



DEPARTMENT OF THE NAVY  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20350-1000

6 January 1994

The Honorable Fortney Stark  
U.S. House of Representatives  
Washington D.C. 20515

Dear Mr. Stark:

This is in further response to your letter of February 8, 1993, to Secretary of Defense Aspin concerning the Port Chicago courts-martial cases.

The Board for Correction of Naval Records (BCNR) has completed its review of the Port Chicago cases and has submitted its report. The BCNR's findings and recommendations have been reviewed by the General Counsel of the Navy and the Assistant Secretary of Defense (Personnel and Readiness). After careful review, I have approved the findings and recommendations of the Board. A complete copy of the Board's report is enclosed for your information.

As you point out in your letter, Section 552 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. 102-190 (1991), directed the Secretary of the Navy to carry out a thorough review of the cases of all 258 individuals convicted in the courts-martial arising from the explosion at the Port Chicago Naval Magazine on July 17, 1944. The purpose of the review was "to determine the validity of the original findings and sentences and the extent, if any, to which racial prejudice or other improper factors now known may have tainted the original investigations and trials." Section 552 provided further that if the Secretary "...determines that the conviction of an individual in any such case was in error or an injustice, then, notwithstanding any other provision of law, he may correct that individual's military records (including the record of the court-martial in such case) as necessary to rectify the error or injustice."

Pursuant to Section 552, my predecessor directed the Judge Advocate General of the Navy (JAG) to review all 258 cases to determine the validity of the convictions and whether racial prejudice or other improper factors tainted the original investigations and trials. The JAG concluded that 256 of the 258 cases were legally sufficient and that those convictions were supported by evidence of the guilt of the accused beyond a reasonable doubt. One conviction, in the case of S2c Samuel Cooper, was found by the JAG to be defective because of insufficient evidence, and on January 14, 1993, my predecessor disapproved the findings and sentence in that case. One other conviction, in the case of S1c William Fleece, had been set aside



by the Secretary of the Navy in March 1946, based upon a determination that the accused was not mentally competent at the time of the offense.

After review by the JAG, the Port Chicago cases were referred to the BCNR to examine all aspects of the allegations of racial prejudice and discrimination. A special three-member panel of the BCNR, consisting of Mr. Kreitzer, a career member of the SES serving in the Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition), Mr. Saul, a career member of the SES from the Office of the General Counsel, and Mr. Mathews, a career GM-14 who serves as the Deputy for Equal Employment Opportunity, Headquarters Marine Corps, was appointed for the purpose of reviewing and making recommendations to the Secretary on the disposition of the Port Chicago cases. Two of the individuals designated to serve as panel members are African-Americans.

This panel issued unanimous findings and recommendations on July 13, 1993. The panel found that, of the 258 sailors convicted in connection with the Port Chicago incident, 206 sailors initially refused to load ammunition following the explosion, but later returned to work. Of these 206 men, 205 were convicted by summary courts-martial for refusal to obey lawful orders and one was found guilty of conduct prejudicial to good order and discipline. All were awarded bad conduct discharges. The bad conduct discharges were later suspended by Secretary Forrestal upon post-trial review. Of the 206 sailors convicted, 188 completed their enlistments and received honorable discharges. Included in this group was S2c Samuel Cooper, whose conviction was set aside by Secretary O'Keefe on January 14, 1993, on the basis of the JAG review. Fifteen others successfully completed their enlistments, but did not earn the conduct and proficiency marks required for honorable discharges. They were awarded discharges under honorable conditions, which entitled them to the same credit for service, rights, and veterans benefits as those receiving honorable discharges. Three of the sailors whose bad conduct discharges were suspended did not successfully complete their enlistments and received bad conduct discharges as the result of subsequent misconduct.

Two of the 258 sailors were convicted by summary courts-martial of unauthorized absence and breaking arrest and were sentenced to 30 days of confinement on bread and water. One sailor earned an honorable discharge after returning to duty; the other received a bad conduct discharge for subsequent misconduct.

The fifty remaining Port Chicago sailors were tried by a general court-martial for mutiny. All 50 were found guilty and adjudged dishonorable discharges, confinement at hard labor, reductions in rank, and forfeitures of pay and allowances. As in the other cases, Secretary Forrestal exercised clemency by



reducing the confinement and forfeitures, suspending the discharges, and returning the sailors to duty. Of this group, 45 were returned to duty, successfully completed their enlistments, and received discharges under honorable conditions. The character of discharge issued to these sailors was determined by regulations then in effect, which prohibited issuing honorable discharges to persons convicted by general courts-martial. Three other sailors were returned to duty and, apparently as the result of administrative error, were issued honorable discharges. The two remaining cases involved a sailor who received a dishonorable discharge for subsequent misconduct, and the case of S1c William Fleece, whose conviction, as previously noted, was set aside by Secretary Forrestal in 1946. S1c Fleece did not complete his enlistment for medical reasons and, as a result, received a discharge under honorable conditions.

✓ The BCNR panel concluded that racial discrimination did play a part in the assignment of African-American sailors to load ammunition, and that the African-American sailors were subjected to segregated living and working conditions. However, the panel further found that racial prejudice and discrimination played no part in the court-martial convictions or sentences. The panel concluded that there was nothing unfair or unjust in the final outcome of any of the Port Chicago courts-martial.

✓ In reaching the conclusion that the convictions were not tainted by racial prejudice, the BCNR panel acknowledged that the sailors who refused to load ammunition after the explosion had a reasonable basis for fear. The panel also concluded that the danger to them was no greater than the danger faced by sailors in combat, and that 70 other sailors assigned to the 4th, 5th, and 8th Divisions at the Port Chicago Magazine followed orders and loaded ammunition as directed after the explosion. The BCNR panel stated that in August 1944, naval authorities would have taken stern disciplinary action against anyone whose actions threatened to disrupt the smooth flow of ammunition to Navy and Marine Corps combat units, regardless of race.

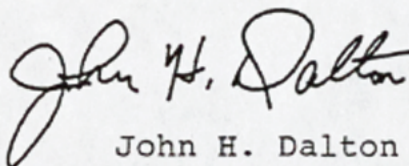
The BCNR panel addressed the existence of racial prejudice in assignments and living conditions which existed at the time, and indicated that these considerations could provide a basis for the panel to grant leniency. However, in this case, leniency had already been granted by Secretary Forrestal as part of the post-trial review process, and the BCNR panel concluded that a further grant of leniency was not justified. All of the initial Port Chicago discharges were suspended and those convicted in connection with the Port Chicago incident were given an opportunity to complete their enlistments and receive honorable discharges or discharges under honorable conditions. Only one of the Port Chicago defendants received a dishonorable discharge, and this was the result of subsequent misconduct. Four others received bad conduct discharges for offenses after they had been



restored to duty. Not a single sailor received a discharge under less than honorable conditions, or was denied any rights or benefits, solely as a result of the Port Chicago court-martial convictions.

After carefully considering the BCNR panel's findings and recommendations, I concluded that neither racial prejudice nor other improper factors tainted the original investigations and trials. In addition, I found that no error or injustice occurred with respect to the 256 remaining convictions of the Port Chicago defendants. Accordingly, I have approved the recommendation of the BCNR panel that the 256 court-martial convictions be upheld and that no change be made to the character of the discharges ultimately awarded.

Sincerely,

A handwritten signature in cursive script that reads "John H. Dalton". The signature is written in dark ink and is positioned above the typed name and title.

John H. Dalton  
Secretary of the Navy