

Crime and Punishment in the Early Years of the Army

By Master Sergeant Patrick V. Garland (Retired)

As if to make up the full measure of grief and embarrassment to the Commander in Chief, repeated complaints have been made to him that some of the Soldiers are in the practice of pilfering and plundering the inhabitants of their poultry, sheep, pigs, and even their cattle, from their farms.

—Dr. James Thacher¹

This quote from a medical officer's memoirs, recorded during his service with the Continental Army, illustrates the problems of undisciplined troops in an army. Every army has been plagued with thievery, desertion, disobedience, and criminal acts of all sorts. From its inception, the U.S. Army has dealt with this problem through punishment and incarceration.

To further quote Dr. Thacher, "This marauding practice has often been prohibited in general orders, under the severest penalties, and some exemplary punishments have been inflicted. General [George] Washington possesses an inflexible firmness of purpose, and is determined that discipline and subordination in camp shall be rigidly enforced and maintained. The whole army has been sufficiently warned, and cautioned against robbing the inhabitants on any pretence whatever, and no soldier is subjected to punishment without a fair trial, and conviction by a court martial. [sic]"²

These matters were so important in 1775 that the "Articles of War" indicated, "All crimes, not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the articles of war, are to be taken cognizance of by general or regimental court-martial, according to the nature and degree of the offence, and be punished at their discretion. [sic]"³

In 1776, the following text was added: "Whenever any officer or soldier shall be accused of a capital crime, or of having used violence or committed any offense against the persons or property of the good people of any of the United American States, such as is punishable by the known laws of the land, the commanding officer and officers of every regiment, troop, or party, to which the person or persons so

accused shall belong, are hereby required, upon application duly made by or in behalf of the party or parties injured, to use his utmost endeavors to deliver over such accused person or persons to the civil magistrate; and likewise to be aiding and assisting to the officers of justice in apprehending and securing the person or persons so accused, in order to bring them to a trial. If any commanding officer or officers shall willfully neglect or shall refuse, upon the application aforesaid, to deliver over such accused person or persons to the civil magistrates, or to be aiding and assisting to the officers of justice in apprehending such person or persons, the officer or officers so offending shall be cashiered. [sic]"⁴

In those early days, the most common punishment was whipping or flogging, with the number of strikes determined by the severity of the offense committed. However, forty lashes were generally administered. That number dates back to Biblical times when, according to Deuteronomy 25:1–3, the Lord commanded, "If there is a dispute between men and they come into court and the judges decide between them, acquitting the innocent and condemning the guilty, then if the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten in his presence with a number of stripes in proportion to his offense. Forty stripes may be given him, but not more, lest, if one should go on to beat him with more stripes than these, your brother be degraded in your sight."⁵

Another mode of punishment was that of running the gauntlet, which originated with the Roman legion. Two lines of Soldiers who were each bearing a switch or rod beat the offender, who was required to pass between the two lines. To prevent the delinquent from running too fast, a Soldier was often ordered to hold a bayonet at the offender's breast. This effectively slowed his pace.

In June 1778, at Valley Forge, Pennsylvania, General George Washington formed a special unit—a troop of light dragoons (Soldiers on horseback). The troop was known as the “Marechaussee Corps.” The term “Marechaussee” was adopted from the French term “Marecheaux,” which referred to the French provost marshal units dating back to the 12th century. The Marechaussee Corps maintained order and enforced the “Articles of War” in the often unruly and sometimes undependable American Army. The Marechaussee Corps, which was the first military police-like organization in the United States, performed many duties—much like the Military Police Corps of today.⁶

Military encampments included a guardhouse, which was used for the temporary confinement of offenders. As the need for imprisonment facilities increased, military stockades were constructed. For the most severe infractions of the law, death was ordered by court-martial. These sentences were usually carried out by hangings or firing squads; specific guidelines were provided. (In more modern times, procedures for these executions were prescribed in Department of the Army [DA] Pamphlet [Pam] 27-4.)

It was not until 1861 that the first military prison was established on Alcatraz Island in San Francisco Bay. It was designated for use by the U.S. Army Department of the Pacific.

An act of Congress, dated 3 March 1873, authorized a second military prison, stating, “There shall be established at Rock Island, in the State of Illinois, a prison for the confinement and reformation of offenders against the rules and regulations, and laws for the government of the Army of the United States, in which shall be securely confined, and

employed at labor, and governed in the manner hereinafter directed, all offenders convicted before any court-martial or military commission in the United States, and sentenced according to law to imprisonment therein. [sic]” On 21 May 1874, this act was amended to indicate that Fort Leavenworth, Kansas, would replace Rock Island as the location for the new military prison.⁷ Construction began the following year, and the facility could house 1,500 prisoners.

Another military prison was established at Castle Williams, Governor’s Island, New York. Originally built in 1811 to protect the entrance to New York Harbor, it was later used to house Confederate prisoners during the Civil War. Later still, it was used as a minimum security military prison. The facility, which was converted to a model prison in 1903, was most likely wired for electricity when it became available on the island in 1904. From 1912 to 1913, stones from two demolished magazines within the courtyard were used to remodel the angled gate walls, creating a two-story guardhouse. Castle Williams became the location for the Atlantic Branch of the Fort Leavenworth Disciplinary Barracks in 1915 and the location for the Eastern Branch of the U.S. Disciplinary Barracks in 1921. The plumbing system was expanded in 1916; and the plumbing, central heating, and electrical systems were completely renovated in the 1930s.⁸

Other prisons of some notoriety include Fort Jefferson (used as a military prison after the Civil War) in Dry Tortugas, Florida, and some Civil War prisoner of war compounds. In 1899, Soldiers of the 15th Minnesota Volunteer Infantry were convicted of mutiny at Camp McKenzie, Augusta, Georgia, and were confined at St. Francis Barracks, St. Augustine, Florida.⁹



Alcatraz citadel, 1908

Contemporary Accounts of Prison Life

Alcatraz

Not long ago I visited a prison placed on a lonely rock in the heart of the bay of San Francisco, a place where military convicts are confined. The rock is so barren and small and the water around it so deep and full of dangerous eddies that it seemed a useless precaution to have armed sentries to tramp about after the men as they worked . . .

All of the prisoners were dressed in suits of coarse gray cloth, cut in the same pattern as the uniforms worn in the army, with heavy laced shoes and black hats banded with a cord, the color of which indicated the class to which the convict, by virtue of good behavior or otherwise, had been assigned. When he is first received he is placed in the second class and a blue band placed on his hat. If his conduct during the first three months is good, he is promoted to the first class and exchanges his blue hatband for one of red. If on the contrary, he commits any serious breaches of military discipline he is degraded to the third or lowest class and his halo changes its color from red to yellow. Convicts of the first class, whose conduct has been good for a period sufficiently long in the opinion of the Commandant, are granted additional privileges and indicate this fact by wearing a white cord in the centre of the red band.

Any convict who escapes, or who attempts to escape when recaptured is obliged to wear a ball and chain for three months . . .

When a prisoner is received at the prison he is placed in a reception cell, minutely searched and deprived of everything except his clothing. Then he is taken to a bathroom, washed and clad in the prison dress, his hair cut close to his head and his beard and whiskers trimmed. His clothing, such as it is, is renewed as often as may be required. It is marked on the back of the blouse with the letter 'P' and his prison number, and he is forbidden to wear a watch chain, ring, or other ornament. Reports against prisoners for violations of prison discipline are made in writing to the Commandant, and each man is given a week, after the appearance of the report, in which to furnish an explanation, if he has one to offer. Punishment usually takes the form of forfeiture of good conduct time, of which a prisoner is allowed to accumulate five days for each month of satisfactory deportment, except

when he is serving in the third class. Corporal punishment, or any punishment for violation of prison rules beyond reduction to the third class and confinement in the dungeon or forfeiture of good conduct time, is not permitted.

Prisoners of the first and second classes are not required to preserve silence when working except when it interferes with the performance of their labor. Third-class prisoners, on the contrary, are required to keep silence, are deprived of the privilege of the library, are required to march in the prison lock-step to and from their work, and are locked in their cells whenever not at work or at their meals. The prison regulations make it very advantageous for men to keep out of the third class, yet there are always some in it; and for all cases of mutinous conduct, disobedience, obtaining liquor, repeated violations of rules, or any continued impropriety which indicates a bad disposition, a man is sure to be awarded the yellow halo and the silence of the damned. [*sic*]¹⁰

—Lieutenant Alvin H. Sydenham, U.S. Artillery, 1894

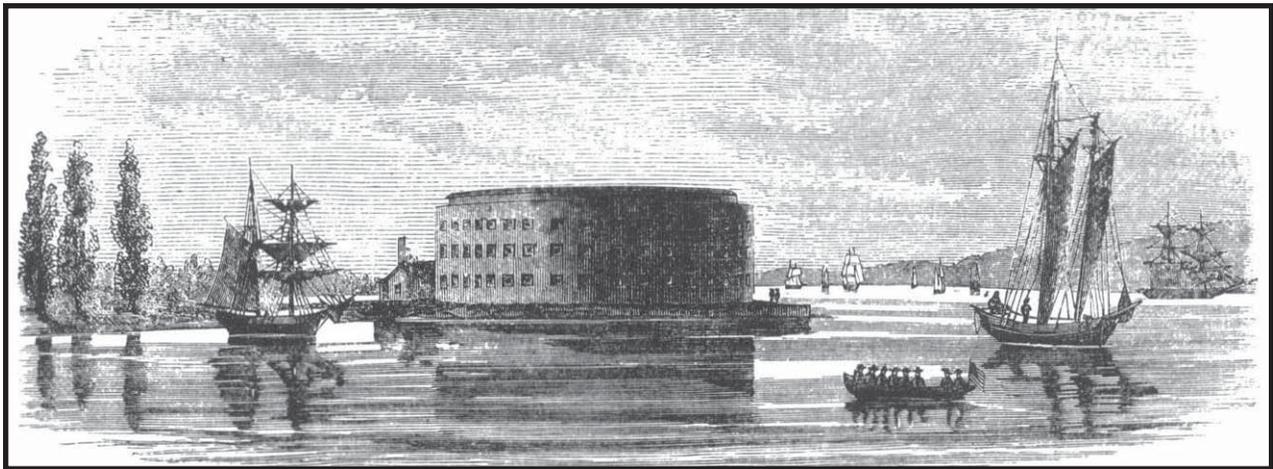
Castle Williams

The cells throughout are heated by steam and lighted by electricity. The baths are in excellent condition, and the prison fare, which is always wholesome, is made a special feature at holiday festivities. The menu for each meal is posted on the dining room wall . . .

When a prisoner enters Castle Williams, he is asked what trade or occupation he pursued prior to entering the Army and he is then put to work in a position in which he can do the most good with his time to serve . . . There are carpenters who are at present turning out furniture which is used only by officers at the military post; there are shoemakers who are skilled in their trade; tailors who are put to work on the prison clothing; and each one at his trade as in some big industrial school . . .

Whenever the prisoners show rebellion to the order of discipline they are put to work on the rock pile and a few of the obstreperous ones are confined to the solitary cells or dungeons on the top terrace, which are reached by a winding stair, in the tower. [*sic*]¹¹

—Brooklyn Standard Union, 1907



Castle Williams, Governor's Island, New York

Since there were no permanent military police during these early years, the commandants and guard forces of each prison were detailed from line units. In October 1905, Major George W. McIver and three companies of the 4th Infantry were detailed to take control of the military prison at Alcatraz, relieving Major Alexis R. Paxton and the men of the 13th Infantry. In his memoirs, McIver writes, "There were nearly two hundred military convicts in the Alcatraz prison and I was to learn from my own experiences with them that prison discipline is a serious problem. The prisoners were all serving sentences for military offenses including desertion. As moral delinquents, I think they were, as a class, somewhat above the ordinary run of inmates of a civil prison or jail, and yet there were among them some evil characters who were bad actors and constant troublemakers. A number of attempts at escape were made while I was there but none of them succeeded. Among the prisoners were two ex-Army officers whose trial and convictions had led to a prison sentence in addition to dismissal from the Army. [sic]"¹²

It is unclear when or where military police began administering and securing military prisons. Each post to which I was assigned during my career (1954–1974) had its own stockade. However, in addition to the U.S. Disciplinary Barracks at Fort Leavenworth, there are currently six U.S. Army regional confinement facilities. These facilities are located at Fort Carson, Colorado; Fort Lewis, Washington; Fort Knox, Kentucky; Fort Sill, Oklahoma; Mannheim, Germany; and Camp Humphreys, Korea.

Reference:

DA Pam 27-4, *Procedure for Military Executions*, December 1947.

Endnotes:

¹Dr. James Thacher, "Military Punishments in the Continental Army," *American History Told by Contemporaries*, Vol. II, Albert Bushnell Hart, editor, MacMillan, New York, 1899, pp. 493–494.

²Ibid.

³"Articles of War," *Journals of the Continental Congress*, 30 June 1775.

⁴Ibid, 20 September 1776.

⁵*The Holy Bible*, English Standard Version, Crossway Bibles, 2001.

⁶Mr. Scott Norton, reference, "The Marechausee Corps," *Military Police*, May 2001.

⁷*Compiled Statutes of the United States, 1913: Embracing the Statutes of the United States of a General and Permanent Nature in Force, December 31, 1913*, compiled by John A. Mallory, West Publishing Company, St. Paul, Minnesota, 1914.

⁸"Castle Williams Prison Life 1st Decade of 20th Century," online history at <http://www.correctionhistory.org/civilwar/governorsisland/frame_main4.html>, accessed on 23 May 2008.

⁹"Minnesota in the Spanish-American War and the Philippine Insurrection," Minnesota War Records Commission, St. Paul, Minnesota, 1923.

¹⁰Alvin H. Sydenham, Lieutenant, U.S. Artillery, "The Exiles of the Golden Gate," *The Illustrated American*, 19 January 1895, pp. 66–68.

¹¹"Uncle Sam's Prisoners in Castle Williams," *Brooklyn Standard Union*, 9 June 1907.

¹²Jonathon Dembo, editor, *A Life of Duty: The Autobiography of George Wilcox McIver, 1858–1947*, The History Press, Charleston, South Carolina, 2006.

Master Sergeant Garland retired from the U.S. Army in 1974. During his military career, he served in military police units and criminal investigation detachments and laboratories. At the time of his retirement, Master Sergeant Garland was serving as a ballistics evidence specialist at the European Laboratory. He remained in this career field until retiring from civilian law enforcement in 1995.