

HEADQUARTERS 97th INFANTRY DIVISION
Camp Swift, Texas

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REPORT OF THE DIVISION JUDGE ADVOCATE FOR SEPTEMBER 1943

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HEADQUARTERS 97th INFANTRY DIVISION
Office of the Judge Advocate

Camp Swift, Texas
2 October 1943

SUBJECT: Report of the Division Judge Advocate for September 1943.

TO : The Commanding General, 97th Infantry Division.

I. AWOL. In September 1943, 197 soldiers were absent without leave from the Division, a decrease of over 50% from the 451 absentees in August. The number of soldiers AWOL was relatively high in the early part of September, with a steady decline in the latter part of the month, as the furlough period ended. This decline should continue in October. Comparative statistics for the past four months:

	<u>No. of Soldiers AWOL</u>	<u>No. of Man- Days Lost</u>	<u>Average Number of Days per Man</u>
June	69	633	9
July	186	777	4
August	451	3433	7½
September	197	2167	11

As noted in the August report, the average soldier overstaying furlough and remaining absent without leave in the latter part of the furlough period was generally a soldier with a poorer record than the average soldier who earned an early furlough. Such soldiers with poor records, once AWOL, generally remained AWOL longer than soldiers with previous good records. This accounts, in large part, for the increase in September in the average number of man-days per man lost from AWOL. The number of men AWOL by units, and the number of days lost, is shown in Inclosure 1.

II. COURTS MARTIAL. The 143 court martial trials in September represented an increase of 39 cases over the August total of 104. Jurisdictionally, the September cases were divided as follows:

General courts	2
Special courts	48
Summary courts	93

These cases are tabulated by units in Inclosure 2. Inclosure 3 is a comparative tabulation by units for the months of May, June, July, August, and September. While AWOLs are responsible for the bulk of cases, the increase in court martial trials in September is not limited to any one type of offense, but is distributed between various types of offenses. This is illustrated by the following comparisons:

Report to the Commanding General - continued.

	<u>AWOL cases</u>	<u>Drunk cases</u>	<u>Other</u>
August	62	25	16
September	76	36	29

Distribution of these offenses by unit and by offense is shown in Inclosure 4, while Inclosures 5 (Special court cases) and 6 (Summary court cases) contain an analysis by courts, units, offenses, sentences, and actions by reviewing authorities, of every special and summary court case reported for September. Miscellaneous offenses included disobedience and failure to obey (6), disorderly without being drunk (5), wrongful taking of property (4), curfew violations (3), stealing chicken (2), impersonating officer (2), asleep on guard (1), leaving post (1), breaking parole (1), bad checks (1), assault and battery (1), and false statements (1). These are shown on Inclosures 5 and 6.

There were 4 acquittals in September, 2 in special and 2 before summary courts, 2 in drunk cases and 2 in disorderly cases. Such acquittals are generally based upon conduct away from the post, where the courts do not believe the soldier's conduct was such as to justify conviction. There were no acquittals in AWOL cases, or any other case involving a purely military offense.

The number of courts martial (all types) for the past five months is as follows:

	<u>Total cases</u>
May	118
June	89
July	101
August	104
September	145

Over one-half of the September total (76 out of 145) were AWOL cases. While the total number of cases in September showed a sharp increase over preceding months, an average for the four preceding months shows that the increased AWOL rate is responsible for the September total. This is illustrated by comparison of the July (an average month) and September rates:

	<u>Total cases</u>	<u>AWOL</u>	<u>Drunk</u>	<u>All other</u>
July	101	58	30	52
September	145	76	36	51

III. TIME AWAITING TRIAL. The average time interval between arrest or confinement and trial, during September, was as follows:

Special court cases	5.8 days
Summary court cases	4.6 days

Report to the Commanding General - continued.

The time interval required in the processing of court martial charges reveals a highly satisfactory average period. A pertinent commentary on this subject is included in the September issue of the Information Circular of The Inspector General's Office, covering 50 stockades and guardhouses for U.S. Army prisoners, which states in part:

"Excessive delay between the dates of a soldier's commitment, trial and sentence was found to be almost general. ***The average amount of time which elapsed between the dates of confinement and trial was between 2 and 3 weeks for all posts. In one case a soldier had been confined for 3 months without trial. At another post, 26 percent of the prisoners had been awaiting trial for over 30 days. On the other hand, at Camp ----, this time period averaged only 4 days." IG Inf. Circ., Sept. 1943, Vol. 3, No. 9.

This foregoing citation from an Inspector General's report reflects very favorably upon the period of time required within this Division in handling courts martial matters.

IV. CONFINEMENT. On 30 September 1943 there were 79 Division prisoners in the stockade, exactly the same number who were in confinement on 31 August 1943. The number of prisoners in the stockade reached a total of 115 at one time in September, when the number of AWOLs was at its height. This number was reduced by the transfer of 6 garrison prisoners and 1 general prisoner to the Rehabilitation Center at Camp Bowie, by the expiration of some sentences, and by the suspension of a larger number of sentences.

Inclosure 7 shows the number of sentenced prisoners in the stockade by units on 30 September 1943.

V. MILITARY POLICE REPORTS. Military police reports for September totaled 282, or 25.1 per thousand men. While the total number of reports has declined from previous months (June 351, July 293, August 299, September 282), the rate per thousand men has not declined, due to the decreased personnel. The September rate is very close to the June rate. This reflects good disciplinary training, as the average soldier is bolder and more aggressive now than he was in June.

Inclosure 8 is an analysis of September reports by unit and by offense. Inclosure 9 is a comparative table of military police reports from May through September. Improper uniform and off-limits reports showed a marked decline in September. There was an increase in AWOL and drunk reports, with relatively minor changes in the number of other offenses reported.

VI. CONCLUSIONS.

a. There was a sharp decline in September (over 50%) in AWOLs from the August Total (as predicted in the August report).

b. The number of court martial trials in the Division increased

Report to the Commanding General - continued.

markedly over August, due largely but not wholly to the cumulating increase in AWOL cases.

e. The number of court-martial cases will probably decline in October, as the AWOL rate continues to decline.

d. The Division has an exceptionally low average period of confinement before trial (4.3 days), being only 0.3 days per case below the record in the Army cited in the Inspector General's Information Circular, and being only one-fourth the average time lapse found at 50 stockades and guard house inspected by the Inspector General's Department.

e. The exercise of clemency power has not been uniform as between units within the Division.

f. The total number of military police reports remained fairly constant.

g. Confinement awaiting trial often is ordered by unit commanders in minor cases not warranting restraint prior to trial.

h. There has been a failure of some units to return prisoners for training prior to trial, or while on night problems, due to misunderstanding of the Regulations.

VII. RECOMMENDATIONS. In view of the impending permanent change of station of the Division, it is accordingly recommended:

a. That commanding officers be encouraged to make wide use of their powers of suspension and remission of sentences in all cases except those where such action would be wholly unwarranted.

b. That officers having special and summary court-martial jurisdiction exercise freely their powers of mitigation or suspension at the time of review in the cases of youthful first offenders and thus obviate the necessity of transporting a large number of garrison prisoners to the maneuver area.

c. That in the cases of those prisoners whose offenses involve moral turpitude or whose records disclose that suspension or remission at this time would be highly ill-advised, efforts be made to effect their transfer to the Eighth Service Command Rehabilitation Center, Camp Bowie, Texas.

d. That commanding officers review those sentences heretofore suspended by them and remit the unexecuted suspended sentences in cases where a course of good conduct and satisfactory service has been continuous since such suspension. It is further recommended that a personal interview be attendant to the action of remission.

Report to the Commanding General - continued.

e. That a directive issue from this Headquarters outlining the Division policy in regard to the return of prisoners for daily training, particularly during exercises requiring the unit to be out of garrison and while men are in confinement awaiting trial.

RALPH W. YARBOROUGH,
Captain, JAGD,
Division Judge Advocate.

AWOL REPORT FOR MONTH OF SEPTEMBER

30 September 1943

<u>UNIT</u>	<u>NO. OF MEN AWOL</u>	<u>DAYS LOST</u>
Division Headquarters	1	1
Headquarters Special Troops	0	0
Headquarters Company	0	0
Band	0	0
M.P. Platoon	0	0
97th Signal Co.	8	53
97th Hun Tr (Head)	4	29
303d Inf	58	690
306th Inf	48	503
307th Inf	47	503
Hq & Hq Bury Div Arty	0	0
303d FA Bn	2	11
305th FA Bn	2	11
309th FA Bn	6	90
922d FA Bn	5	12
322d Ingr Bn(Combat)	7	63
322d Med Bn	19	163
97th QM Co	3	26
797th Ord L.M. Co.	0	0
	<u>197</u>	<u>2167</u>

97TH INFANTRY DIVISION

TABULATION OF COURTS-MARTIAL

SEPTEMBER 1943

<u>Organization</u>	<u>Specials</u>	<u>Summaries</u>	<u>Total</u>
303d Inf.	13	19	32
386th Inf.	3	24	27
387th Inf.	11	21	32
303d FA	4	3	7
365th FA	1	5	6
389th FA	7	4	11
922d FA	0	2	2
Hq Btry Div Arty	2	1	3
322d Engrs.	5	7	12
322d Medic.	1	3	4
797th Ord. Co.	0	0	0
97th Div Hq Co.	1	1	2
97th Ren. Tr.	0	0	0
97th QM Co.	0	2	2
97th Signal Co.	0	1	1
	<u>48</u>	<u>98</u>	<u>141</u>
General courts-martial:	387th Inf - 1		
	303d Inf -1	2
	Total all courts-martial	. . .	<u>143</u>

97TH INFANTRY DIVISION

TABULATION OF COURTS MARTIAL

MAY THRU SEPTEMBER 1945

Unit	May		June		July		August		September		Total		
	Spec.	Summ.	Spec.	Summ.	Spec.	Summ.	Spec.	Summ.	Spec.	Summ.	Spec.	Summ.	Total
303d Inf	22	10	11	13	19	11	8	15	13	19	73	68	141
366th Inf	3	21	7	9	2	15	4	19	3	24	19	88	107
367th Inf	13	16	10	10	6	3	7	16	11	21	47	68	115
303d FA	2	0	0	1	2	0	1	2	4	3	9	6	15
365th FA	1	2	1	2	1	0	1	4	1	5	5	13	18
369th FA	2	1	2	3	7	5	0	0	7	4	18	13	31
922d FA	2	0	3	2	0	0	1	3	0	2	6	7	13
Hq Btry Arty	0	0	0	0	0	3	0	0	2	1	2	4	6
322d Engrs	0	12	1	3	0	8	1	8	5	7	7	38	45
322d Meds.	0	4	1	7	3	3	2	6	1	3	7	23	30
797th Ordn	2	0	0	0	0	0	0	2	0	0	2	2	4
97 Div Hq Co	0	0	0	0	0	3	1	0	1	1	2	4	6
97th QM	0	1	0	0	0	3	0	0	0	2	0	6	6
97th Recon	2	0	1	0	0	2	0	0	0	0	3	2	5
97th Sig	0	2	0	2	2	0	1	1	0	1	3	6	9
	<u>49</u>	<u>69</u>	<u>37</u>	<u>52</u>	<u>42</u>	<u>58</u>	<u>27</u>	<u>76</u>	<u>48</u>	<u>93</u>	<u>203</u>	<u>343</u>	<u>551</u>

97TH INFANTRY DIVISION

**CLASSIFICATION OF COURTS MARTIAL
SEPTEMBER 1945**

	<u>AW 61</u> <u>AWOL</u>	<u>AW 96,</u> <u>DRUNK</u>	<u>OTHER</u> <u>OFFENSES</u>
303d Inf	15	9	8
386th Inf	23	2	2
387th Inf	15	10	7
303d F.A.	3	3	1
365th F.A.	3	2	1
389th F.A.	6	1	4
922d F.A.	0	2	0
Hq Btry Div Arty	2	1	0
322d Engr	3	5	4
322d Med	4	0	0
797th Ordn	0	0	0
97th Div Hq Co	0	0	2
97th Recon	0	0	0
97th QM	2	0	0
97th Sig	<u>0</u>	<u>1</u>	<u>0</u>
	76	36	29
Percent of all cases:	54%	25%	21%

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**97TH INFANTRY DIVISION
SPECIAL COURT TRIALS - SEPT. 1943**

A W O L				OTHER OFFENSES			
<u>Length of Absence</u>	<u>Sentence</u>	<u>Reviewing Authority</u>	<u>Prior Conv.</u>	<u>Offense</u>	<u>Sentence</u>	<u>Reviewing Authority</u>	<u>Prior Conv.</u>
19 Days	6 Mos.	Suspended	0	96, Curfew, Civ. Clo.	6 Mos.	Suspended	1
16 "	6 Mos.	Approved	2	96, Asleep on guard	6 Mos.	Approved	0
7 "	6 Mos.	Red. to 1 mo.	1	96, Disobedience	6 Mos.	"	1
18 "	6 Mos.	Approved	1	96, Disobedience	6 Mos.	Suspended	1
18 "	6 Mos.	"	0	96, Curfew, Civ. Clo.	6 Mos.	Suspended	0
10 "	6 Mos.	Red. to 3 mos.	0	96, Drunk & Disorderly	Restr.	Red. to	
				96, Broke parole	3 Mos.	Restr. 1 Mo.	0
					6 Mos.	Approved	2
<hr/>							
15 Days	6 Mos.	Suspended	0	96, Taking ring	6 Mos.	Approved	0
				96, Failure to obey	6 Mos.	Approved	0
<hr/>							
8 Days	3 Mos.	Approved	0	96, Bad checks	6 Mos.	Approved	3
5 Days	6 Mos.	Red. to H/L 3 Mos.	0	96, Drunk & Disorderly	Acquitted	---	--
17 Days	6 Mos.	Approved	0	96, Impersonating officer	6 Mos.	Approved	0
8 "	3 Mos.	Approved	0	96, Impersonating officer	6 Mos.	"	0
11 Days	3 Mos.	"	0	96, Failure to obey	6 Mos.	Disapproved	1
20 "	6 Mos.	Suspended	0				
<hr/>							
23 Days	6 Mos.	Approved	0	96, leaving post	6 Mos.	Approved	0
20 "	6 Mos.	Red. to H/L 3 Mos.	0	96, Drunk & Disorderly	4 Mos.	Suspended	0
<hr/>							
30 days	6 Mos.	Red. to H/L 3 Mos.	0				

87TH INFANTRY DIVISION

SPECIAL COURT TRIALS - SEPTEMBER 1943 continued

Unit	A W O L S				OTHER OFFENSES			
	Length of Absence	Sentence	Reviewing Authority	Prior Conv.	Offense	Sentence	Reviewing Authority	Prior Conv.
389	17 Days	6 Mos.	Suspended	0	96, Disorderly	4 Mos.	Approved	2
FA	90 "	6 Mos.	Approved	0	96, Disorderly	6 Mos.	Approved	0
	17 "	6 Mos.	Approved	0	96, Disorderly	Acquitted	- 0	
					65, Disobedience	6 Mos.	Approved	0
Hq Btry								
Div Arty	41 Days	6 Mos.	Approved	0	96, D&D	3 Mos.	Approved	1
322d	12 Days	3 Mos.	1 Month	0	96, D&D	6 Mos.	Approved	4
Engr					65, Disobedience	6 Mos.	Approved	0
					96, Assault & Btry	6 mos.	Approved	0
					96, Drunk	3 Mos.	Approved	0
322d								
Med's	15 Days	6 Mos.	Approved	0				
97th					96, Took pen	6 Mos.	3 Mos.	0
Hq Co								

25
200

97TH INFANTRY DIVISION

SUMMARY COURT TRIALS - SEPTEMBER 1943

Unit	A W O L				OTHER OFFENSES			
	Length of Absence	Sentence	Reviewing Authority	Prior Conv.	Offense	Sentence	Reviewing Authority	Prior Conv.
303d	3 days	1 Mo.	HL 1 week	0	96, D&D	1 Mo.	HL 1 mo.	0
	3 "	1 Mo.	HL 10 days	0	96, Drunk	Acquitted	—	0
	5 "	HL 1 Mo.	Approved	0	96, Drunk	Perf. \$20	Approved	0
	3 "	1 Mo.	Approved	2	96, Took truck	Forfeiture	Approved	0
	11 "	1 Mo.	HL 1 Mo.	0	96, Drunk	HL 2 weeks	Approved	0
	4 "	1 Mo.	HL 15 days	0	96, D&D	1 Mo.	HL 1 Mo.	0
	3 "	1 Mo.	Approved	1	96, Drunk	1 Mo.	HL 14 days	0
	12 "	1 Mo.	HL 1 Mo.	0	96, Drunk	HL 2 weeks	Approved	0
	11 "	1 Mo.	Suspended	0	96, Drunk	Perf. \$25	Perf. \$15	1
					94, Took gas	1 Mo.	Suspended	0
306th	16 "	1 Mo.	Suspended	0	96, D&D	1 Mo.	Suspended	0
	12 "	1 Mo.	Approved	0	96, Drunk	1 Mo.	Suspended	1
	7 "	1 Mo.	Suspended	0				
	7 "	24 Days	Suspended	0				
	11 "	1 Mo.	Suspended	0				
	3 "	1 Mo.	Suspended	0				
	2 "	1 Mo.	Suspended	0				
	3 "	1 Mo.	Suspended	0	19 days	1 Mo.	Approved	1
	10 "	1 Mo.	Suspended	0	3 "	12 days	Suspended	0
	19 "	1 Mo.	Approved	0	4 "	1 Mo.	Suspended	0
	10 "	1 Mo.	Suspended	1	4 "	1 Mo.	Suspended	0
	3 "	1 Mo.	Suspended	1	5 "	1 Mo.	Suspended	0
	10 "	1 Mo.	Suspended	0	5 "	1 Mo.	Suspended	0
5 "	1 Mo.	Suspended	0	10 "	1 Mo.	Suspended	0	
18 "	1 Mo.	Suspended	0					
387th	3 days	1 Mo.	Suspended	0	96, D&D	1 Mo.	Suspended	0
	2 "	1 Mo.	Suspended	0	96, Drunk	1 Mo.	Suspended	0
	3 "	1 Mo.	Suspended	0	96, D&D	1 Mo.	Suspended	0
	5 "	1 Mo.	Suspended	0	96, Stole Chicken	1 Mo.	Approved	0
	5 "	1 Mo.	Suspended	0	96, Disorderly	Acquittal		
	3 "	1 Mo.	Suspended	0	96, Stole Chicken	1 Mo.	Approved	0
	3 "	1 Mo.	Suspended	0	96, D&D	1 Mo.	Suspended	0
	3 "	1 Mo.	Suspended	0	96, Drunk	1 Mo.	Suspended	0
	3 "	1 Mo.	Suspended	0	96, Drunk	1 Mo.	Suspended	0

A W O L - 306th continued from opposite column.

SUMMARY COURT TRIALS - SEPTEMBER 1948

continued

Unit	A W O L				OTHER OFFENSES			
	Length of Absence	Sentence	Reviewing Authority	Prior Conv.	Offense	Sentence	Reviewing Authority	Prior Conv.
387th cont'd					96, D&D	1 Mo.	Suspended	0
					96, D&D	1 Mo.	Suspended	0
					96, D&D	1 Mo.	Suspended	0
303 FA	10 Days	1 Mo.	Suspended	0	96, Drunk	Restr 1 Mo.	Approved	0
					96, D&D	Restr 1 Mo.	Approved	0
365th FA	3 Days	HL 1 Mo.	Approved	0	96, Fail to Obey	HL 1 Mo.	Approved	0
					96, D&D	1 Mo.	Suspended	0
					96, D&D	1 Mo.	Suspended	0
389th FA	1 Day	Restr 1 Mo.	Approved	0	96, Drunk	Restr 1 Mo.	Approved	0
	17 Days	1 Mo.	Suspended	0				
	1 Day	Restr 1 Mo.	Approved	0				
922d FA					96, Drunk	1 Mo.	Suspended	0
					96, Drunk	1 Mo.	Suspended	0
Hq Btry Div Arty	4 Days	1 Mo.	Suspended	0				
322d Engns	7 Days	1 Mo.	Approved	0	96, Curfew, etc	Restr 1 Mo.	Approved	0
	2 "	Restr 1 Mo.	Approved	0	96, Drunk	Restr 45 days	Approved	0
					96, D&D	1 Mo.	Approved	0
					96, Disorderly	1 Mo.	Approved	0
					96, Drunk	Restr 2 Mos	Approved	0
322d Med	2 Days	1 Mo.	Approved	0				
	10 "	1 Mo.	Approved	0				
	10 "	1 Mo.	Approved	0				
97th Hq Co					96, False State.	1 Mo.	Suspended	1
97th QM	4 Days	1 Mo.	Approved	1				
	3 "	1 Mo.	Approved	1				
97th Sig Co					96, D&D	1 Mo.	Suspended	0

29 Aug

97TH INFANTRY DIVISION

SENTENCED PRISONERS
AT
30 SEPTEMBER 1943

<u>Unit</u>	<u>No. of Prisoners</u>
303d Inf	17
386th Inf	7
387th Inf	23
303d F.A.	2
365th F.A.	0
389th F.A.	8
922d F.A.	0
Hq Btry Div Arty	2
322d Engr	2
322d Mod	7
797th Ord	0
97th Div Hq Co	1
97th Recem	0
97th QM	0
97th Sig	1
	<u>70</u>

Incl 9

57TH INFANTRY DIVISION

MILITARY POLICE REPORTS

SEPTEMBER 1943

COMPARATIVE

Offense	September	August	July	June	May
Fail to Salute	3	2	7	3	-
Off Limits	11	33	28	31	8
Traffic violation	15	13	10	11	39
Curfew	96	87	139	144	100
Improper Uniform	25	62	-	13	18
AWOL	24	15	9	7	5
Drunk	37	38	38	43	40
Disorderly	20	26	15	15	29
No Pass	13	10	33	71	16
Attempt to bring in liquor	5	1	3	18	9
Other	<u>11</u>	<u>15</u>	<u>14</u>	<u>5</u>	<u>14</u>
	268	299	293	351	278