

109TH CONGRESS
1ST SESSION

H. R. 3174

To direct the Secretary of the Army to carry out without delay a thorough review of the cases of all 28 individuals convicted in the court-martial arising from a disturbance at Fort Lawton, Seattle, Washington, on August 14, 1944, and to require the Secretary to correct the military records (including the record of the court-martial in such case) of any individual as necessary to rectify error or injustice.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. McDERMOTT (for himself, Mr. DICKS, Mr. OWENS, Mr. CUMMINGS, Mr. SMITH of Washington, Mr. CLAY, Mr. MEEK of Florida, Mr. INSLEE, Ms. KILPATRICK of Michigan, Ms. CARSON, Mr. JEFFERSON, Ms. WATSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. WATT, Mr. RANGEL, Mr. SCOTT of Virginia, Mr. TAYLOR of Mississippi, Ms. SOLIS, Mr. JACKSON of Illinois, Mr. CONYERS, Mr. BAIRD, Mr. LARSEN of Washington, Mr. HONDA, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To direct the Secretary of the Army to carry out without delay a thorough review of the cases of all 28 individuals convicted in the court-martial arising from a disturbance at Fort Lawton, Seattle, Washington, on August 14, 1944, and to require the Secretary to correct the military records (including the record of the court-martial in such case) of any individual as necessary to rectify error or injustice.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

5 (1) The largest and longest United States Army
6 court-martial of World War II took place in 1944 at
7 Fort Lawton, in Seattle, Washington.

8 (2) Forty-three defendants, all of them African
9 American, were charged with rioting, carrying a
10 maximum penalty of life in prison, and three of
11 those defendants were also charged with the first-de-
12 gree murder of Guglielmo Olivotto, an Italian pris-
13 oner of war, carrying a maximum penalty of death.

14 (3) The alleged crimes occurred at Fort Lawton
15 on the night of August 14, 1944, in a segregated
16 area reserved for African American enlisted men of
17 the United States Army and for an Italian Service
18 Unit (ISU).

19 (4) On August 14, 1944, a member of the
20 650th Port Company (an African American unit at
21 the fort) had a brief fistfight with a member of the
22 28th Italian Service Unit. Over the next 45 minutes,
23 approximately 200 African American soldiers from
24 all three port companies entered the adjacent Italian
25 Service Unit area and a disturbance ensued. Some

1 portion of that group used fence posts, rocks, bricks,
2 and knives to injure members of the Italian unit and
3 four American soldiers assigned to the Italian unit.
4 After military police arrived and order was restored,
5 24 men were taken to the hospital for treatment.

6 (5) On August 15, 1944, two military police-
7 men on patrol spotted the lifeless body of Italian
8 prisoner of war, Private Guglielmo Olivotto, lynched
9 with a rope tied to an obstacle course cable.

10 (6) On October 28, 1944, Brigadier General El-
11 liot D. Cooke of the Army's Inspector General Office
12 filed a report with the commanding general of Army
13 Service Forces. After spending several weeks to take
14 the recorded sworn testimony of 164 witnesses, Gen-
15 eral Cooke made numerous conclusions, all of which
16 highlighted the fact that the Army's investigation
17 was deeply flawed and, in the words of the General
18 himself, was "reprehensible".

19 (7) As a direct result of General Cooke's report,
20 the Fort Lawton commanding officer was relieved of
21 his command, the fort provost marshal was reas-
22 signed, and two white military policemen who failed
23 to intervene at the outset of the disturbance were
24 court-martialed. Nonetheless, the trial of 43 African

1 American soldiers charged as a result of the disturb-
2 ance proceeded.

3 (8) The defendants were tried in a group, and
4 all 43 shared two Army defense counsel, who were
5 given just 10 days to prepare the defense. The
6 court-martial lasted 24 trial days.

7 (9) The Cooke Report and its voluminous tran-
8 scripts were in the possession of the Army pros-
9 ecutor, Lieutenant Colonel Leon Jaworski, through-
10 out the trial. When defense attorney Major William
11 Beeks requested access to the report in open court,
12 Lieutenant Colonel Jaworski refused, and the mem-
13 bers of the court-martial panel refused to intervene.

14 (10) The central prosecution witness was an
15 Italian prisoner of war whom United States Army
16 intelligence had previously identified as “probably
17 pro-Nazi,” a fact not made available to the defense.

18 (11) The military policemen who had failed to
19 intervene at the outset of the disturbance were wit-
20 nesses for the prosecution. The fact that both were
21 to be court-martialed for their role in the disturb-
22 ance was not made known to the defense.

23 (12) The prosecution was unable to produce a
24 murder weapon at trial, nor did it offer any witness

1 or physical evidence linking any of the defendants to
2 the death of the Italian prisoner of war.

3 (13) Twenty-eight defendants were found guilty
4 of rioting and two were also found guilty of man-
5 slaughter. All were sentenced to a period of confine-
6 ment, for periods ranging from six months to 25
7 years, with the average period of confinement to
8 which they were sentenced being 7.5 years, and all
9 but one of those convicted received a dishonorable
10 discharge.

11 (14) On April 19, 1945, a three-member panel
12 of the United States Army Board of Review, faced
13 with one of the most voluminous trial transcripts of
14 the war, summarily dismissed all appeals without
15 comment.

16 (15) Of the 27 soldiers whose sentences in-
17 cluded a dishonorable discharge, a few re-enlisted at
18 the end of their prison term and eventually obtained
19 an honorable discharge. The rest spent or are spend-
20 ing the rest of their lives with the dishonorable dis-
21 charge on their military records.

22 **SEC. 2. REVIEW OF FORT LAWTON COURT-MARTIAL CASES.**

23 (a) REVIEW.—The Secretary of the Army shall carry
24 out without delay a thorough review of the cases of all
25 28 individuals convicted in the court-martial arising from

1 a disturbance at Fort Lawton, Seattle, Washington on Au-
2 gust 14, 1944. The purpose of the review shall be to deter-
3 mine the validity of the original findings and sentences
4 and the extent, if any, to which racial prejudice or other
5 improper factors now known may have tainted the original
6 investigations and trials.

7 (b) REPORT.—Not later than six months after the
8 date of the enactment of this Act, the Secretary shall sub-
9 mit to Congress a report on the results of the review under
10 subsection (a). The Secretary shall include in the report
11 the Secretary's findings and a statement of the actions
12 that Secretary has taken, and intends to take, as a result
13 of such review.

14 (c) CORRECTION OF RECORDS.—If the Secretary de-
15 termines that the conviction of an individual in any case
16 reviewed under subsection (a) was in error or an injustice,
17 then, notwithstanding any other provision of law, the Sec-
18 retary shall correct that individual's military records (in-
19 cluding the record of the court-martial in such case) as
20 necessary to rectify the error or injustice.

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