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OPERATION OF ARTICLE VII NATO STATUS OF FORCES TREATY

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HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE EIGHTY-SEVENTH CONGRESS SECOND SESSION

ON
TO REVIEW, FOR THE PERIOD DECEMBER 1, 1960, THROUGH
NOVEMBER 30, 1961, THE OPERATION OF ARTICLE VII OF THE
AGREEMENT BETWEEN THE PARTIES TO THE NORTH AT-
LANTIC TREATY, TOGETHER WITH THE OTHER CRIMINAL
JURISDICTIONAL ARRANGEMENTS THROUGHOUT
THE WORLD

AUGUST 27, 1962

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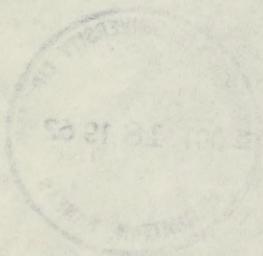
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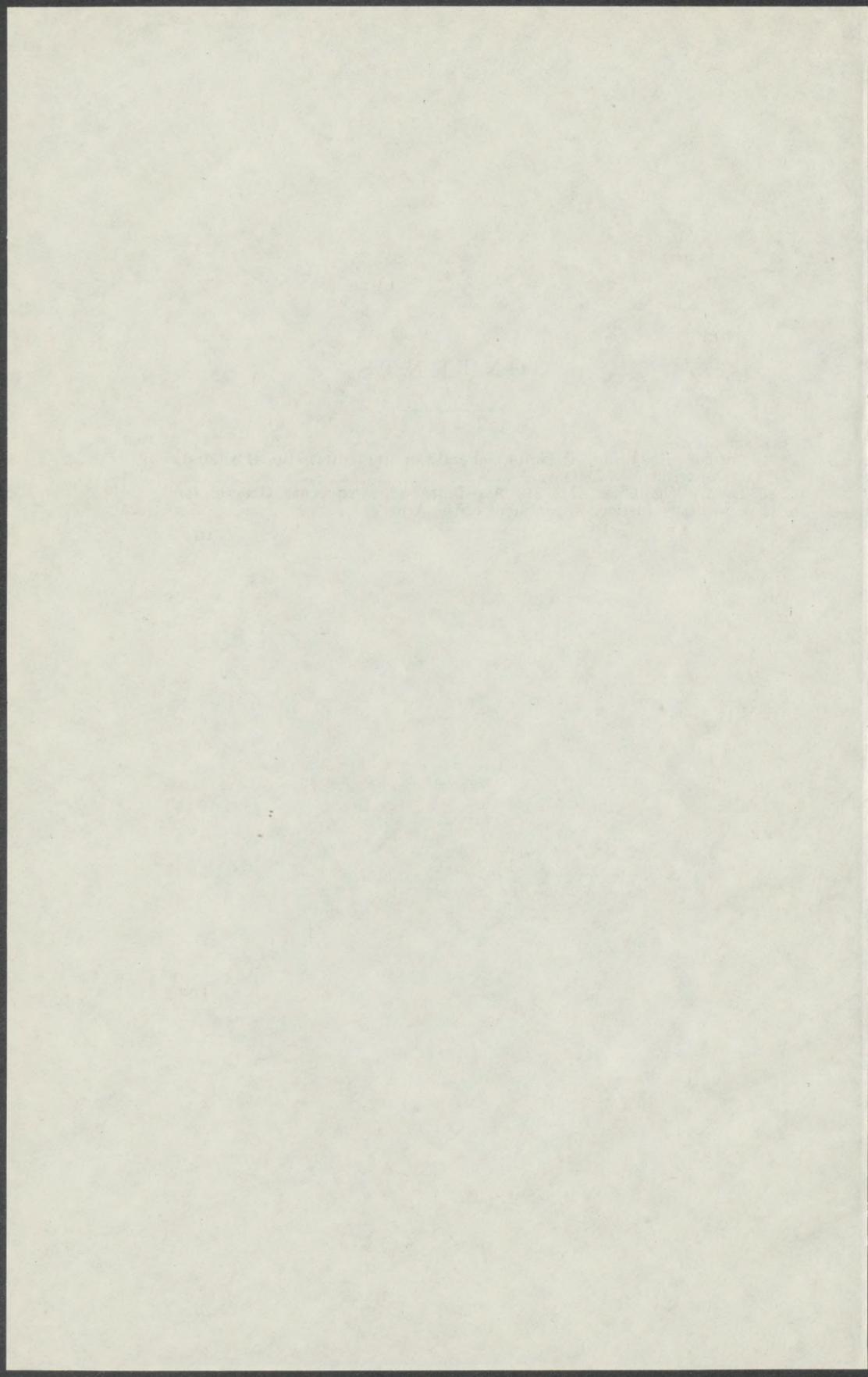
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OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY

MONDAY, AUGUST 27, 1962

U.S. SENATE,
SUBCOMMITTEE ON NATO STATUS OF FORCES
OF THE COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The Status of Forces Subcommittee (composed of Senators Ervin (chairman), Thurmond, and Bush) appointed to maintain familiarity with the operation of article VII of the NATO Status of Forces Treaty to the extent that it relates to criminal jurisdiction not waived by host countries in which U.S. forces are stationed, met, pursuant to notice, at 2:30 p.m., in room 212, Old Senate Office Building.

Present: Senators Ervin (presiding), Thurmond, and Bush.

Also present: T. Edward Braswell, Jr., professional member; Herbert S. Atkinson, assistant chief clerk.

Senator ERVIN. The subcommittee will come to order.

The subcommittee would like to welcome both Mr. Forman, Assistant General Counsel for International Affairs of the Department of Defense, and Brigadier General Todd, Assistant Judge Advocate General of the Army, who will provide the subcommittee with its annual briefing on the operation of the various jurisdictional arrangements throughout the world which give foreign courts jurisdiction over certain offenses committed by American servicemen.

The period to be covered during today's briefing will be from December 1, 1960, through November 30, 1961.

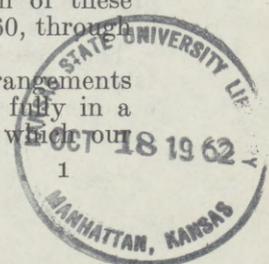
We will first hear from Mr. Forman, after which General Todd will provide us with a more detailed account of the year's activities. Following the open session, Mr. Forman has a few comments to make in executive session.

Mr. Forman, you may proceed.

STATEMENT OF BENJAMIN FORMAN, ASSISTANT GENERAL COUNSEL, DEPARTMENT OF DEFENSE

Mr. FORMAN. Mr. Chairman, we welcome this opportunity for representatives of the Department of Defense to appear before you and report on the operation of the criminal jurisdictional provisions of the NATO Status of Forces Treaty and similar agreements throughout the world. This presentation reviews the operation of these jurisdictional arrangements for the period December 1, 1960, through November 30, 1961.

I am pleased to report that the operation of these arrangements remains generally satisfactory. As I shall explain more fully in a moment, there are two countries, Turkey and Iran, in which our



commanders have reported that jurisdictional problems have had adverse effects upon morale; but no commanders have reported that the problems encountered have measurably impaired the accomplishment of our military missions in the various countries where our forces are stationed.

The rate at which foreign authorities granted waivers of their primary right to exercise jurisdiction over U.S. military personnel decreased slightly from that of the preceding reporting period—from 58.33 percent to 58.01 percent. The rate among the NATO countries has increased slightly from 58.41 percent to 58.83 percent.

General Todd will present a detailed statistical account for this reporting period. Before he does so, I should like to mention a few problems which have arisen or are recurrent and to review the progress which has been made in solving these problems.

Last year I advised the committee that three possible solutions were being considered within the executive branch to the jurisdictional problems raised by the Supreme Court decisions in January 1960 in *McElroy v. Guagliardo* and companion cases. As you will recall, the Court held in those cases that civilian employees and dependents are not amenable to trial by court-martial in time of peace. To date, it has not been possible to come up with a solution satisfactory to all interested agencies of the executive branch. It should be noted, however, that our commanders have reported no adverse effects upon the morale of their personnel or upon the accomplishment of their mission from our present inability to try civilians by courts-martial. We do, of course, retain the right to impose disciplinary sanctions upon civilians in minor cases by such means as the denial of special privileges, licenses, etc., and the statistics indicate that foreign authorities may frequently be accepting such sanctions as a sufficient remedy. Of the 1,022 new cases subject to foreign jurisdiction involving civilians, only 321 were reserved by foreign jurisdictions.

Senator BUSH. Those are American civilians on duty abroad?

Mr. FORMAN. That is correct.

Senator ERVIN. This also covers families?

Mr. FORMAN. Yes, also including dependents.

On May 5, 1962, the Secretary of Defense issued a revised directive on status-of-forces policies and information. With the chairman's permission, I should like to have it inserted in the record.

Senator ERVIN. It will be inserted in the record immediately after your statement.

Mr. FORMAN. Most of the significant changes relate to our inability to try civilians by court-martial. For example, the section dealing with requests for waivers of jurisdiction has been limited to military personnel, and a new section has been added to make clear that commanders may impose disciplinary sanctions when appropriate in minor cases and request the host government to refrain from exercising its jurisdiction. The reporting requirements have likewise been altered so that we shall be able to report next year the number and percentage of cases involving civilians which were released to the U.S. military authorities for administrative action by the host government.

The Executive order governing the administration of the Ryukyu Islands was revised in March of this year, and the President took that occasion to correct a jurisdictional defect which had existed since the Supreme Court cases in 1960. The 1957 Executive order provided

for jurisdiction by the courts of the U.S. civil administration only over:

* * * United States nationals employed by the United States or any agency thereof who are not subject to trial by courts martial under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.) and their dependents, excluding Ryukyans (Executive Order 10713, sec. 10(b)(3)).

As you can see that provision did not authorize trial by these courts of dependents of servicemen, civilians, other than employees, who are accompanying the forces, or their dependents. This jurisdictional gap was filled by replacing that subsection of the Executive order with the following:

(3) Criminal jurisdiction over (a) the civilian component, (b) employees of the United States Government who are United States nationals, and (c) dependents, excluding Ryukyans, (i) of the foregoing and (ii) of members of the United States forces (Executive Order 11010).

As I mentioned earlier, trials of U.S. personnel by Turkish courts, especially for traffic accidents, have had an adverse effect upon the morale of U.S. personnel stationed in Turkey. The main reasons why prosecution for traffic offenses has had an adverse impact on morale is that persons involved in accidents are often prosecuted without regard to degrees of negligence. Where fatalities result, the minimum possible sentence is 20 months' confinement, which cannot be suspended. Other problems in Turkey are the generally prolonged trials, often lasting through many months of sporadic hearings, and the consistent refusal of Turkish authorities to grant waivers of their primary right to exercise jurisdiction. Except for one waiver granted by a court in a remote village, Turkish authorities have continued to refuse to grant waivers.

A similar traffic offense problem exists in Iran. It is even more troublesome, however, because there is, at present, no formal arrangement between the United States and Iran to protect Department of Defense personnel in Iran from the criminal jurisdiction of Iranian courts. Some hardship has resulted, particularly in connection with alleged motor vehicle offenses, and a morale problem has developed. Efforts are being made to reach a workable criminal jurisdiction agreement with the Government of Iran.

Senator BUSH. Can I ask parenthetically, Mr. Chairman, what we have in Iran in the way of forces? Have we got much out there?

Is that an appropriate question here?

Mr. FORMAN. I believe I can say there are several hundred.

They are there primarily as MAAG and as training mission.

Last year I reported that the German Supplementary Agreement, concluded in August 1959, which is designed to supplement the NATO Status of Forces Agreement, has been ratified on May 26, 1961, by the Federal Republic Bundesrat. The agreement will, however, enter into force 30 days after ratification by Belgium, and it is expected that Belgium will ratify it in due course.

Negotiations are continuing with the Philippines with respect to modifications of certain aspects of the 1947 Military Bases Agreement and with the Republic of China concerning a status-of-forces agreement.

Negotiations with the Republic of Korea for a new status-of-forces agreement were initiated in April 1961. They were interrupted a month later by the revolution in Korea and were suspended in July 1961.

4 OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY

On April 24, 1962, the United States signed an agreement with the Netherlands permitting use of Zanderij Airport by U.S. Government aircraft. With regard to U.S. personnel in Surinam for purposes of this agreement, the United States is given exclusive jurisdiction over such personnel with respect to offenses affecting only U.S. personnel, property or security, or committed in the performance of official duty. With regard to all other offenses the Government of Surinam agrees to give sympathetic consideration to a request to waive its jurisdiction in cases deemed by the United States to be of particular importance.

In summary, it may fairly be said that our experience under these agreements during the reporting period has remained satisfactory. Although problems do arise and although our experience varies from country to country, there is every indication that these agreements create a helpful legal framework for the resolution of the unavoidable jurisdictional problems created by our activities abroad.

(The Department of Defense directive referred to is as follows:)



May 5, 1962
NUMBER 5525.1

GC, DoD

Department of Defense Directive

SUBJECT Status of Forces Policies and Information

- Refs: (a) DoD Directive 5525.1, subject as above,
March 25, 1960 (hereby cancelled)
- (b) DoD Directive 5122.5, "Assistant Secretary
of Defense (Public Affairs)"
- (c) DoD Directive 5148.5, "Assistant Secretary
of Defense (Legislative Affairs)"

I. PURPOSE

The purpose of this directive is to restate Department of Defense policy respecting trial by foreign courts and treatment in foreign prisons of United States military personnel, nationals of the United States serving with, employed by, or accompanying the armed forces, and the dependents of both (hereinafter referred to collectively as United States personnel), and to provide for uniform reporting. It is intended that implementing directives and regulations of each of the Services shall be as nearly identical as circumstances permit.

II. CANCELLATIONS

Reference (a) and Report Control Symbols DD-SD (A) 403, DD-SD (Q) 404, and DD-SD (M) 405 are hereby superseded and cancelled.

III. POLICY

It is the policy of the Department of Defense to protect, to the maximum extent possible, the rights of United States personnel who may be subject to criminal trial by foreign courts and imprisonment in foreign prisons.

IV. PROCEDURES

A. Application of Senate Resolution on Status of Forces

It is intended to provide herein for the implementation of the Senate Resolution accompanying the Senate's consent to ratification of the Status of Forces Agreement, (Appendix A). Although the Senate Resolution applies only in countries where the NATO Status of Forces Agreement is currently in effect, the same procedures for safeguarding the interests of United States personnel subject to foreign jurisdiction will be applied insofar as practicable in all overseas areas where United States forces are regularly stationed.

B. Orientation of Personnel

The Services shall issue uniform regulations establishing an information and education policy for personnel assigned to foreign areas as to the laws and customs of the host country.

C. Designated Commanding Officer

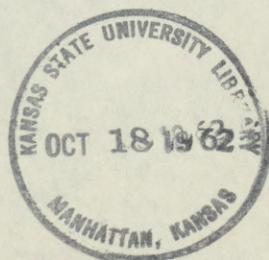
Formal invocation of the Senate Resolution procedure shall be the responsibility of a single military commander in each foreign country in which United States military forces are regularly stationed (attache personnel and other military personnel serving under the direction of a chief of a diplomatic mission will not be considered United States military forces for this purpose), i.e.,

1. In the geographical areas for which a unified command exists, the commander thereof will designate within each country, the "Commanding Officer" referred to in the Senate Resolution.
2. For the purpose of this directive, the Near East, including Pakistan, and North Africa, including Ethiopia, will be considered in the USCINCEUR area.

3. In other areas for which a unified command does not exist, a commanding officer in each country shall be nominated by the three Services whose recommendations shall be forwarded by the Judge Advocate General of the Army to the Secretary of Defense, for implementation through the Office of the Assistant Secretary of Defense (International Security Affairs). In designating the commanding officer to act for all three Services, consideration should be given to the availability of legal officers and readiness of access to the seat of the foreign government. Such an officer may also be appointed by the three Services for countries where no military forces are regularly stationed.

D. Country Law Studies

For each foreign country in which regularly stationed United States military forces (as defined in Section IV. c.) are subject to the criminal jurisdiction of foreign authorities, the commanding officer designated for such country shall make and maintain a current study of the laws and legal procedures in effect. Studies of the laws of other countries shall be made as directed. This study shall be a general examination of the substantive and procedural criminal law of the foreign country, and shall contain a comparison thereof with the procedural safeguards of a fair trial in the State courts of the United States. Copies of these studies should be forwarded to each of the Judge Advocates General of the Services. Principal emphasis is to be placed on those safeguards which are of such a fundamental nature as to be guaranteed by the Constitution of the United States in all criminal trials. These country law studies shall be subject to a continuing review, and whenever in any such country there shall be a significant change in its criminal law, the change shall be forwarded by the designated commanding officer to each of the Service Judge Advocates General.



E. Waivers of Local Jurisdiction

Whenever it appears that foreign authorities may assume jurisdiction over or take custody of United States military personnel the following procedure should be adopted:

1. In cases where it appears probable that release of custody or jurisdiction will not be obtained and that the accused may not obtain a fair trial or fair treatment, the commander exercising general court martial jurisdiction over the accused will communicate directly with the designated commanding officer, reporting the full facts of the case and supplying his recommendation.
2. The designated commanding officer will determine, in the light of legal procedures in effect in that country, whether the accused may or may not receive a fair trial.
3. He will then decide, after consultation with the Chief of the Diplomatic Mission, whether to press a request for waiver of jurisdiction through diplomatic channels. If he so decides, he shall submit his recommendation through the unified commander, if any, and The Judge Advocate General of the accused's service to the Office of the Secretary of Defense. The objective in each case is to see that United States military personnel obtain a fair trial and fair treatment in the receiving state under all the circumstances. This is not to be considered as requiring such foreign trials to be identical with trials held in the United States.

F. Request to Foreign Authorities Not to Exercise Their Right to Criminal Jurisdiction

Whenever it appears that foreign authorities may assume criminal jurisdiction over or take custody of dependents of United States military personnel, civilian personnel and their dependents, the following procedures shall be adopted:

1. In all cases where the local commander determines after a careful consideration of all the circumstances that he can take suitable corrective action under existing administrative regulations he may request the local foreign authorities to refrain from exercising their criminal jurisdiction.
2. In cases where it appears possible that release of custody or jurisdiction will not be obtained and that the accused may not obtain a fair trial or fair treatment, the commander exercising general court-martial jurisdiction over the command in which such personnel are located will communicate directly with the designated commanding officer, reporting the full facts of the case and supplying his recommendation.
3. The designated commanding officer will then determine, in the light of legal procedures in effect in that country, whether the accused may or may not receive a fair trial.
4. He will then decide, after consultation with the Chief of the Diplomatic Mission, whether a request to foreign authorities not to exercise their right to criminal jurisdiction should be made through diplomatic channels. If he so decides, he shall submit his recommendation through the unified commander, if any, and The Judge Advocate General of the Service concerned to the Office of the Secretary of Defense.

G. Trial Observers and Trial Observer Reports

1. The designated commanding officer shall submit to the Chief of Diplomatic Mission a list of persons qualified to serve as United States observers at trials before courts of the receiving state. Nominees will be lawyers, and shall be selected for maturity of judgment. The list will include, where possible, representatives

of all Services whose personnel are stationed in that country, to enable the Chief of Diplomatic Mission to appoint an observer from the same Service as the accused. The requirement that nominees will be lawyers may be waived in cases of minor offenses. Incidents which result in serious personal injury or extensive property damage, or which would normally result in sentences to confinement, whether or not suspended, will not be considered minor offenses.

2. Trial observers shall attend and shall prepare formal reports in all cases of trials of United States personnel by foreign courts or tribunals except minor offenses. In cases of minor offenses, the observer shall attend the trial, if any, at the discretion of the designated commanding officer, but shall not be required to make a formal report. These reports need not be classified, but shall be treated as documents FOR OFFICIAL USE ONLY, and shall be forwarded intact to the designated commanding officer and to the Judge Advocate General of the accused's Service with the comments, if any, of the appropriate Service commander, through official channels to the accused's Service. These reports shall be prepared and forwarded as above indicated whether or not the report indicates that the accused received an unfair trial. They will be forwarded immediately upon the completion of the trial in the lower court, and will not be delayed because of the possibility of a new trial, rehearing, or appeal, reports of which will be forwarded in the same manner. Copies shall also be forwarded to the Chief of Diplomatic Mission.

3. The designated commanding officer, upon receipt of a report which states that in the opinion of the observer the trial was unfair, shall, if he concurs and determines that appropriate action should be taken by the Department of State to protect the rights of the accused, submit such a recommendation through the unified commander, if any, and The Judge Advocate General of the Service concerned to the Office of the Secretary of Defense. An information copy of the recommendation of the designated commanding officer shall be furnished by him to the diplomatic or consular mission in the country concerned.

H. Counsel Fees and Related Assistance

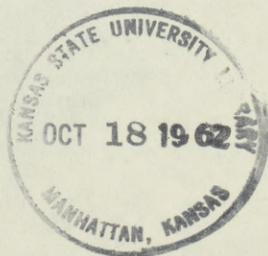
When the Secretary of the Department concerned or his designee deems such action to be in the best interests of the United States, representation by civilian counsel, and other assistance described in 10 U.S.C. 1037, may be furnished at Government expense to United States personnel tried in foreign countries.

I. Treatment of United States Personnel Confined in Foreign Penal Institutions

1. Insofar as practicable and subject to the laws and regulations of the country concerned and the provisions of any agreements therewith, the Department of Defense seeks to assure that United States military personnel confined in foreign penal institutions are accorded the treatment and are entitled to all the rights, privileges and protections of personnel confined in United States military facilities. This policy is enunciated in present Service directives and regulations. Such directives include, but are not limited to, such matters as legal assistance, visitation, medical attention, food, bedding, clothing and other health and comfort supplies, and shall apply both to pre-trial and post-trial confinement of such personnel. This policy shall be continued in force.

2. In consonance with this policy, United States military personnel confined in foreign penal institutions shall be visited at least every thirty days, at which time the conditions of confinement as well as other matters relating to their health and welfare will be observed. Each Service will maintain on a current basis records of these visits as reported by their respective commands. Records of each visit should contain the following information:
 - a. Names of personnel conducting visit and date of visit.
 - b. Name of each prisoner visited, serial number, and sentence for which he is serving imprisonment.
 - c. Name and location of prison.
 - d. Treatment of the individual prisoner by prison warden and other personnel (include a short description of the rehabilitation program, if any, as applied to the prisoner).
 - e. Conditions existing in the prison, i.e., light, heat, sanitation, food, recreation, religious activities.
 - f. Change in status of prisoner, conditions of confinement or transfer to another institution.
 - g. Condition of prisoner, physical and mental.
 - h. Assistance given to prisoner, i.e., legal, medical, food, bedding, clothing, and health and comfort supplies.
 - i. Action taken to have any deficiencies corrected, either by the local commander or through diplomatic or consular mission.

- j. Designation of command responsible for prisoner's welfare and reporting of visits.
 - k. Information as to discharge of a prisoner from the service or termination of confinement.
3. Should it not be practicable for the individual's commanding officer or his representative to make visits, the designated commanding officer should be requested to arrange that another unit be responsible for such visits or to request that the appropriate diplomatic or consular mission assume responsibility therefor. Whenever necessary, a medical officer should participate in the visits and record the results of his examination. If reasonable requests for permission to visit United States military personnel are arbitrarily denied, or it is ascertained that the individual is being mistreated or that the conditions of his confinement are substandard, the case should be referred to the diplomatic or consular mission concerned for appropriate action.
4. To the extent possible, military commanders should seek to conclude local arrangements whereby the United States military authorities may be permitted to accord United States military personnel confined in foreign institutions treatment, rights, privileges, and protection similar to those accorded such personnel confined in United States military facilities. The details of such arrangements should be submitted to the Judge Advocates General of the Services.
5. The military authorities shall make appropriate arrangements with foreign authorities whereby custody of individuals who are members of the armed forces shall, when they are released from confinement by foreign authorities, be turned over to the United States military



authorities. In appropriate cases, diplomatic or consular officers should be requested to keep the military authorities advised as to the anticipated date of the release of such persons by the foreign authorities.

6. In cooperation with the appropriate diplomatic or consular mission, military commanders will, insofar as possible, assure that dependents of United States military personnel, nationals of the United States serving with, employed by or accompanying the armed forces, and dependents of such nationals confined in foreign penal institutions are visited periodically and receive such support as would be extended to United States military personnel in comparable situations pursuant to the other provisions of Section IV.I.

J. Discharge

United States military personnel confined in foreign prisons shall not be discharged from military service until the completion of the term of imprisonment and the return of the accused to the United States, except that in unusual cases such discharges may be accomplished upon prior authorization of the Secretary of the Department concerned.

K. Information Policy

It is the basic policy of the DoD that the general public and the Congress must be provided promptly with the maximum information concerning status of forces matters as is consistent with the national interest. Information shall be coordinated and furnished to the public and the Congress in accordance with established procedures, including DoD Directives 5122.5 and 5148.5 (References (b) and (c)).

V. REPORTS ON THE EXERCISE OF FOREIGN CRIMINAL JURISDICTION

The following reporting system which has been implemented by the military departments will be continued after revision in accordance with the provisions herein. The Department of the Army is designated as executive agent

within the Department of Defense for maintaining and collating information received on the basis of the reports submitted.

A. Individual Case Reports

DD Form 837 (Appendix B) will be submitted to the military departments in accordance with departmental implementation of this directive concerning each criminal case involving U.S. personnel in which:

1. such persons have been held or are being held in pre-trial confinement by foreign authorities; or
2. the United States has been denied a waiver of jurisdiction with respect to offenses subject to jurisdiction of foreign courts; or
3. it otherwise appears that such personnel will be subjected to criminal prosecution by foreign authorities;

except that individual reports need not be made in those cases falling within 2 and 3 above which involve only minor offenses (as defined in Section IV.G.(1) above).

The initial submission of DD Form 837 should be made as soon as information required to complete Part I is available. Subsequent submissions should be made immediately upon receipt of information required to complete Parts II and III, respectively.

B. Annual Reports

Annual reports, based on information furnished by the three military departments covering the period December 1, through November 30, will be prepared by the Department of the Army and submitted within such time as may be required but not later than 120 days after the close of the reporting period. The reports shall be submitted in one reproducible copy to the Office of the General Counsel, DoD, in accordance with departmental implementation of this directive. The reporting content of this requirement will be as follows:

1. A statistical summary (DD Form 838 , Appendix C) by country and type of offense of all cases involving U.S. personnel.
2. A report signed by the appropriate service commander in each country for which DD Form 838 is prepared, concerning his personal evaluation of the impact, if any, that local jurisdictional arrangements have had upon accomplishment of his mission and upon the discipline and morale of the forces, together with specific facts or other information, where appropriate, substantiating his opinion.
3. A report of the results of visits made and particular actions taken by appropriate service commanders pursuant to Section IV, paragraph I, of this directive.
4. A report on the implementation of the Act of September 2, 1958 (72 Stat. 1455, 10 U.S.C. 1037) showing by country and military service
 - (a) the total number of cases in which funds were expended and
 - (b) total expenditures in each of the following categories:
 - a. payment of counsel fees,
 - b. provision of bail,
 - c. court costs and other expenses.

C. Quarterly Reports

Quarterly reports for the periods ending November 30, February 28, May 31 and August 31, consisting of lists of United States personnel imprisoned and released, will be submitted, in accordance with departmental implementation of this directive to the Department of the Army and by the Department of the Army, as executive agent, to the Administrative Secretary, Office of the Secretary of Defense, in four (4) copies, on or before the fifteenth day following the report quarter as follows:

1. An alphabetical list of U.S. personnel who were imprisoned during the reporting period pursuant to sentence of confinement imposed by a foreign court, indicating for each individual his home address, grade and serial number (where applicable), offense of which found guilty, date and place of confinement, length of sentence to confinement imposed, and estimated date of release from confinement.
2. A similar list of the names of prisoners released during the reporting period.

An information copy of these lists shall be furnished by the appropriate service commander to the diplomatic or consular mission in the country concerned.

D. Other Reports

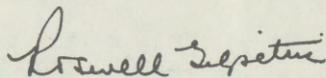
1. Each military department will maintain on a current basis, and submit monthly to the Administrative Secretary, Office of the Secretary of Defense in four (4) copies, a list of the most important cases pending, with a brief summary of the salient facts in each case. Selection of the cases to be included will be left to the judgment of the appropriate officials of each military department. Instances of deficiency in the treatment or conditions of confinement in foreign penal institutions or arbitrary denial of permission to visit such personnel shall be considered important cases. Lists covering the previous month will be submitted on the sixth (6) day of the month following.
2. Important new cases or important developments in pending cases will be reported informally and immediately to the Office of the General Counsel, DoD.

E. Report Control Symbol

The reporting requirements of paragraphs V.B., C., and D.1., above, have been assigned Report Control Symbol DD-SD(M)455.

VI. EFFECTIVE DATE AND IMPLEMENTATION

This directive is effective immediately. Existing departmental regulations implementing the previous directive shall be revised to reflect the provisions of this document. Two (2) copies of such revised regulations shall be forwarded to the General Counsel, DoD, for approval prior to issuance, within sixty (60) days from the effective date hereof.



Acting Secretary of Defense

Enclosures - 3

1. Appendix A, Resolution of Ratification, with Reservations
2. Appendix B (DD Form 837)
3. Appendix C (DD Form 838)

Appendix A

RESOLUTION OF RATIFICATION, WITH RESERVATIONS,
AS AGREED TO BY THE SENATE ON JULY 15, 1953

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive T, Eighty-second Congress, second session, an agreement between the parties to the North Atlantic Treaty Regarding the Status of their Forces, signed at London on June 19, 1951.

It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the Agreement, that nothing in the Agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security, and that no person whose presence in the United States be permitted to enter or remain in the United States.

In giving its advice and consent to ratification, it is the sense of the Senate that:

1. The criminal jurisdiction provisions of Article VII do not constitute a precedent for future agreements;
2. Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving state, under the treaty the Commanding Officer of the armed forces of the United States in such state shall examine the laws of such state with particular reference to the procedural safeguards contained in the Constitution of the United States;
3. If, in the opinion of such Commanding Officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights he would enjoy in the United States, the Commanding Officer shall request the authorities of the receiving State to waive jurisdiction in accordance with the provisions of paragraph 3(c) of Article VII (which requires the receiving State to give "sympathetic consideration" to

such request) and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives;

4. A representative of the United States to be appointed by the Chief of Diplomatic Mission with the advice of the senior United States military representative in the receiving State will attend the trial of any such person by the authorities of a receiving State under the agreement, and any failure to comply with the provisions of paragraph 9 of Article VII of the Agreement shall be reported to the commanding officer of the armed forces of the United States in such State who shall then request the Department of State to take appropriate action to protect the rights of the accused, and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives.

Appendix B

INDIVIDUAL CASE REPORT - EXERCISE OF CRIMINAL JURISDICTION BY FOREIGN TRIBUNALS OVER U. S. PERSONNEL SUBJECT TO MILITARY LAW		REPORT CONTROL SYMBOL COUNTRY
TO:		FROM:
LAST NAME - FIRST NAME - MIDDLE INITIAL		SERVICE NUMBER
LAST HOME ADDRESS (Number, Street, City, Zone and State)		ORGANIZATION
		STATUS <input type="checkbox"/> MIL <input type="checkbox"/> CIV <input type="checkbox"/> DEP
PART I		
CHARGE (Itemize all counts)	DATE OF OFFENSE	PLACE OF OFFENSE
	APPREHENDED	
	CONFINED BY FOREIGN AUTHORITIES	APPREHENDED BY
	REQUEST FOR U.S. CUSTODY	
	RELEASED TO U.S. CUSTODY	PLACE OF PRETRIAL CONFINEMENT BY FOREIGN AUTHORITIES
	REQUEST FOR WAIVER OF FOREIGN JURISDICTION	
DATE OF ACTION ON REQUEST FOR WAIVER	REQUEST FOR WAIVER <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	
REMARKS		
PART II		
DATE TRIAL COMMENCED	PLACE OF TRIAL	DATE TRIAL COMPLETED
OFFENSES OF WHICH FOUND GUILTY		
SENTENCE		
AMOUNT OF FINE (In dollars)	FINE SUSPENDED <input type="checkbox"/> YES <input type="checkbox"/> NO	LENGTH OF CONFINEMENT
OTHER DISPOSITION (Specify)		CONFINEMENT SUSPENDED <input type="checkbox"/> YES <input type="checkbox"/> NO
		TRIAL CONSIDERED FAIR <input type="checkbox"/> YES <input type="checkbox"/> NO
DATE POST-TRIAL CONFINEMENT COMMENCED	PLACE OF POST-TRIAL CONFINEMENT	APPEAL ANTICIPATED <input type="checkbox"/> YES <input type="checkbox"/> NO
EXPENSES INCURRED UNDER 10 U.S.C. 1037	REMARKS	
PART III		
RESULT OF APPEAL		
EXPENSES INCURRED UNDER 10 U.S.C. 1037	REMARKS	
DATE PREPARED	TYPED NAME, GRADE, AND TITLE OF PREPARING INDIVIDUAL	SIGNATURE

Senator ERVIN. I believe the committee is justified in drawing the inference from your statement that these jurisdictional arrangements, with the exception of Turkey and Iran, are working, have worked during the last reporting period in about the same satisfactory manner that they had worked in previous reporting periods.

Mr. FORMAN. That is correct, sir.

Senator ERVIN. You are undoubtedly aware of the fact, or, rather, you spoke in your statement concerning the amendment to the Department directive in respect to nonjudicial punishments.

You undoubtedly will be gratified to know that the amendments to article 15, which passed the House some months ago, has been reported favorably to the Senate by the Senate Armed Services Committee, and will probably be passed by the Senate, at least all present indications are.

I think this will be helpful in the administration of justice over the Armed Forces both at home and abroad because it gives increased authority for nonjudicial punishments and thus obviates the necessity of trials for minor infractions in most cases.

General TODD. Yes.

We are very gratified with the committee's action on that, Mr. Chairman.

Senator ERVIN. We discussed the problem the last time we held a review of the operation of these arrangements, and I note that we still have the same problem about what is to be done with respect to the civilians which accompany our Armed Forces and the dependents of Armed Forces abroad when they run afoul of the laws of these countries.

You stated in your statement that you have not been able to get any kind of a solution to this problem that is satisfactory to the different agencies that are concerned.

General TODD. That is true.

Senator ERVIN. It is a rather troublesome problem.

Mr. FORMAN. It is a troublesome problem thus far in a theoretical sense in that the interested agencies have not been able to reach an agreed position on what might be desirable from the legislative point of view.

From a practical standpoint, however, this has not created any difficulties in the field according to our commanders, who have advised us it has not had an adverse effect upon the morale of these civilians and has not impeded the mission of the commanders.

Senator ERVIN. I would judge that to be true from your statement on page 2 to the effect that in the vast majority of these cases the offenses have been dealt with otherwise than by resort to the courts in the country in which they occur.

Mr. FORMAN. That is correct.

Senator ERVIN. Senator Thurmond, do you have some questions?

Senator THURMOND. Thank you, Mr. Chairman.

I believe the last time, a year ago when we had a meeting of this kind, it was brought out that the sentences received by our personnel overseas are lighter when tried before the local civilian courts than when tried before courts-martial.

Does that still prevail?

Mr. FORMAN. I believe that it does.

General TODD. Yes.

I will bring that up in my statement, Senator Thurmond. It does still prevail generally.

Senator THURMOND. Just what countries in which we operate, have military personnel, do we not have status-of-forces agreements with?

General TODD. Iran—

Senator THURMOND. We have an agreement with Turkey, I believe.

Mr. FORMAN. We have an agreement with Turkey, yes.

Senator THURMOND. Although they do not turn too many over to you, do they?

General TODD. That is true.

Senator THURMOND. Do they violate the agreement, do you think, or do they just construe it one way and we construe it another?

Mr. FORMAN. The waiver provision has not been implemented by the Turkish Government, purportedly on the ground that they lack authority under their legislation to implement it.

We are hopeful that progress will be made to enact such legislation.

Senator THURMOND. What countries did you say we do not have an agreement with?

General TODD. Iran, Panama, and Mexico.

Senator THURMOND. Those are the only three?

General TODD. That is right.

In Mexico we do not have any troops stationed, but our people go over to Mexico from across the border in Texas on leave, and we have had some cases arise there because of that.

In Iran, of course, we do have, as Mr. Forman said, the MAAG group, and there are some people stationed there. Panama, of course, is another country that we do not have people stationed in, but its proximity to the zone, the Canal Zone, gives rise to our people going over into Panama on leave and pass, and some cases do arise there.

Senator THURMOND. Thank you, Mr. Chairman.

Senator ERVIN. Do you have some questions?

Senator BUSH. I guess I had better wait for the general, but I might just ask one general question.

Senator ERVIN. I thought you might have some for Mr. Forman.

Senator BUSH. Yes.

But you consider, on the whole, that the status-of-forces agreements are working out well, or is that too optimistic a statement?

Mr. FORMAN. No, I do not think that is too optimistic a statement.

It is in accord with the reports we get from our field commanders, reports which are required by this directive, the provisions of which I have inserted in the record.

Senator BUSH. I recall that some years ago there was a lot of opposition to the status-of-forces treaties by some elements at home here, and I am not sure but that one or two veterans' organizations took positions strongly opposed to it and so on, and there was some political objection to it, as I recall.

I think I am going back about 6 or 7 years on that.

Having been on this committee, it seemed to me from your successive reports that the supporters of this thing have been well justified in the decision to adopt these agreements. Is that still the opinion of the Defense Department?

Mr. FORMAN. It still is, sir.

Senator BUSH. You could not really get along very well without it, could you?

Mr. FORMAN. No, we could not.

Senator BUSH. And stay in these countries?

Mr. FORMAN. No.

I believe the opposition of those who are against these agreements was based on a viewpoint of international law which has not been substantiated: namely, that countries which have their troops stationed abroad in other countries are entitled as a matter of law to exercise exclusive jurisdiction over those troops.

At the time these agreements were negotiated, the executive branch took the position that that was not the correct view of international law, and I believe this was substantiated by the Supreme Court in the *Girard* case, the court having once again reinforced its decision of many years ago in the *Schooner Exchange* case to the effect that each government is sovereign within its own territory, and unless it consents expressly or impliedly to the diminution of that authority, no other government can exercise jurisdiction in its territory.

Accordingly, without these agreements, we would have no right to exercise jurisdiction at all. It is these agreements which give us the jurisdiction.

We believe that, generally speaking, the agreements provide for a fair division of that jurisdiction and a workable arrangement.

I believe that the reports we have been making for the past 9 years, based on the information supplied us by our field commanders and the reports we get from our observers who follow these cases actually in court, indicate that they are working satisfactorily, and that our expectations have been proven to be correct.

Senator BUSH. Did you deal with that chart or is the general going to?

Mr. FORMAN. The general will.

General TODD. With respect to your question, though, Senator Bush, may I say this:

That with respect to the forces themselves, under the old arrangements where we tried our people exclusively, this was much less trouble for us than it is to operate under these agreements.

It does take a lot of time of military people and legal people to monitor the trials and make reports. So, from our own standpoint, the soldier in the field, the old system where we tried our own people in our own courts was a very satisfactory operational agreement.

Mr. FORMAN. May I modify that, General Todd?

General TODD. Yes.

Mr. FORMAN. I believe the general is talking about a wartime situation.

We have never, prior to the post-World War II situation, had troops stationed in any numbers abroad.

Of course, in a wartime situation the Pentagon regards the jurisdictional arrangement as being most desirable as being that which gives us exclusive jurisdiction. We do not really foresee any other alternative.

In fact, when we negotiated the NATO Status of Forces Agreement itself, our representatives gave notice during those negotiations in the working groups and then in the Council that, in the event of hostilities, we would, pursuant to a provision of the agreement, give notice of our desire to terminate the peacetime arrangements, and that we would insist upon exclusive jurisdiction, in case of hostilities.

Senator ERVIN. As a matter of fact, you do not have quite the friction in time of war because, if you are in the host country as a friendly country, they are so glad to have our men there they will put up with a lot of misdeeds that they would not put up with in peacetime; is that not true?

Mr. FORMAN. That is true.

Senator ERVIN. And, of course, in peacetime, from the standpoint of our relations with the host country, it conduces very much to a good state of relationship to have their courts with the power to step in, in the more serious cases; does it not?

Mr. FORMAN. Yes, sir.

And, of course, at least the NATO Status of Forces Agreement is reciprocal.

The same provisions are equally applicable to Armed Forces personnel of the member countries that are stationed here in the United States.

We have had cases of local courts trying such personnel and also cases of such personnel being court-martialed by their own commanders.

Senator ERVIN. I have frequently remarked that I think that the foreign courts, as a rule, have leaned backward in the punishments they have imposed upon the cases that they take jurisdiction over.

Senator BUSH. I think the record shows that.

Senator ERVIN. I feel that when I was practicing criminal law, if I could have gotten my clients off as well as they got off in these foreign courts for some of the more serious offenses that they committed, I would have thought that I was doing a pretty good job for my clients.

Mr. FORMAN. I believe the charts that General Todd will shortly go into and demonstrate that the number of people who are actually sentenced to confinement unsuspended, compared to the number of offenses, is very, very small.

This shows up dramatically on the charts.

Senator ERVIN. There is an extremely small difference in the increase of granting of waivers in the NATO countries and a small decrease in those in other countries which, for all practical purposes, the amount of the percentage of waivers is virtually the same as it was for the previous reporting period.

Mr. FORMAN. That is correct.

General TODD. Just about.

Senator ERVIN. General, we will be glad to hear your statement.

STATEMENT OF BRIG. GEN. ALAN B. TODD, ASSISTANT JUDGE ADVOCATE GENERAL FOR MILITARY JUSTICE

General TODD. Mr. Chairman, since my report deals largely with statistics, I will submit it to the committee, and, if it is satisfactory, I will summarize it.

Senator ERVIN. That will be fine, General.

Let the record show that General Todd's report will be printed in full in the record before he makes his summary.

(The report referred to is as follows:)

26 OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY

PREPARED STATEMENT OF BRIG. GEN. ALAN B. TODD, ASSISTANT JUDGE ADVOCATE
GENERAL FOR MILITARY JUSTICE

FOREIGN CRIMINAL JURISDICTION

Mr. Chairman, before reporting the specific statistics on the operations of status-of-forces arrangements I will refer to charts A and B which reflect graphically for the past seven reporting periods the relationship between the number of cases over which foreign countries had the primary right to exercise jurisdiction and the number of such cases in which this right was waived to the United States.

(Chart A. Number of cases and number of waivers, trends 1954-61:)

Chart A deals with two categories of cases.

The green lines represent cases on a worldwide basis and the blue lines represent NATO cases.

The first green line from the top represents all world cases involving civilian and military personnel subject to the primary jurisdiction of a foreign country.

The second green line depicts the same information as to cases involving only military personnel.

The third green line represents the number of civilian and military cases in which foreign countries throughout the world waived their primary right to exercise jurisdiction.

The fourth green line represents the number of military cases in which foreign countries throughout the world waived their primary right to exercise jurisdiction.

The first blue line from the top represents all NATO cases involving civilians and military personnel subject to the primary jurisdiction of foreign countries.

The second blue line shows the same information as to NATO cases involving only military personnel.

The third blue line represents the number of civilian and military cases in which NATO countries waived their primary right to exercise jurisdiction.

The fourth blue line represents the number of military cases in which NATO countries waived their primary right to exercise jurisdiction.

From this chart it appears that the trends in numbers of waivers closely follow the trends in numbers of cases subject to foreign jurisdiction and that the trend of military and civilian waivers (both worldwide and NATO) all have much the same pattern. There appears to be no departure from these trends for this reporting period.

Chart B: Waiver percentage trends 1954-61:

Chart B illustrates the percentage of the total number of cases subject to the primary jurisdiction of foreign countries which have been waived to the United States in each of the past seven reporting periods.

The orange line represents the percentage of cases waived involving civilian and military throughout the world; the purple line represents the percentage of cases waived involving only military throughout the world; the green line represents the percentage of cases waived involving civilian and military stationed in NATO countries; and the blue line represents the percentage of cases waived involving only military stationed in NATO countries.

You will note that in the last two reporting periods the percentage of waivers obtained in all four categories has leveled off to between 58 and 59 percent.

EXERCISE OF CRIMINAL JURISDICTION—WORLD

I will now discuss various statistics pertaining to the exercise of criminal jurisdiction over U.S. forces by foreign tribunals throughout the world.

(Chart C: Exercise of criminal jurisdiction by foreign tribunals over U.S. personnel, December 1, 1960-November 30, 1961.)

I now refer to chart C. During the period December 1, 1960, through November 30, 1961, 11,707 U.S. military and civilian personnel were charged with offenses subject to the primary or exclusive jurisdiction of foreign courts throughout the world (8,516 of these offenses were traffic offenses).

Of the 11,707 persons so charged, 10,685 were military persons. In the military cases foreign authorities waived their primary right to exercise jurisdiction in 6,198 cases. This was a worldwide waiver rate of 58.01 percent. Throughout the rest of this report the waiver percentages given pertain solely to military personnel because as a result of recent Supreme Court decisions we no longer request waivers in all cases involving civilian personnel.

Chart C also reflects that of the 11,707 cases subject to foreign jurisdiction, 4,254 were tried by foreign courts (2,640 were traffic offenses). Foreign courts acquitted 212 accused, an overall acquittal rate of 4.98 percent as compared to

5.78 percent for the last reporting period. They imposed reprimands or fines only in 3,730 cases and adjudged confinement in 312 cases of which 198 were suspended and 114 not suspended.

(Chart D: Unsuspended sentences to confinement imposed on U.S. personnel by foreign courts:)

Chart D shows that there were 114 cases where a sentence to confinement was not suspended as compared to 117 such cases in the previous reporting period. The longest term of confinement during this period was the 16 years adjudged by a Greek court against Mrs. Jo Ann Baker, dependent wife of an airman, for manslaughter. Mrs. Baker killed her three children and attempted suicide. Her case is now on appeal. Generally, however, there has been during this period some decrease in the number of sentences to confinement unsuspended for over 1 year as compared to the preceding period.

(Chart E: Types of offenses:)

In this reporting period the number of alleged offenses subject to foreign jurisdiction increased slightly from 11,516 in the preceding period to 11,707. This increase of 191 cases occurred generally in the offenses of robbery and larceny (105), and simple assault (86). There was a decline in the number of rape cases (15) and the number of traffic cases (88).

(Chart F: U.S. personnel in confinement pursuant to sentences of foreign courts:)

Chart F illustrates that the number of individuals confined in foreign prisons continues gradually to decrease. The present 50 individuals in confinement is the lowest we have had.

NATO STATUS-OF-FORCES COUNTRIES

I will now discuss various statistics pertaining to the exercise of criminal jurisdiction over U.S. forces by the courts of countries signatory to the North Atlantic Treaty Organization Status of Forces Agreement.

(Chart C: Exercise of criminal jurisdiction by foreign tribunals over U.S. personnel, December 1, 1960–November 30, 1961:)

The number of alleged offenses subject to the jurisdiction of NATO status-of-forces countries decreased from 7,015 for the prior period to 6,810 for the current period.

The percentage of waivers of local jurisdiction granted by NATO countries increased from 58.41 percent to 58.83.

During the period December 1, 1960, through November 30, 1961, 6,810 U.S. personnel were accused of offenses subject to the primary or exclusive jurisdiction of courts of countries signatory to the NATO Status of Forces Agreement (5,448 of these offenses were traffic violations). NATO countries waived their right to exercise primary jurisdiction in 3,898 or 58.83 percent of the military cases. The 2,691 trials of U.S. personnel resulted in 152 acquittals, 2,348 sentences to fine or reprimand only, 132 suspended sentences to confinement, and 59 unsuspended sentences to confinement. There were no sentences to confinement in excess of 16 years.

There were 59 sentences to confinement not suspended as compared to 57 for the last reporting period.

I should like to insert in the record at this point two cumulative charts on the exercise of criminal jurisdiction in NATO countries and worldwide since 1953:

(Chart G: Exercise of criminal jurisdiction by tribunals of NATO countries since the various effective dates of the NATO status-of-forces agreements (through November 30, 1961):)

(Chart H: Summary of exercise of criminal jurisdiction worldwide by foreign tribunals over U.S. personnel, December 1, 1953, to November 30, 1961:)

I would also like to place in the record a statement detailing the worldwide expenditures in implementation of section 1037 of title 10, United States Code, during the reporting year. Under this statute, the United States may provide the funds to pay expenses incident to the defense of U.S. personnel subject to the Uniform Code of Military Justice before foreign tribunals within the limitations specified in service regulations.

(Chart I: Expenditures in implementation of 10 U.S.C. 1037, December 1, 1960–November 30, 1961:)

A comparison of the expenditures under this program with comparable figures in the previous annual report shows a decrease. During the current period \$51,121.93 was expended in 276 cases as compared with \$61,731.74 for 307 cases during the previous reporting period. The average cost per case has shown a decrease from \$201.08 to \$185.22.

Last year it was reported to the Committee that the *Kinsella v. Singleton* series of Supreme Court decisions had the effect of removing civilian employees and dependents from the category of personnel who may benefit under the statute which authorizes the use of appropriated funds to pay expenses incident to the defense of U.S. personnel subject to foreign jurisdiction and that legislation to broaden the scope of existing law to provide such coverage once more to such persons was before Congress. On May 15, 1961, this legislation passed the House of Representatives (H.R. 4322) and it is presently pending in the Senate Armed Services Committee.

I shall now review this reporting period for each of the individual countries in which the NATO Status of Forces Agreement is in effect.

Belgium

There were 18 cases subject to Belgian jurisdiction during the reporting period as compared to 42 cases, in the past reporting period. There were also 10 cases carried over from the past reporting period. Of these 28 cases waivers were obtained in 9 cases, charges were dropped in 11 other cases, 6 cases remain pending and 2 cases were tried by the Belgian courts. Of the two cases actually tried, a fine was imposed in one case, and the remaining case resulted in a reprimand.

Service representatives in Belgium report that the jurisdictional arrangements in that country have had no adverse effect upon the accomplishment of their mission or upon the morale or discipline of their forces.

Canada

During the reporting period, 327 U.S. personnel were involved in incidents primarily subject to the jurisdiction of Canadian courts as compared to 358 during the last reporting period. Jurisdiction was waived to the United States in only 14 cases. There were 6 cases resulting in acquittal, 288 cases in which fines only were adjudged, and 6 cases in which there were sentences to confinement not suspended. Six months' confinement was the maximum unsuspended sentence adjudged.

U.S. commanders report that the jurisdictional arrangements in effect in Canada have not adversely affected the accomplishment of their mission or the discipline or morale of their forces.

Denmark

There were five cases subject to local jurisdiction reported in Denmark as compared to one case during the last reporting period. In three of these cases jurisdiction was waived, charges were dropped in one case, and there was one conviction which resulted in a fine only.

Service representatives in Denmark report that the jurisdictional arrangements in that country have had no adverse effect upon the accomplishment of their mission or upon the morale or discipline of their forces.

France

During the reporting period France continued to waive jurisdiction, as it has in the past, in most of the cases in which it had the primary right to exercise jurisdiction. There were 3,936 cases subject to French jurisdiction as compared to 4,133 during the last reporting period. Waivers of local jurisdiction were obtained in 3,303 military cases, or 86.19 percent of the 3,832 military cases subject to French jurisdiction. Of the 556 persons tried, 34 were acquitted, 404 were sentenced to pay fines or reprimanded, 35 were sentenced to confinement not suspended, and 83 were sentenced to confinement suspended.

U.S. commanders in France report that the jurisdictional arrangements in that country have had no adverse effect upon the accomplishment of assigned missions, nor upon the morale and discipline of their commands.

Greece

In Greece, we operate under an agreement supplementary to the NATO Status of Forces Agreement in which the Greek Government has agreed to waive its primary right to exercise jurisdiction at U.S. request except in cases of particular importance to Greece. As a result of this agreement, the waiver rate in Greece remained exceptionally high. Only 3 cases were reserved for trial by the Greek authorities out of the 30 cases over which Greece had the primary right to exercise jurisdiction, a military waiver rate of 92.85 percent.

It is reported by the senior commander in Greece that the existing arrangements have had no adverse effect upon the accomplishment of the mission of the U.S. forces or upon the morale or discipline of U.S. personnel.

Italy

During the current period there was a reduction in the number of cases reported from Italy, 216 as compared to 235 in the last reporting period. Waivers were obtained in 50 (all military) cases, while charges were dropped in 68 cases, some of which were pending from the previous period. Of the 86 accused actually tried, 26 were acquitted, 38 received sentences to fine only, 16 were sentenced to confinement suspended, and 6 to confinement not suspended. Three years' confinement was the maximum sentence to confinement not suspended. Based only on military cases, the percentage of waivers has fallen from 34.40 percent for the last reporting period to 26.17 percent for the present period.

The Army commander in Italy again reports that the policy of restraint in requesting waivers has been favorably received by the Italian Government, and he credits this policy with having a substantial effect upon the increase in the percentage of waivers granted in serious cases.

U.S. commanders in Italy report that current agreements have had no adverse impact on the accomplishment of their missions or upon the morale or discipline of their forces.

Luxembourg

Service commanders in Luxembourg report that excellent relations continue to exist between U.S. forces personnel and the authorities of the Luxembourg Government.

During the reporting period 18 U.S. personnel as against 38 for the previous reporting period were alleged to have committed offenses subject to the jurisdiction of Luxembourg. Eight cases were carried over from the previous report. Primary jurisdiction was waived in 3 cases, 2 cases were dropped, 7 cases remain pending, and 14 cases reached trial. Of the 14 cases tried, 6 resulted in acquittal, 6 in sentences to fine only, and 2 to confinement suspended.

Netherlands

Our agreement with the Netherlands is the same as that which is in effect in Greece. Under this agreement the host country agrees to waive its primary right to exercise jurisdiction in all cases except those of particular importance to it. Waivers of jurisdiction were obtained in all of the 188 cases which arose in the Netherlands during the reporting period.

Service representatives in the Netherlands report that the jurisdictional arrangements in that country have had no adverse effect upon the accomplishment of their missions or upon the morale or discipline of their forces.

Norway

Three cases arose in Norway during the reporting period. No waivers were granted. The one case tried resulted in a conviction with a sentence to confinement suspended. Three cases are pending, one from the previous period.

The service representative in Norway reports that the jurisdictional arrangements in that country have not interfered materially in the accomplishment of his mission.

Portugal

No cases subject to local jurisdiction arose in Portugal during the reporting period.

Turkey

U.S. authorities continue to experience problems in Turkey in the excessive length of trials and in the refusal of Turkish authorities to grant waivers of their primary right to exercise jurisdiction. As reported last year, the Turkish Ministry of Justice has assured U.S. authorities that all public prosecutors would be instructed by the Ministry to comply with paragraph 9a, article VII, NATO Status of Forces Agreement, concerning lengthy trials. Nevertheless, trials of U.S. servicemen continue to extend over long periods of time.

During the reporting period 103 cases involving U.S. personnel arose as compared to 50 cases during the preceding year. This increase in cases is believed to be attributable largely to the greater diligence of Turkish police following the change in government in May 1960. Of the 64 cases tried, there were 26 acquittals, 3 reprimands, 5 fines, 24 cases of confinement suspended, and 6 sentences to confinement. The two longest sentences to confinement were 10 months.

The Army and Air Force commanders report that local jurisdictional arrangements have not had an adverse effect on the accomplishment of the mission of the command but have adversely affected morale.

The Navy commander reports that local jurisdictional arrangements have had an adverse effect on both the accomplishment of the mission and upon the morale of his command.

United Kingdom

During the reporting period 1,966 U.S. personnel were charged with offenses subject to British jurisdiction as compared to 1,946 during the previous reporting period. There were 1,742 traffic offenses. Of the 1,658 accused actually tried by British courts, 54 were acquitted, 1,596 received sentences of reprimand or fine only; 2 were sentenced to confinement suspended; and 5 were sentenced to confinement not suspended.

U.S. commanders report that our jurisdictional arrangements with the United Kingdom have had no adverse effect upon the accomplishment of their assigned missions, and that they have not been detrimental to the morale or discipline of their commands.

NATO COUNTRIES IN WHICH THE NATO STATUS OF FORCES AGREEMENT IS NOT IN EFFECT

I will now discuss various statistics pertaining to the exercise of criminal jurisdiction over U.S. forces by the courts of NATO countries in which the NATO Status of Forces Agreement is not in effect.

Federal Republic of Germany

Until the completion of the ratification of the Supplementary Agreement to the NATO Status of Forces Agreement, U.S. operations in the Federal Republic of Germany will continue to be governed by the Bonn Conventions. The Bonn Conventions in practice give the United States exclusive jurisdiction over its personnel.

It is expected that the ratification of the Supplementary Agreement to the NATO Status of Forces Agreement may be completed this year. The status of ratification by the various countries concerned is as follows:

(1) Canada and United States have filed their ratification documents for approval of the supplementary agreement.

(2) Germany, Great Britain, and the Netherlands have completed parliamentary ratification process and can file the necessary ratification documents at any time.

(3) In France President DeGaulle has ratified the supplementary agreement and France can also file its ratification document at any time.

(4) In Belgium the parliamentary ratification process is expected to be completed in the near future.

We have been advised that the sending states' representatives are endeavoring to arrange a predetermination of the effective date of the supplementary agreement.

When the new agreement goes into effect, article VII of the NATO Status of Forces Agreement will be supplemented in Germany by a simple waiver arrangement. In any case where concurrent jurisdiction exists Germany has agreed to an automatic waiver of its primary right. This waiver is subject to recall if German authorities within a 3-week period decide that by reason of the circumstances of the case "major consideration of German administration of justice makes imperative the exercise of German jurisdiction."

During the reporting period there were 65 cases involving civilian employees and dependents subject to German jurisdiction. There were two cases pending from the last reporting period. Twenty-five cases were tried by German courts. There was 1 acquittal, 5 sentences to confinement not suspended, 14 fines or reprimands only, and 5 suspended confinement sentences. Charges were dropped in 18 cases. There are 24 cases pending.

The Army commander has reported that German officials continue to be most cooperative and that the present jurisdictional arrangement has not produced any unfavorable impact upon the accomplishment of the mission of the command or upon morale and discipline.

Iceland

In Iceland during the reporting period 196 offenses were charged against U.S. personnel as compared to 268 offenses during the past reporting period. No waivers were granted by Icelandic authorities, but charges were dropped in 15 cases. In the 176 cases tried (including some pending as of the last report) there was 1 acquittal, 155 sentences to fines or reprimands, no sentences to confinement not suspended, and 20 sentences to confinement suspended. There were 100 offenses involving violations of economic control laws. As reported to the com-

mittee last year, these statistics are indicative of the very strict enforcement by Icelandic authorities of their customs laws and not a sign of extensive black-market activity.

The service commanders in Iceland report that jurisdictional arrangements have had no substantial adverse effect upon the morale and discipline of the members of their commands nor have they had an appreciable effect upon the accomplishment of the mission of the U.S. forces in Iceland.

EXERCISE OF CRIMINAL JURISDICTION IN NON-NATO COUNTRIES WHERE WE HAVE A JURISDICTIONAL AGREEMENT

I will now discuss various statistics pertaining to the exercise of criminal jurisdiction over U.S. forces by the courts of non-NATO countries where we have a jurisdictional agreement.

Azores

In the Azores jurisdiction was waived in all but 4 of the 88 cases arising during the reporting period. All four were traffic offenses. Commanders report that jurisdictional arrangements have not had an adverse effect upon the morale, discipline, or mission of U.S. forces in the Azores.

Japan

Our jurisdictional arrangements with Japan continue to operate very effectively. The waiver rate remains exceptionally high, waivers having been granted in 2,188 (93.02 percent) of the 2,352 military offenses subject to the jurisdiction of the Japanese courts. Of the 173 cases actually tried 133 resulted in sentences to fines, or reprimands, 29 resulted in sentences to confinement suspended, 10 resulted in sentences to confinement not suspended, and 1 resulted in acquittal. The longest sentence was 12 years.

All three service commanders report that the jurisdictional arrangements have had no adverse impact upon the accomplishment of their mission, or on the morale, or discipline of U.S. forces.

Morocco

There were 30 cases subject to Moroccan jurisdiction compared to 36 during the last reporting period. In seven of these cases the United States obtained waivers of jurisdiction. Of the 22 cases tried in Moroccan courts 4 resulted in acquittal and 18 resulted in the payment of fines.

Our commanders report that jurisdictional arrangements in Morocco have not had an adverse effect upon the accomplishment of the mission of their commands.

Philippines

The Republic of the Philippines grants few waivers of its right to exercise primary jurisdiction. The number of cases which finally go to trial in the Philippines, however, is very small. During the reporting period, of the 58 cases in which jurisdiction was reserved by Philippine authorities, only 3 actually reached the trial stage. In these cases two resulted in acquittal and one resulted in an unsuspended sentence to confinement for 2 months and 1 day to 1 year and 8 months. Our commanders report that jurisdictional arrangements in the Philippines have not had an adverse effect upon the accomplishment of their mission or on the morale of their commands.

Spain

During the reporting period 47 cases involving U.S. personnel occurred in Spain. There were nine trials resulting in two acquittals and seven convictions. Five convictions resulted in sentences to fines only and two to confinement suspended. Charges were dropped in 33 cases.

West Indies, including Bermuda, Trinidad, Antigua and the Bahama Islands (Eleuthera)

In the West Indies 217 offenses subject to local jurisdiction arose during the reporting period. No waivers were granted and 213 cases involving U.S. personnel were tried in the local courts. Of the cases tried 15 resulted in acquittal, 194 resulted in sentences to reprimands or fines only, and 4 resulted in unsuspended sentences to confinement, none exceeding 30 days. Two cases were dropped and two were pending as of the end of the reporting period.

It is reported by U.S. commanders in these areas that jurisdictional arrangements have not had an adverse effect upon the accomplishment of the mission of the U.S. forces in these areas.

32 OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY

New Zealand

There were 21 cases in New Zealand subject to local jurisdiction during the reporting period. Waivers were obtained in 18 of these cases. The three remaining cases were tried, two cases resulting in imposition of fines and one in 6 months confinement not suspended.

NON-NATO COUNTRIES WHERE WE DO NOT HAVE A JURISDICTIONAL AGREEMENT

I will now discuss various statistics pertaining to the exercise of criminal jurisdiction over U.S. forces by the courts of non-NATO countries where we do not have a jurisdictional agreement.

Austria

Three cases involving U.S. personnel arose in Austria during the reporting period. All were tried and convicted. One was fined, and two were sentenced to 1 to 2 months confinement not suspended.

Brazil

During the reporting period there were two cases involving U.S. personnel in Brazil. A waiver was obtained in one case, the other resulted in acquittal.

Dominican Republic

In the Dominican Republic one case pending from last year was tried and resulted in an acquittal. There have been no new cases.

Finland

There have been no cases reported from Finland.

Hong Kong

There were 15 incidents in Hong Kong subject to local jurisdiction compared to 5 in the preceding period. Fourteen cases were tried. Four resulted in sentences to confinement for 30 days not suspended and 10 resulted in sentences to fines only.

No U.S. forces are regularly stationed in Hong Kong. Personnel involved in incidents here are generally in a leave status.

Iran

There were 18 cases subject to the jurisdiction of Iranian courts arising during the reporting period and 5 cases pending from the preceding period. Three trials have been held, 11 are pending, and 9 charges were dropped. The cases tried resulted in fines. No waivers were granted.

Mexico

The number of reported offenses committed by U.S. personnel in Mexico has shown an increase from 699 cases during the preceding period to 943 for the current period. All cases reported were military. Charges were dropped in 186 of these cases. The increase in the number of incidents reported does not indicate an increase in the crime rate in Mexico but, instead, an improvement in reporting procedures. Almost all of these incidents occurred in the border towns. Of the 743 cases tried, 4 resulted in acquittal and 739 resulted in convictions. There were 2 cases in which there were sentences to confinement suspended, 23 cases in which there were sentences to confinement not suspended, 714 cases in which there were sentences of fine or reprimand only. The maximum sentence to confinement adjudged was a sentence of 2½ years.

Panama

The number of offenses involving U.S. personnel in Panama increased to 188 cases, as compared to 171 during the preceding period. Of the 174 cases tried, 28 resulted in acquittals, 133 resulted in sentences to reprimands or fines only, 8 resulted in suspended sentences to confinement, and 5 resulted in unsuspended sentences to confinement, the longest being for 8 months.

CHART A

NUMBER OF CASES AND NUMBER OF WAIVERS TRENDS 1954 - 1961

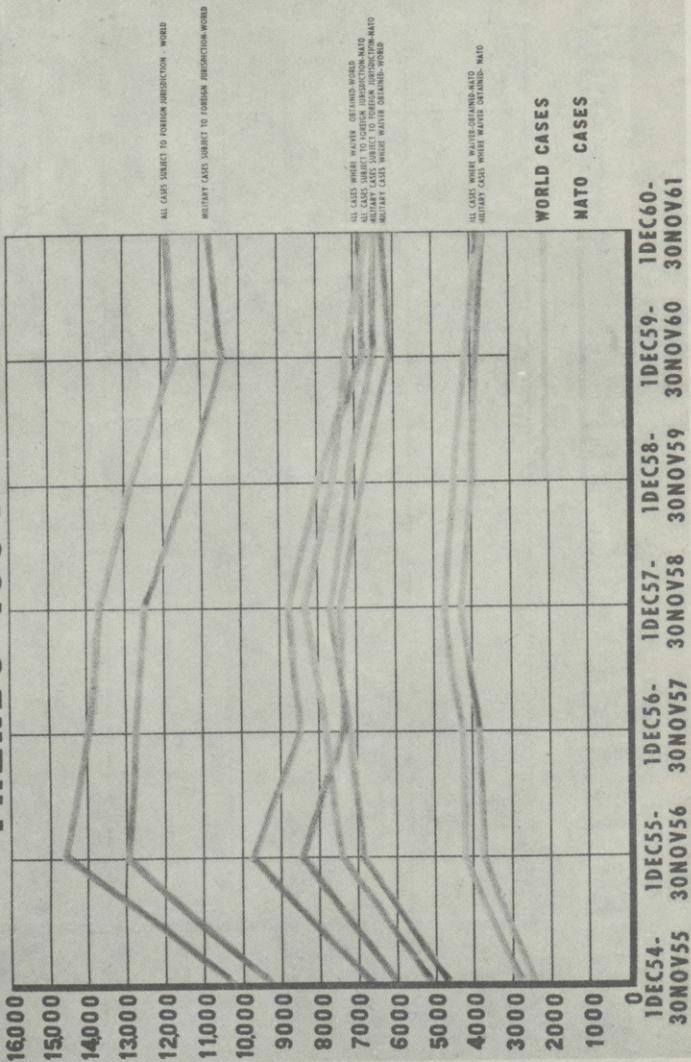


CHART B

WAIVER PERCENTAGE TRENDS 1954-1961

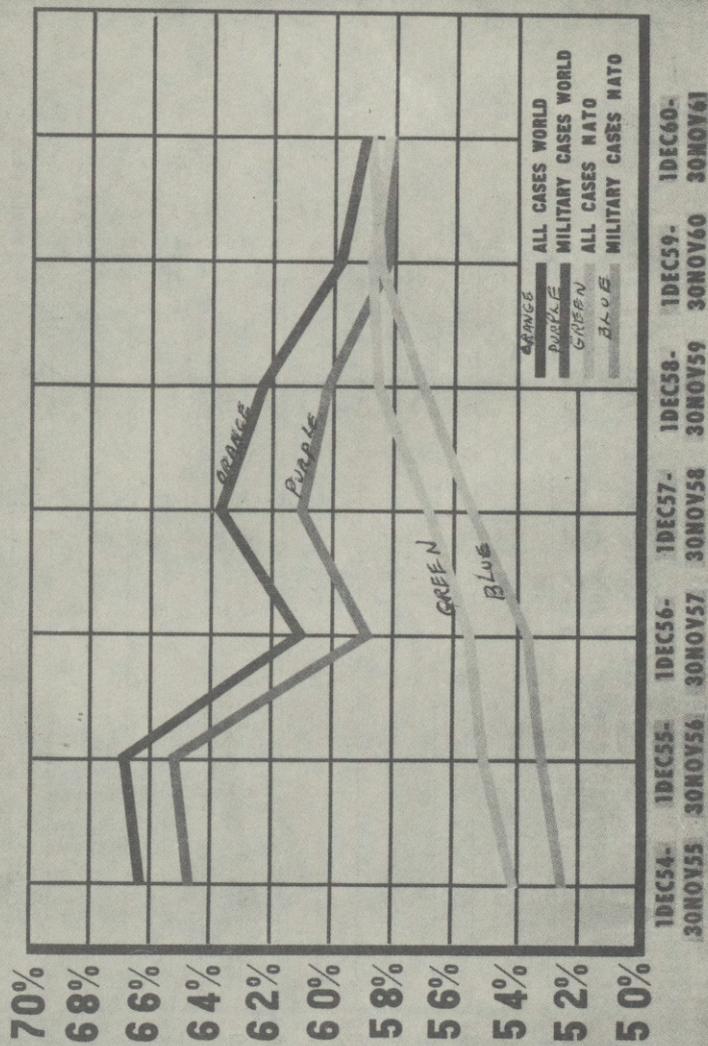


CHART C

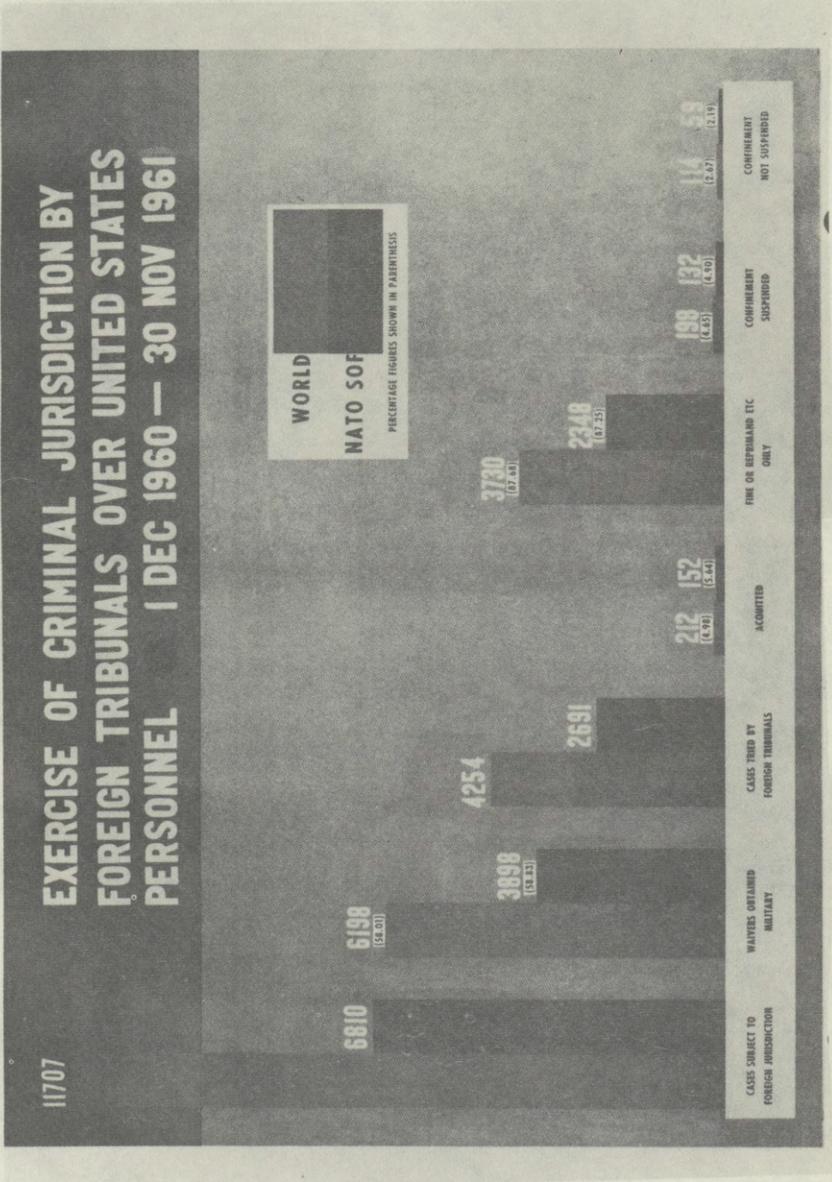


CHART D

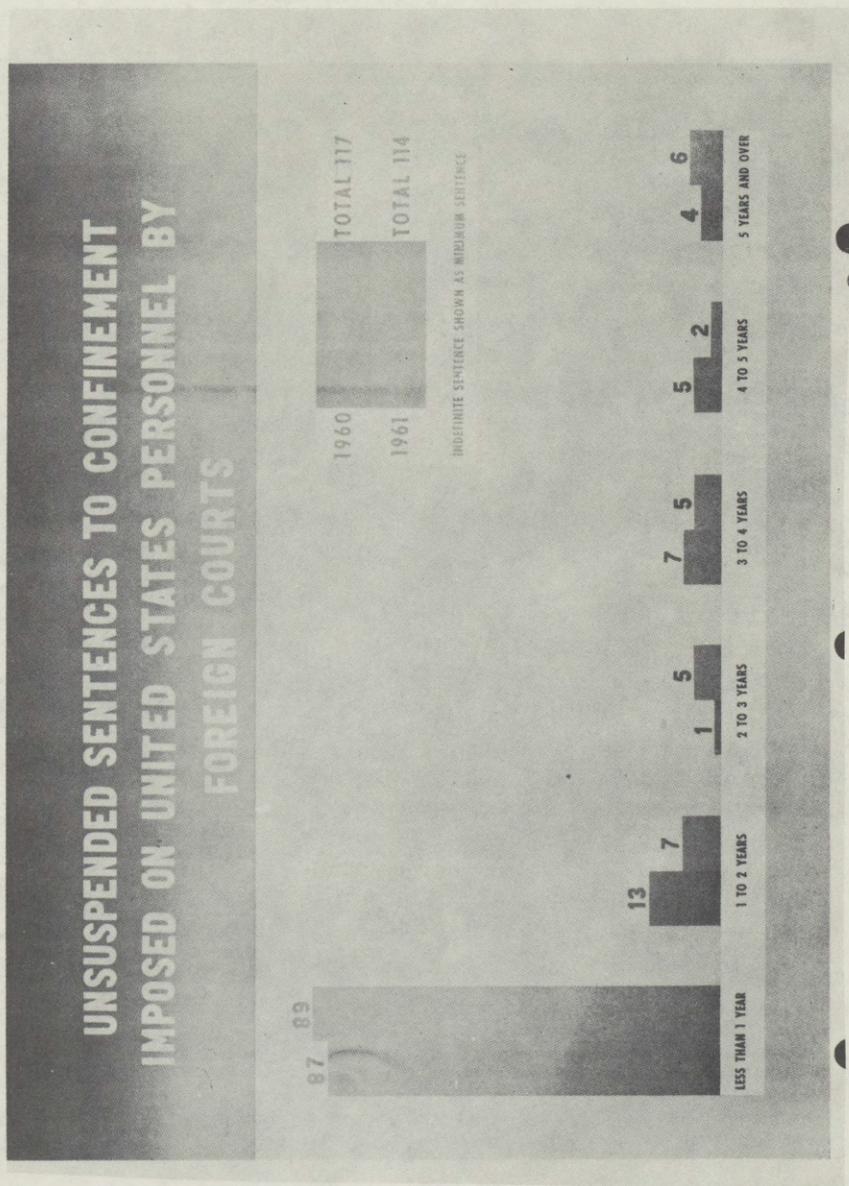


CHART G

EXERCISE OF CRIMINAL JURISDICTION BY TRIBUNALS OF NATO COUNTRIES SINCE THE VARIOUS EFFECTIVE DATES OF THE NATO STATUS OF FORCES AGREEMENTS (THROUGH NOVEMBER 30, 1961)

	CASES SUBJECT TO FOREIGN JURISDICTION										CASES TRIED										CONFINEMENT NOT SUSPENDED									
	1953	1954	1955	1956	1957	1958	1959	1960	1961	Total	1953	1954	1955	1956	1957	1958	1959	1960	1961	Total	1953	1954	1955	1956	1957	1958	1959	1960	1961	Total
Belgium (effective Aug 23, 1953)	1	20	7	16	24	127	129	42	18	384	1	0	2	2	1	0	4	7	2	19	0	0	0	0	0	0	0	1	0	1
Canada (effective Sep 27, 1953)	2	312	505	528	477	493	312	358	327	3314	0	249	426	406	372	453	293	329	307	2835	0	6	0	0	5	1	2	3	6	23
Denmark (effective June 27, 1955)	-	-	0	0	0	1	0	1	5	7	-	-	0	0	0	0	0	1	1	2	-	-	0	0	0	0	0	0	0	0
France (effective Aug 23, 1953)	267	2600	3172	3981	3829	4323	4236	4133	3936	30477	21	283	439	471	445	479	423	539	556	3656	15	31	28	42	28	30	14	26	35	249
Greece (effective July 26, 1954)	-	0	0	0	22	36	30	34	30	152	-	0	0	0	0	3	2	1	2	8	-	0	0	0	0	2	0	0	1	3
Italy (effective Jan 21, 1956)	-	-	-	86	374	586	432	235	216	1929	-	-	-	64	126	138	86	101	86	601	-	-	-	9	3	2	4	2	6	26
Luxembourg (effective July 23, 1954)	-	0	27	34	36	31	71	38	18	255	-	0	6	17	27	11	46	43	14	164	-	0	0	1	3	1	0	0	0	5
Netherlands (effective Aug 23, 1953)	2	5	11	69	104	129	111	171	188	790	0	1	0	1	0	0	0	0	0	2	0	1	0	0	0	0	0	0	0	1
Norway (effective Aug 23, 1953)	0	1	2	5	1	6	6	7	3	31	0	0	1	3	1	6	4	6	1	22	0	0	0	0	0	2	3	5	0	10
Portugal (effective Dec 22, 1955)	-	-	0	0	0	0	0	0	0	0	-	-	0	0	0	0	0	0	0	0	-	-	0	0	0	0	0	0	0	0
Turkey (effective June 17, 1954)	-	12	18	36	54	55	53	50	103	581	-	8	12	22	43	38	39	41	64	267	-	0	1	2	2	5	7	2	6	25
United Kingdom (effective Jan 13, 1954)	-	492	1235	2735	2783	2410	2365	1946	1966	15932	-	271	1225	2208	2124	1961	1843	1668	1658	12958	-	6	31	35	34	12	21	18	5	162
TOTAL	272	3442	4977	7490	7704	8197	7745	7015	6810	53652	22	812	2111	3194	3139	3089	2740	2736	2691	20534	15	44	60	89	75	55	51	57	59	503

NOTE: Figures for 1954 through 1961 run from December 1 of preceding year through November 30 of the stated year.

CHART H

SUMMARY OF EXERCISE OF CRIMINAL JURISDICTION WORLDWIDE BY FOREIGN TRIBUNALS OVER UNITED STATES PERSONNEL
DECEMBER 1, 1953 THROUGH NOVEMBER 30, 1961

	CASES SUBJECT TO FOREIGN JURISDICTION									CASES TRIED									CONFINEMENT NOT SUSPENDED								
	1954	1955	1956	1957	1958	1959	1960	1961	Total	1954	1955	1956	1957	1958	1959	1960	1961	Total	1954	1955	1956	1957	1958	1959	1960	1961	Total
Worldwide	7416	10249	14394	13971	13659	12909	11516	11707	95821	1475	3142	4437	4980	4263	4070	4163	4254	30784	77	120	108	124	96	100	117	114	856

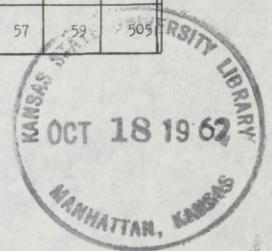


CHART E

**TYPES OF OFFENSES
SUBJECT TO FOREIGN JURISDICTION.**

1960

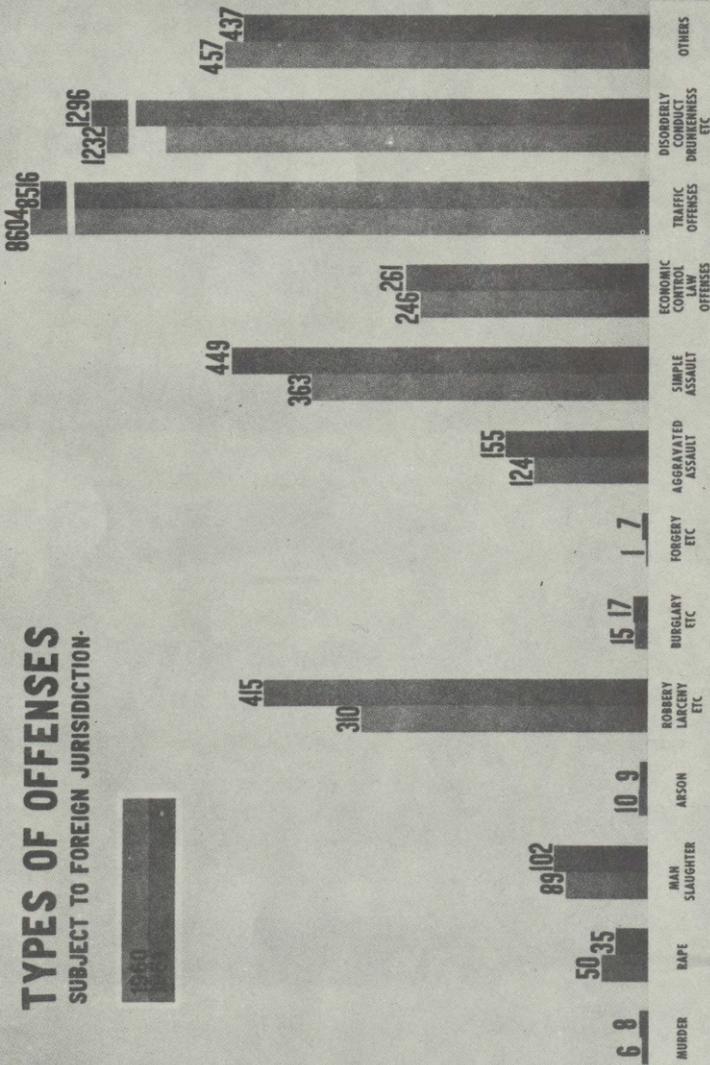


CHART F

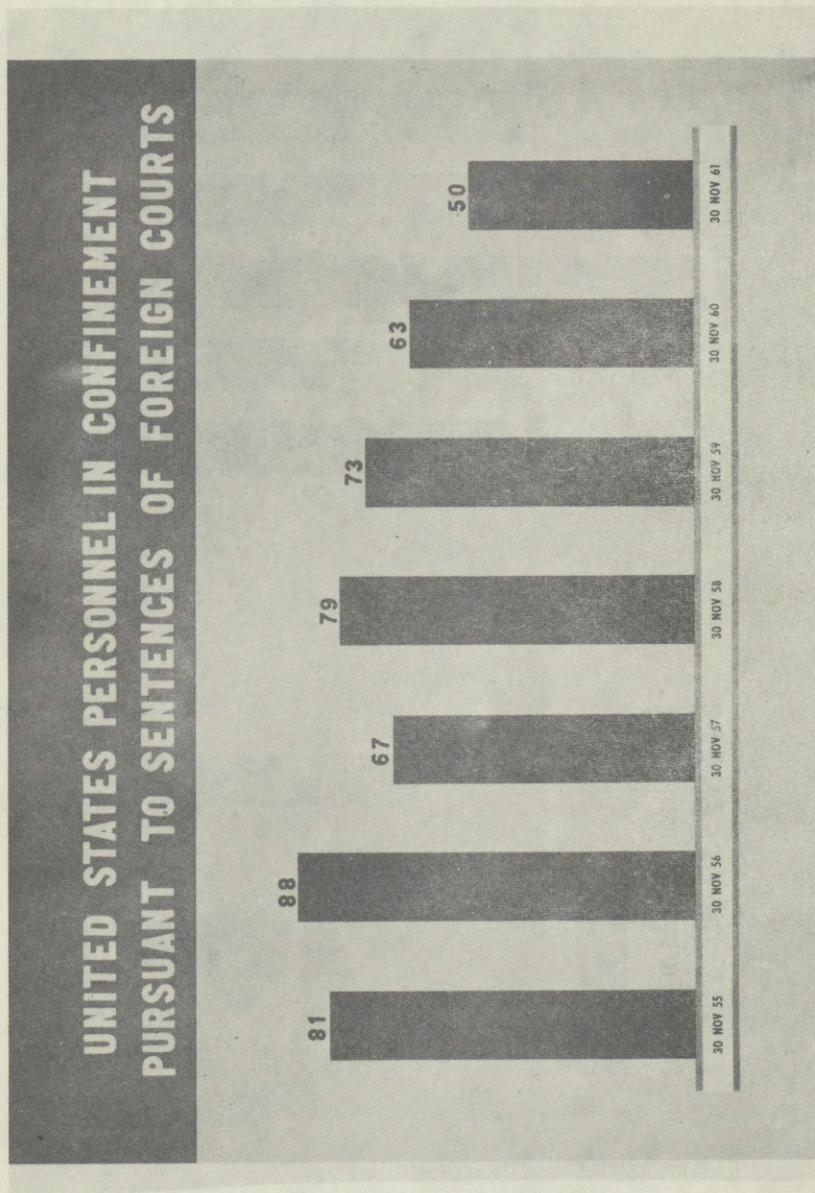


CHART I

Expenditures in implementation of 10 U.S.C. 1037, Dec. 1, 1960–Nov. 30, 1961

Country	Number of cases	Counsel fees	Bail	Court costs and other expenses	Net total paid during period
Belgium: Air Force.....	3	\$470.67			\$470.67
Bermuda: Air Force.....	4	317.57			317.57
Brazil:					
Army.....	2	240.00		\$1.58	241.58
Air Force.....	1	238.73			238.73
Canada: Air Force.....	3	645.00			645.00
France:					
Army.....	35	4,067.10			4,067.10
Air Force.....	3	214.28			214.28
Iceland: Air Force.....	2	297.44			297.44
Iran: Army.....	18	400.00	(\$3,552.63)		400.00
Italy:					
Army.....	31	2,778.45			2,778.45
Navy.....	8	¹ 1,317.36		222.67	1,540.03
Air Force.....	1	95.33			95.33
Japan:					
Army.....	13	2,375.00		530.33	2,905.33
Navy.....	28	4,000.00		1,884.95	5,884.95
Air Force.....	26	5,400.00		36.38	5,436.38
Mexico: Army.....	4	1,100.00			1,100.00
Morocco: Navy.....	11	1,000.00			1,000.00
New Zealand: Navy.....	1	170.27		5.61	175.88
Norway: Air Force.....	1	205.34			205.34
Panama:					
Army.....	18	1,875.00	(5,800.00)	207.96	2,082.96
Navy.....	1	200.00	(250.00)		200.00
Philippines:					
Navy.....	2	² 1,000.00			1,000.00
Air Force.....	7	1,266.63			1,266.63
Trinidad: Navy.....	1	77.10	(588.92)		77.10
Turkey:					
Army.....	6	1,111.11	(777.77)	67.22	1,178.33
Navy.....	2	166.66			166.66
Air Force.....	25	8,166.67	(222.22)	516.33	8,683.00
United Kingdom:					
Navy.....	3	869.78			869.78
Air Force.....	16	7,583.41			7,583.41
Total.....	276	47,648.90	³ (11,191.54)	3,473.03	51,121.93

¹ \$255.76 expended on 1 civil case.
² \$500 expended on 1 civil case.
³ No bail forfeited.

General TODD. Mr. Chairman and gentlemen, if you will refer to chart A which is before you, this shows that for the 7 years we have received reports on the exercise of criminal jurisdiction by foreign courts over U.S. personnel, the trends in number of waivers closely follow the trends in number of cases subject to foreign jurisdiction and that the trend of military and civilian waivers, both worldwide and NATO, all have much the same pattern.

The green lines in the chart before you, chart A, refer to cases on a worldwide basis, and the blue lines refer to cases under the NATO status-of-forces agreements.

You relate the two upper green lines to the two lower green lines to show the percentage of waivers worldwide, and relate to two upper blue lines with the two lower blue lines to show the trends in waivers under the NATO agreements.

Senator BUSH. I am sorry, what was that? The two upper green lines?

General TODD. Yes.

Senator BUSH. What do they show?

General TODD. They show you the cases referred to on a worldwide basis; that is, countries where we have no agreements, countries

where we have agreements similar to the NATO agreements, and the NATO countries.

Senator BUSH. That is overall?

General TODD. That is overall.

Senator ERVIN. Maybe I can make it a little plainer putting it this way, if I construe the chart rightly.

You have slightly in excess of 10,000 cases arising, all together, in the armed services abroad in all the countries?

General TODD. Yes.

Senator ERVIN. Where they are stationed?

General TODD. That is correct.

Senator ERVIN. And you have a little over 9,000—I believe you are right; I am looking at—there is about a thousand difference.

In other words, you have about 12,000, the grand total of all the cases in all the countries, and then you have slightly under 11,000 that were in countries where we had these jurisdictional arrangements; is that correct?

General TODD. No, that figure slightly under 11,000 refers to military cases worldwide.

Senator ERVIN. In other words, it is somewhere in the neighborhood of about 1,100 or 1,200 cases in countries where we had no mutual arrangement of a jurisdictional nature.

Senator BUSH. Is that right?

General TODD. The upper green line of the two on the top refers to all cases worldwide.

The lower green line on the top refers to military cases worldwide.

Senator BUSH. Then both those upper lines refer to cases with foreign jurisdiction.

Eleven-twelfths of it, you might say, is military?

General TODD. That is correct.

Senator BUSH. And the other one-twelfth is civilian?

General TODD. That is correct.

Senator ERVIN. Thank you.

I misconstrued that. I am glad you straightened me out.

General TODD. As you will see, these trends have not changed during this reporting period.

Unless there are questions on chart A, I will turn to chart B.

Chart B illustrates the percentage of the total number of cases subject—

Senator ERVIN. Before you get to that, General, on chart A, the decrease in the number of cases is due largely, or is due to a decrease in personnel abroad, rather than to better behavior on the part of personnel, is that not true?

General TODD. You mean over the years, Senator Ervin?

Senator ERVIN. Yes.

General TODD. Well, now, that may be so, but actually I think our personnel has remained fairly constant.

Senator ERVIN. I am glad that a more optimistic construction can be placed on the statement I made.

General TODD. It can be a combination of both.

Chart B illustrates the percentage of the total number of cases subject to the primary jurisdiction of foreign countries which have been waived to the United States in each of the past seven reporting periods. In the last two reporting periods the percentage of waivers

obtained in all four categories has leveled off to between 58 and 59 percent.

Senator BUSH. And the other 41 percent has been tried by the local jurisdiction, is that right?

General TODD. That is correct, or they are still pending.

Senator BUSH. Yes.

General TODD. Will you turn to chart C.

I refer to chart C. During the period December 1, 1960, through November 30, 1961, 11,707 U.S. military and civilian personnel were charged with offenses subject to the primary or exclusive jurisdiction of foreign courts throughout the world (8,516 of these offenses were traffic offenses, although it does not appear on the chart).

This graphically shows the number charged with the waivers obtained, the cases tried, and those acquitted.

Of the 11,707 persons so charged, 10,685 were military persons.

That also does not appear on the chart.

In the military cases foreign authorities waived their primary right to exercise jurisdiction in 6,198 cases. This was a worldwide waiver rate of 58.01 percent. Throughout the rest of this report the waiver percentages given pertain solely to military personnel because as a result of recent Supreme Court decisions we no longer request waivers in most cases involving civilian personnel.

Chart C also reflects that of the 11,707 cases subject to foreign jurisdiction, 4,254 were tried by foreign courts. Another figure which does not appear on the chart is that 2,640 of these were traffic offenses. Foreign courts acquitted 212 accused, an overall acquittal rate of 4.98 percent as compared to 5.78 percent for the last reporting period. They imposed reprimands or fines only in 3,730 cases and adjudged confinement in 312 cases of which 198 were suspended and 114 not suspended.

Chart D shows that there were 114 cases where a sentence to confinement was not suspended as compared to 117 such cases in the previous reporting period. The longest term of confinement during this period was the 16 years adjudged by a Greek court against Mrs. Jo Ann Baker, dependent wife of an airman, for manslaughter. Mrs. Baker killed her three children and attempted suicide. Her case is now on appeal.

And, although the Supreme Court of Greece has heard the arguments on appeal, they have not handed down their decision as yet.

Generally, however, there has been during this period some decrease in the number of sentences to confinement unsuspended for over 1 year as compared to the preceding period.

Chart E shows that the number of alleged offenses subject to foreign jurisdiction increased slightly from 11,516 in the preceding period to 11,707. This increase of 191 cases occurred generally in the offenses of robbery and larceny (105), and simple assault (86). There was a decline in the number of rape cases (15) and the number of traffic cases (88).

Chart F illustrates that the number of individuals confined in foreign prisons continues gradually to decrease. The present 50 individuals in confinement is the lowest we have had at the end of any annual reporting period. Since these statistics were compiled, we have even a lower figure, and, as of the 31st of May of this year, we had 44.

Senator ERVIN. Thirty-four?

General TODD. Forty-four confined in foreign prisons.

Under section 1037, title 10, United States Code, the United States may provide the funds to pay the expenses incident to the defense of U.S. personnel subject to the Uniform Code of Military Justice before foreign tribunals within the limitations specified in service regulations.

A comparison of the expenditures under this program with comparable figures in the previous annual report shows a decrease. During the current period \$51,121.93 was expended in 276 cases as compared with \$61,731.74 for 307 cases during the previous reporting period. The average cost per case has shown a decrease from \$201.08 to \$185.22.

Last year it was reported to the committee that the *Kinsella v. Singleton* series of Supreme Court decisions had the effect of removing civilian employees and dependents from the category of personnel who may benefit under the statute which authorizes the use of appropriated funds to pay expenses incident to the defense of U.S. personnel subject to foreign jurisdiction and that legislation to broaden the scope of existing law to provide such coverage once more to such persons was before Congress. On May 15, 1961, this legislation passed the House of Representatives (H.R. 4322) and it is presently pending in the Senate Armed Services Committee.

In conclusion, this year no U.S. commander has reported that jurisdictional arrangements have measurably affected the accomplishment of his mission. Accordingly, the Department of Defense considers that present status of forces arrangements are workable and satisfactory.

I also have a few remarks to make in the executive session, Mr. Chairman.

Senator ERVIN. Senator Thurmond, do you have any questions you would like to ask General Todd?

Senator THURMOND. I do not believe I do, Mr. Chairman.

Senator ERVIN. Senator Bush?

Senator BUSH. No, sir.

I think it is a very good report.

Senator ERVIN. I am very much pleased with it, especially with the fact that they have such a substantial decrease in the number of persons in prison over the first few years in which these jurisdictional arrangements were in force.

General TODD. Yes.

Senator ERVIN. The subcommittee will go into executive session.

(Whereupon, at 3:05 p.m., the subcommittee went into executive session.)





