would be protected by the American government and

subjected to no punishment for resisting the occupation.

In New Mexico, guerilla resistance quickly followed the arrival of American

troops.  Prisoners captured in most locales were sent to Santa Fe for confinement and

trial.  American commanders in New Mexico considered guerrilla attacks to be murder.

A revolt in Taos in 1847 led to the capture of dozens of guerrillas by American forces.

American commanders accused fourteen of the prisoners of murder, and ordered their

immediate execution.  The remainder were delivered to civilian authorities and placed on

trial for a variety of crimes against the newly-constituted government.  Most of the

prisoners were convicted and executed in March, 1847.[44]

Neither Scott nor Taylor had enough logistical support to maintain a large

population of prisoners, nor could either spare the manpower to conduct prisoners to the

United States to be held for the duration of the war.  Thus the decision to release

prisoners on parole was probably made for reasons of expediency, and not for

humanitarian purposes.  However, Philip Berry argued in 1849 that Scott's decision to

offer paroles was made "in consideration of the degree to which they [the Mexican

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[43] Werner H. Marti, *Messenger of Destiny: The California Adventures, 1846-1847 of Archibald H. Gillespie* (San Francisco: John Howell Books, 1960), 82-83.
[44] James A. Crutchfield, *Tragedy at Taos: The Revolt of 1847* (Plano, TX: Republic of Texas Press, 1995), 129-32, 135-47.

prisoners] evinced those very qualities which rendered them formidable."[45]  Berry's

statement shows that at the time of the war and immediately after, Scott's decision was

viewed as a sign of chivalry rather than necessity.  In contrast, Robert Ripley criticized

Scott's decision to parole Mexican prisoners, particularly after the Battle of Cerro Gordo.

Ripley argued in 1849 that Scott could have captured and held the entire Mexican Army

after the battle.[46]

From a prisoner of war standpoint, the Mexican War is significant because of the

large number of enemy troops captured in an offensive war, fought almost entirely upon

foreign territory.  The decision to allow mass paroles of thousands of enemy troops was

an exceptional solution to the problem of caring for the POWs, provided the enemy

soldiers could be trusted to uphold their paroles.  For the most part, Mexican troops did

follow the regulations of parole, although some instances of oathbreaking must certainly

have occurred.  For all of the practical benefits of paroling captured enemies, it was also

a decision brought about by necessity.  The army simply could not provide for thousands

of nonproductive, uncooperative prisoners.  If a few of the released POWs rejoined

Mexican forces in the field, they were a small minority, and facing them again upon the

battlefield was a small price to pay for depriving the enemy of the bulk of the paroled

prisoners.

Prisoner of war operations in the Mexican War did not have a strong impact on

the practices of the American Civil War (1861-65) despite the fact that many of the

commanders on both sides of the war served in Mexico.  The lack of any sustained period

of captivity for most Mexican prisoners meant that most American officers had no

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[45] Philip Berry, *A Review of the Mexican War* (Columbia, SC: A. S. Johnston, 1849), 35.
[46] Ripley, *War with Mexico,* 2: 82.

practical experience in dealing with prisoners. Even Major General Henry Halleck, who

drew upon many examples from the Mexican War in his 1861 work *International Law*,

mentioned the war only once in his chapter on prisoners, noting that Mexican efforts to

return paroled prisoners to the battlefield was a violation of the laws of war. Halleck

reinforced the arguments of Grotius and Vattel by providing concrete examples of proper

and improper behavior toward POWs.[47] In the Civil War, policies would again be

improvised for the capture and maintenance of prisoners, with disastrous results.

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[47] Halleck, *International Law*, 438-39.

**CHAPTER V**

**BROTHER AGAINST BROTHER:  THE AMERICAN CIVIL WAR**

In the American Civil War (1861-1865), both sides pursued improvised policies toward their captives, with similar results.  Expecting a short, almost bloodless fight, neither the Union nor the Confederacy planned for the capture of tens of thousands of enemies.  The result was an impromptu system of parole and exchange that was quickly overwhelmed by the influx of hundreds of thousands of prisoners.  In 1863, both governments began stashing prisoners in massive prison compounds for safekeeping, with little attention given to the welfare of the prisoners.  Exchanges were formally ended in May of 1863 after each side made allegations of mistreatment and retaliatory threats.  Each of these factors illustrated the danger of improvising POW policy to govern the maintenance of hundreds of thousands of prisoners during a total war.

At the same time that exchanges ended, the federal government issued a new set of regulations, the Lieber Code, which included instructions to field commanders for the proper treatment of captured enemies.  The Code formed the basis for later international agreements, but had very little practical effect on the conditions faced by prisoners during the Civil War.  Throughout 1863 and 1864, the number of prisoners held by each side rapidly swelled, as did the mortality rates among the prison population.  Massive concentration camps were created on both sides, for the incarceration of prisoners for the duration of the war.  These camps had poor shelter, inadequate food supplies, and little medical assistance.  By the end of the war, over 674,000 prisoners had been taken, and

over 400,000 incarcerated, of whom 56,000 died while in captivity, a mortality

percentage much greater than that faced by soldiers on the battlefield.[1]

Unlike earlier American conflicts, the Civil War has produced a large body of

work dealing with prisoners and POW policy.  Of particular note is the *Official Records*

*of the Union and Confederate Armies*, an attempt by Congress to compile the history of

the war.  The entire set is comprised of 127 volumes, of which 8 volumes, the entire

second series, are devoted to prisoners of war.  These volumes contain a record of letters,

pronouncements, and orders organized chronologically, and seek to draw together as

much information about prisoners as was then possible.  No discussion of Civil War

POWs would be complete without a thorough consultation of the *Official Records.*

Because the records were not edited for accuracy, they often contain only excerpts of

specific documents, thus it is important to include other sources.[2]

*Prisoners of War and Military Prisons,* an early attempt to assess POW

operations by both sides, was written by Asa B. Isham, Henry M. Davidson, and Henry

B. Furness, all former members of the Union Army.  Their work sharply criticized

Confederate authorities for the suffering of Union prisoners, and accused them of

deliberately mistreating prisoners.  They substantially inflated casualty figures for Union

prisoners and argued that almost 39 percent of Union POWs died in captivity.  In

contrast, they minimized deaths in Union POW compounds, claiming that a mere 6

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[1] Of the 674,000 prisoners taken, 462,634 were Confederates and 211,411 were federals. 247,769 Confederates were paroled on the battlefield, as were 16,688 federals, leaving 214,865 Confederates and 194,743 federals held in captivity.  Lonnie R. Speer, *Portals to Hell: Military Prisons of the Civil War* (Mechanicsburg, PA: Stackpole Books, 1997), 341.

[2] *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies,* 127 vols. (Washington, DC: Government Printing Office, 1880-1901).  (Hereafter cited as *OR,* all references are to series 2 unless otherwise noted)

percent of Confederate prisoners died in captivity.[3]  The work is useful because it

combines a number of prisoners' diaries and journals to create a broad picture of prison

life in the South.

A more balanced approach was William Best Hesseltine's 1930 *Civil War

Prisons: A Study in War Psychology*, published in 1930.  Hesseltine compared the

experiences of Union and Confederate prisoners using the *Official Records* and a

collection of personal narratives.  He argued that neither the North nor the South

deliberately mistreated prisoners.  Rather, the high mortality rates were caused by the

lack of exchanges during 1863 and 1864, which resulted in overcrowding and an inability

to supply thousands of prisoners.  While Hesseltine did not blame either government for

high mortality rates, he did argue that the Northern prisons were carefully constructed

and well-run, while the Southern prisons were "the result of a series of accidents."[4]

Hesseltine's work remained the only comprehensive study of Civil War prisons

until the publication of Lonnie Speer's *Portals to Hell* in 1997.  Speer found that the

death rates in prisons on both sides were roughly equivalent, and that neither side

planned adequately for prisoners.  Speer considered Civil War prisoners primarily as

victims of their captors, in particular as instruments of retaliation.[5]  He argued that

conditions were so awful in the prisons that "to have been killed on the battlefield might

have been more humane."[6]

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[3] Asa B. Isham, Henry M. Davidson, and Henry B. Furness, *Prisoners of War and Military Prisons* (Cincinnati, OH: Lyman & Cushing, 1890), 475-76.
[4] William Best Hesseltine, *Civil War Prisons: A Study in War Psychology* (Columbus: Ohio State University Press, 1930), ix.
[5] Speer, *Portals*, xviii-xix.
[6] Ibid., xix.

In 2005, Charles W. Sanders, Jr. argued that the Union and Confederate leadership systematically mistreated captives during the war and then fabricated explanations for their behavior after the war.  In his view, revisionist historians have refused to assign blame for the "darkest chapter of that conflict."[7]  Sanders equated neglect with malign intent toward captives and assumed that Presidents Lincoln and Davis were aware of prison conditions.  Further, he believed that they not only had the power to solve POW problems unilaterally, but that they should have placed a higher priority upon the maintenance of prisoners than upon the supply of troops in the field.

A recent trend in Civil War POW historiography is the study of individual prisons.  The Confederate prison at Andersonville has been the subject of dozens of works since the end of the war, most either vilifying the camp and its commanders as the worst example of POW mistreatment in the history of American warfare, or attempting to defend the overseers of the prison as victims of circumstance who did the best they could with meager resources.[8]  Other prison camps, Union and Confederate, remained largely neglected until the 1980s and 1990s, when numerous histories of specific camps emerged.[9]

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[7] Charles W. Sanders, Jr., *While in the Hands of the Enemy: Military Prisons of the Civil War* (Baton Rouge: Louisiana State University Press, 2005), 5.

[8] R. Randolph Stevenson, *The Southern Side; or, Andersonville Prison* (Baltimore: Turnbull Brothers, 1876); Ovid L. Futch, *History of Andersonville Prison* (Gainesville: University of Florida Press, 1968); Peggy Sheppard, *Andersonville, Georgia, U.S.A.* (Leslie, GA: Sheppard Publications, 1973); Joseph P. Cangemi and Casimir J. Kowalski, ed., *Andersonville Prison: Lessons in Organizational Failure* (Lanham, MD: University Press of America, 1992); William Marvel, *Andersonville: The Last Depot* (Chapel Hill: University of North Carolina Press, 1994).

[9] Louis A. Brown, *The Salisbury Prison: A Case Study of Confederate Military Prisons, 1861-1865* (Baton Rouge: Louisiana State University Press, 1980); Willliam S. Peterson, "A History of Camp Butler, 1861-1866," *Illinois Historical Journal* 82 (Summer 1989): 74-92; Sandra V. Parker, *Richmond's Civil War Prisons* (Lynchburg, VA: H. E. Howard,

The works discussing POW policy over the course of American history see the Civil War system in many ways. Lewis and Mewha viewed the Civil War as a large-scale missed opportunity, because both the Union and the Confederacy were desperately short of manpower, yet neither created a comprehensive system to utilize the potential labor represented by thousands of idle prisoners of war.[10] Richard Garrett concluded that both sides took inadequate measures to secure the safety and well-being of prisoners, but neither side deliberately inflicted harm upon its captives.[11] Howard Levie and A. J. Barker each argued that the only substantial result of the war with regard to international law and prisoners of war was the creation of the Lieber Code, which served as the basis for later international agreements, but had very little impact upon the treatment of POWs during the war.[12]

At the outbreak of hostilities, neither side had a formal process for holding prisoners, and the Union was undecided whether to consider Confederates to be POWs at all. The situation was analogous to that faced by Great Britain during the Revolutionary War, and like Britain, the federal government maintained that the enemy represented a rebellion against a legitimate government. This position could only be maintained if the war was quickly ended, and after the federal losses in the summer of 1861, the Confederates held more prisoners than did the Union. Any harsh treatment meted out to

1990); William O. Bryant, *Cahaba Prison and the Sultana Disaster* (Tuscaloosa: University of Alabama Press, 1990); George Levy, *To Die in Chicago: Confederate Prisoners at Camp Douglas, 1862-1865* (Evanston, IL: Evanston Publishing Co., 1994); Benjamin F. Booth, *Dark Days of the Rebellion*, ed. Steve Meyer (Garrison, IA: Meyer Publishing, 1995); Michael Horigan, *Elmira: Death Camp of the North* (Mechanicsburg, PA: Stackpole Books, 2002); Bryan Temple, *The Union Prison at Fort Delaware: A Perfect Hell on Earth* (Jefferson, NC: McFarland & Co., 2003).

[10] Lewis and Mewha, *Prisoner of War Utilization*, 27-42.

[11] Garrett, *P. O. W.*, 81-97.

[12] Levie, *Prisoners of War*, 7-8; Barker, *Prisoners of War*, 12-15.

Confederate prisoners could lead to retaliation against Union troops. The situation

dictated that captured Confederates be treated as POWs, but because no formal policy

existed governing the treatment of prisoners, Union field commanders improvised ways

to maintain and guard prisoners until the War Department could clarify the situation.

Initially, the federal government placed captured Confederates in military

fortifications along the East Coast. The most common destinations were Fort Delaware,

Fort McHenry, and Point Lookout, Maryland. As the number of captives grew, the

federal government took steps to create a POW bureaucracy. On 23 October 1861,

Lieutenant Colonel William Hoffman was named to the wartime post of commissary

general of prisoners and placed under the supervision of Quartermaster General

Montgomery C. Meigs, within the Quartermaster's Department.[13] Hoffman remained in

the position for most of the war, and was a vital part of the decision-making process for

Union POW policies. On 17 June 1862, Hoffman was removed from Meigs' department,

and placed under the direct supervision of Secretary of War Edwin M. Stanton, while

retaining the same title and function within the military establishment.[14] Hoffman

centralized POW operations, established regulations for prison camps, and decided where

prisoners should be held within the Union. Virtually all POW correspondence went

through Hoffman's office, including exchange negotiations, prisoner lists, camp reports,

and subsistence orders.

Captured federal troops were initially held in Richmond and Charleston in a series

of improvised prisons, mainly empty tobacco warehouses and other confiscated

buildings. The Confederate counterpart of Hoffman was Brigadier General John H.

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[13] WD, Special Orders, No. 284, 23 October 1861, *OR*, 3:121.
[14] WD, General Orders, No. 67, 17 June 1862, *OR*, 4:30.

Winder. Winder was named provost marshal of Richmond on 21 June 1861, a position

that included control over the federal captives sent to the city's prisons. Winder's role

expanded with the growth of the Confederate prison system, he was the *de facto*

commissary general for prisoners, though the post was not formally created until 21

November 1864. Winder held this position until his death on 7 February 1865 during an

inspection of the prison camp at Florence, South Carolina.[15]

The Union moved more rapidly than the Confederacy to create facilities to hold

prisoners for protracted periods. In 1862, the Union converted a series of Volunteer

muster camps into prison compounds, most located in the Midwest. The largest of these

compounds were Camps Alton and Douglas, Illinois; Camp Morton, Indiana; and Camp

Chase, Ohio. Two additional locations were designated for federal prisoners paroled by

the Confederacy and returned to Union lines; Camp Parole, Maryland and Benton

Barracks in St. Louis. The Union prisoners remained at these camps under the

supervision of the federal government until exchanged and returned to their regiments.

Despite negotiations to exchange prisoners and a rising number of captures by

both sides, some commanders issued orders that prisoners not be taken. On 30 August

1862, Captain Joseph P. Reavis protested that two Confederate prisoners had been

removed from a guardhouse for execution, by order of Colonel Albert Sigel. Reavis

noted, "General, I know that we have orders from you to take no prisoners, but the spot

where they are taken in my judgment is the place where you intended to have them

executed; not after being placed under guard . . . taken forcibly from the guard-tent and

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[15] Arch Fredric Blakey, *General John H. Winder, C.S.A.* (Gainesville: University of Florida Press, 1990), 47-48, 56, 196-97; E. J. Warner, *Generals in Gray: Lives of the Confederate Commanders* (Baton Rouge: Louisiana State University Press, 1959), 340-41.

mercilessly murdered."[16]  An investigation found that Sigel had ordered no quarter given

to Confederate irregulars who conducted raids into Union territory, commonly called

"bushwhackers," but had not ordered the execution of prisoners once taken.[17]  Hoffman

did not clarify the Union definition of legal prisoners of war until 4 December 1862,

when he informed prison commandants that all enemy soldiers taken in arms were

POWs, and that unarmed Confederate deserters, while not formally POWs, should be

held for investigation as possible spies.[18]  Prior to that time, field commanders made

decisions independent of the War Department to define who was a prisoner and how they

should be treated.

On 11 February 1862, Stanton designated Major General John E. Wool, the

commander of Fort Monroe, to negotiate with Confederate Major General Benjamin C.

Huger, commander at Norfolk, for the exchange of prisoners.  Wool promptly notified

Huger of his appointment, and Huger designated Brigadier General Howell Cobb to serve

as the Confederate negotiator.[19]  Wool and Cobb met on 23 February, and quickly agreed

that all prisoners on both sides should be exchanged, man-for-man, using the equivalency

system adopted during the War of 1812.  Any excess prisoners held by either side were to

be released on parole.  Cobb considered the matter finished, and the Confederacy

immediately began to forward paroled prisoners to the front lines for the purpose of

exchange.  Wool, however, claimed that because no exchange cartel had been signed, the

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[16] Joseph P. Reavis to John Schofield, 30 August 1862, *OR*, 4:473.

[17] J. M. Glover to John Schofield, 18 September 1862, *OR*, 4:532-39 contains the report of the investigators.  No federal officer was punished for the incident.

[18] William Hoffman to Peter Zinn, 4 December 1862, volume 2, Entry 167, RG 249, National Archives.  Peter Zinn was commandant of Camp Chase, Ohio.

[19] Edwin M. Stanton to John E. Wool, 11 February 1862, *OR*, 3:254; John E. Wool to Benjamin C. Huger, 13 February 1862, *OR*, 3:259-60; Benjamin C. Huger, 20 February 1862, *OR*, 3:289.

agreement was in principle, not a practical plan to forward POWs for exchange. He

stated that his orders had been changed just days after the agreement, and that the federal

government would agree to exchanges, but would not parole excess prisoners. The

reason for the shift was simple: the balance of prisoners dramatically shifted with the

capture of Fort Donelson and nearly fifteen thousand Confederates on 16 February 1862.

Suddenly, the federal government had a surplus of prisoners that it did not want to

release. Cobb was justifiably angry, but had no means to compel the Union to live up to

the agreement.

The two sides met again in June of 1862, to negotiate a formal exchange cartel

that would serve for the remainder of the war, rather than a single agreement to exchange

prisoners on hand. The negotiations were significant because they constituted a *de facto*

recognition of the Confederate government as a sovereign power, something the Union

had resisted for a year. The federal government sent Major General John A. Dix; the

Confederacy sent Major General Daniel H. Hill. After several weeks of debate, a formal

cartel was signed on 22 July 1862 that governed the future exchange of prisoners.

The cartel consisted of six articles designed to create a simple, functional

exchange system. The document did not formally recognize the Confederacy as a

belligerent, instead, it referred to Dix and Hill as "having been commissioned by the

authorities they respectively represent."[20] The cartel stipulated that all prisoners,

including those taken as privateers, would be exchanged either man-for-man or according

to a system of rank equivalencies. The equivalencies were identical to the system

included in the Cartel of May 1813, used during the War of 1812. In addition, prisoners

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[20] John A. Dix to Edwin M. Stanton, 23 July 1862, *OR*, 4: 266-68. Dix's letter to Stanton
contains a copy of the cartel.

from different branches of services could be exchanged for one another, and privateers could be exchanged for any other military personnel. All prisoners were to be paroled within ten days of capture and delivered to pre-determined exchange points. Paroled prisoners could not serve in any military capacity until properly exchanged, including garrison, police, guard, and constabulary duties.

If each side had followed the provisions of the cartel throughout the war, the situation of POWs during the war might have been radically different. There would have been no need for the massive prison compounds, no allegations of deliberate mistreatment of thousands of prisoners. The cartel included a key provision, that "the stipulations and provisions above mentioned to be of binding obligation during the continuance of the war, it matters not which party may have the surplus of prisoners."[21] This provision proved inconvenient to each side at various times, and over the course of the war, both the Union and the Confederacy moved to suspend all exchanges, but gradually the prisons in the North and the South became virtually empty. From July of 1862 until May of 1863, approximately twenty thousand Confederate and twelve thousand Union prisoners were exchanged.[22]

When the Union began to enlist African-American regiments at the end of 1862, the Confederate response was outrage. President Jefferson Davis, fearing a general slave insurrection, announced that white officers commanding black troops were subject to trial and execution for inciting a servile insurrection.[23] Any black troops taken prisoner were

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[21] Ibid., 267.
[22] *OR*, 4: 821; 8: 987-90.
[23] "Proclamation of the President of the Confederate States," 23 December 1862, contained within WD, C.S.A., General Orders, No. 111, 24 December 1862, *OR,* 5:905-08.

to be delivered to state control, and punished according to the state laws for slaves caught bearing arms.[24]  Field commanders issued orders that no quarter be offered to black troops or their white officers, including the message of Lieutenant General Edmund Kirby Smith, dated 13 June 1863, "I have been unofficially informed, that some of your troops have captured negroes in arms, I hope this may not be so, and your subordinates who may have been in command of capturing parties may have recognized the propriety of giving no quarter to armed negroes and their officers, in this way we may be relieved from a disagreeable dilemma."[25]

On 30 July 1863, President Abraham Lincoln announced that any soldier of the United States executed by the enemy in violation of the laws of war would result in the execution of a Confederate prisoner of equal rank.  For any black troops placed into slavery, an equal number of Confederates would be placed at hard labor.[26]  Lincoln sought to use the threat of retaliation to ensure that all Union troops were treated equally as prisoners of war.  Union threats of retaliation did not have the intended effect, and captured black troops faced execution or slavery at the hands of Confederates, depending upon the whim of the Confederate commander.  On 25 September 1864, Major General Ethan Allen Hitchcock was informed that wounded black troops at the Battle of Olustee were executed on the field by "Georgia Regulars."[27]  On 16 October 1864, Confederate slaveowners were informed that 575 members of the United States Colored Troops (U.S.C.T.), many former slaves, were employed on fortifications near Mobile, and that

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[24] "Joint resolutions adopted by the Confederate Congress on the subject of retaliation April 30-May 1, 1863," *OR*, 5:940-41.
[25] Edmund Kirby Smith to R. Taylor, 13 June 1863, Box 1, Entry 469, RG 109, National Archives.
[26] WD, General Orders, No. 252, 31 July 1863, *OR,* 6:163.
[27] Unsigned letter to E. A. Hitchcock, 25 September 1864, Box 2, Entry 149, RG 249.

former owners could report to the city to claim their slaves.[28]  On 12 October, Major

General Benjamin Butler notified Colonel Robert Ould, Confederate commissioner of

exchange, that 110 Confederate officers and men would be employed constructing a

canal at Dutch Gap until an equal number of U.S.C.T. troops were removed from

construction parties building fortifications at Fort Gilmer.[29]  On 19 October 1864, Lee

defended the practice of reenslaving captured U.S.C.T. soldiers, informing Lieutenant

General Ulysses S. Grant that only soldiers who were slaves prior to joining the Union

Army were required to work on fortifications.  Grant responded by ordering Butler to

remove the Confederate prisoners from the Dutch Gap Canal, but threatening to retaliate

for any future mistreatment of Union prisoners, regardless of color or previous

servitude.[30]  In January of 1865, O. O. Poppleton notified Butler that 569 black soldiers

captured by Major General Nathan Bedford Forrest had been sent to Mobile and forced to

work on the city's defenses.[31]

On a number of occasions, individuals offered specific mass exchanges to

alleviate the suffering of prisoners without raising the issue of the exchange cartel.  On 7

December 1863, Major General Henry Halleck offered to exchange all federal POWs

held in Richmond jails for their equivalents in federal hands.  Lee refused the offer on 12

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[28] O. O. Poppleton to Benjamin Butler, 5 January 1865, Box 2, Entry 149, RG 249;
*Mobile Advertiser and Register*, 16 October 1864.  See also *Richmond Examiner*, 11
October 1864 for a list of U.S.C.T. prisoners to be reclaimed by former owners.
[29] Benjamin Butler to Robert Ould, 12 October 1864; Sworn testimony of Chapman
Dinkins, 12 October 1864; Sworn testimony of James F. McKnight, 12 October 1864; all
found in Box 2, Entry 149, RG 249.
[30] Robert E. Lee to Ulysses S. Grant, 19 October 1864; Ulysses S. Grant to Robert E.
Lee, 20 October 1864; both found in Box 2, Entry 149, RG 249.
[31] O. O. Poppleton to Benjamin Butler, 21 January 1865, Box 2, Entry 149, RG 249.

December, on the grounds that it did not precisely follow the system of the cartel.[32]  In

September of 1864, Major General William T. Sherman refused the offer of Lieutenant

General John Bell Hood to "release to him the prisoners at Andersonville in exchange for

the soldiers taken from Hood in the Georgia campaign," even though Sherman would

receive 30,000 federal prisoners in exchange for a fraction of that number of

Confederates.[33]

Exchange was certainly an important consideration to the prisoners on each side.

Rumors of possible exchanges circulated through every prison camp on a daily basis.

Prior to 1863, POWs had a good chance of parole and eventual exchange, and this fact is

reflected in prisoner narratives.  When prisoner exchanges virtually ceased, the hope of

exchange did not die, rather the rumors continued unabated, if unsubstantiated.[34]

The Confederacy held the balance of prisoners for the first two years of the war,

but the situation radically changed with the surrender of Vicksburg, Mississippi on 4 July

1863 with over 29,000 prisoners.  When reduced to privates by the table of equivalencies,

the capture of Vicksburg included 42,300 privates.  Most of the prisoners were paroled

rather than being sent to prison camps in the North.[35]  Ould requested on 20 October

1863 that all prisoners be exchanged according to the provisions of the exchange cartel,

and claimed that Sullivan A. Meredith, the federal commissioner of exchange, had

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[32] Henry W. Halleck to Robert E. Lee, 7 December 1863; Robert E. Lee to Henry W. Halleck, 12 December 1863; both in Box 3, Entry 149, RG 249.

[33] Hesseltine, *Civil War Prisons*, 227-28.

[34] John Ransom, *John Ransom's Andersonville Diary* (1881; reprint, New York: Berkley Books, 1986), 40-41; John McElroy, *Andersonville: A Story of Rebel Military Prisons* (Toledo, OH: D. R. Locke, 1879), 192-95.

[35] Entry 73, RG 249 is a list of all prisoners taken at Vicksburg.  The surrender included fifteen generals; 173 field grade officers; 1,965 company officers; 3,992 non-commissioned officers; and 23,233 privates.

verbally agreed to do so.  Meredith claimed to have made no such agreement, and countered that the Confederacy had declared thousands of prisoners exchanged without sending equivalent numbers back to federal lines.[36]  The Confederacy held Union POWs in the fall of 1863, but did not send them for exchange.

When Stanton, Hoffman, Meredith, and Hitchcock refused Ould's request to exchange the Vicksburg prisoners, Ould opted to unilaterally declare the men exchanged and eligible to return to Confederate service.  He announced that the men were considered exchanged because the Confederacy had delivered captured federal troops to City Point and had not received any prisoners in return.  In response to Ould's announcement, Hitchcock urged Stanton to suspend all deliveries of Confederate prisoners until the Confederacy delivered enough Union prisoners to match the Vicksburg captures.[37]  The cartel had effectively stopped functioning two months earlier, but the Vicksburg surrender certainly exacerbated the situation.  Benjamin Butler responded to Ould's statement by declaring "The Cartel is entirely annulled."[38]  Each government expected perfect adherence by the enemy, and threatened retaliation for any breach of the cartel, but both sides violated the spirit and the wording of the cartel when it suited their purpose.

The decision to halt exchanges, from the perspective of Stanton, was a simple one, given that released Confederate prisoners were typically healthy enough to return to duty, while exchanged federal prisoners tended to be incapable of rendering service for

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[36] Robert Ould to S. A. Meredith, 20 October 1863; Robert Ould to S. A. Meredith, 27 October 1863; S. A. Meredith to E. A. Hitchcock, 29 October 1863; all in Box 2, Entry 149, RG 249.

[37] E. A. Hitchcock to Edwin M. Stanton, 18 March 1864, Box 2, Entry 149, RG 249.

[38] Benjamin Butler to Edwin M. Stanton, 3 May 1864, Box 2, Entry 149, RG 249.

months after returning from confinement. In the words of Charles Alfred Humphreys, a chaplain of the 2nd Maryland Cavalry, "Stanton was inflexible in adherence to his principle that in dealing with this question, *something* should not be given for *nothing*."[39] To support ending all exchanges, Hoffman sent Hitchcock a list of federal POWs on parole in the North. If every federal prisoner in a Northern parole camp was declared exchanged, the Confederacy would still owe the Union 33,596 prisoners when reduced to privates by the system of equivalencies.[40] According to Hoffman's calculations, this number was roughly equivalent to the number of Union prisoners being held in Confederate prisons.[41] Unfortunately, by ending exchanges, the Union ensured that tens of thousands of prisoners would face prolonged captivity, as neither side was willing to parole enemy troops if exchange was unlikely.

Some individuals in both the Union and the Confederacy viewed POWs as a potential source of new recruits for their own military forces. While international law did not allow captors to force POWs to enlist, there was no legal provision against voluntary enlistment. Of course, any prisoner that switched allegiance in the conflict was subject to trial and execution for desertion if recaptured. Thousands of prisoners decided to switch sides rather than remaining in captivity. On 10 July 1862, Stanton ordered Robert Murray, U.S. marshal in New York City, to visit the city prisons and survey the captives, to determine if any were willing to shift allegiances.[42] However, by 25 February 1863,

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[39] Charles Alfred Humphreys, *Field, Camp, Hospital and Prison in the Civil War, 1864-1865* (Boston: George H. Ellis, 1918), 133.
[40] William Hoffman to E. A. Hitchcock, 5 May 1864, Box 2, Entry 149, RG 249.
[41] William Hoffman, "Statement of Federal and Rebel Prisoners of War," 16 April 1864, Box 2, Entry 149, RG 249.
[42] Edwin M. Stanton to Robert Murray, 10 July 1862, *OR*, 4:162-63.

Stanton had changed his stance, and he informed Hoffman that Confederate prisoners, even if willing to take an oath of allegiance, were not to be enlisted into federal ranks.[43]

Throughout the summer of 1863, federal policies regarding the recruitment of Confederate POWs wavered.  In spite Stanton's policy forbidding the recruitment of prisoners, approximately six hundred Confederate POWs were enlisted into federal service from the prison population at Fort Delaware from May to August, 1863.  Many of these were detailed for service on the western frontier, to free troops for service against the Confederacy.  Stanton made an important exception to his orders for prisoners who had been conscripted into Confederate service.  On 20 June 1863, Stanton gave permission for Major Generals Ambrose Burnside, John M. Schofield, and Andrew Johnson to accept Confederate prisoners conscripted from the Tennessee region into federal service.[44]  Hoffman announced on 2 August 1863 that enlisted men in the Confederate Army who claimed to have been impressed could be inducted into Union service if the examining officer believed the prisoner to be reliable.[45]  Stanton again ordered on 26 August 1863 that no Confederate prisoners be enlisted, but within three days, granted special permission for Major General William S. Rosecrans to enlist prisoners.[46]

Stanton faced pressure from state authorities as well as field commanders for the recruitment of prisoners.  Governor Oliver P. Morton of Indiana asked permission to enlist two hundred Irish POWs held at Camp Morton.  Stanton acceded to the request,

[43] William Hoffman to Christian Thieleman, 25 February 1862, *OR*, 5:297.

[44] William Hoffman to Ambrose Burnside, 20 June 1863, *OR*, 6:31.

[45] William Hoffman to H. M. Lazille, 2 August 1863, Entry 16, RG 249.

[46] William Hoffman to William S. Rosencrans, 26 August 1863, *OR,* ser. 3, 3:722; William Hoffman to Rosencrans, 29 August 1863, *OR*, ser. 3, 3:737-38.

authorizing Morton to free the prisoners and enlist them in the Thirty-Fifth Indiana Regiment.[47]  One year later, Lincoln authorized the recruitment of foreign-born prisoners held at Rock Island, Illinois, for service in Pennsylvania regiments.[48]  Such recruitment contradicted the wishes of Grant, who advised that if such men were to be allowed into service, they should all be placed into a single regiment detailed for frontier service.[49]

In all, over six thousand Confederate soldiers took the oath of allegiance and switched sides during the war.  These men, officially known as "United States Volunteers," were formed into six regiments and were commonly referred to as "Galvanized Yankees."  These regiments saw service at more than fifty outposts along the western frontier, from St. Louis to San Francisco.  They reopened the Overland Trail to the Pacific Coast, which had been closed by Native American raids in 1864, and guarded stagecoach and wagon trains moving through hostile areas, and in the process fought dozens of engagements against Native American tribes.[50]

The Confederate government also sought to enlist federal POWs, although it did so with less success.  The Confederacy did not have the alternative of frontier duty for enlisted prisoners, and thus federal troops who volunteered risked trial for desertion if recaptured.  Confederate Secretary of War James A. Seddon was skeptical of the recruitment of federal prisoners, stating that "the Yankees are not to be trusted so far, or

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[47] W. R. Holloway to Edwin M. Stanton, 3 September 1863, *OR,* ser. 3, 3:766; Edwin M. Stanton to Oliver P. Morton, 19 September 1863, *OR,* ser. 3, 3:824.

[48] Benton McAdams, *Rebels at Rock Island: The Story of a Civil War Prison* (DeKalb: Northern Illinois University Press, 2000), 137.

[49] Abraham Lincoln to Ulysses S. Grant, 22 September 1864, *OR*, ser. 3, 4:740; Ulysses S. Grant to Edwin M. Stanton, 25 September 1864, *OR*, ser. 3, 4:744.

[50] Dee Alexander Brown, *The Galvanized Yankees* (Urbana: University of Illinois Press, 1963), 1-2.  Brown's work provides a complete description of the recruitment, service, and campaigns of the six regiments formed from Confederate prisoners.

at all."[51]  On 8 November 1864, 349 POWs enlisted from Camp Lawton, Georgia.[52]  On

16 January 1865, Colonel J. G. O'Neil of the Tenth Tennessee Regiment was authorized

to enlist federal POWs for Confederate service.  On 24 January, 192 prisoners enlisted,

followed on 28 February by the enlistment of 138 prisoners.[53]  The federal troops that did

enlist in Confederate service deserted in high numbers, and most reported joining the

enemy ranks out of desperation.[54]  Dee Brown estimated that between 1,500 and 2,000

federal POWs enlisted into Confederate ranks, but found that most surrendered to Union

troops as quickly as possible, and they did not represent a significant source of manpower

to the Confederacy.[55]  The actual number of Union POW recruits into Confederate

service was much higher, given that 2,169 federal prisoners joined the Confederate ranks

from a single prison.[56]  Most Union prisoners who entered Confederate service deserted

at the first opportunity to enter Union lines, or surrendered to federal units as quickly as

possible.  As these desperate ex-prisoners entered Union lines, the war was rapidly

ending, and the conditions of captivity were becoming known to Union authorities, who

declined to persecute the individuals involved.

On 24 April 1863, the War Department issued the most important and detailed

provisions for POW treatment in American history.  General Orders No. 100, also known

as the "Lieber Code" after its creator, Francis Lieber, consisted of 157 articles,

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[51] Samuel Jones to Braxton Bragg, 13 September 1864, *OR,* 7:821-22.

[52] D. W. Vowles to Commanding Officer, C.S.A. Military Prison, Camp Lawton, 8 November 1864, *OR*, 7: 1113-14.

[53] WD, C.S.A., Special Orders, No. 8, 16 January 1865, Volume 19, Entry 106, RG 249.

[54] Isham, et al., *Prisoners of War*, 365-66.

[55] Brown, *Galvanized Yankees*, 211-17.

[56] "Register of Federal POWs who enlisted in CSA, Salisbury, NC," Volume 1, Entry 136, RG 249.  The inside cover notes that recruiting was done by "Irish Catholic of Yorke's Louisiana Brig."

"Instructions for the Government of Armies of the United States in the Field."[57] Lieber, a professor of history and political economy at Columbia College, had prepared a summary of international law regarding guerrilla warfare and forwarded it to Halleck, general in chief of the army, on 1 August 1862.[58] Impressed with the brevity and clarity of Lieber's work, Halleck ordered five thousand copies of the sixteen-page pamphlet printed for distribution throughout the officer corps. On 13 November 1862, Lieber suggested the president create a committee to codify the laws of war, with Halleck as chairman. Lieber recommended the committee define who should be considered a prisoner of war, and how prisoners should be treated by federal forces. On 17 December, Halleck invited Lieber to Washington to serve on a special board, chaired by Commissioner of Exchange Hitchcock, charged "to propose amendments or changes in the Rules and Articles of War and a code of regulations for the government of Armies in the field as authorized by the laws and usages of War."[59]

Of the 157 articles of the Lieber Code, 38 are devoted to the capture, maintenance, and release of prisoners of war. Lieber defined a prisoner of war as "a public enemy armed or attached to the hostile army for active aid, who has fallen into the arms of the captor, either fighting or wounded, on the field or in the hospital, by individual surrender, or by capitulation."[60] This included all soldiers, any individual rising *en masse* with the occupation of enemy territory, any citizen accompanying the army, and any partisan fighting detached from the main body of the army. Lieber defined

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[57] WD, General Orders, No. 100, 24 April 1863, *OR*, 5:671-82; Leon Friedman, ed., *The Law of War: A Documentary History* 2 vols (New York: Random House, 1972), 158-86.
[58] Frank B. Freidel, *Francis Lieber, Nineteenth Century Liberal* (Baton Rouge: Louisiana State University Press, 1947), 329.
[59] WD, Special Orders, No. 399, 17 December 1862, *OR*, ser. 3, 2:951.
[60] G. O. No. 100, Article 49, Friedman, *Law of War*, 168.

guerrilla activities as outside the laws of war. Any individuals who fought without being part of an organized army, without sharing continuously in the war, and occasionally returning to their homes or pretending to be civilians, were not entitled to the privileges of prisoners of war.[61] All prisoners of war were to be treated equally, according to rank, and could not be divided by class, race, or condition. Further, the code specifically forbade the enslavement of any member of any prisoners of war. No unit of troops had the right to announce it would give no quarter, although any unit that gave no quarter in practice could expect none in return.[62] Once prisoners were taken, they were the property of the capturing government, not the capturing units or individuals. They could be placed in confinement, but must be treated with dignity and respect, fed plain, wholesome food, and provided with adequate medical care. In exchange, the government could require prisoners to labor for the government benefit, according to their rank and condition. Regarding prisoners who enlisted with the enemy, the Lieber code was clear: any member of the U.S. military who enlisted in enemy service and was recaptured was subject to trial for desertion.[63]

The Lieber Code did not supersede previous exchange agreements, nor did it unilaterally destroy the exchange cartel. Halleck noted in a letter to Hitchcock, that the Code, "Simply announces general principles which apply only in the absence of special agreements."[64] Paroles given by troops captured after the issuance of General Orders No. 100 that were not in accordance with the provisions of the exchange cartel were considered null and void, even if they followed the instructions provided by the Lieber

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[61] G. O. No. 100, Articles 49-51, 81-82, Friedman, *Law of War,* 168, 173.
[62] G. O. No. 100, Articles 60-66, Friedman, *Law of War*, 170.
[63] G. O. No. 100, Article 48, Friedman, *Law of War*, 167.
[64] Henry W. Halleck to E. A. Hitchcock, 12 August 1863, Box 2, Entry 149, RG 249.

Code.  Halleck ordered Hitchcock to release any federal troops on parole in the North that had been paroled by the Confederates, on the grounds that their parole was illegal, and therefore they were not prisoners of war.[65]  This action infuriated Ould, who asked that all prisoners on both sides be released from their paroles, and cited General Orders No. 100, Article 131 as justification.[66]

The Code was not a simple series of orders, it was a persuasive argument for how wars should be fought, noting that war was not an excuse for immoral behavior.  It was realistic without being rigid, it prohibited certain activities, including cruelty, maiming, torture, and poisoning, but allowed for military necessity and retaliation.  Unlike earlier works on international law and the laws of war, the Lieber Code was created specifically to govern armies in the field.  Richard Shelly Hartigan argued "Never before had a government set down in clear, explicit, formal terms not only the rights and obligations of its own army, but of its enemy's army and civil population as well."[67]

The impact of the Lieber Code reached far beyond to the American Civil War.  It was adopted almost unchanged by the British, French, and Prussian governments in the decade after the Civil War.  The code also served as the basis for international attempts to codify the laws of war at the Brussels Conference of 1874; the Institute for International Law's manual of the laws of land warfare; and at the Hague Conventions of 1899 and

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[65] Ibid; S. A. Meredith to Robert Ould, 24 August 1863, Box 2, Entry 149, RG 249.
[66] Robert Ould to S. A. Meredith, 24 August 1863, Box 2, Entry 149, RG 249.  Article 131 provided that any paroled officer whose government disapproved of his parole must return to captivity.  Thus illegal paroles did not nullify a prisoner's capture, and if one side released all parolees, the other side was justified in doing so as well.
[67] Richard Shelly Hartigan, *Lieber's Code and the Law of War* (Chicago: Precedent, 1983), 2.

1907.[68]  Within the American military, the code governed army operations during the

Spanish-American War and influenced doctrine in the 1914 Field Service Regulations.[69]

The Confederate prison camps for federal POWs were most characterized by two

locations.  The first was a system of prisons in and around Richmond, in particular on

Belle Isle and at Libby Prison.  Despite their close proximity, the two prisons were vastly

different.  Libby was primarily reserved for Union officers, who received more food,

larger living spaces, and better shelter.  One enlisted prisoner noted, "Libby has a hard

name, but it was the most comfortable of the six Confederate prisons of which I saw the

interior."[70]  Another observed, "Being an officer, I suffered but little in comparison with

what was endured by the rank and file."[71]  Many others commented that the treatment

was markedly different between officers and enlisted men, some claimed it was due to

the stratification of Southern society, others argued that the conditions within the camps

were dependent upon the whims of the commanding officers of the prison.[72]

Without doubt, the prison most associated with the Civil War today was Camp

Sumter, located near Andersonville, Georgia.  Andersonville, as the prison was

commonly known, was the largest of the Southern emergency camps, created to house

prisoners a great distance from the battle front, thus preventing any rescue attempts such

as the cavalry raids on Richmond designed to free the prisoners at Libby.  Andersonville

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[68] Hartigan, *Lieber's Code*, 22; Freidel, *Lieber,* 340-42.

[69] Hartigan, *Lieber's Code*, 23.

[70] Homer B. Sprague, *Lights and Shadows in Confederate Prisons: A Personal Experience, 1864-5* (New York: G. P. Putnam's Sons, 1915), 43.

[71] Alonzo Cooper, *In and Out of Rebel Prisons* (Oswego, NY: R. J. Oliphant, 1888), v.

[72] Junius Henri Browne, *Four Years in Secessia* (New York: Arno, 1970), 276; William C. Harris, *Prison-Life in the Tobacco Warehouse at Richmond* (Philadelphia: G. W. Childs, 1862), 120; William Hartley Jeffrey, *Richmond Prisons, 1861-1862* (St. Johnsbury, VT: The Republican Press, 1893), 115.

was a great distance from any major rail hub, in the interior of the state, thus supplying the camp was extremely difficult. While Andersonville was not the only camp to experience massive supply shortages and high mortality rates, it was certainly the largest Confederate prison camp, and the conditions at Andersonville rivaled those at any other camp.

The prison compound at Camp Sumter was authorized in February of 1864, and received its first prisoners on 24 February. Designated to relieve overcrowding in Richmond's facilities, it was slated to hold ten thousand prisoners. Initially, the camp consisted of a rough-hewn stockade wall enclosing seventeen acres, with guard platforms spaced around the wall. A "dead-line" was marked by a line of posts topped with a four-inch wide plank, twelve feet inside the stockade. Any prisoner that crossed the dead-line was likely to be shot without warning. The only water supply for the prisoners was a slow-flowing creek that ran through the center of the stockade. No shelter was provided for any of the prisoners, beyond what they could improvise from materials they carried at the time of capture. As such, some prisoners slept within tents, some in holes covered by canvas, and some exposed to the elements.

The Andersonville prisoners resorted to desperate measures to survive their captivity. A gang of prisoners, commonly called the "Raiders" in prisoner journals, preyed upon their fellow captives, robbing new arrivals of any cash or valuables that could be bartered with guards, stealing clothing, blankets, and food from other prisoners. On 11 July 1864, a different group of prisoners organized a posse and captured the leaders of the Raiders. They were put on trial by their fellow POWs, found guilty of murder and robbery, and hanged for their crimes on a gallows provided by the prison

commandant, Captain Henry Wirz. The condemned "were buried away from their fellow prisoners as a further mark of shame."[73] The rest of the Raiders were forced to "run the gauntlet" between two lines of prisoners who rained down blows with clubs and fists upon them.[74]

By August of 1864, Andersonville had received more than 35,000 prisoners, reaching a daily occupancy of 33,114 on 8 August 1864.[75] Over 100 prisoners died every day, with an all-time high of 127 deaths on 23 August 1864. [76] Rations for the prisoners, always in short supply, were never issued for more than 11,000 prisoners on a single day.[77] The typical ration was unbolted corn meal, which contributed to an extremely high rate of dysentery and chronic diarrhea within the POW population. Prisoners were susceptible to virtually any form of communicable disease, as well as dietary disorders such as scurvy. Medical facilities at Camp Sumter were virtually nonexistent, a trip to the hospital was a virtual death-warrant as 75 percent of prisoners admitted to the camp hospital died while patients.[78] Of the approximately 45,000 prisoners confined at Andersonville, 12,912 died in confinement.[79]

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[73] Cangemi and Kowalski, *Andersonville Prison*, 17-18.
[74] Cangemi and Kowalski, *Andersonville Prison*, 18; McElroy, *Andersonville,* 118-25; Ransom, *Andersonville Diary*, 112-22.
[75] Cangemi and Kowalski, *Andersonville Prison*, 11.
[76] Stevenson, *Southern Side,* 404. Stevenson served as the chief surgeon of the Andersonville hospital, and was tasked with recording the cause of death for every prisoner.
[77] Cangemi and Kowalski, *Andersonville Prison*, 11.
[78] Stevenson, *Southern Side*, 404.
[79] Speer, *Portals*, 332; Cangemi and Kowalski, *Andersonville Prison*, 14; Record and Pension Office, "Andersonville Georgia Confederate Military Prison," 15 January 1900, Box 1, Entry 105, RG 249. This record places the total number of prisoners received at Andersonville at 44,928.

The possibility of exchanging the prisoners at Andersonville arose repeatedly. The prisoners sent numberous requests to Stanton, Lincoln, and state governors. Civilians petitioned for the release of the Andersonville prisoners, urging the federal government, "Fear not to make concessions, and to submit even to some degree of wrong, that you may achieve the God-like work of giving deliverance to the captives."[80] Sherman refused Hood's offer to exchange the entire population of Andersonville for the few thousand Confederate troops captured in the fighting around Atlanta, on the grounds that the exchange would overburden his logistics and delay the end of the war. The Union was certainly aware of the situation in Andersonville, as Sherman received regular reports from prisoners who escaped the camp and reached his lines.[81]

As Sherman moved through the South in his "march to the sea," Camp Sumter authorities became concerned that the Union troops would undertake a raid to free the prisoners at Andersonville. On 27 July 1864, Confederate Commissary General of Prisons Winder ordered artillery officers manning the batteries outside Camp Sumter "upon receiving notice that the enemy has approached within seven miles of this post, open upon the stockade with grapeshot, without reference to the situation beyond these lines of defense."[82] Winder ordered the murder of thousands of prisoners rather than allowing their recapture by Union forces, a clear violation of the laws and customs of

[80] "Minutes of meeting of sergeants commanding detachments at Andersonville," undated; Undated petition, Citizens of Pittsburg to Abraham Lincoln; both in Box 4, Entry 149, RG 249.

[81] Thomas R. Cord to Colonel Sherman, 9 September 1864, Box 2, Entry 149, RG 249, contains a thorough description of the conditions at Andersonville, sent to the commander of the 19th U.S. Infantry Regiment.

[82] WD, C.S.A., Orders No. 13, 27 July 1864, *OR*, 7:588; John Worrell Northrop, *Chronicles from the Diary of a War Prisoner in Andersonville* (Wichita, KS: John Northrop, 1904), 104.

civilized warfare as understood by both sides.  After Winder's death, his replacement as commissary general of prisoners, Colonel Henry Forno, issued a similar order for all prison camps in Mississippi, Alabama, and Georgia on 15 February 1865.  Forno's order, written to prevent a general uprising among prisoners, was legal because it was to be executed only in the event of a mutiny, it did not order camp commanders to kill prisoners in response to an external threat.[83]

The Union first created a uniform set of regulations for POW compounds on 7 July 1862.  The initial regulations called for prisoners to receive rations equivalent to those given Union Army troops in the field.  The daily ration was to include bread, fresh beef or pork, beans or rice, potatoes, molasses, salt, sugar, coffee, and tea.  A general prisoner fund was created for each camp, for the improvement of camp life, and was financed by withholding from rations all that could be spared without inconvenience to the prisoners and selling the surplus.  The fund could be used for table furniture, cooking implements, cleaning supplies, and construction materials.  Prisoners could only be paroled or released by direction of the Commissary General of Prisoners, under the supervision of the War Department.[84]

On 20 April 1863 the regulations were revised, requiring camp surgeons to submit semi-monthly reports of POW deaths, including the name, rank, and unit of the dead prisoner.  A statement of the prison fund from each camp was required on a monthly basis, including expenditures from the fund.  According to the new regulations, the Union Army issued clothing to POWs as necessary.  Any army clothing was acceptable, with all

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[83] H. A. M. Henderson to J. D. Imboden, 23 January 1865; WD, C.S.A., General Orders, No. 2, 15 February 1865; both found in Box 7, Entry 107, RG 249.

[84] William Hoffman, "Regulations for POW Compounds," Circular, 7 July 1862, Box 1, Entry 105, RG 249.

buttons and trim removed so prisoners would not be mistaken for Union troops.  Clothing could be sent to POWs from family and friends, as long as it was gray or butternut in color.  The regulations reiterated that no paroles or releases were allowed without the authorization of the Secretary of War.

Through 1864, the federal government maintained prisoners at dozens of locations of varying sizes to facilitate exchanges.[85]  On 3 May 1864, field commanders were informed that all prisoners should be forwarded from temporary depots to a few permanent depots as quickly as possible.  The principal depots were designated to be: Point Lookout, Maryland; Fort Delaware; Johnsons' Island, Ohio; Camp Chase, Ohio; Camp Morton, Indiana; Camp Douglas, Illinois; and Rock Island, Illinois.  All other locations were regarded as temporary depots.  The War Department reiterated that it held all authority for paroles and exchanges.[86]

On 1 June 1864, Hoffman directed camp commanders to reduce the rations in Northern camps to match those in Confederate prisons, and to stop allowing friends or relatives to send food to prisoners confined in the North.  The daily caloric intake dropped in Northern prisons by over 30 percent.[87]  He also ordered that only one suit of clothing was allowed for each prisoner, to be made of inferior quality.[88]  Some Confederate prisoners saw the reduction as a malicious attack upon their welfare, as one

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[85] Speer, *Portals*, 323-340.
[86] General Orders, No. 190, 3 May 1864, Box 1, Entry 105, RG 249.
[87] McAdams, *Rebels at Rock Island*, 214-15.
[88] William Hoffman, "Circular No. 4," 10 August 1864, Box 1, Entry 105, RG 249.

noted, "Every means was used to prevent our friends outside or at our homes from knowing our real condition."[89]

As in the Confederacy, the Union prisons segregated officers and enlisted personnel. The primary camp for officers was Johnsons' Island, where prisoners reported fairly pleasant conditions, with ample diet, extensive privileges, and a generally comfortable environment. Indeed, William W. Ward reported that he gained a considerable amount of weight while imprisoned.[90] Most complaints revolved around the use of black troops as prison guards and the boredom of camp life. Rather than discussing survival, escape, or exchange, many officers' accounts focus upon financial issues, particularly the fear of having insufficient funds to maintain a luxurious existence.[91]

While officers enjoyed a high standard of living in captivity, poor conditions for enlisted prisoners were certainly not limited to the South. The North had more resources and a greater capacity to house and feed Confederate prisoners, yet the overall mortality rate in Union prison camps was virtually identical to that in Confederate camps. The War Department received regular updates from the commanders and surgeons of prison camps. On 19 August 1863, Stanton received a report from the commander of Fort Delaware that 180 Confederates had died from 1 July until 19 August, out of a population of approximately 10,000 prisoners. The report included a statement made by four

[89] John Henry King, *Three Hundred Days in a Yankee Prison* (Kennesaw, GA: Continental Book Co., 1959), 78.

[90] William W. Ward, *"For the sake of my country": The Diary of Colonel W. W. Ward* (Murfreesboro, TN: Southern Heritage Press, 1992), 16.

[91] In particular, Ward, *"For the sake of my country"* and William Hyslop Sumner Burgwyn, *A Captain's War: The Letters and Diaries of William H. S. Burgwyn, 1861-1865*, ed. Herbert M. Schiller (Shippensburg, PA: White Mane Publishers, 1994) fixate upon monetary matters.

Confederate surgeons held in the prison, who regarded the mortality rate as low for the size of the prison. The camp commander offered that "From my own observation, I consider the prisoners of war at this post in as good condition as it could be possible to keep them at any other place."[92]

In December of 1863, Stanton requested Dr. Montrose A. Pallen to inspect the largest federal prison camps. Pallen reported that prisoners in all locations were living in tents without sufficient blankets to offset the cold of winter, but also observed that prisoners received the same quantity and quality of rations as those provided to federal troops, including fresh bread each day and fresh beef five days per week. Pallen surmised that the high mortality rates in camp were not due to federal negligence, but because that many Confederate prisoners were in very poor condition prior to their arrival in camps and that most had not been inoculated against smallpox, which had struck at each of the camps.[93]

The location most often compared to Camp Sumter was Camp Elmira, located in upstate New York. Each camp was opened in 1864, was extremely overcrowded, and had an abnormally high mortality rate. Elmira was initially constructed as a training depot for Union troops. However, on 23 May 1864, Colonel Seth Eastman informed Adjutant General E. D. Townsend that the location was ideal for a prison camp, as it was built to house 3,000 recruits comfortably, but was not in use. William Hoffman ordered Eastman to prepare for as many as 10,000 Confederate POWs, but Eastman assumed the

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[92] A. Schoepf to Edwin M. Stanton, 19 August 1863, Box 4, Entry 149, RG 249.
[93] Montrose A. Pallen to Edwin M. Stanton, 19 December 1863; William Pierson to William Hoffman, 25 December 1863; both in Box 4, Entry 149, RG 249.

number would never exceed 5,000.[94]  From July 1864 until July 1865, a total of 12,263

enlisted Confederate POWs were sent to Elmira.  The greatest number reported at Elmira

was in August, 1864, when prison returns contained 9,480 names.  2,951 prisoners died at

Elmira, for a total mortality rate of 24 percent, the highest rate of any Union prison camp,

though lower than the mortality rate at Andersonville.[95]  Much of the misery at Elmira

was blamed on two major factors: the water supply, which was provided by a small pond

that also served as a latrine-sink, and the weather, as thousands of captives were exposed

to the elements without adequate clothing, blankets, or shelter.  Prison life at Elmira was

tightly regimented, as one former captive stated, "Daily life at Elmira followed a routine

as regular as clockwork."[96]  This statement was a far cry from the mass chaos associated

with Andersonville, where no effort was made to regulate the daily activities of prisoners,

but the lack of shelter and a clean water supply paralleled the conditions there.

As the war came to a close, the Union moved quickly to free all federal prisoners

still held in Southern camps.  Prisoners assumed that the surrender of the Army of

Northern Virginia would mean a quick end to the war, but prisoners in the Trans-

Mississippi region faced the possibility of months of further confinement.  Prisoners at

Camp Ford, Texas were not informed of the end of the war, their captors simply left the

walls of the camp after notifying the POWs that they had been exchanged.[97]  One final

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[94] James I. Robertson, Jr., "The Scourge of Elmira," in *Civil War Prisons*, ed. William B. Hesseltine (Kent, OH: Kent State University Press, 1972), 80-81.

[95] "Consolidated Returns for Elmira, NY," Box 16, Entry 208, RG 109.

[96] Berry Benson, *Berry Benson's Civil War Book: Memoirs of a Confederate Scout and Sharpshooter*, edited by Susan Williams Benson (Athens: University of Georgia Press, 1962), 132.

[97] F. Lee Lawrence and Robert W. Glover, *Camp Ford C.S.A.: The Story of Union Prisoners in Texas* (Austin, TX: Texas Civil War Centennial Advisory Committee, 1964), 75-76.

disaster remained for the prisoners fortunate enough to survive Andersonville and other Southern prison camps.  On 26 April 1865, the river steamer *Sultana*, built to carry less than 400 passengers, headed up the Mississippi River bearing over 2,000 former Union prisoners.  At 2:00 AM on 27 April 1865, the steamer exploded, killing 1,900 passengers, almost all former prisoners.[98]

The Union moved less quickly to free Confederate prisoners, but on 21 July 1865, Hoffman ordered that all Confederate prisoners be released from federal parole camps and returned to their home states, with the exception of prisoners caught with Jefferson Davis and those held for special reasons, such as conviction of a crime committed while a prisoner.[99]  All freed prisoners swore the Oath of Allegiance to the United States before they were released, and gave their parole to be of good behavior and commit no act of hostility toward the United States.  After release, all prisoners were transported to the point nearest their homes accessible by rail or steamboat.[100]  By 20 October 1865, federal rosters listed only fifteen prisoners still in confinement.  The number included four privates too sick to travel, a convicted spy, Davis and two personal aides, Confederate Secretary of the Navy Stephen A. Mallory, and Henry Wirz.  All other prisoners had been released and returned home, without punishment for serving in the Confederate military forces.[101]

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[98] Gene Eric Salecker, *Disaster on the Mississippi: The Sultana Explosion, April 27, 1865* (Annapolis, MD: Naval Institute Press, 1996), xi.

[99] William Hoffman to Brigadier General Schoepf; William Hoffman to L. H. Lee; William Hoffman to H. A. Allen; William Hoffman to T. Ingraham; William Hoffman to Charles B. Pratt; all dated 21 July 1865, Volume 3, Entry 25, RG 249.

[100] William Hoffman to J. C. McKee, 3 August 1865, Volume 3, Entry 25, RG 249.

[101] "Roll of Prisoners in Confinement," 20 October 1863, Entry 16, RG 249.

Of those prisoners, only Wirz was placed on trial for his acts during the war. His trial was one of the first war crimes trials in history. Despised by the federal prisoners in his charge, Wirz was accused of murdering Union captives and indicted for murder and conspiracy to commit murder. After a trial of two months, he was found guilty on ten of the thirteen counts the indictment. The court named Davis, Seddon, and Cobb as co-conspirators in the deliberate attempt to mistreat Union prisoners, but none of them were brought to trial. Wirz was executed on 10 November 1865, after pleas for leniency or a pardon were denied. Days after the execution, it was discovered that the most damning testimony of the trial was fabricated. The government's star witness of the trial, Felix de la Baume, was given a written commendation from the trial commission for his testimony, and rewarded with a clerkship in the Department of the Interior. On 26 November 1865 the *New York Tribune* identified De la Baume as Felix Oeser, a deserter from the Seventh New York. Oeser lost his clerkship, and admitted his testimony had been perjured.[102]

The Wirz family has argued for decades that Wirz was a scapegoat for the horrors of Andersonville, and that he did his best to save as many prisoners as possible from conditions beyond his control. Wirz was the only member of the Andersonville command structure to be held accountable for the deaths of Union prisoners despite his defense that he was not the highest ranking authority at the prison, and that he acted under orders from Winder.[103] Joseph Cangemi and Casimir Kowalski argued that postwar propaganda surrounding Andersonville, including the testimony given at Wirz's

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[102] Marvel, *Andersonville*, 244; *New York Daily Tribune,* 28 November 1865.
[103] Speer, *Portals*, 291-92.

trial, provided a justification for harsh Reconstruction policies, and that the Northern

public believed a deliberate effort to destroy Union POWs existed at Camp Sumter.[104]

The Civil War illustrated the pitfalls of improvised POW policies during a total

war. As the pace of captures rose in 1862 and 1863, diplomatic breakdowns forced each

belligerent to create holding facilities for thousands of prisoners almost overnight. Due

to the lack of planning, and the low priority given to prisoner welfare, these prison camps

proved wholly inadequate to the task of maintaining the prisoners. General Orders 100

established a set of regulations for the capture and confinement of prisoners that

governed military forces in the field for decades after the war and helped establish

international agreements regarding POW treatment, greatly improving the lot of prisoners

in conflicts around the world. Unfortunately the Lieber Code was issued too late to solve

the problems encountered during the Civil War. The horrors of the Civil War prison

camps, particularly Andersonville and Elmira, left a lasting impression upon the

American military and the American public, and served as an example of what could

happen if POW policy continued to be improvised in future wars. In the conflicts after

the Civil War, military commanders devoted at least some forethought to the problem of

prisoners of war, and sought to avoid the mistakes made by both sides during the war.

Similarly, diplomatic efforts in the period after the Civil War sought to establish the

precise rights of prisoners of war, and the responsibilities of capturing powers.

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[104] Cangemi and Kowalski, *Andersonville Prison*, 29-33.

**CHAPTER VI**

**AMERICA BECOMES A WORLD POWER, 1865-1919**

The period from 1865 to 1919 was punctuated by several international attempts to codify the laws of war, as well as conflicts involving the deployment of U.S. forces overseas. The foundation of the Red Cross in 1864, the Declaration of Brussels in 1874, and the Hague Conventions of 1899 and 1907 all served to alleviate the conditions faced by prisoners of war around the globe. The Spanish-American War in 1898 demonstrated the ability of the United States to capture and maintain thousands of prisoners in a humane fashion, if only for a short period of time. The Philippine War (1899-1902) showed the practical difficulties of applying a single code of conduct to guerrilla warfare in a wide variety of environments, and illustrated that American POW practices did not always follow the prescribed policies for the treatment of enemy prisoners.

In 1917, the United States joined the fighting more than two years into the conflict, when millions of prisoners already had been taken by all belligerents. U.S. officials were familiar with the plight of prisoners throughout Europe, as they had accepted the role of protecting power for all of the major combatant nations, overseeing the needs of prisoners held by both sides of the conflict. The War Department made virtually no effort to plan for the capture and maintenance of enemy troops, and thus was almost completely unprepared for the influx of prisoners with the entry of American troops into combat. As it had since the Revolutionary War, the army improvised a POW program, with the result that prisoners were inadequately sheltered and fed, and no effort was made to utilize the labor of prisoners held by American forces until after the end of the war.

Delegates from sixteen nations met in August of 1864 to form a charitable society dedicated to alleviating the hardships of war for sick and wounded soldiers, regardless of nationality, resulting in the creation of the International Committee of the Red Cross. The mission of the Red Cross gradually expanded throughout the nineteenth century, by 1870 it included aiding prisoners of war held in the Franco-Prussian War, by providing supplies and medical personnel to prison camps on each side of the conflict.[1] The influence of the Red Cross spread quickly in Europe, but in the United States it did not become a factor in prisoner of war affairs until World War I.[2]

Delegates at an international conference in Brussels in 1874 drafted a declaration of the laws of war to apply to all signatory states. Although most of the signatories did not ratify the Declaration of Brussels, it was an important attempt to codify acceptable behavior in wartime, particularly toward prisoners of war, and served as "an obvious progenitor of the 1899 Hague II Regulations and of the 1907 Hague IV Regulations."[3] The Declaration of Brussels depended heavily upon the Lieber Code, leaving unchanged many of the provisions regarding prisoners, specifically that prisoners were in the power of the enemy government, not the individual captors; prisoners could be forced to labor

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[1] John F. Hutchinson, *Champions of Charity: War and the Rise of the Red Cross* (Boulder, CO: Westview Press, 1996), 123-26.

[2] During the Spanish-American War, Red Cross societies provided nurses and supplies for American training camps, but did not assist in the maintenance of Spanish prisoners, Hutchinson, *Champions of Charity*, 223, 229; Caroline Moorehead, *Dunant's Dream: War, Switzerland and the History of the Red Cross* (New York: Carroll & Graff, 1998), 103-5.

[3] Howard S. Levie, ed., *Documents on Prisoners of War*, Naval War College International Law Studies 60 (Newport, RI: Naval War College Press, 1979), 58.

but not on military works; and prisoners should be given food and clothing equivalent to those issued by the military of their captors.[4]

International delegates again attempted to codify the laws of war at The Hague in 1899. Representatives of twenty-four nations adopted the Convention with Respect to the Laws and Customs of War on Land. Eight years later, forty-three nations sent representatives to another conference at The Hague to create a uniform code of conduct for military forces during war. Each convention devoted seventeen articles to the treatment of prisoners of war, specifying how prisoners were to be captured and kept by belligerents. The provisions applying to prisoners did not differ significantly between the two conventions, with the exception that the 1907 Convention, which superseded the 1899 Convention for all signatories, specifically stated that it would apply "only if all the belligerents are parties to the Convention."[5] Italy, Bulgaria, Serbia, Montenegro, and the Ottoman Empire, all participants in World War I, did not sign the 1907 Convention, thus the Convention was not legally binding upon the belligerents of the war.

The Hague Conventions restated the principles of the Declaration of Brussels regarding captives. The hostile government possessed prisoners of war, not the individuals or units that captured them, and were to be humanely treated. Their captors could utilize their labor, but not in support of military operations.[6] Prisoners could not

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[4] Ibid., 59; Leon Friedman, ed., *The Law of War: A Documentary History,* 2 vols. (New York: Random House, 1972), 1:198-99.

[5] "Laws and Customs of War on Land, 1907," *United States Statutes at Large* 36:2277, *Treaty Ser.* No. 539, Article 2.

[6] According to the 1899 Convention, prisoner labor "shall have nothing to do with the military operations." In the 1907 convention, the wording was changed to "shall have no connection with the operations of the war." "Laws and Customs of War on Land, 1899," *United States Statutes at Large* 32:1803, *Treaty Ser.* No. 403, Article 6; "Laws and Customs, 1907," Article 6.

be legally transferred to the control of another government, a point that caused a great

deal of contention between the American Expeditionary Forces and the Allied

Governments during World War I.  Article 14 of each document obligated all belligerents

to create a bureau of information for prisoners of war upon the commencement of

hostilities, to collect information from various governmental agencies and maintain an

individual return for each prisoner.  In a notable attempt to provide comfort to prisoners,

these bureaus were to be given free postage and allowed to send and receive letters and

parcels across battlefield lines, for the improvement of the condition of prisoners.  Relief

societies such as the Red Cross could assist these bureaus in their efforts to ameliorate

the conditions of captivity faced by all prisoners of war.  Each convention explicitly

stated that prisoners must be repatriated as quickly as possible after the conclusion of

peace.

The United States incorporated the provisions of the Hague Convention of 1907

into the U.S. rules of land warfare and army's field regulations, but did little to actually

plan for the confinement of captured enemies.  In 1913, as the threat of war loomed in

Europe, the War College Division of the General Staff prepared a proposed general order

for the treatment of prisoners, ready to be issued if the United States entered a conflict in

Europe.[7]  The order was never issued, primarily due to military operations along the

Mexican border, where hundreds of Mexican nationals had been taken captive.  These

captives were referred to by the War Department as "interned prisoners," not prisoners of

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[7] Lewis and Mewha, *Prisoner of War Utilization,* 48.

war, any new regulations regarding POWs might create political problems for the American government by suggesting that a state of war existed with Mexico.[8]

The United States declared war upon Spain on 25 April 1898. Fighting followed in Cuba, Puerto Rico, and the Philippines, requiring the deployment of American forces around the globe in a variety of environments. Combat operations against Spain lasted for only three months, but American forces captured over forty thousand Spanish prisoners, most taken during the surrenders of Santiago, Manila, and Puerto Rico. The war was a departure from the improvised system of the Civil War, for two reasons. First, General Orders No. 100, issued in 1863, remained the guiding instructions for the capture and maintenance of enemy prisoners. Second, prior to combat operations, American commanders made plans to utilize prisoners captured in Cuba and Puerto Rico for the construction of roads in support of American combat operations.

Major General Nelson A. Miles, the commanding general of the army during the war, planned to besiege to Santiago, on the southern coast of Cuba, and then march the army north, using Spanish prisoners taken at Santiago to build a road across the island. Miles expected that a separate campaign against Puerto Rico would add thirty thousand Spanish captives to the labor force, and allow construction to proceed at a rate of five miles per day.[9] Miles' plan was the first time U.S. forces had planned to use POWs prior to their capture.

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[8] Ibid., 49; J. Fred Rippy, *The United States and Mexico* (New York: A. A. Knopf, 1931), 349-58.

[9] U.S. War Department, "Report of the Secretary of War, Miscellaneous Reports," *Annual Reports of the War Department, 1898*, 55th Congress, 3rd Session, 1898, H. Doc. 2, serial 3744, 25-26.

Most of the works examining the Spanish-American War do not discuss prisoners, or mention only the capture of prisoners taken at capitulation of Santiago. Prisoners taken at other locations are often completely ignored.[10] Secondary works dedicated to the Philippine War primarily describe prisoners of war as victims of atrocities perpetrated by both sides.[11] Most treat the war as a single conflict, rather than a series of individual campaigns to pacify various regions of the Philippine Archipelago. Stuart Miller argued that American soldiers murdered prisoners of war and civilians alike, attempting to frighten the population into submission, and were supported in their actions by commanding officers and the War Department.[12] David Bain blamed most of the reported atrocities on volunteer soldiers from the West, "who came to their adulthood on the American frontier."[13] Andrew Birtle noted that only a small percentage of Filipinos taken prisoner underwent any form of mental or physical abuse, but also argued that summary executions were common if Filipinos were captured immediately after the murder of an American.[14] Brian Linn argued that the war varied greatly by location, and

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[10] Ivan Musicant, *Empire by Default: The Spanish-American War and the Dawn of the American Century* (New York: Henry Holt and Company, 1998), 474-75, 480-81, 507; Graham A. Cosmas, *An Army for Empire: The United States Army in the Spanish-American War* (Columbia: University of Missouri Press, 1971), 232; Frank Freidel, *The Splendid Little War* (Boston: Little, Brown and Company, 1958), 252-54; David F. Trask, *The War with Spain in 1898* (New York: Macmillan, 1981), 315-18.

[11] Leon Wolff, *Little Brown Brother* (1960; reprint, New York: Oxford University Press, 1991), 233-34, 252-54, 305-7; William Thaddeus Sexton, *Soldiers in the Sun: An Adventure in Imperialism* (Harrisburg, PA: Military Service Publishing Co., 1939), 240-41; Russell Roth, *Muddy Glory: America's 'Indian Wars' in the Philippines, 1899-1935* (West Hanover, MA: Christopher Publishing House, 1981), 86-87.

[12] Stuart Creighton Miller, *"Benevolent Assimilation:" The American Conquest of the Philippines, 1899-1903* (New Haven, CT: Yale University Press, 1982), 88-90, 187-8.

[13] David Howard Bain, *Sitting in Darkness: Americans in the Philippines* (Boston: Houghton Mifflin, 1984), 84-7, quote is on 85.

[14] Andrew J. Birtle, *U.S. Army Counterinsurgency and Contingency Operations and Doctrine, 1860-1941* (Washington, DC: Center of Military History, 1998), 129-32.

cannot be treated as a single conflict, but rather must be examined on a local basis.[15]  He stated that most atrocities were committed by small groups engaged in counterinsurgency operations, and that senior officers, while aware of the actions of subordinates, did not actively pursue claims of American troops having violated the laws of war.[16]

The historiography of prisoners of war in general gives the Spanish-American War and Philippine War almost no consideration.  Lewis and Mewha argued that the only significance of the Spanish-American War regarding prisoners was the plan to utilize prisoner labor in Cuba and Puerto Rico.  They summarized the Philippine War in two paragraphs, concluding that all prisoners taken in the Philippines were treated with humanity and kindness, they made no mention of atrocities.[17]  Barker, Fooks, Garrett, and Levie made no mention of the war.

The Spanish-American War was of such short duration that even prisoners held in captivity until the end did not face significant hardships, and the number of prisoners held for more than one month was extremely low.  Of the forty thousand Spanish prisoners taken during the war, more than half were taken in the capitulation of Santiago.  The surrender of the city included a provision that the prisoners would be immediately transported to Spain.  The capture of Manila, with fourteen thousand prisoners, included equally lenient treatment and only a brief period of captivity.  Less than two thousand Spanish prisoners were held in the United States, all were naval personnel captured at sea.  Because the United States had no official ambitions to annex Cuba, no effort was

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[15] Brian M. Linn, *The U.S.Army and Counterinsurgency in the Philippine War, 1899-1902* (Chapel Hill: University of North Carolina Press, 1989), xi-xii; Brian M. Linn, *The Philippine War, 1899-1902* (Lawrence: University Press of Kansas, 2000), ix-x.
[16] Linn, *Philippine War*, 221-24.
[17] Lewis and Mewha, *Prisoner of War Utilization*, 43-46.

made to pacify the Cuban population or bring the countryside under American control.[18]

In the Philippines, the decision to annex the islands, rather than grant them independence,

led to three years of guerrilla warfare, thus prisoners taken in the Philippine War faced a

much different experience.

Although the first combat of the war occurred in Manila Bay on 1 May 1898, the

first capture of prisoners did not occur until June, during the siege of Santiago.  The siege

was complicated by the presence of a Spanish squadron, commanded by Admiral Pascual

de Cervera.  American naval forces blockaded Santiago on 27 May, and on 3 June,

Lieutenant Richmond Hobson led an attempt to trap the Spanish fleet by sinking the *USS*

*Merrimac*, an aged collier, in the entrance to the Santiago harbor.  Hobson's efforts

failed, and he and his volunteer crew were captured by Cervera's forces, the only

American prisoners taken by Spanish forces during the war.[19]

U.S. Marines landed at Guantanamo Bay, Cuba, on 10 June, and an American

army of more than sixteen thousand troops, commanded by Major General William R.

Shafter, landed at Daiquiri, near Santiago, on 22 June.  By 1 July, American forces

surrounded Santiago and had captured 120 Spanish prisoners at the battle El Caney.

These prisoners reported surprise at the lenient treatment they received; they had

expected no quarter from American forces.[20]  Several of the Spanish prisoners were

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[18] The Teller Amendment attached to the declaration of war guaranteed that the United
States would not attempt to annex Cuba as a result of the war, Musicant, *Empire by
Default*, 186-87; Elbert J. Benton, *International Law and Diplomacy of the Spanish-
American War* (Baltimore: Johns Hopkins Press, 1908), 97-98.
[19] Fred J. Buenzle, "The Collier *Merrimac*," *United States Naval Institute Proceedings* 66
(October 1940): 1447-53.
[20] U.S. War Department, "Report of Major-General Shafter, Commanding the Troops in
Cuba," *Annual Reports of the War Department, 1898*, 55th Congress, 3rd Session, 1898,

exchanged for Hobson and his crew on 6 July, twenty-seven wounded captives were sent to Santiago on parole.[21]  Shafter later stated, "I have every reason to believe the return of the Spanish prisoners produced a good impression on their comrades."[22]

On 3 July, the Spanish squadron at Santiago emerged from the harbor and sought to escape the American blockade.  Every ship under Cervera's command was sunk or set aflame, and Americans took 1,813 prisoners from the Spanish vessels.  Captured Spanish officers, including Cervera, were delivered to the U.S. Naval Academy at Annapolis, Maryland.  Enlisted prisoners of war were interned at the Navy Yard at Portsmouth, New Hampshire.[23]  Included in the prisoners sent to Portsmouth were several volunteers of the irregular forces of the Spanish Army, captured by marines near Guantanamo.  Prisoners taken by the navy and marines were held by the navy until the end of the war, and were not transferred to the control of the army, as was the practice in previous and subsequent wars.[24]

While U.S. authorities shipped Spanish naval prisoners to America for confinement, an army under Shafter besieged Santaigo.  Shafter requested that General José Toral, the Spanish commander of the Santiago military district, surrender the city to prevent further bloodshed in a futile defense.  Toral requested instructions from the

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serial 3744, 66; Frank Freidel, *The Splendid Little War* (Boston: Little, Brown, and Company, 1958), 138.

[21] Freidel, *Splendid Little War*, 240-42.

[22] Ibid., 66.

[23] For a description of the conditions at Annapolis and Portsmouth, see Charles J. Dutton, "American Prison Camp," *Commonweal* 33 (3 January 1940): 270-72.  Thirty-one prisoners died at Portsmouth, their remains were exhumed and repatriated in 1916, C. S. Kempff to Chief of the Bureau of Navigation, 13 March 1934, Box 585, Entry 464A, RG 45.

[24] "U.S. Navy Academy," 21 July 1898, Box 594, Entry 464A, RG 45 contains a list of all Spanish naval prisoners held at the Naval Academy.

governor of Cuba, General Ramon Blanco, and the question of surrender was referred to the Spanish government in Madrid. On 14 July, General Miles notified Secretary of War Russell A. Alger of the terms of the proposed Santiago surrender. On 17 July, Toral surrendered the city, as well as all the troops within his military district, some as far as 100 miles from the city. Almost twenty-three thousand troops surrendered, in exchange for shipment to Spain at the expense of the United States.

On 20 July, the Quartermaster's Department opened bidding for a contract to transport the Spanish prisoners and their families to Spain. Of the ten bids received, only two were deemed to be responsible companies capable of fulfilling the contract. The Spanish Trans-Atlantic Company won the contract, and was paid $55.00 per commissioned officer and $20.00 per enlisted person for transport. The first ship left Santiago on 9 August, the last left Guantanamo on 17 September. All told, 22,864 individuals were delivered to Spain on sixteen transports, including 22,137 troops and 727 non-combatants, at a total cost of $513,860.[25] Prisoners awaiting transport were provided with ample rations and medical supplies, prompting one soldier to write a letter of thanks to his captors as he boarded the transport home.[26]

In keeping with the principle created at Santiago, on 27 July the State Department, at the request of Secretary of the Navy John D. Long, used the British government as an intermediary to offer the release of all the Spanish prisoners taken with the destruction of Cervera's fleet. If the Spanish government would send a neutral ship

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[25] U.S. War Department, "Report of the Quartermaster's Department," *Annual Reports of the Secretary of War, 1898*, 55th Congress, 3rd Session, 1898, serial 3744, 163-64, 393-94.

[26] Pedro Lopez de Castillo to the Soldiers of the American Army, 21 August 1898, *Correspondence Relating to the War With Spain* 2 vols. (1902, reprint; Washington, DC: Government Printing Office, 1993), 1:249-50.

to Portsmouth to carry the sailors, they would be allowed to give their parole and return

to Spain for the remainder of the war.  Spain refused the offer on the grounds the Spanish

military code "prescribed [a] penalty for prisoners of war obtaining release by giving

parole not to bear arms against [the] enemy," and the sailors remained in captivity.[27]

On 12 August, diplomats met in Washington, D.C., and signed a peace protocol

that ended all hostilities between Spain and the United States in all theaters of the war.

Although formal peace treaty negotiations did not open until October, President William

McKinley ordered that Spanish prisoners held in the United States be repatriated to Spain

as quickly as possible.  On 31 August, Cervera was informed that he was to make

arrangements for the transportation of all Spanish prisoners in the custody of the War

Department and the Navy Department to Spain, which he did in a single shipment.[28]  Not

all of the prisoners desired to return to Spain; some requested the opportunity to remain

in Cuba.[29]

Word of the 12 August cease-fire did not reach the Philippines in time to prevent

an American assault upon Manila on 13 August.  After a brief engagement, the city

capitulated, and fourteen thousand Spanish defenders became prisoners of war.[30]  These

prisoners remained in their barracks in Manila, and could move about the city at will

while awaiting repatriation to Spain.  Few chose to leave their barracks area, preferring to

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[27] William R. Day to John D. Long, 8 August 1898, Box 594, Entry 464A, RG 45, National Archives.

[28] F. V. McNair to Pascual Cervera, 31 August 1898; Pascual Cervera to F. V. McNair, 1 September 1898, both in Box 594, Entry 464A, RG 45.

[29] Pedro Ramil, Luis Fabra, Aquilino Amigo and Miguel Olivares to John D. Long, 16 August 1898, Box 594, Entry 464A, RG 45.

[30] United States Senate, "Statement of Brigadier General Robert P. Hughes," *Affairs in the Philippine Islands*, 57th Cong., 1st sess., 1902, 3 vols., serial 4242-4244, 1:515 (Hereafter cited as *Affairs*); "Statement of General Elwell S. Otis," *Affairs*, 1:793-94.

remain in close quarters rather than mingle with the hostile Filipino population.  The

prisoners returned to Spain as quickly as transportation could be arranged.[31]

The Treaty of Paris ending the conflict ceded possession of the Philippine Islands

to the United States.  In February of 1899, a war began between the occupying American

forces and Filipino natives in the area surrounding Manila.  The war expanded into an

insurgency that occurred simultaneously in dozens of locations.  As a result, American

practices regarding prisoners taken in the war were haphazard, and often devised entirely

by local commanders, regardless of official policies.  "Instructions for the Government of

the Armies in the Field" (General Orders 100) remained the governing policy for

American commanders in their relations with Filipino natives.  Portions of the

instructions were reprinted regularly, to keep officers well informed of the regulations

regarding enemy prisoners and the civilian population.[32]

The Filipino insurgents were not bound by General Orders 100, however, and

General Emilio Aguinaldo issued "Instructions to the Brave Soldiers of Sandatahan of

Manila" on 9 January 1899, including an order to respect the lives and property of all

civilians and to preserve the life of any soldiers who surrendered.[33]  Antonio Luna issued

a contrary order on 7 February, calling for insurgents to offer no quarter to American

troops, but on 5 June, he was assassinated by troops commanded by Aguinaldo.[34]  In

turn,  Aguinaldo was informed in November 1899 that he would be held personally

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[31] "Statement of Robert P. Hughes," *Affairs*, 1:505, 515-16.

[32] Linn, *Philippine War*, 211-12.

[33] U.S. War Department, "Report of Major-General E. S. Otis," *Annual Reports of the Secretary of War, 1900,* 56th Cong., 2nd Sess., 1900, serial 4073, 182.

[34] Antonio Luna, "To the Field Officers of the Territorial Militia," 7 February 1899, *Affairs,* 2:1214-16; Linn, *Philippine War,* 59, 136-37.

responsible for the behavior of units under his command.[35]  Despite the regulations

issued by American commanders and by Aguinaldo, reports of atrocities were common

throughout the war, often involving the execution of prisoners by both sides.

American soldiers captured thousands of Filipinos in the fighting near Manila in

1899, and the city jails quickly began to fill to capacity.  The provost marshal of Manila

reported that 4,149 prisoners were held on 10 March 1900, and almost one third of the

prisoners were sick, including 697 suffering from beriberi.[36]  On 1 April 1900, President

William McKinley ordered the release of thousands of prisoners if they swore an oath of

allegiance to the U.S. government.[37]  Prominent guerrilla leaders who refused to swear

the oath were sent to Guam for the remainder of hostilities.[38]

On 20 December 1900, Major General Arthur MacArthur announced that any

guerrillas or civilian supporters captured by U.S. forces would be held for the duration of

hostilities, but would not be granted POW status.  Rather, they would be regarded as

criminals punishable by the government for aiding the insurgency.  Any guerrillas who

voluntarily surrendered would be simply disarmed and paroled, and would face no

repercussions from the U.S. military.[39]  It is important to emphasize that according to

Articles 32, 52, and 82 of General Orders 100, MacArthur could regard insurgents as

criminals rather than POWs, and the insurgents were no longer protected by the laws of

war.  Between 5 May 1900 and 30 June 1901, MacArthur reported 1,026 contacts with

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[35] Arthur MacArthur to Theodore Schwan, 13 November 1899, *Annual Reports*, *1900*, 250-51.

[36] Ibid., 200.

[37] Lewis and Mewha, *Prisoner of War Utilization*, 46.

[38] U.S. War Department, "Report of the Lieutenant General Commanding the Army," *Annual Reports of the Secretary of War, 1901*, 57th Cong., 1st Sess., 1901, serial 4272, 94-95, 227; "Statement of Governor William H. Taft," *Affairs,* 309-10.-

[39] "Report of the Lieutenant General," 95; "Statement of Governor William H. Taft," 68.

insurgents. In the same period, 6,572 insurgents were captured in the field, and 23,095 voluntarily surrendered. Perhaps more importantly, 15,693 rifles were captured or surrendered in the same time period.[40] MacArthur's pronouncement complicated the POW situation in the Philippines, as the provost marshals received custody of all civil prisoners as well as POWs. U.S. military courts tried thousands of prisoners in 1901 and 1902 for a variety of offenses, however, by definition, POWs cannot be tried simply for being members of an opposing military force, they may only be placed on trial for offenses against the laws of war. By placing insurgents on trial, the army demonstrated that they were no longer considered POWs. Any guerrillas who did not continuously participate in the war could expect to be treated as common criminals.[41]

The number of prisoners held by the United States rose gradually until 1 March 1901, when MacArthur issued a notice to the people of the Philippines that the delivery of any serviceable rifle or revolver would be rewarded by the release of one prisoner, chosen by the person delivering the weapon.[42] To alleviate overcrowding, a prison was established at Olongapo on 7 March 1901, but the surrender of weapons proved so successful in reducing the prison population that the prison at Olongapo was discontinued after only seven weeks in operation.[43] On 28 March, U.S. forces captured Aguinaldo, and brought him to Manila as a prisoner. MacArthur believed that the capture of Aguinaldo was the primary reason behind an increased rate of surrenders, particularly among

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[40] "Report of the Lieutenant General," 98-99.

[41] The records of trials conducted by the American provost courts in the Philippines are maintained in the National Archives. For examples, see Boxes 1-3, Entry 2398; Box 1, Entry 2381; Box 1, Entry 2394, all found in RG 395.

[42] "Report of the Lieutenant General," 102.

[43] "Report of Brigadier General George W. Davis, U.S. A., provost-marshal-general, on military affairs," *Annual Reports, 1901,* 227.

insurgent leaders. He also hailed the surrender of Manuel Tinio as an important step in the pacification of the archipelago. To signal the importance of Tinio's surrender, on 19 April 1901, MacArthur ordered that 1,000 prisoners in Manila jails be offered the oath of allegiance in exchange for their release. As other insurrectionary leaders surrendered, MacArthur ordered similar mass paroles, effectively emptying the Manila prisons as resistance flagged.[44] By 31 May 1901, the provost marshal of Manila reported only 1,240 prisoners remained in the city.[45] The release of prisoners in exchange for weapons demonstrated to rebels that peaceful actions brought tangible rewards from the occupation forces. The decision to release large numbers of prisoners immediately after the surrender of guerrilla leaders proved that the American military did not seek to punish individual guerrillas, it only sought to pacify the insurrection, primarily by targeting leaders and holding them in captivity.

Sporadic guerrilla resistance continued through the spring of 1902, when the last insurgent commanders surrendered. On 16 April, Miguel Malvar and his remaining followers surrendered, ending resistance to American rule on the island of Luzon. Eleven days later, resistance on Samar ceased with the surrender of the remaining guerrillas on the island. On 16 June, military governance in the Philippines officially ended and was replaced by civilian government.[46] To conciliate the inhabitants of the archipelago, President Theodore Roosevelt issued a proclamation of peace and amnesty for all inhabitants of the islands except those convicted of murder, arson, and rape.[47]

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[44] "Report of the Lieutenant General," 100-01.
[45] "Report of George W. Davis," 228.
[46] Linn, *Philippine War*, 304, 321.
[47] Lewis and Mewha, *Prisoner of War Utilization*, 46.

The nature of the fighting in the Philippines, separate conflicts in remote locales by independent commands, prevented the existence of a single American POW practice, even with the policies established by General Orders 100. In particular, the treatment of prisoners at the time of capture varied greatly. In 1902, a Senate investigation revealed a disturbing trend of prisoner abuse by American troops and native allies. Because American forces often could not distinguish between guerrillas and the civilian population, captured insurgents became an invaluable source of information regarding the populace. The most notorious form of abuse reported by American veterans was the so-called "water cure," when a prisoner's mouth was pried open and gallons of water poured down his throat. The water cure produced a sensation of drowning or strangulation, and it was augmented by punching or kicking the victim's distended abdomen to expel the water.[48] Few prisoners subjected to the water cure could resist surrendering information after suffering its effects. Senate testimony provided by enlisted personnel contained numerous references to the use of the water cure in many locations, testimony provided by officers invariably denied having witnessed, ordered, or condoned such methods explicitly forbidden by Article 80 of General Orders 100.[49]

In most locations, once U.S. interrogators determined that prisoners had no further intelligence value, they were held in guardhouses or outposts, usually in small numbers. American soldiers reported a high number of escape attempts, often

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[48] "Testimony of William Lewis Smith," *Affairs*, 3:1538-40; "Testimony of Grover Flint," *Affairs,* 3:1767-68; "Testimony of D. J. Evans," *Affairs,* 3:2061-62; "Testimony of Isadore H. Dube," *Affairs,* 3:2249-50; "Testimony of Januarius Manning," *Affairs,*3:2252-53; "Testimony of William J. Gibbs," *Affairs,* 3:2305.

[49] "Testimony of Leroy E. Halleck," *Affairs,* 3:1969-70; "Testimony of Richard V. Hughes," *Affairs,* 3:2236-37; "Testimony of Isadore H. Dube," *Affairs,* 3:2243; Frederick Funston to Henry Cabot Lodge, 2 May 1902, *Affairs,* 3:2259-60; R. P. Hughes to H. C. Corbin, 8 May 1902, *Affairs*, 3:2441.

accompanied by reports that a prisoner had been shot.[50] American commanders made no attempt to create a central POW enclosure or a series of large camps, and invariably placed prisoners in existing installations. The treatment meted out to prisoners varied greatly by location, but most American veterans who had observed prisoner treatment claimed that Filipino prisoners received rations, medical care, and lodging equivalent to that given U.S. troops, with the exception that the prisoners often received more rice and less meat, their customary diet.[51]

Secretary of War Elihu Root contended that the United States fought with tremendous restraint in the Philippines, and that reports of the mistreatment of prisoners were isolated incidents, not a generally accepted behavior of American troops.[52] Brigadier General Robert P. Hughes echoed Root's sentiments, but argued that American conduct became progressively more severe throughout the war, in response to the uncivilized behavior of Filipino insurgents. Major Cornelius Gardener noted that American troops looked down upon Filipino natives as an inferior race, stating "Almost without exception soldiers, and also many officers, refer to the natives in their presence as 'niggers' and the natives are beginning to understand what the word 'nigger' means."[53] Filipinos were also unfavorably compared to Mexicans, and deemed too cruel and untrustworthy to serve as officers over native troops.[54]

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[50] Examples include "Testimony of Leroy E. Halleck," *Affairs,* 3:1972-73, 1985; "Testimony of Januarius Manning," *Affairs*, 3:2254.

[51] "Testimony of Robert P. Hughes," *Affairs,* 1:660; "Testimony of Leroy E. Halleck," *Affairs,* 3:1983-84; "Testimony of D. J. Evans," *Affairs,* 3:2063; "Testimony of William J. Gibbs," *Affairs,* 3:2306-7; "Testimony of Fred McDonald," *Affairs,* 3:2775-76.

[52] Elihu Root to Henry Cabot Lodge, 17 February 1902, *Affairs*, 2:949-51.

[53] Cornelius Gardener to William H. Taft, 16 December 1901, *Affairs,* 2:884.

[54] "Statement of David P. Barrows," *Affairs*, 1:723; "Statement of Maj. Gen. E. S. Otis, U.S. A.," *Affairs,* 1:731.

American military and civilian leaders quickly put aside or forgot the lessons of the Spanish-American War and the Philippine War with regard to prisoners of war. The conflict with Spain was too short to have a major impact upon American POW policy, and the only true legacy of the war was the decision by the Department of the Navy to intern German naval personnel taken during World War I in the United States, rather than shipping them to France where German and Austrian soldiers were held captive. U.S. military officers deemed the guerrilla warfare lessons of the Philippine War to be irrelevant to the conventional warfare of World War I, but questions regarding the legal status of guerrilla prisoners again arose during the Vietnam War. In each conflict, American officers justified mistreatment of prisoners, particularly in the pursuit of intelligence-gathering, by arguing that guerrillas were not protected by international law. The international developments of the late nineteenth century had some impact upon the belligerents in World War I, and although the Hague Convention of 1907 was not legally binding, most of the belligerents voluntarily promised to comply with the POW provisions. However, differing interpretations of the convention's articles insured that the status of POWs in international law was far from settled by the experiences of World War I. To some observers, the Hague Conventions were too lenient toward prisoners, as illustrated by J. M. Spaight in 1911: "Today the prisoner of war is a spoilt darling; he is treated with a solictude for his wants and feelings which borders on sentimentalism. He is better treated than the modern criminal, who is infinitely better off, under the modern prison system, than a soldier on campaign."[55]

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[55] J. M. Spaight, *War Rights on Land* (London: MacMillan, 1911), 265.

Although the historiography of World War I is voluminous, historians have given little attention to the role played by prisoners of war, particularly given the number of prisoners taken in the war. By the time the United States entered the war, the Central Powers held almost three million Allied prisoners, with more than half in Germany, and the Allies held more than two million, most of them in Russia.[56] Immediately after the armistice was signed, Carl P. Dennett, an American Red Cross commissioner, published *Prisoners of the Great War*, accusing Germany of failing to provide even the most basic necessities for prisoners to survive captivity. Dennett argued that American prisoners in Germany avoided the hardships suffered by prisoners of other nationalities because the United States maintained an interest in German camp conditions and took more prisoners than it lost, only the fear of retaliation led Germany to keep the American prisoners in good health.[57] Dennett's work remained largely unchallenged for decades, until the publication of Richard Speed's *Prisoners, Diplomats, and the Great War*. He argued that the United States had several years' advance warning and captured comparatively few prisoners, yet still struggled to adequately maintain its captives. According to Speed, if the war had continued for even a few more months, the American prison capacity would have been overwhelmed, with disastrous consequences.[58]

Lewis and Mewha observed that the widespread use of prisoner labor for the first time was the primary development of POW practice during World War I. They argued that prisoners reacted favorably to the treatment they received from the United States,

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[56] "Prisoners of War in Germany and the other Central States," Box 378, Entry 464B, RG 45.

[57] Carl P. Dennett, *Prisoners of the Great War* (Boston: Houghton Mifflin, 1919), 13, 228-29.

[58] Richard B. Speed III, *Prisoners, Diplomats, and the Great War: A Study in the Diplomacy of Captivity* (New York: Greenwood Press, 1990), 76, 82, 101, 138, 209.

even though they were compelled to labor.[59]  Barker argued that the most important

consequence of the war was a number of bilateral agreements signed during the war that

related to prisoner treatment, and contributed to the Geneva Convention of 1929.[60]

Likewise, Levie considered World War I important because it demonstrated the

inadequacy of international law, and provoked efforts to ameliorate the conditions faced

by prisoners of war.[61]  Garrett's discussion of World War I did not mention German

prisoners held by the AEF.  In discussing the Western Front he examined only the British

perspective.[62]

World War I commenced in Europe in August of 1914.  Within two months,

almost three hundred thousand prisoners were taken.  By 1 February 1915, almost one

million men were in captivity, the vast majority of whom were Russian troops held by the

Central Powers.[63]  None of the belligerents were prepared for the huge influx of

prisoners, and all were forced to improvise housing and security facilities for their

captives.  Diplomatic problems complicated the practical difficulties of feeding and

housing prisoners, while each government professed a desire to uphold obligations

contained within the Hague Conventions, they interpreted the obligations differently.

Particularly troublesome were Articles 14 and 16, requiring the establishment of bureaus

of information regarding prisoners.  The British created a Prisoner of War Information

Bureau in August of 1914, and the French, Germans, and Austro-Hungarians opened

agencies in September.  Nominally, each fulfilled the requirements of international law,

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[59] Lewis and Mewha, *Prisoner of War Utilization*, 60-62.
[60] Barker, *Prisoners of War*, 16-17.
[61] Levie, *Prisoners of War,* 10.
[62] Garret, *P. O. W.*, 100-10.
[63] Speed, *Prisoners,* 16, 194-95.

but they differed over what type of inquires were legitimate (government or private), and whether prisoner lists should include the location of confinement. Soon, disagreements arose over the interpretation of virtually every aspect of the convention. Each government felt obliged to protect its own prisoners held by the enemy, however, no government had a means to assess the conditions of its own soldiers held as prisoners. Each side soon fell prey to rumors about the mistreatment of prisoners by the enemy, and threats of retaliation soon followed.

The major powers of each side asked the United States, as a neutral nation, to serve as a protecting power. For the first three years of the war, the United States maintained relations with both sides, inspecting prison camps throughout Europe and distributing relief to prisoners regardless of nationality. The cost of American relief operations was charged to the benefiting power, and reports of inspections were provided to each belligerent, in the hope of reducing retaliation. In January of 1915, the State Department offered to create a regular schedule of inspections throughout Europe, on the condition that each belligerent provide a statement of their POW policy to the enemy and that American representatives have access to prisoners at each location. The prisoners would be allowed to send written statements to their governments regarding the conditions of their captivity. The inspections began in April, with inspectors ordered to report the size and location of camps, the general conditions of captivity, and the specific needs of prisoners at each camp. The inspectors were explicitly told to avoid critical commentary while writing inspection reports to avoid exacerbating diplomatic tensions between the belligerents.[64] American inspectors performed more than six hundred

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[64] Ibid., 26.

inspections, and were generally regarded as even-handed in their evaluations of camp conditions. When the United States entered the war on 6 April 1917, Switzerland assumed the role of protecting power and carried out the inspections of POW camps for the remainder of the war.

Three factors complicated American policy during the war. First, the United States entered the war in 1917, after conflict ravaged Europe for almost three years. Although American inspectors were familiar with the practices of European powers regarding prisoners, the American Expeditionary Forces (AEF) still had to create an entire prisoner of war system, as the Hague Conventions did not allow the transfer of prisoners between belligerents. American troops held any prisoners captured by American forces, under the direction of the provost marshal general, whose department existed only as a wartime institution.[65] Second, the United States joined Britain, France, and Russia in a coalition, but was not an ally. The British and French governments had announced their intention to follow the Hague Conventions in 1914, the United States was naturally expected to do so as well. However, because the conventions were not legally binding, American and German practices toward each others' prisoners were also governed by the treaty of amity and commerce signed by Prussia and the United States in 1785 that included the provision that prisoners in any future conflict would be held in the United States or Prussia, not a third country. Third, because this was the largest overseas deployment to date for American forces, any prisoners maintained in Europe would only add to the logistical strain already imposed upon American planners.

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[65] Jacob B. Lishchiner, "Origin of the Military Police: Provost Marshal General's Department, A.E.F., World War I," *Military Affairs* 11 (Summer 1947): 69-70.

The AEF's leaders set their first priorities as training and deploying units to
Europe, and therefore the capture and maintenance of prisoners was not a high priority in
the first months of American involvement in the war.  On 5 July 1917, the War
Department outlined the functions of the AEF general staff, giving the provost marshal
was given the duty of guarding POWs and maintaining records of their confinement,
among many other duties.[66]  A prisoner of war information bureau was created on 30
November, and the duties of the provost marshal were more explicitly detailed on 10
December.  However, American forces held very few prisoners at the end of 1917, and
regulations for the treatment of captured enemies were not issued until 1918.[67]  The
regulations established two primary functions for prisoners: as sources of intelligence and
as sources of labor.  After capturing prisoners, AEF officers forwarded them to division
enclosures, where an intelligence officer chose prisoners for detailed interrogations.[68]
All remaining POWs transferred to a central enclosure and they joined labor companies
for employment on construction and repair work.[69]  All prisoners received the same
rations, bedding, fuel, and medical services as U.S. troops, including mandatory
vaccinations.[70]  Once assigned to a labor company, POWs worked six days per week at a

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[66] Lishchiner, "Origin," 69.

[67] United States Army, *United States Army in the World War, 1917-1919*, vol. 15,
*Reports of the Commander-in-Chief, Staff Sections and Services* (Washington, DC:
Center of Military History, 1991), 329; "Prisoner of War Companies, Orders and
Instructions," 19 January 1918, Box 444, Entry 472, RG 120; these instructions were
simplified and distributed as "Prisoners of War Regulations and Instructions, 1918," 1
July 1918, Box 282, Entry 66, RG 120; and "Manual for Prisoners of War," 1 July 1918,
Box 444, Entry 72, RG 120.

[68] "Prisoners of War Regulations," 2.

[69] Ibid., 4.

[70] "Prisoner of War Companies," 1; "Prisoners of War Regulations," 6.

rate of twenty centimes per day.[71]  The initial regulations conformed to the requirements

of the Hague Convention of 1907, although the treaty was not expressly mentioned in

POW manuals until the July versions were issued.[72]

The manual established a table of organization for 50,000 prisoners, a remarkably

accurate prediction given that the AEF captured 48,280 prisoners during the war.[73]  In

addition to outlining the functions of staff officers within the Bureau of Prisoners of War,

the manual specified that all prisoners would be disarmed, searched, and forwarded to

division headquarters, where they filled out identification cards and awaited

interrogation.  After initial questioning at the division level, prisoners were sent to a

corps enclosure, searched again, and consolidated into an army enclosure.  After a final

search, the prisoners were sent to the Central Prisoner of War Enclosure Number 1

(CPWE-1).  Eventually, eight central enclosures were created, to deal with the influx of

thousands of prisoners each week during the final offensive on the Western Front.  As

labor companies were filled, they departed the central enclosure and shifted to labor

camps behind the AEF lines.  Initially, labor companies contained 400 men, but in 1919,

each company was expanded by 50 prisoners.  Eventually, 122 labor companies were

created, each composed of 450 prisoners.[74]

On 3 January 1918, the secretary of state asked the War Department if prisoners

would be shipped to the United States.  The State Department feared that any attempt to

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[71] "Prisoner of War Companies," 6; "Prisoners of War Regulations," 11.

[72] "Manual for Prisoners," 1.

[73] U.S. War Department, "Final Report of General John J. Pershing," *Annual Reports of the War Department, 1919*, 66th Cong., 2nd Sess., 1919, serial 7682, 631.

[74] "Lists of German Prisoners of War Assigned to Prisoner of War Company Commanders," Box 445, Entry 65, RG 120 contains the muster roll for each labor company; "Prisoner of War Labor Companies," 8 March 1919, Box 444, Entry 72, RG 120 lists each company and commanding officer.

remove German prisoners from Europe would be met with retaliation upon American

soldiers.  An earlier shift of German prisoners from Britain to France had provoked

Germany to threaten to ship British prisoners to Turkey or Bulgaria.  The War

Department requested that the State Department open negotiations with Germany

regarding the disposition of prisoners of war, in the meantime, all prisoners captured by

the AEF would be held in Europe by American guards.[75]  On 23 January, the AEF

General Staff asked the provost marshal general, Colonel William H. Allaire, what

preparations had been made for the maintenance of prisoners.  He responded that his

department had yet to create a prisoner of war section.  On 23 February, Pershing ordered

the commanding general of the Services of Supply to select a camp location for German

prisoners near the supply depot at Gievres, where they would be put to work.[76]

While the General Staff was negotiating with the French for control of German

prisoners, intending to utilize them for AEF labor needs, the secretary of war ordered that

all German prisoners held by the AEF should be transferred to the United States, on the

grounds that the treaty of amity and commerce required internment in the continental

United States.[77]  Prisoners would fill labor shortages in agriculture created by the

induction of millions of men into military service.  The AEF General Staff requested that

the secretary reconsider his plan, as the French and British governments would almost

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[75] United States Army, *Army in the World War,* 15:329-30.

[76] Ibid, 15:330.  No captured German troops were shipped from Europe to the United
States, only the crews of German warships in American ports at the outbreak of war were
interned in the continental United States.  These 1,356 naval officers and men were
joined by 2,300 merchant sailors and 2,300 alien enemies in four internment camps, none
provided a significant source of labor for the government, William B. Glidden,
"Internment Camps in America, 1917-1920," *Military Affairs* 37 (December 1973): 137-
41.

[77] "Method of Handling Prisoners of War by the Provost Marshal General, A. E. F.," no
date, Box 282, Entry 66, RG 120.

certainly protest the action, and the secretary relented, with the provision that no

prisoners taken by the AEF be transferred to allied control. The State Department had

initially agreed with the secretary of war regarding internment locales then relented and

agreed that in the absence of any German diplomatic complaints, prisoners could be held

in France by the AEF. Officers, who were exempt from labor requirements, were not

mentioned in the War Department's instructions. The French government recommended

that officer prisoners be shipped to the United States because they required guards and

maintenance and did not contribute to the labor supply, but they were never transferred

out of France.[78] In practice, the only German POWs transferred to the United States

were sailors captured at sea, who were sent to Britain for interrogation and then

forwarded to the United States for internment.[79]

The first American camp for prisoners in Europe was not established until 28

April 1918, and it held accommodations for only 150 prisoners, but on 14 May, the

general staff requested that all captures made by American forces be maintained in

American custody. The primary reason for the request was the fact that American

prisoners were held in Germany, and the AEF wished to keep German prisoners to ensure

the proper treatment of Americans.[80] The French government agreed, and promised to

forward any prisoners taken by American units to the American prison enclosure at

Gievres, but on 31 July, the provost marshal general pointed out that almost no prisoners

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[78] United States Army, *Army in the World War,* 15:332.

[79] William S. Sims to Josephus Daniels, 30 March 1918; "Disposal of Prisoners of War Captured by the United States Naval Forces in European Waters," 5 April 1918; and Josephus Daniels, "Instructions Concerning the Disposition of Prisoners of War Captured by U.S. Naval Forces in European or Other Waters," 9 May 1918, all in Box 378, Entry 464B, RG 45; Glidden, "Internment Camps," 140.

[80] United States Army, *Army in the World War,* 15:330.

captured by the AEF had actually been forwarded.  On August 7, the French army began

the transfer of thousands of German prisoners to American custody.[81]

The majority of German prisoners held by the AEF were sent first to CPWE-1.

The compound was initially a temporary installation near Tours, in August of 1918, a

permanent facility opened at St. Pierre des Corps.[82]  From June of 1918 until April of

1919, 37,716 German POWs were processed at the facility.  Some 32,000 were assigned

to labor companies, the remainder were retained in the camp or forwarded to the Officer

Prisoner of War Enclosure as appropriate.[83]  The camp consisted of eight separate

enclosures, each a self-contained POW camp with barracks, mess-halls, and infirmaries.

Camp conditions were excellent for the prisoners, they received ample rations, fresh

clothing, and thorough medical care.  The diet varied by location, each labor company

drew up weekly menus for the German POWs.  A sampling of labor company menus for

March 1919 showed that prisoners at every location received coffee, bread, meat, and

vegetables on a daily basis.[84]  Each enlisted prisoner was required to work nine hours per

day, six days per week.  When not working, the prisoners were given recreational

opportunities, including sports, games, reading material, and musical instruments.[85]

Officers were forwarded from CPWE-1 to a separate prison facility near

Richelieu.  They did not perform labor, and received a monthly allowance for the

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[81] Ibid., 331.

[82] "History of Central Prisoner of War Enclosure No. 1," 2, Box 290, Entry 68,  RG 120.

[83] Ibid., 3.

[84] "Prisoner of War Labor Company No. 6 Menu for Week from March 9-15, 1919," "P. W. L. Co. No. 5 Menus from March 31st, 1919 to April 6th, 1919," "Menu for week of March 16, 1919, P. W. L. Co. #27," "Menu of the week March 16th to 22nd 1919, P. W. L. Co. 26," "P. W. L. Co. #8, Bill of Fare," all in Box 444, Entry 72, RG 120.

[85] "History of Central Prisoner of War Enclosure No. 1," 4-5.

purchase of supplies beyond their daily rations.[86]  They were assigned orderlies and

cooks from the enlisted POW population.  Every captured officer was held in a single

compound, described as "a huge country estate. . . . surrounded entirely by a stone wall

ten feet high."  While enlisted prisoners performed manual labor, officers diverted

themselves with dramatic productions, musical performances, and the opportunity to take

college courses.[87]  The officers enjoyed a comfortable lifestyle, including unsupervised

nature walks, tailored clothing, and the opportunity to send telegrams to their families.[88]

Unlike enlisted POWs, officers were allowed to consume alcoholic beverages, supplied

by camp canteens.[89]  The officer POWs took full advantage of their privileges, including

running up tremendous debts at the camp canteen for credit purchases, eventually

prompting the camp commandant to require cash for all sales.[90]  Officers on nature walks

reportedly broke tree limbs, uprooted saplings, and urinated and defecated in the chateau

park, resulting in the cancellation of all walks outside the enclosure.[91]

    AEF headquarters received weekly reports from CPWE-1 detailing any POW

deaths, transfers, or escapes.  These reports often contained detailed information on

individual prisoners, but the reports often proved a bureaucratic hassle rather than a

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[86] Office of the Provost Marshal General, "History of Officer Prisoners of War Enclosure," 10, Box 290, Entry 68, RG 120.

[87] Ibid., 1, 19-25.  Quote is on page 1.  The prison at Richelieu contained an all-time high of 880 officer prisoners on 5 March 1919, attended by 44 noncommissioned officers and 453 privates, "Officers POW Enclosure (Richelieu)," Box 285, Entry 66, RG 120.

[88] Basil D. Spalding, "Prison Order No. 1," 24 December 1918; Basil D. Spalding, "Prison Order No. 1," 6 January 1919; Basil D. Spalding, "Prison Order No. 5," 2 February 1919, all in Box 282, Entry 66, RG 120.

[89] "Prisoner of War Regulations," 16.

[90] Basil D. Spalding, "Prison Order No. 7," 15 February 1919; Basil D. Spalding, "Prison Order No. 8," 26 February 1919, both in Box 282, Entry 66, RG 120.

[91] Basil D. Spalding, "Prison Order No. 4," 17 January 1919; Basil D. Spalding, "Prison Order No. 21," 19 July 1919, both in Box 282, Entry 66, RG 120.

useful tool.  Field units reported the capture of thousands of prisoners that CPWE-1 did

not receive, particularly after heavy activity in the American sector of the front.  Almost

one thousand prisoners were reported missing in a single report on 3 October 1918, by

November, seventeen thousand prisoners were in captivity but had not been individually

processed.  The American POW infrastructure proved incapable of keeping updated

reports on prisoners as the rate of captures increased, greatly hindering the utilization of

prisoner labor.[92]

The labor system for prisoners held by the AEF developed slowly, but by the end

of the war, prisoners were employed in salvage work, construction of roads and camps,

lumber production, sanitary maintenance, and freight handling.[93]  Once the armistice was

signed, the type and hours of work for POWs expanded.  Prisoners could be required to

work at night or on tasks previously considered too dangerous for compulsory labor, such

as the disposal of high explosives.[94]  Within the labor companies, prisoners received

exceptional treatment.  They were given rations and supplies identical in quantity and

quality to those issued to U.S. troops.  Every captive was inoculated against various

diseases, and received the same medical and dental care as that furnished American

soldiers.  Laborers were paid a daily wage in canteen script that could be spent on luxury

items.  Prisoners could send two letters per week, subject to censorship by American

officers, and could receive an unlimited number of letters and packages.[95]

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[92] "Report of CPWE 1," 18 July 1918; "Report of CPWE 1," 3 October 1918; "Field Reports of Prisoners Captured by Different Organizations," all in Box 434, Entry 64, RG 120.

[93] Lewis and Mewha, *Prisoner of War Utilization*, 64.

[94] H. H. Tebbetts to Commanding General, Services of Supply, 24 August 1919; Order No. 17, P. W. E. Co. #223, 16 September 1919, both in Box 235, Entry 68, RG 120.

[95] "Manual for Prisoners," 22.

Perhaps the most important use of prisoners during World War I, for both sides, was as a source of intelligence. [96] Local raids to capture prisoners were common along the Western Front, as prisoners were brought into Allied lines, they were briefly questioned and forwarded to divisional headquarters. At each level, interrogators asked POWs for biographical information for identification purposes, followed by questions about unit strength, morale, and enemy intentions. Interrogators inquired about the specific location of machine gun emplacements, divisional headquarters, and artillery batteries. They inquired about any divisional movements, as well as which companies were in the trenches at the time of capture. As each interrogation was completed, individual reports were forwarded to corps headquarters. American commanders did not expect extensive intelligence from individual soldiers, but hoped to gain useful information from the aggregate data collected from the combined interrogation reports. As reports corroborated one another, AEF headquarters was able to obtain a fairly accurate estimate of enemy strength, morale, and intentions. Most prisoners refused to willingly provide useful information to American interrogators, but few realized the potential intelligence value of even small details gleaned by their captors.

In September of 1918, Captain Charles A. Willoughby proposed that interrogators should focus primarily upon identifying characteristics of a prisoner's uniform and speech patterns, rather than upon the information actually presented by the prisoner. He noted that most German army corps recruited territorially, thus a prisoner's dialect could serve as a way to test the veracity of many of his statements. By learning which German

[96] "Questions Asked German Prisoners," Box 433, Entry 64, RG 120 contains a list of standard interrogation questions used by the Second Division. Box 432, Entry 64, RG 120 contains hundreds of interrogation reports from various divisions in the First Army.

units were in the vicinity, American commanders could anticipate enemy actions regardless of the statements made by prisoners, who were often found to be lying about troop movements or units in the area.[97]

The United States repatriated its prisoners before any Allied nation, but it did not do so immediately after the end of hostilities. The Hague Convention declared that "after the conclusion of peace, the repatriation of prisoners shall be carried out as quickly as possible," but the Allies did not rush to return their captives.[98] In contrast, the armistice of 11 November 1918 required Germany to begin the repatriation of Allied POWs immediately, without reciprocity. Even after the signing of the Treaty of Versailles in June of 1919, repatriation of German prisoners was delayed for months. On 7 September, the AEF began sending German POWs home, a process that required only seventeen days.[99] All officers traveled through Gievres en route to Germany, enlisted personnel were collected at Is-sur-Tille for repatriation.[100]

The POW experience in World War I demonstrated that the Hague Conventions of 1899 and 1907, while mitigating the conditions faced by prisoners, were not sufficient and required substantial revisions. In particular, the international regulations governing the treatment of prisoners needed specific guidelines for the signatories to guarantee equal treatment of prisoners. World War I was especially important to the evolution of

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[97] C. A. Willoughby, "Identification of German Prisoners of War," *Infantry Journal* 15 (September 1918): 181-84. Willoughby included pictures of German insignia, descriptions of regional dialects, and lists of uniform types to aid interrogators in the identification of enemy units.

[98] Speed, *Prisoners*, 179.

[99] Ibid., 179.

[100] H. H. Tebbetts, "Repatriation of Prisoners of War," 7 September 1919; John J. Pershing to Commanding Officer, Intermediate Section, 9 and 10 September 1919, all in Box 235, Entry 68, RG 120.

American POW policy because it was the first time that the War Department performed a thorough postwar assessment of its POW practices. The commanders of each central enclosure and labor company submitted reports to the adjutant general detailing the history of their POW organizations, and these reports became the basis for American practices in World War II. They also served as examples of a functional system of camp and labor organization for American officers to follow in the next world war.[101]

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[101] "History of Central Prisoner of War Enclosure No. 1;" "Prisoner of War Enclosure, Number 5," and "History of Prisoner of War Enclosure #3," both in Box 235, Entry 68, RG 120.

**CHAPTER VII**

**AMERICA BECOMES A SUPERPOWER: WORLD WAR II**

The United States captured more POWs during World War II than in every other American conflict combined, more than seven million German, Italian, and Japanese prisoners.[1]  Most American POW policies during the war concerned German prisoners. This was almost certainly a question of numbers, as the vast majority of all captures were German soldiers.  The War Department utilized prisoner of war labor on a wider scale than ever before, primarily in POW camps established throughout the continental United States.  The POW experience of the war changed markedly at the end of the war.  The majority of captures were made in the final months of the war in Europe, as Allied forces rapidly advanced into Germany.  The capture of millions of German soldiers overwhelmed American planners, with the result that European prison camps served primarily as short-term holding pens for prisoners awaiting repatriation or transfer to labor facilities, and did not follow the labor-first guidelines of American camps in the United States.

Much of the historiography of American POW operations during the war has focused upon three key issues: utilizing enemy labor, efforts for politically reeducating prisoners, and allegations of deliberately mistreating captives.  George Lewis and John Mewha provided the most extensive discussion of the POW labor program, devoting ten chapters to all aspects of POW labor during the war.  They argued that the labor program was vital to the American economy, and that it was the first successful application of

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[1] HQ EUCOM to the Provost Marshal General Department, 18 March 1949, Box 88, Entry 452, RG 389 presents the total number of prisoners handled by U.S. forces as 7,200,000.

enemy prisoner labor in American history.  In particular, they noted that Americans

employed prisoners in the harvest of dozens of different crops and in hundreds of

industrial applications.[2]  Their discussion of the labor utilization of prisoners makes

virtually no mention of the opposition of labor unions to the use of prisoner labor in non-

agricultural work.

Judith Gansberg's *Stalag U.S.A.* focused primarily upon the American

reeducation program for German prisoners established in 1944.  The program, discussed

in greater detail below, was designed to train bureaucrats for the postwar administration

of Germany.  Gansberg relied primarily upon interviews with the commanders of the

Special Projects Division (SPD) of the provost marshal general's office, the unit created

to supervise the education program, and she considered the effort a complete success.

Ron Robin also examined the SPD, but in *The Barbed Wire College*, he argued that the

program produced an "intellectual backlash" among the prisoners selected for

administrative training, and led the trainees to resist indoctrination efforts while

maintaining a façade of accepting American ideals.  Robin demonstrated that the internal

records of the SPD showed very little progress in reeducating prisoners, but the records

were later modified to suggest that it was an unmitigated success.[3]  *The War for the*

*German Mind*, by Arthur L. Smith, Jr., argued that American reeducation programs must

be viewed as part of a larger Allied reeducation effort, in which each nation sought to

influence postwar Germany through repatriated POWs.  He believed that American and

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[2] Lewis and Mewha, *Prisoner of War Utilization*, 126-27, 146-47.

[3] Judith M. Gansberg, *Stalag U.S.A.: The Remarkable Story of German POWs in America*
(New York: Thomas Y. Crowell, 1977);  Ron Robin, *The Barbed-Wire College:
Reeducating German POWs in the United States during World War II* (Princeton:
Princeton University Press, 1995).

British efforts aimed primarily to instill democratic principles in the German mind, but the Soviet program was designed to turn Germany into a communist nation.[4]

The most comprehensive discussion of German prisoners held by the United States is *Nazi Prisoners of War in America*, by Arnold Krammer. Krammer argued that German prisoners in America received better treatment as captives than as soldiers in Europe. He demonstrated that German POWs humanized the war for millions of Americans and served as a vital source of emergency labor. Krammer devoted particular attention to the political ideology which dominated many of the POW camps in the United States, with fanatic Nazi prisoners terrifying their comrades into resisting American camp commanders. He considered the decision to remove the most fervent Nazis from camps and intern them separately as the turning point in the German POW experience in America.[5]

Perhaps the most controversial work in the historiography of POWs during World War II was James Bacque's *Other Losses*, published in 1989. Bacque accused General Dwight D. Eisenhower of conspiring to murder over one million German POWs at the end of the war through starvation and neglect. Bacque based his accusation upon a single question presented in his interview of Colonel Philip S. Lauben, who subsequently retracted his statement as a misunderstanding.[6] The accusations provoked a conference, hosted by the Eisenhower Center at the University of New Orleans, where several papers

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[4] Arthur L. Smith, Jr., *The War for the German Mind: Re-Educating Hitler's Soldiers* (Providence, RI: Berghahn Books, 1996), viii.

[5] Arnold P. Krammer, *Nazi Prisoners of War in America* (New York: Stein and Day, 1979).

[6] Bacque, *Other Losses*, 2; Albert E. Cowdrey, "A Question of Numbers," *Eisenhower and the German POWs: Facts Against Falsehood,* ed. Gunter E. Bischoff and Stephen Ambrose (Baton Rouge: Louisiana State University Press, 1992), 84.

effectively dismantled Bacque's thesis.  In particular, other scholars criticized Bacque for

deliberately misreading documents discussing the transfer of prisoners from various army

commands, and the release of prisoners without formal processing.  In each case, Bacque

assumed that the prisoners, listed as "other losses" on official records, had died in

captivity, despite ample evidence that they had simply been moved from one Allied army

command to another, or transferred to a different nation's control, a practice forbidden by

the Hague Convention, but allowed by the Geneva Convention of 1929, and thus legal

during World War II.[7]

     A major trend in World War II POW historiography has been a series of regional

studies, primarily focusing upon German camps in the United States.  Some focus upon

the events at a single camp, such as John Hammond Moore's *The Faustball Tunnel*, or

the experiences of a single prisoner such as Reinhold Pabel's *Enemies are Human*.[8]

Others examine a number of camps in a single state such as Allan Kent Powell's

*Splinters of a Nation* or David Fiedler's *The Enemy Among Us*.[9]  Lewis H. Carlson's *We*

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[7] Enemy Prisoner of War Information Bureau, "Prisoner of War Records," 21 September 1948, Box 1, Entry 467E, RG 389 shows that over 600,000 German prisoners were transferred to European nations.  Of the 749,785 prisoners held in Europe at the end of the war, 141,939 died in American custody, but this figure includes only 5,266 that died of causes other than battlefield wounds.  See also HQ EUCOM to the Provost Marshal General Department, 18 March 1949, Box 88, Entry 452, RG 389, which lists transfers of over 2,000,000 POWs to British, Russian, and French control, as well as the discharge of 1,721,367 prisoners without documentation from the Volkssturm, civilian, and deserter categories.

[8] John Hammond Moore, *The Faustball Tunnel* (New York: Random House, 1978); Reinhold Pabel, *Enemies are Human* (Philadelphia: John C. Winston, 1955).

[9] Allan Kent Powell, *Splinters of a Nation: German Prisoners of War in Utah* (Salt Lake City: University of Utah Press, 1989); David Fiedler, *The Enemy Among Us: POWs in Missouri during World War II* (St. Louis: Missouri Historical Society Press, 2003); Richard E. Holl, "Swastikas in the Bluegrass State: Axis Prisoners of War in Kentucky, 1942-46," *Register of the Kentucky Historical Society* 100 (Spring 2002): 139-65; Merrill R. Pritchett and William L. Shea, "The Africa Korps in Arkansas, 1943-1946," *Arkansas*

*Were Each Others' Prisoners*, a collection of interviews of former American and German prisoners, compared captivity on opposite sides of the Atlantic Ocean, and found a high degree of similarity in the experiences of prisoners held by each side.[10]  These detailed studies are excellent sources of information on specific camps or individuals, but rarely provide more than a cursory examination of the broad picture of American prisoner of war policy.[11]

In the aftermath of World War I, dozens of nations sought to prevent or mitigate future wars through treaties and voluntary arms limitations.  In 1922, for instance, the Washington Naval Conference limited naval construction and precluded a naval arms race similar to the one experienced prior to World War I.  The Locarno Pact of 1925 secured Germany's western frontier, defined by the Versailles Treaty, to head off any future conflict.  In 1928, sixty-five nations signed the Kellogg-Briand Pact, renouncing war as a means of settling disputes.  In 1929, a conference at Geneva created a new set of international regulations governing the capture and maintenance of prisoners of war, replacing the Hague Conventions of 1899 and 1907.

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*Historical Quarterly* 37 (Spring 1978): 3-22; Richard Paul Walker, "Prisoners of War in Texas During World War II," (Ph.D. diss., North Texas State University, 1980).

[10] Lewis H. Carlson, *We Were Each Other's Prisoners: An Oral History of World War II American and German Prisoners of War* (New York: HarperCollins, 1997); see also Frederick Joseph Doyle, "German Prisoners of War in the Southwest United States during World War II: An Oral History," (Ph.D. diss., University of Denver, 1978); and Claire Swedberg, *In Enemy Hands: Personal Accounts of Those Taken Prisoner in World War II* (Mechanicsburg, PA: Stackpole Books, 1997).

[11] Prominent examples include Jeffrey E. Gerger, *German Prisoners of War at Camp Cooke, California: Personal Accounts, 1944-1946* (Jefferson, NC: McFarland & Co., 1996); Allen V. Koop, *Stark Decency: German Prisoners of War in a New England Village* (Hanover, NH: University Press of New England, 1988); Michael R. Waters, *Lone Star Stalag: German Prisoners of War at Camp Hearne* (College Station: Texas A&M University Press, 2004); and Donald Mace Williams, *Italian POWs and a Texas Church: The Murals of St. Mary's* (Lubbock: Texas Tech University Press, 1992).

The Geneva Convention of 1929, which was in effect during World War II, included the provision that it applied to all signatories whether or not their enemy had signed the convention. According to the convention, all captured enemies needed to be moved from the battlefield as quickly as possible, and thereafter given rations and accommodations equal to those supplied to the captor's own forces. It sought to address all aspects of prisoner maintenance, including creating a prisoner of war information bureau, establishing camp inspections by a neutral nation, and specifying what forms of labor could be required of prisoners. According to the convention, all captives must be evacuated from the battlefield as quickly as possible, and thereafter be given the same living accommodations and rations as those supplied to the detaining power's own troops. The Geneva Convention forbade the use of POW labor on any project directly connected to war operations, including the transport of material to combat units. Officers could not be compelled to work, and non-commissioned officers could be assigned only supervisory work. No dangerous or degrading labor assignments could be given to prisoners of war.[12] Of the major belligerents of World War II, only the USSR and Japan did not sign the Convention. The USSR announced in 1941 that it would adhere to the Hague Convention of 1907 regarding prisoners. Japan indicated in 1942 it would follow the major provisions of the Convention.

When World War II began in Europe in 1939, the United States maintained its neutrality. As in World War I, each of the belligerents created POW systems long before

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[12] Geneva Convention Relative to the Treatment of Prisoners of War, 1929, Articles 29-31. Treaty Series, No. 846, Signed at Geneva, 27 July 1929, (Washington, DC: Government Printing Office, 1932).

American entry into the war.[13]  Although the United States formally declared war against

Japan on 8 December 1941 and against Italy and Germany on 11 December 1941, enemy

captives remained relatively few throughout 1942.  In August, the United States agreed to

the transfer of fifty thousand prisoners from British prisons, but by the end of the year,

the United States held less than two thousand.[14]  Thirty thousand prisoners arrived in

May of 1943, most shipped from the North African theater, followed by fifty thousand

prisoners in August.  The number of prisoners in the United States rose rapidly after the

Allies invaded Normandy.  From July until November of 1944, almost two hundred

thousand prisoners were shipped to the United States.  In all, almost four hundred

thousand German prisoners were sent to the United States during the war.[15]  As Allied

forces closed on Germany, the number of German captives rose more rapidly than

American logistics could handle.  American planners expected sixty thousand prisoners

in the first three months of combat after the Normandy landings, but by 1 September,

almost two hundred thousand were in captivity.[16]  Shipments of prisoners to the United

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[13] The United States investigated British practice prior to entering the war, see "Interview by Colonel William Cattron Rigby, F.A.G.D., U.S. Army, with Lieutenant J. Turner, Adjutant, Featherstone Park, Haltwhistle (Invasion Camp)," 7 November 1941, Box 1435, Entry 457, RG 389.

[14] Lewis and Mewha, *Prisoner of War Utilization*, 83.  In December, the United States held 1,881 enemy prisoners.

[15] A report of the provost marshal general's office estimated in October 1943 that the United States could house 383,000 prisoners by 1 July 1944, "Maintenance, Transhipment, and Disposal of Prisoners of War," undated, Box 1442, Entry 458, RG 389.

[16] William F. Ross and Charles Romanus, *The Quartermaster Corps: Operations in the War Against Germany*, The United States Army in World War II (Washington, DC: Center of Military History, 2004), 531-32, 631-32.

States overwhelmed the transportation network, immediately after the surrender of

Germany, all transportation of German POWs to America halted.[17]

   There are no exact figures available for the number of German prisoners taken by

the United States, although most estimates place the number between three and five

million. This lack of specific numbers is partly due to the fact that many German

prisoners were captured, disarmed, and immediately released at the end of the war rather

than processed into POW camps.[18] The provost marshal general's office stated in 1947

that the peak number of prisoners in U.S. custody was reached in June 1945, when almost

three million POWs were in captivity in Europe. This number did not include prisoners

shipped to the United States for confinement, prisoners transferred to other nations, or

captives disarmed and released from custody.[19] German prisoners accounted for the

majority of American captures, and dominated wartime POW planning. Compared to

millions of captured Germans, barely fifty thousand Italian prisoners were taken by

American forces, most during the North African campaign.[20]

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[17] Joseph Bykofsky and Harold Larson, *The Transportation Corps: Operations Overseas*, The United States Army in World War II (Washington, DC: Center of Military History, 2003), 361-62.

[18] Earl F. Ziemke, *The U.S. Army in the Occupation of Germany, 1944-1946* (Washington, DC: Center of Military History, 1975), 291; Bischof and Ambrose, *Eisenhower*, 5.

[19] Office of the Provost Marshal, "Summary of PW Activities," 1 May 1947, Box 87, Entry 452, RG 389; Ross and Romanus, *Quartermaster Corps*, 532, puts the number of German POWs in American hands on 20 May 1945 at 2,884,762.

[20] "Total Number of German, Italian, and Japanese Prisoners of War and Protected Personnel Received in Continental United States from November 1942 through May 1945," Box 1442, Entry 458, RG 389. On 1 June 1945, 374,480 German prisoners, 50,582 Italian prisoners, and 4,337 Japanese prisoners had been sent to the United States. According to data reported in 1950, the peak number of enemy POWs in the U.S. was 378,898 Germans, 51,156 Italians, and 5,413 Japanese, Enemy Prisoner of War Information Bureau, "Prisoner of War Records," 1 January 1950, Box 1, Entry 467E, RG 389.

Initially, there was little difference in the treatment of German and Italian

prisoners.  The first large groups of each came from combat in North Africa, and they

arrived at the same time in the United States.  American commanders segregated the two

groups and shipped them to large holding compounds, where they awaited assignment to

labor camps.  Most of the Italian POWs captured by American forces during the entire

war came from North Africa, an agreement with Great Britain ensured virtually every

prisoner taken in the region, German and Italian alike, remained in American custody.[21]

The status of Italian prisoners radically changed with the forced resignation of

Benito Mussolini on 25 July 1943.  An armistice, signed 3 September, ended the state of

war with the Allies, and on 10 October, Italy declared war upon its former ally, Germany.

The Allies accepted Italy as a "co-belligerent," creating a strange situation.  Could the

Allied powers consider the Italian prisoners they held as prisoners of war?  The armistice

required Italy to release all captured Allied troops, but did not mention the disposition of

Italian POWs.  In December of 1943, the American and British governments suggested

that non-fascist Italian POWs should be allowed to volunteer for non-combatant service

units, although they would still be legally considered POWs.  Italian Prime Minister

Pietro Badoglio rejected the idea, but the Allied governments proceeded to implement the

system over his protests.[22]

On 13 March 1944, Lieutenant General Brehon Somervell, commander of the

Army Service Forces, ordered the creation of "Italian Service Units" (ISUs), volunteer

units of Italian POWs in the United States.  By 31 May, 180 ISUs existed, with over

[21] James Richard Keen, "The Captive Enemy?  Italian Prisoners of War in Texas During World War II" (M.A. thesis, University of Texas of the Permian Basin, 1988), 15-17.
[22] Louis E. Keefer, *Italian Prisoners of War in America, 1942-1946: Captives or Allies?* (New York: Praeger, 1992), 74-75.

1,000 Italian officers and 33,614 enlisted volunteers.[23] The units worked primarily on military posts nationwide, usually at tasks not allowed by the Geneva Convention for prisoners of war. These tasks included service at ordnance and supply depots handling munitions, salvage and reconditioning work, and loading military supplies at ports for shipment overseas.[24]

In exchange for service, ISU members received limited parole benefits not extended to ordinary prisoners, including the opportunity to work without military supervision. They had more recreational opportunities than German POWs, and at many locations ISUs fraternized regularly with civilians. ISUs stationed near large Italian-American communities enjoyed home-cooked meals, sightseeing tours, and dances attended by American hostesses.[25] Dozens of ISU members married American women while still prisoners of war, despite a War Department prohibition against the practice.[26] Hundreds more returned to the United States and married Americans after the war, or sent for American brides to join them in Italy. The privileges extended to the ISUs created a "coddling" controversy, and some Americans were angered that men captured while fighting against the United States enjoyed luxuries not available to American troops overseas.[27] ISU volunteers received one final privilege over ordinary Italian

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[23] Lewis and Mewha, *Prisoner of War Utilization,* 96, Keefer, *Italian Prisoners*, 75-76..

[24] Lewis and Mewha, *Prisoner of War Utilization*, 99-100.

[25] Keefer, *Italian Prisoners*, 104.

[26] Ibid., 127, 168; John M. Eager to Vito Marcantonio, 29 June 1945, Box 1467, Entry 458, RG 389.

[27] Matthias Reiss, "Bronzed Bodies behind Barbed Wire: Masculinity and the Treatment of German Prisoners of War in the United States during World War II," *Journal of Military History* 69 (April 2005): 498-99; Bill Cunningham, "Blizzard Nets One Bad Story," *The Boston Herald,* 12 February 1945; John Hammond Moore, "Italian POWs in America: War Is Not Always Hell," *Prologue* (Fall 1976): 151; "What Did Army Expect When It Let Them Go to Dances? Ask Parted Wives of POWs," *Washington Daily News*,

prisoners: they were designated for the earliest repatriation as a reward for their service. Virtually all ISU members returned home by the end of 1945, some non-ISU prisoners remained in captivity in the United States until March of 1946.[28]

Japanese prisoners were taken in much fewer numbers than Europeans, and few were shipped out of the Pacific theater of operations for confinement. The primary reason that few of the Japanese prisoners taken in the Pacific were shipped to the United States was a September, 1942 agreement that Australia would hold all Japanese prisoners who had no significant intelligence value.[29] The war was almost over prior to the capture of significant numbers of Japanese prisoners, by 20 August 1945, less than twenty thousand prisoners had been captured by U.S. forces in the Pacific and only five thousand had been sent to the United States for confinement and interrogation.[30]

John Dower argued that Japanese unwillingness to surrender, combined with Allied disinterest in taking prisoners in the Pacific, ensured that very few Japanese captives were taken in the Pacific.[31] Dower's thesis is supported by memoirs and contemporary accounts of American service personnel.[32] Simon P. MacKenzie bolstered

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11 July 1945, 26; Z. C. Steakley to C. H. Smith, 4 May 1945, Box 3, Entry 268, RG 38; "Speech to be given by Lt. Comdr. C. H. Smith, III," 3, Box 4, Entry 268, RG 38.

[28] Keefer, *Italian Prisoners,* 161.

[29] Arnold P. Krammer, "Japanese Prisoners of War in America," *Pacific Historical Review* 52 (February 1983): 70.

[30] "Total number of Japanese P. W. enlisted men in prisoner of war camps," 16 July 1945, Box 2, Entry 1004, RG 389.

[31] John W. Dower, *War without Mercy: Race & Power in the Pacific War* (New York: Pantheon Books, 1986), 35.

[32] For examples, see E. B. Sledge, *With the Old Breed at Peleliu and Okinawa* (New York: Presidio Press, 1981), 33-34; Henry Barry, *Semper Fi, Mac: Living Memories of the* U.S. *Marines in World War Two* (New York, Arbor House, 1982), 74-75; William F. Halsey and Joseph Bryan, *Admiral Halsey's Story* (New York: McGraw-Hill, 1947), 123; William Manchester, *Goodbye, Darkness: A Memoir of the Pacific War* (Boston: Little,

Dower's thesis by stating that American marines executed Japanese prisoners in the Pacific rather than burden themselves with prisoner care.[33]

Allison Gilmore claimed that Japanese prisoners resisted surrender due to indoctrination by the Japanese military and expectations of mistreatment after capture. Because Japanese commanders assumed their troops would not surrender, enlisted soldiers and sailors received no instruction regarding the proper behavior of POWs. Consequently during interrogations, Japanese prisoners often proved willing to answer questions about morale, strength, and troop placement of enemy forces, because they had never been instructed to resist interrogation. Gilmore demonstrated that the most effective propaganda aimed at inducing Japanese soldiers to surrender as designed by Japanese prisoners, and that Allied propaganda efforts began having a major impact upon Japanese troops in the summer of 1945.[34]

Ulrich Strauss explored Japanese pre-war indoctrination in-depth, and found that most Japanese army recruits believed death was preferable to capture.[35] The provost marshal general and the Office of Strategic Services operated under the same assumption.[36] Even as the war drew closer to the Japanese Home Islands, unit cohesion

Brown, 1980), 439; Martin Caidin, *The Ragged, Rugged Warriors* (New York: Dutton, 1966), 36-37.

[33] Simon P. MacKenzie, "The Treatment of Prisoners of War in World War II," *Journal of Modern History* 66 (September 1994): 488.

[34] Allison Gilmore, *You Can't Fight Tanks With Bayonets: Psychological Warfare against the Japanese Army in the Southeast Pacific* (Lincoln: University of Nebraska Press, 1998), 150-56; "Check-List for Use in Interrogations on Morale," no date, Box 908, Entry 177, RG 165.

[35] Ulrich Strauss, *The Anguish of Surrender: Japanese POWs of World War II* (Seattle: University of Washington Press, 2003), 6.

[36] William J. Donovan to Allen W. Gullion, 3 July 1944; Arthur L. Lerch to William J. Donovan, 17 July 1944; Arthur L. Lerch to William J. Donovan, 11 August 1944, all in Box 1435, Entry 457, RG 389.

remained strong. Whereas in North Africa and at Stalingrad, hundreds of thousands of prisoners surrendered en masse, in the Pacific theater, surrenders of more than a handful of prisoners at a single time remained exceedingly rare. On the Eastern Front in Europe, German and Soviet forces had an approximately equal number of troops killed and captured, but the Japanese wartime ratio was over thirty killed for every prisoner who surrendered.[37] Strauss considered this primarily a function of Japanese unwillingness to surrender, not an Allied resistance to taking captives; only one-third of all Japanese prisoners surrendered intentionally. Most of the rest were incapacitated by wounds or illness, or became separated from their units and blundered upon Allied forces. It is worth emphasizing that more than half of all Japanese prisoners captured in the war were naval personnel plucked from the ocean after surviving the sinking of their ships.[38]

There simply were not enough prisoners taken in the Pacific theater to have a significant impact upon American POW policy. The 12,194 prisoners captured in the Southwest Pacific in 1945 area prior to the surrender of Japan were a far cry from the millions of German prisoners captured in North Africa and Europe. Most Japanese prisoners were penned in holding camps scattered throughout the region, and the Allies made little effort to utilize their labor. On 2 September 1945, approximately one hundred thousand Japanese prisoners surrendered in the Philippines as part of the surrender of the Japanese Empire, but their captivity was brief. Japanese prisoners were repatriated

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[37] Ibid., 49.
[38] Ibid., 55; Krammer, "Japanese Prisoners," 80.

almost immediately after the end of the war. Half of all Japanese prisoners were home by the end of 1945, and all returned to Japan by the end of 1946.[39]

As in World War I, prisoners provided a wealth of intelligence to American commanders. A systematic effort by all belligerents to interrogate prisoners taken in all theaters commenced with combat operations in 1942, and continued throughout the war. Initially, American interrogators followed British practices when questioning enemy prisoners.[40] Early interrogations focused upon troop strength, unit movements and intentions, enemy morale, and enemy supply situations. American commanders realized that extensive questioning of every prisoner was unrealistic, because the average enlisted prisoner had almost no knowledge of planned operations or troop strength. As such, American officers sought to identify prisoners having high rank or detailed knowledge who could be separated and subjected to lengthy interrogations. While the majority of prisoners were sent to camps in the United States by sea, prisoners with valuable information were airlifted to special interrogation camps, designated in official communications only by postal box numbers. Forts Hunt and Tracy, near Washington, D.C., were used for European prisoners. Japanese prisoners of special interest were flown to Byron Hot Springs in California.[41]

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[39] Lewis and Mewha, *Prisoner of War Utilization*, 258, Krammer, "Japanese Prisoners," 89; "Tabulation of POWs Processed in the Philippines and Okinawa by Month of Capture," 15 January 1946, Box 7, Entry 1004, RG 389; Walter P. McMinn to O. J. Magee, 24 March 1948, Box 88, Entry 452, RG 389.

[40] AG to all Interrogators, memorandum, 18 December 1943, in Box 908, Entry 177, RG 165; see also "IV Army Corps School for Interrogation of P.W.-German," 1 July 1941, Box 923, Entry 177, RG 165; "Notes on Interrogating Technique," 27 March 1942, Box 924, Entry 177, RG 165; "Interrogation in the Field," no date, Box 924, Entry 177, RG 165.

[41] Gansberg, *Stalag U.S. A.*, 15; "Japanese Officer Prisoners of War," no date, Box 2, Entry 1004, RG 389; Ikuhiko Hata, "From Consideration to Comtempt: The Changing

By 1944, senior staff at the War and Navy Departments gave American interrogators weekly lists of topics of interest, with a particular emphasis upon military technology.[42] American military engineers desired detailed information about the development of jet propulsion, rocket motors, and guided missiles.[43] The Army Medical Corps requested information on Japanese plans for biological warfare, especially efforts to infect water supplies with harmful bacteria.[44] Psychological warfare officers studied POW interviews for signs that enemy morale was flagging and that surrender demands were having an effect.[45] In the spring of 1945, as Germany neared collapse, surveys of POWs were used to determine the political mindset of Germans regarding the Nazi Party, the United States, the Soviet Union, and the likelihood of continued resistance after the surrender of Germany.[46]

German prisoners who identified themselves as anti-Nazi often emerged as subjects of special interest for American interrogators. These prisoners were considered

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Nature of Japanese Military and Popular Perceptions of Prisoners of War Through the Ages," in *Prisoners of War and Their Captors in World War II,* eds. Bob Moore and Kent Fedorowich (Washington, DC: Berg, 1996), 272-73.

[42] "Miscellaneous Questions of Current Importance," 1 September 1944, Box 908, Entry 177, RG 165.

[43] Examples of technological interrogations include "Peenemuende Experimental Center," 14 December 1944, which included detailed information on jet engines, V-1 and V-2 missiles, and helicopters, as well as a map of the experimental facility at Peenemuende; "Static Flamethrowers," 20 November 1944; and "Information on German Tanks," 29 December 1944; all found in Box 647, Entry 177, RG 165; "Final Session of the Research Group Training School," 22 August 1945, Box 909, Entry 177, RG 165; Luis de Florez to the Secretary of the Navy, 19 June 1945; H. G. Bowen to the Provost Marshal General, 3 October 1945, both in Box 109, RG 298.

[44] "Japanese Biological Warfare," 12 April 1945; "Bacteriological Warfare," no date, both in Box 908, Entry 177, RG 165.

[45] "Psychological Study of an SS Deserter," 30 May 1944, Box 660, Entry 179, RG 165.

[46] "Extract from Report on Opinions of 1700 German Ps/W on Politics, Postwar Division and Occupation of Germany," 8 March 1945; "Suggestions for Classification of Prisoners of War," 18 April 1945; both in Box 924, Entry 177, RG 165.

more reliable sources for evaluating the impact of Allied operations upon German morale, the effect of bombing campaigns on the civilian population, and the possibility of a communist takeover in postwar Germany. Many of these prisoners supplied intelligence voluntarily, in an effort to assist the Allies in the destruction of the Nazi regime. In particular, the prisoners revealed a gradual decline in German troop morale after the D-Day invasion of 6 June 1944 and a growing lack of faith in Adolf Hitler's leadership. They also reported increasing supply shortages due to Allied bombing raids, and estimated the extent of damage to major German cities from the aerial campaign.[47]

The provost marshal general's office maintained responsibility for prisoners of war, as it had in World War I. On 5 October 1944, the office issued regulations to all POW guard personnel governing every aspect of prisoner operations. The instructions, "Enemy Prisoners of War," were contained in a War Department technical manual, *TM 19-500*, and updated during the remainder of the war. The manual replaced the earlier improvised regulations, which varied by service command. It ordered all POW guard personnel to follow the Geneva Convention, both in spirit and letter.[48] The manual only explicitly applied to POWs held in the United States, operational theater commanders could apply the regulations as they saw fit, although all theater of operations POW camps were defined by the manual as temporary.[49] In the United States, the manual's primary

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[47] Box 658, Entry 179, RG 165 contains dozens of individual interrogation reports of anti-Nazi prisoners who volunteered information to assist in the destruction of Nazi Germany; see also "Extract from Report on Opinions of 1700 German Ps/W," 8 March 1945, Box 924, Entry 177, RG 165.

[48] War Department, "Enemy Prisoners of War," 5 October 1944, *Technical Manual 19-500* (hereafter cited as *TM 19-500*), 1.1.

[49] Ibid., 2.2.

consideration for the placement of POW camps was the ability to employ POW labor to the maximum extent possible.

American commanders segregated POW camps by nationality. Eventually, German POW camps were also separated by political ideology, as American officers sought to separate fanatical Nazis from politically neutral or anti-Nazi prisoners. In camps for Japanese prisoners, captives of Korean and Formosan ancestry were separated as "a necessary step in preventing violence and possible bloodshed."[50] Prisoners in each camp elected spokesmen to serve as liaisons with American authorities and neutral nation camp inspectors.[51]

In the camps, prisoners expressed surprise at the amount of food, clothing, and space they received. Some perceived the lenient treatment as an American attempt to curry favor in the event the Axis powers won the war. In fact, the Geneva Convention caused enemy prisoners to receive more food, clothing, and living space than they were accustomed to, in equal quantities to that received by American forces. As with the ISUs, some American civilians complained that German prisoners were "coddled" by the government, enjoying luxuries not available to the American public due to wartime shortages. In addition to food, clothing, and housing, enemy prisoners received exceptional medical care, including monthly medical inspections, immunizations, dental care, and psychological counseling.[52]

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[50] Arthur L. Lerch to Colonel Gerhardt, 5 September 1944, Box 1439, Entry 457, RG 389.

[51] *TM 19-500*, 2.12.

[52] Sidney Shalett, "Prisoner Coddling is Denied by Army," *New York Times,* 7 May 1944, 14; "Deny 'Coddling' of War Prisoners," *New York Times,* 8 October 1944, 14; "Coddling of War Prisoners is Denied by Gen. Lerch at a Legion Meeting Here," *New York Times,* 17 April 1945, 30; Frederick C. Othman, "Nazis Smell Pretty and General's

The Geneva Convention specified that all prisoners should receive intellectual and physical diversions, as much as possible, and American camp commanders soon provided sporting equipment, reading materials, and musical instruments to their charges. Prisoners formed athletic leagues, bands, choruses, and acting troupes for their own entertainment, and often invited American personnel to their performances. Prisoners could pursue higher education if they so desired: several American universities offered correspondence courses for prisoners, and in 1944, the German Reich Ministry of Education offered high school and university credit for courses taken while held as a prisoner of war.[53] Prisoners received extensive mail privileges. Each was allowed to send two letters and four post cards per week, subject to military censorship, and could receive an unlimited number of letters, post cards, and parcels.[54]

German POWs became so comfortable in the United States that they deliberately provoked American authorities on many occasions, risking administrative punishment by playing pranks. In one incident, German prisoners painted a swastika on a turtle in Florida, and jokingly informed their guard that the turtle was a Nazi sympathizer. Other prisoners painted, carved, and drew swastikas and other German symbols on virtually any available surface, continually provoking American personnel while maintaining their identity as German soldiers. Most historians have viewed this behavior as an effort to

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Glad," *Washington Daily News,* 1 May 1945; "Defend Treatment of War Prisoners, *New York Times*, 1 May 1945, 9.

[53] Krammer, *Nazi Prisoners*, 62; "The YMCA War Prisoners' Aid Offers Educational Assistance," *School and Society* 59 (6 May 1944): 325; *TM 19-500*, 2.31-32.

[54] *TM 19-500*, 2.49-53.

uphold military discipline among the prisoner population, although Omar Bartov argued that this type of behavior represented the prisoners' devotion to ideology.[55]

Political sentiments in the camps often dominated camp life. Fanatical Nazis sought to exert control over fellow prisoners by threatening reprisals against any POW who expressed anti-Nazi sentiments. The provost marshal general's office attempted to separate anti-Nazi prisoners from camp populations and hold them in separate facilities, but this effort was often frustrated by the prisoners. As a rule, ardent Nazi Party members held all of the leadership positions within each camp. They were almost invariably chosen as camp spokesmen for communicating with American officials. Noncommissioned officer POWs showed the greatest devotion to Nazism, and held the highest ranks in most German POW camps. They often censored or banned books in the prison libraries that they considered anti-Nazi, in particular, they targeted books by Jewish authors.

The German POW population organized "kangaroo courts" as a means of keeping control over anti-Nazi prisoners. These courts, also called "honor courts," met to determine if any prisoners were guilty of treason against the Reich. *Newsweek* reported one trial in February of 1945, in which Corporal Johann Kunze was tried, convicted, and beaten to death by his fellow prisoners. Kunze's killing provoked a court-martial of five German prisoners, who were convicted of murder and executed in July of 1945. Kunze's

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[55] Edward Shils and Morris Janowitz, "Cohesion and Disintegration in the Wehrmacht in World War II, *Public Opinion Quarterly* 12 (1948): 280-315; Richard Holmes, *Acts of War: The Behavior of Men in Battle* (New York: The Free Press, 1985); William C. Bradbury, Samuel M. Meyers, and Albert D. Biderman, *Mass Behavior in Battle and Captivity: The Communist Soldier in the Korean War* (Chicago: University of Chicago Press, 1968); and Omar Bartov, *Hitler's Army: Soldiers, Nazis, and War in the Third Reich* (New York: Oxford University Press, 1991).

death was not an isolated incident; murders, assaults, and forced suicides continued even after the surrender of Germany.[56]

As a result of such Nazi atrocities within the camps, the provost marshal general's office reversed its policy of attempting to segregate anti-Nazi prisoners, and instead decided to isolate the most ardent Nazis from the prisoners population. These fanatical adherents to Nazism proved much easier to distinguish, as they seemed eager to prove their fervor to captors and comrades alike. The War Department constructed a special maximum-security prison at Alva, Oklahoma, for these intractable prisoners. Simultaneously, a campaign to reeducate and "denazify" the camps commenced. A gradual adjustment of camp environments ensued, with the introduction of pro-democracy reading materials and films, and the creation of the Special Projects Division (SPD) to oversee the reeducation effort.

Two U.S. Army officers, Lieutenant Colonel Edward Davison and Major Maxwell McKnight, commanded the SPD, and assembled a team of intellectuals and educators at Fort Kearney, Rhode Island, to direct the denazification effort. The group called itself "the Factory" in official and nonofficial communications, and made great efforts to remain secret. Prisoners deemed sympathetic to the reeducation cause were sent to Fort Kearney to assist in the effort to modify the ideology of their fellow prisoners. Once an educational program was created, the SPD expected to provide a crash-course in democracy for up to twenty-thousand cooperative German prisoners, in

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[56] "Death and Treason," *Newsweek*, 5 February 1945, 47; "Seven by the Rope," *Newsweek,* 27; "War Prisoners," *Senior Scholastic*, 3.

the hope that they would form the nucleus of a new political system in postwar Germany, and aid in the occupation efforts.[57]

One of the SPD's first projects was to create a national German POW newspaper, *Der Ruf* (*The Call*). It was written and published at Fort Kearney for national POW distribution. To avoid the appearance of propaganda, *Der Ruf* was sold at prisoner canteens rather than simply given to the prisoners. The first issue appeared on 1 March 1945, and sold eleven thousand copies. By 15 October, over seventy thousand copies of each issue were sold in the camp canteens. Although sales of the paper steadily increased, some prisoners found it disturbing, considering it a propaganda effort by the United States to destroy their loyalty to Germany.[58] Dozens of camp newspapers were created by POWs across the country, and the Factory monitored each for evidence that the general mindset of German prisoners was being affected by the SPD's denazification efforts. The Factory identified a gradual transformation of the editorial practices of many camp newspapers, suggesting that prisoners were becoming more receptive to the principles of democracy and individual freedom.

The Factory included four other sections to influence POW thinking. The Film Section reviewed radio programs and films before they were offered to prisoners. The Translation Section conducted surveys of the German POW population and translated pamphlets into German for distribution among the camp populations. The Camp

[57] "Screening of cooperative prisoners of war," 12 December 1945; "Special Regulations for the Special Project Center, Fort Eustis, Virginia," 10 January 1946, both in Box 1, Entry 467D, RG 389; "Memorandum on the Use of Civilian Personnel in German POW Camps," no date, Box 672, Entry 437, RG 389; Robert P. Patterson to the Secretary of State, 15 April 1945, Box 673, Entry 437, RG 389; Dean Acheson to Henry L. Stimson, 4 April 1945, Box 673, Entry 437, RG 389.
[58] Carlson, *We Were Each Other's Prisoners*, 114; Howard M. Jones to B. F. Bryan, Jr., 23 May 1945, Box 673, Entry 437, RG 389.

Administration Section monitored general camp conditions and maintenance, and the Review Section analyzed materials submitted by government agencies and the SPD for use with the German POWs, such as labor training manuals for certain industries.

The existing education system in the POW camps expanded under the SPD, as classroom instruction offered a perfect environment for indoctrination. Many written works banned by the German government became available in the camps, and the Factory created a series of paperback books, the *Bucherreihe Neue Welt* (New World Bookshelf), incorporating traditional classics of American literature as well as works by Jewish authors. The books, sold through camp canteens, often sold out in a matter of hours. Bored prisoners purchased virtually any printed material, and even textbooks and manuals sold quickly at the canteens. English-speaking prisoners were allowed to subscribe to certain American newspapers and magazines, supplementing their exposure to American culture and ideals.

The enlistment of millions of young men through the massive expansion of the armed forces ensured that the possibility of filling wartime production quotas in many industries would be virtually impossible. As working hours in factories producing airplanes, munitions, and other war materials increased, the available number of workers rapidly declined. The federal government did not order draft exemptions for essential workers until March, 1943, by which time the situation was already on the verge of disaster. A War Manpower Commission (WMC) report in the summer of 1943 noted that the United States was running out of laborers for vital industries, and that unemployed women represented the last major group eligible for recruitment into the workforce. Between July, 1943 and July, 1944, 700,000 women would be required for the

workforce, and an additional 200,000 would be needed for the armed forces.[59]  By 31

August, 1943, over 100,000 POWs were interned in the United States, most were eligible

for work details.  While the labor of prisoners certainly could not solve all of the

manpower problems of the WMC, it became an increasingly important source of

unskilled labor within certain employment sectors as the war continued.[60]

Beyond the obvious difficulties associated with language barriers, the prisoner

workforce proved frustrating to American employers due to differences in work attitudes

between American and European laborers.  The extreme efficiency of German laborers

was often an issue, and employers complained that German output was lower than that of

American workers because they spent more time perfecting a task.  Thus, the

workmanship of the Germans was often considered superior to domestic workers, but the

overall production was lower.[61]  A report of the WMC noted that, "Efforts to have them

hasten or short-cut or to be slip-shod in their methods are resented."  In comparison, the

Italian attitude was reported as "converse to those of the Germans.  He is singing, happy-

go-lucky."[62]

Early POW labor contracts were negotiated between camp commanders and

employers without the official sanction of the WMC, due to an oversight by the War

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[59] Office of War Information and the War Manpower Commission, "Information Plan,"
no date, 5-6, Box 19, Entry 23, RG 211.
[60] The War Manpower Commission never considered POWs to be more important than
many other sources of emergency labor.  For examples of other contemplated sources,
see United States Employment Service, *A Short History of the War Manpower
Commission*, preliminary draft, (Washington, DC: U.S. Department of Labor, 1948), 88-
91.
[61] Minutes of the Commandant's Conference, 8 December 1944, Box 1, Entry 268, RG
38; "A Few Interesting Facts About POW's," *Base Maintenance Notes* (January 1945): 9,
Box 5, Entry 268, RG 38; "General Training Program for Prisoner of War Work
Supervisors," no date, 4, Box 2, Entry 268, RG 38.
[62] "Prisoner of War Labor Program," undated, Box 9, Entry 11, RG 211.

Department authorizing camp commanders to hire out prisoners to local employers.

These early contracts gave labor unions ample reason to fear the intrusion of prisoner

labor into domestic markets.  According to a 1943 WMC investigation, prisoners of war

were being employed in direct competition with free labor, at wages far below the

prevailing rates in many areas.[63]  As a result of union protests, an agreement was reached

with the War Department granting the WMC control over all POW labor contracts for

labor outside of military installations.  The American Federation of Labor (AFL)

representative to the Labor-Management Committee of the WMC persisted in his

complaint that all POW labor was a threat to domestic free labor, with the result that Paul

McNutt, chairman of the WMC, agreed to bring "all questions involving the type of work

on which prisoners of war are to be used and the conditions of their employment to the

Committee for its advice and recommendations."[64]  Despite orders to WMC regional

directors that no POW labor could be used in place of free labor during labor disputes,

labor unions remained wary of POW labor usage throughout the war.[65]  Historians Byron

Fairchild and Jonathan Grossman considered labor unions a major hindrance to the

successful use of prisoner labor, but also argued that the number of prisoners in the

United States could not make a significant impact upon wartime labor shortages.[66]

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[63] A. M. Ross to William Haber, 16 August 1943, Box 44, Entry 115, RG 211.

[64] Minutes of the Labor-Management Committee, 27 July 1943, Box 44, Entry 115, RG 211; see also Frank P. Fenton to Marjorie G. Russell, 13 August 1943, Box 3, Entry 11, RG 211.

[65] Lawrence Appley to All Regional Directors, 21 June 1943, Box 21, Entry 126, RG 211.  Appley's orders specifically forbade the use of prisoner labor in jobs made vacant by labor disputes, regardless of the causes or particulars of the dispute.

[66] Byron Fairchild and Jonathan Grossman, *The Army and Industrial Manpower* (Washington, DC: Office of the Chief of Military History, 1959), 189-96.

Americans initially employed prisoners on military installations, performing

mundane tasks related to their own upkeep and basic base maintenance duties.[67]  Before

prisoners could begin laboring outside of the prison camps, the War Department and the

WMC created a complicated system for assigning prisoners to various projects.  Prior to

receiving any prisoners, an employer applied to the local representative of the WMC for

a Certificate of Need, which demonstrated that no local supply of free labor was

available.  The employer was required to prove that prisoner labor would not be

detrimental to free wages, and would not result in a decline in working conditions.  The

request was then forwarded to the local military authorities, who met with the

representatives of the Department of Agriculture to determine the number of prisoners

needed for a given task.  If the request was approved, an employer entered a contract with

the War Department for a period of not more than three months.  The employer paid the

War Department the prevailing wage rate for free labor, and could not rely upon prisoner

labor as a long-term solution to labor shortages.  Despite all of the drawbacks to the

system, farmers across the country deluged the WMC with requests for laborers.  The

War Department responded by altering the system of housing the POWs for the

convenience of the labor program, establishing a network of branch camps, satellites of

the main prison camps in the nation.  The camps moved labor closer to the neediest

agricultural regions in the country, and made the transportation of prisoners to work sites

practicable.[68]  Prisoner labor was first committed to aid in the harvesting of agricultural

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[67] Although all POWs were guarded by the army, thousands worked and lived on naval installations, Minutes of Conference Re: Use of German Prisoners of War, no date; E. C. Peterson to the Assistant Secretary of the Navy, 5 March 1945, both in Box 1, Entry 268, RG 38.

[68] *TM 19-500*, 5.1-4.

crops, tasks that had previously been performed in large part by migratory workers, most of whom were not represented by organized labor. Prisoner labor was quickly committed to agricultural projects throughout the nation.[69] Weekly reports to the WMC demonstrate that prisoner labor had an immediate impact upon agricultural production, beginning in the summer of 1943, primarily in crop harvests and canning operations.[70]

The use of prisoners in agriculture, like the earlier use of prisoners on military installations, was not met with much organized hostility by American unions. In one rare exception, members of the Southern Tenant Farmers Union called for picketing of cotton plants processing cotton picked by POWs.[71] Despite their complaints, the use of prisoner labor continued to rise in agriculture. By late 1944, more prisoners were employed in agriculture than were directly employed by the military. Although prisoners had some trouble adapting to tasks they had never performed before, particularly in the cultivation of cotton, their labor proved essential in the harvesting and production of vital staple crops. In an agricultural capacity, the POW labor program must be considered an unqualified success.

Farmers were not the only employers suffering from a lack of labor: factories were also understaffed, and soon industrial employers began requesting assistance from the War Department. Organized labor was a much more important part of the industrial workforce, and could potentially create insurmountable difficulties for the WMC. The first major union opposition to POW labor came in the meatpacking industry. Initial

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[69] John E. O'Gara to Brigadier General Pearson, 10 March 1943; Blackshear M. Bryan, "Labor of Prisoners of War," 2 April 1943; Paul B. Clemens, "Employment of Prisoners of War in Agriculture," 24 September 1943, all in Box 1435, Entry 457, RG 389.
[70] For examples, see Selma Rice to Edward D. Hollander, 20 July 1943; Selma Rice to Fay W. Hunter, 26 July 1943; both in Box 19, Entry 89, RG 211.
[71] "War Prisoner Labor Fought," *New York Times*, 16 November 1944, 8.

arguments against the use of prisoners revolved around the possibility of captured

enemies sabotaging the nation's food supply. However, the fundamental issue was not

the potential adulteration of meat packaged by prisoners, but rather the threat that

prisoner labor presented to unions. Prisoners employed in meatpacking were not

required to pay union dues, even in plants staffed entirely by union members. In

December of 1943, members of the Amalgamated Meat Cutters and Butcher Workmen, a

subsidiary of the American Federation of Labor (AFL), argued that the union was owed

$.25 in weekly dues from each prisoner working at the Seabrook Farms plant. The plant

refused to garnish the wages paid to the War Department, and suggested that the union

request its dues be paid by the Army. In the ensuing debate, the union representative

admitted that, "Our real concern is that more prisoners may be brought in from time to

time until our contract won't be worth the paper it's written on, because there will be

more prisoners than union members."[72] The prisoner labor represented a very real threat

to the power, and even the existence, of the AFL at Seabrook Farms. At other plants,

legal arguments were presented to demand a cessation to prisoner labor. At the Jerpe

Commission Company in Omaha, union leaders reported that the company had violated

Executive Order Number 8802 by "not employing negroes in the freezers or elsewhere in

[the] establishment."[73] Therefore, according to the union, the company had not

exhausted all of the free labor sources in the area, and should be excluded from the use of

prisoners of war. The War Department worried that prisoners might attempt to sabotage

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[72] "War Prisoner Pay is Held Inviolate," *New York Times,* 12 February 1944, 15.

[73] W. Parkinson to Jerpe Commission Company, 29 March 1944; J. J. Guenther to Frank M. Rarig, 8 April 1944; both in Box 9, Entry 11, RG 211.

the nation's food supply while working in the meatpacking industry, but no evidence of sabotage occurred at any meatpacking plant employing prisoners.[74]

The WMC considered the union position as an example of "being shortsighted and taking a position which in the long run may very well boomerang and bring discredit on the organized labor movement."[75]  In the opinion of regional WMC director Frank Rarig, Americans held as prisoners of war would be furious upon returning to the United States and learning of union opposition to the use of Axis prisoners' labor.[76]  The War Department refused to bow before the demands of the union, but was hesitant to provoke a larger engagement.  To alleviate the situation, the WMC undertook a recruiting campaign to draw workers into the meatpacking industry, allowing prisoners to be reassigned to other industrial sectors.  The meatpacking dispute, while not formally resolved to the liking of the AFL, heartened unions in other industries.

Another major battleground in the fight between organized labor and the War Department occurred in the railroad industry.  In the summer of 1943, a series of meetings were held between railroad executives, the War Department, and the War Manpower Commission.  In the meetings, discussions focused upon whether POWs could be legally used in the railroad industry.[77]  Union opposition to the use of prisoners on railroads was immediate, and included a resolution of the Railway Labor Executives' Association of 16 July 1943.  In the resolution, the RLEA, "representing substantially all the railway workers of our nation, declare their unqualified opposition to the use of

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[74] *TM 19-500*, 5.6-7.

[75] Frank Rarig to John J. Guenther, 12 April 1944, Box 9, Entry 11, RG 211.

[76] Ibid.

[77] War Department policy allowed POWs to work in the railroad industry in a maintenance capacity only, *TM 19-500*, 5.7.

prisoners of war as railroad track workers or in any other line of railroad employment."[78]

In September, the WMC announced that prisoner labor would be used in track

maintenance operations. Despite assurances from the WMC that prisoners would only be

used when other labor was unavailable, and that wages, working conditions, and

employment opportunities would remain unaffected, labor leaders were furious, and

argued that the nation's entire rail network would be opened to sabotage.[79] In mid-

October, railway union locals across the nation adopted resolutions that threatened to

shut down the American railways if prisoners were employed on the railroads in any

capacity. That the nation was at war did not stop the unions from issuing this threat,

despite a War Department assessment that fears of sabotage were without merit. Unions

brought legal challenges against the use of prisoners, and union members refused to work

in conjunction with prisoners. Again, the unions were successful in halting the use of

prisoner labor in a vital industry. Despite massive manpower shortages in the railroad

industry, the War Department and the WMC agreed that prisoners would not be used for

railroads except in extreme emergencies.

The third sector in which prisoner labor provoked union unrest was the logging

industry, specifically the production of pulpwood. In 1943, the pulp and paper industry

was declared essential to the war effort. As such, its priority for manpower rose, and the

question of using prisoner of war labor became pertinent. The pulpwood industry had

been hit hard by manpower shortages, particularly in the South. Despite the pressing

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[78] J. G. Luhrsen to Nelson H. Cruikshank, 24 July 1943; "Resolution Adopted by the Railway Labor Executives' Association," 16 July 1943; both in Box 19, Entry 23, RG 211.

[79] "Draft of Proposed Letter to Officials of Railway Labor Organizations Concerning Prisoners of War," 7 September 1943, Box 19, Entry 23, RG 211.

need for labor, the International Woodworkers of America protested the use of prisoners

in forestry. The union attack upon POW labor centered around the conditions of free

labor in the industry. Prisoners, who had to be housed according to the provisions of the

Geneva Convention, lived in a much more comfortable environment than free laborers

performing the same work.[80] The IWA also argued that prisoners were being used to

drive the wages of free labor down, despite the lower production of the average prisoner

when compared to free laborers. However, in the pulpwood industry, unlike meatpacking

or the railroads, the WMC and the War Department remained committed to the use of

prisoners for labor. The government argued that previous efforts to recruit free labor had

proven completely inadequate, and thus the production of pulpwood would be

insufficient to meet the needs of the war effort without additional workers. Unlike in the

meatpacking and railroad industries, the unions of the pulpwood industry were less

unanimous in their condemnation of prisoner labor. In the South, some civilian

employees welcomed prisoner labor as the only way to keep companies operating, and

thus providing civilian jobs.[81] Despite the complaints of the IWA, which was affiliated

with the Congress of Industrial Organizations (CIO), the national leadership of the CIO

was more accepting of prisoner labor in the pulpwood industry than the AFL. The CIO,

rather than directly opposing the use of prisoner labor in its entirety, sought to cooperate

with the government on the issue, and thus influence the ways and locations of prisoner

use. However, the CIO still placed first priority on the improvement of free labor

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[80] Contractors using POW labor were also required to supply supervisors, trainers, and tools for the prisoners, and could not use POWs for high climbing, swamp logging, top felling, slash burning, or the operation of power machines, *TM 19-500*, 5.6.

[81] Fairchild and Grossman, *Army and Industrial Manpower*, 191-93; James E. Fickle and Donald W. Ellis, "POWs in the Piney Woods: German Prisoners of War in the Southern Lumber Industry, 1943-1945," *Journal of Southern History* 56 (November 1990): 696.

conditions within the industry, in the hope that prisoner labor would not prove

necessary.[82]

Finding the executive branch of the federal government unwilling to back down

in the employment of prisoners, union leaders turned to legislators for assistance. On 1

June 1945, Senator Robert La Follette contacted Paul McNutt with the allegation that

certain employers in Wisconsin had laid off all free labor in favor of German POWs.[83]

McNutt promised that any such reports would be immediately investigated by the United

States Employment Service (USES), and steps would be taken to prevent any repetitions

in the future.[84] Such a preference for POW labor, though uncommon, was not an isolated

incident. The USES investigation, launched immediately, showed that no free laborers

had been laid off to date, but the prisoner allocation for the area should be reduced to

prevent any future conflicts.[85] A more heated argument arose between Frank McNamee,

acting chairman of the WMC in the summer of 1945, and Congressman Frank W. Boykin

of Alabama. Boykin's assistance was enlisted by both organized labor and the employers

of the pulpwood industry in Alabama. Labor unions complained that German and Italian

POWs were being used in competition with free labor. Employers complained that they

were being forced to pay artificially high wages to the War Department for POW labor.

Despite the dual nature of Boykin's protests, and his threat to launch a Congressional

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[82] "CIO Victory Production Committee Report on Employment of War Prisoners," undated, Box 13, Entry 11, RG 211.

[83] Robert M. La Follette, Jr. to Paul V. McNutt, 1 June 1945, Box 1, Entry 175, RG 211; similar allegations had already occurred, including Ben H. Kinch to Franklin D. Roosevelt, 13 November 1943, Box 3, Entry 11, RG 211.

[84] McNutt to Paul C. Kirk, 13 June 1945, Box 1, Entry 175, RG 211. Kirk, the president of the Federation of Labor of Sturgeon Bay, Wisconsin, had originally contacted La Follette with his complaints.

[85] W. H. Spencer to Executive Director, War Manpower Commission, 20 June 1945, Box 1, Entry 175, RG 211.

investigation of the employment practices concerning prisoner labor, the WMC refused

to alter its policies in the pulpwood industry. The pulpwood industry was the only major

war industry in which the WMC successfully stood up to the efforts of organized labor to

curtail the use of POW labor, and thus it was within the pulpwood industry that prisoners

made the greatest non-agricultural impact upon the American wartime economy.[86]

Some labor unions took the unprecedented step of condemning all prisoner labor

within the United States. The Oklahoma City Building and Construction Trades Council

called for all building trades councils to "join us in our fight to stir up this nation in

stopping the use of war prisoners on any type of labor within the continental limits of the

United States." The Council wished to compel the government to deport all POWs to

Europe, before the surrender of Germany, through the use of an AFL-wide letter writing

campaign to senators and representatives.[87] After the German surrender, calls for the end

of POW labor increased, despite assurances given by the WMC to employers that POW

labor would not be withdrawn without advanced notice.[88] The CIO Industrial Union

Council of York, Pennsylvania, condemned the use of "Nazi slave labor to the

displacement of American labor" in August of 1945.[89] In response to repeated calls for

the end of the POW labor program, the War Department curtailed plans for the shipment

of more prisoners to the United States as early as September of 1944. Instead, prisoners

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[86] Boykin to McNutt, 13 July 1945; McNamee to Boykin, 19 July 1945; McNamee to Boykin, 23 July 1945; Boykin to McNamee, 27 July 1945; McNamee to Boykin, 10 August 1945; all found in Box 38, Entry 155, RG 211.
[87] W. A. Meyer to all Building Trades Councils, 29 March 1945, Box 163, Entry 171, RG 211.
[88] McNutt to Henry L. Stimson, 19 May 1945, Box 163, Entry 171, RG 211.
[89] CIO Industrial Union Council of York County to Paul McNutt, 7 August 1945, Box 163, Entry 171, RG 211.

captured in Europe were turned over to the governments of France, Belgium, and Holland for labor purposes behind the front lines.[90]

The prisoner experience in World War II once again demonstrated the improvisational nature of American POW policy and practice, as efforts to plan for the capture, maintenance, and utilization of enemy prisoners proved wholly inadequate. Although the United States managed to feed and shelter its prisoners, American commanders greatly underestimated the speed of captures in Europe and were completely unprepared to provide more than the most basic necessities for enemy prisoners. Millions of POWs remained in holding camps despite massive wartime labor shortages because no provisions had been made to transport them to the United States or house them upon arrival, much less provide gainful employment. Even when the War Department transported enemy captives to the United States, their utilization was opposed by American labor groups, who perceived prisoner labor as a threat rather than a wartime measure. The labor program certainly benefited the United States, but was much less successful than the potential represented by millions of enemy prisoners. Prisoners confined in the United States enjoyed a more comfortable existence than prisoners elsewhere in the world, but this was primarily due to the high wartime standard of living in the United States. Quite simply, the United States had a higher capacity to treat its stateside captives well, and did so.[91]

In World War II, the United States did not base its treatment of enemy captives upon reciprocity as it had in earlier wars. Allegations and evidence of enemy

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[90] Memorandum, Robert P. Patterson to Henry Stimson, 26 September 1944, in Box 1438, Entry 457, Record Group 389.
[91] MacKenzie, "Treatment of Prisoners," 490.

mistreatment of American prisoners, including executions, torture, and orders for giving

no quarter, did not prompt retaliation by the United States.  Instead, American

investigators gathered evidence from returning POWs regarding their treatment in

German and Japanese prison camps, to be used at postwar trials of officers and

government officials accused of violating the laws of war.[92]  All civilians and prisoners

of war repatriated from Japanese control filled out a war crimes questionnaire during

their debriefing sessions.  They reported that Japanese POW camp rules included a death

penalty for any escaping prisoners, as well as any who assisted them or knew of the

escape.[93]  The final death rate of American prisoners in German and Italian camps was

approximately 4 percent, in Japanese camps, the mortality rate was 27 percent.[94]

The use of prisoners for intelligence purposes proved much more successful than

the interrogation efforts of World War I.  For years after the end of the war, German

prisoners remained of interest to American intelligence officers.  In particular, any

German prisoner released by the Soviet Union drew the attention of American

commanders.  Naval intelligence officers questioned hundreds of prisoners returned to

the American zone of occupation in the postwar period.  Most of the interrogations

sought to ascertain the location and production capability of Soviet factories where POW

labor was being utilized.  As with the wartime interrogations, prisoners often provided

maps of the area or detailed diagrams of equipment they had observed.  These

[92] Dwight D. Eisenhower to George C. Marshall, 13 January 1945, Box 1437, Entry 457, RG 389 contains a list of atrocities by German commanders, including no quarter orders and prisoner executions; see also "Anger at Nazi Atrocities Is Rising but U.S. Treats Prisoners Fairly," *Newsweek* (7 May 1945): 58.
[93] H. G. Teel, "Rules for P.O.W.s in Japanese Camps," no date,; "War Crimes Office," no date, both in Box 1447, Entry 458, RG 389.
[94] Hata, "From Consideration to Contempt," 266.

interrogations were conducted on a voluntary basis, but demonstrated the continued

utility of former prisoners to American intelligence efforts at the beginning of the Cold

War era.[95]

In the conflicts of the Cold War era, the U.S. military again captured thousands of

POWs, and again was accused by its own citizens of coddling enemy prisoners.  The

labor program utilized in World War II was the last American effort to obtain labor from

enemy captives.  In later conflicts, American commanders ignored the labor potential of

captives and instead kept them idle in massive prison compounds.  Prisoners during the

Cold War became tools of propaganda rather than labor.  In the Korean War, fought just

five years after World War II, American military planners ignored or forgot the lessons of

World War II, and developed an entirely new system of prisoner confinement, with

disastrous results.

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[95] Boxes 49-52, Entry "Prisoner of War Interrogation Records," RG 38, contains
hundreds of interrogation reports of German prisoners released by the Soviet Union and
returned to the U.S. occupation zone.

**CHAPTER VIII**

**CONTAINING COMMUNISM: THE COLD WAR**

During the Cold War (1945-91), the nature of POW practices in the world changed radically. The Geneva Convention Relative to Prisoners of War of 1949 modified the 1929 Geneva Convention. The United States presented a draft model for the Convention that was adopted without substantial modifications, clarifying certain aspects of prisoner treatment that had proven troublesome during World War II. The new Convention shaped American treatment of POWs in the Korean War (1950-53) and the Vietnam War (1961-73), both fought in Asia with the goal of containing the spread of communism. In each war, U.S. POW policy primarily consisted of holding enemy captives in overcrowded compounds while making almost no effort to utilize POW labor. American policy was also heavily influenced by allies, particularly the South Korean and South Vietnamese governments, whose goals regarding prisoners of war were often in conflict with American wishes.

In Korea, the repatriation of prisoners became the primary disputed issue during armistice negotiations, as the United States adopted a new policy that no forced repatriation of prisoners to communist regimes would occur. The legality of this policy has been extensively debated, the practical result was that thousands of North Korean and Chinese prisoners did not return to their homes at the end of the conflict. American POWs repatriated after the armistice created a major controversy in the United States by reporting that many of their fellow captives actively assisted the enemy while prisoners, through radio broadcasts and the creation of written propaganda.

In Vietnam, American commanders abdicated responsibility for POW treatment by turning virtually all captives over to the care of the South Vietnamese government, which made little pretense of following the Geneva Convention. This decision was largely a matter of convenience; it freed American personnel for combat operations. As in Korea, American prisoners, though greatly outnumbered by enemy captives, shaped the American public's perception of the POW issue. Repatriated Americans reported extensive mistreatment by their captors, including the torture and execution of American prisoners.

In each conflict, enemy governments sought to use prisoners taken by U.S. forces as propaganda tools by encouraging them to provoke conflicts with American captors. These conflicts were publicized as atrocities and used for leverage at diplomatic conferences. At the same time, American prisoners became helpless victims brutalized by their captors and coerced into serving a propaganda function for the enemy by signing forced confessions of war crimes or denouncing the United States and its allies.

The U.S. State Department assumed the lead role in negotiating a new Geneva Convention in 1949. It began by polling diverse federal agencies for recommendations about what should be changed, added, or deleted from the 1929 convention. After drafting an initial proposal, American diplomats sought suggestions from foreign nations, relying primarily upon France and Great Britain. American officials feared that the Soviet Union might cause significant problems by insisting upon major changes to the American draft, such as eliminating the International Committee of the Red Cross

(ICRC) from participation at the conference, but the process ran smoothly at the

international conference, and the new convention superseded the old in 1949.[1]

The Geneva Convention of 1949 sought to rectify the primary faults of the 1929

convention, exposed by the treatment of prisoners during World War II.  Chief among the

complaints was the use of national rather than absolute standards in regard to prisoner

maintenance.  The 1929 convention ensured that prisoners received rations equal in

quantity to those given to garrison troops of the capturing nation.  In 1949, the food

provision was modified, and required that food rations be sufficient to maintain good

health and prevent weight loss or nutritional deficiencies.  Further, any prisoners required

to labor for their captor were entitled to additional rations.

The 1949 convention expanded the definition of prisoners of war to include

individuals who accompanied armed forces without actually being members, such as the

crews of merchant marine ships and civilian aircraft.  Article 13 expanded the guarantee

of "humane treatment" made in the 1929 convention by prohibiting "any unlawful act or

omission by the Detaining Power causing death or seriously endangering the health of a

prisoner of war in its custody."  The use of prisoner labor, a pressing issue to any captor,

presented a serious problem for the delegates, specifically, how to allow the use of

prisoner labor without contributing to war efforts.  Eventually, the solution adopted was

to enumerate the classes of work on which prisoners might be compelled to labor.  These

classes included camp maintenance, agriculture, transportation of non-military goods,

arts and crafts, domestic service, and industries without a military character.  No

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[1] "Geneva Convention Files;" Embassy of France to the Department of State, 19 January 1949; both in Box 124, Entry 472, RG 353; Interdepartmental Committee on Prisoners of War, "United States Draft for the Revision of the Geneva Convention Relative to the Treatment of Prisoners of War," 4 March 1949, Box 673, Entry 437, RG 389.

prisoners were supposed to be compelled to work at dangerous or unhealthy labor, however, prisoners could volunteer for such work if they so desired.

The issue of repatriation, an extremely important matter in the armistice negotiations in Korea, remained somewhat ambiguous in the 1949 convention. Sick and wounded prisoners could be repatriated or interned in a neutral country prior to the end of hostilities. However, able-bodied prisoners were to be repatriated "without delay" at the end of hostilities. Ironically, at the time of the signing of the 1949 convention, some signatories still held German and Japanese prisoners of war. The retention of prisoners for several years after the end of hostilities would clearly violate the 1949 convention.

Perhaps the greatest flaw of the 1929 convention was the lack of enforceability of its provisions. Only the threat of retaliation and the condemnation of world opinion served to enforce the convention, and neither had proven particularly coercive during World War II. In the 1949 convention, signatories agreed to supplement international law with the adoption of domestic legislation providing effective penal sanctions for persons committing or ordering grave breaches of the convention, specifically killing, torturing, or injuring prisoners, or depriving them of their rights under the convention.

Unlike the world wars, in which combat occurred for years prior to American intervention, the Korean War (1950-53) surprised the United States and provoked a rapid American response. The United States did not have years to prepare for combat operations, but because the war began only five years after the conclusion of World War II, it is to be expected that American POW policy would remain consistent between the two wars. In fact, many of the lessons of World War II were ignored as U.S. forces

scrambled to first save South Korea and next push back invading communist forces from North Korea and China.

Works discussing POW history in general have focused upon two primary issues when discussing the Korean War, the issue of forced repatriation and the violent uprisings in camps. Barker argued that allowing POWs to run their own camps encouraged misbehavior, and allowed communist fanatics to intimidate and control other prisoners. He also believed that American POWs suffered because North Korean and Chinese captors did not allow the use of ranks among prisoners in the camps, which contributed to a breakdown in prisoners' discipline and identity.[2] Garrett's discussion of the war focuses primarily upon Chinese and North Korean atrocities against UN prisoners, and his only mention of UN camps was a brief discussion of the Dodd incident and the existence of a non-forced repatriation policy.[3] Levie discussed the legality of the non-forced repatriation issue, and noted that American policy during World War II was to send all prisoners back to their home nations, regardless of prisoner preference. In Korea, the shift to non-forced repatriation prolonged hostilities for one year, it was the major point of contention at armistice discussions. According to Levie, the Geneva Convention of 1949 is somewhat ambiguous, all prisoners have a right to repatriation, but do not have an irrevocable obligation to accept it under the terms of the convention.[4] By focusing primarily upon the treatment of U.S. prisoners, the general POW historiography ignores the majority of captives taken in the war. Further, most authors assume a continuity of POW treatment by the United States from World War II through the war,

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[2] Barker, *Prisoners of War*, 79, 124.
[3] Garrett, *P. O. W.*, 216-18.
[4] Levie, *Prisoners of War*, 421-24.

despite the fact that the primary goal of World War II policy, the utilization of prisoner

labor, remained virtually ignored for the entire conflict.

Prisoners during the Korean War have generated more discussion in general

works about the conflict than was typical for earlier wars. This is undoubtedly due in

part to the central role of prisoners in armistice negotiations, and the very public

accusations of atrocities made by both sides. In 1987, Callum A. MacDonald argued that

the primary victims of prolonged armistice negotiations were UN POWs, who endured an

extra year of captivity during the truce talks. He focused most of his discussion on

communist confinement practices, but noted that UN POW facilities on Koje-do were

overcrowded, often operating at double capacity, and understaffed, with only one

American guard for every 180 prisoners.[5] Max Hastings found that the few American

troops at Koje-do were undisciplined and miserable, and made no effort to maintain

control of the compounds in the face of communist infiltration.[6] William Stueck, like

Hastings, argued that communists allowed themselves to be captured for the purpose of

managing prison compounds.[7] Stanley Sandler also saw a lack of guards as a

contributing factor to unrest in UN camps, noting "something approaching pandemonium

prevailed in the UNC POW camps," and arguing that prisoners deliberately provoked

guards to fire into POW compounds as a means of generating anti-American

propaganda.[8] Lee Ballenger's *The Outpost War* made an interesting distinction of the

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[5] Callum A. MacDonald, *Korea: The War Before Vietnam* (New York: Free Press, 1986), 136, 143.

[6] Max Hastings, *The Korean War* (New York: Simon and Schuster, 1987), 308.

[7] William Stueck, *The Korean War: An International History* (Princeton, NJ: Princeton University Press, 1995), 262.

[8] Stanley Sandler, *The Korean War: No Victors, No Vanquished* (Lexington: University Press of Kentucky, 1999), 212-15.

capturing behavior of UN forces, noting that most North Koreans and Chinese who were taken prisoner deliberately surrendered, they were not taken captive during firefights.  He argued that UN troops viewed taking prisoners as problematic, and to avoid paperwork, they often turned prisoners over to South Korean troops, knowing the POWs might be mistreated or even executed.  The UN Command, coveting prisoners for their intelligence value, offered a one week furlough to any troops making captures to counteract this behavior.  Offering rewards to combat troops for captures resumed a practice initiated in the Pacific Theater of World War II, when soldiers received furloughs and ice cream for taking prisoners.[9]

Many works have discussed the plight of UN prisoners in North Korea, and special emphasis has remained upon American soldiers.  One of the most influential work on the behavior of American POWs in North Korea was Eugene Kinkead's *In Every War but One,* which concluded that American service personnel suffered in communist-run camps due to a pronounced lack of discipline and training in the army.[10]  He claimed that one-third of all American POWs collaborated with the enemy, and more than 13 percent were guilty of "serious collaboration."[11]  Albert Biderman challenged Kinkead's conclusions, calling them distorted, oversimplified, and erroneous.  His *March to Calumny* systematically countered Kinkead's thesis and observed that the military convicted only ten American repatriates for collaboration, a far cry from Kinkead's accusations.  Biderman found that 80 percent of American prisoners fell into a middle

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[9] Lee Ballenger, *The Outpost War* (Washington, DC: Brassey's, 2000), 103-05.
[10] Eugene Kinkead, *In Every War but One* (New York: Norton, 1959), 170-86.
[11] Ibid., 16, 34.

category, neither collaborating with nor actively resisting the enemy.[12]  Philip D.

Chinnery accused the Soviet Union and China of keeping UN prisoners, especially pilots,

after the armistice for their intelligence value, and accused North Korea of keeping South

Korean citizens as slave laborers.[13]  Raymond B. Lech's *Broken Soldiers* relied upon

transcripts of army interrogations and debriefings of returning American POWs to

examine their mistreatment in communist camps.  He considered the period of captivity

as a "methodical and calculated program of torture," an attempt to destroy individuality

and retrain the prisoners as "proper thinkers."[14]  Lewis H. Carlson used oral interviews

with surviving American POWs to document the situation in North Korean and Chinese

camps, and accused the communist captors of deliberately mistreating American

prisoners, with the result that 40 percent died while in captivity.[15]

The army's official army histories of the Korean War, with one exception, have

largely ignored the issue of prisoners.  Roy E. Appleman's *South the the Naktong, North*

*to the Yalu* included a brief mention of enemy captures, and noted that Eighth Army

commanders discounted the intelligence provided by captured Chinese prisoners, and

underestimated Chinese troop strength in Korea as a result, but does not discuss the

internment of prisoners.  James F. Schnabel's *Policy and Direction* mentioned surrender

demands and the number of enemy captures, but did not discuss the fate of prisoners.

Likewise, Billy C. Mossman's *Ebb and Flow* saw POWs largely in terms of intelligence

value, but provided no discussion of the disposition of captured enemies.  Only Walter G.

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[12] Albert Biderman, *March to Calumny* (New York: Arno Press, 1979), 36-37, 42-43.

[13] Philip D. Chinnery, *Korean Atrocity! Forgotten War Crimes, 1950-1953* (Annapolis, MD: Naval Institute Press, 2000).

[14] Raymond B. Lech, *Broken Soldiers* (Urbana: University of Illinois Press, 2000), 4.

[15] Lewis H. Carlson, *Remembered Prisoners of a Forgotten War: An Oral History of Korean War POWs* (New York: St. Martin's Press, 2002), xiii.

Hermes provided significant discussion of prisoners, and then only in terms of the

repatriation issue.  He argued that the major lesson of the war regarding prisoners was

that they should not be under the control of the army commander, who should not be

distracted from fighting by administrative matters.[16]

In the Korean War, the United States adopted the leadership of United Nations

Command (UNC) military forces, and American policy decisions dominated the behavior

of UN forces toward POWs.  Initially, American forces in Korea received little guidance

regarding the capture and treatment of enemy prisoners.  On 5 July 1950, General

Douglas MacArthur ordered all U.S. military personnel to treat captured North Korean

troops "in accordance with the humanitarian principles applied by and recognized by

civilized nations involved in armed conflict."[17]  Not until 16 August did MacArthur

clarify that UNC forces would follow the provisions of the Geneva Convention of 1949,

and that summary executions were strictly forbidden.[18]

On 26 September 1950, the United States accepted all responsibility for the

maintenance of prisoners taken by UN forces.[19]  UNC forces captured over 150,000

POWs during the war, of the total captured, 126,000 were taken from October to

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[16] Roy E. Appleman, *South to the Naktong, North to the Yalu, (June-November 1950)* (Washington, DC: Office of the Chief of Military History, 1961), 751-56; James F. Schnabel, *Policy and Direction: The First Year* (Washington, DC: Office of the Chief of Military History, 1972); Billy C. Mossman, *Ebb and Flow: November 1950-July 1951* (Washington, DC: Center of Military History, 1990), 440-45, 479-80; Walter G. Hermes, *Truce Tent and Fighting Front* (Washington, DC: Office of the Chief of Military History, 1966), 233-37, 260-61.

[17] Douglas MacArthur to all American forces in Korea, 5 July 1950, Box 477, Entry EUSAK, RG 500.

[18] Douglas MacArthur, "Circular Number 19," 16 August 1950, Box 477, Entry EUSAK, RG 500.

[19] MacDonald, *Korea*, 134.

December of 1950.[20]  Throughout the war, American commanders placed little emphasis

on POW affairs, and provided a limited number of trained custodial personnel for the

guarding and maintenance of prisoners.  By understaffing prison compounds, the U.S.

leadership allowed the formation of massive underground prisoner organizations.

Prisoner factions exerted ruthless control over the compounds, enforcing discipline and

judicial punishments upon any prisoners expressing political sentiments contrary to the

leaders of the compound.  Each compound soon had a distinct political ideology, some

were hard-core communist, others were strictly anti-communist.  Interventions in the

compounds by guard forces were rare, and almost always undertaken to stop violence

rather than to prevent it.  Camp commanders had virtually no control over camp behavior

until the last year of the war.[21]

Enemy prisoners were initially unsegregated in the summer of 1950, first in

temporary camps near Pusan, later in a massive prison complex on the island of Koje-do.

No effort was made to separate communists from anti-communists, in the same manner

that German Nazis and anti-Nazis had been separated in World War II.  Despite ample

evidence that thousands of South Koreans had been forced into North Korean service,

UN forces made no attempt to free South Korean conscripts who had been captured.  As

Chinese forces entered the war, they were sent to a more distant prison locale, the island

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[20] R. C. Partridge to Charles J. Kersten, 23 September 1953; Office of the Provost
Marshal General, "Tabulation of the Number of Korean and Chinese Communist
Prisoners of War," 28 July 1953; both in Box 92, Entry 452, RG 389; Office of the
Provost Marshal General, "Recapitulation of Prisoner of War Strength," 24 September
1953, Box 89, Entry 452, RG 389.

[21] Samuel M. Meyers and William C. Bradbury, "The Political Behavior of Korean and
Chinese Prisoners of War in the Korean Conflict: A Historical Analysis," in *Mass
Behavior in Battle and Captivity: The Communist Soldier in the Korean War,* eds.
William C. Bradbury, Samuel C. Meyers, and Albert D. Biderman (Chicago: University
of Chicago Press, 1968), 209-11.

of Cheju-do, approximately one hundred miles southwest of Koje-do.  Here, too, the

initial practice was to confine all prisoners together, regardless of political leanings.

South Korean Prime Minister John Myun Chang and President Syngman Rhee

each requested in the spring of 1951 that South Korean POWs be segregated into separate

camps, screened by the South Korean government, and released from custody.  General

Matthew B. Ridgway refused to release any POWs in UNC custody, regardless of

nationality, but agreed to confine South Koreans in separate camps.[22]  When Ridgway

refused to release captive South Koreans, Chang informed UNC that the South Korean

government could no longer supply subsistence for the 150,000 POWs in South Korea,

and full responsibility for feeding the prisoners immediately fell to the UNC.[23]  On 16

October, Ridgway changed his position on South Korean prisoners, and ordered them to

be reclassified as civilian internees, eligible for release after screening by South Korean

authorities.  Although the ICRC was notified of the status change, he allowed no

publicity of the shift.[24]

The South Korean withdrawal of subsistence illustrated a larger problem within

the UN war effort.  The South Korean government often disagreed with UN POW policy

during the war, and refused to cooperate on a number of occasions.  Syngman Rhee, in

particular, proved difficult to accommodate.  If the United States wished to pursue a

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[22] Syngman Rhee to John B. Coulter, 3 May 1951; John Myun Chang to John B. Coulter, 7 May 1951; both in Box 801, Entry EUSAK, RG 500; James A. Van Fleet to Matthew B. Ridgway, 20 April 1951; John Myun Chang to John B. Coulter, 24 May 1951; James A. Van Fleet to Paul F. Yount, 21 May 1951; all in Box 800, Entry EUSAK, RG 500.
[23] John Myun Chang to John B. Coulter, 24 May 1951; James A. Van Fleet to Matthew B. Ridgway, 1 June 1951; James A. Van Fleet to Paul F. Yount, 4 July 1951; all in Box 800, Entry EUSAK, RG 500.
[24] Matthew B. Ridgway to James A. Van Fleet, 16 October 1951; James A. Van Fleet to Paul F. Yount, 25 October 1951; H. I. Hodes to John J. Muccio, 25 October 1951; all in Box 800, Entry EUSAK, RG 500.

policy that contrasted Rhee's desires, it had to do so without the assistance of South

Korea, even though the primary contingent of guard personnel at the prison compounds

was supplied by the South Korean army. This issue culminated in 1953, when Rhee

forbade neutral observers from entering South Korean territory and orchestrated the

"escape" of thousands of prisoners under the guard of South Korean troops.

Agitation within the POW compounds at Koje-do occurred due to many factors,

but a major contributor was simple overcrowding, often a problem in POW compounds in

other wars. By June of 1951, UNC POW Camp Number One, at Koje-do, consisted of

thirty-one compounds, some housing as many as eight thousand POWs. A total of

approximately 150,000 POWs filled the compounds beyond capacity, and were guarded

by only six military police companies.[25] The first major disturbance began on 19 June

1951, when officer POWs at Compound Number 72 refused to eat unless they were given

complete control over all of the POW camps on the eastern end of the island. The UNC

responded by deploying guards to withdraw the untouched morning meal. As the guards

entered the compound, prisoners threw rocks and debris and rushed the gate. When

warning shots did not deter the crowd, South Korean guards opened fire, killing three and

wounding eight.[26] Prison riots became increasingly common in the summer of 1951 and

spring of 1952. On 20 March 1952, the Koje-do commandant, Brigadier General Francis

T. Dodd, noted that demonstrations by POWs were spreading through the compounds,

and requested permission to deny food to all POWs within compounds holding

demonstration. Dodd's superior, Brigadier General Paul F. Yount, approved the plan, but

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[25] "A Study of the Administration and Security of the Oriental Communist Prisoner of War during the Conflict in Korea," 13-14, 25 September 1953, Box 14, Entry PMG POWD, RG 472.

[26] Ibid., 18-19.

felt that denial of food might convey propaganda advantages to the POWs more significant than any gained from demonstrations, which were already having an effect on armistice negotiations underway at Panmunjom.[27] The POW uprisings culminated on in May when Dodd entered a compound without a military police escort and was taken hostage by the prisoners.

Dodd's capture by enemy POWs while inspecting the compound illustrated the complete lack of control by UN forces. On 7 May 1952, Dodd approached Compound Number 76 at the behest of the camp's prisoner representative. As UN guards watched, Dodd was seized by a rush of prisoners and quickly dragged into the compound, where he was held captive for three days. The prisoners announced that Dodd would be executed unless UN authorities agreed to publicly admit prisoners had been killed in POW camps by guard personnel, and to promise better treatment of prisoners in the future. The prisoners further demanded that the UN agree to repatriate all prisoners, by force if necessary, and allow visitations to the prison compounds by North Korean and Chinese representatives. Dodd admitted in a signed statement that some prisoners had been killed by guards during frequent prison riots, but he had no authority to agree to any other prisoner demands. Dodd's admission matched that of Brigadier General Charles F. Colson, assistant commandant at Koje-do, who assumed command and negotiated for Dodd's release. Dodd and Colson were both criticized for making any admissions of worthy of communist propaganda, including that prisoners had been killed by prison guards and that tear gas had been used to quell disturbances. After three days of

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[27] Francis T. Dodd to Paul F. Yount, 20 March 1952; Paul F. Yount to Matthew B. Ridgway, 22 March 1952; both in Box 837, Entry EUSAK, RG 500; Mark Clark to James A. Van Fleet, 29 January 1952, Box 836, Entry EUSAK, RG 500.

negotiations, the prisoners released Dodd without injury, and he and Colson were both demoted and sent to the United States.[28]  Despite all of the riotous behavior, the UNC guard component at Koje-do was not increased until 2 January 1952, when Ridgway ordered an infantry battalion from the U.S. Eighth Army to provide additional security.[29]

General Mark Clark, who replaced Ridgway as the commander of UN forces in May of 1952, ordered Brigadier General Haydon L. Boatner to reestablish control of the prison compounds at Koje-do, by force if necessary.  Boatner requested massive guard reinforcements and an engineering battalion.  While the engineers built new prison compounds on Koje-do, Boatner led a series of raids upon existing compounds to remove contraband, including communist propaganda, national flags, and portraits of Kim Il Sung.  On 10 June, Boatner ordered guards to enter Compound 76 and forcibly remove the prisoners to a new, more secure compound.  When the prisoners resisted, a melee ensued, resulting in the deaths of forty-three prisoners.[30]  The remaining 6,500 prisoners were rounded up, divided into units of 500, and placed into the new compounds. Prisoners in other compounds, having witnessed the reduction of Compound 76, proved more tractable, and by the end of June, Boatner was in firm control of Koje-do.

After regaining control of all POW compounds and dispensing prisoners to smaller encampments on the island, Boatner issued a new standard operating procedure for POW enclosures on 15 August 1952.  The new regulations forbade prisoners from singing outside the compound or at night.  Physical exercise could not include any

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[28] "Statement of Brigadier General Charles F. Colson Regarding the Negotiations Conducted with the P.W. Leaders in Compound 76," 20 February 1953, Box 837, Entry EUSAK, RG 500.

[29] "Eighth Army Regiment in PW Command," 19 February 1953, Box 862, Entry EUSAK, RG 500.

[30] "Study of the Oriental Communist Prisoner," 40.

tactical military training. No prisoner could approach a fence line of any compound, and to keep a closer watch over prisoners, all tent flaps remained open except during inclement weather. The disciplinary measures available to enclosure commanders were curtailed in the regulations, dietary punishments were virtually eliminated, and the use of tear gas to quell disturbances was strongly discouraged, though not strictly banned. Boatner's insistence that all disobedient prisoners be immediately punished regained control of the intransigent prisoners and improved morale among guard personnel on Koje-do.[31]

On 31 March 1953, Boatner issued the final standard operating procedure for POWs at Koje-do. Almost three years had elapsed since the first capture of enemy prisoners, and the UNC finally issued comprehensive orders for the care and maintenance of enemy prisoners.[32] The orders modified the regulations used in German POW camps during World War II to fit the Korean War. For the first time, an effort to organize labor detachments occurred at Koje-do. The prisoners formed labor companies of twenty-five men, escorted by five guards. Work projects were determined entirely by enclosure commanders, as long as they conformed to the Geneva Convention of 1949. Boatner ordered all camp commanders to "aggressively implement" the work programs, "to insure the greatest possible efficiency in the utilization of prisoners of war."[33] In a letter written in 1959, Boatner declared the labor program to be an unmitigated failure, despite the fact that UNC studies in the spring of 1952 identified ten thousand skilled laborers

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[31] "Standard Operating Procedures for POW Enclosures," 2-3, 15 August 1952, Box 838, Entry EUSAK, RG 500.

[32] Memorandum Number 13, 31 March 1953, Box 14, Entry PMG POWD, RG 472.

[33] Ibid., 39.1.

among the POW population.[34]  Boatner concluded the labor program failed because

POWs remained too close to the combat zone, and still considered themselves active in

the fighting.  As a result, he recommended that all prisoners be confined on Cheju-do if

hostilities resumed in Korea, or even shipped to Okinawa.[35]

Not all of the prisoners' misbehavior in UNC compounds was initiated by

communist agitators.[36]  By December of 1951, anti-communists were in control of two-

thirds of the compounds.  These prisoners vowed to resist repatriation at all costs,

suggesting that if the United Nations had adopted a policy of forced repatriation, even

more violence in POW compounds would have occurred.  Anti-communist POWs

produced innumerable petitions, manifestoes, and testimonials attacking communism and

the Chinese and North Korean governments.  These statements were signed by thousands

of prisoners, many including a drop of blood next to their name to indicate their

commitment against communism.  Many begged to join UN and South Korean forces to

resume fighting.  For example, Kim Won Sang, a former teacher from Kae Song, begged

release from Compound Number 74 on Koje-do, stating, "I will sacrifice myself for the

fatherland and fight against the Reds as long as my life shall last.  Hundreds of Chinese

officers claimed they had served in the Chinese Nationalist Army prior to the communist

takeover of China, and had been forced into service in Korea.  Some of the prisoners

requested release because they were Christians and feared communist oppression, within

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[34] Matthew B. Ridgway to James A. Van Fleet, 24 February 1952, Box 837, Entry EUSAK, RG 500.

[35] David P. Schorr, Jr., to Haydon L. Boatner, 16 July 1959; Haydon L. Boatner to David P. Schorr, Jr., 31 July 1959; David P. Schorr, Jr., to Haydon L. Boatner, 30 September 1959; Haydon L. Boatner to David P. Schorr, Jr., 20 October 1959; all in Box 87, Entry 452, RG 389.

[36] Meyers and Bradbury, "Political Behavior," 267-71.

the POW camps or after repatriation.[37]  The petitions against forcible repatriation cannot

be simply accepted at face value.  Because anti-communist POWs controlled a majority

of the camp compounds, they may not have been spontaneous declarations, they may in

fact represent a propaganda device encouraged by compound leaders or the South Korean

government.  Given the number of prisoners who refused repatriation from anti-

communist compounds, however, the petitions also cannot be simply discarded as

propaganda.

The motivation behind compound power struggles varied by location, but

evidence shows that communist prisoners were motivated primarily by a desire for self-

protection.  Communist prisoners did not seek to ingratiate themselves with their captors

or obtain special favors and privileges.  Instead, they sought total control over

compounds to be prepared for any action that might be required of them as events

unfolded.  They did not consider themselves removed from the fighting, most believed

the struggle continued in captivity.  Even in communist-controlled compounds, most

prisoners did not identify ideology as a major determinant of their behavior.[38]  Many

joined factions as a result of short-term issues, and remained loyal to their faction

because their personal safety came to depend upon the success of their clique within the

compound.  There is no evidence to suggest that they intentionally planned mass escapes

or even the systematic harassment of UN authorities, rather these became spontaneous

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[37] "Petition of Kim Won Song," 25 July 1951, Box 838, Entry EUSAK, RG 500; "Petition," 18 July 1951; "Petition," 5 August 1951; "The Petition," 22 August 1951; "The Supplication," no date; "No. 77 Brigade Church Christian Petition," 15 July 1951; all found in Box 502, Entry EUSAK, RG 500.
[38] Meyers and Bradbury, "Political Behavior," 280; "Demographic Study of Korean and Chinese PWs," no date, Box 87, Entry 452, RG 389.

group efforts.[39]  The primary complaint of communist agitators within the compounds

soon became the UN stance on repatriation.  By the time the UN proposed free choice for

prisoners regarding repatriation in January of 1952, virtually every compound was firmly

controlled by either communist or anti-communist factions.  These factions submitted

entire compounds to indoctrination regarding the repatriation issue, and the influence of

the indoctrination can be seen in the proportion of prisoners who rejected repatriation

from each compound.[40]

     Certain complaints were common to all POW compounds under UN control,

regardless of the political ideology or nationality of the inhabitants.  Virtually every

compound complained about the type, amount, and preparation of food provided, the

regulations of each compound, and specific incidents of mistreatment by guard personnel.

In addition, Korean POWs complained about clothing issues, especially when they were

given red uniforms.  The red clothing, associated with convicts, was considered

dishonorable and infuriated North and South Koreans alike, who shredded their uniforms

rather than wear them.  Eventually, the camp commandants were informed of the

significance of red clothing, and a new issue of POW uniforms rectified the error.[41]

     The armistice convention to end the Korean War began on 10 July 1951 at

Kaesong.  The conference soon shifted to Panmunjom, where it lasted more than two

years before delegates signed an armistice on 27 July 1953.  The primary point of

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[39] "Draft Technical Report," June 1956, 13, Box 87, Entry 452, RG 389.

[40] Ibid., 14.

[41] Examples of the clothing complaints are contained in Lee Hak-Kyoo to Francis T. Dodd, 26 July 1951; Lee Hak-Kyoo to James A. Van Fleet, 26 July 1951; Paul F. Yount to James A. Van Fleet, 30 July 1951; all in Box 477, Entry EUSAK, RG 500.  Colonel Lee served as the prisoner representative for North Korean officer POWs on Koje-do.  The impact of the clothing issue is detailed in Meyers and Bradbury, "Political Behavior," 265, 269-70.

contention in the peace talks was the disposition of prisoners of war. POWs had never

been such an important issue at an armistice negotiation. Typically, the return of

prisoners after previous wars was included in armistices as an afterthought, and any

serious discussion of POW repatriation revolved around the rate of return for prisoners or

the payment of prisoner upkeep. In Korea, the primary issue was whether or not POWs

would be forced to accept repatriation if they preferred not to return to their homeland.

The communist delegation at Panmunjom maintained that all prisoners must be

repatriated, by force if necessary. They based their arguments upon two key articles in

the Geneva Convention of 1949, Article 7 and Article 118. Article 7 prohibited any

POW from renouncing any rights guaranteed by the convention. Article 118 ensured a

rapid repatriation of all prisoners from all sides at the end of hostilities. Because all

prisoners were guaranteed repatriation, and could not renounce their rights, the

communist position was for complete repatriation, regardless of the wishes of individual

prisoners. The communist delegates insisted that the UNC agree to the release and

exchange of all prisoners as a precondition to the exchange of any information on

prisoners held.[42]

The UNC delegates argued that the Geneva Convention was created for the

protection and benefit of individual prisoners, not for the benefit of the prisoners' original

nations, and it would be wrong to force POWs to return to communist regimes, where

experiences after World War II suggested they would be mistreated by their own

governments. Although no promises had been made to induce surrender in exchange for

release in South Korea, psychological warfare officers suggested that any attempt to

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[42] "Chronology of Principal Events in Korean Armistice Negotiations," 20, Box 1, Entry 61, RG 333.

force repatriation would be met with violence, particularly from Chinese prisoners.[43]

The UNC held nearly 150,000 prisoners, while the communists held barely 10,000.  As

such, a complete repatriation of all prisoners would provide a massive military advantage

to the enemy, with no guarantee that all UN personnel would be returned.  Rather, the

UNC recommended a one-for-one exchange of prisoners, with the balance repatriated

under parole not to participate for the duration of the Korean War.[44]

William H. Vatcher, Jr., argued that the communist negotiators had no desire to

consummate a peace agreement.  By creating a thirty-day cease-fire, they halted UN

advances, and created a perfect propaganda outlet in the armistice negotiations.[45]

Discussion of repatriating POWs began on 11 December 1951, when Rear Admiral

Ruthven E. Libby recommended equal exchange of prisoners during the negotiations, and

requested visits to all POW camps by the International Committee of the Red Cross

(ICRC).  Communist delegates immediately rejected both suggestions, and substituted a

recommendation to release all prisoners on both sides en masse.[46]  Without a mass

exchange agreement, North Korean and Chinese negotiators initially refused to exchange

any data about UN prisoners in communist custody.  When lists of prisoners were

exchanged on 23 December 1951, the UN presented the names of 132,474 POWs, and

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[43] R. C. Dalquist to Robert A. Gelwick, 23 October 1951, Box 1, Entry 61, RG 333.

[44] Ibid., 23.  See also "UNC Proposal on Agenda Item 4 Presented to the Communists," 2 January 1952; "UNC Proposal on Agenda Item 4 Presented to the Communists," 8 January 1952; "UNC Proposal on Agenda Item 4 Presented to the Communists," 28 January 1952; all in Box 1, Entry 61, RG 333; Matthew B. Ridgway to James A. Van Fleet, 30 July 1951, Box 800, Entry EUSAK, RG 500.

[45] William H. Vatcher, Jr., *Panmunjom; The story of the Korean military armistice negotiations* (New York: Praeger, 1958), 118-19.

[46] Libby's request was followed by a request from Ridgway, also rejected as unnecessary by the communist leadership.  Matthew B. Ridgway to Kim Il Sung and Peng Teh-huai, 21 December 1951; Kim Il Sung and Peng Teh-huai to Matthew B. Ridgway, 24 December 1951; both in Box 1, Entry 61, RG 333.

received a list of 11,559. Earlier communist propaganda claimed 65,000 prisoners had

been taken, but when asked to account for the discrepancy, the communist negotiators

claimed that over 50,000 prisoners had been directly released at the front.[47]  According to

UNC figures, only 177 of those "released at the front" returned to UNC lines.  While

claiming to have returned 50,000 prisoners, the communists accused the UNC of

presenting a list missing 44,259 prisoners previously reported to the ICRC.  According to

the UNC, 37,000 of the "missing" prisoners were civilian internees, not prisoners of war,

who had been captured during the rapid UN advance in the autumn of 1950.  The

remainder were prisoners who had provided more than one name, who had escaped, or

who had died in custody.

In April of 1952, the UNC began screening POWs to determine how many would

refuse repatriation.  Prisoners were interviewed individually, using questions designed to

encourage a maximum number of returnees.  The first question was simply "Would you

like to return to China/North Korea?"  Prisoners who answered in the affirmative were

designated for repatriation, and their interviews were immediately terminated.  Prisoners

who answered in the negative were then asked if they would forcibly resist repatriation,

and if they were aware of the potential consequences of refusing repatriation.  At no time

did UNC interrogators promise to send non-returnees to any specific location.  The final

question for any remaining POWs was the prisoners' specific intent if the UNC decided

to forcibly repatriate him.  If the prisoner did not mention an intent to violently resist,

commit suicide, or a similar act, he was included on the repatriation list.  After the

completion of screenings, the UNC delegates presented the communists a figure of

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[47] Vatcher, *Panmunjom,* 129; "Chronology of Armistice Negotiations," 25.

seventy thousand prisoners who would accept repatriation. Communist negotiators found this figure completely unacceptable.[48]

As discussions at Panmunjom broke down, riots erupted in compounds across Koje-do. Vatcher claimed the communist senior delegate, General Nam Il, orchestrated the riots to provide propaganda material and leverage for communist diplomats at the armistice negotiations. The riots cost hundreds of lives by provoking guards to fire upon rioting POWs, but allowed Nam Il to accuse the UNC of murdering POWs. Daily meetings did nothing to advance the peace talks, as neither side was willing to compromise on their fundamental position regarding repatriation. In June, the UN re-screened POWs, hoping to increase the number willing to accept repatriation. On 13 July, the UNC announced that re-screening brought the total number of potential repatriates up to 83,000, but the communist delegates continued to insist upon full repatriation.[49] On 8 October 1952, the UNC delegates unilaterally recessed the armistice conference, and refused to return until the communist delegates agreed to negotiate in good faith.[50] The conference remained in recess until 26 April 1953, although liaison and staff officers' meetings continued. On 22 February 1953, General Mark W. Clark requested an immediate exchange of all sick and wounded POWs in a letter to Kim Il Sung and Peng Teh-huai. The communists agreed to Clark's request on 28 March, and from 20 April until 2 May, sick and wounded POWs were repatriated at Panmunjom.

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[48] "Chronology of Armistice Negotiations," 35; "Description of the Process of Screening Communist Prisoners of War by the UNC," 28 May 1952, Box 1, Entry 61, RG 333.

[49] On 31 March 1953, UNC guards at Koje-do received orders to segregate any prisoners who claimed to be anti-communists that intended to resist repatriation. Memorandum Number 13, 45.

[50] Mark Clark to Kim Il Sung and Peng Teh-haui, 19 October 1952, Box 1, Entry 61, RG 333.

The UNC referred to the repatriation as "Operation Little Switch." In it, 6,670

communist POWs were exchanged for 684 UNC personnel.[51]

The debate over the exchange of all remaining POWs continued until 8 June

1953, when delegates of each side signed the "Terms of Reference for Neutral Nations

Repatriation Commission" that were eventually annexed to the armistice agreement of 27

July 1953. Under the Terms of Reference, each side agreed to turn over any POWs who

refused repatriation to a Neutral Nations Repatriation Commission (NNRC), headed by

India, that took custody of non-repatriate prisoners for ninety days. During that time,

representatives of their home government met with each prisoner and explained their

rights to repatriation. If a POW decided to exercise his right to repatriation, his

application was immediately processed. If a POW did not accept repatriation after ninety

days, he was released from POW status as a civilian.

South Korean President Syngman Rhee adamantly opposed the armistice

agreement, and refused permission for NNRC forces to enter South Korea. He viewed

the entire armistice as a failure to unify the Korean peninsula, and accused the UNC of

appeasing the enemy rather than seeking a permanent peace. On 18 June, Rhee

orchestrated the mass escape of 26,867 anti-communist North Korean POWs, and

encouraged the South Korean civilian population to shield the escapees from recapture by

UNC forces.[52] On 20 June, the communist armistice delegates accused General Clark

and the UNC of negligence, and demanded that steps be taken to recapture the escapees.

Clark responded by blaming the South Korean government for the breakout, and denied

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[51] A copy of Clark's proposal is included in Mark Clark to the AG, 8 April 1953, Box 862, Entry EUSAK, RG 500.
[52] Mark Clark to JCS, 22 April 1954, Box 92, Entry 452, RG 389.

any UNC involvement in the escape. Although the communist negotiators continued to complain, Rhee's action presented a fait accompli and virtually none of the escaped prisoners were recaptured.

On 27 July, the final version of the armistice was signed, and the NNRC began the process of screening the prisoners once more to determine who would refuse repatriation. After ninety days of political harangues, threats, lectures, and appeals to patriotism by Chinese and North Korean political officers, 15,000 Chinese and 8,000 North Korean prisoners refused repatriation. A study by the U.S. Army study revealed that POWs who refused repatriation were typically young, well-educated, and had a brief period of service in the military prior to capture.[53] The Chinese non-returnees were transported to Taiwan, the North Koreans were allowed to settle in South Korea. In comparison, only twenty-two UNC soldiers refused repatriation and remained in North Korea. "Operation Big Switch," the exchange of direct repatriates, began on 5 August and ended on 23 December 1953. The UNC returned 75,801 prisoners to communist control, and received 12,773 in return.[54] Both sides accused the other of withholding prisoners from exchange and failing to account for missing personnel.[55]

As American personnel returned from captivity, a bleak picture of the communist POW camps and the behavior of American prisoners emerged. Although only 21 American prisoners refused repatriation, hundreds more actively collaborated with their captors as a means of gaining better treatment within the camps. An army investigation

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[53] "Demographic Study."

[54] "History of MAC Prisoner of War Activities," 1, Box 5, Entry 61, RG 333.

[55] Ibid., 4; "UNCMAC Estimate of the Situation," 2, 9 April 1957, Box 5, Entry 61, RG 333; J. A. Rell, "Illegal Detention of Prisoners of War," 1-2, 17 April 1954, Box 3, Entry 61, RG 333.

concluded that 425 returning prisoners could be tried for their acts of collaboration.[56]  In

response to the reports of collaboration, President Dwight D. Eisenhower issued

Executive Order 10631 on 17 August 1955, prescribing a "Code of Conduct" for

American service personnel.  Under the code, members of the American military must

never voluntarily surrender; must continue to resist the enemy while in captivity; must

maintain discipline and faith in fellow prisoners; and must refuse to give information to

enemy interrogators.  The code became a fundamental aspect of American military

training, and is still issued to all American military forces.

As the repatriation of POWs commenced, the UNC POW command began a study

of POW treatment, with the idea of creating a guide for the future handling of Asian

communist POWs.  The study included a series of lessons learned in the Korean War.

The most important lesson was that future camp commanders must have a greater

understanding of communist POWs, including psychology, political organization, and

responses to captivity.  Also, POW planning must occur prior to the capture of thousands

of prisoners, thus camp locations should be carefully selected in advance, allowing

prisoners to be segregated by ideology immediately after capture.  Finally, camp

commanders must retain firm control of the camp at all costs, punishing POW offenders

and maintaining strict discipline, by force if necessary.[57]  The result of the study was a

new training course for all army personnel undertaking prisoner of war operations.  More

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[56] Julius Segal, "Factors Related to the Collaboration and Resistance Behavior of U.S. Army PW's in Korea," Army Technical Report 33, December 1956, Box 87, Entry 452, RG 389.

[57] "Standard Operating Procedure for the Operation of United Nations Prisoner of War Camps," 25 September 1953, 2-5, Box 14, Entry PMG POWD, RG 472; Pitman B. Potter, "Repatriation of Korean Prisoners of War," *American Journal of International Law* 47 (October 1952): 661-62; Office of the Provost Marshal General, "Repatriation of Prisoners of War," Box 92, Entry 452, RG 389.

comprehensive than any previous course, it required 137 hours of instruction for all POW camp personnel.[58]

Because Korean and Chinese communist prisoners did not behave in the traditional or expected manner of POWs, by essentially waiting for exchange or the end of the war, the United States was forced to create new methods of holding captives. The experiences of the Korean War changed American POW policy by establishing a firm practice of refusing to forcibly repatriate prisoners. The United States had little effect upon the treatment of American prisoners by the enemy, because the enemy remained unconcerned by the fate of its own prisoners beyond their potential propaganda value, and thus any threat of retaliation remained empty. In Vietnam, senior American personnel showed few signs of absorbing the lessons of the Korean War when dealing with communist prisoners, and instead the United States essentially dodged the issue of prisoner maintenance in Vietnam by turning all captives over to South Vietnamese government control.

In the Vietnam War, American involvement began in an advisory capacity, and gradually evolved into full-scale combat operations. Although U.S. forces were responsible for the capture of thousands of prisoners, the United States did not retain custody of these prisoners. Instead, all POWs captured by American forces were turned over to the South Vietnamese government for internment by the Army of the Republic of Vietnam (ARVN). American personnel served as advisors for the ARVN prison compounds, but had no authority to dictate policy to the South Vietnamese government.

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[58] Department of the Army, "Prisoner of War Operations," 26 June 1956, Box 90, Entry 452, RG 389.

American advisors urged ARVN camp commanders to follow the provisions of the Geneva Convention of 1949, but compliance was spotty at best.

The transfer of prisoners from American to South Vietnamese control was allowed by the Geneva Convention, although the capturing power still maintained a legal responsibility to ensure the proper treatment of its former captives. In this regard, the United States Military Assistance Command, Vietnam (MACV) encountered great difficulty with the ARVN. Visits to ARVN prison camps by the ICRC invariably resulted in complaints about camp conditions, and the complaints were rarely rectified in a timely manner. Particularly troubling were repeated allegations of torture, substantiated by ICRC investigators, that plagued the ARVN prison system.

The nature of the Vietnam War complicated the POW situation. The majority of all captures were South Vietnamese rebels, members of the National Liberation Front, commonly referred to as "Viet Cong." Although thousands of members of the North Vietnamese Army (NVA) were captured, the Hanoi government maintained the fiction that no North Vietnamese troops were in South Vietnam, and it refused to discuss the exchange of prisoners or reciprocal actions regarding POW treatment.

In the Vietnam War, the practices of earlier American conflicts had little impact upon the treatment of prisoners. The South Vietnamese government viewed enemy combatants as domestic insurgents subject to civil rather than military law. The North Vietnamese government unwittingly contributed to this approach by insisting that no North Vietnamese troops were present in South Vietnam, signaling it would not protest any mistreatment of captured North Vietnamese Army troops. Throughout the war, the commanders of MACV attempted to mitigate the South Vietnamese approach to POW

operations, but allegations of mistreatment, torture, and executions dogged the POW program for the duration of the war. At the same time, MACV commanders had no desire to assume responsibility for the maintenance of POWs, which would place tremendous strain upon MACV logistics.

Most of the works devoted to POW history in general have focused upon the conditions faced by American POWs captured by the Viet Cong and the North Vietnamese. Barker described the POW history of the war entirely in terms of communist attempts to indoctrinate American prisoners, primarily because he believed that the Viet Cong and North Vietnamese did not care what happened to their captured troops.[59] Garrett also focused entirely upon American prisoners and he considered it a miracle that any American captives survived the war. Regarding the treatment of prisoners held in South Vietnam, he argued that because the ICRC made frequent inspections of camps run by the South Vietnamese government, no major problems were present in the compounds for Viet Cong and North Vietnamese prisoners.[60] Levie believed that the United States complied entirely with the provisions of the Geneva Convention of 1949 in Vietnam, and that any mistreatment resulted from the actions of an individual, not U.S. policies, and that transgressions were appropriately punished. In contrast, he noted that the Viet Cong refused to apply the provisions of the Geneva Convention, and violated it on a number of occasions by executing American prisoners.[61] This dissertation diverges from earlier works by focusing upon the practices of MACV and its South Vietnamese allies. While the treatment of American prisoners held by the

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[59] Barker, *Prisoners of War*, 112, 123-24, 195.
[60] Garrett, *P. O. W.*, 220.
[61] Levie, *Prisoners of War*, 30, 61, 369.

enemy is undoubtedly an important topic, it does not define the POW experience for the vast majority of captives taken held the war.

Most of the secondary works discussing prisoners in Vietnam also focus entirely upon the plight of American prisoners. When authors address the camps for Viet Cong or North Vietnamese prisoners, the general assumption is that the United States forced South Vietnam to strictly adhere to the provisions of the Geneva Convention.[62] Vernon E. Davis is the rare exception. In *The Long Road Home* he argued that the South Vietnamese government hesitated to adhere to the Geneva Convention, and only agreed to do so after the promise of financial assistance from the United States.[63] He also believed that the South Vietnamese government greatly hampered American efforts to exchange prisoners, by insisting that only "repentant" prisoners, those who renounced their allegiance to the Viet Cong or North Vietnam, should be eligible for release prior to the end of the war.[64]

As in the Korean War, most enemy prisoners in Vietnam were held in large, overcrowded prison camps. Once again, a massive island prison complex was constructed for communist prisoners, this time on the island of Phu Quoc. Virtually no effort was made to utilize POW labor; prisoners were interrogated and dumped into wretched conditions. In the early years of major American involvement, American advisors suggested that the government of South Vietnam should plan ahead for the

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[62] Stuart I. Rochester and Frederick Kiley, *Honor Bound: American Prisoners of War in Southeast Asia, 1961-1973* (Annapolis, MD: Naval Institute Press, 1999), 203; Tom Philpott, *Glory Denied: The Saga of Jim Thompson, America's Longest-Held Prisoner of War* (New York: W. W. Norton, 2001), 77.

[63] Vernon E. Davis, *The Long Road Home: U.S. Prisoner of War Policy and Planning in Southeast Asia* (Washington, DC: Office of the Secretary of Defense, Historical Office, 2000), 63-64.

[64] Ibid., 90-94.

capture of thousands of prisoners. Repeated American efforts to prompt the construction of POW camps failed, POWs were routinely held in civilian jails and prisons through 1967.[65]

Unfortunately, as the number of Viet Cong captures rose, the ability of camp commanders to feed and maintain their prisoners, much less monitor their activities within each compound, declined rapidly. At the end of 1966, only 1,825 prisoners were in custody, of which 949 were Viet Cong and 711 were members of the North Vietnamese Army. By the end of 1967, the total number of prisoners rose to 9,743, including 7,221 Viet Cong prisoners. Over 10,000 prisoners were captured in 1968 and 1969, straining camp capacities to the breaking point. Construction of new camps proceeded slowly, as the South Vietnamese government placed a low priority upon prisoners of war.[66] American advisors stressed the need for expanded camp capacity or a form of POW release throughout 1969, with few results. Camp construction on Phu Quoc remained stagnant, primarily due to a lack of raw materials.[67] This situation illustrated the frustration MACV advisors faced: the inability to force action upon South Vietnamese camp commanders.

Until 1966, South Vietnam refused to admit it had captured prisoners of war. Rather, the government referred to all POWs as "Communist Rebel Prisoners" (CRP), and defined CRPs as "all who carry or do not carry arms and belong to the following

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[65] U. Alexis Johnson to Ngueyn Cao Ky, 9 August 1965; "Year-End Wrap-Up 1967," no date; "A Plan for the Development of Procedures and Facilities for Handling Combat Captives in SVN," no date, all in Box 2, Entry PMG POWD, RG 472.

[66] Box 2, Entry PMG POWD, RG 472 contains monthly returns of prison compounds from 1965 until 1972.

[67] Richard O. Rowand to Charles D. Gooch, 25 July 1969; Charles D. Gooch, "RVN Prisoner of War Camp Status," 28 September 1969, both in Box 4, Entry PMG POWD, RG 472.

three categories: intruders from the North, returned from regroupment to the North, or joined the VC Armed Forces in the South." In short, any enemy combatant, regardless of origin or unit was considered a CRP. Individuals not captured while fighting could be detained by the declarations of witnesses, because of their own statements, or simply for being in a region controlled by the VC.[68] ARVN commanders made no mention of the provisions of the Geneva Convention, although ARVN camp personnel were prohibited from retaliation upon enemy prisoners or inhumane treatment of them, including torture.[69] On 29 October 1966, MACV defined prisoners of war for American forces as individuals captured while engaging in combat or members of the North Vietnamese Armed Forces or the Viet Cong. Despite fighting as allies, American and South Vietnamese units did not even have a consistent definition of prisoners of war, much less a coherent policy for their treatment.

On 19 October 1965, the South Vietnamese Joint General Staff (JGS), on the advice of MACV, issued JGS Memo 2537, which provided a standard operating procedure for the capture of communist insurgents. Captured Viet Cong were briefly interrogated for tactical intelligence, and promptly evacuated to divisional collection points. At the division level, all captured Viet Cong were given a lengthy interrogation, and their POW status was determined. Those in possession of valuable intelligence were sent to either the National Intelligence Center or the Combined Military Intelligence Center, depending upon the nature of the intelligence. Viet Cong with no intelligence

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[68] Cao Van Vien, "Control, Follow-Up, and Report of the CRP's (Communist Rebel Prisoner) Status," 30 June 1966, Box 1, Entry PMG POWD, RG 472.
[69] Nguyen Huu Co, "Instruction on Prescription of the Policies Concerning the Treatment of Rebel Communist Prisoners," 16 December 1965, Box 1, Entry PMG POWD, RG 472.

value were shipped directly to a POW detention camp.  Captured individuals deemed to be civilians by a military tribunal were returned to the place of capture and released.[70]

The JGS issued a new standard operating procedure for Viet Cong prison camps on 25 May 1966, after consulting with American advisors and deciding that captured rebels should be held in camps separate from civil prison facilities.  Viet Cong POWs were defined as any rebels captured while openly bearing arms and resisting the ARVN. Any Viet Cong who intentionally concealed his or her identity, as well as guerillas operating outside the laws of war, were specifically exempted from POW status.  The procedures required all Viet Cong prisoners to be searched, interrogated, and fingerprinted upon arrival at a prison camp.  All Viet Cong personnel were segregated by rank, gender, nationality, language, and political trend.[71]  While the new procedures clearly defined who received POW status, they did not mention the disposition of captives exempted from POW status.

Each separate POW camp in South Vietnam received a MACV military police advisory team of one officer and four enlisted men to assist in supervising the confinement of two thousand prisoners.  The Central POW Camp at Phu Quoc, with a planned capacity of twenty thousand POWs, received an advisory team of only seven officers and twenty-six enlisted men.[72]  The primary guard force at each enclosure consisted of a Quan Canh (QC) company of ARVN soldiers who received virtually no training in POW maintenance.

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[70] JGS Memorandum 2537, 19 October 1965, Box 1, Entry PMG POWD, RG 472.

[71] JGS Memorandum 333, 25 May 1966, 9-10, Box 1, Entry PMG POWD, RG 472.

[72] MACJ Supplemental Data Sheet, no date, Box 1, Entry PMG POWD, RG 472; Franklin M. Davis, Jr., "Plan for a Model Prisoner of War System," no date, Box 2, Entry PMG POWD, RG 472.

The POW advisors were coordinated at MACV headquarters, first by Colonel

Richard O. Rowland, later by Colonel Charles D. Gooch.  Rowland believed the

Vietnamese government and ARVN earnestly wished to provide excellent POW care, but

were hampered by poor logistics.  He appreciated the diplomatic aspect of POW care,

noting "a signal failure in the PW program would create repercussions that could be

disastrous."  He especially feared ARVN might insist upon the United States assuming

control of POWs if MACV advisors pushed too hard to improve POW conditions.[73]  The

American personnel were advisors only, they had no authority to order changes in the

operation of ARVN POW camps, and they reported that camp commanders often ignored

their suggestions, particularly in regard to the treatment of Viet Cong prisoners.[74]

Once separated into camp compounds, enlisted Viet Cong prisoners selected a

prisoner representative for communications with camp officials and representatives of the

ICRC.  The election of representatives was done through secret ballots, but all Viet Cong

representatives required the approval of the camp commander.  Officer camps

automatically granted the position to the highest-ranking prisoner in the camp.  The

representative enjoyed wide latitude in the performance of official duties, but maintained

no disciplinary power over other POWs.[75]

Camp commanders were warned to prevent acts of opposition by Viet Cong

prisoners by maintaining an active guard presence in each camp.  Any prisoner

attempting to organize opposition to camp regulations, or any form of protest whether

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[73] Richard O. Rowland to Charles D. Gooch, 9 June 1969, Box 4, Entry PMG POWD, RG 472.

[74] Richard E. Abercrombie, "End of Tour Report," 30 May 1969, Box 4, Entry PMG POWD, RG 472.

[75] JGS Memorandum 333, 11.

active or passive, was immediately punished by camp authorities. Prisoners were prohibited from assembling in large groups, displaying propaganda, or chanting communist slogans within the camps. Fraternization between captives and guards or civilians was strictly forbidden. Camp commanders were authorized to use force to break up any demonstration of protest, to end POW refusals to work, or to prevent imminent riots.[76] American commanders expressed concern that Phu Quoc could become another Koje-do, with POWs virtually running their own compounds and guard personnel powerless to stop major incidents of violence.[77]

Enlisted prisoners could be assigned labor duties, including camp maintenance, manual labor, transportation duties, and public benefit tasks of a non-military nature within the provisions of the Geneva Convention of 1949. For the most part, South Vietnam exerted little effort to utilize prisoner labor, and virtually all labor details remained within the confines of POW camps.[78] Camps received insufficient guard personnel to maintain control over large working parties, thus most prisoners had no opportunity to labor outside of the camps. Cao Van Vien observed in 1971 that at Phu Quoc, "the camp has only accomplished a vegetable planting project with a limited scope." He blamed a lack of funds, insufficient guard personnel, and a lack of U.S. military support for the failure to use prisoner labor.[79]

The only exceptions to the general non-use of prisoner labor were two specialized vocational programs, the Chieu Hoi and Bien Hoa programs. Viet Cong prisoners who

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[76] "Use of Force for PW Riot Control," 7 May 1968, Box 2, Entry PMG POWD, RG 472.
[77] Carl C. Turner to Henry W. Gibson, 22 April 1968; Carl C. Turner to William Brandenburg, 8 July 1968, both in Box 2, Entry PMG POWD, RG 472.
[78] William H. Brandenburg to Carl C. Turner, 26 July 1968, Box 2, Entry PMG POWD, RG 472.
[79] Cao Van Vien to Creighton W. Abrams, no date, Box 15, Entry PMG POWD, RG 472.

were South Vietnamese citizens were eligible for a vocational training program that led to eventual release and resettlement on government-controlled territory. The "Chieu Hoi," or "Open Arms," program sought to create productive, peaceful citizens out of former rebels through a program of political indoctrination, and eased some camp overcrowding by allowing the release of thousands of Viet Cong POWs.[80] Prisoners having good conduct and requesting reclassification were screened by camp authorities. If camp commanders recommended a change in status, the "returnees" transferred to the control of the Ministry of Information for administration and release. By 1969, even a small number of North Vietnamese POWs entered the Chieu Hoi program.[81]

Adolescent prisoners presented a special problem for South Vietnamese and American captors. As of 7 March 1968, over thirteen hundred prisoners between the ages of eleven and eighteen were in custody, including eighty-eight females and forty-nine members of the NVA. The government transferred these young POWs to a special reeducation program, the Youth Rehabilitation Program at Bien Hoa, which contained a basic literacy program and a vocational training center, coupled with intense political indoctrination. Of the sixty-seven teachers at Bien Hoa, twenty-five were for indoctrination, ten for literacy, and thirty-two for vocational training, including woodworking, tailoring, brick-making, and gardening.[82]

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[80] Richard O. Rowand to Charles D. Gooch, 25 July 1969, Box 4, Entry PMG POWD, RG 472; Nguyen Hieu Trung, "Change from PW Status to Returnee Status, 7 April 1969, Box 6, Entry PMG POWD, RG 472.

[81] Cao Van Vien, "Change to Returnee Status," 17 July 1967; "PW's in the Chieu Hoi Program," no date; W. E. Colby, "PW's in Chieu Hoi Program," 17 May 1969; Robert H. Ivey, "North Vietnam PWs and Chieu Hoi Program, 25 February 1969, all in Box 6, Entry PMG POWD, RG 472.

[82] "POW Status Report," 1 April 1969, Box 3, Entry PMG POWD, RG 472.

Female POWs were sent to a single enclosure at Qui Non. Female prisoners had also been taken and segregated during the Korean War. However, in Vietnam, American medical officers reported that a high number of female POWs arrived at their compounds pregnant, presenting a new medical difficulty for guard personnel.[83] Discipline at Qui Nhon remained a problem throughout the war, camp guards resorted to flogging female POWs for various offenses, a clear violation of the Geneva Convention.[84]

In 1968, the South Vietnamese government finally decided to completely segregate Viet Cong prisoners from civil defendants and North Vietnamese POWS. To accomplish this task, a massive expansion of the prison facilities at Phu Quoc commenced. Further, South Vietnamese authorities removed the five thousand prisoners deemed the most "hard-core" communists to the island prison at Con Son. This action followed the precedent created by the separation of fanatical Nazi prisoners during World War II and the segregation of ardent communists in the Korean War.[85] By creating a distinction between civil prisoners and POWs, South Vietnam submitted to an important legal issue pressed by MACV advisors, but this shift did not guarantee the Geneva Convention would be followed.

The enemy sought to use POW mistreatment as a propaganda device in the Vietnam War in the same manner as the Korean War. However, in Vietnam, when prisoner riots did not provoke violent responses as they had on Koje-do, Viet Cong rebels

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[83] Nguyen Trong Mae to Nguyen Van Cau, 1 December 1967, Box 2, Entry PMG POWD, RG 472; Nguyen Ca, "Detention of Female PWs Who Have Babies at the PW Camps," 30 August 1967, Box 7, Entry PMG POWD, RG 472.

[84] Memorandum of Conversation, Christian Hauser, George H. Aldritch, Robert I. Starr, 15 May 1969, Box 7, Entry PMG POWD, RG 472.

[85] "Civilian Detention Activities in 1968," 30 January 1969, Box 8, Entry PMG POWD, RG 472.

began attacking prison camps, killing their own prisoners with mortar shells and rocket fire, to demonstrate that the South Vietnamese government had not taken adequate measures to protect its captives. The island of Phu Quoc proved a poor choice for the prison compound, it was rife with Viet Cong activity. In 1968 alone, the prison compounds were attacked or shelled thirty-four times. The prison was successfully breached only once, during the Tet Offensive, when 2,665 POWs escaped after an assault upon the fence line. Almost none of the escapees were recaptured; they had hidden among the native population of the island.[86]

In late 1968, an inspection tour by members of the Office of the Provost Marshal revealed a number of glaring weaknesses in the Vietnamese POW program. No prisoner of war information center existed, despite the requirement of such a bureau by Article 122 of the Geneva Convention. Prior ICRC visits had little effect upon camp conditions, despite American pressure to conform to ICRC requirements. The central camp at Phu Quoc remained overcrowded, and almost no effort to utilize POW labor existed. POW discipline remained lax, and guard personnel responded slowly to demonstrations by prisoners. In short, multiple problems remained in the POW system despite American efforts to assist the South Vietnamese government.[87] By October 1968, Phu Quoc operated with 40 percent more POWs than its normal capacity, and the rate of captures

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[86] Milton K. Campbell, "Phu Quoc PW Camp and VC Activity on Phu Quoc," no date, Box 4, Entry PMG POWD, RG 472; Sam A. Roberts to Major General Davidson, 5 February 1969, Box 4, Entry PMG POWD, RG 472; "Civilian Detention Activities in 1968," 30 January 1969, Box 8, Entry PMG POWD, RG 472; CORDS-R Berkeley to State Department, 29 January 1969, Box 5, Entry PMG POWD, RG 472.
[87] Richard Rowland, "Trip Report on Visit to Vietnam," 16 October 1968, Box 2, Entry PMG POWD, RG 472.

continued to climb. The list of POWs required by Article 122 of the Geneva Convention remained incomplete at the end of 1969.[88]

A 1970 study conducted by the Army Concept Team in Vietnam (ACTIV) concluded that American treatment of POWs from the period of capture to delivery to ARVN custody complied with the requirements of the Geneva Convention. American soldiers received reminder cards illustrating the major points of the Geneva Convention, and processed enemy prisoners quickly but humanely into ARVN control.[89] Once POWs reached permanent enclosures, the situation changed. ICRC inspections of Phu Quoc in 1970 revealed inadequate food supplies, poor medical care, and physical beatings of prisoners. A separate MACV investigation corroborated the ICRC reports, and found that no corrective action occurred from February until October of 1970. If anything, the situation of POWs worsened, as camps became more crowded. The MACV investigator concluded that the South Vietnamese government had neither the desire nor the ability to improve camp conditions, any improvements required direct U.S. assistance. He noted that the United States had an obligation under Article 12 of the Geneva Convention to ensure proper treatment of prisoners captured by U.S. forces, but no facilities to assume direct control of the POWs.[90] The provost marshal ordered American advisors to notify

[88] Frank B. Clay to Creighton W. Abrams, 14 October 1968, Box 3, Entry PMG POWD, RG 472; G. Warren Nutter to John Thorton and Richard O. Rowand, 5 November 1969; Frank A. Sieverts to Ellsworth Bunker, 6 October 1969, both in Box 4, Entry PMG POWD, RG 472.

[89] Army Concept Team in Vietnam, "Accountability, Classification, and Record/Reporting System for Captured Enemy Personnel," June 1970, Box 9, Entry PMG POWD, RG 472.

[90] Thorton E. Ireland, "ICRC Inspection of Central Prisoner of War Camp," 12 October 1970; Ellsworth Bunker to the Secretary of State, 14 October 1970; J. P. Dunbar to Thornton E. Ireland, 30 October 1970; "Conditiosn at Phu Quoc PW Camp," 28 September 1970, all in Box 10, Entry PMG POWD, RG 472.

ARVN camp commanders of any mistreatment of POWS and demand immediate

corrective action, but the incidents continued unabated.[91]

On 11 August 1971, an American embassy investigator reported that beatings in

the Phu Quoc compounds continued, and that any time an American advisor became

aware of a beating, the camp commanders transferred the victim to a different compound

to hide the incident. Within ARVN, camp personnel were rated exclusively on the

number of prisoner escapes, no attempt to discipline guards for mistreatment of prisoners

occurred. Cao Van Vien, Chief of the JGS, insisted that ICRC delegations falsely

reported camp conditions, despite the concurrent findings of MACV and embassy

investigators.[92]

Poor responses to ICRC camp visit complaints hurt the war effort, and lowered

world opinion of the South Vietnamese treatment of POWs. Few complaints received

proper attention or follow-up, and changes in POW camp administration rarely occurred

as the result of an ICRC visit. ICRC visits to Phu Quoc reported physical evidence of

torture, including electrocution scars; food inadequacies; and nutritional deficiencies

among the POW population.[93] Proposed ration scales for POWs published on 16

September 1968 suggested 2,024 calories per day for POWs in East and Southeast Asia,

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[91] Warren H. Metzner to Alan D. Holland, 20 March 1970, Box 12, Entry PMG POWD, RG 472; Charles D. Gooch to Warren H. Metzner, 25 February 1970, Box 13, Entry PMG POWD, RG 472.

[92] Stephen Winship, "Observations on Visit to Phu Quoc PW Camp, July 29-30, 1971," 11 August 1971; Cao Van Vien to Creighton W. Abrams, 29 July 1971, both in Box 14, Entry PMG POWD, RG 472.

[93] Kenneth G. Wickham to Creighton W. Abrams, 25 November 1968, Box 3, Entry PMG POWD, RG 472; Frank A. Sieverts to Ellsworth Bunker, 6 October 1969, Box 4, Entry PMG POWD, RG 472; ICRC, "Report on Visit made to Phu Quoc PW Camp," 8 March 1968; ICRC, "Annex to Report on Visit to Phu Quoc PW Camp," 18 March 1968, both in Box 1, Entry PMG POWD, RG 472.

while recommending over 2,400 calories for prisoners from all other regions of the world. Corresponding lower standards for protein, fat, and vitamins also applied to the area, and rice comprised virtually the entire proposed ration for East Asian prisoners.[94] The ICRC visits, and subsequent complaints, demonstrated that American advice regarding the care of POWs remained unheeded by South Vietnamese camp commanders, as ICRC visits to American-run camps during World War II and the Korean War typically resulted in no significant complaints about prisoner maintenance.

American POW policy in Vietnam was largely driven by an overriding urge to free American POWs from enemy control. The MACV chief of POW operations, Colonel Henry Gibson, noted in 1968, "the question of treatment of enemy prisoners of war is inexorably interwoven with the treatment of captured Americans by the enemy."[95] Because the Viet Cong had no discernible central committee authorized to conduct exchange negotiations, and the North Vietnamese government refused to regard captured American personnel as prisoners of war, arranging the liberation of American captives proved exceedingly difficult. The situation was further complicated by the South Vietnamese refusal to release any POWs who refused to swear fealty to the government and settle in a location under government control. In an attempt to free American personnel, United States commanders released enemy prisoners unilaterally on a number of occasions. They hoped that North Vietnam and the Viet Cong would feel pressure to release an equivalent number of prisoners as a goodwill gesture. While the "reciprocal releases" freed a few American prisoners, they did not lead to a regular exchange cartel

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[94] "Proposed Ration Scales," 16 September 1968, Box 15, Entry PMG POWD, RG 472.
[95] Henry Gibson to the provost marshal, 19 March 1968, Box 3, Entry PMG POWD, RG 472.

or negotiations for repatriation. Neither the Viet Cong nor the North Vietnamese government showed a particular interest in regaining POWs under South Vietnamese control.[96] Because the Viet Cong and North Vietnamese expressed no concern for their prisoners in South Vietnam, any threat of retaliation for the mistreatment of American or South Vietnamese captives remained hollow. The United States made no such threats despite evidence that American prisoners received inadequate food and medical care while in captivity.

Maintaining the precedent established in Korea, the United States insisted that no enemy personnel, even if sick or wounded, would be repatriated by force. To avoid a drawn-out armistice negotiation, Ambassador Ellsworth Bunker recommended that any POW who did not desire repatriation should be reclassified prior to any negotiations, effectively pre-empting the question of voluntary repatriation. General Creighton Abrams rejected the suggestion, as it would violate the spirit of the Geneva Convention, if not its literal wording.[97] On 29 May 1971, the United States announced that 660 severely wounded and sick prisoners, eligible for immediate repatriation, would be screened by the ICRC, and those accepting repatriation sent to North Vietnam. Optimistic American planners believed that most American POWs held in North Vietnam were eligible for repatriation under the same provisions of the Geneva Convention, and that international public pressure could force the return of hundreds of American prisoners through the unilateral release of sick and wounded North Vietnamese prisoners.

[96] "Proposed Planning Guidance for CINCUSARPAC, CINCPAC, and COMUSMACV on Enemy PW Repatriation Planning," no date, Box 2, Entry PMG POWD, RG 472; "Reciprocal Repatriation of NVN Naval Personnel," 5 March 1968, Box 3, Entry PMG POWD, RG 472.
[97] Creighton W. Abrams to Ellsworth Bunker, 29 November 1968, Box 3, Entry PMG POWD, RG 472.

The ICRC finished its screening procedures in a single day, and announced that only 13 permanently disabled prisoners had elected to be repatriated. This outcome prompted North Vietnamese propaganda to announce that hundreds of prisoners had been offered repatriation by the United States, only to be held back, against their will, in an example of American cruelty.[98]

At the end of the war, ARVN held 37,540 POWs, including 9,971 NVA and 26,927 VC. The NVA prisoners were repatriated to Hanoi by air, but the VC prisoners presented a greater problem. They were South Vietnamese citizens who represented a real threat to the government, and only 9,706 had agreed to join the Chieu Hoi program, the rest still opposed the Saigon government.[99] American diplomats expected North Vietnam to make POW exchange a difficult proposition, and did not believe North Vietnam would release all of its prisoners within sixty days of the cease-fire.[100] In short, they believed North Vietnam would not bargain in good faith. Four key areas of contention existed. First, North Vietnam still claimed in 1972 that no NVA troops existed in South Vietnam, thus it might refuse to accept the return of NVA POWs. Second, North Vietnam might insist that all 27,000 remaining VC prisoners be freely released to settle anywhere in South Vietnam, including VC-controlled areas in the countryside. Third, many NVA POWs might refuse repatriation and VC prisoners might refuse to return to VC-controlled areas, effectively refusing repatriation. Finally,

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[98] Davis, *Long Road Home*, 280-82.

[99] "Repatriation of Enemy Prisoners of War," 15 January 1973, Box 18, Entry PMG POWD, RG 472.

[100] Allegations that North Vietnam retained American POWs after the war have abounded for three decades, despite numerous government investigations which have discovered no evidence of such prisoners. For a thorough discussion of the POW-MIA debate, see H. Bruce Franklin, "The POW/MIA Myth," in *The Lessons and Legacies of the Vietnam War,* ed. Walter L. Hixson (New York: Garland, 2000), 189-210.

members of the Chieu Hoi program would probably resist forcible return to VC-controlled areas, and the North Vietnamese might argue they were held back against their will.[101]

The Vietnam War represented a new approach by the United States to the question of how to handle enemy prisoners. In this war, the American military essentially abdicated responsibility for prisoners by turning them over to the South Vietnamese government, even knowing that South Vietnam would not adhere to the requirements of the Geneva Convention. In every American war prior to Vietnam, guarding and maintaining enemy prisoners had been a thankless task given to poorly trained troops unsuited for combat. In Vietnam, this approach reached its apex, by giving custody of prisoners to the South Vietnamese, more American personnel remained available for combat duty. Any mistreatment of POWs could be blamed on the South Vietnamese, because American camp personnel maintained only an advisory role and had no power to change the day-to-day operations of POW camps.

The advisory approach to POW operations in Vietnam certainly lightened the burden upon American logistics, but it also ensured that the United States could not utilize POW labor, nor could it institute changes to POW policies without the acquiescence and active participation of South Vietnam's authorities. Most of the time, this did not represent a problem, but when American negotiators wished to exchange enemy prisoners for American captives, they required permission from the South Vietnamese government. American POW policy prior to Vietnam had been improvisational, but in Vietnam, any American improvisation was slowed by the need to

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[101] Josiah W. Bennett to Charles S. Whitehouse, 11 November 1972, Box 18, Entry PMG POWD, RG 472.

convince South Vietnamese camp commanders to change their policies. This necessity resulted in a poorly-functioning system strained to capacity from 1968 until 1973, continually beset by ICRC complaints and supply difficulties.

The American advisory approach to POW operations in coalition warfare has continued and, if anything, it has increased after the end of the Cold War. In the first Gulf War, discussed in the next chapter, American commanders planned for the construction of two massive POW compounds, where Iraqi prisoners could be rapidly interrogated and then transferred to Saudi Arabian custody, again freeing American personnel for combat operations.

The primary legacies of the Cold War, from the standpoint of supervising POWs, are twofold. First, there was been a sustained effort to transfer control and responsibility for enemy prisoners to less combat-effective allied troops, who often do not share American views on the efficacy of complying with the Geneva Convention. The practical result of massive, overcrowded compounds and little day-to-day control of prisoners became evident in Korea and Vietnam. Second, American commanders broadened the definition of POWs to include guerillas and other combatants who do not necessarily represent a specific nation. Further, the expectation that only adult males served as combatants certainly altered during the Cold War. The captives held by the United States and its allies included substantial numbers of women and adolescents for the first time in American history. Such non-traditional combatants have played an increasing role on the battlefields of the post-Cold War era.

**CHAPTER IX**

**CONCLUSION:  POW POLICY IN THE POST-COLD WAR ERA**

After the end of the Vietnam War, the United States next deployed large numbers of military personnel in 1990-91 with the commencement of Operation Desert Shield. Once again, the United States faced an aggressor state, Iraq, in a distant and hostile terrain, as part of a coalition of military forces.  As in Korea, the United States adopted a leadership role for the coalition forces to develop and implement a POW policy, particularly after the start of combat in Operation Desert Storm.  Despite a four-month period of deployment and build-up, the United States entered combat unprepared for the capture of enemy forces, and improvised ways to maintain Iraqi prisoners for what turned out to be the short period of combat.  In 2001, after the 11 September terrorist attacks, the United States led a coalition to invade Afghanistan and Iraq as part of the War on Terror. The Afghanistan invasion, begun with the intent of dismantling terrorist organizations, resulted in revised definitions for who received prisoner of war status.  Subsequent interrogations of prisoners taken in Afghanistan led to reports of torture and violations of the Geneva Convention by U.S. interrogators.  The Second Gulf War further blurred the definition of POWs in the twenty-first century.  Iraqi military and civilian captives were housed together in massive prison compounds and mistreated by poorly-trained American guards.  The resulting scandal provoked world outrage and fueled insurgents combating the U.S. occupation of Iraq.  Conclusions about the nature of American POW operations and the future of American POW policy follow the discussion of the First Gulf War and the War on Terror.

Iraq's leader, Saddam Hussein, invaded Kuwait on 2 August 1990, provoking immediate condemnation from other nations and a flurry of United Nations resolutions. Iraq's military occupied Kuwait and appeared to threaten the sovereignty of Saudi Arabia, destabilizing the region and disrupting the world's oil supply. Eventually, 36 nations deployed forces to participate in ousting Iraqi forces from Kuwait, including over 540,000 American troops. American planners anticipated the capture of thousands of Iraqi POWs, but expected to hold them for a period of only one week before transferring them to Saudi Arabian control for detainment and eventual repatriation. To encourage surrenders, coalition planes dropped more than 32,000,000 surrender leaflets. Over 70 percent of prisoners cited the leaflets as a factor in the decision to surrender and virtually all reported that they had seen the leaflets.[1] American forces captured over 60,000 Iraqi troops, and accepted custody of 8,000 more captured by British and French forces, but could not process them rapidly enough to transfer them to Saudi control for several weeks.[2] All told, coalition forces captured almost 87,000 Iraqi prisoners, most during the four days of ground combat.[3] Although American commanders dictated policies governing the treatment of Iraqi POWs, in practice, after capture, POWs remained an afterthought.

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[1] Tom Clancy and Chuck Horner, *Every Man a Tiger* (New York: G. P. Putnam's Sons, 1999), 477; Rick Atkinson, *Crusade: The Untold Story of the Persian Gulf War* (Boston: Houghton Mifflin, 1993), 377.

[2] M. S. White, ed., *Gulf War Logistics: Blackadder's War.* (London: Brassey's, 1995), 217, 234.

[3] U.S. Department of Defense, *Final Report to Congress on the Conduct of the Persian Gulf War* (Washington, DC: Government Printing Office, 1992), 86, 473, 577; Atkinson, *Crusade,* 481; Dominic J. Caraccilo, *The Ready Brigade of the 82nd Airborne in Desert Storm* (Jefferson, NC: McFarland & Co., 1993), 164; Clancy and Horner, *Every Man,* 477; Stephen A. Bourque, *Jayhawk! The VII Corps in the Persian Gulf War* (Washington, DC: Department of the Army, 2002), 455; Peter Rowe, ed., *The Gulf War 1990-91 in International and English Law* (London: Routledge, 1993), 202.

Construction of POW facilities in Saudi Arabia never matched demand. The first Iraqi prisoners captured during ground operations arrived at Camp Brooklyn within one hour of the completion of the first compound. As areas were completed, they were immediately occupied to capacity by prisoners. The U.S. Army initially planned to construct four camps for POWs, each with a capacity to hold up to twenty-four thousand prisoners. Captures greatly exceeded expectations and overwhelmed transportation capacity to transfer prisoners to the enclosures in Saudi Arabia. Operational commanders feared that the rate of capture might hinder the ability of ground forces to rapidly advance.[4] The Seventh Corps of the U.S. Army captured over seven thousand prisoners in the first two days of combat, and U.S. marines reported eight thousand prisoners on the first day. The lack of transportation became so extreme that disarmed prisoners routinely traveled to rear areas without a coalition escort.[5] Planners selected sites in Saudi Arabia where prisoners could be processed, interrogated, and transferred to Saudi control. As prisoners flooded into the camps, they overwhelmed the identification and examination system. Each camp initially processed prisoners at a rate of less than one hundred per day, although by the end of combat, the number rose to fifteen hundred per day through streamlined procedures.[6]

Despite the problems associated with the capture of eighty thousand Iraqis by coalition forces in a ground war lasting only four days, Iraqi prisoners received

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[4] James F. Dunnigan and Austin Bay, *From Shield to Storm: High-Tech Weapons, Military Strategy, and Coalition Warfare in the Persian Gulf* (New York: William Morrow, 1992), 273; Caraccilo, *Ready Brigade,* 117; Bourque, *Jayhawk!*, 237.
[5] Michael R. Gordon and Bernard Trainor, *The General's War: The Inside Story of the Conflict in the Gulf* (Boston: Little, Brown and Company, 1995), 363, 368; Bourque, *Jayhawk!*, 319; Caraccilo, *Ready Brigade,* 150-55.
[6] Department of Defense, *Final Report*, 585.

exceptionally good treatment after capture.  Most underwent a cursory interrogation and

medical examination prior to transfer into a holding enclosure.[7]  At the enclosures, the

prisoners reported that they received better food, clothing, medical supplies, and shelter

as prisoners of war than provided by their own army.  Perhaps the most telling statistic is

that only eight Iraqi prisoners died in U.S. custody, all from battle wounds or illnesses

contracted prior to capture.[8]  The International Committee of the Red Cross (ICRC)

reported that the coalition forces adhered to international law and accepted practices, and

pronounced, "The treatment of Iraqi prisoners of war by U.S. forces was the best

compliance with the Geneva Convention by any nation in any conflict in history."[9]

American prisoners in Iraqi custody received far worse treatment during the

conflict.  Iraq captured only twenty-three American prisoners, mostly pilots, and twenty-

four other coalition prisoners.[10]  American repatriates reported physical abuse,

malnourishment, insufficient protection from attacks, and poor medical care.[11]  On a

number of occasions, Iraqi interrogators forced coalition prisoners to appear before

television cameras for propaganda purposes.  These efforts backfired, provoking

international condemnation without deterring coalition advances into Iraq.[12]  Although

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[7] Norman Friedman, *Desert Victory: The War for Kuwait* (Annapolis, MD: Naval Institute Press, 1991), 198.

[8] Department of Defense, *Final Report,* 578.

[9] Ibid., 577.

[10] Andrew Leyden, *Gulf War Debriefing Book: An After-Action Report*, ed. Camille Akin (Grants Pass, OR: Hellgate Press, 1997), 291-92.

[11] John Norton Moore, *Crisis in the Gulf: Enforcing the Rule of Law* (New York: Oceana, 1992), 70.  One American POW, Major Rhonda Cornum, reported an attempted sexual assault in her autobiography, Rhonda Cornum, *She Went to War: The Rhonda Cornum Story,* ed. Peter Copeland (Novato, CA: Presidio Press, 1992), 49-50.

[12] John Mueller, *Policy and Opinion in the Gulf War* (Chicago: University of Chicago Press, 1994), 343-44.

coalition officials threatened to hold war crimes trials for the mistreatment of prisoners, they issued no threats of retaliation upon Iraqi prisoners.[13]

The safe return of American prisoners remained a high priority for U.S. commanders, the first agenda item at the cease-fire negotiations was the immediate return of all coalition prisoners. Iraq repatriated all of its captives on 4 and 5 March 1991, the two days after the signing of the cease-fire agreement. The armistice made no mention of the disposition of Iraqi prisoners.[14] The insistence upon returning coalition prisoners reflected a legacy of the Vietnam War and included the fear that some prisoners might be unaccounted for at the end of hostilities. One American aviator, Lieutenant Commander Michael Scott Speicher, was rumored to have been held back from exchange by Iraq. In January 2001, his status was officially changed from killed in action to missing in action, the first such change ever made by the Department of Defense.[15]

In keeping with established Cold War policy, the United States vowed to refuse to use force to repatriate Iraqi prisoners. The coalition requested that the ICRC determine which prisoners wished to refuse repatriation; a total of over thirteen thousand elected to remain in Saudi Arabia. The repatriation of Iraqi POWs commenced on 6 March 1991, virtually all returned to Iraq via Saudi Arabian transportation. On 22 August, the last

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[13] Ken Matthews, *The Gulf Conflict and International Relations* (London: Routledge, 1993), 152-55; Lawrence Freedman, "The Theory of Limited War," in *International Perspectives on the Gulf Conflict, 1990-91,* eds. Alex Danchev and Dan Keohane (New York: St. Martin's Press, 1994), 214.

[14] See also Dennis Menos, *Arms Over Diplomacy: Reflections on the Persian Gulf War* (Westport, CT: Praeger, 1992), 93; Moore, *Crisis in the Gulf,* 255; Robert H. Scales, *Certain Victory: The U.S. Army in the Gulf War* (Washington, DC: Office of the Chief of Staff of the Army, 1993), 323; Gordon and Trainor, *Generals' War*, 444.

[15] Amy Waters Yarsinske, *No One Left Behind: The Lieutenant Commander Michael Scott Speicher Story* (New York: Dutton, 2002), 241; Lon Wagner and Amy Waters Yarsinske, "Dead or Alive?" *Virginian-Pilot*, 4 January 2002.

Iraqi POW left Saudi Arabian territory, the following day, all remaining prisoners legally became refugees and permanent residents of Saudi Arabia.[16]

The U.S. POW effort succeeded in the First Gulf War, despite inadequate planning, a shortage of trained personnel, and a lack of facilities, because it had ample assistance from the Saudi government in the form of supplies and transportation.[17] The relationship remained markedly different than the often adversarial relationships maintained with the South Korean and South Vietnamese governments of earlier wars. The short duration of the war contributed to the ease of prisoner maintenance; facilities designed to be temporary in nature proved sufficient for the prisoners' needs. In the next American conflict in the Middle East, the treatment of military captives radically differed from the 1991 experience. Unlike Operation Desert Storm, which consisted of clear operational goals, a long period of preparation, and the careful incorporation of coalition forces, the War on Terror, and the subsequent invasions of Afghanistan and Iraq, suffered from a lack of preparation and foresight regarding POW affairs.

On 11 September 2001, members of the Al Qaeda terrorist network hijacked four airplanes, eventually steering two into the World Trade Center in New York City, one into the Pentagon, and crashing one in rural Pennsylvania. On 21 September 2001, President George W. Bush presented an ultimatum to the Taliban, the radical Islamic government of Afghanistan. In it, he demanded the Taliban deliver Osama bin Laden and the leadership of Al Qaeda to American control, release all imprisoned foreign nationals, and close all terrorist training camps within the country. If the Taliban failed

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[16] 13,227 enlisted and 191 officer POWs refused repatriation, Department of Defense, *Final Report*, 587; Adam Roberts, "The Laws of War," in Danchev and Keohane, *International Perspectives,* 276; Gordon and Trainor, *Generals' War*, 413-14.
[17] Scales, *Certain Victory,* 65.

to comply, Bush vowed that it would "share their fate."[18]  The leadership of the Taliban refused to respond to Bush's ultimatum.  On 7 October 2001, American and British forces commenced an invasion of Afghanistan, aided by rebels of the Northern Alliance.

As in any conflict, American forces captured enemy combatants, provoking the first substantial POW question of the War on Terror:  Should members of Al Qaeda or other terrorist networks be considered prisoners of war?  The Geneva Convention of 1949 is somewhat ambiguous on the subject, although a literal reading of the document suggests that members of terrorist organizations do not receive POW status upon capture.[19]  They  typically do not wear identifiable uniforms, operate under the control of officers responsible for troop behavior, or adhere to the international laws of war. Captured members of Al Qaeda fell outside the definition of POWs and remained in captivity in Afghanistan.  The military shipped prisoners with vital intelligence value to Camp X-Ray, a prison established in January 2002 at Guantanamo Bay, Cuba.  In the first three months of operation, American forces airlifted over six hundred prisoners to Guantanamo for long-term interrogation.[20]

Had the Afghan conflict remained solely between the United States and Al Qaeda, it is unlikely any controversy would have emerged from Guantanamo.  The invasion of Afghanistan provoked resistance from the Taliban and necessitated a further definition of enemy captives.  A White House legal counsel recommendation, endorsed by President George W. Bush, denied POW status to Taliban captives as well, on the grounds that the

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[18] <http://archives.cnn.com/2001/US/09/20/gen.bush.transcript>
[19] Adam Roberts and Richard Guelff, eds., *Documents on the Laws of War*, 2nd edition (Oxford: Oxford University Press, 1989), 411-14.
[20] Rosemary Foot, *Human Rights and Counter-terrorism in America's Asian Policy,* Adelphi Paper Number 363 (New York: Oxford University Press, 2004), 13-14.

Taliban was a "failed state," despite the Taliban's de facto control of the nation for years

prior to the conflict. Further, because Taliban units reportedly did not follow the Geneva

Convention, they could expect no quarter from capturing forces. A clarification, issued 7

February 2002, announced that the United States would substantially adhere to the

Convention regarding the maintenance of Taliban captives, but would not accord them

prisoner of war status.[21] Like captured Al Qaeda members, certain Taliban fighters faced

prolonged captivity in Guantanamo for interrogation purposes.[22]

Interrogators at Guantanamo utilized *Field Manual 34-52*, which included a series

of guidelines for the interrogation of enemy prisoners. Written in 1987 and modified in

1992, the guidelines contained a list of acceptable means of coercing responses from

prisoners, including sleep and sensory deprivation. The guidelines expressly forbade

physical beatings and certain threats or deceptions.[23] On 16 April 2003, Secretary of

Defense Donald Rumsfeld broadened the acceptable interrogation methods to include

forced nudity and the use of military dogs for intimidation purposes.[24] Physical means of

intelligence extraction remained illegal, and the new means were intended solely for use

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[21] Steven Strasser, ed., *The Abu Ghraib Investigations: The Official Reports of the Independent Panel and the Pentagon on the Shocking Prisoner Abuse in Iraq* (New York: PublicAffairs, 2004), 4-5; George Bush, "Humane Treatment of al Qaeda and Taliban Detainees," 7 February 2002, in Mark Danner, *Torture and Truth: America, Abu Ghraib, and the War on Terror* (New York: New York Review of Books, 2004), 105-6.

[22] Paul Rogers, *A War on Terror: Afghanistan and After* (London: Pluto Press, 2004), 165-66.

[23] Department of the Army, "Intelligence Interrogation," 8 May 1987, *Field Manual 34-52* (hereafter cited as *TM 19-500*), Chapter 1. <http://www.globalsecurity.org/intell/library/policy/army/fm/fm34-52/toc.htm>

[24] Strasser, *Abu Ghraib Investigations*, xvi-xvii, 32-33; Donald Rumsfeld to James T. Hill, 16 April 2003, in Danner, *Torture and Truth,* 199-204; Karen J. Greenberg and Joshua L. Dratel, eds. *The Torture Papers: The Road to Abu Ghraib* (New York: Cambridge University Press, 2005), 1239.

at Guantanamo, not as a general shift in prisoner of war interrogation techniques used by American forces.

The invasion of Iraq commenced on 20 March 2003, ostensibly in a search for illegal weapons of mass destruction (WMDs).  The broad coalition support of 1991 disappeared by 2003.  Although forty-nine nations officially supplied troops or materiel, the invasion remained overwhelmingly an American venture.[25]  Noticeably absent were the regional neighbors of Iraq that had participated in the First Gulf War.  American and coalition forces quickly invaded Iraq and captured the capital of Baghdad by 9 April.  In the process, over eighty thousand Iraqi troops surrendered to American forces.[26]  Again, American planes rained over thirty million surrender leaflets upon Iraqi forces, prompting many to surrender at the first sight of coalition troops.[27]  Hussein fled before the advancing forces, and directed an insurgent campaign to harass the occupying forces until his capture on 13 December.

As in Vietnam and the First Gulf War, the return of American POWs remained of paramount importance to American commanders.  Although the Iraqi military captured few Americans, press reports on the fate of American POWs riveted the nation.  In particular, the story of Private First Class Jessica Lynch, taken prisoner during an ambush of a supply convoy, became the symbol of American POWs during the war.  Special

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[25] <http://www.whitehouse.gov/news/releases/2003/03/20030327-10.html>

[26] John Keegan, *The Iraq War* (New York: Alfred A. Knopf, 2004), 81; Sara Beck and Malcolm Downing, eds., *The Battle for Iraq: BBC News Correspondents on the War Against Saddam* (Baltimore: Johns Hopkins University Press, 2003), 22; Anthony H. Cordesman, *The Iraq War: Strategy, Tactics, and Military Lessons* (Washington, DC: Center for Strategic and International Studies, 2003), 247.

[27] Cordesman, *Iraq War*, 512; Nicholas E. Reynolds, *Basrah, Baghdad, and Beyond: The U.S. Marine Corps in the Second Iraq War* (Annapolis, MD: Naval Institute Press, 2005), 43.

operations forces raided the hospital where Lynch was held as a prisoner, and successfully freed her from captivity. In the same operation, they discovered the bodies of seven American POWs who died of wounds received in the ambush. Within hours of obtaining her freedom, Lynch's visage beamed from news broadcasts across the country.[28] Less than two weeks later, marines rescued seven U.S. prisoners held in Tikrit. The freed prisoners received a heroes' welcome upon their release.[29]

If the status of terrorists and Taliban fighters confounded American legal analysts, no such controversy existed regarding Iraqi prisoners. Iraqi captives received POW status immediately, and no government or military official suggested that they should not be protected by the Geneva Convention. Living up to the requirements of the Convention proved difficult, as no location in Iraq remained secure from hostile action, and thus POWs could not be evacuated from the war zone without removing them from Iraq entirely. No other nation offered to house Iraqi prisoners as Saudi Arabia had done in 1991, thus they remained an American problem.

Without a secure base of operations outside the combat zone, American commanders had no convenient area for the internment of captured Iraqi troops. The insurgency ensured that no location within Iraq remained safe from hostile operations. Pentagon expectations of a quick war followed by a brief occupation proved unfounded; the system of temporary facilities used in 1991 could not be applied. American commanders searched for a rapid solution to the problem of maintaining POWs and

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[28] Rick Bragg, *I Am a Soldier, Too: The Jessica Lynch Story* (New York: Alfred A. Knopf, 2003), 129-32; Peter Baker, "Iraqi Man Risked All to Help Free American Soldier," *Washington Post*, 4 April 2003.
[29] Dexter Filkins, "7 U.S. POWs Are Found Alive by Marines," *International Herald Tribune,* 14 April 2003.

decided to use existing Iraqi prison facilities. The most ill-advised choice, Abu Ghraib, was a large prison compound outside of Baghdad. The use of Abu Ghraib indicated the improvised nature of POW operations in the Second Gulf War and a clear lack of understanding by American commanders regarding the nature of Abu Ghraib under Saddam Hussein's regime. The prison deserved its reputation as a hated symbol of the regime, holding thousands of political prisoners and the site of unspeakable tortures.[30]

The decision to place POWs in Abu Ghraib and other prison facilities in Iraq clearly violated the Geneva Convention. Article 22 states that prisoner may be placed in civil prison facilities only as a temporary expedient, but by October 2004, the Abu Ghraib POW population exceeded seven thousand. To maintain the prisoners, a military police (MP) force of only ninety-two reservists manned the prison, resulting in a prisoner-to-guard ratio of 75:1.[31] The 800th MP Brigade, which provided the personnel for Abu Ghraib, had been converted from maintaining criminal prisoners to POWs, but received little practical instruction in the proper treatment of POWs. The unit also handled facility security, logistics, and provided supply convoys for the prison. Insurgent forces shelled the prison repeatedly, but the guards' lack of heavy weapons and vehicles prevented a sufficient response to halt the attacks.

In the fall of 2003, Abu Ghraib's population reached eight thousand prisoners, many taken from their homes in the middle of the night, not captured on the battlefield. Journalist Mark Danner estimated that 70 to 90 percent of Abu Ghraib's prisoners had

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[30] Beck and Downing, *Battle for Iraq*, 156-57; John Lee Anderson, *The Fall of Baghdad* (New York: Penguin Press, 2004), 109, 364, 370-71.
[31] Strasser, *Abu Ghraib Investigations,* xiv.

been arrested by mistake.[32]  The line between prisoners of war and civilian detainees

blurred at Abu Ghraib, because all remained confined together and the entire prison

population was vulnerable to abusive treatment.  In February 2004, the ICRC released a

report on the treatment of prisoners of war and other internees in Iraq, and concluded that

brutality and mistreatment of prisoners constituted a widespread problem in Iraq at the

hands of both coalition forces and Iraqi police.  Interrogators used prohibited techniques

to elicit information from prisoners, resulting in deaths and serious injuries to prisoners.[33]

The ICRC report, though public, went largely unheeded by American reporters and

citizens, but comparing the report with ICRC statements from 1991 indicates that

American and coalition prisoner practices markedly declined in the Second Gulf War.

On 29 April 2004, the American public became aware of Abu Ghraib due to a

CBS broadcast of a series of photographs showing American personnel abusing

prisoners.[34]  The pictures included naked prisoners chained together and forced to

simulate homosexual acts, military dogs menacing terrified captives, and a hooded,

shrouded figure connected to electrical leads, standing on a box with arms outstretched.

The photographs, taken by American personnel participating in the abuse, became the

icons of the Second Gulf War, images of guard personnel completely out of control.

Bush and Rumsfeld had never authorized physical or sexual abuse in any capacity, yet

both appeared at Abu Ghraib.  Further, interrogation techniques reserved for Guantanamo

[32] Danner, *Torture and Truth,* 3.
[33] "Report of the International Committee of the Red Cross on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment, and Interrogation," February 2004, in Danner, *Torture and Truth,* 252.
[34] Bing West, *No True Glory: A Frontline Account of the Battle for Fallujah* (New York: Bantam Books, 2005), 213.

detainees, such as the use of nudity and military dogs, had migrated to Iraq without official sanction.[35]

The abuse revelations from Abu Ghraib did not come as a surprise to the Pentagon or the White House. On 19 January 2004, Lieutenant General Ricardo Sanchez, commander of coalition forces in Iraq, had ordered an investigation into the treatment of detainees at Abu Ghraib. Investigators led by Major General Antonio M. Taguba scrutinized the behavior of the 800th MP Brigade, and found dozens of instances of abuse of prisoners by American personnel.[36] It also found members of the brigade, the same unit that oversaw POW operations in the First Gulf War, were inadequately trained for POW treatment. The brigade's commander, Brigadier General Janis Karpinski, did not provide sufficient oversight for prisoner affairs.[37] Taguba recommended that Karpinski and several subordinates be relieved of command.[38] Criminal investigations of enlisted personnel directly involved in the abuse followed the Taguba Report.

After the public revelation of the abuses at Abu Ghraib, Sanchez ordered another investigation of the allegations. Lieutenant General Anthony Jones and Major General George R. Fay expanded the scope of the Taguba investigations by interviewing hundreds of detainees and coalition military personnel. Their report concluded that at the time of the abuse, only six hundred of the Abu Ghraib inmates were prisoners of war, the remainder consisted of civilian detainees who did not receive POW status. In the fall of 2003, the number of inmates sharply rose as U.S. forces increased captures, straining

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[35] Strasser, *Abu Ghraib Investigations*, xvi-xviii.
[36] "Article 15-6 Investigation of the 800th Military Police Brigade (The Taguba Report)" in Danner, *Torture and Truth,* 289-90. (Herafter cited as Taguba Report.)
[37] Ibid., 312-13.
[38] Ibid., 319-24.

prison logistics to the breaking point.[39] Jones and Fay found that responsibility for the

abuse rested with "a small group of morally corrupt soldiers and civilians." It was

exacerbated by a failure of leadership and oversight at multiple levels of command, and

encouraged by civilian and military intelligence agencies seeking to obtain actionable

intelligence from the prisoners regarding the insurgency.[40] A classified portion of the

report, leaked to the *New York Times*, indicated that Sanchez authorized the use of

interrogation techniques at Abu Ghraib that had been specifically intended for

Guantanamo.[41]

In the aftermath of the Abu Ghraib scandal, President Bush offered to demolish

the prison, but the Iraqi interim government rebuffed the offer as a waste of resources.

Insurgents remain in U.S. custody in Iraq in 2006, although the government has not

released the number or location of detainees currently being held. The U.S. Supreme

Court ordered that prisoners at Guantanamo were entitled to legally challenge their

detention by the United States, but the Senate effectively overrode the Supreme Court

decision by suspending the writ of habeus corpus for prisoners at Guantanamo.[42] The

prisoners are no longer allowed to sue for their own release in U.S. courts. The

suspension applied to pending as well as future cases, effectively halting prisoner appeals

for release. Military tribunals considered the status of some Taliban and Al Qaeda

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[39] "Investigation of Intelligence Activities at Abu Ghraib," in Danner, *Torture and Truth,* 404-5.

[40] Ibid., 405.

[41] Douglas Jehl and Eric Schmitt, "Army Report: Gen. Sanchez Approved Torture at Abu Ghraib," *New York Times,* 27 August 2004, A:1.

[42] <http://www.cdi.org/news/law/rasul-decision.pdf>; Tom Curry, "Senate wrests detainee issue from courts," <http://www.msnbc.msn.com/id/10039267/from/RL.2>; Eric Schmitt, "Senate Approves Limiting Rights of U.S. Detainees," *New York Times,* 11 November 2005, A:1; Mark Sappenfield, "Senate Affirms Path of Antiterror Tribunals," *Christian Science Monitor,* 18 November 2005.

prisoners, and ordered the release of a few of foreign nationals, but hundreds more awaited hearings or were ordered to remain in custody for further interrogation. As of 2005, the final disposition of terrorist and Taliban prisoners was uncertain, as the Taliban no longer ruled Afghanistan, and thus repatriation to that nation presented both legal and ethical problems. Members of Al Qaeda confined at Guantanamo could not be expected to return to Afghanistan in the near future, and yet many have committed no overt act that could trigger a civil prosecution in an American court. They remained in legal limbo, awaiting a defined policy that could clarify their fate in the War on Terror.

American POW policy and practice have been improvisational. At no time in U.S. history has the nation entered a war fully prepared for the number of POWs captured in that war. This was unsurprising, given that the United States has rarely entered a war adequately prepared for initial combat, a much greater consideration.[43] Circumstances have forced American commanders to create new POW systems to meet the needs of each conflict while engaged in combat operations. POWs have never been a major priority for the U.S. military, the officers given control of POWs have typically been unsuited for combat command, due to age, inexperience, or disposition. The result has been an ongoing scramble to house and feed prisoners in every war, occasionally with disastrous results, as seen in Civil War camps, Koje-do, and Abu Ghraib. At the end of each conflict, prisoners have returned home and little effort has been expended to assess POW operations, ensuring that the U.S. military remained unprepared for the next conflict. Improvisation does not make the United States unique and historically POWs

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[43] John Shy, "First Battles in Retrospect," in *America's First Battles, 1776-1965,* ed. Charles E. Heller and William A. Stofft. (Lawrence: University Press of Kansas, 1986), 339.

have remained a low priority for military forces worldwide. In most wars, the United

States has maintained its captives in better fashion than its enemies, and has had just

cause to complain about the treatment of American prisoners.

The United States has maintained a keen interest in the treatment of captured

Americans. This behavior has been present in every American war, and has been of

special note after the Civil War, when U.S. forces have captured many more prisoners

than the enemy in each conflict. The development of international law regarding

prisoners has influenced American military practices, and guaranteed that American

decisions are not made in a vacuum. For the most part, the War Department and the

Department of Defense explicitly followed the Hague and Geneva Conventions, although

some disagreements occurred regarding the proper interpretation of each document, and

have expected similar compliance from enemies. When captors of U.S. prisoners openly

mistreated POWs, the American response has consistently been the threat of retaliation

or postwar trials.

American POWs practices have changed to suit the needs of each conflict, even

when policies have remained the same. The United States has never approached POW

policy in the same way for two consecutive wars. There is little evidence in the official

records or the historiography of POW affairs to suggest that racism significantly

impacted POW policy, although it almost certainly influenced the decisions of some

individuals involved in POW practice. Only during World War II did the United States

capture significant numbers of prisoners from multiple ethnicities at the same time, and

the treatment of German, Italian, and Japanese prisoners did not markedly differ.

Comparisons between wars are difficult, if not impossible, due to the changes in the

nature of warfare over time. One cannot compare the treatment of Iraqi POWs in 2003 with the treatment of British prisoners in 1813 and hope to make a convincing argument that racism is the overriding factor in the difference of treatment for each group.

As the United States grew in power and status, its ability to influence international law regarding prisoners grew as well. At the Hague Conventions of 1899 and 1907, the United States participated as one among many nations. By 1929, the United States was one of the sponsoring powers of the Geneva Conference, pushing for an agreement to clarify the laws of prisoner care. At the 1949 Geneva Conference, the United States essentially proposed the new Convention, and gained ratification of the new treaty without substantial modifications. However, some have argued that in the period after 1949, the United States has set back POW affairs by not explicitly following the Convention and by refusing to accede to the 1977 Protocol establishing new standards for POW maintenance, including expanding the definition of POWs. The legal impact of the War on Terror remains to be seen, but the abuse at Abu Ghraib and the allegations of mistreatment at Guantanamo have hurt American standing in the international community.

Despite improvisations, certain principles have guided American conduct toward military captives. At no time has the United States adopted collective punitive measures against all prisoners, nor has it ever been declared U.S. policy or obvious practice to mistreat POWs. Even cases of deliberate abuse, such as the situation at Abu Ghraib, have been shown to be the actions of a few individuals, not the enforcement of a deliberate policy. If POWs held by the United States have had cause to complain about their treatment, it has been due to negligence, not a malign intent. At times, the principle

of thrift has become too influential, resulting in overcrowded prison compounds and a driving desire by camp commanders to reduce the public burden represented by prisoners. One early example of economizing POW treatment came during the Revolutionary War, when states quartered British prisoners with citizens to save the cost of constructing POW encampments. Another occurred in the War of 1812, when marshals leased prison ships rather than constructing new facilities. In the Civil War, combinations of thrift and neglect led to the massively overcrowded prison pens at Andersonville, Elmira, and other locations, where prisoners received scant rations and little shelter.

Although the United States has often linked enemy POW treatment to the treatment of American prisoners, and thus ceded the initiative regarding prisoners to the enemy, rarely has the United States carried out a policy of retaliation upon enemy prisoners. Retaliatory acts occurred during the War of 1812 and the Civil War, but in later wars, the common U.S. practice consisted of warning the enemy of retaliation or possible war crimes trials for the mistreatment of American prisoners. Examples of retaliatory warnings occurred in the Philippine War and the Vietnam War, in both cases, commanders never ordered retaliatory measures. In the First Gulf War, President George Bush warned Iraq that it would be held accountable for the mistreatment of American prisoners, yet no war crimes trials occurred even after repatriated prisoners reported abuse while in captivity.

For those who seek policy implications, this dissertation leads to the following conclusions. POW policies in the future must be clearly established prior to the capture of enemy troops, and facilities must be prepared well in advance of the arrival of

prisoners.  A standard operating procedure for the construction of camps, the interrogation of captives, and the standards for POW treatment is vital to the future of POW operations.  A clear definition of who the United States regards as a prisoner of war, currently lacking, remains fundamentally important to the future of American POW policy.  Waiting to determine a captive's status exacerbates any POW situation.  Military units tasked with POW affairs require extensive training in both procedures and international law regarding prisoners.  If these units are from the Reserves or National Guard, they must be specifically devoted to POW operations.  Attempts since 2003 to convert MP companies specializing in criminal affairs within the U.S. military and the detention of criminal prisoners have resulted in allegations of mistreatment such as those from Abu Ghraib and Guantanamo.  Expecting the military to make POW affairs a top priority is unrealistic, but it is also foolish to assign insufficient personnel to oversee a large POW population in a hostile location.  The scandals associated with prisoner abuse during the War on Terror and the second invasion of Iraq must serve as an alarm for the military leadership of the United States if it wishes to ensure the proper treatment of American prisoners in future conflicts.  Continually entering wars unprepared for prisoners and improvising policies in the midst of combat can only result in future allegations of mistreatment of enemy prisoners and the prospect of international criticism for the United States.  Although improvisation has been the legacy of U.S. POW policy, it should not remain the standard in the American conflicts of the future.

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# APPENDIX

**APPENDIX A-1**

**EXCHANGE EQUIVALENCIES FOR THE AMERICAN REVOLUTIONARY**

**WAR, WAR OF 1812, AND CIVIL WAR**

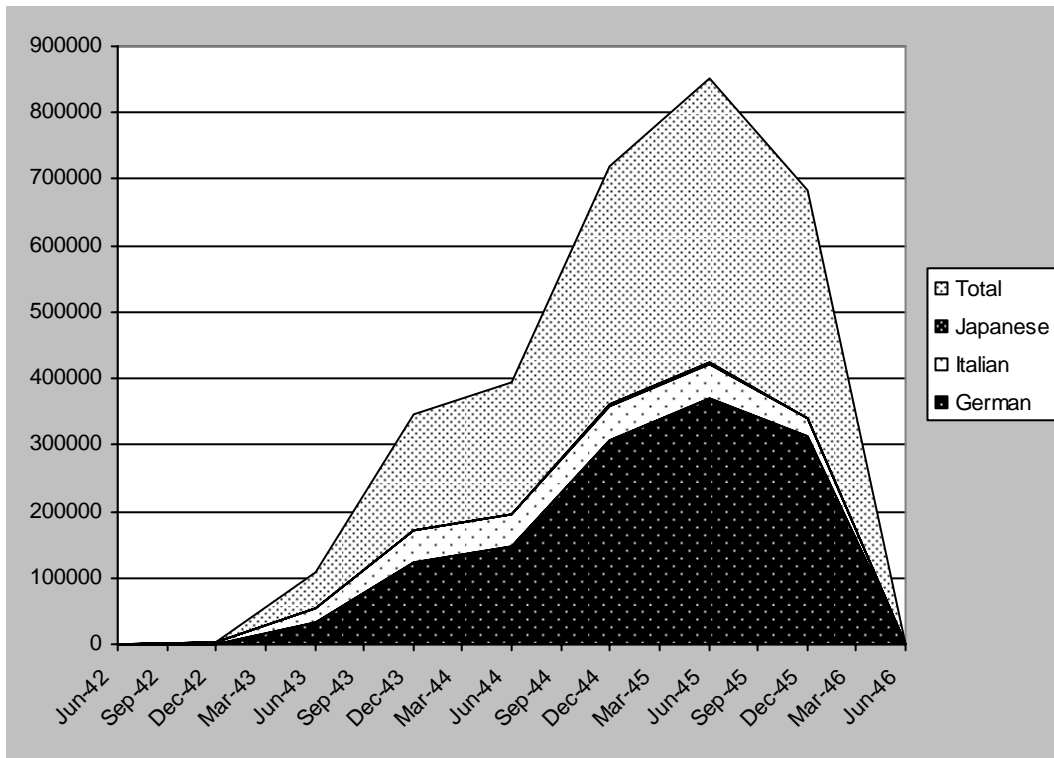|  | American Revolution | War of 1812/Civil War |
|---|---|---|
| Private | 1 Private | 1 Private |
| Sergeant | 2 Privates | 2 Privates |
| Lieutenant | 6 Privates | 4 Privates |
| Captain | 16 Privates | 6 Privates |
| Major | 28 Privates | 8 Privates |
| Lieutenant Colonel | 72 Privates | 10 Privates |
| Colonel | 100 Privates | 15 Privates |
| Brigadier General | 200 Privates | 20 Privates |
| Major General | 372 Privates | 30 Privates |
| Lieutenant General | 1044 Privates | 40 Privates |
| Commander in Chief | Not included | 60 Privates |

**APPENDIX A-2**

**MAJOR UNION POW CAMPS, 1861-65**

| Camp Name | Total Received | Deaths | Greatest Number Present |
|---|---|---|---|
| Alton, IL | 12880 | 1600 (12.4%) | 1891 |
| Camp Butler, IL | Unknown | 866 | 2186 |
| Camp Chase, OH | 25964 | 2192 (8.4%) | 9045 |
| Camp Douglas, IL | 27022 | 4173 (15.4%) | 11702 |
| Camp Morton, IN | 4622 | 1537 (33.3%) | Unknown |
| Elmira, NY | 12263 | 2951 (24.1%) | 9480 |
| Fort Delaware, DE | 31840 | 2473 (7.8%) | 9174 |
| Fort McHenry, MD | 3283 | 28 (.9%) | 1195 |
| Johnsons Island, OH | 8828 | 243 (2.8%) | 3209 |
| Louisville, KY | 48324 | 135 (.3%) | 6566 |
| New York City, NY | 7381 | 283 (3.8%) | 3346 |
| Newport News, VA | 3551 | 161 (4.5%) | 3339 |
| New Orleans, LA | 4931 | 770 (15.6%) | 2838 |
| Point Lookout, MD | 53015 | 3432 (6.5%) | 19786 |
| Rock Island, IL | 12286 | 1916 (15.6%) | 8392 |
| Ship Island, MS | 5742 | 153 (2.7%) | 4070 |
| Capitol Prison, DC | 14208 | 51 (.4%) | 1009 |
| Fort Monroe, VA | 1641 | 36 (2.2%) | Unknown |
| Nashville, TE | 34865 | 518 (1.5%) | 7000 |
| St. Louis, MO | 12940 | 577 (4.5%) | 747 |
| Fort Warren, MA | 1693 | 13 (.8%) | 820 |

**APPENDIX A-3**

**PRISONERS HELD IN THE UNITED STATES, 1942-46**

**APPENDIX A-4**

**PRISONERS HELD IN SOUTH VIETNAM, 1965-72**



| | Dec-65 | Dec-66 | Dec-67 | Dec-68 | Dec-69 | Dec-70 | Dec-71 | Dec-72 |
|---|---|---|---|---|---|---|---|---|
| ■ *Total POWs Held in South Vietnam* | 303 | 1903 | 9743 | 21764 | 32435 | 37353 | 35596 | 37451 |
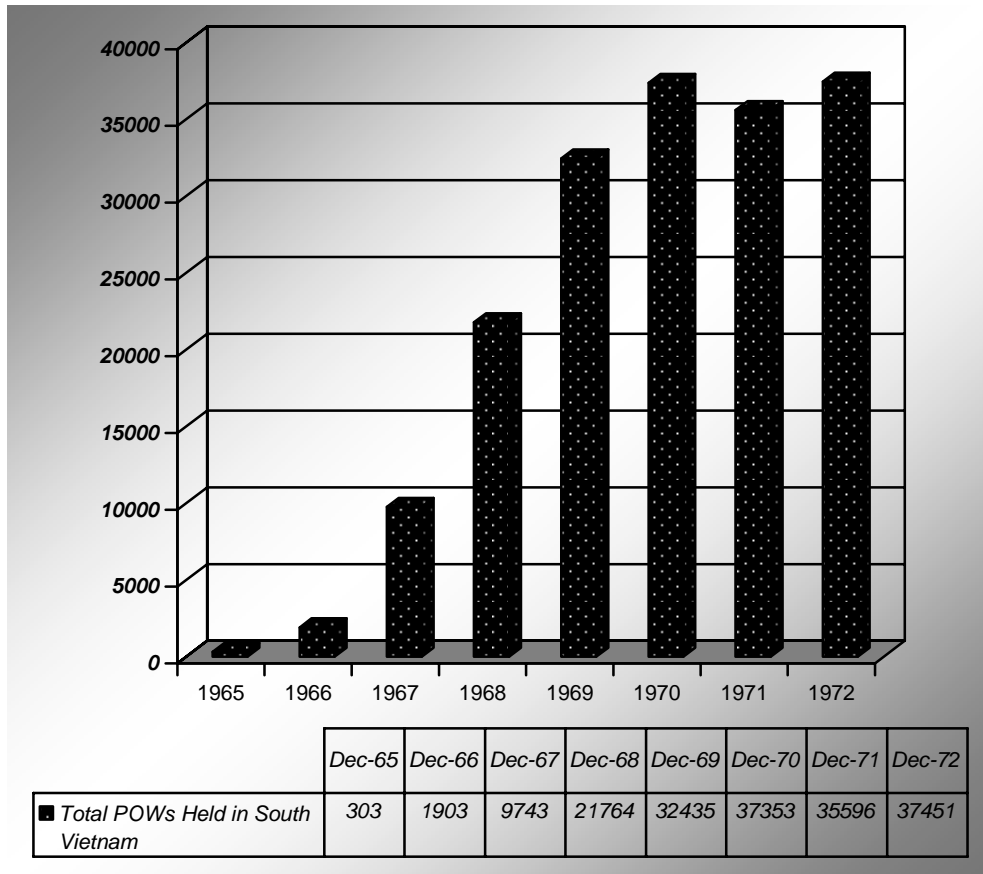
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    Courses Taught:  U.S. History I & II; U.S. Military History; Honors U.S. History
    II; Civil War & Reconstruction; History of U.S. Seapower

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    Position:  Instructor
    Courses Taught:  U.S. History I & II

    Hawkeye Community College        8/98-12/98     Waterloo, IA
    Position:  Instructor
    Course Taught:  Western Civilization II