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THE UTILIZATION OF CIVILIAN PRISONERS
IN SUPPORT OF
BASE OPERATION FUNCTIONS

BY

COLONEL E.H. DINKEL, JR.

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While Army installations are facing the challenges of budget constraints, the Federal Bureau of Prisons is also facing the challenge of increased prisoner populations and its associated problems. This paper addresses and analyzes the following issues: challenges within civilian corrections, legal considerations and restrictions, current civilian prisoner work programs on other Department of Defense installations, and implementation procedures for Army installations. The conclusion being the establishment of civilian prison camps on Army installations is an innovative approach to meet the challenge of budgetary constraints while also alleviating the Federal Bureau of Prisons' challenge of prisoner overcrowding.

USAWC MILITARY STUDIES PROGRAM PAPER

**THE UTILIZATION OF CIVILIAN PRISONERS
IN SUPPORT OF
BASE OPERATION FUNCTIONS**

AN INDIVIDUAL STUDY PROJECT

by

Colonel E.H. Dinkel, Jr.

Colonel Richard Pomager

Project Advisor

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U.S. Army War College

Carlisle Barracks, Pennsylvania 17013

30 January 1989

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ABSTRACT

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**THE UTILIZATION OF CIVILIAN PRISONERS IN SUPPORT
OF BASE OPERATION FUNCTION**

CHAPTER I

INTRODUCTION

Over the past three years, as a result of federal budgetary reductions, installation commanders have been faced with the difficult task of accomplishing their numerous missions with reduced resources. The impact of these reductions upon base operations has been significant. They have resulted in not only a constrained budget and reduction in manpower, but most importantly, curtailed support and services for the military community.

Installation commanders must be visionary in their methods as they employ fewer resources in their attempt to meet mission and community requirements without degradation. While being visionary, caution must be applied to ensure training and readiness does not suffer. For example, the utilization of borrowed military manpower, which is a common technique used to overcome personnel shortages, has a negative impact upon readiness as it detracts from individual and unit training.

A potential manpower resource can be found in the civilian prison system. This research paper explores the feasibility of the United States Army utilizing civilian

prisoners to support base operations. The use of civilian prisoners will result in not only an increase of manpower for base operations support, but will reduce or eliminate the need for borrowed military manpower. The scope of this research effort is limited to the use of civilian prisoners in support of CONUS installations.

This research paper addresses the following issues: current trends and challenges in civilian corrections, current civilian prisoner work programs on other Department of Defense installations, legal considerations and restrictions, and implementation procedures for Army installations. Additionally, since there are numerous similarities between the Army Correctional Program and civilian programs, a brief overview of Army corrections and military prisoner work programs is provided at Appendix 1.

CHAPTER II

TRENDS AND CHALLENGES IN CIVILIAN CORRECTIONS

The past three decades have seen significant improvements and reforms within civilian corrections. In addition to protecting society from the confined offender, the correctional community is now expected to provide prisoners appropriate rehabilitation activities. The latter has been emphasized by the United States Supreme Court which has held that a "paramount objective of the corrections system is the rehabilitation of those committed to its custody."¹

Rehabilitation activities are dependent upon the needs of the individual prisoner and constrained by available programs. Typically, rehabilitative programs include: counseling, training, educational activities, work programs, vocational programs and recreational activities. Research reveals that one of the greatest challenges facing civilian corrections is providing the needed rehabilitational activities to those in their custody.²

PRISONER POPULATION

During the 1988 Presidential Election Campaign, both major candidates stressed that crime in our society is one of the greatest concerns facing this country. Society's

response to this concern is demonstrated by increased arrests and a corresponding increase in the federal and state prisoner populations. In 1987 the combined federal and state prisoner populations reached a record of 581,609.³ The majority of these prisoners are in state systems while only 48,300 prisoners are within the federal system.

The most significant feature of the above statistics is the large increase in the prisoner population since 1980. Figure 1 depicts this increase which represents a growth of over 250,000 prisoners, an increase of 76%.⁴

The increase within the federal system has been greater than that of the states. For example, the federal growth from 1986 to 1987 was 8.2% while the state increase was 6.5%.⁵ Federal prison population increases are attributed to the implementation of federal anti-drug legislation in 1986 and the career criminal provision of the Federal Comprehensive Crime Legislation enacted in 1984. The Sentencing Commission, which was created by the Comprehensive Crime Control Act, projects that the federal prisoner population will grow to 73,000 in 1995 and up to 125,000 by 1997.⁶

To incarcerate these prisoners the Federal Bureau of Prisons operates 50 correctional institutions while the states operate over 500 facilities. The capacity of these facilities has not kept pace with the increased prisoner population.

THE CHALLENGES OF OVERCROWDING AND IDLENESS

The significant growth in the federal and state prison populations has resulted in overcrowded correctional institutions. The extent of this overcrowding is difficult to determine as there is no one method which is uniformly applied nationwide to determine prison capacity. A conservative study reveals that state prisons are operating at 120% of their capacity. However, federal prisons are operating at 173% of their rated capacity.⁷

Idleness is a major problem inherent to most prisons. This condition is due to a combination of factors which include overcrowding, fiscal constraints, and a shortage of meaningful work and rehabilitative programs. Extensive idleness can result in destructive behavior and can increase prison violence. Federal overcrowding was severely aggravated by the 1987 prison riots at the Atlanta Penitentiary and the Oakdale Detention Center which resulted in the loss of almost 1,300 spaces.

NEED FOR THE EXPANSION OF WORK PROGRAMS

The serious problems caused by idleness were recognized by Congress in 1930 when it required the Federal Bureau of Prisons to offer all "able-bodied" prisoners work opportunities which would enhance their potential for employment upon their release from prison.⁸ In 1934, additional legislation was enacted which created the Federal Prison Industries Corporation with the objective of

providing inmates the skills and knowledge required for employment upon release. The importance of the prisoners "right to work" is perhaps best articulated by the penologist Max Grunhut who stated:

Work is a much-coveted remedy which helps men to endure the unnatural state of captivity....Prison labor is a benefit, and to forfeit it is a severe blow to the prisoner. Enforced labor may be oppressive, but to withhold it would mean even more hardship to the prisoner.⁹

The American Correctional Association has also recognized the importance of providing prisoners meaningful work opportunities. They have developed a series of standards which should be considered in the implementation of correctional work programs. These include:

- All prisoners should have the opportunity to work.
- Prisoner work opportunities should provide experience useful to the civilian job market.
- The prisoners workday should approximate that found in the civilian community.¹⁰

Employment opportunities for federal and state prisoners fall into two major categories: prison maintenance and industry. Maintenance opportunities revolve around institutional work programs which involve the actual operation and upkeep of the correctional facility. Activities include food service, laundry, landscaping, and facility maintenance and repair. Prison industries emulate situations and experiences of private industry. Examples include prison factories and prison farms.

The objectives of prisoner work programs are to reduce prisoner idleness, increase installational safety, provide work and training experiences, increase the prisoners self-worth, and benefit the taxpayer by decreasing the cost of confinement. It should be noted that the annual cost to incarcerate prisoners is exorbitant, ranging from a minimum of \$10,000 to more than \$30,000 per prisoner.¹¹

Although a number of states have outstanding programs overall, the Federal Bureau of Prisons does a significantly better job in maximizing prisoner employment opportunities. About 23% of federal prisoners are employed in prison industries while only 10% of state prisoners are employed in similar activities.¹² The majority of employed prisoners, federal and state, perform work involving the operation and maintenance of their facilities. Federal estimates are that 60% of their population is involved in these functions.

Unfortunately, studies indicate that prisoners in work programs often encounter idleness, "make-believe" work, short work hours, and outdated industrial methods, material and equipment.¹³ The increase in prisoner populations coupled with reduced fiscal resources for correctional programs has resulted in significant challenges for the correctional community to provide prisoners worthwhile employment opportunities. Thus, correctional officials must be visionary in their efforts to expand and develop meaningful, cost effective work programs.

THE ACQUISITION OF NEW FEDERAL PRISON SITES

To ease the overcrowded conditions for federal prisoners, the Federal Bureau of Prisons is actively engaged in a facility expansion program. Traditionally, five years has been required to locate, design, construct, and activate a new correctional facility. Recently, the time has been streamlined to two years from the approval of appropriations. However, in an effort to further minimize time and cost, the Federal Bureau of Prisons first looks for existing structures which can be acquired and converted for correctional utilization.

The current priority for the acquisition of federal correction facilities is as follows:

- Existing federal property.
- Surplus federal property.
- Existing public facilities suitable for lowcost conversion.
- Land for new construction.¹⁴

In addition to expanding prisons, the Federal Bureau of Prisons is increasing the number of prison camps it operates. These camps are normally utilized to house federal minimum security prisoners who are serving short sentences or are nearing release. Prisoners must be considered non-violent to be eligible for assignment to these facilities. Generally, Federal Prison Camps do not require perimeter security such as walls or fencing. Presently, these camps are located on four Air Force and two Navy installations.

The Secretary of Defense, in a 30 December 1987 letter to the Attorney General, expressed his willingness to assist the Federal Bureau of Prisons when he stated:

I want to reaffirm our agreement to work with the Department of Justice to develop ways in which we can assist with the problems of housing federal prisoners. Continued pursuit of the prison camp concept appears to hold promise and I encourage your staff to work directly with the Military Services in identifying suitable candidate sites.¹⁵

To date there are no Federal Prison Camps located on Army installations. The establishment of these camps on Army installations will not only assist the Federal Bureau of Prisons in reducing prisoner overcrowding, but can provide an available workforce which can be utilized for base operations support.

FIGURE 14

STATE AND FEDERAL PRISON POPULATIONS 1980-1987

| Year | Number of inmates | Annual percent change | Total percent change since 1980 |
|------|-------------------|-----------------------|---------------------------------|
| 1980 | 329,821 | | |
| 1981 | 369,930 | 12.2% | 12.2% |
| 1982 | 413,806 | 11.9% | 25.5% |
| 1983 | 437,248 | 5.7% | 32.6% |
| 1984 | 464,567 | 6.2% | 40.9% |
| 1985 | 502,507 | 8.2% | 52.4% |
| 1986 | 545,133 | 8.5% | 65.3% |
| 1987 | 581,609 | 6.7% | 76.3% |

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CHAPTER III

CIVILIAN PRISONER WORK PROGRAMS

This chapter discusses several effective civilian work programs which could have application to the Army in support of base operations. Although examples are presented for both federal and state programs, it is my opinion that Federal Prison Camps located on Army installations will provide the best quality support. My research indicates that, generally, the Federal Bureau of Prisons correctional programs are superior to the majority of state programs. In addition, federal facilities, regardless of location, abide by the same regulatory guidelines. This provides standardization in establishing agreements for support. State correctional programs have not been as successful as the federal system in developing prisoner work programs which could quickly adapt to Army requirements.¹⁶

FEDERAL PRISON CAMP, MAXWELL AFB

The oldest operating Federal Prison Camp, established on 14 May 1930, is located at Maxwell AFB. The original agreement between the Acting Secretary of War and the Attorney General stated:

The War Department would be pleased to permit the establishment of a Federal Prison Camp at Maxwell Field, to take care of approximately one hundred fifty able-bodied prisoners to be used at that station on authorized work.¹⁷

The population consists of 750 minimum custody prisoners. A profile of the prisoner population is found at Figure 2 18 The majority of the prisoner population, over 400 prisoners, are used in work programs to support Maxwell AFB and neighboring Gunter AFB. A staff of 108 personnel are employed to operate the camp. Prisoners perform the following functions:

- All of the grounds maintenance on both installations.

- Support the civil engineers in the areas of painting, carpentry, plumbing, vehicle repair and trash pick-up.

- Support morale welfare activities in all of the above activities.

- Support the hospital and other administrative areas.

- Operate the installation laundry.

- Support special commitments.¹⁹

Installation activities request prisoner support through the Base Civil Engineer who verifies the need and coordinates the request with the Federal Prison Camp. Prisoners are normally supervised, not "guarded" by the Air Force activity receiving the prisoner support. To assist Air Force personnel in supervising prisoners, the Federal Prison Camp conducts periodic training sessions. Restrictions on prisoner labor are found in a Maxwell AFB regulation which states:

- Use of inmate labor will not interfere or conflict with approved jobs for which funds are available to be done by assigned or contract labor, and work which can be done within authorized personnel ceilings.²⁰

An Interservice Support Agreement (ISSA), DD Form 1144, is the basis for the agreement between the Air Force and the Federal Bureau of Prisons. This outlines the support provided and the reimburseable and non-reimburseable expenses associated with this support. Although the annual non-reimburseable costs amount to \$712,058, the savings to the Air Force is significant. The estimated saving for just the grounds maintenance services exceeds \$600,000 per year. A cost analysis, performed by the Air Force, using a wage scale of \$3.35 per hour, realized that the benefits of prisoner labor outweighed non-reimburseable expenses in excess of two to one.²¹

A strong proponent of having Federal Prison Camps on military installations is General Thomas C. Richards, former Commander of the Air University and Maxwell AFB. His positive feelings on this concept are reflected in the following comments:

Having a prison camp on base was a godsend. It provided a labor force that was indispensable in accomplishing our mission at the base. It was especially helpful in base maintenance/improvement, and quality of life matters. The Warden and Base Commander developed an excellent working relationship and I can assure you, the base was the net winner. Prison labor performed duties from grounds maintenance, to skilled craftsmen in Civil Engineering, to drafting and architecture. The prison also assumed control and operated the base laundry---service improved and costs to the Air Force were reduced. They were totally immersed in the life on base, and there was never even the slightest conflict. Whenever there was a special need, such as a clean-up force for a Base Open House, all you had to do was ask. In sum, the relationship between our installation and the prison was positive in every respect. No question, the Air Force was the net winner.²²

FEDERAL PRISON CAMP, EGLIN AFB

The operation of this Federal Prison Camp, established on 14 December 1962, is almost identical to the camp at Maxwell AFB. Approximately 800 minimum security prisoners are assigned to the Eglin Camp. Figure 3 provides a profile of the offenses for which prisoners were convicted resulting in their incarceration.²³

An ISSA is also used to define responsibilities and relationships for the operation of this camp. The yearly cost of this agreement is \$948,617; however, \$404,136 is reimburseable from the Federal Bureau of Prisons. The resulting non-reimburseable expenses, \$544,481, are offset by the 400 plus prisoners who daily supplement the base work force. Applying the wage scale of \$3.35 per hour, prisoner labor would have cost in excess of \$2,700,000.²⁴

OTHER FEDERAL PRISON CAMPS LOCATED ON DOD INSTALLATIONS

The Air Force has two other bases with Federal Prison Camps: Homestead AFB, with a prisoner population of 125; and Tyndall AFB, with a population of 150. Also, negotiations are underway for the establishment of similar institutions at the following bases: Langley, Cannon, Nellis, Seymour Johnson and England.

The US Navy recently approved the activation of two Federal Prison Camps. Memphis NAS will house a camp with a 150 prisoner population, and the Pensacola NAS will accommodate a 200 prisoner camp.²⁵

As noted in Chapter II, the US Army currently is not utilizing civilian prisoner labor. However, Fort Bliss has requested approval from the Department of the Army to establish a Federal Prison Camp for 250-300 minimum security prisoners. If approved, it would be located in the facilities of the old Sergeants Major Academy. Two thirds of the prisoner population would be provided to the installation to support base operations.

The proposed ISSA reflects a cost of \$180,158, with \$107,000 being reimburseable. The non-reimburseable expenses are offset with a cost avoidance savings, based on prisoner labor, of \$2,120,000.²⁶

BIG SPRING FEDERAL PRISON CAMP

Federal Prison Camps can also provide support to surrounding communities. For example, in August 1986, Big Spring, Texas was severely damaged by a flood, with most of the destruction borne by the city's park. The City Council requested assistance from the Federal Prison Camp at Big Spring for prisoner support in the reconstruction and renovation of the destroyed park. The Federal Prison Camp approved the request and initiated a 19 month project which employed 21 prisoners.²⁷ The prisoners were responsible for the planning, development and construction of this project. Materials and equipment were provided by the city. The quality of the prisoners' work was demonstrated by this renovation project being selected as a finalist in the 1987

"Take Pride in America" national awards program.

This project emphasizes the point that federal prisoners can be utilized to support specific projects without being housed on military installations. However, there are only three Federal Prison Camps within 60 miles of Army installations. Listed below are the Federal Prison Camps and Army installations within close proximity of each other:

-LaTuna Federal Prison Camp and Fort Bliss.

-Leavenworth Federal Prison Camp and Fort Leavenworth. (Since Fort Leavenworth receives extensive prisoner support from the USDB, it is unlikely that additional prisoner labor is needed.)

-Atlanta Federal Prison Camp and Fort McPherson and Fort Gillem.

STATE PROGRAMS

Every state utilizes some form of prisoner work programs. However, the various state programs lack standardization. Three state programs which have the potential for utilization by commanders in support of their base operation functions are briefly described.

ARIZONA

The Arizona Department of Corrections is striving to employ all physically and mentally capable prisoners in meaningful work programs throughout their institutions and in the community. Work programs include prison

construction, institutional maintenance, community public work projects and private sector joint ventures. Last year over 800 prisoners were employed in programs outside of the correctional institutions.²⁸

FLORIDA

The Metropolitan Dade Corrections and Rehabilitation Department, located in Miami, has initiated an effective program to train prisoners in landscaping, plant nursery, carpentry, welding, painting and masonry. Landscaping and related services are provided for governmental and community projects at a considerable cost savings.²⁹

ILLINOIS

The Illinois Correctional Industries, an element of the State Department of Corrections, has the responsibility of operating the prison industries' program. Over 600 prisoners are employed in this program, manufacturing 235 different products and services.³⁰ These items run the gamut from food products to the construction of wooden furniture to data entry services. During fiscal year 1982, over ten million dollars worth of products and services were purchased by private businesses and state and local governmental agencies.

PRISONER BENEFITS

The majority of prisoners desire to participate in some type of work program. The advantages of work programs for prisoners, both tangible and intangible, are numerous and

include: a reduction in boredom and idleness, development of worthwhile job skills and habits, possible abatement of a portion of their sentence, and, in some cases, the opportunity to earn a limited salary. The precise advantages accrued will vary, dependent upon the correctional system, the work program and the prisoner's sentence.

The Federal Prison Camp program provides a number of unique advantages to the prisoner. One of the considerations for assignment to a camp is that it is within the general geographical area where the prisoner plans to be released. This facilitates visits by family and friends. Additionally, the camps are more "relaxed" than federal prisons and the majority of work programs occur outside the facility. Thus, the prisoner has the opportunity to experience the "real world."

Moreover, prisoners who have outstanding work reports and no misconduct reports may be permitted to participate in furlough programs. This allows a prisoner, within two years of release, to be eligible for a 16 hour pass every 90 days. Also, when the prisoner is within 18 months of release, he is eligible for a 36 hour pass every 90 days. Finally, when within one year of release, he is eligible for a five to seven day pass every 90 days.³¹ Based upon these advantages, federal prisoners requesting assignment to Federal Prison Camps far exceed the capacity of these facilities.

BENEFITS FOR THE MILITARY INSTALLATION

The establishment of a Federal Prison Camp on a military installation benefits not only the Federal Bureau of Prisons and prisoners, but also the installation. The utilization of prisoner labor at both Maxwell and Eglin AFB demonstrates the potential of this resource for installation support. The use of prisoner labor will assist in overcoming the challenges of fiscal austerity and reduced workforces.

In addition to improving the installation "quality of life", the need for utilizing borrowed military manpower will be diminished. Reductions in borrowed military manpower will result in the opportunity for increased emphasis on individual and unit training and a corresponding increase in unit readiness.

FIGURE 218

FEDERAL PRISON CAMP (MAXWELL AFB) PRISONER PROFILE

RACE and ETHNICITY

White-----83.7%
 Black-----15.6%
 American Indian---- .7%
 Asian----- .0%
 Hispanic-----11.0%
 Non-Hispanic-----89.0%

CURRENT AGE

Under 22----- 1.6%
 22 - 29-----16.9%
 30 - 39-----37.9%
 40 - 49-----28.0%
 50 - 59-----11.4%
 60 - Over----- 4.2%

POPULATION by OFFENSE

Drug Laws-----59.9%
 Larceny----- 6.0%
 Fraud-----13.9%
 Embezzlement----- 2.1%
 Forgery----- 1.6%
 Other-----16.5%

INITIAL SENTENCE LENGTH

Under 6 months----- 1.0%
 6 Months - 1 Year----- 6.0%
 1 Year - 2.5 Years----15.4%
 2.5 Years - 5 Years---36.4%
 5 Years - 10 Years----32.1%
 Over 10 Years----- 9.1%

EDUCATION LEVEL

8th grade or less--13.2%
 Less than H. S.----20.1%
 H. S. or above-----66.7%

FIGURE 323

FEDERAL PRISON CAMP (EGLIN AFB) PRISONER PROFILE BY OFFENSE

| <u>OFFENSE</u> | <u>NUMBER</u> | <u>PERCENT</u> |
|--------------------------|---------------|----------------|
| Assault | 1 | 0.1 |
| Counterfeiting | 17 | 2.1 |
| Drug Laws | | |
| Non-narcotic | 77 | 9.5 |
| Narcotic | 218 | 27.0 |
| Controlled Substances | 308 | 38.1 |
| Criminal Enterprise | 1 | 0.1 |
| Embezzlement | 9 | 1.1 |
| Explosives | 2 | 0.2 |
| Extortion | 1 | 0.1 |
| Firearms | 4 | 0.5 |
| Forgery | 8 | 1.0 |
| Fraud | 69 | 8.5 |
| Immigration | 1 | 0.1 |
| Income Tax Evasion | 21 | 2.6 |
| Larceny | 17 | 2.1 |
| Robbery | 1 | 0.1 |
| Securities | 1 | 0.1 |
| Other Federal Violations | 46 | 6.3 |
| Military Court Martial | <u>2</u> | 0.2 |
| TOTAL | 806 | |

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CHAPTER IV

LEGAL CONSIDERATIONS AND RESTRICTIONS

Prior to the establishment of an agreement which permits the utilization of civilian prisoners in support of base operations, legal advice should be obtained from the supporting Staff Judge Advocate. There are numerous federal and state legislation which impact upon the employment of prisoner labor. This chapter will concentrate on federal legal considerations. I intentionally avoided discussion of any specific states due to the number and diversity of state laws which regulate the use of prisoner labor.

HISTORICAL BACKGROUND

From the 19th century until the 1930's, prisoner labor, particularly prison farms and industries, was extensively engaged by both governmental agencies and the private sector. However, the abuse of prisoners and the perception by organized labor and industry of unfair labor led to the enactment of federal and state laws restricting the sale of prison made commodities.³² As a result of this legislation, prison work programs were significantly reduced. The most notable legislation is the Hawes-Cooper Act of 1929 which provides that prison made goods, which are shipped from one state to another, are subject to the laws of the importing state.³³

The concept of prison labor is not new, but it has been significantly revitalized during the past three decades as legislators have relaxed and modified many of the restrictions. For example, Executive Order 11755 permits the employment of state prisoners in the performance of federal contracts under terms and conditions that are comparable to those which are applicable to federal prisoners.³⁴ Unfortunately, the majority of states restrict the sale of products produced by prisoners to only state and local governments.

FEDERAL CONSIDERATIONS

Two sections of Title 18 United States Code provide the legal basis for the establishment of Federal Prison Camps and the utilization of federal prisoners or products they produce in support of base operations.³⁵ Section 4124 permits federal departments and agencies to purchase federal prison made products. The purchase price will not exceed current market prices. To ensure maximum utilization of an organization's budget, it behooves federal agencies to purchase prisoner produced products.

Guidance for the establishment of Federal Prison Camps and the utilization of prisoner labor is found in Section 4125. Specifically, it gives the Attorney General the authority to establish Federal Prison Camps. It also permits the Attorney General to provide the services of federal prisoners to other federal agencies upon mutually

acceptable terms, conditions and rates. When a Federal Prison Camp is located on a DOD installation, it permits the service to accept prisoner services in lieu of monetary consideration for property or services provided to the Federal Prison Camp. Thus, from a budgetary standpoint, both the installation and the Federal Prison Camp benefit.

Guidance for the determination of what functions prisoners may perform is found in Section 4125. Prisoners can be utilized "for constructing or repairing roads, clearing, maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated by Congress."³⁶ This broad listing of functions allows a liberal development of specific prisoner duties which can meet Army installation needs.

POSSE COMITATUS

Any discussion of legal considerations concerning the use of prisoners on a military installation would be incomplete without including a comment on the applicability of the Posse Comitatus Act. The Act prohibits the Army and Air Force from directly aiding civilian law enforcement by executing civilian law.³⁷ This Act does not restrict the authority of the commander to protect the morale, discipline, integrity, and real property of his installation.

The Act precludes military police from responding to or

investigating incidents which occur within a Federal Prison Camp located on an Army installation. However, should the commander determine that such action is reasonably necessary to protect personnel, equipment or facilities under his control, then military police are authorized to respond. Ideally, any incident within a camp will be handled by Bureau of Prison personnel or Federal Marshals.

If a prisoner or employee of the Bureau of Prisons commits an offense on the installation but outside the camp, then military police are permitted to handle the incident. When the installation has exclusive jurisdiction, that is the federal government assumes sole jurisdiction, military police would cite the offender under the Assimilative Crimes Act.³⁸

In the event the installation has concurrent jurisdiction, either the state or federal government can assume jurisdiction. If handled by military police, the offender would again be cited under the Assimilative Crimes Act. However, if the state assumes authority, then the offender is cited under the appropriate state statute.

In the event prisoners are supervised by installation personnel while on the work site, it is imperative that the supervision not be custodial in nature. Custodial supervision could be construed as a violation of the Posse Comitatus Act for executing civilian law. The supervision conducted over prisoners on the work site should be the same type utilized with other civilian or military subordinates.

ENDNOTES

32. Mark W. Cannon, "Correcting Our Corrections System," Vital Speeches Of The Day, 1 October 1982, p. 761.
33. Harry E. Allen and Clifford E. Simonsen, Corrections In America, pp. 55 & 56.
34. The Wingspread Conference, Factories With Fences, 1984, attachment 1.
35. Crimes and Criminal Procedure, United States Code, 1983, Title 18, sec. 4124 & 4125, p. 507.
36. Ibid.
37. Ibid., sec. 1385, p. 304.
38. U.S. Department of the Army, Field Manual 19-10, p. 25.

CHAPTER V

IMPLEMENTATION AT THE INSTALLATION

After the commander has elected to pursue a prisoner work program, the next logical decision is to determine the precise type of program for his installation. Chapter III discussed the numerous programs currently utilized by the Air Force and civilian communities. The establishment of Federal Prison Camps on Army installations offers the commander the greatest long term gain. The commander is provided a consistent work force to support base operation functions. This work force should result in a reduction in the need for borrowed military manpower. Although there are state programs that could be advantageous for Army implementation, they lack consistency and standardization. This chapter will center on the procedures to establish a Federal Prison Camp.

Department of the Army has not developed standard procedures for the establishment and operation of civilian prisoner work programs on Army installations. A recent Department of the Army policy requires concept approval by the Assistant Secretary of the Army (Installations and Logistics) prior to "publicity, discussions, negotiations, or agreements of any kind with anyone outside the Army regarding...the use of military real estate."³⁹ Thus, the

commander must take the initiative and obtain concept approval prior to discussions with the Federal Bureau of Prisons. Once approval has been granted the installation commander should contact the nearest Federal Bureau of Prisons facility and express the desire for a camp. The Acquisition Office of the Federal Bureau of Prisons will normally guide these efforts.

SITE SELECTION

One of the principle concerns for the installation commander is to determine if adequate physical facilities exist to support a Federal Prison Camp. As noted in Chapter III, prison camps on Air Force installations range in population from 125 to 800 prisoners, however, the Federal Bureau of Prisons prefers to establish camps with 250 as a minimum population.

Most CONUS installations have excess billet space. The TRADOC Housing Office reports that the average barracks utilization for 30 September 1988 was 73.9%.⁴⁰ However, units are reluctant to "turn-in" excess barracks space and lose flexibility and unit integrity in room assignments. Normally, units tend to "spread out" to maximize their area. Thus, the installation commander must determine his actual barracks utilization and, if appropriate, have units consolidate their physical facilities. The result should provide the barracks space needed to establish a Federal Prison Camp. However, this may prove to be a difficult task

for the commander because units may be reluctant to consolidate their billet space for fear of losing unit integrity.

The space allocated should provide the Federal Bureau of Prisons a self-sufficient area to include billets, training area, administration area, supply and storage area, and a dining facility. Normally, an area large enough to support a separate company sized unit is sufficient. Where possible, the area should be located in an isolated or separated portion of the installation. Any alterations or modifications to structures would be funded by the Federal Bureau of Prisons.

OBTAINING APPROVAL

The Secretary of the Army is the approval authority for granting the use of Army real estate to a federal agency.⁴¹ After the concept approval has been granted, the installation commander should submit a request with Federal Bureau Of Prisons input through the chain of command to the supporting Major Army Command (MACOM). This request should stipulate that real estate is available for utilization as a Federal Prison Camp. A draft Interservice Support Agreement (ISSA), DD Form 1144, should be included to amplify the terms and conditions of the agreement. The commander should fully involve his staff in the preparation of this request. Key staff players would include the Engineer, Staff Judge Advocate, Provost Marshal, Public

Affairs Officer, Civilian Personnel Officer, and union representation.

Upon MACOM approval, the recommendation is forwarded to the Office of the Chief of Engineers.⁴² The request is then forwarded to the Deputy Chief of Staff for Operations and Plans who has been designated the control point for requests for real estate by law enforcement agencies.⁴³ Approval is granted by the issuance of a real estate permit and authorization to proceed with the ISSA. At figure 4 is a flow chart which depicts the process for obtaining approval for the establishment of a Federal Prison Camp.

PRISONER JOBS AND SUPERVISION

A key task for the installation commander is the development of a system which maximizes the utilization and control of available prisoner labor. The development of a job list is dependent upon the priorities of the command and the determination of those jobs prisoners are permitted to perform.

Guidance for determining eligible jobs can be found in the following: 190-47, which lists those jobs military prisoners are permitted to perform; Chapter III of this research paper, which describes Air Force utilization of federal prisoners; and Title 18 of the United States Code. Civilian prisoners will not be used as substitutes for the employment of civilian employees within the authorized personnel ceiling.

Since the majority of the prisoner labor will be providing support to activities under the control of the installation engineer, he should be designated the staff officer responsible for maintaining the job list and supervising the program. The job list should be a living document and updated as tasks are completed and new tasks or priorities are established.

Since the Department of the Army has not issued guidance for the employment of civilian prisoners, a local installation regulation outlining operating procedures should be developed. The regulation should address supervisory responsibilities in detail as prisoners, while on the work site, will be supervised by Department of the Army personnel. Supervisors should be required to submit periodic evaluation reports on the performance of prisoners and on the spot notifications of potential problem prisoners.

COMMUNITY CONCERNS

A key ingredient for the successful implementation of a prisoner work program is the backing and support of the community being served. The installation commander must be proactive in his efforts if he is going to harness the support of the entire installation community, military and civilian. These efforts should be initiated prior to the actual implementation of the prisoner work program. The Public Affairs Officer (PAO) is the ideal member of the

staff to head up this community information campaign. As part of this campaign, the commander should consider holding a town (installation) meeting to discuss this program. As a minimum the following topics should be addressed in this informational campaign:

-Purpose. There is a two fold purpose for the utilization of civilian prisoners. First, prisoner labor will assist the installation by reducing the fiscal resource shortfall and by assisting in curtailing military details. And secondly, it should provide meaningful employment for minimum custody prisoners.

-Type of employment. The prisoners will assist in the support of base operation functions. The majority of prisoners would be responsible for facility and grounds maintenance. Prisoner labor will not result in the displacement of employed civilian personnel. Further, prisoners will not substitute for employment in lieu of authorized and funded civilian positions. However, they will assume some of the functions presently performed by military details.

-Types of prisoners. Only prisoners who have been classified minimum custody, which is the lowest level of control, will be assigned. Further, only non-violent prisoners serving short sentences may participate. If at any time a prisoner becomes a disciplinary problem he will be transferred. The experience of Air Force bases with prison camps indicate that the prisoners have not presented a hazard to the community.

-Benefits. Clearly, both the Army and the Federal Bureau of Prisons will benefit. This program will enable the installation to receive services it could not normally "afford." Thus, the installation quality of life will greatly improve. Also, since the need for borrowed military manpower will be reduced, additional time can be devoted to unit training resulting in an increase in unit readiness.

The commander should also involve the supporting civilian labor organizations. Although the utilization of civilian prisoners will not result in the loss of civilian positions, it will involve additional duties for a small portion of the civilian work force who will supervise prisoners.

RESOURCE IMPLICATIONS

The establishment of a Federal Prison Camp on an Army installation would result in a tremendous increase of available resources as approximately 60-75% of the prisoner population would be available for installation support. A significant benefit of this resource would be the flexibility it allows the installation in meeting the challenges of ever-changing priorities in accomplishing base operation functions while reducing the use of borrowed military manpower.

The utilization of prisoner labor would allow the installation to accomplish tasks which are not funded. Without this labor force, these tasks would not normally get

accomplished unless military personnel (borrowed military manpower) were diverted from other duties.

This type of military support can be substantial. There are installations where the daily military commitment, excluding guard support, exceed 100 soldiers. Obviously, this impacts negatively upon unit readiness, training, cohesion and morale. Prisoner labor would preclude details of this magnitude and result in unit readiness being increased.

Examples of cost benefits derived by the Air Force utilizing civilian prisoners is described in Chapter III. These examples clearly reveal significant cost avoidance and savings. The precise amount saved by an installation will be dependent upon the size of the Federal Prison Camp, the ISSA, and the services provided by the Army.

Additionally, there are a number of programs found within the Department of the Army Productivity Improvement Program which provide fiscal incentives to installations that produce projects which "increase productivity, reduce costs, save manpower, and improve readiness."⁴⁴ This implies that installations may receive fiscal assistance for the non-reimbursable expenses incurred in the operation of prison camps.

MOBILIZATION AND TERMINATION OF AGREEMENTS

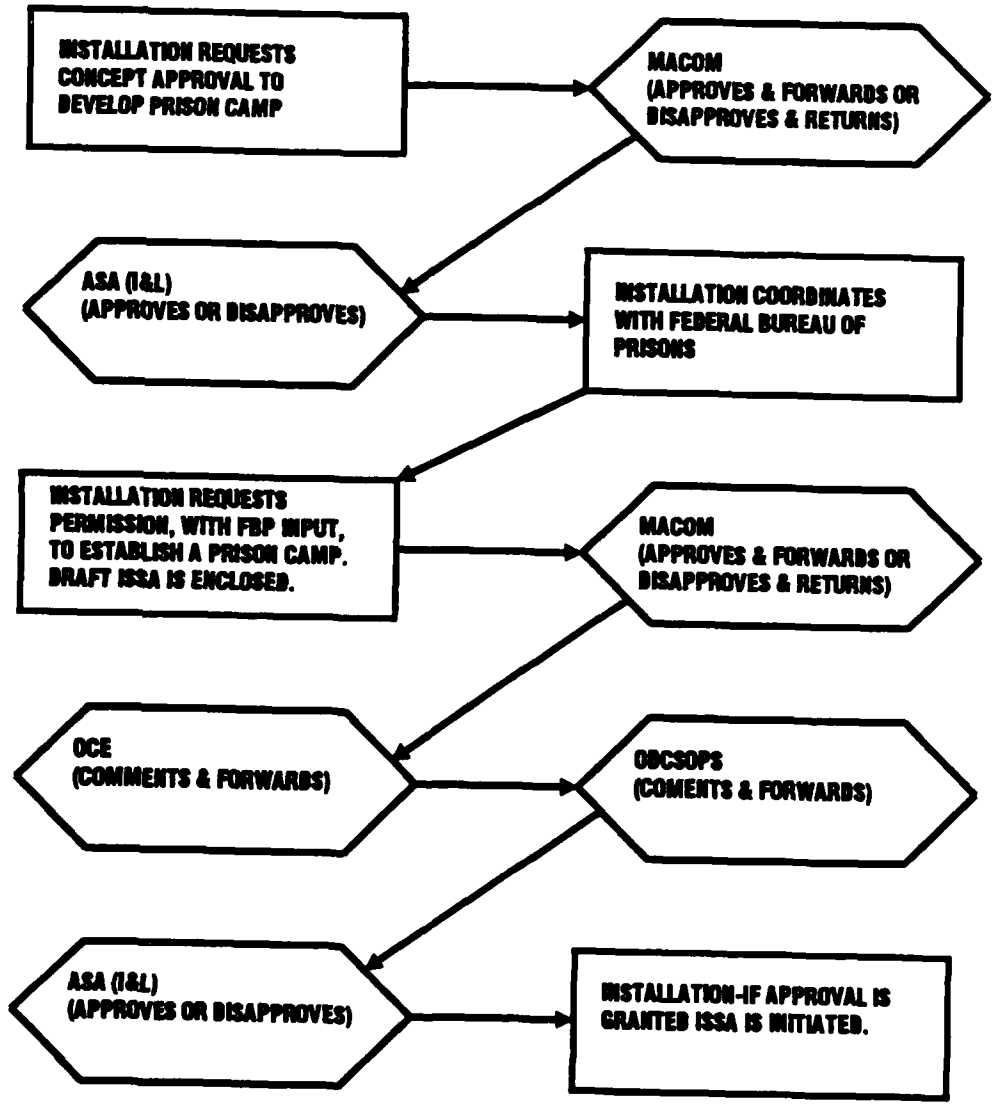
This research determined a concern with the potential loss of Army real estate to the Federal Bureau of Prisons

that might be required during military mobilization. This concern is unwarranted as there are a number of current regulatory provisions which would permit the termination of the agreement.

The Secretary of the Army has the authority to revoke real estate leases during a national emergency when the property is required for mobilization efforts.⁴⁵ Also, the ISSA provides for the cancellation of agreements during any of the following instances:

- At any time by mutual consent.
- Upon either party providing the other party 180 days written notice.
- In case of mobilization or other emergency.⁴⁶

FIGURE 4 PROCEDURES FOR OBTAINING APPROVAL FOR A FEDERAL PRISON CAMP



ENDNOTES

39. John W. Shannon, Assistant Secretary of the Army, memorandum for the Director of the Army Staff, 17 October 1988.
40. Telephonic interview with Steve Arbagast, Housing Officer, Headquarters TRADOC, Fort Monroe, 16 November 1988.
41. U.S. Department of the Army, Army Regulation 405-80, p. 1-1, (hereafter referred to as "AR 405-80").
42. Ibid., p. 4-2.
43. John W. Shannon, Assistant Secretary of the Army, memorandum for Director of the Army Staff, 26 August 1988.
44. U.S. Department of the Army, Army Regulation 5-4, p. 5-1.
45. AR 405-80, p. 3-1.
46. U.S. Department of Defense, Support Agreement, DD Form 1144, p. 2.

CHAPTER VI

CONCLUSIONS

CHALLENGES

Federal budgetary reductions have significantly impacted upon base operation functions and have resulted in a reduction of support and services for the military community. This requires installation commanders to use every possible opportunity to seek out and develop innovative programs which result in cost avoidance, reductions and effectiveness. However, caution must be applied to avoid increased use of borrowed military manpower as training and readiness would be diminished.

While Army installations are facing the associated challenges of budget constraints, this nation's prison systems are also facing numerous challenges. The most significant problem, particularly for the Federal Bureau of Prisons, is the tremendous increase in prisoner population. This growth has resulted in overcrowding, a reduction in constructive work programs, and increased idleness.

SOLUTIONS

The establishment of prison camps on Army installations is an innovative approach to prosecute the Army challenge of budgetary constraints and the Federal Bureau of Prisons'

challenge of prisoner overcrowding. Precedence for the establishment of Federal Prison Camps on Army installations already exists as evidenced by the successful Air Force implementation.

The benefits to the installation are great, as 60 to 75% of the prisoners can be employed for installation support. The establishment of these camps on Army installations can result in an increase of support and services to the installation which exceeds that provided prior to budgetary constraints. Additionally, the utilization of prisoner labor can result in a decrease of borrowed military manpower and an increase in military training opportunities and unit readiness.

DEPARTMENT OF THE ARMY INVOLVEMENT

Presently, there is no specific published guidance on establishing and operating Federal Prison Camps on Army installations. Installation commanders can initiate the process to establish a Federal Prison Camp on their posts, but approval must be granted by the Secretary of the Army. To maximize the fiscal benefits of employing prisoner labor, Department of the Army (DA) should take the lead in developing the concept of Federal Prison Camps on Army installations. The following actions initiated by DA will result in the timely development and utilization of Federal Prison Camps.

-CONUS MACOM's should be informed of the Federal Prison Camp program. Particular attention should be given to emphasizing the potential benefits of using prisoner labor.

-Formal procedures should be developed which outline this program and provide guidance for installations to follow in requesting approval of a camp. Specific guidance should also be provided which will assist installations in supervising their programs.

-The average daily military prisoner population at the majority of CONUS Installation Detention Facilities is significantly under the rated capacity. Continuing to operate these facilities at that level is not cost effective. This situation is being addressed by DA with consideration being given to closing facilities which are underutilized and developing consolidated regional facilities. This action should be expedited and facilities which are closed could be provided to the Federal Bureau of Prisons for prison camps.

-Excess and underutilized barracks and other facilities must be identified. These facilities should also be considered as sites for Federal Prison Camps.

This research paper has shown that civilian prisoners used in support of installation base operation functions can result in significant benefits for the entire installation "community", civilian prisoners, and the Federal Bureau of Prisons. During this period of increased federal fiscal

austerity, this concept, which benefits two major federal agencies, facilitates intelligent utilization of our limited federal resources.

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4. Arbagast, Steve., Housing Officer, TRADOC, Fort Monroe. Telephonic Interview. 16 November 1988.
5. Arizon Department of Corrections. Adult Institutional and Community Inmate Work Programs. Phoenix: 1984.
6. Bartollas, Clemens, and Miller, Stuart J. Correctional Administration. New York: McGraw-Hill, 1978.
7. Berger, Louis, et al. Environmental Assessment-Federal Prison Camp. Washington: Berger and Associates, 1988.
8. Berger, Warren E. "Prison Industries: Turning Warehouses into Factories with Fences." Public Administration Review, Vol. 45, November 1985, pp. 754-757.
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APPENDIX 1

THE ARMY CORRECTIONAL PROGRAM

The mission of the Army correctional program is to provide for the confinement and correctional treatment of military prisoners.⁴⁷ The correctional needs of the Army are met by the utilization of a three-tiered correctional system. Long-term prisoners (sentences in excess of two years) are assigned to the US Disciplinary Barracks (USDB), Fort Leavenworth, Kansas, while medium-term prisoners (sentences of four months to two years) go to the US Army Correctional Activity (USACA), Fort Riley, Kansas. Soldiers in pre-trial confinement and short-term prisoners (sentences of three months and 29 days or less) are assigned to installation detention facilities (IDF).⁴⁸

THE UTILIZATION OF MILITARY PRISONERS

Currently, there are no Army installations which utilize civilian prisoners to support base operation functions. However, the utilization of military prisoners is an accepted practice at those installations which have operational correctional facilities.

The employment of military prisoners is an important segment of the total correctional treatment program as emphasized in Department of Defense Directive 1325.4 which states:

Programs of regular work, training, and motivational activities shall be conducted to increase prisoners' usefulness, prevent idleness, aid in alleviating custodial problems, and prepare prisoners for release from confinement.⁴⁹

Military prisoners are routinely utilized for maintenance and upkeep operations in support of installation correctional facilities. When Army correctional facilities are near capacity, there normally are not enough "internal" constructive prisoner details to support the entire prisoner population. Thus, facility commanders are encouraged to coordinate with on-post agencies and activities for prisoner employment opportunities. The following are areas recommended for installation prisoner employment: vehicle, quartermaster and communication repairs; installation maintenance and engineer functions.⁵⁰

Department of the Army policy precludes certain prisoner work assignments. These include:⁵¹

- Work of a personal or hazardous nature.
- Work which involves contact with members of the opposite sex without supervision.
- Work which results in financial gain to the prisoner.
- Work which involves attending to children.

Unfortunately, only installations with operational correctional facilities reap the benefits of prisoner labor. Figure 5 depicts the location, design capacity, and average prisoner population of CONUS correctional facilities.⁵² As illustrated in figure 5, five of the facilities are not

being utilized for military correctional purposes and the majority of operational correctional facilities are underutilized. The following activities are operating near capacity: the USDB, the USACA, and the Fort Lewis IDF. The USDB and USASA are atypical as they house long and mid-term prisoners respectively.

The Fort Lewis IDF, whose population averaged 184 prisoners during fiscal year 1988, has established 120 semi-skilled and skilled prisoner employment opportunities which provide support to installation activities. The majority of prisoners are employed in support of the Installation Engineer and Morale and Welfare Activities.

The use of prisoner labor during fiscal year 1988 resulted in a cost saving for Fort Lewis in excess \$3,375,000.⁵³ Additionally, this IDF recently initiated operation of the installation recycling recovery center, which generates over \$7,000 in weekly sales of recycled products. The Commander of the IDF reports that the only shortcoming of the prisoner labor program is that requests for support surpass available prisoner resources.

CLASSIFICATION OF PRISONERS

Prior to a prisoner, military or civilian, being considered for any type of work program he must be classified by custody grade and rehabilitation potential. This ongoing process begins upon a prisoner's incarceration, and is reviewed periodically throughout his confinement.

The purpose of this process is two-fold: first, to determine the prisoners custody grade which designates the degree of security required to control the prisoner; and second, to determine the appropriate rehabilitation, training, and work programs for the prisoner. Factors considered in this process include: the prisoner's prior history, results of diagnostic testing, signs of emotional disturbance, and any history of escape, drug addiction or violence.⁵⁴

The custody grade utilized by military and civilian correctional officials are similar. The objective is to assign the prisoner the minimum level of custody required to ensure he is controlled. The US Army utilizes the following custody grades in its classification process:⁵⁵

-Maximum Custody. Prisoners assigned this classification require continuous correctional supervision. They are considered escape risks and/or have demonstrated behavior believed to be dangerous. They are not employed outside the correctional facility.

-Medium Custody. Prisoners provided this custody grade require continuous supervision. However, while supervised, they do not present a threat for escape or a danger to life, limb or property. Normally, they are not employed outside the correctional facility.

-Minimum Custody. Prisoners given this classification are considered to be sufficiently dependable to require little custodial supervision. They may be employed outside the facility with supervision.

-Installation Parolee. This classification is provided to prisoners who require little or no custodial supervision. They have responded well to correctional programs and have proven they can be trusted with increased freedom. They may be permitted to work outside of the correctional facility, but within the military installation, without supervision.

FIGURE 552

ARMY CORRECTIONAL FACILITIES LOCATED WITHIN CONUS

| <u>LOCATION</u> | <u>DESIGN CAPACITY</u> | <u>PRISONER POPULATION*</u> |
|---------------------|------------------------|-----------------------------|
| Fort Benning | 159 | 15 |
| Fort Bliss | 150 | 0** |
| Fort Bragg | 150 | 0** |
| Fort Campbell | 177 | 15 |
| Fort Carson | 152 | 22 |
| Fort Dix | 416 | 0** |
| Fort Gordon | 96 | 16 |
| Fort Hood | 178 | 35 |
| Fort Indiantown Gap | 1080 | 0*** |
| Fort Knox | 165 | 24 |
| Fort Lewis | 252 | 190 |
| Fort McCoy | 324 | 0*** |
| Fort Meade | 57 | 26 |
| Fort Ord | 190 | 20 |
| Fort Polk | 156 | 10 |
| Fort Riley | 96 | 35 |
| Fort Sill | 166 | 30 |
| USACA | 1080 | 592 |
| USDB | 1615 | 1468 |

* As of 30 June 1988.

** Not currently utilized for military confinement.

*** Facilities are WW II barracks and are not comparable to IDF's.

ENDNOTES

47. U.S. Department of the Army, Field Manual 19-60, p. 1-1, (hereafter referred to as "FM 19-60").
48. Ibid.
49. U.S. Department of Defense, Directive 1325.4, p. 1-3, (hereafter referred to as "DOD-D 1325.4").
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