INTERNED OR IMPRISONED?:
THE SUCCESSES AND FAILURES OF INTERNATIONAL LAW
IN THE TREATMENT OF AMERICAN INTERNEES IN SWITZERLAND, 1943-45

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ABSTRACT

Dwight S. Mears: Interned or Imprisoned?: The Successes and Failures of International Law in the Treatment of American Internees in Switzerland, 1943-45
(Under the direction of Wayne E. Lee)

During World War II, over 100,000 soldiers of various nationalities sought refuge in neutral Switzerland, including over 1,500 American airmen from damaged U.S. bombers. As a result of the U.S. violations of Swiss neutrality and other external factors, the Swiss government was unwilling to apply the 1929 Geneva Convention prisoner of war protections to the interned U.S. airmen when they were punished for attempting escape. The politicization of internment procedures resulted in a diplomatic stalemate in which the ambivalence of Swiss officials prolonged mistreatment of U.S. airmen in apparent repudiation of emerging customary international law. The stalemate produced a range of responses, revealing that some Swiss officials and citizens disagreed with their government’s internment policies and sought to apply prisoner of war protections to internees. Answering the question of how international law functioned in the scenario of Swiss internment demonstrates the cultural importance of Swiss adherence to humanitarian traditions, the process by which governments and individuals seek to influence aberrant state practice, and how many hidden influences combine to enforce customary rules.
ACKNOWLEDGEMENTS

My original inspiration for this research is over a decade old, when I was a student at the U.S. Military Academy at West Point. While conducting genealogical research I learned that my grandfather—a U.S. Army Air Force bomber pilot—was shot down by German fighters in March 1944 and managed to land his badly damaged aircraft near Zurich, Switzerland, where he was interned until January 1945. At the time of this research I was also enrolled in a course at West Point on the law of armed conflict, and I noticed that the Swiss internment policies did not conform to those later codified in the 1949 revision to the Geneva Conventions. This confluence of law and history sparked my interest and led me to return to the subject again in graduate school. I later submitted some of my research to the U.S. Air Force and the Office of the Secretary of Defense in an attempt to gain official recognition for those airmen interned in Switzerland.

I owe a debt of thanks to many. My principal advisor, Prof. Wayne Lee, adeptly channeled my interest into a methodology that is far from esoteric, and provided much needed guidance and feedback along the way. My wife, Christy Kubit, tolerated many hours of translating and several inconvenient research trips. She was a constant source of support, particularly her proofreading assistance. Several historians and attorneys assisted me with sources and advice, including Cathryn Prince, Dr. Roy Thomas, Dr. Gary Solis, Prof. Mark Weisburd, Peter Kamber, and Neville Wylie. Several archivists provided generous assistance, particularly those at the Federal Archives in Bern,
Switzerland. My foreign archive research was made possible by the Omar N. Bradley Historical Research Fellowship.
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<table>
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<th>Abbreviation</th>
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<tr>
<td>AFHRA</td>
<td>Air Force Historical Research Agency, Maxwell Air Force Base, AL</td>
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<tr>
<td>FCIH</td>
<td>Federal Commissariat for Internment and Hospitalization</td>
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<tr>
<td>ICE</td>
<td>Independent Commission of Experts</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>MACR</td>
<td>Missing Air Crew Report</td>
</tr>
<tr>
<td>NARA</td>
<td>U.S. National Archives at College Park, College Park, MD</td>
</tr>
<tr>
<td>NCO</td>
<td>Noncommissioned Officer</td>
</tr>
<tr>
<td>OSS</td>
<td>Office of Strategic Services</td>
</tr>
<tr>
<td>POW</td>
<td>Prisoner of War</td>
</tr>
<tr>
<td>SFA</td>
<td>Swiss Federal Archives at Bern</td>
</tr>
<tr>
<td>SIAA</td>
<td>Swiss Internees Association Archives, Lakewood, NJ</td>
</tr>
<tr>
<td>USAAF</td>
<td>U.S. Army Air Force</td>
</tr>
<tr>
<td>USN</td>
<td>U.S. Navy</td>
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<tr>
<td>VA</td>
<td>U.S. Department of Veterans Affairs</td>
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I. Introduction

Many questionable government actions during international conflicts in the twentieth century underscore the difficulty of creating and enforcing rules for wartime conduct. Not only is the international law of armed conflict difficult to enforce, but the evolutionary nature of the law lags behind the infinite possibilities of combat, and loopholes in the law are often addressed only after they have been exploited. Warfare generates new permutations of combatants and technology that are not codified clearly under existing international law, producing rules of conduct that emerge as customary practice. The process of interpreting this gray area illustrates how governments behave in response to treaties, as well as how individuals and governments can take advantage of the inherent ambiguity of international law. The contestation over these rules also demonstrates that multiple factors influence the enforcement of this type of international law, ranging from treaty obligations to actors at the individual level.

In World War II, over 1,500 American airmen were interned by neutral Switzerland, the vast majority being U.S. Army Air Force (USAAF) aircrews from damaged B-17 and B-24 bombers. As required by the Hague Convention of 1907, “a neutral Power which receives on its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.”¹ Many of

these internees were treated well, but others who unsuccessfully attempted escape were punished well beyond the limits of emerging international law through imprisonment in punitive confinement camps. The presumptive standard for the treatment of internees were the carefully codified protections for Prisoners of War (POWs) contained in the 1929 Geneva Convention Relative to the Treatment of Prisoners of War. Unfortunately, that presumptive standard was not yet codified for internees, although many legal authorities at the time were making the argument that it was customary international law.

Customary international law, which is as enforceable as treaty law, requires several elements. According to legal scholar Shabtai Rosenne, customary international law “consists of rules of law derived from the consistent conduct of States acting out of the belief that the law required them to act that way.”\(^2\) Thus, this type of law requires general state practice as well as \textit{opinio juris sive necessitates}, or the belief that an act is a legal obligation.\(^3\) During World War II, many but not all states claimed that international law required treating internees the same as POWs. Since there was not yet a complete consensus on the guarantee of explicit POW protections for internees, the rule was “emerging” rather than fully reified customary international law. Switzerland was one state that refused to afford military internees the legal protections of POWs, and instead cited more precise written law.

Exploring the diplomacy surrounding the internment of American airmen in Switzerland in 1944 reveals how the Swiss government negotiated emerging international


law on prisoner treatment, methods used by individuals and governments to pressure the Swiss state into compliance, and the importance of humanitarian action for the Swiss culture. In a larger context, the case study also demonstrates the many ways in which humanitarian law is influenced beyond the diplomacy between nations and the adherence to firm treaty obligations. In some cases, compliance is first encouraged and enforced at the grassroots level before a rule is formally adopted by the state.

The internment of American airmen in Switzerland during World War II began with a B-24 Liberator bomber nicknamed Death Dealer. A high-altitude heavy bomber with a crew of ten, four engines, and a bomb load of six tons, the B-24 was a critical part of the Allied strategic bombing campaign in Europe.\(^4\) Death Dealer was assigned to the 9\(^{th}\) Air Force in North Africa, and was considered a lucky ship after surviving the infamous August 1, 1943 raid on the oil refinement facilities in Ploesti, Romania, known as Operation Tidal Wave. Of 177 aircraft on the mission, 53 were lost and 55 damaged.\(^5\) In that raid, highly accurate anti-aircraft fire ripped through Death Dealer’s fuselage, disabling two of its engines and mortally wounding one of the machine gunners on the crew, Sgt. Paul Daugherty. Despite a gaping wound in his chest, Sgt. Daugherty lived long enough to ask his pilot “Will you say a prayer for me?” The pilot did, just before Daugherty died in his arms.\(^6\)


\(^6\) Dugan, Ploesti, 216.
Less than two weeks later, early in the morning of August 13, 1943, Death Dealer went airborne from its base in North Africa and maneuvered into tactical formation with 113 of its sister ships. Its mission was to fly over the Alps and drop its incendiary payload on the Messerschmitt fighter aircraft factories in Wiener-Neustadt, Austria. As it did for huge numbers of strategic bombers during the war, Death Dealer’s luck finally ran out. One of the aircraft’s engines sputtered to a halt en route to the target, and another engine was violently shot out by 88 millimeter anti-aircraft fire while over the Messerschmitt factory. The pilot, USAAF Lt. Alva Geron, struggled in vain to maintain altitude with only two engines. He knew that the smoking aircraft was in trouble. After deciding that he could not return to base in North Africa, Geron requested a heading to neutral Switzerland from his navigator. Soon Death Dealer passed over a large lake at the northern foot of the Alps, which the navigator correctly identified as the border on the Rhine between Germany and Switzerland. The ground already loomed too close for the crew to parachute from the crippled bomber, so Geron prepared for a crash-landing. Spotting an open farm field, Geron lowered the wheels as the remainder of the crew braced for impact. The aircraft touched down and shook violently as it lumbered to a halt, plowing its nose into the earth as its forward landing gear collapsed. Improbably, the entire crew survived. Uncertain whether he was in enemy territory, Geron ordered the crew to burn the aircraft to prevent its capture by a foreign government. As the crew set off explosive charges, curious farmers approached the bomber amid the drone of air raid sirens. Geron asked them if he was in Switzerland, and requested to be taken to the nearest U.S. Consulate. In fact Death Dealer had landed in Wil, a small village in the canton of St. Gallen in western Switzerland. The navigator had accurately guided the
doomed *Death Dealer* into a neutral country, and one can only imagine that the crew felt a palpable sense of relief at having avoided capture by the Germans. Even neutral internment had its price, however. The lieutenant and his crew were soon arrested by uniformed Swiss soldiers and escorted to a military garrison for interrogation and quarantine. Whether killed or captured by an enemy or neutral, only about one in four B-17 or B-24 bomber crews in 1943 completed the required twenty-five missions to finish a combat tour. *Death Dealer's* crew was the first of many to end up in Switzerland, where many of these airmen tested the limits of that country's commitment to neutrality and the rule of international law.

Since the end of the war, historians have examined many aspects of Switzerland’s neutrality and role in World War II. Initial perceptions of Swiss wartime policies were largely nationalistic and celebrated the Swiss spirit of resistance. This attitude was exemplified by the works edited by Hans Rudolf Kurz, the official historian of the Swiss Federal Military Department. Kurz published volumes authored by the very officials who oversaw Swiss military policies during the war, and who clearly harbored motives to highlight the successes of their own efforts. Kurz characterized Swiss policies as

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7 EX Report No. 247, dated March 16, 1944, decimal 142.761, MIS-X Section, POW Branch, War Department Military Intelligence Division, Air Force Historical Research Agency, Maxwell Air Force Base, Alabama (hereafter AFHRA), “Escape and Evasion World War II,” IRIS number 116830, and Stephen Tanner, *Refuge from the Reich: American Airmen and Switzerland during World War II* (Rockville Centre, NY: Sarpedon, 2000), 79-80. Internees were only one segment of the military refugees in Switzerland; those who evaded capture and entered on foot, as well as those who escaped from belligerent prisoner of war camps were not interned but rather offered asylum.


necessary reactions to “the menace of military aggression” of belligerent neighbors such as Nazi Germany, and claimed that the German invasion of Switzerland was avoided only by virtue of the mobilization of the Swiss Army and “the preparedness of [the] entire nation [of Switzerland].”

The first serious debates over the Swiss actions during the war emerged in the early 1960s, and focused on the collaboration between Swiss government officials and the Nazis. In 1962, the Swiss government commissioned a study of Swiss wartime neutrality, the Bonjour Report, which dealt primarily with the impact of military decisions on foreign policy. Given the heavily restricted access to World War II records, the Bonjour Report “monopolized” Swiss history of the war until the revision of the Federal Archive Regulation in 1973. This step eased restrictions on archive access, and in one historian’s view, “created the necessary conditions for the evolution of an independent historiography of Switzerland’s role in the Second World War.”

A debate over the Swiss Army’s role in the war emerged in 1974, following the publication of Max Frisch’s Dienstbüchlein (Service Booklet). Frisch recounted his experiences as a self-described “reluctant soldier” in the Swiss Army during World War

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II. The author refused to undergo officer training, a decision that angered his superiors.\textsuperscript{14} Frisch questioned Switzerland’s highly militarized society and strict adherence to outdated traditions. He also portrayed the popular story of the Swiss Army’s defensive National Redoubt strategy as a deterrent to German invasion as a myth, which eventually gave rise to the suggestion that Switzerland retained its autonomy because of its willingness to collaborate economically with the Nazis.\textsuperscript{15}

The importance of Switzerland’s economic ties with Germany were confirmed in 1985 by Werner Rings’s \textit{Raubgold aus Deutschland} (Looted Gold from Germany), which linked Switzerland’s independence to its financial relationship with the Axis.\textsuperscript{16} In 1989, the issue again entered the public sphere with Markus Heiniger’s \textit{Dreizehn Gründe: Warum die Schweiz im Zweiten Weltkrieg nich erobert wurde} (Thirteen Reasons why Switzerland was not Conquered), which addressed the financial, strategic, and political benefits that Swiss neutrality provided to Berlin.\textsuperscript{17} Heiniger argued German leadership was unwilling to attack Switzerland because of “the economic, intelligence, and diplomatic usefulness of the Swiss Confederation.” Therefore, he claimed that “an intact Switzerland, remaining stable under a state of emergency and military mobilization, would be of greater use to the German Reich than a conquered, damaged and fractured

\textsuperscript{14} Max Frisch, \textit{Dienstbüchlein} (Frankfurt: Suhrkamp Taschenburch, 1974), 9, 11.

\textsuperscript{15} See Kreis, ed., \textit{Switzerland and the Second World War}, 5, and Hugh R. Wilson, \textit{Switzerland: Neutrality as a Foreign Policy} (Philadelphia: Dorrance & Company, 1974), 11-12. The National Redoubt strategy would apply during an invasion, and entailed surrendering indefensible parts of the country and moving the bulk of the Swiss Army into alpine fortresses that controlled key roads.


Switzerland.” He also noted a historiographical void on the oral history of the war, and claimed that such history “has remained a foreign concept, in so far as it might go beyond the often idealized self-portraits in more or less official memoirs.” In particular, he called for more works on the experiences of Swiss soldiers and the refugees who crossed Swiss borders.\footnote{Heiniger, \textit{Dreizehn Gründe}, 233.}

Although historians had already uncovered much of Switzerland’s controversial wartime actions prior to the 1990s, the debate remained largely in academic circles until the release of the U.S. government’s “Eizenstat Report” in 1997. The Eizenstat Report bluntly accused Switzerland of using neutrality as “a pretext for avoiding moral considerations,” and of prolonging the war by financing the Axis.\footnote{Ibid., 241-42.} The Swiss were labelled as sharing culpability for the Holocaust as a result of receiving “tainted” gold looted from Holocaust victims. Private citizens targeted the Swiss banking system for retribution, and a boycott of Swiss banking in New York City was threatened.\footnote{“Major Conclusions and Policy Implications,” in \textit{U.S. and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II} (U.S. Dept. of State, 1997), available at: http://fcit.usf.edu/Holocaust/resource/gold/GoldMenu.htm (accessed October 19, 2011). See also Hans Senn, “Defending Switzerland: The Impact of Armed Neutrality in World War II,” in \textit{Switzerland Under Siege, 1939-1945: A Neutral Nation’s Struggle for Survival}, ed. Leo Schelbert (Rockport: Picton Press, 2000), 15.} The Eizenstat Report also triggered an outpouring of polemics defending Switzerland’s conduct in the Second World War. Amid this furor, the Swiss government sought to influence the debate by commissioning an Independent Committee of Experts (ICE) to render an impartial verdict on wartime collaboration. The ICE found that, outside of

\footnote{Angelo M. Codevilla, \textit{Between the Alps and a Hard Place: Switzerland in World War II and Moral Blackmail Today} (Washington D.C.: Regnery, 2000), x.}
scholarly circles, “hardly any critical questions were posed regarding the past,” which resulted in an “idealised collective memory” of the war.\textsuperscript{22}

The historiography of Swiss military internment of American airmen was originally a part of the Swiss grand narrative that emphasized the accomplishments of Swiss humanitarian efforts during the war. In the 1970s, one author naively related that American airmen in Switzerland “had a splendid time, except when they suffered from boredom and homesickness.”\textsuperscript{23} The subject remained overshadowed by the issues of Swiss civilian refugee and financial policies during the war until the 1990s, when the release of archival records permitted a more thorough investigation. Swiss historian Peter Kamber’s \textit{Schüsse auf die Befreier} (1993) was the first in-depth study of the American internee experience. Kamber described a \textit{de facto} war between Swiss air defenses and Allied airplanes, and asked “what [does Switzerland] stand for and who are we that we could dare to shoot those who liberated us?”\textsuperscript{24} He also described the mistreatment of interned Allied aviators in punishment camps, questioned the legality of internment policies, and criticized the denial of POW protections to internees.\textsuperscript{25}

Kamber’s work was followed by Olivier Grivat’s \textit{Internés en Suisse} (1995), another Swiss history which placed the internment of American airmen in the context of all interned nationalities. Grivat drew similar conclusions about the internment of

\begin{thebibliography}{99}
\bibitem{24} Peter Kamber, \textit{Schüsse auf die Befreier: Die "Luftguerilla" der Schweiz gegen die Alliierten 1943-45} (Zurich: Rotpunktverlag, 1993), 7.
\bibitem{25} Ibid., 221.
\end{thebibliography}
Americans and blamed poor oversight of Swiss Army officials in charge of internment camps. He faulted Swiss inspectors for ignoring practices that apparently violated the Geneva Conventions, and instead issuing inaccurate reports that characterized internment conditions as “idyllic.”26 He claimed that “Bern sinned through naivety or blindness” in its dealings with coercive foreign powers, and the legacy of its wartime actions were a mixture of “cowardice and compromise.”27

In the 2000s, the first U.S. authors published works that dealt exclusively with American internees in Switzerland, such as Stephen Tanner’s Refuge from the Reich (2000) and Cathryn Prince’s Shot from the Sky (2003).28 Both works concentrated on the oral history of American internees, including combat experiences, internment, and escape or repatriation. Prince accused Swiss government officials of denying American internees the protections of international law, but stopped short of analyzing the military tribunals of American airmen or other legal implications of internment. American internees of Switzerland are also mentioned in several works about the larger air battle for Europe, but the scope of these works afforded little room for protracted discussion of the internment experience.29 The polarization of the Swiss literature in the wake of the Eizenstat Report has influenced some portrayals of American internees in Switzerland:


27 Ibid., 14.


Stephen Halbrook’s *Target Switzerland* (1998) cites only effusive statements about Swiss internment from two American internees, in what could only be described as a mischaracterization.\textsuperscript{30}

Thus several American and Swiss authors have mentioned the questionable internment policies of the Swiss government, but none fully contextualize the problem within the malleability of developing customary international law. Most works on the larger debate over Swiss wartime conduct mention Swiss military internment only in the aggregate, and therefore American internees are subordinated to the superior numbers of many other interned nationalities.\textsuperscript{31} This study significantly rewrites this story through a more thorough analysis of sources in the U.S., Swiss, and International Committee of the Red Cross (ICRC) Archives, complicating the current understanding of Swiss actions during the war by including perspectives of both internees and their captors. Furthermore, I demonstrate that the Axis and Allies concurrently asserted pressure on the Swiss, in terms of both internment and other wartime concerns. Perhaps most crucially, I also add an extensive framework of legal analysis that has yet to appear in any accounts of Swiss internment.

Of particular use in understanding how Switzerland navigated its way between the competing pressures of diplomacy, military threat, and international law is a consideration of how law functions in a society. A substantial and growing body of work

\begin{footnotesize}

\textsuperscript{31} American military internees numbered only 1,517 airmen, while approximately 104,000 military refugees were interned over the course of the war. See “Index,” undated, Swiss Internees Association Archives, Lakewood, NJ (hereafter SIAA), Prince, *Shot from the Sky*, 24, and Independent Commission of Experts Switzerland – Second World War, *Switzerland and Refugees in the Nazi Era* (Bern: ICE, 1999), 21.
\end{footnotesize}
on law and culture informs the analysis presented here. The field was pioneered by
nineteenth century anthropologists with legal training such as Lewis Morgan and Henry
Maine. By the early twentieth century, the ethnographic fieldwork of Bronislaw
Malinowski shifted the discipline from a focus on jurisprudence to all forms of disputes
and social control. In the 1950s, scholars such as Max Gluckman and Victor Turner
founded the processual approach, or the study of law “as process rather than as rules and
outcomes.” The most influential scholar of this field is Laura Nader, whose book The
Disputing Process: Law in Ten Societies (1978) studied different types of dispute
settlement in various cultures.32 As expressed by Lawrence Rosen, law is a “cultural
domain” which can help to “understand how a culture is put together and operates.”33
Although this field rarely focuses on disputes over international law, my analysis of the
legal policies of Swiss internment nevertheless examines a similar “push and pull of
contestation” during cultural negotiations over how the law is interpreted and what it
means.34

By presenting the internment of Americans in Switzerland as a case study, I hope
to demonstrate what the rule of international law meant to Swiss officials, how
contestation over the law influenced decisions made well below the architects of legal
policy, and how similar negotiation of the law can occur in contemporary conflicts.
Although these emerging customary rules were not yet practiced universally, many Swiss
fervently believed that they were enforceable. It mattered little to them whether practices

34 Austin Sarat and Thomas R. Kearns, “The Cultural Lives of Law,” in Law in the Domains of Culture
conformed precisely to rules codified in treaty law, but rather that practices accorded with cultural expectations of humanitarian principles.
II. Historical Context of Internment

The precedent for internment of belligerent aircraft and their crews was established well prior to the arrival of *Death Dealer* in Switzerland. International law defined the obligations of neutral Switzerland to intern belligerents. Neutrality, defined by T.J. Lawrence in 1925 as “the condition of those states which in time of war take no part in the contest, but continue pacific intercourse with the belligerents,” has a particular and evocative meaning when discussed in the context of Swiss history.\(^1\) Switzerland pioneered much of the contemporary international law governing neutrality, making the practice one of the defining characteristics of the Swiss state.

Switzerland’s neutrality during World War II was the continuation of a policy of longstanding or “perpetual neutrality” that had its roots prior to Switzerland’s existence as a federated state. Switzerland began in the fourteenth century as a defensive alliance, called the *Eidgenossenschaft* or Swiss Confederation.\(^2\) The Swiss Confederation shifted toward neutrality after its catastrophic loss to the French at the Battle of Marignano, near Milan, Italy in 1515. The defeat was the worst in the history of the Confederation, and convinced the Swiss that they were best suited for defensive wars. The policy of

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\(^2\)*James M. Luck, *A History of Switzerland: The First 100,000 Years: Before the Beginnings to the Days of the Present* (Palo Alto: Society for the Promotion of Science and Scholarship, 1985), 37.
neutrality was formalized after the end of the Thirty Years’ War in 1648. Switzerland’s neutral position was further cemented by Allied guarantees of perpetual Swiss neutrality in 1815 after violations of Swiss territory occurred during the War of the Sixth Coalition against Napoleon. In addition, the Swiss Constitution of 1848 made Switzerland a federative state instead of a confederation, providing a central government and army that allowed the political declaration and enforcement of neutrality.

In the modern era, Swiss obligations as an “active neutral” included (and still include) providing humanitarian assistance to belligerents as a protecting power, hosting international conferences on humanitarian law, and receiving both civilian and military wartime refugees. These services all set Switzerland apart from other neutral states in global conflicts. The Swiss custom of interning foreign belligerents took several centuries to develop, as the policy entailed more than simply humanitarian concerns. In the Evangelical Conference of 1644, the Swiss decided to deny asylum to foreign armies because of the danger that a pursuing army would follow the interned forces and fight them in Switzerland. In 1709, approximately 4,000 Austrian cavalry troops trespassed on Swiss territory and highlighted the weaknesses of the existing policies governing

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5 Ibid., 3.


Swiss responses to belligerents. Despite engagement of the Austrians by Swiss forces, French General du Bourg accused the Swiss of aiding the Austrian cavalry by allowing them to evade and fight another day. This jeopardized Swiss neutrality by appearing to provide a military advantage to one belligerent. New policies were developed in reaction to this problem, namely disarming and interning belligerents to preclude their further use in a conflict. Thus, the original motive behind internment was to remove the military advantage of a belligerent for the duration of the conflict, no different than if the interned personnel were prisoners of war. This also created an active obligation to ensure that the interned personnel remained in custody, since neglecting this duty would render the internment pointless and again expose Switzerland to charges of aiding one side in the conflict.

Switzerland first tested its internment policy during the War of 1859, or the Second Italian War of Independence. The Swiss Federal Council issued instructions to the Swiss Army to disarm any belligerent troops “pushed on Swiss territory,” and intern them in “the interior of Switzerland.” This decree was the first instance in history in which a government stipulated the requirements of a neutral country toward belligerent troops during international armed conflicts. The decree was soon enforced when seven Italian soldiers crossed the Swiss border, soon followed by a contingent of 650 Austrian soldiers. All parties were interned in castles and military barracks, and were released

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8 Ibid., 288.
upon the conclusion of the conflict. The pro-rated costs of internment were assessed as 21,296 Swiss Francs for Austria, and 344 Swiss Francs for France and Sardinia.\(^9\)

The Swiss government next resorted to internment of belligerents in 1871 during the Franco-Prussian War, when nearly 88,000 soldiers of the First French Army, known as the Bourbaki Army, crossed into Switzerland at Les Verrières and were disarmed and interned by the Swiss military. French General Clinchant brokered an agreement with the Swiss government that indemnified France for the costs of internment, to be settled at the end of the conflict. The massive number of internees forced the Swiss to distribute the internees among 188 villages in nearly every canton, where internees were under the administration of local military authorities.\(^10\) Swiss guards were detailed to ensure a minimum ratio of one guard for every ten internees. The Federal Council gave the Swiss Army jurisdiction over internees who committed criminal offenses, including escape attempts. Internees who were caught outside their assigned districts were confined at the criminal garrison at Luziensteig near the border with Liechtenstein. The cost of the internment was assessed at the end of the conflict in 1872, and came to over 12,000,000 Swiss Francs.\(^11\)

Although the obligation for a neutral state to intern belligerents only existed under customary international law in 1871, the example of the internment of the Bourbaki


Army directly influenced subsequent written law of armed conflict conventions.\footnote{12} The 1874 Conference of Brussels drafted articles listing the obligation of a neutral power to intern belligerents “at a distance from the theatre of war”; to provide for basic humanitarian needs such as “food, clothing, and relief,” and to accommodate the need to transport wounded troops through neutral territory. Neutral states were authorized to house internees “in camps and even confine them in fortresses or in places set apart for this purpose.” The Brussels Declaration also listed the requirement that “The Geneva Convention applies to sick and wounded interned in neutral territory,” which referenced the largely inadequate Geneva Convention of 1864.\footnote{13} Although the Brussels Declaration was not ratified, the 1899 Hague Convention (II) with Respect to the Laws and Customs of War on Land soon codified these requirements verbatim into treaty law.\footnote{14} These same requirements were repeated in the 1907 Hague Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land.\footnote{15} In addition, the 1907 Hague Convention added neutral responsibilities such the use of force to prevent belligerents from utilizing neutral territory and the equal application of trade restrictions to all belligerent powers.\footnote{16}

\footnote{12} Bugnion, “The Arrival of Bourbaki's Army at Les Verrières.”


\footnote{15} See Articles 11-15 of \textit{The 1907 Hague Convention (V)}.

\footnote{16} See Articles 1-10 of \textit{The 1907 Hague Convention (V)}. 

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Neutral governments again interned soldiers of belligerent powers during World War I, a conflict which also introduced the airplane as an instrument of war. The right of a neutral state to prevent belligerent aircraft from violating its airspace is an extension of the right of territorial integrity, which was also in flux during this period. Neutral governments restricted entry of belligerent aircraft, as jurists of the period realized that failure to do so would lead to aerial attacks over neutral airspace and expose the cities below to “falling bombs, projectiles and disabled airships.” As expressed by one author, “the force of gravity, omnipresent and relentless, makes any vertical limit to sovereignty over the air-space impossible in a time of war.” Therefore, during World War I neutral states pioneered the practice of repelling belligerent aircraft with hostile force, and in the case of border violations they interned both belligerent aircraft and their crews. By the end of the war most neutral states generally acknowledged and adhered to the rule, although there were some exceptions in terms of state practice.

During the war, arguments were raised that the obligation to intern belligerent aircraft should not apply in cases of erroneous overflight, _force majeure_—a superior force

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20 Spaight, _Air Power and War Rights_, 420.
such as inclement weather—or aircraft in distress. For example, the Swiss Neutrality Ordinance of August 4, 1914 gave the Federal Military Department or the commander of the Swiss Army the discretion to release any aircrew that violated Swiss territory “through force majeure and when there appears to be no reprehensible intention or negligence.” The force majeure exception was invoked by at least one neutral, Norway, when they released the crew of a German airship that landed near Stavanger in May 1916.

Despite the intention of several neutrals to follow the force majeure exception, these cases were judged to be “too indefinite to differentiate from intentional entrance” by belligerent aircraft. Therefore, most neutral states instead adopted a strict interpretation of the obligation to intern. Thus, although Swiss officials had the authority to release airmen under the force majeure exception, they declined to do so on several occasions, ostensibly for fear that the loophole would be invoked as a pretext for political reasons. In 1915, French pilot Georges Madon became disoriented in fog and


landed his aircraft in Porrentruy, in the north-western canton of Jura. The Swiss interned both Madon and his aircraft, a practice they repeated later in the war.25

Although only fifteen aircraft and their crews were interned in Switzerland during World War I, at least three American pilots were among this small population.26 His propeller damaged by enemy fire, Second Lieutenant James Ashenden crash-landed his French Nieuport 28 fighter in Solothurn Canton on June 24, 1918.27 Lieutenants Thomas Fuller and Virgil Brookhart of the 135th Aero Squadron of the U.S. Air Service were also interned on September 12, 1918, after their mission to adjust artillery near Montsec, France went awry. The aviators flew their single engine De Havilland DH-4 airplane into a cloud bank, became disoriented, and elected to fly southwest in the hopes of finding an airdrome with better weather conditions.28 The wind blew the aircraft to the east into Switzerland, and the Americans unknowingly set down just over the Swiss border, near Fahy.29 When they landed the airmen noted that “the country looked strange,” and they

25 See Spaight, Air Power and War Rights, 423. The Swiss also interned French pilot Adjudant Jardin, who was similarly disoriented in “heavy weather” after a raid on Essen.


were quickly surrounded by Swiss soldiers and farmers. When Fuller and Brookhart tried to take off the Swiss soldiers shot into their engine block and quickly captured them.30

The American lieutenants were not offered release under the force majeure exception, but rather presented the stark alternatives of going free on “parole” by giving their word of honor not to escape, or choosing incarceration in prison. Brookhart chose parole, whereas Fuller “did not fancy the prospect of being interned in Switzerland for the period of the War” and so refused to disavow escape. Fuller was sent to the military prison at Andermatt, where he was confined on the fourth floor of the facility. The lavatory on his cell block had an exterior window, and so Fuller devised a plan to cut apart his bed sheets and fashion a makeshift rope with which to escape. Unfortunately, Fuller’s rope had insufficient tensile strength to hold his weight, and when it snapped the lieutenant plummeted 30 feet to the ground and was knocked unconscious. He was soon captured, and was kept confined until the signing of the armistice.31 Fuller was perhaps the first American internee to attempt escape from neutral Switzerland, a harbinger of events to come in the next world war.

The sovereignty of airspace was codified in international law after World War I in the Air Navigation Convention of October 13, 1919. The Air Navigation Convention recognized state sovereignty of the air above both territory and territorial seas, but was not binding on neutrals or belligerents during wartime.32 However, a similar declaration later appeared in the 1923 General Report of the Hague Commission of Jurists upon the

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30 Maurer, ed., The U.S. Air Service in World War I, 231.
31 Ibid., 231-32.
Revision of the Rules of Warfare.\textsuperscript{33} The Commission of Jurists also repeated the inviolable obligation to intern all belligerent aircraft and aircrews, stating that “A neutral government shall use the means at its disposal to intern any belligerent military aircraft which is within its jurisdiction after having alighted for any reason whatsoever, together with its crew and the passengers, if any.”\textsuperscript{34} Similarly, the 1939 Draft Convention on Rights and Duties of Neutral States in Naval and Aerial War required a neutral state “to intern [belligerent military aircraft] after they have alighted, whether the landing be voluntary or forced, together with persons and property on board.”\textsuperscript{35} Despite this apparent consensus, the 1939 Pan-American Conference adopted a resolution that permitted an exception to internment of belligerent aircraft “in cases in which the landing is made because of proven distress,” the same argument already settled by state practice during World War I. According to one period observer, “such an exception is likely, in actual practice, to be subject to wide abuse.”\textsuperscript{36}

The duty of a neutral to intern belligerent aircraft had percolated through the American media and into the public by the start of World War II, and even appeared in American media stories describing Swiss internment. In a story published in the New

\textsuperscript{33} K. V. R. T., “Aerial Warfare and International Law,” 517.

\textsuperscript{34} “General Report of the Commission of Jurists at the Hague,” \textit{The American Journal of International Law} 17, no. 4 (Oct., 1923): 256. The only exception to this rule was if the aircraft was attached to a warship that entered neutral territory and was itself exempt from internment. See K. V. R. T., “Aerial Warfare and International Law,” 519.


\textsuperscript{36} K. V. R. T., “Aerial Warfare and International Law,” 519.
York Times in May 1944, the newspaper listed “the international rules governing the internment of belligerent fliers who violate neutral territory,” and explained that “a neutral Government shall use the means at its disposal to intern any belligerent military aircraft which is within its jurisdiction after [the aircraft lands] for any reason whatsoever.” The article made no mention of the fact that when neutral itself, the U.S. government declined to intern a belligerent Royal Canadian Air Force plane that force-landed in New York in 1940. The U.S. Attorney General allowed to aircraft to depart, an apparent invocation of the now-outdated force majeure exception. This was but one of many instances where political pressure influenced the practice of internment in neutral countries during World War II.

Most neutral European countries interned American airmen during World War II, although the length and type of internment differed significantly depending on the state’s political system, location, and the fortunes of war. The two states that hosted the vast majority of American internees were Switzerland and Sweden, largely due to their stricter adherence to internment obligations, liberal policies of asylum, and central locations in Europe near American bombing raids against Germany. According to one American airman based at the Eighth U.S. Air Force in England, crews assigned to bomb Germany were given explicit instructions about which neutral countries to land in, in the event of a major malfunction or crippling combat damage. An Eighth Air Force airman recalled similar instructions that “if you were in Northern Germany, try for Sweden,” and “[if you


were in] Southern Germany, try for Switzerland.” 39 In November 1943, an Eighth Air Force briefing officer informed his aircrews that “if you get into trouble . . . and you don’t think you can make it back . . . here are the coordinates of place you can land in Sweden, and Sweden is neutral and they will intern you.” 40 In March 1944, another Eighth Air Force briefing officer told the airmen of the 44th Bombardment Group that their target, Friedrichshafen, was only “about 10 miles across the lake from Switzerland.” Therefore, he advised them that “if your aircraft is badly damaged, and you don’t think you can make it back to base, or if you have wounded on board that need urgent attention, you should seek sanctuary in that neutral country.” As an afterthought, he added “just be sure that you can justify such an action, if you’re ever called on to do so.” 41

Switzerland’s location and its reputation of humanitarian service made it a favorite refuge for imperiled USAAF aircrews. A total of 166 USAAF aircraft crashed or landed in Switzerland during the war, and five other USAAF aircrews bailed out over the country while their bombers flew on and crashed elsewhere. 42 Both the airmen who landed and those who parachuted were interned, as they were all presumed to be on


40 Quoted from Stuart A. Wright, An Emotional Gauntlet: From Life in Peacetime America to the War in European Skies (Madison, WI: Terrace Books, 2008), 183.


42 For the definitive study that documents all Americans interned in Switzerland see Roy J. Thomas, Haven, Heaven and Hell: The United States Army Air Force Aircraft and Airmen Interned in Switzerland During WWII (Monroe, WI: Puka Press, 1991). Dr. Thomas’ publication originally listed 1,516 internees and one airman of unknown status (2nd Lt. Edwin Hewitt), but subsequent to publication he verified that Hewitt was also interned. Hewitt appears on the master US internee list in the Swiss Federal Archives, “Namensliste der internierten US-Amerikanern,” Swiss Federal Archives at Bern (hereafter SFA), Box E5791, 1000/949, Vol. 1022.
belligerent missions. A total of 1,517 American airmen were interned in Switzerland during the war, in addition to 225 American evadees and escaped prisoners of war who sought refuge but were not interned. Therefore, there were 1,742 American military refugees in Switzerland, but there were never this many held at once due to repatriations and successful escapes. The American military refugees in the country peaked at just over 1,200 personnel in the summer of 1944.

Generally the Swiss adhered strictly to internment obligations, although they were occasionally influenced by German political pressure. One such case was when fifteen German airmen who were shot down over Switzerland in June 1940 were quietly released from internment as a political concession. The deal was brokered in spite of the fact that several Swiss pilots were killed while intercepting the aircraft. The German aircraft were also returned, and no expenses of internment were assessed. In contrast, media reports from the same period promised that the interned German aviators “will be interned for the duration of the war.” Early German and French internees were also


47 Wetter, *Duell der Flieger und der Diplomaten,* 156-57.

released after the fall of France under the justification that the two countries were no longer engaged in armed conflict and therefore not belligerents. This decision invited some criticism by the media, who noted that World War II was “not a simple Franco-German war.”

After the American entry into the war American internees were not released unless an exchange was arranged that met with the approval of Germany. One such exchange resulted in the repatriation of seven American internees against seven of their German counterparts in March 1944. The remaining American internees were not exchanged until February and March of 1945 when the end of the war in Europe was inevitable.

Neutral Sweden also performed protecting power duties during the war. Like Switzerland, Sweden had a longstanding tradition of neutrality that began in 1812 and largely resulted from defeats in the Napoleonic Wars. However, Swedish neutrality differed from the Swiss model in that it was somewhat more flexible and capable of modification in the face of changing political realities. Such was the case in World War

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49 Memo from Leland Harrison to U.S. Secretary of State, “Transmission of Memorandum entitled ‘Political Developments of Importance in Switzerland since January 1, 1941,’” dated January 29, 1941, No. 1601, NARA, RG 59, Central Decimal File, 1940-1944, File decimal 854.00, Box 5277.

50 See letter from Martin Andrews to Robert Long, dated February 3, 1993, SIAA, and telegram from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated March 5, 1944, No. 1216, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613.

51 See telegrams from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated February 18, 1945, No. 2103, and dated March 7, 1945, No. 2135, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.


II, when the German conquest of Norway put the Swedish shipping lanes under German control. Sweden thereafter consented to the overflight of German airplanes and the transport of German troops and war material through its territory, concessions granted in the face of crippling German economic pressure.\textsuperscript{54} In light of this collaboration with the Axis, it is not surprising that Sweden initially interned all Allied aviators in order to avoid the threat of reprisal.

One USAAF aircrew that landed in Sweden in April 1944 attempted to avoid internment by explaining that they were on a non-combat mission. This excuse was an invocation of the same legal argument from World War I that aircraft on training flights were not overtly belligerent, and therefore did not require internment. However, by World War II this argument was seen as a pretext to subvert the law, and the claim was flatly rejected by Swedish authorities. The pilot explained that “I don’t think it does any good to tell the Swedes you are on an air-sea rescue mission; you get interned anyway.”\textsuperscript{55} The official Swedish policy on belligerent aircrew was to intern both aviators and aircraft until the end of the conflict.\textsuperscript{56} A total of 141 USAAF aircraft crashed or landed in Sweden during the war, and 1,218 American airmen were interned.\textsuperscript{57} However, Sweden eventually adapted to the Allied successes of 1943 and modified its neutrality policies.

\textsuperscript{54} Herbert R. Reginbogin, \textit{Faces of Neutrality: A Comparative Analysis of the Neutrality of Switzerland and other Neutral Nations during WW II} (Berlin: Lit Verlag, 2009), 140.


\textsuperscript{56} Bo Widfeldt, \textit{Amerikanska Nölandare 1943-1945} (Nässjö, Sweden: Förlag Air Historic Research, 2007), 192.

accordingly, first by agreeing to curb trade with Germany.\textsuperscript{58} Soon U.S. officials reported that “the Swedes appear anxious to be rid of interned U.S. aircraft and to be endeavoring to find a formula for releasing them without undue embarrassment to themselves.”\textsuperscript{59} In late 1944 the Swedes decided to release 500 interned USAAF airmen without a reciprocal exchange of Axis internees. The \textit{quid pro quo} was the sale of nine interned B-17 bombers and four P-51 fighters to Sweden, as well as a promise of 50 more P-51s.\textsuperscript{60} Swedish diplomats publicly claimed that the release of internees was “in anticipation of any Germans who may come into Sweden,” implying that the repatriated Americans left an available credit for any future German internees.\textsuperscript{61} The softening of Swedish internment rules to the benefit of the Allies was likely due to the relative certainty of an Allied victory by this point in the war.

Other neutral states interned belligerents less consistently than the Swiss and the Swedes. In the case of Ireland, internment policies were frequently bent to accommodate the Allies. Only one American aviator was interned in Ireland throughout the entire war, despite the fact that at least 260 other American airmen landed in the country during the same period. The lone American internee, Pilot Officer Roland “Bud” Wolfe, was a volunteer in the Royal Air Force’s Eagle Squadron.\textsuperscript{62} Wolfe was interned in November

\textsuperscript{58} Reginbogin, \textit{Faces of Neutrality}, 145.


\textsuperscript{60} Widfeldt, \textit{Amerikanska Nölandare}, 195

\textsuperscript{61} Letter from Sam Woods to Barnwell Legge, dated November 30, 1944, NARA, RG 84, E3243, Boxes 6-7.

1941 after his Spitfire crashed near Moneydarragh. He made the mistake of fabricating a parole slip and then attempting escape dishonorably, a decision that invited severe political reciprocity after he was recaptured.63

With the exception of Pilot Officer Wolfe, other American aircrews were quickly released in accordance with a secret agreement between Ireland and the United States. The U.S. aircrew were instructed to “advise Eire authorities that [their] plane was performing training or [a] ferry flight” in order to avoid internment.64 The excuse was so well known that Irish officials even informed USAAF aircrews that they were on non-combat missions rather than vice versa. One USAAF bomber that drifted off course and landed in Ireland in February 1944 was offered such assistance. The pilot, 2nd Lt. Carl Ellinger, was informed by the Irish airfield commander that “[I am] very sorry but as a matter of formality [I] must ask, ‘It was a non-operational flight, was it not?’” Ellinger “told him he was right,” and as a result his crew was promptly fed, his plane was refueled, and he “took off shortly thereafter.”65

Spain, under the control of Francisco Franco, was initially neutral and then changed its status to “non-belligerent” upon the imminent fall of France to the Germans in June 1940.66 Although the change still meant non-participation in hostilities, it


64 Memo from War Department Adjutant General to various other stations, dated September 2, 1943, No. A3432, Library of Congress, Washington, D.C., Manuscript Division, Carl Spaatz Papers, Box I: 189.


represented an ideological shift from the preclusion of warfare under neutrality to the temporary choice of non-participation.67 In the words of one observer, this was “an intermediary position between belligerency and neutrality.”68 Thus, it presaged possible entry into the conflict, in which case Franco openly indicated that he would side with Germany.69 Although Franco allowed Spanish recruits to openly serve in the German military in the so-called Spanish “Blue Division,” he also allowed the release of Allied airmen who entered the country.70

Spain nominally interned Allied troops, although internees were openly allowed to repatriate by travelling to the British territory of Gibralter.71 This was due to what U.S. officials called “exceedingly good relations between [the U.S. embassy] and the Spanish Air Ministry.” According to the U.S. Naval attaché in Spain, “the release of aviation personnel has always been treated by the Spaniards as different from the release of other members of other belligerent forces,” a distinction he attributed to the Spanish


69 See Thomàs, Roosevelt and Franco during the Second World War, 85, and Reginbogin, Faces of Neutrality, 113-14.


71 Maureen Emerson, Escape to Provence (UK: Chapter and Verse, 2008), 190.
sense of chivalry and “the fraternity of aviators.” Spanish officials reportedly released most U.S. military refugees into the custody of an officer detailed from the U.S. military attaché’s office, who then drove them across Spain to Gibraltar.

Although Spain publicly claimed to release equal numbers of Axis and Allied internees, U.S. officials negotiated a secret policy wherein they reportedly obtained the release of a greater number of Allied internees. Spain thus released at least 1,100 Allied airmen between November 1942 and June 1944, although less than a quarter of these personnel were internees. Spain was also the primary destination of Allied escaped prisoners of war and evadees in Western Europe prior to the liberation of France. An estimated 30,000 escaped Allied military and civilian personnel transited through the country during the war. However, not all of these Allied military refugees were well-received; many were first imprisoned in a concentration camp called Miranda de Ebro in

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72 Memo from U.S. Naval Attaché in Spain to the Director of Naval Intelligence, “Release of United States Aviation Personnel from Spain,” dated February 17, 1943, No. A16-2(49), NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Spain Box 1008.

73 Memo from Assistant S-2, AAF Station 586, to Acting Assistant Chief of Staff, A-2, dated November 24, 1943, NARA, RG 319, E47C. Army Intelligence Project Decimal File 1941-1945, Spain Box 1008.

74 Telegram from U.S. Military Attaché in Spain to G-2, U.S. War Department, dated January 19, 1944, No. 25, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Spain Box 595.


northern Spain until diplomats intervened on their behalf.\textsuperscript{77} According to the ICRC, inspections revealed that conditions in Miranda were “very precarious,” and provisions such as food and clothing were “unsatisfactory for a long time.”\textsuperscript{78}

German officials in Spain noticed the exodus of Allied military refugees in August 1942. As a result, they formally protested “the action of Spain in allowing large numbers of Allied escaped prisoners to depart.” Paradoxically, they also noted that the number of Allied military refugees was “greater than the number of Spaniards in the ‘Blue Division.’”\textsuperscript{79} The comparison was apparently intended to warn Spanish officials that violations of neutrality were only tolerated so long as they were more or equally advantageous to the Axis. According to the U.S. Ambassador in Spain, the Germans “protested and fumed,” but “all the satisfaction they got was the release of a mere handful of their own aviators.”\textsuperscript{80}

At least thirty-seven USAAF or US Navy aircraft crashed or were interned in Spain during the war. In early 1943, the U.S. Joint Chiefs of Staff approved the sale of all “non-confidential” force-landed military aircraft to the Spanish government. The policy was reportedly intended as a gesture to induce Spain to release interned aircrews


\textsuperscript{79} Telegram from U.S. Ambassador in Spain to U.S. Secretary of State, dated August 20, 1942, No. 1151, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Spain Box 598.

\textsuperscript{80} Hayes, \textit{Wartime Mission in Spain}, 104.
“in connection with [the airplane] sales.” Accordingly, at least three interned USAAF C-47 aircraft and one Navy PBY Catalina “flying boat” were sold to Spain for $100,000 each and put into service with Iberia Airlines. The policy governing aircraft sales to Spain did not initially allow the sale of bombers or fighters, ostensibly because U.S. officials were unwilling to risk that these aircraft might eventually be used against Allied forces in the event of Spain joining the Axis. Even the sale of the transport aircraft was contingent on Spanish assurances that Germany no longer had holdings in Iberia Airlines. The War Department later reversed its position and offered to sell at least five interned B-24 bombers to Spain for conversion into passenger aircraft. The transaction was personally approved by the commanding general of the USAAF, who set the same sale price as the transports: $100,000 per aircraft.

The decision of the U.S. Joint Chiefs of Staff to promote the release of interned airmen in Spain was part of a larger Allied effort to create a new category for certain

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81 Telegram from U.S. Military Attaché in Spain to G-2, U.S. War Department, dated February 18, 1943, No. 203, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Spain Box 597.

82 See telegram from U.S. Military Attaché in Spain to OPD and G-2, U.S. War Department, dated September 11, 1944, No. 12665, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Spain Box 596, Folder, Interned Aircraft in Spain, and “Status Report of Forcelanded Aircraft Spain,” dated September 1, 1944, NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Spain Box 1008.

interned aircrew under international law. In effect, U.S. officials sought to reclassify distressed aircrew as non-belligerents, in a similar category as shipwrecked mariners.\textsuperscript{84} According to one official on the War Department general staff, “[with] respect to the treatment of belligerent aviation personnel and equipment, there are few established precedents and no provisions in the Hague or Geneva Conventions, and consequently, the principles of International Law in this regard are now in the process of being formulated.” Considering this lack of treaty law, the official recommended that force-landed aircrews be classified separately from belligerent vessels and crews.\textsuperscript{85} Spain had also interned a German U-boat crew, and creating a distinction between interned aviators and interned mariners would allow the German crew to remain interned while the USAAF aircrews could be released.\textsuperscript{86} Although there is no evidence that this legal position ever gained significant traction in the larger international community, it

\textsuperscript{84} Memo from Brig. General Hayes Kroner, Chief, Military Intelligence Service, to Assistant Chief of Staff, Operations Division, War Department, “U.S. Aircraft Forced Landed in Portugal [sic],” dated January 27, 1943, NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Portugal Box 964. Shipwrecked sailors had customary protection as those hors de combat or “outside the fight” since at least the early nineteenth century, and treaty protection as of the Third Hague Convention of 1899. The definition of shipwrecked personnel was not explicitly expanded to include “forced landings at sea by or from aircraft” until the Geneva Convention (II) of 1949, however, there was customary enforcement of this rule during World War II. See Leslie C. Green, \textit{The Contemporary Law of Armed Conflict}, Second Edition (Manchester, UK: Manchester University Press, 2000), 88, and “Commentary on Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea,” ICRC, available at: \url{http://www.icrc.org/ihl.nsf} (accessed October 19, 2011). For the current definition of shipwrecked personnel, see Art. 12, \textit{Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; 12 August 1949} (Geneva, 1949), available at: \url{http://www.icrc.org/ihl.nsf} (accessed October 19, 2011).

\textsuperscript{85} See memo from Assistant Chief of Staff, Operations Division, War Department General Staff, “Treatment in Spain of Personnel of Belligerent Countries,” dated March 16, 1943, and draft memo from Chief of Staff to the Commander in Chief of the Army and Navy to Acting Chief, U.S. State Department Division of European Affairs, undated, NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Spain Box 1008.

\textsuperscript{86} Report by the Joint Staff Planners, “Treatment in Spain of Personnel of Belligerent Countries,” dated February 16, 1943, NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Spain Box 1008.
nevertheless was consistent with the larger U.S. effort to seek the return of interned aircrews in spite of the legal obligations of neutral states to retain them. Like other countries, the U.S. was more than willing to exploit perceived weaknesses in international law in order to gain an advantage in the conflict.

Spain’s neighbor, Portugal, declared neutrality in September 1939, but maintained its longstanding ties to Britain that dated back to the fourteenth century. The Portuguese government primarily feared that Spain would join the Axis and encroach on its sovereignty. Portugal remained economically neutral, but nevertheless allowed Britain to use the Azores archipelago for military bases in August 1943, followed by a similar agreement with the United States in November 1944.\(^\text{87}\) In the spirit of this military collaboration, Portugal only temporarily interned American aviators throughout the war, although the same privilege was also initially afforded to some German aircrew.\(^\text{88}\)

The relatively short internment of most USAAF internees in Portugal was jeopardized by the first U.S. internee, 1\(^{st}\) Lt. Jack Ilfrey, who landed in Portugal in November 1942 after his P-38 fighter ran out of fuel when the spare tank fell off of the aircraft. According to Ilfrey, “we had been poorly briefed about what to do if we were forced down in Portugal or Spain,” and he finally chose Portugal because he “vaguely remembered someone saying the Portuguese were friendlier than the Spaniards and might


be bribed to get you out of the country.”

However, after landing he was informed that Portugal had a duty “to intern all foreign pilots and their planes.” Once his aircraft was refueled, Ilfrey convinced his Portuguese military hosts to allow him to return to the airplane and “[explain] the various mechanisms.” While the officials were distracted, Ilfrey started the engines, knocked a Portuguese officer to the tarmac, and successfully flew to Gibraltar. The escape caused a major diplomatic incident, and Ilfrey was nearly forced to return to Portugal as a result. In Ilfrey’s words, “although I knew I had violated international law in wartime . . . I did not realize to what extent or degree I had broken the law.”

According to the U.S. military attaché in Portugal, Ilfrey’s escape greatly “irritated the Portuguese authorities” and resulted in more “rigorous” treatment of subsequent internees. The escape also caused the Portuguese to relocate future Allied internees to a new town with a stronger military garrison.

A total of 135 USAAF internees from at least 43 aircraft were eventually released from Portugal in spite of Ilfrey’s actions. One aircrew that ditched their bomber off the

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90 Ibid., 37.

91 Ibid., 38.

92 Memo from U.S. Military Attaché in Portugal to Chief, Military Intelligence Service, War Department, “U.S. Army Air Corps Officers detained in Portugal due to Forced Landing,” NARA, RG 319, E47C, G2 Project Decimal File 1941-1945, Turkey Box 1600.

93 See Guerreiro, Atterem em Portugal, 111, 115-19, and telegram from U.S. Military Attaché in Portugal to G-2, U.S. War Department, dated November 16, 1942, No. 541, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Portugal Box 562.

94 See Guerreiro, Atterem em Portugal, 222-292, and “General Status USAAF Aircraft in Portugal,” dated August 15, 1944, NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Portugal Box 964.
Portuguese coast in December 1943 was rescued by fishermen and interned for only a week. The quick release was justified by classifying the aircrew as “ship-wrecked mariners” since they had technically not landed on Portuguese soil.\textsuperscript{95} Other U.S. airmen in Portugal were often briefly interned for a period of several months before they were smuggled out of the country.\textsuperscript{96} According to the U.S. Minister in Portugal, “it has always proved possible for both sides to get [the internees] out of the country quietly after sufficient time had elapsed to permit public interest to die down and enable Portuguese authorities to convince themselves that due respect had been shown to the principle of Portuguese sovereignty.”\textsuperscript{97}

Escapes from Portugal did not always go smoothly even with the tacit approval of the Portuguese government. In July 1943 seven “escaping” USAAF pilots refused to board a British freighter to Gibraltar that was arranged by the U.S. authorities. The airmen reportedly claimed that the ship, the René Paul, “was not fit to travel on,” a reference to the vessel’s perceived lack of seaworthiness. The airmen were subsequently arrested by the port police and incarcerated in the Lisbon city jail. Their actions upset the U.S. military attaché in Lisbon, who claimed that the pilots’ behavior “jeopardize[d] [the] tacit understanding with [the] Port [Military] Authorities as to [the] future release of


\textsuperscript{96} Guerreiro, Atterem em Portugal, 133, 212.

\textsuperscript{97} Telegram from the U.S. Minister in Portugal to the U.S. Secretary of State, No 811.2353/4, dated January 18, 1943, in United States Department of State, Foreign Relations of the United States Diplomatic Papers, 1943: Europe, Volume II, 582-3.
“internees” and might “give rise to harmful propaganda from [the] Axis.” Therefore, the military attaché charged the airmen with “willful disobedience of orders,” and the airmen were tried by general courts-martial on July 27, 1943. The defendants were all found guilty, but their sentences were a mere “three months confinement to assigned bases, and an official reprimand.” In the opinion of the military attaché, the sentence was “a shock to everyone, owing to its astonishing lack of severity,” and he claimed that even General Eisenhower was “extremely disturbed by the lightness of the sentence.”

The U.S. War Department also considered asking for the return of the interned USAAF airplanes in Portugal by requesting that “the same refuge privileges that are extended to vessels in distress be extended to force landed aircraft.” However, U.S. officials realized that this proposal might also “necessarily be extended to the enemy,” which would afford German long-range bombers a significant advantage by allowing them to refuel in Portugal. Therefore, the War Department decided to sell the USAAF airplanes to Portugal as an alternative course of action. The Portuguese concurred and purchased most of these aircraft for prices of $100,000 for bombers and $20,000 for

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fighters, with the exception of two P-39 fighters that were given to Portugal for free.¹⁰⁰ The only condition on the transfers was that the aircraft “will not be resold to [the] Axis and only technical and instructional manuals will be provided.”¹⁰¹

Turkey was another “non-belligerent” for much of the war, a policy influenced by the specter of possible conflict against the Soviet Union. The Turkish government eventually declared war on Germany in February 1945, largely a symbolic gesture in order to establish its position as a founding member of the United Nations.¹⁰² Prior to this time Turkey interned at least 189 airmen from 21 USAAF bombers and one U.S. Navy (USN) airplane.¹⁰³ All of the aircraft were interned as well, less one that sank into the Black Sea in July 1944.¹⁰⁴ Many of the bombers arrived as a result of Allied efforts to destroy the Axis-controlled oil refineries in Ploesti, Romania, including eight aircraft

¹⁰⁰ See memo from Chief, Foreign Branch, Collection Unit, I.G. to Liaison Officer, Department of State, “Proposed purchase by Portuguese Government of a Force Landed B-17 Plane,” dated April 28, 1943, NARA, RG 319, E47C, G2 Project Decimal File 1941-45, Turkey Box 1600, and “General Status USAAF Aircraft in Portugal,” dated August 15, 1944, NARA, RG 319, E47C, Army Intelligence Project Decimal File 1941-1945, Portugal Box 964.

¹⁰¹ Telegram from Strong to Lisbon, dated April 23, 1943, No. 503, NARA, RG 319, E47C, G2 Project Decimal File 1941-45, Turkey Box 1600.


¹⁰³ See NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Turkey Box 635, 636, and RG 319, E47C, G2 Project Decimal File 1941-1945, Turkey Box 1032.

that landed in Turkey after the Ploesti raid of 1943 that also saw the internment of *Death Dealer* in Switzerland.\(^\text{105}\)

The USAAF airmen who landed in Turkey were initially interned, but most were eventually repatriated or allowed to “escape” with the consent of the Turkish government.\(^\text{106}\) In one instance the Turkish Prime Minister gave the Turkish Army general staff instructions that “the ‘most valuable’ of [the] interned [USAAF] flyers should be allowed to escape in the very near future,” and fifteen were subsequently released.\(^\text{107}\) On another occasion the Turkish Foreign Minister also agreed to instruct the Turkish military “not to take exceptional measures to prevent the escape of [internees].”\(^\text{108}\) Later he agreed to repatriate eighteen interned Americans on the condition “that there would be no publicity in the U.S. or in Turkey on the release.”\(^\text{109}\)

This arrangement of condoning escapes and secret repatriations allowed Turkey to claim that the airmen had escaped on their own agency in the event of a protest by the German government. Turkey was highly attuned to the threat of German reprisal, as Germany

\(^{105}\) Ross, *Strategic Bombing by the United States in World War II*, 71.


\(^{107}\) Telegram from U.S. Ambassador in Turkey to U.S. State Department, dated August 19, 1943, No. 1446, NARA, RG 319, E47C, G2 Project Decimal File 1941-1945, Turkey Box 1033.

\(^{108}\) Telegram from U.S. Military Attaché in Turkey to Milid, dated August 11, 1943, No. 621, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Turkey Box 636.

\(^{109}\) Telegram from U.S. Ambassador in Turkey to U.S. Secretary of State, dated May 12, 1944, No. 855, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Turkey Box 642.
controlled islands located only miles off the Turkish coastline. As with Portugal, some internees in Turkey were also released on so-called “medical grounds,” despite the fact that U.S. authorities acknowledged that “most of the ‘injured’ were in fairly good health.”

Turkey also retained the interned USAAF bombers and later pressed at least six B-24 Liberators into service in the Turkish Air Force. Unlike the bombers in Portugal and Sweden, the aircraft in Turkey were reportedly “given as a gift without strings of any kind” by the U.S. Ambassador. The interned Americans were occasionally enlisted to help conduct test flights on the bombers, a practice that led to the unauthorized escape of at least one interned aircrew. In December 1942, eight American airmen conducting a test flight on a B-24 named *Brooklyn Rambler* managed to elude Turkish fighters and escape over the Taurus Mountains. This action jeopardized the relationship between the U.S. and Turkish authorities. The U.S. military attaché in Ankara informed the War Department that “immediate return of the plane would assist materially in effecting future

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escapes.” In response, the U.S. State Department suppressed news reports of the escape while the USAAF overhauled the bomber and returned it to Turkey.\(^{114}\)

The Soviet Union utilized a similar tactic of condoning escapes for USAAF and USN aircrew that set down in Russia. Although an ally of the United States in Europe, Russia was neutral with respect to Japan until August 8, 1945, just prior to the Japanese surrender to the Allies. The neutrality pact was seen as a temporary stop-gap while both powers dealt with their other ongoing military conflicts. As a neutral power the Soviets dutifully interned Allied aircrews, largely because of Japanese pressure to extradite the belligerents into their hands.\(^{115}\) Russia was also concerned that the perception of favorable treatment of Allied aircrews might result in Japanese reprisals against the Soviet Far East. Therefore, the Soviets interned a total of 291 airmen from 37 USAAF and US Navy aircraft for an average of five months. The first American internees were the five man crew of a USAAF B-25 bomber from the Doolittle raid against Tokyo in April 1942.\(^{116}\) Like Turkey, the Soviets eventually chose to overlook international law and organized a total of four secret “escapes” for 239 of the American internees, who

\(^{113}\) Telegram from U.S. Military Attaché in Turkey to G-2, War Department, dated February 26, 1943, No. 283, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Turkey Box 635.


were surreptitiously ferried back to U.S. military control through Iran. However, this cooperation was dependent on absolute secrecy. An ill-timed news release reported the first repatriation of American internees in 1943 and temporarily delayed future efforts while the Soviets waited for the Japanese reaction.

Thus, the practice of neutrals interning belligerents during World War II was decidedly varied despite firm treaty obligations. State practice ranged from strict adherence to outright repudiation of recognized international law. The differences can be attributed to the distinction between permanent and temporary neutrality, the ambiguity in the 1907 Hague Convention, differing interpretations of customary law, as well as shifting allegiances during the conflict. Switzerland espoused perhaps the most conservative posture on internment, a policy resulting from the exceptional Swiss position as a permanent neutral, Switzerland’s treaty obligations as a guardian of the international law of armed conflict, and diplomatic pressure from the Axis powers.

In Switzerland, the Swiss Army was responsible for supervision of interned soldiers during World War II, and its organization played a role in how the internees were treated. At least 850,000 Swiss citizens served in the Swiss Army, home guards, or auxiliary during the war, although not all of these troops were mobilized simultaneously. The vast majority of soldiers in the Swiss Army were reservists called to service because of the state of national emergency, and only a small percentage were professional soldiers. The Swiss Army was based on a militia system of compulsory

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117 Ibid., 27, 51, 92, 166.

118 Ibid., 157, 163.

conscription, wherein able-bodied males underwent a short period of military training at the age of twenty and were then assigned to reserve divisions based on age and training until the age of forty-eight, although in the late 1930s the age limit was increased to sixty on account of the wartime emergency.\textsuperscript{120} The service of most officers was also compulsory; there were so few permanent positions in peacetime that the Swiss Army required any soldier to accept a commission or take a command as a contingency.\textsuperscript{121}

Even the Swiss Army’s top rank of four-star General was constitutionally limited to times of national emergency after an election by the Federal Assembly.\textsuperscript{122} This was a reflection not only of Switzerland’s defensive military posture, but also the reality of decentralized control of military affairs in which troops often resented leaders who were not from a canton of like cultural affiliation.\textsuperscript{123} In August 1939, the Swiss Federal Assembly promoted corps commander Henri Guisan to the rank of General and commander in chief in response to the expectation that French troops massing on the border would infringe Swiss neutrality.\textsuperscript{124} Guisan was only the fourth Swiss soldier in

\begin{itemize}
  \item \textsuperscript{121} Frederick A. Kuenzli, \textit{Right and Duty or Citizen and Soldier: Switzerland Prepared and at Peace} (New York: National Defense Institute, 1916), 169.
  \item \textsuperscript{123} Brooks, \textit{Civic Training in Switzerland}, 350.
  \item \textsuperscript{124} Willi Gautschi, \textit{General Henri Guisan: Commander-in-Chief of the Swiss Army in World War II} (Rockville Centre: Front Street Press, 2003), 38-9.
\end{itemize}
history to attain the rank, which he held for the remainder of the war. Guisan answered only to the seven-person Federal Council, or Bundesrat, which serves as the collective executive branch of Switzerland’s federal government. Guisan’s most direct superior was the minister of the Swiss Federal Military Department, a politician selected from the Federal Council. According to the U.S. Minister in Switzerland, Guisan “is probably the most influential man in Switzerland [during the war], and more than any other living Swiss symbolizes the underlying national policies of Switzerland: neutrality, independence, military preparedness, and defense of the country in event of invasion.”

In 1940, the Swiss Federal Military Department created a Federal Commissariat for Internment and Hospitalization (FCIH) to oversee the considerable task of supervising internees from the fighting between French and German forces. On June 18, 1940, nearly 43,000 soldiers from the Forty-fifth French Corps sought refuge in Switzerland after facing encirclement by German panzer units, forcing the issue of centralized federal control over internment. Nearly 7,000 Swiss soldiers were immediately detailed to perform as Bewachungstruppen or internee guard forces for the FCIH, and approximately

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127 Memo from U.S. Minister in Bern, Switzerland, to U.S. Secretary of State, dated September 5, 1942, No. 3250, NARA, RG 59, Central Decimal Files, 1940-1944, decimal 854,00, Box 5277.

12,000 served in this capacity in 1940 alone.\textsuperscript{129} The internment locations were organized into seven separate sectors, or regions, each under a command subordinate to the FCIH. All sectors were comprised of multiple base camps of approximately 50-300 internees, each under the command of a Swiss Army officer.\textsuperscript{130}

The commissioner of the newly created FCIH answered to the chief of the Swiss Army General Staff as per a decree of the Swiss Federal Council in December 1940.\textsuperscript{131} Command of the FCIH was passed from a major general to a lieutenant colonel in its first year of existence, and then was subordinated as a section under the adjutant general of the Swiss Army in January 1942.\textsuperscript{132} In early 1943 the adjutant general himself, Major General Ruggero Dollfus, was officially appointed as the FCIH commissioner, a post he held through late 1944.\textsuperscript{133} That Dollfus served concurrently as the FCIH commissioner and the adjutant general during an unprecedented military mobilization testifies to the understaffed and overburdened Swiss officer corps.


\textsuperscript{132} Probst, Schlussbericht des Eidg. Kommissariates für Internierung und Hospitalisierung, 9.

\textsuperscript{133} Dollfus’ rank was colonel divisionnaire, but I am substituting the equivalent rank of major general to avoid confusing non-Swiss readers; all Swiss Army officers from the rank of O-5 to O-9 are different grades of colonels. For Dollfus’ rank and duties, see “Personen- und Organisationenregister,” dated June 11, 1946, Diplomatische Dokumente der Schweiz, Band 15, Dokumentennr J, SFA, Ref. No. 60 007 251, available at http://www.amtsdruckschriften.bar.admin.ch/ (accessed October 28, 2009).
As FCIH commissioner, Dollfus ran an organization that consisted largely of conscripts and volunteers. As reported by General Henry Cartwright, the military attaché at the British Legation in Switzerland, senior Swiss Army officers often complained of “the poor type of officer serving in the Commissariat, who would not have been there if he had been capable of earning a decent living in civil life.” According to the attaché, senior FCIH officers mistrusted their subordinates and were hesitant to delegate decisions to the camp level.\textsuperscript{134} This view of the FCIH was evidently shared by other Allied diplomats, such as those at the U.S. Legation in Switzerland. According to the U.S. military attaché, Brigadier General Barnwell R. Legge, “in general, the Swiss Internment Service is staffed by personnel not up to their tasks and responsibilities.”\textsuperscript{135} Whether or not the FCIH was really this poorly administered, the internal friction in the organization did eventually hamper communication and impede inquiries into internment conditions.

The FCIH oversaw internment and asylum for over 104,000 foreign military refugees during the war, a significant task considering that the population of Switzerland was only 4.2 million people.\textsuperscript{136} The FCIH oversaw not only internees, but also escaped prisoners of war and evadees who were not interned as belligerents and therefore enjoyed

\textsuperscript{134} Report from British military attaché General Harry Cartwright to British Minister in Switzerland Clifford Norton, dated October 15, 1944, The National Archives of the United Kingdom, War Office Department, 208/3481.

\textsuperscript{135} Brigadier General B.R. Legge, \textit{Report of Internment Situation in Switzerland}, dated December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, p. 5. Legge was the military attaché to the U.S. legation in Bern, Switzerland during World War II.

greater freedom of movement. The military refugees in Switzerland hailed from at least thirty-eight separate nations, although only France, Italy, Poland, Russia, Germany, Yugoslavia, and the United States had populations that exceeded 1,000 personnel. The largest influxes of foreign military personnel were the internment of 13,000 Poles and 30,000 French troops from the Forty-fifth French Corps in June 1940, and asylum for approximately 21,000 Italian soldiers and 7,000 former Allied prisoners of war following the surrender of Italy to the Allies in September 1943. Over 3,000 German soldiers were interned at the end of the war in Europe in 1945, and another 1,500 German deserters also sought refuge during this period. The total population of military refugees in Switzerland peaked in 1940 with the internment of the nearly 43,000 soldiers of the Forty-fifth French Corps, and was lowest in late 1942 at only 11,000 foreign military personnel. Thus, American internees were consistently a minority among the larger population of military refugees. Americans were a majority only among the population of interned aviators, as they flew 166 of the 244 aircraft that crashed or landed in

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137 See Article 13 of The 1907 Hague Convention (V), which states: “A neutral Power which receives escaped prisoners of war shall leave them at liberty. If it allows them to remain in its territory it may assign them a place of residence.”


Switzerland during the war, and also comprised 1,517 of the 1,620 interned airmen. Americans internees were also somewhat unique in terms of how they arrived in Switzerland, where they were interned, and their reactions to the realities of internment.

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III. American Internees

The Americans interned in Switzerland arrived exclusively by military aircraft.\(^1\) Swiss aircraft intercept procedures were first initiated in September 1939, when the Swiss Army adopted the policy that foreign aircraft in Swiss airspace would be “forced to land by any means and fired on by the troops with all the appropriate weapons.”\(^2\) Swiss antiaircraft batteries were allowed to open fire on all foreign aircraft without warning, whereas Swiss fighter planes were first required to issue a warning and attempt to force the intruders to land. This warning could take the form of a “radio warning,” “green rockets,” or “shots with tracer ammunition.”\(^3\) The intent of the warning was to determine whether foreign aircraft intended to seek refuge in Switzerland or if they had violated the border unintentionally as belligerents. Although both types of intruders were technically classified as belligerents, only one merited hostile fire.

The Swiss intercept procedures were tested in May and June of 1940 during the Battle of France. Foreign aircraft violated Swiss airspace a total of 197 times during these two months, and Swiss fighter aircraft engaged in several dogfights with intruding

\(^1\) The category of internee is distinct from evadee and escaped POW; the latter categories are not interned but rather offered asylum since they are no longer belligerents.


German airplanes. The political repercussions resulted in a temporary halt of all aerial combat against German and other foreign aircraft. General Guisan issued the order that “until further notice, air combat anywhere over sovereign Swiss territory will cease,” and specifically that “no flight crews will be sent into action against foreign aircraft transiting through Swiss airspace.” Other concessions to Germany included a directive to antiaircraft units and fighter aircraft to fire only on formations of three or more airplanes. The policy to attack only formations of airplanes was still in force in 1943 when the first Americans arrived in Switzerland.

In early 1944 the Swiss commander in chief updated the U.S. government on the intercept procedures for foreign aircraft seeking refuge in Switzerland. The Swiss directed that “[two] or more foreign military aircraft flying in formation will be attacked without warning by Swiss [fighter] squadrons,” since an entire formation of aircraft was unlikely to seek asylum. In contrast, “isolated military planes” in Switzerland received the opportunity to communicate that “the infringement of Swiss neutrality is not intended.” The foreign plane would first be approached by one or two Swiss fighters “level with the longitudinal axis” in order to demonstrate no hostile intent. A landing order would then be signaled by the firing of green flares, the lowering of landing gear,

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4 Rutschmann, *Die Schweizer Flieger- und Fliegerabwehrtruppen*, 252.

5 Memo from General Guisan, “Einsatz der Fl. & Flab-Trip.,” dated June 20, 1940, No. 10792, SFA, E5795, 1000/951, Box 89, “Persönliche Korrespondenzen, Notizen und Protokolle des Generals, vorwiegend militärische Angelegenheiten, 1944.”


and visual signals from the Swiss pilot. The Swiss fighters were to give the foreign aircraft “a few seconds” for “reflection and decision,” and then the warnings were repeated once. If the foreign aircraft did not indicate compliance by returning flares, turning to follow the Swiss fighters, or lowering landing gear, then they would be shot down. These instructions were in the standard operating procedures reportedly briefed to “all airmen likely to fly over Switzerland.”

Staff Sergeant Joe Krajewski experienced the Swiss intercept procedures firsthand in October 1944. Krajewski, the engineer on a B-24 bomber nicknamed Brown Nose, was based out of Pantenella Airfield, near Cerignola, Italy. While on a mission to bomb Munich, Germany, Brown Nose was hit by anti-aircraft fire that “raked [the bomber] from nose to tail.” Krajewski was struck by a metal fragment above his right eyebrow, causing blood to run down his face. The nose gunner was thrown from his turret with a severe head wound, the bombardier was wounded in the arm, and the radio operator received six shrapnel wounds in his leg. In addition, the copilot was “knocked halfway out of his seat” with minor injuries, and the top turret gunner was thrown to the flight deck. The damage to the bomber was even worse: hydraulics were gone and the nose of the aircraft was on fire; three engines were gone; gas was leaking from right wing; the radio set was damaged and inoperative; and a “large slit” of daylight was now evident between the cockpit and the bomb bay. The pilot, 2nd Lt. Sam Peskin, miraculously managed to restart two engines and regain control of the airplane after losing 9,000 ft.,

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8 Telegram from General Henry H. Arnold to Director of Intelligence, Headquarters, United States Strategic Air Forces in Europe, dated February 12, 1944, AFHRA, “Forced Landings in Neutral Countries,” Call number 519.8021-3, and memo from U.S. Military Attaché in Bern, Switzerland, to U.S. Secretary of State, dated February 9, 1944, No. 807, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 624.
but the bomber could no longer climb to a sufficient altitude to clear the Alps and return to Italy, and several members of the crew were badly wounded and needed immediate medical attention. Therefore, “[going to] Switzerland was the only out and he took it.”

After crossing the Swiss border, two Swiss ME109 fighters intercepted the heavily damaged bomber. At first Krajewski had trouble distinguishing the airplanes from German fighters. Krajewski readied his flare pistol “to signal that we were disabled,” and hesitated briefly when he realized that the pistol might ignite the heavy gas fumes in the bomber. He concluded that he had to take the risk in order to make contact, and so he fired a “long string of shells” and in response the Swiss fighters pulled alongside the aircraft and “wiggled their wings.” Krajewski observed that although the aircraft initially appeared to be German, upon closer inspection they each had a “white cross on [a] red background” emblazoned on their sides. He immediately recognized that the fighters were Swiss, a fact he claimed “put new spirit in all of us.”

The Swiss fighters guided the heavily damaged *Brown Nose* to Dübendorf Airfield near Zurich, and the crew frantically prepared for an emergency landing. Krajewski propped up his unconscious nose gunner between several parachutes to “hold him erect” during the landing. The landing gear was frozen due to the loss of hydraulics, and so Krajewski kicked the nose-wheel down and cranked the main landing gear down by hand. The runway at Dübendorf was only 1,200 yards in length, as it was originally designed as a fighter airstrip. Unfortunately, this meant that a heavy bomber without flaps or brakes had no chance of stopping after touching down at approximately 170

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9 Letter from Joseph Krajewski and Norman Gibbard, undated, SIAA.

10 Ibid.
miles per hour. *Brown Nose* proved this point by plowing off the end of the airfield and hitting a drainage ditch, whereupon the nose wheel collapsed. The bomber finally came to rest in a corn field, with its tail “thirty feet in the air.” Krajewski was “dazed” and “soaked with gas [and] hydraulic fluid” when he crawled out of the crippled ship and was surrounded by Swiss soldiers. Krajewski described the responders as “German jabbering soldiers pointing rifles at us,” and in his confusion he momentarily believed that he had landed in Germany.\textsuperscript{11}

After arrival most American internees were interrogated by military authorities and then sent to a quarantine camp in a resort hotel on a hill above Neuchâtel. The city is the capital of the canton of the same name, located on a large lake in western Switzerland. The quarantine of newly arrived internees typically lasted for two weeks. According to 2\textsuperscript{nd} Lt. Sidney Bolick, “the Swiss were deathly afraid of epidemic diseases,” particularly when it came to their densely populated cities. The Americans were kept apart from Swiss civilians while in quarantine, although curious residents often travelled up the hill from Neuchâtel and stared at the internees from across a waist-high hedge that ran the length of the hotel grounds. Bolick recalled that “these civilians were very friendly, speaking to us across the hedge in English, asking where we were from, what it was like [in the United States], and did we know their cousin Hans who lived in Chicago.”\textsuperscript{12}

From August 1943 to February 1944 about a hundred American airmen were interned in Switzerland under the supervision of the FCIH. Many of the first American

\textsuperscript{11} Ibid.

\textsuperscript{12} Bolick, *To Soar With Eagles*, 193-94.
internees were housed in hotels in Macolin and Evilard, near the city of Biel in western Switzerland. Technical Sergeant James Scott, the radio operator on one of the first interned American bombers, recalled that he was first billeted in a Swiss Air Force cadet barracks, and then moved to Hotel Bellevue in Macolin. According to Scott, “we felt like monkeys in a zoo as hundreds of local citizens paraded by on week-ends just to see those ‘American Flyers.’” The hotels were publicly accessible by cable car, but the American internees were under Swiss orders not to leave the hotel grounds, and were reportedly not allowed “to associate with the civilians in any way.” FCIH officials imposed strict curfews of 11:00 PM for officers and 10:00 PM hours for enlisted men. These rules were strictly enforced by about ten Swiss Army guards who imposed various penalties for infractions. According to official reports, “if an internee were seen talking to a girl he would be confined to his room for 10 days.” More serious offenses merited confinement in prison camps.

Officials at the U.S. Legation in Switzerland soon made contact with the interned airmen in Macolin and Evilard. The internees complained that the food at Macolin was “insufficient,” and also related that they “had a great deal of trouble with dysentery.” U.S. officials reported to the War Department that the hotels in both locations were “of

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15 Appendix C, EX Reports No. 242-247, decimal 142.761, MIS-X Section, POW Branch, War Department Military Intelligence Division, AFHRA, “Escape and Evasion World War II,” IRIS number 116830.

16 Ibid.
the poorest [quality]” as they were merely “summer hotels without heating systems,” and thus pressed the Swiss to find a more suitable location.\textsuperscript{17}

In November 1943 the internees were moved to the resort town of Adelboden, located in the Bernese Highlands at 4,450 ft. altitude. The Swiss General Staff selected Adelboden for its remote location and numerous hotels normally used to accommodate winter-sports tourists in peacetime.\textsuperscript{18} The Americans shared the town with Swiss civilians as well as interned British soldiers and Yugoslavs who had escaped from Axis prisoner of war camps.\textsuperscript{19} U.S. internees referred to the American compound as “Camp Maloney,” a tribute to Sgt. Joseph Maloney, the first American to die while arriving in Switzerland in September 1943.\textsuperscript{20} Maloney was severely wounded by enemy fire while bombing Stuttgart, Germany, and his body went down with his B-17 when the crew ditched the bomber in Lake Constance, Switzerland.\textsuperscript{21} Arrival at the camp was a welcome respite for many war-weary Americans. According to Sergeant Robert Hammer, “when I first saw [Adelboden], I thought the Lord was really being good to us.”\textsuperscript{22}

\textsuperscript{17} Legge, \textit{Report of Internment Situation}, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, 1.


\textsuperscript{20} Prince, \textit{Shot from the Sky}, 46.

\textsuperscript{21} Telegram from Military Attaché, American Legation in Bern, Switzerland, to War Department, via U.S. Secretary of State, dated September 6, 1943, RG 59, Central Decimal File, 1940-1944, decimal 811.2354/9, Box 7352.

\textsuperscript{22} Robert Hammer, “The Fertility of Fantasy,” undated, SIAA.
Lt. Lee Ellis recalled his arrival in Adelboden on a bus “fueled with a huge charcoal burner.” He was housed at the Nevada Palace Inn, which he described as an upgrade from his bombardment group’s “dingy tent city in southern Italy.” According to Ellis, the town had a population of 3,500 Swiss who spoke multiple languages—including English—because of the tourist trade that normally fueled the resort community. The downtown of Adelboden consisted of “wide asphalt streets lined on both sides with gift shops, sporting goods stores, cafes, taverns, and other assorted businesses.” Ellis noted that the town’s appearance was “immaculate,” in that “not a weed, can, or scrap of paper” could be found on the street. This was no accident, as every shopkeeper swept from his storefront to the center of the boulevard, and then another worker meticulously swept this refuse into a wheelbarrow. Ellis was highly amused by the exacting drills conducted by the Adelboden volunteer fire department. The exercises were announced by “advance firemen” who “[blasted] their long alpine horns to clear the traffic,” followed shortly by a team lugging a wooden hose cart up the street.23

The military supervision at Adelboden was initially minimal due to the isolation of the camp, and the fact that internees had few options for escape until after the successful invasion of Normandy. To aid in identification and control, internees were required to wear GI uniforms issued through the Red Cross.24 The village was surrounded by tall mountains and only one guarded road connected it to the rest of

23 Letter from Lee Ellis, “A Step into Paradise,” undated, SIAA.

24 Appendix C, EX Reports No. 242-247, decimal 142.761, MIS-X Section, POW Branch, War Department Military Intelligence Division, AFHRA, “Escape and Evasion World War II,” IRIS number 116830.
Switzerland.\textsuperscript{25} One internee described the location of the resort town as “a dead end canyon” hemmed in by natural barriers.\textsuperscript{26} According to another internee, “there was no need for the Swiss to keep us under close guard to prevent our escape,” since there were few ways out of the village.\textsuperscript{27} The road to Adelboden was only wide enough for one vehicle, thus local motorists had a system to telephone the opposite end of the steep trek to ensure that the route remained clear.\textsuperscript{28} Only one bus came up to the town every day, and the nearest railway station was over nine miles away in Frutigen. Therefore, the location permitted relative freedom for the internees, so long as they were not confined to quarters for quarantine or disciplinary infractions.\textsuperscript{29}

Technical Sergeant Richard H. recalled that internees could walk around the town and even go on hikes unsupervised, as “[the Swiss guards] knew we couldn’t get out.”\textsuperscript{30} Curfews were identical to those at Evilard and Macolin, so the American non-commissioned officers had to be back in their rooms by 10:00 PM curfew, whereas the officers had until 11:00 PM.\textsuperscript{31} The Swiss guards conducted nightly bed checks at the first deadline, and then again at 3:00 AM.\textsuperscript{32} In the morning the internees were mustered for

\begin{itemize}
  \item \textsuperscript{25} Ibid.
  \item \textsuperscript{26} Vincent Fagan, “The Fortunate Sky,” undated, SIAA.
  \item \textsuperscript{27} Bolick, \textit{To Soar With Eagles}, 198.
  \item \textsuperscript{28} Clinton O. Norby, “World War II Experience,” dated July 1990, SIAA.
  \item \textsuperscript{29} Richard H., telephone interview, May 20, 2011.
  \item \textsuperscript{30} Ibid.
  \item \textsuperscript{31} “Camp Joseph F. Moloney: Daily Schedule,” dated August 9, 1944, and letter from Lee Ellis, “A Step into Paradise,” undated, SIAA.
  \item \textsuperscript{32} James A. Green, “The Story of My Capture and Escape during World War II,” dated April 20, 2006, unpublished manuscript in possession of author, p. 18.
\end{itemize}
roll call in the street. They lined up in three ranks and counted off for accountability. The internees noticed that the tenant guards rotated about once per month and differed significantly by cantonal region. The French-Swiss guards were generally liberal when it came to privileges, whereas the German-Swiss always strictly enforced bed checks, roll calls, and curfews. The punishments for minor infractions were subjective, and so missing curfew under a German-Swiss guard unit meant that “you might be put in the local jail overnight.”

Meals were served at fixed times at the hotels, but the internees often supplemented their meager rations with food purchased out in the town. Although housed in resort hotels, the internees experienced somewhat less than the standard resort experience due to the wartime shortages and tight budgets. The hotel rooms were unheated, and some internees kept their clothes in bed with them to keep them from freezing in the winter. Hot water was hard to come by, as it was turned on in the hotel about every ten days, and sometimes even less frequently. Sergeant Clinton Norby recalled that when the water was turned on, “everyone headed for their rooms to get ready for a bath,” which they then had to reuse to conserve water. One internee recalled

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34 “Camp Joseph F. Moloney: Daily Schedule,” dated August 9, 1944, and letter from Lee Ellis, “A Step into Paradise,” undated, SIAA.


shaving with ice and shaving cream.\textsuperscript{38} Another internee warmed water with an immersion heater, a high-voltage device that “resembled a soldering iron.”\textsuperscript{39}

Adelboden’s tranquility stood in stark contrast to the normal routines of American aircrews who were often accustomed to demanding schedules rife with the stress and violence of combat operations. Second Lt. Jack McKinney, the copilot of a B-17 that was shot down by flak in March 1944, expressed that when first arriving in Switzerland “we were a little suspicious of each other with the exception of our own crew members or those we knew from our [bombardment] group.” Only after sustained interaction with other internees did he “[begin] to feel more at ease around other internees.”\textsuperscript{40}

The challenge for U.S. and FCIH officials was providing the American internees with productive ways to occupy their time. Unlike most internees of other nationalities, the American aircrews were almost exclusively officers and noncommissioned officers, which meant that they could not be compelled to perform manual labor due to the Swiss interpretation of the 1907 Hague Convention.\textsuperscript{41} The U.S. airmen were therefore offered educational classes in the mornings and afternoons, and a swimming pool was open all day for the internees’ use during the summer months.\textsuperscript{42} Lt. McKinney described his

\textsuperscript{38} Robert Long, telephone interview, January 1, 2011.

\textsuperscript{39} Richard H., telephone interview, May 20, 2011.

\textsuperscript{40} Letter from Jack McKinney, undated, SIAA.

\textsuperscript{41} Probst, \textit{Schlussbericht des Eidg. Kommissariates für Internierung und Hospitalisierung}, 103. Many other internees of other nationalities were compelled to work—particularly in agriculture—by virtue of their low rank and the fact that the Swiss expected no reimbursement of internment costs from their respective governments.

\textsuperscript{42} “Camp Joseph F. Moloney: Daily Schedule,” dated August 9, 1944, SIAA.
immersion in “endless” bridge games and the pursuit of photography. Captain James Roberts, the senior American officer at Adelboden, managed to order books through the Red Cross and eventually set up a library. He also procured donated musical instruments, and soon the internees formed an orchestra. According to Roberts, the band performed at dances that were held twice per week in the winter months. Technical Sergeant Alva Moss was one member of the musical group, a “seven or eight piece band” that had three saxophones, several trumpets, a trombone, and a piano. Moss, who played both the saxophone and clarinet, first thought the band “was pretty bad” and refused to join. However, he eventually relented after the band improved, and started practicing with the group once per week.

Winter recreation was also a prime attraction at Adelboden. Captain Roberts hired Swiss ski instructors to give lessons to the interned Americans. One internee, Staff Sergeant Raymond Baus, went from a novice to an expert skier in only one season. Sergeant Alva Moss used skiing and other recreation as a method to pass the time. According to Moss, “I kept active because I felt better moving around and doing [activities].”

43 Letter from Jack McKinney, undated, SIAA.

44 “Lewis ‘Jocko’ Roberts Crew were the Only Swiss Internees from the 781st Bomb Squadron,” undated, SIAA.

45 Alva Moss, telephone interview, June 6, 2011.

46 “Lewis ‘Jocko’ Roberts Crew were the Only Swiss Internees from the 781st Bomb Squadron,” undated, SIAA.


48 Alva Moss, telephone interview, June 6, 2011.
Many internees also indulged—and overindulged—in the “frothy black beer” that could be purchased in Adelboden.\(^{49}\) This occasionally led to incidents of drunkenness and disorderly conduct and resulted in room restriction or a short stint in the local jail in nearby Frutigen.\(^{50}\) The senior American officers at the camp organized a rotating military police patrol to round up internees from the taverns and return them to their rooms in the evenings.\(^{51}\) The names and offenses of Americans who were in trouble for minor disciplinary infractions were posted publicly on bulletin boards to serve as warnings to their comrades.\(^{52}\)

The Swiss government eventually constructed 768 camps for foreign military and civilian refugees, although the Americans were generally segregated into their own camps as were most nationalities.\(^{53}\) The number of American internees in Switzerland spiked dramatically starting in the spring of 1944, as the increased tempo of the Allied strategic bombing offensive sent American bombers farther into France and Germany in a coordinated attempt to destroy the German Luftwaffe prior to the Normandy landings.\(^{54}\) Sixteen damaged heavy bombers landed in Switzerland on a single day in March 1944, and the landings continued unabated through July, a month that saw the internment of

\(^{49}\) Letter from Lee Ellis, “A Step into Paradise,” undated, SIAA.

\(^{50}\) “Camp Joseph F. Moloney: Daily Schedule,” dated August 9, 1944, SIAA.

\(^{51}\) Prince, Shot from the Sky, 86.

\(^{52}\) “Camp Joseph F. Moloney: Daily Schedule,” dated August 9, 1944, SIAA.

\(^{53}\) Prince, Shot from the Sky, 70.

forty-five U.S. warplanes with 404 airmen.\textsuperscript{55} The influx of new Americans prompted the Swiss to open a second camp at Davos in June 1944, followed by a third camp at Wengen in August 1944.\textsuperscript{56} At peak capacity, the Americans were housed in a total of fourteen hotels located in Adelboden, Davos, and Wengen.\textsuperscript{57} The U.S. Legation eventually arranged to transfer all interned American officers to Davos, as they found that “the segregation of officers and men at Adelboden in separate hotels was insufficient for the preservation of discipline.”\textsuperscript{58} Second Lt. James Misuraca remembered the train ride from Adelboden to Davos. He supported the move, claiming that “it doesn’t work” to have officers and enlisted soldiers living and fraternizing together in the same location.\textsuperscript{59}

The town of Davos is located in the Swiss Alps at an altitude of 5,250 feet, and was largely a farming community until 1865 when Dr. Alexander Spengler noticed that pulmonary tuberculosis was extremely rare in the village. Spengler’s discovery inaugurated the development of the town as a health resort, and Davos soon hosted some of the premier tuberculosis sanitariums in the world, with capacity for several thousand patients by the early 1900s. Davos also developed an international reputation for skiing.

\textsuperscript{55} Legge, \textit{Report of Internment Situation}, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, 1.

\textsuperscript{56} For internee arrival periods and dates of camp establishment see Legge, \textit{Report of Internment Situation}, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, 1-2, and Prince, \textit{Shot from the Sky}, 95.

\textsuperscript{57} Legge, \textit{Report of Internment Situation}, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, 2.

\textsuperscript{58} Ibid., 2.

\textsuperscript{59} James Misuraca, telephone interview, June 17, 2011.
and ice skating, which fueled a winter tourism economy in peacetime. Like Adelboden, Davos had numerous empty hotels available during World War II, which led to the decision to transfer the Americans to this location. According to one internee, “Davos was a larger town than Adelboden and had much more recreational activities.”

Second Lt. Lewis Sarkovich related that the Americans were housed in the Palace Hotel in Davos, just across the street from the German Legation. He noted that “all the furniture was moved out of our hotels,” and the internees used lower quality furniture “from the Red Cross or Goodwill.” Sarkovich found that Davos “was beautiful—mountains, friendly people, clean, fresh air, but little food, little money and nothing to do but hike, play chess, play tennis—boring as hell.” He bought a camera, a “Cotax 35mm,” which he used to “[take] pictures all over the place.” Sarkovich eventually helped start a dance band with instruments and music donated by the YMCA. The band played big band music in the ballroom of the Palace Hotel, where the American internees were housed.

Second Lt. James Green recalled that Americans in Davos “could play cards, chess, checkers and bang on an old out of tune piano” for entertainment. However, this

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61 Letter from Oliver Keller, undated, SIAA.


63 Letter from Lewis Sarkovich, undated, SIAA. Switzerland was the headquarters of the World’s Committee of the YMCA, which ran the War Prisoners Aid function which consisted of “a world-wide organization to serve prisoners of war.” See Andre Vulliet, Preliminary Report of the War Prisoners Aid Young Men’s Christian Associations during World War II (Geneva, Switzerland: International Committee of the Young Men’s Christian Associations, 1946), 9, 66, 73.

64 Ibid.
was not enough to satisfy all of the internees. According to Green, one airman who was “a former cabinet maker” converted an old pool table such that it would flip over and become a craps table. While the frame was stationary, the table “could be flipped over in an instant” in order to disguise the internees’ late-night gambling routine. Green yearned to play sports, but unfortunately the equipment was often lacking. Green and several other internees were denied access to the local nine-hole golf course at Davos on the grounds that “golf balls were just not available.” Several internees eventually gained permission to work as caddies, and they devised a system to ensure that some of the errant golf balls ended up in their pockets. According to Green, the club manager finally “allowed us to play only at certain times when none of the other members were around.”

Second Lt. James Misuraca recalled that Davos had a small tennis court available for the Americans’ use, but since “everyone wanted to play tennis” it was nearly impossible for the internees to secure reservations. He preferred instead to play baseball, or ride the funicular up the mountains to the ski lifts. Misuraca was not interned during the ski season, so he rode the railcars “just for fun.” However, he knew several internees who learned to ski in Switzerland, and recalled that “a lot of [Americans] got broken legs” on the slopes.

An inspection of the internee hotels at Davos by the ICRC in July 1944 revealed that the Americans reportedly had “all modern comforts” of the period, including baths.

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66 Ibid., 19.

67 James Misuraca, telephone interview, June 17, 2011.
“twice a week” and access to a modern kitchen. The ICRC delegate noted that the Americans were “in a privileged situation in comparison with the other internees [of other nations],” as they were not required to work to pay for their internment costs. The internees enjoyed three “zones of liberty” in Davos, which included sports fields and cinemas in the village. The American officer in charge lodged no complaints with the ICRC delegate, noting that the present conditions in Davos were much less crowded than at least one other American internment camp, presumably Adelboden.68

The third and last major U.S. camp, located at Wengen, was similar to Adelboden and Davos in that it was situated in yet another isolated mountain village that was nearly vacant because of the war. Located at 4185 feet, Wengen was described as “a paradise of winter sport” and close to Interlaken, “the most frequented tourist-resort in the Bernese Oberland.”69 According to Technical Sergeant George Michel, Wengen could only be reached by train, and the village appeared to be “carved out” from the side of a mountain. According to Michel, the valley was characterized by “almost vertical, rocky sides slashed with cascading waterfalls and green meadows.”70

Wengen primarily housed American noncommissioned officers (NCOs), who were allowed to move around the village so long as they stayed in “G.I. clothes.” As in the other camps, the Americans were supervised by rotating Swiss guards who conducted roll-calls and bed checks to maintain accountability. However, security was generally


70 Letter from George Michel, “Escape from Wengen, Switzerland,” undated, SIAA.
loose due to the isolated location. Internees who obtained special passes were permitted to travel up to the Jungfrau, the third highest mountain in the Bernese Alps.71 Other diversions included skiing on Nursery Hill, located behind the tennis courts in Wengen. In November 1944, at least three Americans reportedly broke their ankles on the slope, in addition to several other skiing injuries. The internees also established a small movie theater, the Paramounds, which showed less current films from the 1930s and early 1940s.72 Educational classes were also offered in the camp, and included Gregg shorthand, accounting, typing, and language training.73

The few legitimate complaints about the regular American internment camps centered on the food and medical care. Captain Lawrence McGuire, the senior American officer at Davos in the fall of 1944, expressed that the “food quantity was insufficient.” He recalled that once additional pay was authorized, the American internees supplemented their issued meals with food “in local town eateries.” Technical Sergeant Richard H. recalled the same practice in Adelboden. According to Richard, the strictly rationed food quantity might be barely adequate for the average adult, but “for a bunch of kids that’s starvation.” Therefore, he illicitly purchased spare ration books from Swiss farmers. The farmers were virtually “independent” when it came to food, since they “had their own gardens, chickens, and eggs.” Richard used the coupons in the ration books to buy extra quantities of rationed bread and margarine in Adelboden. He frequently went

71 Ibid.
72 “Wintersports Casualties” and “Paramounds Scotty Says,” The Yankee Yodeler 1, no. 3, November 17, 1944, 2, 6, SFA, Box E5791, 1000/949, Vol. 946, “Nations” Américains O.D.”
to a bakery where internees could purchase small cakes and pastries, and he also purchased potato bread from a small cart pulled by a Saint Bernard. Richard recalled that “you couldn’t eat fresh bread,” a ration restriction meant to limit consumption since people generally ate more bread if it was recently baked. Therefore, the bread “had to be at least a day old” before it could be sold.\footnote{Richard H., telephone interview, May 20, 2011.}

Second Lt. James Misuraca found that the regular food simply “wasn’t enough.” He recalled that “you could have all the soup you could drink” as well as ample quantities of dark bread, but the diet was lacking when it came to fresh fruit and protein. Therefore, Misuraca used the same tactic as the Adelboden internees to procure extra ration books in Davos. Upon arrival in the town, he soon discovered that “the Swiss people were willing to barter” for their ration books, particularly on Saturdays when the farmers came to town. According to Misuraca, “the Swiss really looked the other way” when it came to strict adherence to the food rationing system. He recalled a popular café in Davos where he and his friends supplemented their rations with sweets like chocolates, ice-cream, and apple strudel that he claimed was “out of this world.” Misuraca also went to the café to procure highly-rationed eggs and bacon. Although he frequently lacked the necessary ration coupons, he nevertheless received bacon hidden beneath a serving of eggs. He attributed this generosity to the fact that he was dating the daughter of the proprietor.\footnote{James Misuraca, telephone interview, June 17, 2011.}

In Captain McGuire’s opinion, “[the] quality of the Swiss internee food offered was unquestionably below any normal standards.”\footnote{Letter from Lawrence McGuire to Robert Long, dated January 13, 1998, SIAA.} Some of the concerns over the types
of food may have been cultural, such as when Flight Officer Robert Long was served several unusual types of meat, a rarity since internees normally received only two ounces of meat twice per week. Long recalled eating blood sausages, mountain goat, and “rabbits with [their] heads still on.” The rabbits bore a striking resemblance to a litter of cats at the hotel, and so Long asked the Swiss cook, “Hilde, where are your kittens?” Hilde quickly found all seven kittens and brought them out to prove that they were not the main course. 77 Similarly, Technical Sergeant Alva Moss remembered that “we ate a lot of rabbit,” which the Swiss often falsely passed off as chicken. He claimed that the rabbit gravy was particularly unpalatable. 78 Technical Sergeant James Scott remembered that “it took some doing for us to get used to black bread and stinking cheese topped off with acorn ‘coffee’ for breakfast.” 79 Sergeant Richard H. recalled eating lentil soup, tripe, and horsemeat cut into pieces. According to Richard, the horsemeat “had kind of a sweetish taste to it” that was not to his liking. However, he remarked that “when you’re hungry you’ll eat anything.” 80

An inspection of American camps by a U.S. Army Medical Corps officer in November 1944 affirmed that the FCIH only allotted 1500 calories per internee per day, a quantity deemed to be “barely a subsistence diet even by continental standards.” 81 The reason for the severe rationing was that the internees were classified by the FCIH as

77 Robert Long, telephone interview, January 1, 2011.
78 Alva Moss, telephone interview, June 6, 2011.
80 Richard H., telephone interview, May 20, 2011.
81 Major Jack E. Torin, “Addendum to the Report of Internment Camps in Switzerland,” dated November 2, 1944, SIAA.
“light workers,” and therefore required less nourishment. The doctor recommended a minimum of at least 2100 to 2300 calories in order to preserve “physical and mental stamina.” The quality of the food at Davos was also lacking, a problem attributed to the chef, a Swiss soldier. According to the U.S. inspector, the cook “seemed to have very little understanding of the proper preparation of balanced and palatable diets,” and also “showed reluctance to any interference or suggestions.” This was perhaps emblematic of how many FCIH soldiers were ill-trained for the wartime duties that they so hastily assumed.

Medical inspections of the internees by a U.S. Army Medical Corps doctor also revealed inadequate access to hospitals and almost nonexistent treatment of dental problems. The isolated internment camps served to curtail escapes by sequestering Americans in the mountains, but this also made it difficult to provide access to medical care. In particular, Swiss dental treatment was described as “poor,” resulting in cases of bleeding gums and “trench mouth,” a reference to severe gingivitis prevalent among soldiers who served in the trenches during World War I. These problems were also attributed to the FCIH, which only utilized Swiss military doctors who were temporarily


84 Major Jack E. Torin, “Report on Recent Tour of Medical and Sanitary Inspection of American Internment Camps in Switzerland,” dated October 24, 1944, SIAA.

mobilized for various short periods of time. According to 2nd Lt. James Green, “after the second month [of internment] my teeth became very sensitive and started chipping.” Green blamed his poor diet for his dental deterioration. The problem of dental hygiene was not exclusive to the interned American population. The ICRC eventually addressed the problem among the entire population of foreign military refugees by converting a railroad dining car into a mobile dental office, billed as a “dentist’s office on wheels.” The car included a laboratory and treatment areas, and was operated by the Swiss Army’s dental service. The car reportedly travelled between Estavayer-le-Lac and Frutigen, nearby the American internee camp at Adelboden.

General Legge also documented problems with acute medical care. According to a report by Legge in November 1944, “Some critical medical cases jeopardizing American lives [are] now handled by reserve Swiss army doctors with relative disinterested attention.” These doctors reportedly “prescribed rest and other such

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87 Letter from Edward L. Pribek, undated, SIAA.
89 "Dentist’s office on wheels is provided for military internees and refugees in Switzerland,” *Illinois Dental Journal* 14 (1945): 78.
90 Memo from Military Attaché, American Legation in Bern, Switzerland, to Commanding General Army Air Force, War Department, dated November 16, 1944, No. 1914, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

doubtful remedies” for all but the most serious medical conditions.91 In one case in December 1944 an American staff sergeant was sent to the hospital at Thun with suspected appendicitis, but he was returned to his camp at Wengen with a report that “nothing was wrong with him.” The U.S. Legation intervened in the case since the airman “was quite evidently in physical distress,” and he was correctly diagnosed and underwent an appendectomy in a different hospital in Bern. According to the U.S. Legation, this was a clear case of “either an incompetent or a negligent diagnosis” and “we can hardly be expected to have further confidence in the ability or diligence of the Thun hospital.”92 In response to these reports, the Headquarters Strategic Air Forces in Europe eventually decided to send three Medical Corps officers and one dental officer to Switzerland to supplement the Swiss medical treatment of the American internees.93

One of the most serious cases of perceived medical neglect in Switzerland was that of Staff Sgt. James Stotts, the left waist gunner on a B-17 that crashed in Switzerland on April 24, 1944 after a harrowing firefight over Germany. While on a mission to bomb Oberpfaffenhofen, Germany, nine Luftwaffe fighters shot out two of the bomber’s engines and then pursued and “constantly attacked” the damaged aircraft all the way to Switzerland. According to the copilot, “my courageous gunners [shot down] no less than seven of the nine [German] aggressors” before the bomber crossed the Swiss border. The

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92 Letter from Colonel Edgar Cheatle, U.S. Military Air Attaché in Bern, Switzerland to Colonel Probst, Adjutant General Section 8, dated December 4, 1944, SFA, Box E5791, 1000/949, Vol. 612.

crew narrowly averted a crashing into an urban area and landed in a field near Neftenbach, ripping the tail from the bomber in the process.94

The experience deeply affected the entire crew, but none more than Sgt. Stotts. According to a crewmember’s report, Stotts was not physically injured, but “could have been mentally affected” by the traumatic events of his final mission. Another crewmember related that “[Stotts’s] mind wasn’t right after that.” The sergeant was subsequently hospitalized for twenty-five days in a mental health institution in Waldau, Switzerland, but then was inexplicably released.95 According to a Swiss medical official, the Swiss physician treating Stotts claimed that he was “cured,” and reported that “the patient’s behavior seemed to be very orderly and natural, without hallucinations.” Therefore, the doctor requested that Stotts be transferred back to his camp at Wengen, where he “could completely recover more quickly than in the hospital.”96

A few days later Stotts reportedly experienced “a violent short-lived state of catatonic excitement with religious inspiration” in which he wrote and talked impulsively.97 He subsequently “jumped from a hotel window [in Wengen, Switzerland] and died of [his] injuries.” Stotts’s crew blamed both the U.S. Legation and the Swiss government for the incident, claiming that if “the American Military Legation [had] taken sufficient concern and precaution, [Stotts] would have remained confined to a medical


95 Missing Air Crew Report (hereafter MACR) #4281, dated April 25, 1944, NARA, RG 92, M1380.

96 Memo from FCIH Medical Services Chief to FCIH Chief of Staff, “amerikanischen Internierten Sgt. James D. Stotts,” No. 36/VO/an, dated October 5, 1944, SIAA.

97 Ibid.
institution.” Another crewmember reported that “this crew member died through ‘Negligence.’”\(^98\) The Swiss censors intercepted another complaint about the incident from Staff Sgt. Lester Henderson, who complained that “it took three hours before a doctor came to examine [Stotts], and then he did nothing to send him to the hospital.” According to Henderson, Stotts “waited 6 to 8 hours in some corner before we took care of him,” and “in our army we do not wait one week before giving first aid to a wounded man.”\(^99\)

Not all interned Americans took issue with medical care in Switzerland. Technical Sergeant Alva Moss’s B-24 bomber, *Jack Pine Joe*, was hit by intense antiaircraft fire while on a combat mission to bomb an engine factory at Allach, Germany, on July 19, 1944. The aircraft lost an engine and the pilot was unable to feather the propeller, causing the aircraft to rapidly lose altitude. To the crew’s misfortune, the navigator immediately bailed out of the aircraft, and all of the relevant maps and charts were blown out of the escape hatch. While the crew desperately threw all heavy objects out of the aircraft, the pilot simply “guessed at a compass heading” and flew toward what he thought was Switzerland. *Jack Pine Joe* passed directly over Friedrichshafen, Germany, and was hit by antiaircraft fire a second time. According to Moss, “all Hell broke loose” as explosions rocked the aircraft, and he received a large fragment of shrapnel in his lower left leg. The pilot gave the order to bail out when the

\(^{98}\) MACR #4281, dated 25 April 1944, NARA, RG 92, M1380.

heavily damaged aircraft reached Switzerland, and Moss went out the escape hatch. Two other crew members were injured in the jump, and the copilot was killed.100

When Sergeant Moss regained consciousness he was hanging from his parachute in the middle of a Swiss orchard. A Swiss soldier helped him down, and he was taken to a Catholic hospital at Münsterlingen on the shore of Lake Constance. Here he received an operation to remove the shrapnel, and then remained in the hospital for two months to recuperate. According to Moss, “I remained in bed on my back for five weeks, then four more ambulatory weeks before being released.” His doctor, a Swiss Army lieutenant, spoke “good English,” as did most of the nurses. Moss thought that his medical care was “decent,” although the location of the hospital near the German border meant that every time the adjacent city of Friedrichshafen was bombed, “the hospital would vibrate and shake” from the explosions and “the Swiss would get out their air raid [helmets].”101

Medical concerns and food rationing aside, most American internees agreed that although life while interned in Switzerland was not ideal, it was much preferred to the alternative of captivity in enemy hands. Flight Officer Robert Long related that he harbored “no ill feelings or animosity of any kind” over his treatment while interned at Davos, claiming that “[the Swiss] shared what they had with us.” According to Long, “at that time there were no fat Swiss,” an observation he attributed to the strict wartime rationing.102 Technical Sergeant Alva Moss professed that “most of the Swiss I came into contact with were very congenial to Americans,” and “the Swiss were very good to

100 Alva Moss, telephone interview, June 6, 2011, MACR #6750, dated July 21, 1944, NARA, RG 92, M1380, and Thomas, Heaven, Heaven and Hell, 55.

101 Alva Moss, telephone interview, June 6, 2011.

Lt. Walter Walser related that “our stay in Switzerland was pleasant and comfortable,” and he was “thankful that [his crew] were not in a prisoner of war camp or something worse.” Technical Sergeant Richard H. claimed that he received “excellent treatment,” and believed that he “had a good time compared with what [other downed airmen experienced] in Germany.” Richard expressed that “all in all, I’m sure glad we made it there [to Switzerland].” According to 2nd Lt. James Green, “Life in Davos as an Internee/POW was not to be compared with that of POWs in the Stalags in Germany, unless one committed [an offense] such as getting caught trying to escape.”

The Americans who were caught escaping from Switzerland experienced a markedly different type of treatment from regular internees. Rather than the isolation and boredom of mountain hotels, they faced confinement in civilian jails and military-run prisons where they were malnourished, medically neglected, and denied due process in the Swiss legal system. The Americans’ escape attempts and their resulting incarceration strained the relationship both between internees and the U.S. Legation in Switzerland, as well as between the Swiss and U.S. governments.

103 Alva Moss, telephone interview, June 6, 2011.
104 Walter Walser, “War Experiences,” undated, memoir in Special Collections of Harold B. Lee Library, Brigham Young University, Provo, Utah.
IV. Escaping Americans & Punishment Camps

The number of interned Americans reached its apex in September 1944, at 1,179 airmen, and declined to 700 by December 1944 due to what the U.S. military attaché referred to as an “exodus” of “internees escaping from Swiss territory” via the French border.\(^1\) Escapes were rare prior to August 1944, primarily due to the fact that Switzerland was completely surrounded by Axis occupied territory. One explanation for the sudden rash of escapes was the notion of duty, as airmen realized that they were sitting out the remainder of the war as internees. The aircrews were briefed by their commands that in the event of an apprehension by local authorities in neutral countries, “in all cases crews should attempt escape and return to their proper units,” with the caveat that “such escape should be made without use of force of arms or personal violence against neutral officials.”\(^2\) Technical Sergeant George Michel, a radio operator and gunner on a B-24 bomber, recalled that “at each and every briefing prior to mission we had been told very specifically that if our plane went down for any reason, it was our duty to try to escape and return to our bomber group.”\(^3\) Second Lt. James Misuraca

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3 Letter from George Michel, “Escape from Wengen, Switzerland,” undated, SIAA.
acknowledged “feeling some guilt” over sitting out the war in Switzerland, and claimed that escaping was simply “what you’re supposed to do” as a soldier.⁴

Of course, other motivations also contributed to the exodus of internees. Second Lt. Donald Malloy wanted to leave Switzerland because he had a new baby born after he had left for combat. Second Lt. Loren Merritt simply wanted to get home to his wife.⁵ According to 2nd Lt. Wallace Northfelt, internment was analogous to a football player “on the bench” in the middle of a critical game. He related that the highly-trained aircrews felt the same way when they faced the transition from active combat to an existence of relative complacency. According to Northfelt, “all of a sudden [the airmen were] sitting down doing nothing—it’s impossible [to bear].” He also admitted that “we had some little girls [at] home in America” who served as additional incentives.⁶ Lt. Walter Walser echoed similar sentiments, explaining that “sitting there and hearing the news of the war was [nerve-wracking],” since his crew was “[no longer] able to do our part to help bring the war to a close.”⁷ First Lt. Edward Jennings wanted to rejoin the war because there were two other pilots in his family, of which “one [was] missing in action [and] the other somewhere overseas.” He claimed that “I hope my [escaping from Switzerland] does them a service as well as my country.”⁸ These motivations and others convinced many internees to jeopardize their positions of relative safety and attempt escape, an ironic

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⁴ James Misuraca, telephone interview, June 17, 2011.
⁷ Walser, “War Experiences.”
⁸ Statement of 1st Lt. Edward J. Jennings, dated September 29, 1944, Annecy Report, SIAA.
reversal from when they entered Switzerland in order to avoid capture by the Nazis. This decision potentially carried considerable consequences, since by escaping the airmen also risked apprehension and possible punishment by their Swiss hosts. Once Allied forces neared the Swiss border in late August 1944, escape attempts increased dramatically as hundreds of American internees aspired to rejoin friendly lines.9

The U.S. Legation and Consulates actively assisted internees’ escape from Switzerland. Prior to the summer of 1944 the U.S. authorities utilized a limited number of existing British escape routes.10 General Legge reported in December 1943 that “one or [two] British and a number of Dutch have gotten thru” France to Spain using the escape channels, and he felt that the Legation “should make [an] effort to start some of our escaped pilots” on the route.11 However, the attaché eventually determined that these routes were “inadequate and unproductive,” since it was “extremely difficult and dangerous to get men across occupied France.”12

After the U.S. lines reached the Swiss border in August 1944, Lt. General Ira Eaker, commander of the Mediterranean Allied Air Forces, submitted a proposal to assist in returning interned airmen to U.S. lines. Eaker asked the Office of Strategic Services

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10 Letter from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.

11 Memo from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated December 6, 1943, No. 1050, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613.

12 Letter from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.
(OSS), a secret organization that specialized in espionage and clandestine operations, to prepare to evacuate 1,000 of the internees.\textsuperscript{13} This operation was part of a larger OSS “underground railway” that rescued thousands of downed airmen during the war.\textsuperscript{14} The OSS was well postured for this mission in France because of Operation Carpetbagger, an OSS run effort to supply the resistance movements in Europe. Under Carpetbagger, the OSS dropped so-called ‘Jedburgh’ teams ahead of Allied lines in France in order to coordinate local resistance. This also meant that the Jedburgh teams were frequently the closest Allied forces to the Swiss border in mid 1944, and therefore in a unique position to coordinate the repatriation of escaped internees. The OSS also had operational control of several squadrons of USAAF personnel and aircraft in the 492\textsuperscript{nd} Bombardment Group that could be used to repatriate internees from France.\textsuperscript{15} Together, several of the Jedburghs and four C-47 Skytrain transport aircraft under the control of the 856\textsuperscript{th} Bombardment Squadron formed a new network that eventually repatriated hundreds of escaped internees.\textsuperscript{16} On the ground this operation was called the Air Crew Recovery

\textsuperscript{13} Memo from William J. Donovan to the Joint Chiefs of Staff, “Evacuation of American Fliers Interned in Switzerland,” dated September 26, 1944, Folder 82, Box 120B, William J. Donovan Papers, U.S. Army Military History Institute, Carlisle, PA.


Unit, a name that applied to operations in France as well as earlier efforts to evacuate downed Allied airmen from the Balkans.\textsuperscript{17}

In September 1944 the U.S. Legation in Switzerland hatched a new plan to evacuate about twenty internees per week into the hands of the OSS, which had operatives operating across the French border in Annecy and Annemasse.\textsuperscript{18} The Legation reportedly chose internees based on a “priority list,” and then ferried them across the border using various intermediaries.\textsuperscript{19} The escape network consisted of U.S. agents, Swiss civilians, and French Maquis.\textsuperscript{20} On the French side of the border, the OSS network established a processing center at Hotel Beau Rivage on Lake Annecy, which was not far from Geneva.\textsuperscript{21} The operation was originally overseen by Lt. Ball of the OSS—codenamed “Niveau”—one of the original Jedburghs who parachuted into France in June


\textsuperscript{19} Letter from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.

\textsuperscript{20} Memo from Lt. Col. Thomas Early to Col. Edward Glavin, “Meeting with Brigadier General C.P. Cabell,” Headquarters 2677\textsuperscript{th} Regiment OSS (Prov), dated September 22, 1944, NARA, RG 226, Stack 250, Box 222, p.1, and “Minutes of Meeting Held at this Headquarters on Evacuation of American Internees and Escapee Airmen in Switzerland,” Headquarters 2677\textsuperscript{th} Regiment OSS (Prov), dated September 3, 1944, NARA, RG 226, Stack 250, Box 358.

\textsuperscript{21} See Kelly, \textit{From a Dark Sky}, 71-72, and Roy Thomas, “The Annecy Mission,” in \textit{Memories of the 801\textsuperscript{st}/49nd Bombardment Group “Carpetbaggers,”} ed. Robert W. Fish (Springfield, VA: 801\textsuperscript{st}/492\textsuperscript{nd} Bombardment Group Association, 1990), 155.
of 1944 in order to coordinate with the local resistance.\(^{22}\) Once the processing center was established at Annecy, OSS officials regularly sent a car to the French border to ferry escaped internees back to the hotel, where they were fed, bathed, and then interrogated. When weather permitted, the former internees were driven to Lyon and then manifested on the next C-47 returning to England.\(^{23}\)

Eventually the Eighth Air Force set up a permanent receiving station in Annecy in order to process the returning internees and fly them back to England.\(^{24}\) Other field detachments complete with “tents, blankets, some transportation and some food” were established in Brussels, Verdun, Luxembourg, Liege, and Lyon in order to “care for the escapers and evaders” until they could be evacuated to London. From here the escaped internees reported to the U.S. Special Reception Center for debriefing.\(^{25}\) In November 1944, General Legge wrote the War Department that “about 220 internees have escaped to date with assistance [from] this office.”\(^{26}\) To transport this number of internees out of Switzerland, several of the U.S. Legation staff provided way stations for internees in their own houses, and other U.S. officials took very active roles in personally conveying the internees to the French border.

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\(^{25}\) Telegram from Brig. General George McDonald, War Dept. Director of Intelligence, to DCG/Ops, dated September 3, 1944, AFHRA, “Forced Landings in Neutral Countries,” Call number 519.8021-3.

\(^{26}\) Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated November 1, 1944, No. 1880, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.
The U.S. Legation continually looked for ways to expand the escape network in new directions. In December 1944 the Legation requested the assistance of Captain Charles “Chuck” Yeager to help plan escapes from Switzerland. Yeager was well-known because he was shot down over southern France in March 1944 and managed to evade over the Pyrenees Mountains into Spain. He held the distinction of being one of the first U.S. airmen to make it back to his squadron in England, as well as one of the few evadees who obtained approval to return to combat in Europe despite War Department regulations to the contrary. At the Legation’s request Yeager was driven to Lake Annecy, about 50 miles south of the Swiss border at Geneva, where a Legation representative asked him to assist in planning for the escape of 800 U.S. airmen over the Alps. The officer solicited Yeager’s advice on the optimal size of escape groups and other logistical details. Yeager was skeptical of the far-fetched proposal to smuggle internees through the mountains, and recalled that “as far as I know, the escape plan was never attempted.”

Perhaps the most aggressive advocate for escaping internees was Sam E. Woods, the U.S. Consul General stationed in Zurich. Woods had a passion for helping the American pilots, possibly because he was a former Marine Corps aviator himself during World War I. Prior to his assignment in Switzerland, Woods was assigned to Berlin in 1937 as the inspector of all U.S. commercial attachés in Europe. Later Woods became the commercial attaché himself at the Berlin embassy, and was then promoted to Foreign Service Officer when the Bureau of Foreign Commerce was reorganized under the State Department in 1939. Woods’ role as a commercial attaché served as an excellent cover

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when he began using his German contacts to ferry Nazi secrets to his State Department superiors on his own initiative.\textsuperscript{28} Woods reported his intelligence directly to President Roosevelt, divulging German progress in heavy water experiments, submarine warfare, and even providing advance warning of the German invasion of the Soviet Union, Operation Barbarossa.\textsuperscript{29} He maintained his German contacts when he was transferred to Zurich, and this enabled him to remain one of the most important American intelligence sources of the war.\textsuperscript{30}

Woods often took substantial risks to help escaping internees, despite the importance of his intelligence work, including travelling to meet them in person, allowing them to stay in his residence, and even ferrying them to the border. Woods came to visit Sgt. William Wilkey and other Americans confined to a prison camp for attempting to escape from Adelboden in September 1944. According to Wilkey, Woods “[told] us he would have a car parked not too far from the prison camp on such a date and time. All any one of us had to do was get out of the compound and past the guards and dogs, and get to the car, which would haul us to freedom.” Wilkey recalled that at least one American escaped from the camp this way.\textsuperscript{31}

Woods offered similar assistance to 2\textsuperscript{nd} Lt. Robert Dillworth and 2\textsuperscript{nd} Lt. Peter Zarafontis after they crawled under the barbed wire of a prison camp where they were

\textsuperscript{28} Jon Van Houten Dippel, \textit{Two Against Hitler: Stealing the Nazis’ Best-Kept Secrets} (New York: Praeger, 1992), 24, 29.


\textsuperscript{30} See Dippel, \textit{Two Against Hitler}, 28, and Stevenson, \textit{A Man Called Intrepid}, 419.

\textsuperscript{31} Letter from William Wilkey, undated, SIAA.
confined for previous escape attempts. The two officers phoned Woods from the border of Zurich. The Consul General soon picked the men up in his car, and let them stay in his house until proper arrangements were made. Woods arranged for rail tickets for the officers to travel to Lausanne, and also coordinated with a French resistance contact. When the Americans arrived in Lausanne, a blonde woman met them and brought them to her house. Dillworth and Zarafontis waited their turn while the woman’s husband ferried another group of Americans into France. Unfortunately this group was arrested while crossing the border, which prompted the Swiss family to send Dillworth and Zarafontis to a Swiss hotel in Geneva. The next evening they were instructed to follow a guide from a distance. When the guide displayed the prearranged signal – closing an umbrella – the pair “made a dash across the fields and went through the first barbed wire fence” of the French border. They were shot at by Swiss border guards, but nevertheless stumbled through the two layers of wire and gained their freedom.32

Another American officer, 2nd Lt. Lewis Sarkovich, was also personally assisted by Woods in escaping from Switzerland. Sarkovich, the copilot of a B-24 based out of Norfolk, England, was interned in April 1944 when he crashed his badly damaged aircraft, nicknamed Commando, in Payerne, Switzerland. Sarkovich was knocked unconscious in the crash, which also ripped off Commando’s wings and tail, and set the ship on fire. When Sarkovich was hauled away from the crash site in an ambulance, a Swiss soldier told him “Für Sie dem Krieg ist fertig,” or “for you the war is finished.” However, the Swiss soldier underestimated Sarkovich, who had no intention of sitting out the war. Starting in October 1944 Sarkovich made four unsuccessful escape attempts.

32 “2nd Lt. Robert Dillworth,” undated, SIAA.
resulting in several periods of incarceration in Swiss military jails and a punishment camp. He knew that another failed attempt guaranteed a considerable prison sentence, and so he decided to seek out the help of Sam Woods. In January 1945 Sarkovich slipped out of Davos by procuring a Yugoslav military uniform and a forged passport from a group of Yugoslav escapees who were also lodged in Davos. He retained his U.S. Army dog tags so that he could prove his identity in the event of capture. The Yugoslav escapees were not confined to Davos like Sarkovich; they did not enter Switzerland as belligerents and therefore were not interned. As a result the Yugoslavs had much greater travel liberties, and could even purchase rail passes for trips around Switzerland.

Sarkovich slipped in with a group of Yugoslavs and travelled via train to Zurich, taking care to act the part and speak only Serbian. Once in Zurich, he asked a Yugoslav friend who spoke German to call the U.S. Consulate, as the Swiss operators would cut off callers who spoke any other language. The friend used a prearranged code word, “Charlie Chase,” which meant that Sarkovich urgently needed help.

Sarkovich next met Sam Woods in a local bar to arrange for his escape. Woods was incredulous that Sarkovich managed to escape from his camp in a foreign uniform, exclaiming “that’s a new twist!” Woods kept the pilot in his house in Zurich for several days until he could arrange the escape. He eventually decided to smuggle Sarkovich out of the country by driving him to Geneva in his diplomatic vehicle, where they would meet members of the escape network who would take him over the border. Sarkovich was betrayed to Swiss authorities on previous escape attempts, and believed that his

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guides had turned him in to collect rewards. Therefore, he asked Woods if he could alter the plan and cross the border on his own by rowing across Lake Geneva from Vevey.

Woods agreed to the new plan and gave the pilot $200 worth of Swiss Francs, a compass, and several maps of Switzerland. He told Sarkovich to remember the names of the Swiss civilians who helped him, as they would be compensated by the U.S. government.

Woods advised the pilot “When you get across [the lake], ask for the O.S.S. I’ll see that they know you are trying to get across and when.”

Sarkovich took “a long walk” through Vevey looking for a small boat that he could use to cross Lake Geneva. He observed that most of the cottages on the Swiss side of the lake were summer homes, and as a result were “fairly isolated.” Many also had boats in the yards, “some covered, and some just turned over to keep out rain.” He made a mental note of several houses with boats in the yards, and then left the area to find dinner. Later that evening under the cover of darkness, Sarkovich returned and located one of his target boats. He used a knife to remove the chain that anchored the craft to a nearby tree, waited until around 11:00 PM, and then started out across the lake.

Sarkovich strapped his compass to his wrist to remind him of the heading of 20 degrees he hoped would take him to the French shoreline nearly eight miles away. He stopped rowing every half hour “to listen for engine noises” from the patrol boats. After about two and a half hours of rowing he heard an engine, prompting him to lie down in the boat and reduce his profile. According to Sarkovich, “a flash of light passed about 20 feet overhead,” and “after about three or four passes, the light went out.” Fortunately, the waves were so heavy that they completely concealed the boat from view when it was in a

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34 Letter from Lewis Sarkovich, undated, SIAA.
trough. Eventually the engine noises dissipated, and Sarkovitch continued rowing. Soon he could “make out the shoreline and woods behind it” in France. He had been rowing for four or five hours in freezing temperatures, and when he finally got ashore he noted that “my legs felt numb from below my knees to the soles of my feet.”

After about ten minutes on the French shore a figure approached Sarkovitch, who was now shivering and nearly hypothermic. The pilot soon saw that his visitor carried a flashlight, rifle, and an armband emblazoned with “F.F.I.,” the French resistance. The rifle was leveled at Sarkovitch, who simply stated “American pilot.” The airman was marched at gunpoint to a “military compound of some sort,” which turned out to be a French resistance base at St. Gingolph. Here a French commandant verified Sarkovitch’s identity by calling back to the U.S. Legation in Switzerland, and then contacted a U.S. Army base in Annecy described as “a staging ground for all personnel escaping from Switzerland.” After a few days an OSS officer arrived in a truck with several other former internees, and the group travelled to Annecy. Sarkovitch was eventually driven to Lyon, where he boarded a C-47 transport to London. After a three to four hour flight, he arrived at a camp “for internee and escapee processing.” Sarkovitch went through several days of paperwork and medical screenings, and then was issued his back pay and new uniforms. He went to his old bombardment group in Seething and discovered that there was only one officer that he still knew. The officer told Sarkovitch that he was the only surviving member of the group from early 1944, as “the entire unit was wiped out in a period of about six months.”

35 Ibid.
36 Ibid.
Sarkovich cleared his bombardment group and flew to Washington D.C. via Scotland, Iceland, and Greenland. He and the other passengers were “briefed as returnees” in Washington, and ordered to report to a debriefing center. According to Sarkovich, “the first person I talked to was a character from the Internal Revenue Service,” who “had all my records and made out my tax bill for 1944.” The sum came to $280, which Sarkovich paid on the spot. The experience astounded the recently repatriated lieutenant, who noted that “the son of a bitch didn’t even say ‘Welcome home’ or ‘Glad you made it.’”  

Sarkovich was only one of many Americans who were personally assisted by Sam Woods. However, the consul could not possibly do the job alone, and so Woods enlisted the help of several interned Americans and other consular officials to assist with the escape network. One of these assistants was 2nd Lt. Floyd “Mac” MacSpadden. MacSpadden was the pilot of the fifth American bomber to land in Switzerland in early September 1943, a B-17 nicknamed *Madame Butterfly.* The U.S. Legation designated him as a special representative for the distribution of movies for the internees, which required him to travel to Basel, Geneva, and Zurich. This was apparently a cover to allow him to travel under the guise of liaising with film distributors. MacSpadden was given a supply of ration stamps to procure extra food and civilian clothing for escapees,

37 Ibid.


39 Letter from U.S. Military Attaché in Bern, Switzerland to FCIH, dated July 17, 1944, SFA, Box E5791, 1000/949, Vol. 609.
as well as medical supplies to pay off the French resistance for their help in crossing the border. He also encouraged the escaping internees to befriend Swiss civilians, particularly women, in order that they could obtain extra ration stamps and forged travel passes. The Swiss girls in particular were “glad to assist them.” MacSpadden was responsible for ferrying the internees to prearranged “pick-up points” where the French resistance would escort the internees across the border. He reportedly used ten or twelve escape routes in order to throw off the Swiss military, and the operations usually took place after dark. MacSpadden made a point of not keeping a record of the men he helped, in order to have deniability in the event of capture by the Swiss.\textsuperscript{40} It was also quite possible that many of the men he assisted did not know that he was working for the U.S. Legation.

MacSpadden was told that he must himself flee the country in December 1944, as the Swiss were planning to arrest him and others involved in the escape network.\textsuperscript{41} He escaped from Adelboden after dinner on 13 December and travelled to Bern with another American officer.\textsuperscript{42} The pair went directly to U.S. Legation where they spent the night. The next day they were introduced to a Czech smuggler who planned to get the officers out of the country by boating across Lake Geneva into France. Using forged documents they travelled via train to the lake, and crossed successfully to the French side. The next

\textsuperscript{40} Letter from Chris MacSpadden, “Recollections from Mac MacSpadden on Escaping from Switzerland,” undated, SIAA.

\textsuperscript{41} Ibid.

day the U.S. Army sent a truck to pick up MacSpadden, and he was eventually flown back to England.\textsuperscript{43}

Sam Woods provided more than merely minor assistance to Dillworth, Zarafontis, Sarkovich, and MacSpadden. By insisting on driving the escaping internees and sheltering them in his own home, he took significant risks that certainly jeopardized his other important duties. As a result, Swiss officials soon noticed that Woods was helping Americans to flee the country. According to a high level FCIH administrator, the fleeing Americans were “protected and promoted” by the Zurich Consulate through personal involvement and coordination of escape attempts.\textsuperscript{44} Woods and other legation officials often visited the internees under the excuse of delivering books or other supplies.\textsuperscript{45}

According one Swiss officer, Woods ran “a very discreet operation” in which “U.S. soldiers who were evacuated to a hospital escaped several days after arriving there.” In one case an American sergeant telephoned Woods from Sursee Hospital “on some pretext.” According to the complaint, “several hours later, the man was gone.”\textsuperscript{46} Another American internee asked a local innkeeper in Rotkreuz “if he could telephone to Zurich and what code to dial for Zurich,” followed shortly by “a short phone call in English,” ostensibly to the U.S. Consulate in Zurich. Soon a man in civilian clothes who

\textsuperscript{43} Letter from Chris MacSpadden, “Recollections from Mac MacSpadden on Escaping from Switzerland,” undated, SIAA.

\textsuperscript{44} Probst, \textit{Schlussbericht des Eidg. Kommissariates für Internierung und Hospitalisierung}, 102.


\textsuperscript{46} Memo from Captain André Béguin to Swiss Federal Commissioner of Internment and Hospitalization, “Concerne: Les internés américains et le camp pénitentiaire de Wauwilermoos,” dated November 22, 1944, SFA, Box E5791, Vol. 8/24.
the Swiss authorities claimed was “presumably Sam Woods” showed up at the inn late that night and visited the internee in his room. The civilian “told the internee to come with him,” and the pair soon disappeared. On another occasion, four American internees escaped from a confinement camp at Hünenberg immediately after a visit from Woods. Swiss police surmised that Woods drove the internees to the French border at Chavannes-de-Bogis, where they found footprints made by “shoes with Fibran soles” that they attributed to the internees. According to the police, “This indicates that they were American internees and that they had been driven to the Chavannes-de-Bogis location with the help of Consul General Sam Woods.”

Once Swiss military officials caught wind of the U.S. Legation’s escape network, they took steps to curtail its effectiveness and warn U.S. officials of the potential consequences. They restricted access to internees who were deemed flight risks, requiring special passes from high-level FCIH section chiefs in order for U.S. Legation officials to enter certain camps and visit internees.

In late January 1945, the Swiss Minister of the Political Department also threatened “a formal demarche in Washington regarding the activities of the Consulate General at Zurich,” a clear reference to Sam Woods. According to General Legge, “[the] Swiss [are] well aware that I, members of


49 Letter from General Legge, Military Attaché at U.S. Legation in Bern, Switzerland to Colonel Blanc, FCIH Chief of Section, dated January 15, 1945, SFA, Box E5791, 1000/949, Vol. 609.

my staff and Consulates [are] engaged in escape activities,” and the threat of a diplomatic protest was evidence that “[the] continued escape of our internees is becoming embarrassing for [the] Swiss.”

Despite the fact that the Swiss knew about the U.S. efforts, the Legation still took steps to maintain plausible deniability. The U.S. Legation protested the restrictions on contacting internees, claiming that “this complicates the question of the duties of our office vis-a-vis our officers [and] men.” The military attaché claimed that one officer who was overheard coordinating escapes was simply “engaged on liaison work between the different camps necessitated by financial settlements and general administrative matters.” The Legation also punished Americans who jeopardized the escape network. In one case, a U.S. Army Lt. Col. on temporary duty for the U.S. Legation was disciplined for writing to his wife about the covert activities of U.S. officials in Switzerland. Lt. Col. Peter de Paolo disclosed that “the American Consulate General in [Zurich] was assisting interned American personnel to escape from [Switzerland].”

According to the counter intelligence section of the Supreme Headquarters of the Allied Expeditionary Forces, sending this information through German censors was “a serious

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51 Telegram from U.S. Military Attaché, Bern, Switzerland to U.S. War Department, dated January 31, 1945, No. 2062, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.

52 Letter from General Legge, Military Attaché at U.S. Legation in Bern, Switzerland to Colonel Blanc, FCIH Chief of Section, dated January 15, 1945, SFA, Box E5791, 1000/949, Vol. 609.
security violation which could easily lead to reprisals and diplomatic as well as military difficulties of a very grave nature.”53

The U.S. government also took steps to ensure that their escape assistance remained within the boundaries of international law. For instance, on several rare occasions U.S. officials offered to return internees who escaped while on parole, since this conduct was considered a breach of international obligations and potentially jeopardized diplomatic standing and the ability to offer future paroles. Paroles have their roots in the medieval codes of chivalry, when captured knights were offered freedom in exchange for a promise not to take up arms against their captors.54 Thus, the rule was later codified international treaties, such as the 1899 Hague Convention (II), as well as the 1907 Hague Convention (V). Both conventions also authorized neutral powers to offer parole.55 According to the 1907 Hague Convention, Switzerland could “decide whether officers can be left at liberty on giving their parole not to leave the neutral territory without permission.”56 The exact implications of the parole were applied by analogy from the 1899 Hague Convention (II), which specified that “prisoners of war may be set at liberty on parole if the laws of their country authorize it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfill, both as regards their

53 Memo from SHAEF Office of the Assistant Chief of Staff, G-2 to European Theater of Operations Assistant Chief of Staff, G-2, “Disclosure of Escape of Interned Prisoner from SWITZERLAND,” dated May 1, 1945, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1019.


55 See Articles 10, 11, 12, and 57, 1899 Hague Convention (II), and Article 11, 1907 Hague Convention (V).

56 Article 11, 1907 Hague Convention (V).
own Government and the Government by whom they were made prisoners, the engagements they have contracted.” The 1899 Convention also elaborated that “any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honour, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the courts.”

A period legal opinion from the U.S. Army Judge Advocate General cited the precedent that previous U.S. Army regulations stipulated that “breaking the parole is punished with death when the person breaking the parole is captured again.”

Valid paroles for Americans interned in Switzerland were countersigned by the U.S. Legation in Bern, which meant that both the U.S. government as well as the internees were bound to respect the provisions of the paroles. Therefore, when 2nd Lt. Robert Simpson escaped while on parole on October 5, 1944, the U.S. government returned him to Swiss authorities on October 22 despite the fact that Simpson had already been repatriated back to his bombardment squadron in England. USAAF Lt. Colonel Robert Fish, commander of the “Carpetbaggers” bombardment group in late 1944, recalled the incident in his memoirs. According to Fish, while preparing to fly a number

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57 Article 10, 1899 Hague Convention (II).

58 Article 12, 1899 Hague Convention (II).

59 The quote references General Order 100, dated April 24, 1863, and is from a Judge Advocate General opinion authored explicitly to address the parole implications in Switzerland. See memo from Col. Archibald King, JAGD, to the Judge Advocate General, “Personal Responsibility for Breach of Parole Given to a Neutral Government,” No. SPJGW 1944/12149, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1019.

of escaped internees from Annecy to London, one of the escapees—Lt. Simpson—
informedinformed him “that he might not be a ‘legal escapee’” because he had violated a parole
that allowed him to attend classes at a Swiss university. Fish repatriated the airman,
reasoning that “my job was to transport ‘escapees’ back to England and he was obviously
an ‘escapee.’” However, only two days later, Fish received a call from the U.S. Embassy
in London, ordering him to “get that lieutenant back into Switzerland as fast as [he] could,” as “the Swiss government was vigorously protesting that he had broken his
parole.” Fish flew Simpson back to Annecy, where he was driven to the Swiss border
and handed over to the border guards. However, only five days later Lt. Simpson arrived
in Annecy again after his second successful escape. According to Fish, since the parole
was no longer valid the airman “was a legitimate ‘escapee’ and the Swiss had no
objection [to his repatriation],” since “the requirements of international neutrality and
protocol had been satisfied.”

The U.S. government offered to return at least one other parole violator to
Switzerland in February 1945. Staff Sergeant Charles Page escaped from Switzerland the
previous month while on parole, and even received U.S. Legation assistance in the
effort. When the U.S. military attaché discovered the inconsistency, he wrote to the
War Department complaining that since his “word of honor that this man would not
escape is involved,” “his return should formally be offered [to the] Swiss by [the] War

61 Robert W. Fish, “My First Trip into Annecy,” in Memories of the 801st/49th Bombardment Group
“Carpethaggers,” ed. Robert W. Fish (Springfield, VA: 801st/49th Bombardment Group Association,
1990), 160-61.

62 Telegram from U.S. Military Attaché in Bern, Switzerland to MILID Washington, dated February 5,
1945, No. 2071, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-
1945, Switzerland Box 616.
Dept.”  Although the War Department initially authorized Page’s return to Switzerland, Lt. General Carl Spaatz, commander of the U.S. Strategic Air Forces in Europe, soon intervened. Spaatz reported that “[Page] was in serious medical condition [and] thus anxious to get out,” a reference to gunshot wounds that Page received while on his final mission that resulted in his internment. Therefore, Spaatz recommended “[Page’s] return to Switzerland only if [General] Legge cannot satisfy Swiss officials without jeopardizing his position.”  Legge presented the case to Swiss authorities, who conceded that Page’s return was “not necessary” under these mitigating circumstances.

Although well intentioned, the U.S.-sanctioned escape networks were ultimately inadequate to meet the demand of escaping internees, and many internees were apparently unaware that they even existed. This problem was due in part to the highly decentralized command and control that existed between the U.S. Legation and the various U.S. internment camps spread throughout Switzerland. The U.S. Legation had a severe shortage of experienced officers to staff its primary functions, much less supervise and administer the internment of nearly 1,200 U.S. airmen. According to the military

63 Telegram from U.S. Military Attaché in Bern, Switzerland to MILID Washington, dated February 7, 1945, No. 2075, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.

64 For Page’s injuries, see telegram from U.S. Military Attaché in Bern, Switzerland to War Department, dated March 18, 1944, No. 1249, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613. For Spaatz’s intervention see telegram from General Bissell to U.S. Military Attaché in Bern, Switzerland, dated February 8, 1945, No. WAR 34718, and telegram from General Bissell to U.S. Military Attaché in Bern, Switzerland, dated February 14, 1945, No. WAR 36720, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 619.

65 Telegram from U.S. Military Attaché in Bern, Switzerland to War Department, dated February 14, 1945, No. 2093, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.
attaché, “very little trained personnel [were] available, either on my own staff or among the internees, to handle the large and complex administrative problems which arose.”

The already poor command relationship between the U.S. Legation and the internees was also actively impeded by the Swiss government. According to General Legge, “the Swiss authorities from the start took the attitude that the care of the internees is their own concern and have acted independently as possible of the [military attaché].” Thus, newly arrived internees were sequestered for days “until they [were] interrogated,” and internees were frequently moved without any notification to the U.S. Legation. According to Legge, this attitude stemmed from the fact that most internees in Switzerland prior to the arrival of the Americans were nationals of governments in exile, such as the Poles, Yugoslavs, and French. Thus, the Swiss saw the administration of internment “as their own responsibility, to be carried out with a minimum of interference from other governments.” As a result, although the Swiss “recognized in theory the command responsibility of the [military attaché], most of the command functions could not be exercised.” Legge’s repeated protests about these problems “brought little or no result.”

Swiss interference, inadequate staffing, and limited resources prevented the U.S. Legation from meeting the immediate demand of hundreds of internees who eventually escaped from Switzerland between 1944 and 1945. An October 1944 review by Brig. General George McDonald, the director of intelligence for the U.S. Strategic Air Forces

66 Legge, Report of Internment Situation, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, 6.

67 Ibid., 14, 1.

68 Ibid., 5.
in Europe, expressed that “we have long realized that the Swiss situation was one which required some action.” According to McDonald, many of the internees in Switzerland “are getting very impatient, and try to escape on their own accord.” He explained that “The trouble is that up to this point they have had so many rumors of mass evacuation, exchange, established escape routes, that they don’t put too much credence in [General] Legge or his staff from a point of view of their ability to help them.” McDonald advised that “The main thing is to get the boys in the camps informed on established channels for escape so that they won’t go off on their own accord.”

A similar review by Major Benjamin Nordman of the same command concluded that “the men were prone to disregard advice from General Legge’s office and to attempt to escape on their own” because they no longer found the Legation credible. As a result, although “there were numerous [U.S. supported] opportunities for escape from Switzerland,” these networks “were not being availed of because the USAAF personnel in the camps did not know of their existence.” Major Nordman personally travelled to Switzerland with the goal of “[making] direct contact with our personnel” at the internment camps and providing them with the needed information.

Anecdotal evidence suggests that the goal of improving the information flow to internees in Switzerland was never realized, as many internees did not solicit or receive help from U.S. authorities. Accordingly, many left Switzerland with a thoroughly

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69 Letter from Director of Intelligence, US Strategic Air Forces Europe, to Assistant Chief of Air Staff Intelligence, HQ AAF, dated October 3, 1944, Library of Congress, Washington, D.C., Manuscript Division, Carl Spaatz Papers, Box I: 139.

negative view of the U.S. Legation. 2\textsuperscript{nd} Lt. William Wesson escaped without U.S. assistance in September of 1944, and upon arrival at U.S. lines in Annecy he reported that “we [were not] able to find the slightest sign of [an] escape organization in Davos nor any person who could give us any information.”\textsuperscript{71} 1\textsuperscript{st} Lt. Donald McConnell reported to U.S. officials at Annecy that the U.S. Legation should help more with escapes.\textsuperscript{72} 1\textsuperscript{st} Lt. Arthur Glasier also reported to U.S. officials at Annecy that “[the] treatment by American Legation in Bern [was] in no way helpful and often antagonistic.”\textsuperscript{73} Dozens of officers and non-commissioned officers echoed the same sentiments, reporting to U.S. officials that there was “no apparent help by the Am. Legation,” “the American Legation has been very hard on men trying to escape,” “Poor aid to anyone [escaping],” “Very little help for any reason by American Legation,” “American Legation in Switzerland had [the] appearance of incompetence [and] did very little,” “The American Legation is very poor,” and “The American Legation in Switzerland [did] very little or nothing at all for us.”\textsuperscript{74}

The relationship between the U.S. Legation and the internees further deteriorated after August 1944 when General Legge issued blanket orders for the Americans internees

\textsuperscript{71} 2\textsuperscript{nd} Lt. William Wesson, “Operational Report,” dated September 28, 1944, Annecy, France, SIAA.

\textsuperscript{72} 1\textsuperscript{st} Lt. Donald McConnell, Annecy Report, dated September 28, 1944, Annecy, France, SIAA.

\textsuperscript{73} 1\textsuperscript{st} Lt. Arthur Glasier Jr., Annecy Report, dated September 28, 1944, Annecy, France, SIAA.

\textsuperscript{74} 1\textsuperscript{st} Lt. James Mahaffey, Sgt Roger Hutchinson, Capt. O.F. Keller, 1\textsuperscript{st} Lt. Richard Miller, S/Sgt. Herbert Wooten, and 2\textsuperscript{nd} Lt. Kenneth Hall, Annecy Reports, dated September 26, 1944, April 13, 1944, September 26, 1944, May 27, 1944, April 23, 1944, and April 24, 1944, SIAA.
not to escape on their own without assistance.\textsuperscript{75} The policy apparently originated in the War Department’s Military Intelligence Service, which on June 7, 1944 directed Legge “to forbid all personnel under your command to make attempts to escape from Switzerland without your personal approval.”\textsuperscript{76} Legge agreed with the policy, as he believed that “escape, without [a] plan, was extremely hazardous.”\textsuperscript{77} The order not to escape, combined with the general lack of communication, soon exacerbated the already tenuous relationship between the internees and the U.S. Legation. Internees interpreted the order as proof that the U.S. authorities in Switzerland condoned the punishment meted out by Swiss authorities to failed escapers, and some Americans even mistakenly believed that escape would also result in punishment by the U.S. military. Absent an explanation the order not only failed to achieve the desired result, it actually convinced many internees to defy their instructions. According to one American sergeant, the “scuttlebutt” about the order seemed so outrageous that it “cooled the heels of a few as a valid reason to 'ride it out in Switzerland.'”\textsuperscript{78}

Several American internees who successfully escaped without U.S. assistance reported their concerns on the escape policy directly to the War Department. In October 1944 USAAF 1\textsuperscript{st} Lieutenants James White and Roger Smith both submitted formal

\textsuperscript{75} Letter from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.

\textsuperscript{76} Memo from G-2, War Department to Military Attaché, American Legation in Bern, Switzerland, dated June 7, 1944, No. 48196, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 618.

\textsuperscript{77} Letter from General Barnwell Legge to General Clayton Bissell, A/C Chief of Staff, G-2, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.

\textsuperscript{78} Letter from George Michel, “Escape from Wengen, Switzerland,” undated, SIAA.
complaints to the Captured Personnel and Material Branch of the Military Intelligence Service, alleging that General Legge improperly forbid internees to escape. According to the officers, “[Legge] stated [in April 1944] that if anyone had a plausible escape plan he would discuss it with him, however, when several men came forward with plans they were rejected.” They testified that later, in August, Legge issued an order not to escape, including a threat that “the escapee would be court-martialed on returning to American control.” The internees objected since the order apparently contradicted standing orders “that it was our duty to escape,” a reference to War Department policy briefed to all aircrews before they began combat operations in Europe. In November 1944 a similar allegation was submitted to the War Department by three USAAF lieutenants who were “very bitter against the American Legation in Switzerland in general and against General Barney Legge in particular.” The lieutenants, who had previously escaped from Switzerland, complained to the War Department’s Assistant Chief of Staff for Personnel that “General Legge gave direct orders to them that they were not to attempt to escape,” and also that Legge “threatened a general court-martial for all attempted escapes and, at one time, threatened them with dishonorable discharge.” All of the lieutenants felt that the Legation could have done more to improve their treatment, as well as “filter useful information through to them.”

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79 Memo from Chief, Captured Personnel and Material Branch to Chief, Foreign Affairs Branch, Military Intelligence Service, dated October 30, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.

80 Memo from War Department Assistant Chief of Staff, G-1, to Assistant Chief of Staff, G-2, dated November 27, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.
It is clear from the complaints that the disgruntled internees had almost no direct contact with General Legge, and that his instructions were significantly garbled by the time they reached the internees through various intermediaries. In a reply to queries by the War Department, General Legge acknowledged that “My greatest trouble here is preventing [the internees] from trying to escape.”\footnote{Memo from U.S. Military Attaché in Bern, Switzerland, to War Department G2, dated August 2, 1944, No. 1612, RG 319, E58, Box 41.} However, he claimed that “no one was threatened by me with General Courts Martial for attempting to escape against my orders,” and “no one was threatened with dishonorable discharge.”\footnote{Letter from General Barnwell Legge to General Clayton Bissell, A/C Chief of Staff, G-2, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.} Legge justified his policy by citing statistics: he claimed that only 50 percent of escape attempts without U.S. Legation assistance were successful, whereas 98 percent of U.S. assisted escapes succeeded. Some internees who escaped without official sanction were captured by the Germans in France.\footnote{Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 7, 1944, No. 1723, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.} Legge also noted that the unassisted escape attempts put considerable pressure on remaining internees, as the Swiss government reacted by sending hundreds of additional soldiers to guard the American camps. In Davos alone the guards were increased to approximately 700 Swiss soldiers, a force that dwarfed the mere 250 American officers in the camp.\footnote{Letter from Military Attaché, American Legation in Bern, Switzerland, to Chief, Military Intelligence Service, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.} Legge claimed that “In general [the internees] have apparently never been able to appreciate our exact situation vis-à-vis the Swiss
authorities.”

This statement had a basis in fact, although it appears that the internees usually had woefully insufficient information to comprehend the challenges or the instructions of the U.S. Legation. By mid-October 1944, Legge resolved that the internees would continue to escape “in spite of any existing regulations or conventions, and all of the orders which I have published,” a clear acknowledgment that his control over the internees under his charge was entirely ineffective.

The problems with command and control of the American internees resulted in hundreds of unassisted escape attempts, many of which failed. From 1944 to 1945 Swiss authorities intercepted 183 of at least 940 American internees who attempted to escape to Allied lines in France. The Americans were not the only internees attempting to flee the country, and in fact represented only about five percent of the military refugees escaping from Switzerland from 1940 to mid 1945. Therefore, internees of other nationalities had already pioneered the Swiss reaction to escaping internees, and disciplinary procedures to deal with such offenses were already in place.

Escaped internees were normally arrested and jailed in special military-run prisons designed both for captivity and punitive retribution. At least 154 Americans who were caught attempting escape in 1944 were sent to a special punishment camp at

85 Letter from General Barnwell Legge to General Clayton Bissell, A/C Chief of Staff, G-2, War Department, dated December 12, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020.

86 Letter from Military Attaché, American Legation in Bern, Switzerland, to FCIH Commissioner, dated October 19, 1944, SFA, Box E27, 1000/721, Vol. 14510.


Wauwilermoos, where their confinement would eventually test the limits of international law.\textsuperscript{89} The Swiss government was required to enforce competing legal obligations to both intern and guard belligerent forces and also treat them humanely. At times these completing mandates resulted in prisoner mistreatment, as ambiguity in Swiss regulations and international law was exploited by inept or criminal elements within the FCIH.

In early December 1944, USAAF First Lieutenant Wally Northfelt was nearing his second month of imprisonment in the punishment camp at Wauwilermoos. Nine months earlier as the navigator of \textit{Shoo Shoo Baby}, a B-24 bomber based in England, he was shot down by German anti-aircraft fire while on a mission to bomb the Dornier Aircraft Factory in Friedrichshafen. Since the target city was near the Swiss border, the pilot diverted the damaged plane to Switzerland and crash-landed at Dübendorf Airfield in Zurich. Northfelt attempted to escape from Switzerland near Geneva in September 1944, but he was apprehended by border guards and confined at Wauwilermoos. After his arrival at the punishment camp, Northfelt quickly tired of the meager rations of coffee, bread, and thin soup, which he blamed in part for his weight loss of forty pounds over the course of his time in Switzerland. He professed that “I never did sit down to a meal where I was completely satisfied,” and claimed that he was only able to get enough food to survive by purchasing it off the black market. Northfelt was also ill; sleeping on dirty straw had caused him to break out in sores all over his body, and he had problems with his prostate gland. Appeals for medical care had resulted in a consultation with a doctor who, Northfelt claimed, “specialized in women’s cases” and was unqualified to help him. Northfelt thought the doctor “knew about as much about medicine as I did,”

\textsuperscript{89} Data compiled from military tribunals of American airmen, SFA, Box E 5330-01, 1975/95.
judging by the fact that he “puttered around” and “wasn’t doing anything for me.”

Northfelt also disliked the camp administrators, who, he claimed, were “pro-Nazi,” and only cleaned up the camp when inspections by high ranking officers or American dignitaries were announced. He resolved to make a formal complaint to U.S. authorities when, and if, he was released from Wauwilermoos.90

Wauwilermoos was built in 1940 near Lucerne, Switzerland, about twenty-six miles south of the German border. Run by the Swiss Army, the camp housed military internees of various nationalities, including Poles, Italians, French, English, Germans, Yugoslavs, Greeks, and Americans.91 Military-run prisons like Wauwilermoos were established earlier in the war, after cantonal prisons became overcrowded with prisoners convicted in military courts. According to a decree of the Swiss Federal Council in 1941, military prisoners would be confined according to whether their offenses qualified them for “custodia honesta,” or honorable confinement normally reserved for political prisoners. Under this regime the Federal Council sought “to spare the convicted soldier incarceration in civilian prisons with common criminals.” Instead, special military-run prisons would offer confinement for “certain offenses of a purely military character” that did not require rehabilitation. According to the Federal Council, internees were well suited for custodia honesta because “their transgressions, particularly escape and escape attempts, as a rule are not offenses of a common criminal nature.” Therefore, the punishment of escaping internees was explicitly intended to “lay outside the framework

90 Deposition of 1st Lt. Wallace O. Northfelt for the War Crimes Office, Judge Advocate General’s Department, War Department, dated September 17, 1945, NARA, RG 153, E279, File 23-6, and Thomas, Haven, Heaven and Hell, 17.

and organization of [the Swiss] military penal code.”

Regardless of the original intent of the Federal Council, for most of 1944 the FCIH did not follow the custodia honesta model, but rather grouped American internees who attempted escape with all manner of foreign military criminals in Wauwilermoos. This policy shift took place as early as the fall of 1942, well before the arrival of the first Americans. At the time, General Henri Guisan determined that “when it comes to escape, it will never be possible to stop it completely, no matter how many preventive measures, however strict, are implemented.” Therefore, he concluded that “the best available solution was to deal with the internees as prisoners.”

At one point in the war, the administration of Wauwilermoos consisted of twenty-three Swiss soldiers and one civilian. The officers included a commandant, two quartermasters, an adjutant, an office supervisor, and a camp physician. The enlisted personnel included a camp sergeant major, an accounting sergeant, two quartermaster sergeants, three military policemen, two drivers, an interpreter, and various munitions personnel and office staff. Five of these soldiers were members of the Hilfsdienst, or Auxiliary, an unarmed organization of conscripts created to perform unskilled labor for the regular field army. Members of the Auxiliary did not meet the requirements for

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regular military service and lacked formal military education or training. The Auxiliary troops ostensibly augmented the FCIH out of necessity due to critical military manpower shortages, but another contributing factor was likely that the FCIH was a lower priority for the Swiss Army than the paramount mission of ensuring national defense in a time of war.

From 1941-1945, Wauwilermoos was under the command of Swiss Army Captain André Béguin, a politically controversial figure who bore much of the blame for the camp’s conditions. Born in the French-speaking canton of Neuchâtel, Béguin had obtained a commission as a Swiss artillery officer in 1928, but subsequently was discharged due to excessive personal debt. In the 1930s he became active in politics and joined the National Union in Geneva, an anti-Semitic and pro-Nazi political party which was a popular fascist movement in Switzerland during the period. He eventually became the local leader of the National Union in Yverdon, and in 1937 he was arrested for illegally wearing a Nazi “party uniform” to a political rally in the same city. Around the same time, Béguin was also forced to resign from the National Union after he


embezzled party funds. He blamed his financial troubles on his politics, claiming that many of his business clientele deserted him because they were “Jewish freemasons.”

He moved to Munich, Germany in 1938, where he worked as an architect. He openly professed allegiance to Germany, and claimed in letters that “because of my anti-Semitic and anti-freemason thinking, I was only able to find work in the [German] nationalistic sphere.” He wrote that in exchange for his employment, “I want to pay back this debt of honor owed to my comrades in the national organization.” Bégüin also signed his correspondence in Germany with “Heil Hitler,” a fact that later came back to haunt him. In September 1939 he returned to Villiers, Switzerland after the Nazis invaded Poland. According to police reports from Neuchâtel, Bégüin “was not popular with the locals” due to claims that he “he held pro-German views.”

Despite his tarnished record, Bégüin obtained work in 1940 as a civilian employee of the FCIH, a job translating artillery manuals. He then worked with the Service Complémentaire Féminin, or female auxiliary, under Major General Muralt. Bégüin was eventually fired from this position, a decision that he blamed on his politics and the fact that he was twice divorced.

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100 See André Bégüin, “Quelques remarques sur ma vie, quelques appreciations et deductions,” dated October 13, 1945, SFA, Box E5330, 1975/95, Vol. 1945/2918I.


Béguin then obtained a commission in the Swiss Army in as an ordnance officer. This ill-advised appointment was almost certainly due to the national state of emergency and manpower shortage in the Swiss Army, although this does not explain the decision to place Béguin in charge of soldiers of other nationalities. Béguin was given the responsibility of organizing several disciplinary internment camps at Kalchrain, Herdern, and Tobel, and he eventually assumed command of the camps. When the commander of the sector conducted an investigation into a riot at Kalchrain, Béguin was again relieved of his command and reassigned due to “incompatibility of temperament with the Frauenfeld Sector Commander.” Béguin blamed the decision on an old political enemy from Yverdon. He claimed that the “brutal dismissal from my duties as commandant” was “a direct blow to my honor,” and argued that “I consider myself to have done my soldierly duty as a Swiss officer and I do not deserve such disciplinary measures.” In fact, the punishment for this reprimand was short-lived. In July 1941, Béguin was moved to a new sector and given command of Wauwilermoos, a post he held until August 1945.

Béguin’s administration of Wauwilermoos raised concerns in the Swiss Army well before the arrival of the first Americans in the camp. Colonel Robert Jaquillard, the Chief of Swiss Counterintelligence, wrote to the Swiss Army Chief of Staff about André

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Bégún’s professional competence as early as January of 1942 after conducting an investigation of Bégún for possible espionage activity with Nazi Germany. ¹⁰⁷ Although Jaquillard could not substantiate allegations of spying, he unearthed other incriminating evidence “likely to require a decision regarding [Captain Bégún] by the commander or by military justice.” He reported several disturbing facts about Bégún’s past: he was the leader of a pro-Nazi organization in Switzerland; he continued to wear his Swiss Army uniform in 1938 after his discharge and claimed a military command that he did not hold; he falsely reported that he lived in France rather than Germany from 1938-1939. ¹⁰⁸

Jaquillard also uncovered evidence of more recent misconduct that dated to Bégún’s command of Wauwilermoos: he was financially in arrears to both civilian and military creditors; he admitted in correspondence to committing adultery; he displayed pro-Nazi bias and mismanagement at Wauwilermoos. According to Jaquillard, a Swiss soldier under Bégún’s command at Wauwilermoos accused him of unfair treatment in October of 1941. Bégún also intervened to help a Swiss soldier who was described as “suspected of being an undercover Nazi agent.” With Bégún’s help, the soldier was released from prison. Bégún’s supervisor, Colonel Treu, reprimanded him for improper record keeping at the camp. Another Swiss Army colonel in the FCIH called Bégún a “bad officer” and a “no-good, unpatriotic liar,” and an officer of the Lausanne security police called him “someone with few scruples, [and] with very dubious morals.”

According to Jaquillard, “the post of internment camp commander requires someone with


a less clouded past than Béguin’s, who certainly would appear to be out of place.” For unknown reasons, the FCIH declined to act on Jaquillard’s report and allowed Béguin to retain his command of Wauwilermoos.

In February 1942, Major Humbert, the chief medical officer and commander of Büren Hospital, wrote to the chief medical officer of the FCIH to complain about “serious irregularities” in Camp Wauwilermoos. The camp first caught his notice because admissions to the hospital that month were highly irregular. According to Humbert, Wauwilermoos internees made up “37% of all [hospital] entries” in early February, despite the fact that the Hospital serviced a total of “45 camps and detachments of 5,372 men” throughout FCIH Sector Seeland. This was Humbert’s first indication that “morale at the Wauwilermoos camp is at rock bottom.” He also interviewed twenty-two internees from the camp, and recorded their statements. He found that “Béguin insults [the internees] violently for nothing,” and he also “denies them any opportunity to talk with the commandant of the camp.” Punishments were extreme, such as “5 days arrest for an unfasten button [in formation],” or arrest for “going to the lavatory without being fully dressed, with belt and all buttons fastened, which is positively absurd from a hygienic standpoint.” Other strict practices included the prohibition of listening to radio news, as well as “being escorted by police dogs on the way to [Sunday] mass.” New arrivals to the camp first spent “5 days in the [confinement] barracks before reaching the open barracks,” and men who attempted escape were punished “without psychological discrimination from drunks or [those with criminal minds].” As a result, Humbert

109 Ibid.
claimed that the “difficult elements” and the “former escapees of good character” were inappropriately commingled.\footnote{Letters from Major Humbert to Chief Medical Officer for Internment, Bern, dated February 18, 24 and 27, 1942, SFA, Box E5791, 1000/949, Vol. 739.}

Humbert requested that his superior “order an investigation” into the conditions at Wauwilermoos. He also requested to “bring a complaint and ask for sanctions against Captain Béguin” as a result of his interviews of the internees at the camp. Humbert unambiguously complained that he considered Béguin “psychologically unfit to serve as commander of a punitive camp.” He also recommended that internees be transferred from Wauwilermoos to a different confinement camp in Büren. Humbert claimed that his requests were motivated only by his desire “to preserve the honor of the service.”\footnote{Ibid.}

As with Jaquillard, the FCIH evidently did not take Humbert seriously, as none of his recommendations were favorably considered. Instead of ameliorating conditions at Wauwilermoos, Col. Vuichoud, the chief medical officer of the FCIH, later directed that Wauwilermoos patients “should not remain at the hospital any longer than strictly necessary for their healing,” and that they “must be returned immediately to Wauwilermoos.”\footnote{Memo from Col. Vuichoud, Chief Medical Officer for Internment, to Commandant of Hospital Büren, “Concerne détenus en traitement à l’hôpital,” dated January 28, 1943, SFA, Box E5791, 1000/949, Vol. 784.} Vuichoud’s directive was a result of pressure from the FCIH’s chief prosecutor, who informed Vuichoud that the patients sent from Wauwilermoos were simply malingering. Vuichoud was told that the internees were not “not seriously ill,”
but rather were complaining in order “to get themselves transferred [to Büren Hospital] and escape the camp’s discipline.”

Béguin also attracted complaints from high-ranking foreign detractors. In November of 1943, General Bronisław Prugar-Ketling, one of the senior Polish officers interned in Switzerland, wrote to a senior FCIH official to report his concerns about the command at Wauwilermoos. Earlier that month, a sentry at Wauwilermoos shot two Polish internees over a misunderstood verbal order, an incident that Prugar-Ketling claimed “sheds a glaring light on the conditions prevailing in the Wauwilermoos camp.” According to Prugar-Ketling, the shooting incident was the direct result of the “unusual style with which the camp’s Swiss management is imbued and the orders given by the camp commander, Captain Béguin.” Prugar-Ketling believed that the methods at Wauwilermoos “exceed acceptable norms and rise to the level of totally unacceptable harassment.” He informed the FCIH that such incidents had already occurred on several occasions, and were bound to taint the legacy of Swiss internment.

Béguin’s rebuttal to Prugar-Ketling’s charge was abrupt and unapologetic. He argued that the general’s assertions about the camp administration were “based on false or biased information,” and that the discipline at Wauwilermoos was “the same as that prevalent in the [Swiss] army.” Béguin claimed that the camp’s sense of order was required to control its “substantial contingent of bad characters,” evidenced by the many riots that occurred at the camp. He explained that the shooting incident was merely a


case of “a convergence of circumstances resulting from a delayed reaction,” and was not a product of the command climate. According to Béguin, internees were warned “on the first day of entering the camp” that “guards will shoot if a first challenge goes unanswered.” Finally, Béguin found the authority for the policies at Wauwilermoos in the 1907 Hague Convention, which he cited to justify the practice of confining internees in prisons. He claimed that “internees are not de jure prisoners of war,” which meant that they were not technically guaranteed the same protections as POWs. Rather, Béguin claimed that “interned troops in no way have the benefit of extraterritoriality, but are under the jurisdiction of the state interning [foreign belligerents].”\[115\] Thus, he demonstrated the knowledge that the treaty law governing internment in neutral countries was ambiguous and therefore susceptible to exploitation.

In January 1944, a new scandal broke on the treatment of Russian internees in Wauwilermoos. An expose published by the Berner Tagwacht newspaper revealed that three Russian officers interned in Wauwilermoos accused Béguin and his subordinates of using military guard dogs in an “undignified manner,” namely to terrorize the internees. One Soviet soldier recounted that he was in the Wauwilermoos stockade as a result of a failed escape attempt, and refused to return to his cell because “he was sick” and wanted to be transferred to the infirmary. In response, a Swiss guard reportedly ordered his dog to attack the Russian, and “the dog dragged him down to the ground and ripped his clothes, while the soldier gave him a couple of kicks for good measure.” In a separate incident during an inspection of the barracks, another Russian claimed that a Swiss guard

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\[115\] Memo from Captain Béguin to Chief of Section, Adjutant General Section 8, “Procedes en usage au Camp Penitentiaire de Wauwilermoos,” dated December 13, 1943, No. 3316-2904/B/2, SFA, Box E5791, 1000/949, Vol. 652.
drew his pistol and ordered his guard dog to attack without provocation. Yet another complaint alleged that when Russian internees refused to carry an excessive amount of firewood, “[in response, a few dogs were set on them and shots were fired into the air.” According to the Russians, “the Swiss soldiers who were involved in such inhumane conduct were not punished in any way by the camp commandant, Capt. Béguin.”

An investigating magistrate—another Swiss Army officer with the same rank as Béguin—performed an inquiry into whether the commandant should be charge with “non-compliance with service regulations” in connection with the incidents. The magistrate noted that “camp Wauwilermoos is a military camp in all its aspects,” and thus “the entire business is run as a military operation, with special emphasis on maintaining military discipline, as it should be.” He reasoned that since the camp’s mandate was to punish the undisciplined, the use of force was appropriate at times. He acknowledged that “Capt. Béguin is strict,” but tempered his evaluation with the claim that the commandant was “more [strict] in what he demanded from the Swiss soldiers than from the internees.” The magistrate claimed that the only consistent complaints about Béguin were that “[that he was insulting, [and] that he always walked around with a riding crop.” The magistrate applauded Béguin’s use of the riding crop, since the commandant “carried neither pistol nor saber,” and “he would intervene in the biggest brouhahas without weapon or guards.” The magistrate supported Béguin’s use of non-lethal force, and argued that although “police dogs, water hoses and tear gas may seem disagreeable . . . for maintaining or restoring discipline they are always less dangerous than firearms.”

Therefore, he defended the use of dogs against prisoners since it meant that “the Swiss
guns do not go off as readily as do others . . . for instance, those in German prison
camps.” In conclusion, the magistrate recommended that the accusations against Béguin
should not be transferred to a military prosecutor.¹¹⁷

     Only weeks after Béguin was exculpated for the allegations of mistreating
Russian internees, a riot occurred in Wauwilermoos that left one Russian dead and 13
others wounded by gunfire. The Swiss media initially accused Béguin of ordering the
shooting, but apparently the commandant was not personally present during the riot.¹¹⁸
The incident was sparked by a fight between several Russians who were celebrating “Red
Army Day,” the anniversary of the 1918 proclamation of the Soviet cabinet that
conscripted peasants and workers into the military.¹¹⁹ According to the investigating
magistrate, a guard dog was injured and warning shots were fired into the air when a
Swiss guard team attempted to break up the melee. Other Swiss guards apparently fired
after hearing the warning shots, a mistake that resulted in the many casualties. The
magistrate found some fault with the decision to fire warning shots when the other Swiss
soldiers “quite obviously had reached a boiling point.”¹²⁰ However, the majority of the
blame was placed on Viktor Krischow, an interned Russian soldier from Moscow who

¹¹⁷ Memo from Untersuchungsrichter Hptm. Baumgartner, “Bericht und Antrag,” February 8, 1944, SFA, 
Box E5330, 1975/95, Vol. 44/241A.

¹¹⁸ Memo from Captain André Béguin, “Quelques remarques sur ma vie, quelques appreciations et 

¹¹⁹ Memo from Untersuchungsrichter Hptm. Baumgartner, “Bericht und Antrag,” April 2, 1944, Tribunal 
Militaire #44-870, SFA, Box E 5330-01, 1975/95,.Michel Berchin and Eliahu Ben-Horin, The Red Army 

¹²⁰ Memo from Untersuchungsrichter Hptm. Baumgartner, “Bericht und Antrag,” April 2, 1944, Tribunal 
Militaire #44-870, SFA, Box E 5330-01, 1975/95.
was charged with brawling, mutiny, noncompliance with service regulations, and attempting to escape. Krischow was sentenced to 18 months in prison, and fined 425 Swiss Francs.  

In spite of the many complaints against Béguin and his policies, the FCIH allowed him to retain his command of Wauwilermoos through 1944 when Americans were first confined in the camp. In his position as camp commandant, Béguin had no sympathy for the Americans under his charge; his correspondence reveals that he found American internees to be undisciplined and ungrateful, claiming that they were “spoiled by their stay in hotels in the mountains and do not react well to strictly military treatment.” Béguin also looked down on the Americans because of their common background as airmen, claiming that due to their brief military education “they are specialists, not soldiers.” He believed that “the rank they carry represents more of a salary grade than a level of responsibility.” To support this view, Béguin argued that “they know neither the life on a base nor that of the soldier in the field; they are workers and technicians in uniform who fly airplanes.” In his opinion, this lack of professional military education produced an absence of “the most basic forms of courtesy and politeness,” resulting in an “atmosphere … as painful for us as it is for them.”

Béguin was correct that the Americans interned in Wauwilermoos did not understand his variety of “strictly military treatment.” According to one American internee, the hygiene facilities were sorely lacking, as the latrine was a slit-trench that ran

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121 Tribunal Militaire #44-870, SFA, Box E 5330-01, 1975/95.

the length of the barracks, which was washed once per week and produced extremely unsanitary conditions. Internees were permitted to use an “outdoor faucet” for hygiene use, but no soap or hot water was available. Some internees slept together to stay warm. According to Staff Sergeant Morris Seifert, the Americans “slept on boards and straw with one blanket to either cover with or sleep on,” and the barracks were infested with “lice and rats.” Seifert was placed in solitary confinement after his escape attempt, and he recalled that there “was no light in [the cell]” except for one hour in the evening, and prisoners were required to defecate into a bucket. Staff Sergeant George reported that an American internee was confined in “a damp, dirty dungeon” at Wauwilermoos, and that “the left side of [the American’s] body was severely ‘chewed up’ by lice and other vermin that infested the place of his imprisonment.”

As a result of the sanitary conditions, diseases such as skin boils, lice, dysentery, and gingivitis affected nearly all of the American internees who were confined at Wauwilermoos for a sustained period. Medical care at the prison camp was described by one internee as “pretty much non-existent,” although many Americans were

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125 Dale Pratt, “My Attempt at Escape from Switzerland,” undated, SIAA.


127 Deposition of S/Sgt George S. George for the War Crimes Office, Judge Advocate General’s Department, War Department, dated October 4, 1945, NARA, RG 153, E279, File 23-4.

128 Deposition of 1st Lt. Wallace O. Northfelt for the War Crimes Office, Judge Advocate General’s Department, War Department, dated September 17, 1945, NARA, RG 153, E279, File 23-6, and affidavit of Howard Melson, unpublished manuscript in possession of the author.
subsequently hospitalized after their release from Wauwilermoos.\textsuperscript{129} Food rations consisted of “black bread” and “watered-down soup” which were well below the level of subsistence and described as “not fit for human consumption.”\textsuperscript{130} Two American officers who were incarcerated at Wauwilermoos reported that they each lost forty pounds throughout the duration of their internment, primarily as a result of inadequate nutrition.\textsuperscript{131} According to Technical Sergeant Anthony Giamettie, prisoners at Wauwilermoos “hardly ever got anything to eat,” and “looked just like skeletons when they got out of there.”\textsuperscript{132}

In response to the complaints of American internees, Béguin professed that the discomfort experienced at Wauwilermoos was due to overcrowding; the officer barracks were designed for only twenty occupants, but had eighty-six by the fall of 1944. As a result, he explained that he could no longer provide amenities such as sheets and shaving mirrors for officers below the rank of captain. Firewood to heat the barracks stoves was also in short supply. In response to the Americans “who [threatened] to cut up tables and benches to warm themselves with them,” Béguin claimed surprise at “the mentality of the officers who wished to burn all the furniture,” and resolved that “if they insisted on behaving like vandals we would no longer treat them like officers.” He claimed that the

\textsuperscript{129} For description of medical care, see affidavit of Uriah G. Hartman, unpublished manuscript in possession of the author, dated February 26, 2003. At least twenty-six Americans confined in punishment camps were hospitalized, see American Internee Data Cards, Bern Archives, Box E 5791, 1988/6.

\textsuperscript{130} Affidavits of Daniel L. Culler and Joseph Sinitski, unpublished manuscripts in possession of the author.

\textsuperscript{131} Deposition of 1st Lt. Northfelt for the War Crimes Office, Judge Advocate General’s Department, War Department, dated September 17, 1945, NARA, RG 153, E279, File 23-6, and affidavit of Winston C. Irwin, unpublished manuscript in possession of the author.

\textsuperscript{132} Deposition of T/Sgt Anthony A. Giamettie for the War Crimes Office, Judge Advocate General’s Department, War Department, dated August 25, 1945, NARA, RG 153, E279, File 23-2.
allocation of firewood was greater than the quantity rationed to Swiss soldiers, a comparison used to justify many conditions around the camp. Béguin also stressed that the barracks were built according to regulations, and despite their shortcomings, were “constructed of wood of the sort used by the [Swiss] Army.” He bluntly professed that “to give in [to American pressure] would be a form of weakness,” and attributed American complaints to internees who “do not understand the slowness of our military justice system.”

Officials at the U.S. Legation in Switzerland disagreed with Béguin’s tempered description of conditions at Wauwilermoos. According to General Legge, the camp was “of the stockade type,” and the barracks were “surrounded by barbed wire, constantly patrolled by dogs and guards with sub-machine guns.” Conditions were “unreasonably severe,” with internees sleeping on loose straw, food “at the lowest subsistence level,” and mud “ankle deep.” General Legge labeled these conditions “disgracefully bad” and considered them worse than those in German POW camps. Prior to the escape attempts of the summer of 1944 the Swiss sent only a few American internees to Wauwilermoos, normally for “drunkenness and disorderly conduct” and with the tacit approval of the U.S. legation. Once the escape attempts began in earnest, the Swiss government sent every offender to Wauwilermoos, normally for two or three months without trial. By the fall of 1944, over 100 American internees were incarcerated in Wauwilermoos, and the

Swiss government threatened to keep them there without trial for six to seven months.\footnote{Legge, \textit{Report of Internment Situation}, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, p. 3-4.} Many of the American internees in Wauwilermoos were eventually charged in the Swiss military justice system, an experience that forever changed their perceptions of Swiss neutrality.
V. U.S. Internees on Trial

The majority of Americans held in Wauwilermoos in the fall of 1944 were in pretrial confinement, awaiting a military tribunal by the Swiss Army for the crime of attempting escape. The tribunals were convened by territorial courts, whose jurisdiction was established by decree of the Federal Council in 1939.\(^1\) Operating under the Swiss Military Court Regulations of 1889 and the Swiss Military Penal Code of 1927, the tribunal panels consisted of a mix of six officers and noncommissioned officers under a judge, or “chief justice.” The panel members and judge were elected by the Federal Council for three-year terms and retained their regular military positions while serving the court. The judge was not required to be trained in law despite his position as “chairman of the court,” although the Military Court Regulations specified that he must “at least hold a major degree.” Also present at tribunals were a prosecutor, defense attorney, court clerk, and in the case of foreign defendants, a translator.\(^2\)

The authority to try military internees was written into the original Military Penal Code, which meant that the intent to apply internal Swiss law to internees predated World

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\(^1\) Steiner, *Die Internierung von Armeeangehörigen kriegsführender*, 66.

\(^2\) See Memo from Swiss Minister Karl Kobelt to Brigadier General B.R. Legge, number 8211.117.N/G, dated December 2, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100. For the tribunal panel requirements, see Art. 12, 13, & 107, *Militärstrafgerichtsordnung (Bundesgesetz vom 28. Juni 1889)*, Bundesblatt 1889, Band 3, Heft 37, SFA, Ref. No. 10 014 517, available at [http://www.amtsdruckschriften.bar.admin.ch/](http://www.amtsdruckschriften.bar.admin.ch/) (accessed October 20, 2011). Data on military tribunals conducted against Americans were referenced from Bern Archives, SFA, Box E 5330-01, 1975/95.
War II. Internees on trial for escape normally faced charges for “disregard of regulations,” an article of the Military Penal Code that allowed punishment of up to six months of penal servitude or imprisonment in times of war. However, the Military Penal Code did not specify a minimum sentence and even permitted the downgrade of the offense to disciplinary punishment in “mild cases.” This subjectivity gave military tribunals wide latitude to treat escape attempts as minor infractions, or instead classify them as serious criminal offenses.

Once a tribunal convened, the burden of proof was normally met by escape reports from internment camp commanders, arrest reports from local police, and interrogations conducted after the internees were recaptured. An official investigator appointed to the court for a three-year term had the responsibility to assemble this evidence. The preliminary investigation was a laborious process of cataloging all of the

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4 For charges against American internees, see military tribunals, SFA, Box E 5330-01, 1975/95. For the charge of “disregard of regulations” under the Military Penal Code, see Art. 72, Militärstrafgesetz Bundesgesetz, SFA, Ref. No. 10 030 071.


6 Tribunal Militaire #44-5096, SFA, Box E 5330-01, 1975/95.

relevant paperwork, and did not facilitate the swift execution of justice. Adding to this burden was the fact that many internees traveled across Switzerland before their apprehension, which required the investigator to obtain depositions from diverse locations. The rash of escape attempts in the summer of 1944 quickly overwhelmed the Swiss military justice system. At least 183 Americans were charged by military tribunal from 1944 to 1945, but only about 55 of these men ever received verdicts due to the combination of the time it took to complete a trial and the large number of internees that were repatriated or successfully fled the jurisdiction in the interim. For the minority of indicted internees who eventually received verdicts, the average sentence was seventy-four days in prison, but the average time to complete the investigations and military tribunals was eighty-two days, underscoring the American criticisms of the Swiss military justice system.\(^8\) Some internees waited even longer for due process for escape attempts. One technical sergeant spent 105 days in jail before his arraignment and conviction of only 30 days in prison, a process he claimed “was a mockery.”\(^9\)

Sgt. Dale Ellington, a young gunner on a B-17 bomber based in England, was bombing an aircraft factory near Munich in April 1944 when his airplane was shot down by German anti-aircraft fire. The airplane was shot at again by Swiss fighters and anti-aircraft batteries after crossing the Swiss border and then landed in Dübendorf, Switzerland, with no fewer than thirty-five shell and bullet holes in its fuselage. Miraculously, the aircraft made it to Switzerland despite severe damage to a fuel cell, severed control cables, one engine out, and only forty minutes of fuel remaining.

\(^8\) Various military tribunals, SFA, Box E 5330-01, 1975/95.

\(^9\) Letter from Luther Hughes to Robert Long, undated, SIAA.
Interned in Adelboden, Switzerland, Ellington remained in his internment camp until September, when he heard that American forces were approaching the Swiss border with France. On September 17, 1944, Ellington slipped out of Adelboden and used his passable German to purchase train tickets for himself and three other internees. Dressed in civilian clothes, the group managed to travel undetected to a city near France, only to be questioned and arrested by an observant Swiss soldier on a bicycle only miles from the French border. The Americans were first confined in the Basel city jail for three days and then transferred to Wauwilermoos, where Ellington recalled “barbed wire, straw bunks, and guard dogs.” After nearly a month in Wauwilermoos, Ellington and his fellow would-be-escapees were transported to Bern to appear at the arraignment for their military tribunal.10

At the arraignment each defendant was given a copy of the poorly translated charges, in fact the only trial record they received. The document was titled “Act of Accusation,” and methodically listed the identities of the defendants, the charges against them, a catalog of evidence, and the names of their tribunal jurors. The internees faced the charge of disregard of regulations, listed on a translated indictment as “non-compliance of the rules of service.” The evidence on the indictment was listed as “documents of [preliminary] examination,” and “production of the four defendants.” The defendants were brought in front of the tribunal panel, which consisted of three Swiss officers and three enlisted soldiers, the highest ranking of which were two captains.11


11 Ellington, Memoirs of Internment, 4, and Art. 13, 124, Militärstrafgerichtsordnung, SFA, Ref. No. 10 014 517.
The panel jurors were permitted to question the defendants to determine the validity of the charges, part of the normal arraignment process. During this interrogation, a Swiss captain on the jury panel asked the Americans why they had traveled so far from their camp at Adelboden. In response, one of the airmen defiantly informed the juror that “We were chasing butterflies.” According to Ellington, this lack of candor was not well-received; the officer was “obviously vexed by the remark,” and immediately responded: “You have served thirty days at the detention camp and you will now return there and serve forty five more!” The captain was good to his word; Ellington was returned to Wauwilermoos until 1 December.

The verdict for Ellington’s tribunal was not delivered for another twenty days, by a slightly altered panel in which one of the Swiss captains had been replaced by another officer of the same rank. The verdict was seventy-five days confinement for all four defendants, with forty-five days deducted for pretrial confinement. In addition, the defendants were assessed their pro-rated share of the trial cost, 17.5 Swiss Francs. The defendants were not present for the verdict, as a personal appearance was only required during the arraignment phase of the tribunal. According to the Military Court Regulations, “the accused under arrest can petition to be present only then when the hearing takes place where he is being detained,” and trials were not conducted at

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14 Tribunal Militaire #44-5096, SFA, Box E 5330-01, 1975/95.

15 Ellington, Memoirs of Internment, 4.
Wauwilermoos. Ellington was unaware that the tribunal continued after his departure, and was never informed of the actual verdict. He believed that the statement made by the Swiss officer at his arraignment was the reading of his sentence, when in fact it was probably a rebuke for being in contempt of court. Ellington’s confusion at his arraignment demonstrates that internees had difficulty comprehending their experience with Swiss military justice due to both language and cultural differences, and the fact that they were effectively serving their sentences in advance of the tribunal verdicts.

Ellington served his remaining time in Wauwilermoos, and then was returned to Adelboden. Now even more eager to escape than before, he “wasted no time in forming a new plan.” The difference was that this time he had help from the U.S. Legation in Bern. Ellington and his fellow escapers were instructed to take a taxi to Bern with civilian clothes under their uniforms. The airmen procured a taxi for $50 per internee, “stripp[ed] off [their] pants and shirts” in the taxi, and then disembarked in downtown Bern. In the city Ellington called a contact and told him in German that “there was a ‘package’ for him at the Schweitzerhof Hotel.” The airmen then made their way to the hotel and followed a guide “[through] stores, back streets and back alleys.” The route ended at the U.S. military attaché’s office, where an Army officer named Lt. Rexford allowed them to stay for about five days.


17 Ellington, Memoirs of Internment, 4.

After the number of escaped internees at the attaché’s office grew to over 20, the group of airmen were spirited at night to a garage in a residential area and then loaded into a moving van. They were driven to a farm house, given back-packs of medical supplies to ferry across the border, and then followed a French resistance guide through “half-frozen swampy terrain.” After a time the guide announced “Gentlemen, you are in France!” In a short time two U.S. Army trucks arrived and drove the Americans to Annecy, and then to Lyon. From here the airmen caught a transport to England, and their European adventure was over.\textsuperscript{19}

Ellington’s belated assistance by the U.S. Legation was no accident; many other internees caught after failed escapes were subsequently assisted by the official escape network because their legal predicament and imprisonment raised their priority in the eyes of U.S. officials. Ellington’s case was unusual in that when his verdict was returned he was among only about five Americans in confinement who had received actual sentences from military tribunals. This left an estimated ninety-five other American prisoners in legal limbo at Wauwilermoos, underscoring the fact that the Swiss military justice system was overburdened and ill-equipped to handle the massive numbers of escaping internees.\textsuperscript{20}

Another veteran of the Swiss military justice system was Technical Sgt. Daniel Culler. A turret gunner on a B-24 bomber based out of England, Culler’s airplane was shot down by German anti-aircraft fire while bombing Friedrichshafen on March 18,

\hspace{1cm}\textsuperscript{19} Ibid.

\hspace{1cm}\textsuperscript{20} SFA, Box E 5330-01, 1975/95.
1944. Culler recalled an explosion under the left wing, and flames emerging from the left inboard engine. The damage immediately caused the aircraft to lose airspeed and drop out of formation. After verifying the massive fuel loss, the pilot asked the navigator to plot a direct course to Switzerland. Soon the bomber was intercepted by Swiss fighter aircraft, and the crew began destroying classified equipment before they were forced to land at Dübendorf airfield near Zurich.

Culler was first confined at the U.S. internment camp in Adelboden. Less than two months after his arrival in Switzerland, Culler attempted to escape from Adelboden along with his former crewmember Staff Sgt. Howard Melson and a British soldier, Matthew Thirlaway, a former POW who had escaped from an Italian POW camp. The trio had planned to escape over the Italian border at Bellinzona and seek refuge with a family that had previously sheltered Thirlaway during his initial escape from captivity. The group successfully made the journey to Bellinzona by train, but then became lost in the mountains. After eating poisonous berries and becoming ill, Culler turned back and made the return trip to Adelboden. From here he was placed in solitary confinement in a local jail for twelve days, and then returned to Adelboden under house arrest. The local Swiss military commander informed him that he would now be sent to a federal prison and was “no longer a military prisoner, but was now classified as a civilian prisoner.”

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21 Daniel Culler, *Black Hole of Wauwilermoos* (Green Valley: Circle of Thorns Press, 1995), 150, 156, and MACR #3982, dated March 19, 1944, NARA, RG 92, M1380.

22 Culler, *Black Hole of Wauwilermoos*, 156-63.

23 Tribunal Militaire #44-2527, SFA, Box E 5330-01, 1975/95.

24 Culler, *Black Hole of Wauwilermoos*, 188, 196-203.
Culler was transferred to Wauwilermoos in June 1944, where he was in fact a military prisoner in a military-run penitentiary. However, in his grouping with soldiers of various nationalities who had committed various crimes, Culler did not receive the legal protections or rights that a military prisoner would normally expect. Very few Americans were confined in Wauwilermoos until August 1944, and as a result Culler only briefly saw one other soldier who might have been an American during his first month in the compound. Forced to bunk with Russian prisoners, Culler was repeatedly raped and assaulted by fellow inmates, but his complaints to the guards and camp commandant went unheeded. Eventually Culler developed open boils all over his body and contracted tuberculosis, which went untreated for a considerable time. After a month in Wauwilermoos, Culler was informed that he would be leaving the compound not for medical treatment, but for his military tribunal arraignment in Baden.

Culler was tried along with his fellow would-be-escapees, who were recaptured by Swiss border guards during the ill-fated escape attempt. Culler was unaware that his former crewmember, Sgt. Howard Melson, and the British soldier, Matthew Thirlaway, had both been imprisoned in civilian jails and then confined in Wauwilermoos in a different barracks. Melson had made an additional attempt to escape from Wauwilermoos in June, and was apprehended and jailed in the district prison at Bern. Culler and Melson were both charged with disregard of regulations for leaving Adelboden without permission. Thirlaway was not charged with this article of the Military Penal Code because as an escapee he was in a different legal category than the

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military internees, and thus subject to different regulations. All three defendants were charged with disobeying general orders, in this case traveling across Switzerland without permission with the intent to cross the border. This article of the Military Penal Code targeted infractions that contravened “publicly advertised regulations or general orders” from the Federal government, Swiss Army command, or cantonal governments, and authorized punitive measures from disciplinary punishment to prison time. In this case, the infraction violated the Swiss Federal Council Resolution of September 25, 1942 regarding the partial closure of the border.\footnote{For tribunal charges, see Tribunal Militaire #44-2527, SFA, Box E 5330-01, 1975/95. Disregard of regulations was Article 72 of the Swiss Military Penal Code, and disobeying general orders was Article 107. \textit{See Militärstrafgesetz Bundesgesetz vom 13 Juni 1927}, Bundesblatt 1927, Band 1, Heft 25, SFA, Ref. No. 10 030 071, available at \url{http://www.amtsdruckschriften.bar.admin.ch/} (accessed October 20, 2011).}

Culler’s appearance at his military tribunal arraignment was preceded by a meeting with his defense attorney, a well-dressed man named Max Brand who spoke English. Although not in uniform, the fact that the courtroom guards came to attention and saluted Brand gave Culler the distinct impression that he was a Swiss officer. Brand produced a message that Culler had previously passed to a British soldier in Wauwilermoos describing his severe treatment, in the hope that it would make its way to the U.S. Legation. Brand informed Culler that the message had been passed to the Swiss Embassy, and would now be used as evidence against him at trial. Culler attempted to tell Brand about the severe treatment he had experienced at Wauwilermoos, but the attorney “wouldn’t listen to any of my complaints,” and “kept harping on that message I illegally sent to the British Embassy.” In the process of his conversation with Brand, Culler became excited and “began to cough up blood and other sickening fluids into a
wastebasket by the table.” This was the extent of the contact that Culler had with his attorney, who subsequently “moved even farther away from me—probably not wanting to catch what he thought I had.”

When brought in front of the tribunal panel with his co-defendants, Culler was surprised by “a person who was seated front and center before the judges’ bench” who stood and recited a brief family history of each of the accused in English, including parents’ names and home addresses. Presumably, this was the court clerk or translator. The recitation of family history unsettled Culler, who wondered exactly how the Swiss had obtained information that he had never offered to them. The remainder of the tribunal hearing was conducted in German, and since Culler’s lawyer never spoke to him in English during the proceedings, he therefore had very little understanding of what transpired. He recalled that “Many times all six judges and my defender were looking me up and down while they talked, and several leaned over the bench to get a better look at me. Several times, as he spoke, my defender would make [gestures] towards me and everyone had big smiles on their faces.” Culler tried to speak, but each time he was silenced. He remembered that “I didn’t even get to open my mouth,” and as a result he never had “a chance to tell my side of the story.” In his view, his defense was completely inadequate.

At the end of the hearing, the same person who had given Culler’s family history approached him and read from a paper: “The judges took into account that you are a very

28 Culler, Black Hole of Wauwilermoos, 233, and Tribunal Militaire #44-2527, SFA, Box E 5330-01, 1975/95.

29 Culler, Black Hole of Wauwilermoos, 234-5.

30 Daniel Culler, telephone interview, December 17, 2009.
young soldier who took too seriously the orders to escape that came from your
commanders in England . . . If you had been older and wiser, like most of the others in
the internment camp, you would have realized escape was impossible. There is nowhere
to go, even for those lucky enough to cross the border.” Culler was given a translated
copy of his indictment which, like Ellington’s, only listed the defendants, charges, and
jurors. Confused, he wondered why “the accusation papers never mentioned how long
we would be sentenced for, or how long we had already served.” Culler inquired about
his verdict and the length of his sentence, and was told that he would be informed after
returning to Wauwilermoos. He then became agitated, yelling: “You mean you’re
sending me back to that hellhole, Wauwilermoos?” This finally elicited a response from
his defender in English: “Yes!”

Although unknown to him at the time, Culler’s only court appearance was merely
the arraignment for his military tribunal, and the tribunal would not produce a verdict
until the following week under a different set of judges in Bern. As with Ellington,
Culler also misunderstood the function of the arraignment process due to language and
cultural barriers. Culler was later convicted of disregard of regulations, and received a
sentence of ninety days imprisonment with fifty-two days deducted for pretrial
confinement. His codefendant, Sgt. Howard Melson, was also convicted of disregard of
regulations, and received a stiffer penalty of 105 days imprisonment. The increase in
his sentence relative to Culler’s was almost certainly due to Melson’s second escape
attempt, as well as the fact that Culler had voluntarily returned to his camp in Adelboden.

31 Culler, Black Hole of Wauwilermoos, 234-5.

32 Tribunal Militaire #44-2527, SFA, Box E 5330-01, 1975/95.
Although the tribunal judges may have legitimately believed that they were exercising leniency in Culler’s case, any chance at gratitude was lost between the prospect of further incarceration at Wauwilermoos and the lack of transparency during the tribunal proceedings. Culler claimed that during his trial he “felt much resentment coming from the judges, my defender, and the Swiss military establishment.” Perhaps this perception was a misunderstanding, but it was a foreseeable consequence of a prosecution conducted in a foreign language. The process produced a lifelong critic of the Swiss notions of justice and adherence to the rule of law. In Culler’s opinion, his day in court “was nothing more than a mock trial, so the Swiss could clear the records—just in case someone, sometime, might question my sentencing and treatment without a court trial.”

Matthew Thirlaway was the sole defendant convicted of disobedience of general orders, and was sentenced to the forty days he had already spent in prison; “ausgestandene Untersuchungshaft,” or time served. Despite the fact that Thirlaway committed roughly the same offenses as Culler and Melson, he was treated more leniently by the court because of his status as an escaped POW, which afforded him different rights than internees. According to the 1907 Hague Convention (V), “a neutral Power which receives escaped prisoners of war shall leave them at liberty,” which meant that Switzerland had less legal standing to regulate Thirlaway’s movements and restrict him to a camp. The court therefore determined that he had not committed an offense

33 Culler, Black Hole of Wauwilermoos, 234.
34 Ibid.
35 See Article 13 of The 1907 Hague Convention (V).
under military law, and instead treated him “as a civilian, regardless of his status as an escaped prisoner of war.” Although originally charged with the same disobedience of general orders as Thirlaway, Culler and Melson were not convicted of this crime. Ostensibly, the tribunal determined that convicting them of both disregard of regulations and disobedience of general orders would amount to illegally punishing them twice for elements of the same underlying offense of attempted escape.36

Culler was eventually assisted by a British sergeant major who noticed him while visiting Wauwilermoos to check on his own men. The sergeant major issued a blunt threat to Captain Béguin, promising to have him charged with war crimes if Culler were to die for lack of medical care. The sergeant major arranged for Culler’s transfer to a Swiss hospital in Lucerne. Here a surgeon repaired his torn rectum, and he was diagnosed with tuberculosis and covered in ointment to treat his skin infections. Culler was also placed on oxygen, and later was told that both of his lungs had partially collapsed.37 When he was well enough to travel he was transferred to a tuberculosis sanitarium, where an officer from the U.S. Legation contacted him and assisted him to escape from Switzerland. The Legation arranged for a rail pass and a taxi to transport Culler and several of his original crewmembers to the French border.38 Culler reached the border with this group, but they were spotted by Swiss border guards while attempting to cross. The guards opened fire on the Americans without warning, and

36 Tribunal Militaire #44-2527, SFA, Box E 5330-01, 1975/95.


38 Ibid., 266-70.
Culler’s pilot, 1st Lt. George Telford, was shot through the leg.\textsuperscript{39} The other internees dragged Telford into France, where they eventually reached American lines.\textsuperscript{40}

The same legal processes experienced by Ellington and Culler also applied to escaping American officers. Copilot 2nd Lt. Russell Sherburne arrived in Switzerland on July 21, 1944 after his B-24 was hit by intense anti-aircraft fire over the target, Munich. Sherburne’s pilot, 2nd Lt. Stanley Scott, described the fire as “the most intense flak ever witnessed throughout my ten missions.” After dropping the bomb load on target, the pilot felt a “severe jerk” on his throttle.\textsuperscript{41} The waist gunner soon reported on the intercom “There’s something running out of the right wing,” which could only mean that the bomber was leaking fuel. The crew hurriedly transferred the remaining fuel to another wing tank. The crew surveyed the bomber’s condition, and found that one engine was knocked out, another was damaged, and there was insufficient fuel to return to England. They assessed that their options were either to land or parachute into Axis territory, or “attempt to get down to Switzerland.” The crew chose the neutral option, and so they followed a heading to Swiss territory.\textsuperscript{42}

As soon as their bomber broke through the clouds, Scott and Sherburne were fired on by Swiss anti-aircraft batteries. They immediately “put down the landing gear” and “fired green flares” in order to indicate that they were seeking interment. The anti-aircraft fire stopped and the bomber was intercepted by two Swiss fighter planes and

\textsuperscript{39} See 1st Lt. George D. Telford, POW Questionnaire, SIAA, and MACR #3982, NARA, Record Group 92, M1380.

\textsuperscript{40} Culler, \textit{Black Hole of Wauwilermoos}, 288.

\textsuperscript{41} 2nd Lt. Stanley V. Scott, “Operational Report,” undated, SIAA.

\textsuperscript{42} Russell Sherburne, “No Amount of Planning Can Take the Place of Dumb Luck,” March 1973, SIAA.
guided to a short landing field in Basel “not long enough for a B-24.” The pilots applied full brakes upon landing, but nevertheless the bomber careened off the end of the runway, through a fence, across a field, through a second fence, and finally came to rest. The entire crew miraculously survived the ordeal unhurt.43

Scott and Sherburne were interned with the other American officers at the Rhätia hotel in Davos. When Sherburne read in a newspaper that the U.S. forces reached Marseille in late August 1944, he resolved to escape and “return to allied control.” He approached only Scott with his plan, as he figured that two people were the optimal number to escape at one time in order to ensure freedom of movement, “mutual assistance,” and also a “minimum of disagreement.” The officers were unaware of any escape networks, and so they resolved to leave camp at night and travel on railroad tracks to the French border. Their provisions consisted of a map from a Davos store and chocolate bars purchased with ration stamp. Amazingly, Scott and Sherburne both wore their flying uniforms, although the clothing had been altered by a Swiss tailor “to have a civilian look.” The pair also made “dummies” in their beds out of pillows in order to delay the discovery that they were missing. Sherburne acknowledged that his plan was “rather nebulous,” but he figured that it was “certainly better than waiting in Davos for the end of the war.”44

The two lieutenants absconded from Davos on the evening of August 25, and soon discovered that railroad tracks were extremely difficult to walk along at night without incurring minor injuries. The next day Scott and Sherburne passed through the

43 Ibid.
44 Ibid.
towns of Andermatt and Gletsch. They risked buying food from a local proprietor at the
top of Furka pass, and successfully avoided any questions they could not answer.
Sherburne found that “We attracted no more attention than any other pair of hikers out on
a beautiful August day.” That night the officers slept in a barn, and the next day made
their way to a town called Nyon on Lake Geneva after hitching rides with several
motorists. The officers considered “borrowing” a boat to cross to France, but the boats
seemed very secure and they noticed patrol boats out on the lake. A French-speaking
family offered them lunch, and the pilots were told that “they could not provide any help”
despite their sympathy for the Allied cause, as “the border was tightly controlled.”

That evening Scott and Sherburne were surprised by a roadblock manned by
Swiss soldiers. The airmen “surrendered without a fight,” and were told that they would
be returned to their original internment camp. However, the next day they were instead
taken by train to Wauwilermoos, where the men were greeted by “a Swiss officer with a
police dog.” Sherburne described the camp as surrounded by barbed wire, and full of
other nationalities such as Russians, Poles, and Germans. They were assigned to barracks
of about 100 by 30 feet, consisting of “stalls for each person” which were filled with
straw, and a common room for meals. The inmates divided a loaf of bread for breakfast,
and received a ration of stew for lunch and dinner. The officers closely watched the
routines of the guards, who took the Americans’ shoes away at night “to keep us from
trying anything.” They decided not to escape until they received some legal due process,

45 Ibid.
as the officers at Wauwilermoos were “promising a trial” and the Americans hoped that an acquittal would make escaping from the camp unnecessary. 46

One evening a Swiss Army lieutenant informed the Americans that he would be escorting the Americans to Lucerne for their arraignment. The next day the three men travelled by train to Lucerne, and then walked to the city’s municipal building. Scott and Sherburne were then interrogated by a Swiss officer, who asked them to “recount how [they] had gotten out of Davos and to [Nyon]” where the men were caught. The Americans gave an accurate account of their route, but omitted the food they had purchased and the hitchhiking with Swiss motorists to avoid incriminating their benefactors. However, by omitting the help by Swiss motorists the Americans unwittingly raised the suspicions of the interrogator, who was “incredulous” about the seemingly impossible claim that they had walked over the Oberalp and Furka mountains in the same day. The Swiss officer asked where they purchased their clothes, and the Americans answered “Davos” without incriminating the Swiss tailor. Scott and Sherburne claimed they had received no help, and had not talked to anyone during the trip. When asked what they would do if returned to Davos, they replied unrepentantly that they would “Try again” to escape from internment. Evidently the interrogator was unsatisfied with the answers, as the questions were repeated a second time. According to Sherburne, “The whole thing lasted about two hours,” and then they were escorted back to Wauwilermoos via train. The Swiss lieutenant serving as their escort was kind enough to tell the Americans that this was merely the arraignment, as “[they] would have another trial later.” After their arraignment Scott and Sherburne decided that there was little

46 Ibid.
chance of their release without punishment. Therefore, they immediately began “detailed plans for escaping from Wauwil.”

The American lieutenants received assistance from several of their fellow inmates. One prisoner was in charge of taking the mail to the nearby village, which gave him the limited authority to leave the camp with only loose supervision. The inmate could arrange for a taxi to meet any escapers outside of the camp, provided that they designated “a time and place” as well as a hefty fee. Other American inmates who were also caught escaping gave Scott and Sherburne the address of a house in Zurich where Americans could count on shelter and assistance. This formed the basis of their new escape plan. The lieutenants chose a date two weeks away, “E-night,” and passed word for the taxi to meet them on that evening at 7:00 PM at a secluded location recommended by some of their fellow Polish prisoners.

On the afternoon of the escape from Wauwilermoos, Scott and Sherburne pre-adjusted the barbed wire on the perimeter fence while other inmates served as lookouts to warn them when the Swiss sentries approached. According to Sherburne, the guards could “be watched from inside the barracks so that the fence worker could [be] alerted by a signal from an east window.” That evening they gave their well-worn “GI oxfords” to the Swiss guards as per the normal routine, and then donned a second pair of shoes that they had procured by bartering with other inmates. The lieutenants crawled out a back window in their barracks, slid under the fence, crossed through the second fence, and

47 Ibid.
48 Ibid.
then took cover in a drainage ditch. After about thirty minutes they reached their prearranged taxi, and sped off to Zurich.49

The Americans made it to their safe house, where they were fed, bathed, and then moved to a second house in the escape network. Scott and Sherburne were given civilian clothes and rail tickets, and then followed a civilian guide on the train from Zurich to Geneva. The guide took them to a bistro in a suburban area of the city, and the Americans waited until the other customers departed, leaving “no one except [the lieutenants] and the proprietor.” The Americans were then ushered into the wine cellar, where they soon were given British Army pants and overcoats. The Americans were then hidden among a group of over 150 British soldiers who were being repatriated from Switzerland in exchange for an equal number of German troops. The train went through France, and so the American “shed [their] British coats” and jumped off near Annecy and completed their escape. They soon located the OSS liaison officer in Annecy, who was in contact with the Supreme Headquarters Allied Expeditionary Force and coordinated to transport the men to London. In about ten days a C-47 cargo plane landed at night in a cow pasture outside of Annecy, spiriting the Americans back to England.50

At their arraignment Scott and Sherburne had been indicted for disregard of regulations, the standard charge for escaping internees. However, since both Americans escaped before the case came to trial, the Swiss Army prosecutor subsequently dropped the charges, noting that the Americans were “probably abroad” and thus out of Swiss jurisdiction. The prosecutor noted in the Americans’ file that they were nevertheless

49 Ibid.
50 Ibid.
“culpable of repeated breaches of duty,” indicating that they eventually would have faced a guaranteed conviction in a trial that they would not be allowed to attend.\textsuperscript{51} Scott and Sherburne’s case was typical in that approximately seventy percent of Americans who were caught escaping went on to escape again or were repatriated before they were ever brought to trial.\textsuperscript{52} The case also demonstrates that the Swiss equally applied the same regulations and punishments for escaping to both officers and enlisted airmen, despite the fact that punishing officers excessively would ostensibly result in a much greater chance of complaint and reciprocity. However, anecdotal evidence suggests that Scott and Sherburne were treated somewhat better than many of the enlisted airmen incarcerated in Wauwilermoos, perhaps due to the fact that the guards at Swiss prison camps felt that they had more license to mistreat enlisted soldiers due to a lower likelihood of reciprocity. The American officers were also kept better informed of the pending legal proceedings and what they meant, such as the fact that their hearing in Lucerne was merely an arraignment rather than a full trial. This courtesy was not extended to the enlisted airmen who were punished for the same offense. While Scott and Sherburne were informed of their arraignment in advance, Ellington and Culler believed that their arraignments were in fact trials and were never so much as notified of the verdicts from their military tribunals.

All American internees caught escaping were imprisoned for considerable periods while awaiting due process from the overburdened Swiss military justice system. This problem did not escape the notice of the U.S. Legation. Although U.S. officials were

\begin{footnotesize}
\textsuperscript{51} Tribunal Militaire #44-4528, SFA, Box E 5330-01, 1975/95.

\textsuperscript{52} Various military tribunals, SFA, Box E 5330-01, 1975/95.
\end{footnotesize}
concerned about the Swiss military’s version of pretrial confinement and their methodical timetable for dispensing justice, they also contested the Swiss interpretation of international law that allowed prosecution of internees under the Swiss Military Penal Code. In the view of the U.S. Legation, the Swiss military justice system circumvented the protections of international law and produced open-ended verdicts that were disproportional to the crime of escape, an antithetical practice for a neutral state that claimed to hold the rule of law in high regard. This issue will be discussed in greater detail in chapter 6. Although American internees were punished excessively for the crime of escape, they were not the only victims of the wartime policies of the Swiss government.
VI. Swiss Civilians on Trial

Escaping from internment in Switzerland was a risky proposition for Americans due to the isolation of internment camps as well as the cultural differences that made Americans stand out among the Swiss population. Therefore, successful escape often depended on the assistance of sympathetic Swiss citizens. American internees frequently received illicit help from Swiss proprietors whom they befriended. This assistance was strictly forbidden by the FCIH, which directed that Swiss citizens would not “help the internees in any way or form to escape, or in their preparations to escape,” and threatened violators with prosecution under the Swiss Military Penal Code. Thus, although many American suffered the consequences of failed escape attempts during the war, the Swiss citizens who helped them often incurred consequences that lasted well beyond the departure of the last internees.

These Swiss benefactors were driven by motives that included ideology and financial gain. Those who helped Americans out of ideology represented an extralegal attempt to regulate and preserve cultural values that were undermined by formal Swiss neutrality. Some of these values were tied to Switzerland’s humanitarian mandate, as well as forces of nationalism extending beyond the country’s borders. Although this contestation was not directly motivated by the punishment of foreign internees, it nevertheless comprised a reaction to Switzerland’s interpretation and enforcement of international law. Therefore, those Swiss residents who helped Americans were
contributing to the enforcement of new customary rules governing internment during wartime.

The interaction between civilians and internees in Switzerland was strictly regulated, and internees were forbidden from entering private dwellings or even businesses without explicit permission from the FCIH. Internees were also specifically prohibited from purchasing many items that might be used to further an escape.\(^1\) Despite these rules, many merchants in the mountain villages that housed the Americans often provided the internees with prohibited civilian suits or rail passes. Equally important were other Swiss who lived near France; they provided safe houses and then assisted internees to cross the border and contact the French resistance.

Pierre Mussard and his son Alex belonged to a multi-cultural Swiss family living in Lausanne that assisted many escaping American internees cross the border at Geneva. The Mussard family supported the Allied cause for strong ideological reasons linked to their French and American heritage, reasons that made them unusually radical even among a French-Swiss population that largely supported the Allies. Pierre was born in Austria, but he identified strongly with France since he served in the French Foreign Legion during World War I and had another son fighting in the French Army during World War II. Pierre’s father was Swiss, and so the remainder of the family opted for Swiss citizenship as a matter of “family tradition.” Pierre’s wife Helma was an American originally from Wisconsin, which undoubtedly led the family to sympathize with Americans during the war. Pierre and his family lived in France until the fall of France at

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\(^1\) Colonel Henry, “Order Regarding the Relations between the Civil Population and the Internees,” dated November 1, 1941, SFA, Box E5791, 1000/949, Vol. 612.
the beginning of World War II, at which time they moved to Switzerland. After moving to Lausanne, Pierre was mobilized into the Swiss Aerial Reconnaissance and Observer Corps, where he served until 1942. Alex also attended recruit training in 1942, and participated in several training rotations with his infantry unit as a rifleman. Despite these obligations of Swiss citizenship, both Pierre and Alex actively supported the French resistance by ferrying weapons and ammunition across the border, as well as occasionally fighting the Germans themselves. Their contacts with the French resistance also made them ideal for smuggling American internees across the border.²

Pierre’s son Alex was born in France but became a Swiss citizen upon moving to Switzerland in 1940. As he still “experienced feelings of devotion [for France],” Alex asked a resistance contact to “give him the opportunity to be useful to France.” He was twenty-two years old in 1944, and that year his Swiss Army unit was ordered to mobilize.³ However, Alex received a waiver in August of 1944 that delayed his service due to a bout of scarlet fever. Around the same time he helped his father engineer the escape of ten Americans into France. This was only the first of several occasions where the Mussard family took substantial risks in order to help interned Americans.⁴

One of the interned Americans who sought out the Mussards’ help in August 1944 was Lt. Eugene Metz, an officer who crash-landed in Zurich, Switzerland in April


⁴ Alex Mussard, letter to Ferris Martin, dated August 25, 1990, unpublished manuscript in possession of author.
after his B-17, nicknamed Butch, was severely damaged by German anti-aircraft and fighters. While interned in Davos he developed a strong friendship with a local Austrian national, who as a child was “adopted by a group of Shell oil workers from Brooklyn.” Thus the Austrian “spoke perfect English with a heavy Brooklyn accent,” and affiliated strongly with America. When Lt. Metz and a fellow internee resolved to escape from Switzerland, they soon heard about Pierre Mussard. Metz described Pierre as a “most unforgettable individual” with a reputation for helping Americans cross the border. According to Metz, Pierre was “a patriot whose entire life and considerable fortune was at the beck and call of anyone fighting the Nazis.” Pierre’s smuggling resources were extensive, since he was “a Frenchman with dual Swiss citizenship,” as well as “a business man with offices and [a] home in Paris.” The Americans contacted Pierre, who immediately agreed to help them.5

Metz asked his Austrian friend to purchase several restricted railroad tickets and civilian clothes in preparation for the escape. This enabled the Americans to travel to Lausanne, where the Mussards were waiting to help them cross the border into France. The Americans snuck out of Davos the evening of August 10, 1944 “after everyone was asleep.” Metz and his companion first “dressed in our civilian slacks and jackets,” and then “climbed through an unguarded rest room window” on the first floor of the hotel. The Americans walked to the train station, where by luck the train “went all the way to Lausanne requiring no change of trains.” Metz’s Austrian friend provided the Americans local newspapers, which the men pretended to read for the duration of the trip.

5 Eugene Metz, letter to Robert Long, undated, SIAA. The aircraft name appears in Thomas, Haven, Heaven and Hell, 31.
According to Metz, “we didn’t dare talk to each other for fear that someone would overhear us speaking in English.” After reaching Lausanne, Metz and his friend “soon reached the home of our benefactor, Pierre Mussard.”

Lt. Metz and his friend hid at the Mussard’s house in Lausanne for several days. On the night of a large thunder storm, Metz and his friend “slipped down to the waterfront,” where they linked up with several other escaped Americans at a cottage on Lake Geneva. The internees “waited for [Pierre Mussard] to pick them up in a large row-boat,” and during the intense storm the group headed across the lake to the French down of Evian. According to Alex, rowing to the French coast was “quite a feat, 9 miles!” The group “sneaked, single file, into the town of Evion [sic],” and stayed the night at a small hotel. The next day the Americans were escorted to the local “Marquis [sic] headquarters,” where Metz agreed to help fight the Germans before returning to U.S. lines.

Pierre and Alex’s border-crossings took a turn for the worse on September 1, 1944, when the pair attempted to smuggle an illegal shipment of firearms across the border and into the hands of the resistance. Pierre and Alex first procured dozens of rifles, automatic pistols, and ammunition from a local gun dealer in Lausanne, and then

6 Ibid.

7 Alex Mussard, letter to Ferris Martin, dated August 25, 1990, unpublished manuscript in possession of author.

8 Alex Mussard, letter to Ferris Martin, dated August 25, 1990, unpublished manuscript in possession of author, and Eugene Metz, letter to Robert Long, undated, SIAA.

9 Alex Mussard, letter to Ferris Martin, dated August 25, 1990, unpublished manuscript in possession of author.

10 Eugene Metz, letter to Robert Long, undated, SIAA.
contacted a member of the French resistance who also served in the Swiss Intelligence Service. The trio hired a taxi to drive them to the border, and made the trip successfully only to be interrupted by border guards while literally unloading the weapons and carrying them onto French soil. In the ensuing commotion Alex and the resistance contact were able to escape into France with the shipment of weapons, while Pierre and the taxi driver were arrested and jailed. Alex remained in France for over a week, during which time he joined a resistance group and was compelled to skirmish with German troops on at least one occasion. On 10 September he crossed back into Switzerland and returned to his home in Lausanne.\textsuperscript{11}

At the same time as Alex returned to Switzerland, an interned American B-17 bombardier, 1\textsuperscript{st} Lt. Ferris Martin, was contemplating his escape from the internment camp at Davos. Martin prepared his escape meticulously, spending nearly 150 Swiss Francs to purchase prohibited civilian clothing such as a raincoat, hat, and trousers. He also saved nearly 500 Francs to pay his necessary train and taxi fares.\textsuperscript{12} The lieutenant heard of Pierre Mussard while interned in Davos, where the smuggling activities of the patriarch were “common knowledge.” Early in the morning of 23 September, Lt. Martin placed a phone call to the Mussard residence in Lausanne. Alex answered the call, and Martin explained that he had escaped from his internment camp and needed help crossing the French border. Alex agreed to help Martin and allowed him to hide in his house while they waited for several other escaped American airmen. The other Americans met with Alex and Lt. Martin at a local restaurant in Lausanne that evening, and then took a taxi to


\textsuperscript{12} Ferris S. Martin, diary excerpt, SIAA.
the border town of Vallorbe. While preparing to cross the border the entire group was arrested by a Swiss border guard, “drawn, no doubt, by the headlights of the taxi.”[^13]

According to the testimony of several border guards, “there is no doubt that Mussard belonged to the FFI, as we have seen him repeatedly at the [border].” Alex confessed to his arresting officers that he was crossing the border “on a special mission,” that of “[helping] American internees cross the border illegally.”[^14]

During several interrogations by police officers, Alex denied any active affiliation with the French resistance, claiming “I was never part of their organization, and I even went back to Switzerland when I thought they were planning to recruit me.” The police were skeptical, particularly after they obtained letters that Alex authored describing firefightes with German soldiers. Alex made no effort to conceal his French allegiance, and informed his interrogators that “actually, I’m still feeling very attached to France.” Alex also denied his history of helping Americans escape from Switzerland. According to Alex, the help he gave to Lt. Martin and the other American airmen was a purely spontaneous event, and was “the only time I was mixed up in this sort of business.” He explained that “that I had no intention of crossing the border but was simply going to take the Americans as far as Vallorbe.” Alex claimed that when phoned by the American lieutenant he felt “morally obliged to help [Martin].” According to Alex, “Martin came to me as my mother’s compatriot and was relying on me, so I didn’t think I could refuse him my assistance.” Alex pointed out that he accepted no money from the Americans, and even paid part of the taxi fare to get the group to the border. When asked how Martin


[^14]: Tribunal Militaire #45-2668, SFA, Box E 5330-01, 1975/95.
knew to contact him, Alex explained that “given that my mother is American, we are known in the Anglo-American expatriate circles in Switzerland, and so it is not surprising that my name came up in conversations between these Americans and their acquaintances.”

The military tribunal convened in December 1947 did not believe that his border crossing was an isolated incident, nor was the panel convinced that he had not engaged in belligerent acts with the French resistance. Therefore, the tribunal convicted Alex of “general disobedience of orders, or federal regulations governing the maintenance of neutrality,” “violation of the regulations concerning the partial closure of the border,” “assisting an escape attempt,” and “military service abroad.” Alex was sentenced to 60 days imprisonment, suspended for two years, and ordered to pay the pro-rated cost of the trial, 57 Swiss Francs. His father Pierre was also convicted of violating regulations governing Swiss neutrality, and was sentenced to a fine of 400 Swiss Francs and his pro-rated share of the trial cost, 50 Francs. Alex and Pierre’s sentences both appear particularly light in contrast to the gravity of their offenses. The court’s leniency may have reflected the fact that Swiss officials fully expected the men to abandon Switzerland and return to France, which they both eventually did. The trial also occurred well after the end of the war, which meant that violations of neutrality in favor of the Allies posed far fewer difficulties for the Swiss government.

After his trial, Alex decided that “it seemed wise to lie low and return to my studies in Zurich,” considering that “by this time the Swiss had gotten to know most of

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15 Ibid.

our [smuggling] efforts.” According to Mussard, “I was ‘persona non grata’ in Switzerland” as a result of the conviction for helping the Americans and violating Swiss neutrality.\(^\text{17}\) Alex was allowed to leave Switzerland in March of 1948 since his sentence was suspended, and he first travelled to Paris. Shortly after this he married his fiancée, obtained several travel visas, and left France for the United States. However, Mussard was not exempted from his Swiss Army service obligations despite his conviction, and his commander, Captain Stoudmann, sought to mobilize Alex again with a new “order to march.” Finding that Alex had departed to the United States, Stoudmann wrote to his superiors and expressed that “this case must be judged with severity.” Not surprisingly, Alex’s wartime activities resulted in “some incompatibility of temper between him and his commander.”\(^\text{18}\) Accordingly, Alex was brought up on more charges of “absence without leave and failure to comply with service regulations.” He was convicted in absentia by a military tribunal in September of 1949 and sentenced to three months imprisonment and “the costs of the trial,” 27 Swiss Francs.\(^\text{19}\)

According to Alex, “for five years I could not return to Switzerland,” since there were outstanding warrants for his arrest. He recalled that he was “even arrested once in Vienna because there was a search on for me… but the Austrians released me.”\(^\text{20}\) The warrants were evidently expunged at some point, since Alex was eventually allowed to

\(^{17}\) Alex Mussard, letter to Ferris Martin, dated August 25, 1990, unpublished manuscript in possession of author.


\(^{19}\) Tribunal Militaire #48-388, SFA, Box E 5330-01, 1975/95.

\(^{20}\) Alex Mussard, letter to Ferris Martin, dated August 25, 1990, unpublished manuscript in possession of author.
return to Switzerland. However, he chose instead to reside in France. Although Alex never lived in Switzerland for long and thus likely failed to develop the same attachments to the country as he had to France, he nevertheless was a Swiss citizen who effectively lost his citizenship rights as result of his partisan wartime activities. For Alex, the value of protecting Swiss neutrality was perhaps outweighed by the cost of tolerating the Nazi domination of Europe. In his estimation, helping the resistance and interned Americans were well worth risking his personal liberties. According to Mussard, “I am confident that I acted in the interest of Switzerland, first in contributing to accelerate the defeat of Germany, but also in attempting to demonstrate that all the Swiss did not agree with their government’s policy toward Germany, and that we were a freedom-loving nation.”

Another Swiss citizen who chose to help Americans escape from internment was 1st Lt. Max Regazzi, a twenty-five year old pilot in the Swiss Army Air Force. Regazzi came from a prominent Italian-Swiss family in Locarno, a city located in the Swiss canton of Ticino at the foot of the Alps. His father was a federal magistrate, and Regazzi was following in his footsteps as a law student at Fribourg. In March 1944 a mutual friend introduced Regazzi to American 2nd Lt. James Vitiello, an interned B-17 navigator who landed in Switzerland in September of 1943. According to Regazzi, “[Vitiello] is American but Italian-born.” This ethnic kinship helped Regazzi identify with Vitiello, and they soon became close friends. Although Vitiello successfully escaped from Switzerland in the summer of 1944, he first asked Regazzi if he “would help some

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21 Alex Mussard, letter to Robert Long, dated April 1, 1996, unpublished manuscript in possession of author.
[interned American] comrades of his who were interned in Davos to escape.” According to Regazzi, “I agreed to do it.”

An interned American officer wrote to Regazzi in late October 1944, asking if he could travel to Davos for an afternoon. Regazzi accepted the invitation, and he met with Cpt. Gaspar, the senior American officer, as well as several other interned Americans. According to Regazzi, the officers “arranged everything for the escape,” and “we already agreed upon the date” of 23 November. The plan was for Regazzi to procure two taxis to drive to a road outside of Davos, and transport several dozen internees to the border in Geneva. The day prior to the event, Regazzi went to the Deffelon garage in Fribourg and hired two taxis at a rate of 90 cents per kilometer. According to Regazzi, “I told [the taxi service] it was a private matter,” and explained to them that “I had to pick up some comrades in Davos.” The following morning the taxis departed from Fribourg and drove nearly eleven hours until encountering heavy snow in Küblis, only twenty-five kilometers from Davos. At this point Regazzi informed his chauffeur about the covert purpose of the trip, observing that the taxi driver “wasn’t very pleased, but finally [decided] he had no choice but to go along.” Regazzi asked the taxi drivers to wait in a nearby cafe since “it was not possible for them to continue on because of the snow,” and set off on foot to retrieve the Americans. After about eight hours of hiking through snow-covered hills, he returned with fourteen exhausted internees in tow.  

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23 Tribunal Militaire #44-6669, SFA, Box E 5330-01, 1975/95.
Private Schwager was one of the Swiss soldiers who caught the group of would-be-escapees on their way to Geneva. That evening, he received orders from his captain to set up a vehicle checkpoint at Landquart. The roadblock was no accident, as the local commander received a report about the taxis. According to Schwager, “we suspected immediately that what we were dealing with was an action to free someone from internment.” Schwager and another soldier “blocked the road,” and soon netted the prize of Regazzi and his two taxis full of American airmen. The taxis stopped immediately, and the occupants emerged with their hands over their heads. According to the private, Regazzi made quite a spectacle with his outfit, which included a Swiss Army uniform complete with “flying boots and fur-lined U.S.-made flight jacket.” Regazzi claimed that he donned the clothing because his own boots and jacket were soaked from the long march. Regazzi was led into the barracks under the guard of a machine gun, and when he complained during a body search a Swiss guard testily threatened “that he would deck [Regazzi].” Another Swiss officer soon arrived on the scene, and after learning of Regazzi’s arrest he immediately asked to see him “because I couldn’t quite believe it.” Upon viewing Regazzi in the American flight jacket, the Swiss officer remarked sarcastically that he was “a beautiful bird,” and told him that he “looked more like an American cowboy than a Swiss Army Officer.” The humor was lost on Regazzi, who knew very well that his career in the Swiss Army was over.²⁴

Regazzi pled guilty at his military tribunal in August 1945, apparently gambling that the panel would sympathize with his ideological justifications. As a law student he probably knew that a conviction was all but certain, and this may explain why he focused

²⁴ Ibid.
on mitigating factors rather than trying to prove his innocence. He explained his motives for assisting the American internees, and claimed that there was “a certain ideological base to my behavior.” He professed that “I feel a lot of sympathy for the Americans,” whom he considered comrades in arms. In his view “these American officers risk their lives fighting the Germans,” a common enemy he saw as “a danger to our country.” Thus, Regazzi believed that “these Americans are acting directly on our behalf,” and he rationalized that “I would be doing the country a service, if I helped the Americans escape and make it possible for them to carry on the fight [against the Germans].” In his mind he simply “helped the cause of an ally to end the war earlier.” The judge asked Regazzi, “do you not have to admit that we are a neutral country and that there is even a federal decree which requires every Swiss to have a neutral stance?” Regazzi acknowledged that he had such a duty, but also protested that he did not understand the strategic goals behind neutrality with respect to the Germans. He explained that his strongest feelings toward the Germans dated to 1940, when he fought in aerial combat against German fighter pilots who flew across the Swiss border. By his description, he “was on surveillance patrol and became involved in a dogfight between Swiss and German aircraft,” resulting in the death of a close friend who he frequently flew with. He complained that his commanding general then forbid engaging German pilots flying above 1000m inside Swiss airspace, an order that he believed put Swiss reconnaissance pilots “much at a disadvantage.” Regazzi was incensed by this command and “was able to reconcile it with neutrality only with difficulty.”

Regazzi’s defense strategy failed. The military tribunal panel judged that his

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25 Ibid.
“antipathy toward Germany” and longing for Allied victory “cannot be held against the accused, who had lost a close friend in aerial combat with German planes.” However, they also reasoned that by mid 1944 it was obvious that Germany “no longer represented a serious threat to Switzerland,” therefore, “it seems doubtful if [Regazzi] really believed, as he contends, that he was doing Switzerland a service in freeing these internees to return to the fight against Germany.” Furthermore, “as an officer and a lawyer, [Regazzi] should have been aware to a special degree that he endangered the interests of the country by his conduct,” since the premature release of interned belligerents was a violation of Swiss neutrality. Accordingly, the panel adopted all of the prosecutor’s recommendations. Regazzi was convicted of “liberation of the internees,” infringement of a 1942 federal decree regarding the partial closure of the Swiss border, and “general disobedience of orders.” He was sentenced to 150 days in prison, relieved of the rank of first lieutenant, and charged the pro-rated cost of the trial, 356.97 Swiss Francs.26

The two Swiss taxi drivers from Fribourg were also convicted of liberating internees and violating the federal decree regarding the closure of the border, and were each sentenced to 30 days in prison and fined 118.99 Swiss Francs. According to the panel members, their lighter sentence was justified since “they were in a certain predicament because they likely feared that they would not be paid the fare and would turn back empty-handed” if they refused. The reduced sentence was also based on the fact that they “are in good repute and are considered to be hard-working, decent people.”27 As for the American internees, they were taken to a local jail at Chur, and then

26 Ibid.
27 Ibid.
most were transferred to punishment camps. The airmen never faced trial because it took over nine months to present the charges to a military tribunal. By the time the tribunal convened, the prosecutor noted that “all of the accused [Americans] are no longer present in Switzerland,” since two escaped successfully and the rest were repatriated in early 1945. The prosecutor made a sarcastic entry that “in view of these facts, it seems appropriate to suspend the proceedings for the duration until such time as they are encountered in Switzerland again.”

Not all Swiss who aided escaping Americans did so for strictly ideological reasons. While Alex Mussard and Max Regazzi took no money for their services, other Swiss benefactors profited handsomely for their efforts. One for-profit smuggling ring was comprised of at least four employees of the Hotel Rhätia and Palace Hotel in Davos, the same hotels where the interned American officers were lodged. The majority of the smugglers worked at the hotels, and all but one were Swiss citizens. From September to November 1944, this group assisted at least thirteen Americans to escape from internment.

Luigi Belotti, a hotel waiter of Italian nationality, was apparently the most active of the Davos smuggling group. Belotti personally escorted at least ten American officers to Lake Geneva or other border crossings in the fall of 1944, receiving over 720 Swiss

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29 Tribunal Militaire #44-6669, SFA, Box E 5330-01, 1975/95.

30 Tribunal Militaire #44-5638, SFA, Box E 5330-01, 1975/95.
Francs in compensation.\textsuperscript{31} He described one of the trips in mid September 1944 during an interrogation, claiming that several American officers asked the staff of the Hotel Rhätia “to help them with their escape, particularly when it came to securing [rail] tickets.” Belotti was happy to assist for the right price: 200 Swiss Francs. Belotti provided both Americans with civilian clothes, a “pair of pants and a jacket” for one officer, and “pants, jacket, and a raincoat” for the other. The Americans wore their civilian clothes and carried their uniforms in suitcases, a safeguard against the accusation of espionage in the event that they were caught. Belotti travelled with the internees to the French border in a trip that lasted a total of four days. He purchased rail tickets for the group, and they travelled from Davos-Platz to Landquart, Zurich, Bern, and finally Lausanne. Here they attempted to secure passage via boat across Lake Geneva, as the lake itself was the border with France. Two Swiss fishermen turned them down, but a third agreed to smuggle the Americans across the lake the next morning for 500 Swiss Francs. The officers agreed to meet Belotti at the train station the next morning at 9 o’clock to return his clothes and pay for the services rendered, but the Americans failed to show at the rendezvous. Belotti was upset, claiming that “both the Americans promised to return the clothes to me.” He claimed that one outfit was “still brand new,” and that the apparel cost him 575 Swiss Francs. Instead of a profit, he left with only a 150 Swiss Franc deposit and a rail ticket. Belotti grumbled that his monthly salary was more than this amount, “200 Swiss Francs a month – plus room and board.”\textsuperscript{32} 

\textsuperscript{31} Using the 1944 exchange rate and adjusted for inflation, this comes to approximately $2,100 in 2011 U.S. dollars. One U.S. dollar was worth 4.29 Swiss Francs in 1944, see Robin Bidwell, \textit{Currency Conversion Tables: A Hundred Years of Change} (London: Rex Collings, 1970), 50.

\textsuperscript{32} Tribunal Militaire #44-5638, SFA, Box E 5330-01, 1975/95.
Belotti repeated multiple smuggling trips to the French border despite a confrontation with the Swiss military police in early October of 1944. When accused of helping the Americans to escape, he “denied that I had anything to do with the smuggling.” Belotti continued to push his luck, and finally was caught by Swiss police on 13 October while helping three Americans travel via train to Zurich, a gamble that promised a lucrative payoff of 300 Swiss Francs. After Belotti was arrested, his landlady also made a discovery that further implicated the smuggler. While changing the linen in the common laundry room, Mrs. Beilleter-Bossert discovered that one of the drawers on the linen chest was locked. She removed the other drawers to investigate, and uncovered another secret: Belotti’s hidden earnings. In the chest were over 2,000 Swiss Francs, as well as various quantities of U.S. Dollars, English Pounds, French Francs, Belgian Francs, Italian Lira, and German Reichsmarks, all wrapped neatly in a towel. The landlady called the local detective bureau, and a search of the premises revealed a laundry basket stuffed with American pilot uniforms, as well as letters that implicated Belotti and other members of the Hotel Rhättia staff in the smuggling operation.33

Although Belotti initially denied helping Americans on multiple occasions, he confessed after he was confronted with the overwhelming evidence of his guilt. He told the examining magistrate that “I knew it was forbidden to help internees escape,” although he claimed ignorance about the restriction over providing internees with civilian clothing. He was charged with the crime of liberation of internees, violating the Federal Council Decree on the partial closure of the Swiss border, and disobedience against general orders. On June 5, 1945 Belotti was sentenced by a military tribunal to 240 days

33 Ibid.
confinement and fined 366 Swiss Francs in trial costs and other fees. His stiff sentence may reflect both the fact that he was a repeat offender, as well as the profit motive behind the smuggling. Although Belotti’s actions were perhaps no more egregious than those committed by the Mussards or Lt. Regazzi, the panels apparently found that ideology was a more redeeming motive than profit for violating Swiss neutrality.34

The Mussards, Lt. Regazzi, and Belotti were only a few of the over fifty Swiss residents who were caught helping interned Americans escape the country.35 These residents helped Americans for a variety of reasons ranging from ideology to greed. Those who helped the Americans for no compensation despite great personal risk represented the majority of the Swiss population who strongly sympathized with the Allied cause. These benefactors also proved that the reaction of the Swiss population to formal decrees of neutrality was hardly monolithic. Although the Swiss government relentlessly punished these types of violations of neutrality, many Swiss nevertheless disagreed with the government’s stance and instead placed a higher premium on the freedom of Europe. These values certainly influenced Swiss perceptions on the national posture of neutrality, but also how the policies governing the maintenance of neutrality were carried out with respect to interned soldiers. The debate over how interned Americans – particularly escaping internees – should be treated eventually went beyond the level of the military courts and Swiss sympathizers. The disagreement between U.S.

34 Ibid.

and Swiss authorities instigated a diplomatic crisis over the scope and intent of international law.
VII. Debate over International Law

The U.S. position on the punishment of internees was not hastily conceived, but rather founded on an argument that evolved from the expanded protections for POWs in the 1929 Geneva Convention Relative to the Treatment of Prisoners of War. This view on emerging customary law was first championed and circulated by the ICRC at the outbreak of World War II, and was subsequently adopted by most foreign governments as well as many Swiss civilians and officials. During the war these actors all exerted diplomatic or individual pressure on the Swiss state in an attempt to mold internment policies into compliance with their views of the minimum humanitarian protections required under international law. This debate over seemingly trivial distinctions between the various interpretations of international law is nevertheless revealing, because it demonstrates that many factors often influence the enforcement of such rules prior to their codification as treaty law.

The debate that emerged over the application of international law to American internees was also a debate over Swiss neutrality, as the creation and enforcement of this law was interwoven with the principles of neutrality that ensured Switzerland’s reputation as an exceptional state perpetually devoted to peace and humanitarian principles. According to Hans Kohn, “The Swiss national idea is not based upon race or biological factors, it rests on a spiritual decision.”¹ However, many Swiss still identified

strongly with their ethnic and cultural roots. With this in mind, the ideological model of
the Swiss state, termed “civic exceptionalism” by some scholars, was a necessary part of
the campaign to overcome the ethnic and cultural plurality that might otherwise override
a unified Swiss nationalism. During World War II, Swiss civic exceptionalism was
strongly tied to the enforcement of humanitarian law, since this mandate represented “the
voluntary commitment to a set of values and institutions” that distinguished Switzerland
from other countries in Europe.² Within this context, the decision by Swiss officials to
limit the application of international law would not have been taken lightly, as it could
potentially challenge the very basis of Swiss neutrality and statehood.

In embracing its mandate as the guardian of international law during World War
II, Switzerland accepted a considerable responsibility as the designated “protecting
power” on behalf of thirty-five different belligerents.³ This designation entailed acting as
a proxy for a state that had severed diplomatic relations with its enemy, in order to
“safeguard the [state’s] interests and its nationals in relation to a third State.”⁴ Among its
219 wartime mandates, the Swiss represented U.S. interests in 12 separate enemy
countries, including Germany, Italy, and Japan.⁵ The duties of a protecting power were
rooted in customary international law, but were first codified in the 1929 Geneva
Conventions. These duties included the establishment of a bureau of relief and

² Oliver Zimmer, A Contested Nation: History, Memory and Nationalism in Switzerland, 1761-1891

³ Raymond Probst, “Good Offices” in the Light of Swiss International Practice and Experience (Dordrecht:

⁴ Ibid., 123.

⁵ Schelbert, Historical Dictionary of Switzerland, lxxvii, 112.
information concerning POWs, representation of POWs and belligerent countries in disputes over the application of the Conventions, provision of legal counsel for POWs in military tribunals, and even the responsibility to ship reading materials to POWs. In World War II, some of the protecting power responsibilities were partly delegated to the ICRC, such as inspecting POW camps and maintaining a Central Agency for Prisoners of War that tracked each prisoner and facilitated personal correspondence.

The ICRC, founded in 1863, depended entirely on Swiss neutrality to carry out its mandate. The ICRC had a total of 2,500 employees in twenty-seven offices in Switzerland by the end of the war. The central ICRC assembly, or governing body, was permanently fixed at a maximum of twenty-five Swiss citizens, and the president was normally a former Swiss diplomat. During World War II, members of the assembly included active Federal Councilor Philippe Etter, as well as several former Swiss ministers to foreign countries. The ICRC was independent of the Swiss government, but was heavily influenced by Swiss politics due to the crossover of leadership and the fact that it still depended on the Swiss government for over two-thirds of its regular income.


On occasion, ICRC officials represented both the ICRC and the Swiss government at the same time, such as when ICRC President Max Huber represented the Swiss government at the 1932 Conference for the Reduction and Limitation of Armaments in Geneva.\textsuperscript{11} According to one author, Huber often functioned “as the guardian of two crosses, one red, the other white.”\textsuperscript{12} Thus, despite the independence of the ICRC in principle, the Swiss government could certainly influence the actions of the committee, as it did in World War II to prevent an ICRC declaration against the Holocaust.\textsuperscript{13} The ICRC also collaborated closely with the Swiss government in the arena of influencing developing international law of armed conflict.\textsuperscript{14} However, the ICRC mandate was broader than that of Switzerland, since the Swiss obligations as a neutral only apply during times of


\textsuperscript{12} Quoted in Sandoz, “Max Huber and the Red Cross,” 194.


\textsuperscript{14} Armstrong, “The ICRC and Political Prisoners,” 619.
interstate war, whereas all of the ICRC’s humanitarian activities continue whether or not an international conflict is in progress.\textsuperscript{15}

The ICRC’s humanitarian mandate made it an authority on the international law of armed conflict, including the law which protected internees of neutral countries. During World War II, concern over potential abuses of the law prompted the organization to clarify the customary international law of internment. According to a retrospective ICRC analysis of World War II policies published in 1948, the ICRC’s position on treatment of military internees during the war was that “in the absence of definite treaty stipulations covering conditions of internment and treatment, the Committee always laid stress on the principle that conditions of internees in a neutral country should be at least equal to those in force for [POWs] in enemy hands.”\textsuperscript{16} However, the ICRC conceded that only Articles 11 and 12 of the 1907 Hague Convention (V) as well as Article 77 of the 1929 Geneva Convention Relative to the Treatment of Prisoners of War directly applied to internees in neutral countries during World War II.\textsuperscript{17}

The 1907 Hague Convention was silent on the exact administration of internment policies, and only enumerated the requirement to provide basic humanitarian protections

\textsuperscript{15} François Bugnion, Dir. of Int'l Law and Cooperation, ICRC, \textit{Swiss Neutrality as Viewed by the International Committee of the Red Cross, Address Before the Nouvelle Société Helvétique at the International Red Cross and Red Crescent Museum} (May 26, 2004) (ICRC, trans.), \url{http://www.icrc.org/web/eng/siteeng0.nsf/html/629CJX} (accessed October 19, 2011). In more recent times, the ICRC has expressed a desire to emphasize its independence from the Swiss government in the belief that political autonomy would garner more international acceptance, by guaranteeing freedom of action from government influence. See Cornelio Sommaruga, President of the ICRC, "Swiss Neutrality, ICRC Neutrality: Are They Indissociable? - An Independence Worth Protecting," \textit{International Review of the Red Cross}, no. 288 (May-June 1992): 269.


such as supplying internees with “food, clothing, and relief.”\textsuperscript{18} The treaty also required neutral powers to intern belligerent forces “at a distance from the theatre of war” in camps, fortresses, or other “places set apart for this purpose.”\textsuperscript{19} Since the convention failed to “specify the system [governing administration of] military internees in neutral countries,” upon the outbreak of World War II, the ICRC took the initiative to recommend “ad hoc measures in cases where conventional international law does not provide sufficient basis to assure victims of the war precise treatment in accordance with humanitarian principles.”\textsuperscript{20}

In circular letters of April 1940, addressed to all neutral powers in the conflict, ICRC President Max Huber maintained that the provisions of the 1929 Convention should be the minimum protection for military internees.\textsuperscript{21} Under this interpretation internees would receive the same explicit minimum guarantees as POWs in the provision of internment locations, housing conditions, food and clothing rations, sanitary amenities, and medical care.\textsuperscript{22} The 1929 Convention also provided legal protections to POWs, stipulating that “escaped prisoners of war who are retaken before being able to rejoin their own army or to leave the territory occupied by the army which captured them shall be liable only to disciplinary punishment,” which by definition limited punishment for

\textsuperscript{18} Art. 12, \textit{The 1907 Hague Convention (V)}.

\textsuperscript{19} Art. 11, \textit{The 1907 Hague Convention (V)}.

\textsuperscript{20} ICRC, \textit{Activities during the Second World War}, Vol. 1, 559.

\textsuperscript{21} Ibid.

\textsuperscript{22} Art. 9-15, \textit{1929 Geneva Convention}.
escape to a maximum of thirty days local arrest.\textsuperscript{23} The 1929 Convention further specified that “preventative arrest shall be reduced to the absolute minimum,” and “in no case may prisoners of war be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) there to undergo disciplinary punishment.”\textsuperscript{24} It is clear that affording American internees the rights of the 1929 Convention would have precluded their detention in Wauwilermoos for attempting escape and also limited the time of their detention to a maximum of thirty days. The ICRC circular thus attempted to clarify the legal status of internees. Not unlike an \textit{amicus} brief to a court, such a circular had no real standing in law, but given its source it should certainly have influenced the neutral governments. The history of internment was relatively short even by World War II, and so it could be argued that "customary" international law—the law as defined by commonly accepted practice—had not settled on a single solution. The 1940 circular sought to fix custom and close loopholes in the written conventions, but could not carry the full weight of either.

Nevertheless, in response to the circular the ICRC “received assurances from most belligerent governments that the same 1929 Convention is also extended by analogy to internees who are enemy civilians, as well as military internees in neutral countries.”\textsuperscript{25} Neutrals such as Hungary and Romania accepted the ICRC interpretation of the 1929 Convention without reservation. The consulate general of Hungary informed Mr. Huber that tighter restrictions were applied to internees based on “mass escapes,” but despite

\textsuperscript{23} Art. 50, 54, 1929 \textit{Geneva Convention}.

\textsuperscript{24} Art. 47, 56, 1929 \textit{Geneva Convention}.

\textsuperscript{25} Letter from ICRC President to Hungarian Minister of Foreign Affairs, dated April 9, 1940, ICRC Archives, B SG 3, “Hongrie et Roumanie.”
this problem “the Hungarian Government is prepared to consider the provisions of said
Convention regarding the treatment to be accorded members of the Polish military
interned in Hungary.” Hungary also agreed to allow ICRC inspectors to visit the
internment camps “whenever it is requested.”

In a marked and even ironic contrast, the Swiss government, “whilst admitting
that the stipulations of the Convention were by analogy applicable to internees,” also
expressed the reservation that “the 1929 Convention could not well be applied” to certain
scenarios in neutral countries. In particular, Switzerland claimed that disciplinary
punishments in the Conventions were an insufficient deterrent to internee escape
attempts. The Swedish government expressed similar reservations in 1940, claiming that
“it would not be fair to add to [neutral states’] problems by subjecting them to the
extremely detailed provisions of the 1929 Convention” which were “difficult to apply to
military internees.” Thus, when faced with the prospect of enhanced protections for
internees, both states chose practices that best served their own interests rather than those
which conformed to the spirit of humanitarian principles.

Other ICRC publications from the same period affirmed similar views as the April
1940 circulars. A March 1940 article published in the International Review of the Red
Cross discussed the obligations of neutral countries toward different categories of
military refugees, including internees. According to the author, Paul des Gouttes,
“military internees (for example, flyers belonging to a warring army who crashed on

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26 Letter from Hungarian Consulate General to ICRC President, dated July 20, 1940, ICRC Archives, B SG 3, “Hongrie et Roumanie.”

neutral territory) into whatever category they may fall, cannot be treated differently by
the neutral states than soldiers of a warring army that they have taken in,” a clear
reference to the duty to treat internees at least as well as prisoners of war. Des Gouttes
claimed that several states were following this interpretation, and cited the example that
“the Slovak Red Cross has stated expressly that it does not make a distinction between
prisoners of war and military internees.” Des Gouttes’s opinion carried significant
weight, as he was the primary author of both the 1906 and the 1929 Geneva
Conventions.

Other ICRC circulars from as early as 1939 demonstrate that the organization also
invoked the “by analogy” interpretation of the Geneva Convention for other categories of
war captives, such as civilians interned by enemy belligerents. The ICRC reportedly
sought “as a temporary measure, to have the clauses of the 1929 Convention dealing with
treatment of prisoners of war applied to civilian internees,” since these protections were
“understood as being applicable by analogy.” In October 1942 the same argument
appeared in a draft declaration against the Holocaust, where the ICRC claimed that
“because people who have participated more or less directly in armed conflict are
afforded guarantees, civilians in general should be even better protected.” However,
the declaration was never released. According to political scientist David Forsythe,

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28 Paul des Gouttes, “Essai d'adaptation aux civils refugies dans les Etats neutres de la Convention sur les

29 Sandoz, “Max Huber and the Red Cross,” 175.

30 “Documents émanant du Comité international de la Croix-Rouge,” Annuaire suisse de droit
international, no. 1 (1944): 281.

31 Quoted in Favez, The Red Cross and the Holocaust, 87.
Swiss President and ICRC central committee member Philippe Etter “did not want the ICRC to run the risk of offending Nazi sensitivities with a public statement,” and the remainder of the committee “deferred to the wishes of President Etter” and shelved the declaration.32 Although political considerations undoubtedly played a major role in this decision, there was also a fundamental legal difference in the protection of civilians versus military internees. Unlike the proposal to enfranchise military internees, the ICRC had no formal mandate that covered civilian detainees. The committee acknowledged that the proposal to extend POW protections to civilians only applied to the belligerent powers who expressed a willingness to do so, and there was apparently no consensus on this step. Therefore, the ICRC only sought to apply the 1929 Conventions to civilian internees as an “interim step” until protections for civilians could be further codified in treaty law.33

As the legal recommendation of a universally recognized organization operating under international mandate, the ICRC circular opinions represented “soft law” that while not yet binding on states, reflected the emerging customary international law of the period.34 According to one legal scholar, a rule that was once soft law becomes customary international law or “hard law” once it attains the condition of general state


33 “Documents émanant du Comité international de la Croix-Rouge,” 281.

practice, or “common and widespread practice among many states.”35 As expressed by
the ICRC, both “physical and verbal acts” can constitute state practice, such as “military
manuals, national legislation, national case-law, instructions to armed and security forces,
military communiques during war, diplomatic protests, opinions of official legal advisers,
comments by governments on draft treaties, executive decisions and regulations,
pleadings before international tribunals, statements in international fora, and government
positions on resolutions adopted by international organizations.”36 Many of these acts
were clearly evident in the debate over the legal rules governing treatment of internees in
Switzerland, demonstrating that a condition of general state practice nearly existed during
this period. Thus, the proposed protections for internees nearly satisfied a key element to
becoming a customary rule.

The legal position of the U.S. government over internment rights was the same as
that of the ICRC, in that U.S. diplomats and their attorneys espoused the view, in the
same phrase, that military internees enjoyed, “by analogy,” the full benefits of the 1929
Conventions.37 For example, in November 1944, General Legge reported to Leland
Harrison, the minister of the U.S. Legation in Switzerland, that internees were held
incommunicado in civilian prisons in violation of Article 56 of the 1929 Convention;
possessions were confiscated in violation of Article 6; sentences to Camp Wauwilermoos


Understanding and Respect for the Rule of Law in Armed Conflict,” *International Review of the Red Cross*
87, no. 857 (March 2005): 179.

37 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated January 5, 1945,
Number 2009, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945,
Switzerland Box 616.
were often six to seven months in violation of Article 54; Red Cross packages were
refused in violation of Article 37; and conditions in Camp Wauwilermoos were “worse
than in enemy prison camps according to reports in possession of American Interests.”

General Legge also advised the U.S. War Department that strong action was necessary to
make the Swiss “act promptly,” and he coordinated with Harrison to present the case to
the Swiss Foreign Office. Official protests were personally authorized by Acting
Secretary of State Edward Stettinius, who cabled that “The [State] Department approves
the action contemplated by the Legation,” and gave Harrison permission to “present the
case as strongly and convincingly as circumstances warrant.” According to Stettinius,
“Should the Swiss say that they do not consider themselves bound to apply the terms of
the Geneva Convention to interned military, the Legation may state in reply that this
Convention is generally accepted as the minimum standard of treatment of all persons
who are interned.” The State Department also forwarded the recommendations of the
War Department:

“[The protest] should be based on the fact that the conditions are unreasonable in
relation to prevention of escape. Common humanitarian considerations dictate
the necessity for alleviating the conditions under which our personnel are being
detained. The Swiss should promptly remove them to a camp with better
conditions and should restore any personal effects that have been confiscated
unless the latter might assist in another escape. Facilities for recreation and
exercise should be given to the men interned. In our opinion, the present
unnecessary hardships being visited on our personnel are not consistent or

38 Memo from U.S. Military Attaché in Bern, Switzerland to Minister, U.S. Legation in Switzerland, dated
November 1, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

39 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated November 7,
1944, No. 1892, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-
1945, Switzerland Box 615.
compatible with the duties imposed upon a neutral country in upholding the terms of the Hague Convention No. V of October 18, 1907 and international law.”

The U.S. complaints to Swiss officials were presented by General Legge to high-level Swiss authorities: the FCIH Commissioner and the Minister of the Swiss Federal Military Department. The U.S. legation emphasized the two most widespread violations of international law in its complaints. First, the incarceration of internees at Wauwilermoos for months or indefinite periods violated the 1929 Convention, which stated that “the duration of a single punishment may not exceed thirty days.” General Legge believed that under the “by analogy” interpretation of the 1929 Convention, “internees certainly should not suffer worse punishment for [attempted escape] than prisoners of war.” He made the distinction between internees punished for disciplinary infractions, as opposed to those who were “detained simply because they tried to escape to join their army.” Second, the deplorable conditions in the camp violated multiple provisions of the 1929 Convention, such as requirements that POWs “be lodged in buildings or in barracks affording all possible guarantees of hygiene and healthfulness” and receive food rations “equal in quantity and quality to that of troops at base camps [of the detaining Power].” Legge and Harrison could both attest to these conditions, as

40 Telegram from Acting Secretary of State to Minister, U.S. Legation in Switzerland, dated November 11, 1944, No. 3853, NARA, RG 84, E3207, decimal 711.4, Box 100.

41 See diplomatic protests in SFA, Box E27/14510.

42 Legge, Report of Internment Situation, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, p. 4.

43 Letter from U.S. Military Attaché in Bern, Switzerland to Chief of Swiss FCIH, Adjutant General, Section 8e, dated September 25, 1944, SFA, Box E5791, 1000/949, Vol. 609.

44 See Articles 10, 11, & 54, 1929 Geneva Convention.
they had visited Wauwilermoos on November 3, 1944.\textsuperscript{45} Legge elevated the tenor of the protests with the inclusion of language that was thoroughly undiplomatic. He told the FCIH commissioner that the conditions in Wauwilermoos “will certainly be harmful to Swiss-American relations when this entire matter comes into the light.”\textsuperscript{46} Legge evoked the possibility of damage to Switzerland’s humanitarian reputation as well as lasting diplomatic consequences. He informed the FCIH commissioner that “your splendid national traditions of service to belligerent nations [are] world renowned and I am sure that a just criticism of treatment of those internees . . . would be painful to the public conscience.” Legge bluntly threatened that “our military chiefs in Washington are seriously concerned about these matters,” and urged General Dollfus to release the imprisoned internees “before the storm which is brewing breaks.”\textsuperscript{47} He also informed the FCIH that he would notify the ICRC of the Swiss Army’s actions at Wauwilermoos that violated international law.\textsuperscript{48}

Minister Harrison presented the U.S. case separately to the Minister of the Swiss Political Department, Marcel Pilet-Golaz. He outlined that “many American airmen have tried to escape,” but that as many as eighty or more were captured and imprisoned by the Swiss authorities. Harrison claimed that the internees were treated like “ordinary

\textsuperscript{45} Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated November 7, 1944, No. 1892, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

\textsuperscript{46} Letter from U.S. Military Attaché in Bern, Switzerland to FCIH Commissioner, dated November 11, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

\textsuperscript{47} Letter from U.S. Military Attaché in Bern, Switzerland to FCIH Commissioner, dated November 7, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

\textsuperscript{48} Letter from U.S. Military Attaché in Bern, Switzerland to Chief of Swiss FCIH, Adjutant General, Section 8e, dated September 25, 1944, SFA, Box E5791, 1000/949, Vol. 609.
criminals,” and often “held incommunicado for days” if they refused to “talk and say who
helped them.” Finally, the internees were sentenced to Wauwilermoos, where “the
detention lasted for weeks or even months.” Harrison stressed that he was “surprised that
[the Swiss] have a more severe attitude toward [escaping internees] than if they were
prisoners of war.” He claimed that this was a violation of Articles 6, 45, 47, 50, and 54
of the 1929 Geneva Convention. Harrison “urged [Pilet-Golaz] to intervene” on behalf of
the internees, claiming that “a campaign could be triggered that could disturb the good
relations that we want to maintain between the United States of America and
Switzerland.”49

Pilet-Golaz was not sympathetic to Harrison’s appeal from a legalistic perspective
of strictly enforcing treaty obligations, but rather from an appraisal of simple diplomatic
priorities. He used his influence to pressure the Swiss Military Minister, Karl Kobelt, to
find a solution to the standoff, and in doing so he became yet another enforcer of
emerging customary law. In a letter to the Swiss Military Minister he mentioned the
American interpretation of the 1929 Geneva Conventions, but claimed that he did not
“[wish] to discuss the purely legal side of the question” and focused instead on the
potential postwar consequences of the Swiss policy. Pilet-Golaz told the minister that the
situation could create “create a strain in the U.S. Army Air Force operating in Europe and
in the public opinion of this great country that would be prejudicial to our interests and
our good relations,” and this might erase “some of the [political] benefit of the internment
and hospitalization.” He raised the fact that the internees caught escaping were

49 Letter from Minister of Swiss Political Department to Minister of Swiss Military Department, dated
November 13, 1944, SFA, Box E5791, 1000/949, Vol. 609.
“subjected to treatment and restrictions that seemed to them humiliating, unnecessary and unjustified,” and that confinement in Wauwilermoos “left much to be desired from the standpoint of health conditions and diet” and often lasted for months. Pilet-Golaz expressed that he thought that escapes should ideally be punished with “fifteen days or a month” of incarceration, not the sixty to eighty days actually meted out by the Swiss authorities. Pilet-Golaz’s tacit endorsement of the American position was important because although he was not the Swiss minister most directly responsible for administering internment, he nevertheless wielded significant influence on the Swiss Federal Council. The fact that he became involved at all also suggests that the issues of internment practices were heavily influenced by diplomacy, which was within his jurisdiction as the head of the Swiss Political Department.

In concert with U.S. diplomatic efforts, the staff in the British legation in Bern protested the same mistreatment of British internees in Wauwilermoos. Wing Commander W.O. Jones, the assistant air attaché to the British Legation, wrote the FCIH commissioner protesting the length of imprisonment, as well as the conditions. Drawing from his own experience as a POW, Jones claimed that conditions at Wauwilermoos were “inferior to everything I saw during my 20 months of imprisonment in Italy,” and added “I am sure that the Swiss Government does not desire to subject the imprisoned British soldiers located on your territory to conditions worse than those existing, under this report, in the camps of prisoners in the countries of our enemies.”

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50 Ibid.

51 Letter from Wing Commander Jones to Swiss Federal Commissioner of Internment and Hospitalization, dated November 8, 1944, SFA, Box E27/1450G, British Internees 1940-1948.
FCIH commissioner claimed that internees were simply under different regulations than POWs and therefore subject to penalties surpassing thirty days of confinement.\textsuperscript{52}

As a result of the diplomatic protests, U.S. and Swiss authorities met several times to address the accusations of noncompliance with international law. General Legge visited Minister Karl Kobelt, the head of the Swiss Military Department, several times between mid-1944 and early 1945.\textsuperscript{53} However, the Swiss government never outwardly conceded the validity of the U.S. legal position. After a meeting with Minister Kobelt in January 1945, General Legge reported to the U.S. War Department that trials for internees who had attempted escape “will continue with punishment at discretion [of] Swiss Military Courts without reference by analogy to 30 day confinement of POW’s under [the 1929] Geneva Convention,” since “our internees are under Swiss law,” as opposed to the protections of international treaties. Legge had hoped to convince the Swiss that in view of the approaching end of the war, the Swiss “might consider shortening sentences.”\textsuperscript{54} Although the Swiss staunchly refused to administer the same protections afforded by the 1929 Geneva Convention, senior FCIH administrators were concerned about the U.S. diplomatic pressure, particularly U.S. threats to leak the debate to the international press.\textsuperscript{55}

\textsuperscript{52} Letter from Swiss Federal Commissioner of Internment and Hospitalization to Wing Commander Jones, dated November 14, 1944, SFA, Box E27/1450G, British Internees 1940-1948.


\textsuperscript{54} Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department dated January 5, 1945, No. 2009, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.

\textsuperscript{55} Memo from Swiss Army Adjutant General Dollfus to Swiss Minister Kobelt, dated November 13, 1944, No. 23039, SFA, Box E27/14510, American Internees. Kobelt was the Swiss Minister of Military Affairs during World War II.
In addition to the Allied protests, Swiss military and civilian observers also bombarded Swiss internment officials with concerns about Captain Béguin’s competence and the effects of internment policies at Wauwilermoos. In November 1944, Swiss Army Major W. Huber wrote the Federal Commissioner of Internment and Hospitalization worrying that “Switzerland is blatantly violating the minimum guarantees of the Geneva Convention of 1929 on the treatment of prisoners of war” with respect to internees in Wauwilermoos. Huber, an officer assigned to the Swiss Army’s Office of the Chief of the General Staff, complained that “it is hard to understand why Switzerland treated the internees much more harshly than Germany's prisoners of war.” He claimed that “[internment officials in Wauwilermoos] do not believe that the rules apply to them since they do not have any prisoners of war, just internees,” and that they used this distinction as a pretext to mistreat them. Huber supported this claim with evidence that “deficient accommodations, food, and shelter in [Wauwilermoos] severely harmed the health of the internees.” Specifically, he charged that American internees had developed mental health problems, tuberculosis, scurvy, inflammation of the eyes, and “serious skin diseases.” Huber blamed these conditions on Captain Béguin and other officers at Wauwilermoos who “have grossly exceeded their authority.” He also claimed that confinement in the camp “is from 80 days to 5 months without any proceedings,” and indicated that he agreed with the American view that the length of confinement and lack of due process was “not only a violation of the Geneva Convention, but a violation of any law per se.”

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In Huber’s opinion, the damage from Wauwilermoos was widespread. He claimed that conditions in the camp had resulted in Americans losing “all respect for the Swiss Army and Switzerland,” and that the internees had “learned to hate the country and the Swiss people.” Huber stated that simply releasing the internees was not enough to restore Swiss credibility and repair the damage cause by the internment crisis. Rather, he argued that the perception that “a large contingent of Swiss officialdom and the Army authorities are hostile to [Americans]” must also be rebutted “by evidence that the American internees’ execrable treatment was not ordered by the responsible departments in Bern and did not reflect the country’s official policies nor popular sentiment.”57 The direct intervention of an outsider like Huber demonstrates that there were some in the Swiss Army who were concerned about how adherence to the spirit of international law would affect the legacy of Swiss neutrality beyond the end of the war.

Another unsolicited voice in the debate over treatment of American internees was the Swiss press. Despite wartime censorship of the Swiss media, various newspaper editors felt that it was their duty to report violations of neutrality to the government even if they lacked unfettered access to the public. The Swiss press was closely monitored by the Press and Radio Section, a censorship organization that began under the Swiss Army in 1939 and eventually was nominally transferred to the Swiss Justice and Police Department in early 1942.58 The section was authorized by a decree of the Swiss Federal Council, and utilized passive censorship in which articles were screened after publication

57 Ibid.

for content that was deemed incendiary. Of particular concern were any articles that overly antagonized neighboring Germany, as some members of the Swiss government believed that the Germans might invoke the hostile Swiss press as a pretense for invasion. The Swiss censors therefore issued instructions that forbid any publications “that harm or jeopardize Switzerland’s independence, security, or neutrality,” a standard that could be interpreted subjectively. Violations were punishable by sanctions ranging from reprimands, bans on future publication, and even imprisonment.59 However, the fact that the media were only censored retroactively meant that editors had some limited agency to criticize government policies, including those regulating the internment of foreign military personnel.

Paul Altheer was one journalist who was highly critical of the federal internment policies when it came to punishing escaping internees. It was perhaps no coincidence that he was the editor of the Davos Newspaper published in the same city where many of the American officers were interned. In late October 1944 Altheer appealed on behalf of the Americans in Wauwilermoos to the Swiss Army’s “Army and Home” section, a propaganda organization meant to influence the morale of the troops and strengthen the bond between the Swiss Army and the civilian population.60 Altheer explained to Army and Home that the officers at Wauwilermoos were experiencing a “real hardship,” a reference to the conditions at the camp. He elaborated that the internees were confined under “unhealthy and unhygienic” conditions, including no bathing facilities to speak of, a “primitive” latrine that produced “a terrible stench,” straw beds infested with bed bugs,


60 Ibid., 275.
inadequate clothing, and no access to recreation. Altheer reported that internees suffered from skin diseases, yet medical care was “not easy to find,” and the commandant was entirely unsympathetic to the problems of the internees. According to the editor, this situation was unacceptable because the Americans “did not commit any crimes,” and they were only confined in Wauwilermoos as a result of failed attempts to escape and “get back into action.” Altheer therefore asked the Army to open an investigation and mitigate the problems at Wauwilermoos “in order to preserve the cordial relations and friendship [of the Americans].”61

Another concerned journalist was Albert Adler, editor of The Wartime Observer, who personally visited Wauwilermoos on October 25, 1944 as a result of “persistent rumors spread in Davos that mentioned the penal camp Wauwilermoos . . . where appalling conditions prevail that would be no credit to our country.”62 He did not visit the camp with the objective of obtaining “as much relief as possible for the Americans,” but rather “to help avoid having unnecessary harshness or flawed policies do great damage to [Switzerland].” After spending four hours at the camp, Adler confessed that “what I found surpassed my worst fears.” He described crowded barracks surrounded by barbed wire and mud, hygiene facilities and latrines “in the most primitive state,” and leadership which refused to distribute Red Cross aid parcels.63 According to Americans who previously escaped from captivity in Germany, “at that time [German POW] camps

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61 Letter from Paul Altheer to “Army and Home” Section, dated October 25, 1944, SFA, Box E5791, 1000/849, Vol. 652.

62 See Kamber, Schüsse auf die Befreier, 239, and letter from Editor Albert Adler, SFA, Box E5791, 1000/849, Vol. 652.

63 Letter from Editor Albert Adler, SFA, Box E5791, 1000/849, Vol. 652.
were far better than [Wauwilermoos].” Adler wrote about his concerns to the local internment authorities in Davos, who in turn passed his report to federal internment officials.64

Looking beyond the problem of simply ensuring the confinement of internees, Adler saw the issue as one of ideology. How could Switzerland, with its mandate to inspect compliance with international law in “just about every prison camp in the world,” fail to uphold the same standards itself? Adler’s conversations with interned Americans convinced him of the damaging effects of the internment policies. Airmen who had previously espoused kinship with the Swiss had experienced a radical change of heart, such that “the Swiss people in general are not seen as neutral, but considered exactly the same as nationals of the enemy.” The cause, he explained, was that “people do not consider an escape attempt as dishonorable,” and although escape attempts justified some manner of legal response, the punishment meted out at Wauwilermoos was “in no way proportional to the offense.” The American internees informed Adler that “they will never set foot on Swiss soil again, and that when they returned to the United States they will do all they could to enlighten the people there about this ‘degrading’ treatment and keep them from ever again having anything to do with Switzerland.”65

Adler realized that the legacy of Swiss actions would affect Switzerland’s postwar position among the world powers, and predicted that “we can be sure of the severest consequences for our country if we keep on punishing the escape attempts by American


65 Letter from Editor Albert Adler, SFA, Box E5791, 1000/849, Vol. 652.
internees in the same manner.” In his opinion, the current policy reflected “sheer legalism” and certainly could be falsely justified “with enough juridical and bureaucratic contortions,” but this symptomatic approach only addressed immediate diplomatic complaints. Failure to rectify the underlying problems of Swiss military justice and the conditions in Wauwilermoos would result in the shift of public opinion against Switzerland, which Adler believed would cause “incalculable, imminent damage” to the country. In his view, “the [Swiss] citizenry would probably be astonished to find out how these American pilots view our country today and that they are determined to let others elsewhere know about it later on.”

Huber, Altheer, and Adler’s protests reveal that the Swiss attitude toward the application of international law to internees was hardly monolithic. Rather, these individuals sought to influence the government policies for both the sake of the internees themselves as well as the implications that legal recalcitrance posed for the Swiss national reputation. This dispute can therefore shed light on the cultural values that were threatened by the FCIH policies. According to legal scholar José Marina, “Law is a part of the regulatory system of a culture, which coercively imposes the compliance of certain rules and procedures to solve conflicts.” He believes that law was created to preserve a society’s “fundamental values” from social conflict, values such as peace, justice, survival, and public order that are necessary for coexistence. Perhaps the values that Huber and Adler sought to protect were in part the rule of international law and

66 Ibid.

commitment to humanitarian principles, both important facets of Swiss exceptionalism. The enforcement of questionable internment policies may have served the purpose of ensuring Swiss sovereignty by demonstrating strict neutrality and possibly averting German reprisals, but at what cost? If Switzerland sacrificed the ideals that it stood for, then the price was too high for many Swiss citizens.

Huber, Altheer, and Adler’s resistance to the government’s administration of international law is also speaks to the ways that culture can influence the law through the pursuit of cultural justice. According to legal scholar Andrew Ross, this type of contestation occurs when legal processes are “too mechanistic in their attention to procedural rules, and not sensitive enough to the cultural security and social aspirations of citizens.” Although Ross was referring to more traditional national or local law, the internee debate suggests the way similar processes could operate on international law, in its formation, evolution, and even “enforcement.” In this case the resistance of Swiss observers can be seen as attempts to ameliorate FCIH policies that were at odds with Swiss culture, with the more generalized effect of buttressing emerging customary international law and encouraging Swiss governmental compliance with that law. To be sure, international law lacked (and lacks) the level of enforcement applied to intra-national law; the success of this type of justice, therefore, depends on how egregious the violation is perceived to be, and how far its detractors are willing to go to circumvent the offending legal process. Huber, Altheer, and Adler were all willing to provide

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unsolicited complaints about the FCIH’s treatment of internees, but their resistance to these policies was apparently limited to procedural redress.

It is also important to note that individuals like Huber, Athleer, and Adler contested more than the Swiss government’s legal position over internment. They also reserved criticism for the subjective manner in which these laws were carried out, practices which were perhaps more egregious than the policies that enabled them. The distinction is important because, as analyst Susan Sibley has argued, “disciplinary policies and practices are shaped both by the structure in which they occur and [by] the semi-autonomous individuals who participate in them and who enact the policies.”69 The Swiss legal position enabled the conditions at Wauwilermoos by denying the protections of the Geneva Conventions that would have limited the length and type of punishments available to military tribunals. However, the mistreatment in Wauwilermoos was not inevitable simply because internees were punished under the Swiss Military Penal Code. Other preventable factors also promoted mistreatment of internees, including inept leadership and the fact that the Swiss government authorized punishment at special disciplinary camps. Finally, the Swiss military tribunals frequently sentenced American airmen to lengthy prison terms rather than the authorized reduction to disciplinary punishment. Had any of these additional factors been mitigated, it is conceivable that Americans might not have suffered abuse despite the lack of explicit protections under international law. In this scenario, the debate over international law would never have occurred.

Although the complaints by the Allied governments and concerned Swiss citizens provided incentives to adhere to emerging customary law, these pressures were ultimately insufficient to change underlying Swiss policy. However, they did lay the framework for future changes in treaty law concerning the legal rights of internees. The Swiss Federal Military Department’s rebuttal began with a strictly legalistic interpretation of international law. Swiss Military Minister Karl Kobelt argued that treating military internees as POWs was inconsistent with existing precedents and would itself amount to a violation of international law. In contravention to the legal position outlined in earlier correspondence with the ICRC, he maintained that the “by analogy” extension of POW protections to internees was “nowhere stipulated” in the 1929 Convention. Therefore, absent the protection of international law over escape attempts, internees would be “governed by the domestic law of the contracting parties.” In this case the domestic law was the Swiss Military Penal Code, which permitted open-ended punishments that the Swiss argued were “proportionate to the offence committed and the necessity of preventing re-occurrence.”

The Swiss Chief Prosecutor reportedly expressed the view that Switzerland was “unequivocally obligated” by the 1907 Hague Convention to “to guard troops of warring armies interned by it in a manner that keeps them from taking further part in hostilities,” including “by means of force.” He claimed that this force necessarily included long-term imprisonment and criminal sanctions, as anything less would be ineffective. According to the prosecutor, disciplinary punishment with a maximum of thirty days confinement

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70 Memo from Swiss Minister Karl Kobelt to Brigadier General B.R. Legge, number 8211.117.N/G, dated December 2, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.
was inadequate to curtail escape attempts, and therefore failed to satisfy Swiss legal obligations. In this scenario, he claimed that Switzerland would “run the risk of being forced out of [its] neutral posture.”\(^{71}\) Other Swiss officials also claimed that failure to adequately punish U.S. internees for escape attempts could be regarded as a violation of their obligation to uphold the 1907 Hague Convention, and therefore incite Germany “to reprisals or even hostile measures” against Switzerland.\(^{72}\)

The Swiss military also cited case law as a precedent for denying the protections of the 1929 Convention to military internees. After the internment of the Forty-fifth French Corps in 1940, Swiss military tribunals determined that internees could be punished more severely than POWs.\(^{73}\) The precedent was set by the trial of Polish internee Stanislaw Tabaka, who was interned as a member of the Forty-fifth French Corps in June 1940. Tabaka promptly attempted to escape in July because “he had a longing for his family living in France; he hadn’t had any news from them since the month of May.” Tabaka was apprehended before he reached the Swiss border, and a territorial court convicted him of disregard of regulations, the same article of the Swiss Military Penal Code later used to charge escaping American internees. Tabaka appealed his three-month prison sentence on the basis that the 1929 Geneva Convention Relative to the Treatment of Prisoners of War “which by analogy also applies to internees, an

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\(^{71}\) Probst, *Schlussbericht des Eidg. Kommissariates für Internierung und Hospitalisierung*, 104.

\(^{72}\) The Swiss position was that inadequate punishment of Allied internees could be perceived as favorable treatment in violation of Swiss neutrality. In theory, this could be cited by Germany as the justification for a reprisal, defined as a discrete violation of the law of war intended to encourage future Swiss compliance. See memo from Swiss Minister Karl Kobelt to Brigadier General B.R. Legge, number 8211.117.N/G, dated December 2, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

\(^{73}\) Memo from Swiss Minister Karl Kobelt to Brigadier General B.R. Legge, number 8211.117.N/G, dated December 2, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.
escape may only be punished disciplinarily.” Therefore, he argued that his punishment violated international law, since his three-month sentence exceeded the thirty-day limit specified in the 1929 Convention. This was essentially the same legal argument adopted in 1944 by the U.S. Legation in Switzerland to protest the confinement of American internees, with the exception that Tabaka only protested the length of his sentence, whereas the U.S. protested the length of sentence as well as multiple conditions of confinement. 74

The Swiss Federal Court of Cassation, an appeals court, accepted and deliberated Tabaka’s case. The judges determined that “nowhere is it stipulated that [the 1929 Convention’s provisions limiting punishment of POWs] apply by analogy to members of a warring power who are billeted with neutrals.” They also decided that the 1929 Convention did not specify “any other provisions concerning internment arrangements, the treatment of internees, etc.,” and therefore by default the administration of internment “was left to the signatory parties [to the Hague Convention] to work out the details of how to treat internees in accord with the respective country’s laws.” The judges also reasoned that Switzerland was legally “obliged to keep [custody] of the internees,” and so it would be inappropriate to reduce Tabaka’s sentence, as this “could possibly cause [Switzerland to have] disagreements with the belligerent countries.” Therefore, the judges rejected Tabaka’s appeal and set the precedent for future cases involving escaping internees. 75


75 Ibid.
This argument from law reflected real structural pressures. The Swiss position seemed dubious to the U.S. legation, but this policy had been in force well prior to the internment of the first American airmen in 1943, and reflected the immense burden that internment imposed on the Swiss government. During the war, Switzerland provided safe haven for nearly 300,000 refugees, over 100,000 of whom were military refugees.\textsuperscript{76} At the beginning of the war approximately 10,000 Swiss soldiers were detailed to guard military internees and refugees, representing an enormous logistical burden that also undermined defense against violations of Swiss neutrality.\textsuperscript{77} The considerable expenses of internment were also shouldered by Switzerland, with little likelihood of reimbursement in the case of internees whose countries were under occupation and governments in exile. In this light, harsher punishment of internees to enhance control likely seemed prudent to Swiss authorities, who were almost certainly overwhelmed by the many problems posed by internment.

In some cases, Swiss officials simply could not conceptualize the need to afford internees the same protections as POWs. General Dollfus was one such official who was well-insulated from the actual implementation of his policies as the FCIH commissioner. He saw the harsh punishment of escaping internees as a necessity reaction to the “extremely numerous” American attempts to flee from internment. Dollfus cited that no less than 318 American internees attempted escape between August 28 and October 25, 1944, a figure that comprised over twenty-five percent of the total American internee

\textsuperscript{76} ICE, \textit{Switzerland, National Socialism and the Second World War}, 110, 116.

population in Switzerland. In his view, confinement to prison camps was essential in order to faithfully discharge “the duty to prevent the Americans from escaping” according to international law. Dollfus also saw no reason to treat internees differently simply because they were “carrying out orders” in their attempts to escape.  

In rebutting claims that internees should receive the protections of the 1929 Geneva Convention, Dollfus explained that “as a private citizen but using my common sense, it seems to me that it does not make sense to put Swiss internees, who live unrestrained and more or less unguarded in hotels and are able to circulate freely within a fairly large area, on a par with prisoners of war.” He made this distinction because he claimed the internees escaped from hotels, rather than the “barbed wire and machine guns” of a traditional POW camp where prisoners “risk their lives in trying to escape.” Dollfus certainly knew that once caught escaping, subsequent escape attempts were from barbed-wire compounds like Wauwilermoos, where conditions were harsh and machine guns were fired at escapees. Yet he was silent as to whether those in punishment camps were now deserving of POW protections by virtue of their surroundings. If Dollfus believed his excuses, then he legitimatly thought that the accusations about Wauwilermoos conditions in November 1944 were “completely untenable,” implying that they were not in fact comparable with Axis POW camps. This attitude can perhaps be explained by the mixed signals that Dollfus received about camp conditions, as well as his relative isolation from those who actually carried out the policies of the FCIH.

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78 Letter from Oberstdivisionär Ruggero Dollfus to Major W. Huber, dated November 20, 1944, SFA, Box E5791, 1000/849, Vol. 652.

79 Ibid.
VIII. Inspections and Reactions to Diplomatic Crisis

Although the Swiss refused to modify their legal position, the internal and external pressures in response to internment conditions did have some effect, at least in that Swiss officials took measures to inspect Wauwilermoos and other camps for proper conditions. Inspection of the camp fell under the joint purview of the Swiss government and the ICRC, since both shared the duties of a protecting power. While apparently well-intentioned, these inspections reveal the problems inherent in the requirement for a protecting power to police itself. Both Switzerland and the ICRC used current and former Swiss Army officers to inspect conditions at Wauwilermoos, resulting in reports that often praised Captain Béguin and gave the camp a clean bill of health. The Swiss government also exerted an element of influence over the ICRC that made it impossible for the organization to carry out its duties impartially.

Inspections for the Swiss government were performed by officers of the FCIH. Swiss Army Major Florian Imer, the Chief of Internment Legal Services for the Commissariat from 1941-1945, personally inspected conditions in Wauwilermoos during this period.¹ In May 1942, Imer reported to his superior that “the complaints by internees about their treatment at Wauwilermoos are not justified, and for the most part,

¹ Imer was reportedly a major in the infantry, and held a PhD in law from the University of Bern. While serving in the FCIH, he was simultaneously a judge of the Supreme Court of the Canton of Bern. See Hervé de Weck, “Imer, Florian,” Historisches Lexikon der Schweiz, January 31, 2007, available at: http://www.hls-dhs-dss.ch/textes/l/F45773.php (accessed October 18, 2011).
exaggerated.” He acknowledged that Wauwilermoos “is more rigorous than a regular camp,” but claimed that these punitive aspects of the camp were necessary to enforce discipline. Imer found no fault with the camp’s leadership and actually singled out Béguin for praise in his reports, claiming that “I took away an excellent impression from my visit to the camp; Captain Béguin is just the kind of man needed to command this kind of camp.”

When the FCIH investigated Béguin in July 1945, Imer reiterated that throughout his inspections from 1942 to 1945, he “I regularly came away with a favorable impression and the feeling that Captain Béguin was truly the kind of man who is made to run a penal camp.” He called Béguin a “good organizer and a fine psychologist” who displayed “the qualities of a teacher of men and a true leader.” According to Imer, “beneath [Béguin’s] severe and rigorous demeanor beats a kind and understanding heart.” This was apparently an attempt to reconcile his claims that Béguin was both strict and empathetic at the same time. Several weeks later, Imer investigated the conditions of Russian military internees at Wauwilermoos. He again adopted an apologetic stance toward Béguin, claiming that articles in the press “distorted” the facts and displayed an “absolutely biased intent.” Imer also reported that some Russian internees told him that Wauwilermoos had “a spirit of fairness and camaraderie . . . something not always to be found in the other camps.” He claimed that internees had two opportunities per week to raise complaints to the commandant during his speeches, and that “[the Russian internees] never complained about anything.” Other than a distinct lack of freedom of

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movement, he believed the internees “had the exact same freedoms as in normal camps.” Paradoxically, in the same report Imer cited several manslaughter investigations against Russian internees as well as a mutiny among the same group in February 1944, both of which seemed at odds with claims of “good fellowship.”

Major Imer again came to Béguin’s defense after the commandant was relieved and under investigation pending trial in 1945. He explained that the prisoners “display a great and moral peacefulness” in the camp “in spite of the barbed wire and police dogs,” since Béguin “regularly grants them audiences to hear their requests and grievances and personally supervises their clothing and equipment issue.” Imer concluded that “the reasons for the unhappiness and claims regarding the way internees are treated at Wauwilermoos stem not from the organization of camp Wauwilermoos or from the atmosphere fostered in it by Captain Béguin.” In contrast, he claimed that “the camp’s state of mind is indeed excellent which has very good effects on the internees.” Imer portrayed Béguin as a scapegoat despite overwhelming evidence of his negligent behavior that led to the commandant’s removal. He continued to defend Béguin even after Wauwilermoos received a scathing report from an ICRC inspector, perhaps out of a desire to avoid contradicting his earlier endorsements of the commandant.

The ICRC inspections of Wauwilermoos, also conducted by a Swiss Army officer, were only slightly more critical until after the war’s conclusion. The ICRC recorded 864 inspections of military internment camps in Switzerland from 1944 through

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the end of the war; thus inspections of Wauwilermoos comprised a mere fraction of the
camps under its mandate. Wauwilermoos received only four ICRC inspections from
1944 to 1945, all performed by ICRC delegate and Swiss Army Colonel M. Auguste
Rilliet, the former commander of the Second Infantry Brigade in Geneva turned chief
ICRC delegate to Switzerland for internment issues. In his first inspection in May 1944,
Rilliet described the camp as “surrounded by barbed wire and guarded by armed sentries,
accompanied by a detachment of army dogs,” and having the capacity for 400 internees.
Only 216 inmates were in the camp on the date of the inspection, of which the majority
were Polish and Italian soldiers. The remaining prisoners were German, Russian,
English, French, Yugoslav, American, and Greek. Rilliet recorded only six Americans in
the camp, and noted that the barracks of the English and American internees were “the
least well kept.” Food rations were reportedly lower for “internees of the camp placed
under arrest,” which ostensibly applied to the Americans and other prisoners confined for
escape attempts. Rilliet was critical of the latrines, which were located inside the
barracks. In his opinion, a separate latrine would be “more hygienic.”

In relation to punishment at Wauwilermoos, Rilliet found that the officer barracks
in the camp “made the most distressing impression on me during this visit.” According
to Rilliet, most of the interned officers he questioned “do not know why they are in this

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5 ICRC, Activities during the Second World War, 560.

6 See ICRC Archives, B/G2, Internés en Suisse. Rilliet’s ICRC position is identified in correspondence:
see Paul E. Martin, Letter to Federal Counselor Karl Kobelt, dated October 26, 1944, ICRC Archives,
B/G2, Internés en Suisse: Correspondance avec les Autorités Suisses, 1943-1944. Rilliet’s command
listing appears in Schweizerische Armee: Armee-Einteilung auf 1. April 1930 (Bern: Eidg. Militär-
Druckschriftebureau, 1930), 10.

camp,” and he cited the case of one Polish officer who already had been incarcerated for nine months without explanation. Another Yugoslav prisoner was studying in Lausanne prior to his incarceration, but the delegate could not ascertain “the motive for his punishment.” Rilliet wanted to interview the men confined to local arrest in the stockade, described as “a small, two-man cell, [with] straw, bucket, [and] pitcher,” but the men were reportedly unavailable for interview “because of repairs underway.” In spite of these apparent inconsistencies, Rilliet’s overall assessment was that “the discipline in the camp and the uniform order made a good impression.”

Colonel Rilliet’s next inspection of Wauwilermoos in October 1944 documented the arrival of twenty American officers among a population of 283 inmates. The camp had been enlarged since his last visit, and now had the capacity for 600 internees. Rilliet noted that the internees who were awaiting military tribunals often spent longer in pretrial confinement at Wauwilermoos than the sentences they eventually received. He noted remarks by the commandant, Captain Béguin, who blamed the Swiss military courts for the plight of the military internees and called their situation “unfortunate.” Béguin also told Rilliet that “it is highly regrettable” that the soldiers sentenced to Wauwilermoos for attempted escape receive widely disparate sentences, as if he believed that would-be escapees were being punished unnecessarily and unfairly. He claimed that there should be a “special military tribunal” that exclusively handled internment cases and delivered more consistent verdicts. These sentiments seem dubious in light of Béguin’s disparaging comments about interned Americans in his private correspondence to the

8 Ibid.

FCIH commissioner, particularly since the American internees almost certainly constituted the majority of would-be escapees in the camp at that particular time.\textsuperscript{10} Therefore, it is likely that Béguin made these comments simply to put his apologetic comments on the record, since he was the person most likely to be blamed for any misconduct at Wauwilermoos.

Second Lieutenant James Misuraca was one of the Americans in Wauwilermoos during Rilliet’s inspection in October, 1944. Misuraca was a B-24 bombardier from the Eighth Air Force who arrived in Switzerland in April 1944, and later ended up in the prison camp after an unsuccessful escape attempt from Davos.\textsuperscript{11} He noticed that the food rations improved considerably during the ICRC visit, such as “a second potato or a cabbage,” which appeared to be an attempt to artificially bolster the camp’s conditions. Misuraca reported this observation to the ICRC inspector, presumably Rilliet, who informed him that “of course we will investigate this.”\textsuperscript{12} The complaint, however, was not entered into the report of inspection. Rilliet recorded only that the food quantity was “sufficient” by virtue of the “skill of the commander of the camp” and a vegetable garden that reportedly supplemented the normal rations.\textsuperscript{13} After the ICRC inspection team

\textsuperscript{10}Ibid. Rilliet reported 283 total internees of varying nationalities, but did not reference the number of Americans save the 20 that were transferred to the camp during the inspection. General Legge reported that 85 Americans were in the camp in early November 1944, about half a month after Rilliet’s inspection. He also documented that over 100 Americans were interned in Wauwilermoos at some point after August 1944, but no exact date was given. See Legge, Report of Internment Situation, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, p. 3.

\textsuperscript{11}Internment Data Card of James I. Misuraca, SFA, Box E 5791, 1988/6.

\textsuperscript{12}James Misuraca, telephone interview, June 17, 2011.

\textsuperscript{13}Auguste Rilliet, Rapport No. 19A, dated October 16, 1944, ICRC Archives, B/G2, Internés en Suisse.
departed, Misuraca recalled that the camp administration went back to serving the normal rations of “soup in a garbage can.”

Although inspections of Wauwilermoos appeared superficial, it is clear that the ICRC’s attention was often directed at other humanitarian concerns within the FCIH. By late 1944 the ICRC was extremely critical of the FCIH and frequently cited widespread abuses that went unremedied. Correspondence between ICRC officials and the Swiss government reveal that the ICRC took the mandate to protect internees and refugees in Switzerland quite seriously, but were frequently opposed by the FCIH. The ICRC assembly member responsible for transmitting ICRC reports and ameliorating conditions of confinement within Switzerland was Dr. Paul E. Martin, a Swiss Army colonel and professor of history at the University of Geneva. He corresponded directly with several Swiss officials, including the FCIH commissioner, the head of the Swiss Federal Military Department, other cabinet ministers on the Swiss Federal Council, and intermediate officials who carried out the directives of the Swiss government. Martin’s correspondence with Swiss FCIH and government officials in 1944 reveals that the relationship between the two organizations steadily deteriorated over the issue of internment conditions.

According to the ICRC, Switzerland only granted “occasional” internal camp visitations by the Red Cross until April 1944, after which regular inspections were

14 James Misuraca, telephone interview, June 17, 2011.

15 Favez, The Red Cross and the Holocaust, 288.

16 See ICRC Archives, B/G2, Internés en Suisse, Carton 8, “Correspondance avec les Autorites Suisses, 1943-1944.”
permitted. This fact, while seemingly inconsistent with the mandate of the ICRC, can be explained by the changing conditions of internment and leadership in Switzerland during the war. At the outset of the war, the ICRC “did not think that assembling a delegation to visit the camps [in Switzerland] was useful then,” partly because most of the nations with internees in Switzerland also had diplomatic missions in the country. The ICRC believed that these missions would look after the “natural protection” of their own citizens, and in theory safeguard them from abuse at the hands of Swiss authorities. They also reasoned that there was no need to inspect internment conditions since the FCIH’s first commissioner, Major General Jean de Muralt, declared that his office would “apply the principles and provisions of the Geneva Convention dated July 27, 1929 relating to the treatment of prisoners of war to the internees in Switzerland.”

Ironically, at the time Muralt was both the FCIH commissioner and the president of the Swiss Red Cross Society, and in 1944 became the Chairman of the League of Red Cross Societies. Therefore, Muralt’s guarantees of fair treatment certainly carried weight with the ICRC.

The situation changed in early 1943, when Swiss Federal Counselor Eduard von Steiger, head of the Federal Department of Justice and Police, asked the ICRC to intervene on behalf of escaped Russian prisoners of war in Switzerland. This was necessary because of “the lack of a Russian diplomatic mission in Switzerland,” which

17 ICRC, Activities during the Second World War, 560.


19 Leland Harrison, “Memorandum of Conversation with Count de Rougé, Secretary General of the League of Red Cross Societies,” dated July 6, 1944, Library of Congress, Washington, D.C., Manuscript Division, Leland Harrison Papers, Box 47.
resulted in the need for a protecting power to ensure humanitarian provisions. After large numbers of Italian internees and escaped prisoners of war also required representation in September of 1943, the ICRC sought to permanently extend its mission to cover these categories of individuals.\(^{20}\) There was precedent for ICRC inspections in neutral countries, as the ICRC had already inspected internment conditions in Romania, Hungary, and Ireland.\(^{21}\) As the issues under the ICRC’s purview in Switzerland “multiplied and became more complicated,” the Swiss delegation of the ICRC increased its staff from two to three officials to over twenty-five personnel in 1944.\(^ {22}\)

The ICRC faced stiff resistance from the FCIH as soon as it adopted the mandate of protecting foreign military personnel in Switzerland. The ICRC lacked a complete roster of “name registers for internees and evadees in Switzerland,” and in particular had “received no information about German soldiers, Americans, and very little about the French.”\(^ {23}\) The FCIH withheld this information based on security concerns, claiming that ICRC interviews revealed “secrets of national defense.”\(^ {24}\) The FCIH also insisted on prior censorship of all ICRC inspection reports, a directive that originated from Swiss

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\(^{23}\) Ibid.

Army Commander in Chief General Henri Guisan. Guisan reportedly desired that inspection reports “should first of all be reviewed by the Army Command prior to release to foreign powers, this in order to avoid providing information relevant to the Swiss Army.”

The ICRC response to the FCIH demands was that committee delegates were unable to monitor all statements and complaints submitted for national security information. The committee also claimed that “criticism can be constructive” and “might give rise to action for the improvement of the [internment] regime.” The ICRC was concerned that prior censorship of inspection reports would risk jeopardizing the organization’s neutral position. According to one delegate, “the process [of allowing the censorship of inspection reports] presents a danger, in the sense that people outside the institution may view such a process as hemming in the ICRC’s freedom of action, by being subjected to prior censorship.” Furthermore, the committee desired “that the main reports that its delegates write be truthful, and therefore, that the criticisms formulated in them will not be concealed.” In spite of these concerns the ICRC eventually bowed to FCIH pressure and consented to a “gentlemen’s agreement” wherein the ICRC would “submit to the General a very discreet draft report” summarizing the inspection results. Thus, the ICRC would not pass along the entire report in order to safeguard their


neutrality, and the Swiss Army could still “identify a particular section of the report that should not be transferred abroad.”

This compromise reflected the enormous influence that the Swiss government held over the ICRC, in that a similar secret arrangement with the governments of other neutral or belligerent countries would ostensibly be an unthinkable violation of the ICRC’s principles. In particular, the arrangement violated the ICRC’s fundamental principles of neutrality and impartiality. Paradoxically, at the same meeting that produced the compromise, ICRC President Max Huber proclaimed that “the ICRC is a Swiss-based institution, but only in its staffing.” He claimed that the ICRC “enjoys a position of full independence which is essential if it is to pursue its mission,” and that this independence would enable delegates to visit Swiss internment camps “in as impartially a manner as in other countries.”

It is apparent that the FCIH did not share the same humanitarian concerns as the ICRC, and saw the inspections of internment camps as an unwarranted encroachment on their affairs. The FCIH went to great efforts to undermine the ICRC inspections, particularly when inspections focused on nationalities with no diplomatic representation. FCIH administrator Colonel Probst accused one ICRC delegate who inspected Russian internment conditions, Georges Dessonnaz, of being a foreign spy. The ICRC dismissed such accusations as absurd, stating that “Mr. Dessonnaz must continue his mission without letting himself be deterred by accusations or charges which appear to be based on

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28 Ibid.
minute and questionable facts.” The ICRC believed that these were not isolated accusations, but rather claimed that they were “part of a campaign directed against the ICRC in Switzerland.”

Complaints by ICRC officials over internment conditions reveal that the ICRC considered the FCIH in violation of several treaty obligations. From mid to late 1944, the ICRC attempted to spur the FCIH to ameliorate widespread humanitarian problems that it detected in internment facilities. Italians were the largest group of military internees in the country by early 1944, and numbered approximately 20,000.30 Therefore, they absorbed much of the time and energy of the FCIH administrators and ICRC inspectors. ICRC delegates reported that Italian internment camps “leave much to be desired in several respects and exhibit particularly serious deficiencies from the standpoint of hygiene and sanitation.”31 One delegate reported that a zealous guard shot an Italian internee, and that guards casually referred to Italian internees as “lazy,” “bastards,” and other derogatory terms.32 Another delegate reported that a camp of German internees “completely lack clothing, shoes, and underwear.” Several other camps were seen to


have “a large shortage of underwear, socks, clothes, and especially pants.” Many delegates also reported that the interned soldiers reflected “a state of mind that to us seems deplorable.” According to the ICRC, the interned soldiers “generally have a great deal of difficulty understanding and accepting the reasons for their internment in camps and also with willingly adapting to living conditions imposed on them by the Swiss authorities.” Although primarily concerned with humanitarian conditions, the ICRC also took up the cause of internees who were punished excessively in the Swiss judicial system. This included those punished for unsuccessful escape attempts.

In June of 1944, Dr. Paul Martin appealed to FCIH Chief of Staff Colonel Simon to remit the punishment of an interned Polish officer imprisoned by the Swiss for several unsuccessful escape attempts. There were over 10,000 interned Poles in Switzerland at this time, and they eventually made over 5,900 escape attempts, approximately 4,100 of which were successful. According to Martin, “the responsible Swiss authorities have sentenced recaptured persons [who attempted escape] to from 3 to 8 months confinement or more.” The Polish officer noted that escaped prisoners of war only underwent less than 30 days of disciplinary punishment in “territories occupied by warring powers.” The officer further testified that interned French officers from his unit, the Forty Fifth French


Corps, “have been punished for attempting to escape from Switzerland with nothing more than confinement to barracks.” Martin cited the applicable articles of the Geneva Convention of 1929 requiring that prisoners punished for escaping “shall be liable only to disciplinary punishment,” and that “the duration of any single punishment shall in no case exceed 30 days.” Martin then informed Col. Simon that “The ICRC is finds itself compelled to ask the Swiss authorities if they do not consider the abovementioned articles of the Geneva Convention of 1929 as applicable by analogy to military internees.”

Colonel Simon responded to Martin’s inquiry by quoting the authority to punish internees in the Swiss Military Penal Code of 1927: "Whoever is guilty of failure to comply with a regulation or other general requirements of the service shall be punished by imprisonment up to 6 months. The offense is punishable by disciplinary action if it is of a non-serious nature. During wartime, the judge may order confinement or imprisonment." According to Simon, “after the practice that has been established by the territorial courts, normal cases are punishable by three months imprisonment,” which could be reduced by a month depending on circumstances. He professed that “I see no contradiction between this case law and [the Geneva Convention of 1929].” In reference to the interned Polish officer, Simon added that “assuming your information that Polish internees were sentenced to 8 months confinement is not erroneous, I think it must involve internees that were sent to a penal camp like Wauwilermoos.”


Martin responded by asking “if it would be possible to mitigate the severity of sentences imposed for escape attempts?” He appealed to the equity of the analogy interpretation of the Geneva Conventions, reflecting that “with regard to military internees per se, it may seem strange that disciplinary sentences for an escape attempt in a neutral country are harsher than they are for prisoners of war committing the same offense in a belligerent country.” It was clear that Martin was not confident in the legality of his position, and so he merely asked “whether or not the views of the Adjutant General of the Army [on punishing escaped internees] are final or if they could still be modified” rather than demand a change to comply with international law. His request fell on deaf ears, as the FCIH officials were apparently unwilling to mitigate punishment that they saw as necessary to maintain control over their foreign internee population.

Martin explored the possibility of turning his request into a demand, but he was not qualified to make this determination on his own. Therefore he wrote to Dr. Jean Pictet, a senior attorney in the ICRC who specialized in international law. Martin claimed that “[the ICRC has] always sought to have the Geneva Convention of 1929 applied by analogy to military internees in Switzerland. However, Switzerland seems not to feel obligated to do so.” Martin wanted to know whether the ICRC could “intervene once more to ask that such offense be punished only with disciplinary penalties?” In reply, Pictet noted that “Switzerland has made no commitment” to enforce the 1929 Geneva Convention by analogy, and claimed that “the troops who request internment


implicitly accept that they must submit to the laws of the country that is taking them when it is not obligated to do so.” He referred to this agreement as “a kind of contract between the interning country and troops who ask for internment in order to escape a deadly fate.” He also noted that “the Fifth Hague Convention of 1907 stipulates that the internees can be ‘locked into fortresses,’ which gives a neutral power almost unrestricted latitude in this area.” He recommended accepting the view of the FCIH, although he noted that there “should nevertheless be an inquiry into the sentence of 8 months that has been imposed on the internees,” since “it exceeded the maximum prescribed by the Military Penal Code.”

Pictet apparently viewed the “by analogy” interpretation of the Geneva Convention as pending customary international law that was not yet binding on unwilling states. This interpretation effectively stripped Martin of the leverage to make further appeals on behalf of internees punished for escape, since he believed that the law was against him.

The ICRC ended its argument for the reduction of internee punishment for escape attempts, but it did not cease protesting the deplorable conditions of internment. By October of 1944, the ICRC concluded that the FCIH would not act on its suggestions without outside intervention. Therefore, ICRC officials went over the heads of the FCIH leadership and appealed directly to the Swiss Federal Military Department, headed by Minister Karl Kobelt. Paul Martin wrote to Kobelt in early October, expressing that “your intervention seems necessary” since the “action [of the FCIH to implement ICRC suggestions has come] to a dead stop,” and “we need to give it a new impetus.”

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also warned that the lack of “favorable answers [from the FCIH] risks compromising the ICRC’s humanitarian work.” In particular, Martin highlighted widespread deficiencies in billeting, clothing, and the provision of adequate food to internees.\footnote{Paul E. Martin, Letter to Federal Counselor Karl Kobelt, dated October 2, 1944, ICRC Archives, B/G2, Internés en Suisse, Carton 8, “Correspondance avec les Autorites Suisses, 1943-1944.”} Kobelt replied that he would direct an investigation into these problems, but apparently no such inquiry occurred to the ICRC’s satisfaction. Martin wrote to Kobelt again in late October, reminding the minister that “winter is fast approaching and especially the clothing situation of many internees appears to be very inadequate.”\footnote{Paul E. Martin, Letter to Federal Counselor Karl Kobelt, dated October 26, 1944, ICRC Archives, B/G2, Internés en Suisse, Carton 8, “Correspondance avec les Autorites Suisses, 1943-1944.”} Similar notes in November adopted an even higher tone of urgency. Martin asked “if it would be inappropriate to hasten the current investigation,” and informed Kobelt that “since early October, in fact, the situation in many camps has not improved.” In particular, “the cold season brings out the deficiencies in some internees’ clothing,” and “there does not seem to be enough food everywhere.”\footnote{Paul E. Martin, Letter to Federal Counselor Karl Kobelt, dated November 9, 1944, ICRC Archives, B/G2, Internés en Suisse, Carton 8, “Correspondance avec les Autorites Suisses, 1943-1944.”}

The failure of Dr. Martin’s appeals to the FCIH and Federal Military Department finally prompted the ICRC President to intervene in November of 1944. President Huber wrote to Minister Kobelt asking the Federal Military Department to enforce “Switzerland's obligations as a contracting party of the Fifth Hague Convention of 1907 and the Geneva Prisoner of War Convention of 1929,” and claiming that “the ICRC’s position has not been satisfied in all respects.” President Huber reminded the minister that simply because the ICRC was helping to provide food and clothing to internees did
not relieve the Swiss Government of its primary responsibility in these areas, and claimed that the ICRC could not manage these obligations alone. Huber reiterated the request that the Swiss government provide military internees with proper clothing and feed them “like members of the Swiss Army” as required by treaty obligations. According to Huber, “not only are large numbers of military internees clothed inadequately but they are also inadequately nourished.” Huber reminded Minister Kobelt that “[the Swiss Confederation] is basically obliged under international law to pay for the clothes of military internees in the country.”

The repeated contestation over basic provisions reveals that the FCIH evidently did not share the ICRC’s views of baseline humanitarian principles. In some cases this difference can perhaps be attributed to incompetence or criminality within the FCIH administration, but there were also elements of Switzerland’s humanitarian mission that directly conflicted with the mandate to intern belligerents. One example was the FCIH’s legal obligation to both guard internees and treat them in a humane manner, which ultimately became a fundamental conflict of interest. If not for the intervention of senior ICRC officials, it is difficult to imagine that the FCIH would have independently identified or rectified any problems associated with the administration of internment.

Despite the initial failure of ICRC diplomacy to ameliorate the punishment of escaped internees, the Swiss government eventually compromised on the treatment of American prisoners in Wauwilermoos. The compromise was tailored for only a select few nationalities—primarily Americans—and reflected the diplomatic pressure exerted

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by the U.S. Legation as well as internal complaints by concerned observers. In early November 1944, the FCIH commissioner directed that Americans in punishment camps would be allowed to receive supplemental rations in the form of Red Cross parcels. Internal FCIH correspondence captured General Dollfus’s belief that “These punitive measures [denying Red Cross parcels] do not correspond to the international conventions.” A day later Dollfus informed his subordinates that “the Wauwilermoos prison camp no longer is adequate in any way for the ever growing number of inmates,” claiming that “the sanitary arrangements are inadequate” and “the wet location softens the ground and brings with it muddy conditions and sickness.” Accordingly, he directed a FCIH section chief to “immediately begin studying the construction of a second camp to take the pressure off Wauwilermoos and to finish it in the shortest possible time period.” According to Dollfus, the new camp should exclusively house “escapees and flight risks,” and thus was intended for “military personnel, who are to be assessed differently from the difficult elements for whom Wauwilermoos was originally opened.” Although the new camp was intended to be more comfortable than Wauwilermoos, Dollfus still directed that “all precautions [will be] taken against escape attempts.”

45 Evidence indicates that the few British internees in Wauwilermoos were also included in the agreement. See Roger Anthoine, Infringing Neutrality: The RAF in Switzerland 1940-45 (Stroud, UK: Tempus Publishing, 2006), 152.

46 Memo from Swiss Army Adjutant General to FCIH Section Chief, dated November 3, 1944, SFA, Box E5791, 1000/949, Vol. 609.

47 Memo from FCIH Commissioner to FCIH Section Chief, dated November 4, 1944, SFA, Box E27/14510.
criminal offenses, an apparent return to the *custodia honesta* model originally proposed by the Swiss Federal Council.

A week after General Dollfus directed the creation of new punishment camps for interned Americans, he also brokered a deal to release the majority of the Americans in Wauwilermoos back to their regular camps on thirty-day paroles. As discussed in Chapter 4, paroles entailed written “promises” by the internees to refrain from further attempts to escape, countersigned by the U.S. Legation. This placed both the internees and the U.S. government under a binding obligation to “respect the terms” of the paroles. Thus, a breach of parole through escape was “an offense against the laws of war” and required the return of the internee in question. Granting the paroles facilitated the evacuation of eighty American internees, leaving five still confined at Wauwilermoos. Of these five, one remained in Wauwilermoos because he refused to sign a parole, and the remaining four because they had already been sentenced by military tribunals.

General Legge considered this only a partial solution, negotiated in a “typically evasive manner” by the Swiss, who refused to put any of their concessions in writing. FCIH officials also refused to concede the position that the requirements of the 1929 Convention should apply to internees by analogy. Legge found this “inexplicable” from

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48 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated November 13, 1944, No. 1906, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

a legal perspective since he believed that Swiss officials “have a conclusive answer to any German protest by quoting the Geneva Convention.”

Although the compromise released most American internees from Wauwilermoos, the paroles were only a temporary solution. General Clayton L. Bissell, Assistant Chief of Staff for Intelligence (G2) on the War Department General Staff, refused to authorize subsequent extension of the paroles, explaining that “further use of paroles only compromises the integrity of our position and is contrary to their obligations as members of US armed forces.” This position was consistent with U.S. policy at the time, which normally prohibited the authorization of paroles, but allowed them by exception so long as they were obtained with the permission of a military superior. General Legge described the Swiss as “actively antagonistic” in direct reaction to the U.S. refusal to grant further paroles. American internees were not sent back to Wauwilermoos upon expiration of the paroles in mid-December 1944, but instead were

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50 Legge, Report of Internment Situation, December 18, 1944, NARA, RG 319, E47, Army Intelligence Project Decimal File 1941-1945, Switzerland Box 1020, p. 3-4.

51 Memo from General Clayton Bissell to General Barnwell Legge, dated December 6, 1944, No. 73498, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 619.

52 Law of Land Warfare, JAGS, 115n320. See also Field Manual 27-10, Rules of Land Warfare (Washington: U.S. War Department, 1940), paragraph 151, p. 37. Some states, such as the U.S., forbid paroles as a general matter of policy: see Sec. 111, Cir. 400, WD, Dec. 10, 1942. U.S. soldiers were duty-bound to attempt escape; neglecting this obligation was considered dishonorable.
confined to the “isolation” camps at Hünenberg, Greppen, and Les Diablerets until the majority of remaining internees were repatriated in mid-February 1945.  

In an apparent reaction to American diplomatic pressure, the Swiss military tribunals also transitioned to punishments that were more proportional to the crime of attempted escape. Although tribunals continued for American internees after the release of most Americans from Wauwilermoos in mid-November 1944, the sentences dropped considerably from the penalties assessed through late 1944. When interned B-17 navigator 1st Lt. James Mahaffey was convicted of multiple escape attempts and sentenced to 300 days imprisonment on December 5, 1944, the average American sentence for such “disregard of regulations” stood at 87 days. However, after mid-January 1945 the average sentence dropped to only forty-eight days, not including at least a dozen escape cases that were reduced to disciplinary punishment in lieu of prison time.  

The decision to downgrade escape charges to disciplinary punishment normally occurred in lieu of referral to a military tribunal. Local camp commanders had the authority to impose five days of arrest, sector commanders could impose ten days, and

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53 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated December 31, 1944, No. 2005, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616. For reference to Hünenburg, see Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated January 31, 1945, No. 2062, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616. For reference to repatriation, see Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated February 18, 1945, No. 2102, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.

54 Lt. Mahaffey’s case is Tribunal Militaire #44-4912, SFA, Box E 5330-01, 1975/95. For aggregate case statistics see various tribunals in SFA, Box E 5330-01, 1975/95.
only a senior FCIH official could impose twenty days.\textsuperscript{55} In at least one case in April 1945 a judge downgraded charges that had already been referred to a tribunal. On trial were Sgt. Joseph D’Atri and Sgt. James Stanley, who both escaped from their confinement camp at Les Diablerets and were arrested while trying to cross the French border on March 7, 1945. According to a letter from the FCIH section chief, Colonel Probst, “the preventive detention suffered seems sufficient to offset the detention penalty imposed.” Probst may have also taken pity on D’Atri and Stanley because they were caught in a snowstorm prior to their arrest in March, and subsequently hid in a stable for three weeks while subsisting on scavenged food and rations from Red Cross parcels. As a result, both internees explained to their arresting officer that “we [were] very ill and were nearly dying.” However, both men were already repatriated by the time the charges were dismissed, which raises doubts about the real motivation behind the decision. As with over 100 other cases, when Americans were repatriated or successfully escaped, their tribunals were halted because the Swiss Army could no longer enforce a verdict when the internee was out of their jurisdiction. This fact in itself would be a normal justification to dismiss the charges. Instead, the FCIH section chief emphasized that the hardship of the prior detention was punishment enough, reflecting a distinct shift from earlier hard-line views on enforcement of FCIH policies.\textsuperscript{56}

\textsuperscript{55} \textit{Arrêté du Conseil fédéral concernant le commissariat federal pour l’internment et l’hospitalisation}, dated July 26, 1944, ICRC Archives, B/G2, Internés en Suisse, Carton 3, “Arrêts du Conseil federal instructions, Ordonnances, Organisation du service internés (ICH) au CICR.”

\textsuperscript{56} For trial of Joseph D’Atri and James Stanley see Tribunal Militaire #45-1816, SFA, Box E 5330-01, 1975/95. Data on all military tribunals against American internees came from all cases in SFA, Box E 5330-01, 1975/95.
In February 1945, the Swiss Chief of Legal Services also announced a formal policy shift under which internees convicted of escape attempts would serve a maximum of forty-five days imprisonment. A sentence of greater than thirty days was still excessive under the U.S. interpretation of international law, but the policy shift nevertheless indicated the Swiss government’s desire to accommodate the U.S. position and bring their policies into conformance with the spirit if not the letter of the law. Swiss officials were also well aware of the many dissenting opinions within the government, the ICRC, and the population at large. It is possible that Swiss officials were also influenced by these voices that argued for the adoption of more proportional punishment for escaping internees. However, political leverage was perhaps the primary motivation for the compromise, and political negotiations do not occur in a vacuum. The relationship between the U.S. and Swiss governments was dynamic and constantly influenced by forces well beyond the control of the officials on the ground in Switzerland.

The treatment of American internees was determined by a host of factors beyond mere quibbling over the exact meaning and application of international law. Perhaps most importantly, at the same time U.S. diplomats were protesting the mistreatment of U.S. internees, USAAF planes committed numerous and repeated violations of Swiss neutrality. These violations, in the form of accidental bombings, airplane crashes, and territorial incursions, jeopardized the U.S. diplomatic position and likely prolonged the resolution of internment issues. The value of the U.S. intelligence collection in Switzerland, as well as the Swiss integration with and support of Germany’s wartime economy were other factors that also influenced Swiss-American relations.

On the afternoon of April 1, 1944, General Legge walked through the smoldering wreckage of the city of Schaffhausen, the capital of Switzerland’s northernmost canton on the border with Germany. At the time the civilian death toll stood at 28 dead and over 100 wounded, but the number of deaths would later climb to 40, including a national councilor. Over 1,000 buildings were destroyed or damaged, and some were still on fire. The losses included Schaffhausen’s railway station, the city museum, several factories, and numerous houses.\(^1\) Earlier that morning, two waves of USAAF B-24 bombers from

\(^1\) For the description of General Legge’s inspection of Schaffhausen, see Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated April 2, 1944, No. 1283, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613. For final death toll, see Kreis, Switzerland and the Second World War, 98. For media estimates of damage, see “Swiss Report Damage Totaling $8,500,000 Caused in Schaffhausen by U.S. Bombers,” New York Times, May 9, 1944, p.2.
the 392nd Bombardment Group dropped their incendiary payloads on the city under the mistaken belief that they were over Freiburg, a nearby German town with a strategic railway junction. The bombing of Schaffhausen caused a significant diplomatic rift that undermined relations between the U.S. and Switzerland for the remainder of the war, in terms of both U.S. influence and financial indemnity.²

Within a day of the bombing American diplomats sought to mitigate the fallout from the Schaffhausen incident by agreeing to immediate initial reparations of $1 million, with more funds forthcoming if necessary.³ U.S. Secretary of State Cordell Hull offered a formal apology.⁴ General Henry H. “Hap” Arnold, Commanding General of the USAAF, promised that “the responsibility for and the causes of [the bombing] will be thoroughly and promptly investigated,” and gave assurance that “every possible precaution will be taken to avoid any repetition of such an error.”⁵ Unfortunately, within days of the incident the U.S. Strategic Air Forces Command for the European Theater released a communication blaming the bombing on “unfavorable weather conditions,” which contradicted the testimony of Swiss observers in Schaffhausen who reported only


⁵ Telegram from General Marshall to Generals Eisenhower and Spaatz, dated April 5, 1944, No. WAR 19024, Library of Congress, Washington, D.C., Manuscript Division, Carl Spaatz Papers, Box 1: 23.
light clouds. This provoked a storm of criticism in the Swiss press such as “The excuse of ‘bad weather’ is worthless,” and “Stick to the Truth, Please!” These reactions prompted General Legge to recommend that the U.S. “accept full responsibility without seeking reasons to excuse.” He recommended full settlement for the damages prior to a conclusive investigation, reminding the War Department that “our prestige [is] at stake.”

Similarly, Minister Harrison wrote the Secretary of State to express that the explanation of poor weather “has had an unfavorable reception,” and argued that the “attempt [by] headquarters to minimize severe misfortune and [the] distortion [of] facts must be energetically rejected.”

The week after the bombing, Charles Bruggmann, the Swiss Minister in Washington, D.C. informed the U.S. Secretary of State that the incident “has caused consternation among the Swiss people and anxiety as to the future.” He therefore delivered a new statement relaying that:

> “The penetration of the Swiss air space by American planes resulting in the bombing of Schaffhausen constitutes a most serious violation of Swiss sovereignty and territory. The mistake which caused in broad daylight the partial destruction of a Swiss city is so grave an incident that the Government of the Swiss Confederation cannot consider it settled by its protest and by the expression

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6 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated April 4, 1944, No. 1285, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613.

7 Telegram from the U.S. Minister in Switzerland to the U.S. Secretary of State, dated April 4, 1944, No. 2086, in United States Department of State, Foreign Relations of the United States Diplomatic Papers, 1944: Europe, Volume IV, 793-4.

8 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, Number 1285, dated April 4, 1944, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613.

9 Telegram from the U.S. Minister in Switzerland to the U.S. Secretary of State, dated April 4, 1944, No. 2086, in United States Department of State, Foreign Relations of the United States Diplomatic Papers, 1944: Europe, Volume IV, 793-94.
of regret of the American Government. It is essential that the causes of this tragic error be determined exactly and that effective measures be taken to eliminate them in the future.”\textsuperscript{10}

The consequences of the bombing were not merely diplomatic. The U.S. Legation in Switzerland knew that the incident would also directly affect the relationship between American internees and their Swiss hosts. Immediately after the bombing, Legge cancelled all non-urgent passes and instructed the internees that “in view of the unfortunate events of April 1\textsuperscript{st} at [Schaffhausen], it is more than ever necessary that we conduct ourselves with proper modesty and decorum in the eyes of the Swiss.” He further instructed internees that “if the subject [of Schaffhausen] is approached, there will be no outside discussion of or conjecture as to the cause of the incident.” Internees were allowed only “to express regret.”\textsuperscript{11} American diplomats in Switzerland were given similar instructions and told to “avoid public places.” In spite of these precautions, several fist-fights involving Americans occurred, reportedly over news coverage that “maps carried by United States fliers do not show Switzerland.”\textsuperscript{12}

Second Lieutenant Sidney Bolick witnessed the Swiss reaction to Schaffhausen firsthand. Interned only weeks before the bombing, he was boarding a train to Adelboden when he learned of the incident. According to Bolick, “[Schaffhausen] changed [the Swiss] attitude toward us dramatically,” and “the Swiss yelled insults and shook their fists at us.” The airmen were derided as “murderers” and “butchers,” and one

\textsuperscript{10} Cordell Hull, Department of State Memorandum of Conversation, “Bombing of Schaffhausen,” dated April 11, 1944, Library of Congress, Washington, D.C., Manuscript Division, Cordell Hull Papers, Box 32.

\textsuperscript{11} Memorandum from General Barnwell Legge, “For Escapee and Internees,” dated April 3, 1944, SFA, Box E5791, 1000/949, Vol. 612.

man even ran alongside the train screaming “Jew York, Jew York” in a bizarre attempt to insult the Americans.\textsuperscript{13}

Technical Sergeant Richard H. recalled the reaction to the bombing in Adelboden. According to Sergeant H., the U.S. Legation confined the American internees to their hotels for several days. The only way that the internees could leave was if they wanted to attend religious services, but the only approved church was Catholic. Richard was not Catholic, but he attended in spite of this qualification in order to escape the confines of the hotel. As a result he felt quite awkward at church, since he “didn’t know what to do” during the service.\textsuperscript{14}

Legge and Harrison also correctly understood that the Schaffhausen incident would significantly undermine their diplomatic leverage with the Swiss, who had already accused the Allied forces of bombing the town of Samaden in October 1943. Since this was not the first Allied bombing of Switzerland, promises were made that new steps would be taken to avoid repeat incidents. General Legge coordinated with the Chief of the Swiss Air Corps to clarify national boundaries on U.S. pilot maps, to create a system of marking the border to make it visible from the air, as well as to establish a fifty-mile safety zone around the Swiss border in which no bombings should be attempted.\textsuperscript{15}

Only three days after the bombing of Schaffhausen, General Henri Guisan rescinded the earlier policy for Swiss anti-aircraft batteries and fighters to attack only

\textsuperscript{13} Bolick, \textit{To Soar With Eagles}, 194.

\textsuperscript{14} Richard H., telephone interview, May 20, 2011.

\textsuperscript{15} Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated April 20, 1944, No. 1315, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613.
formations of foreign aircraft. According to Guisan, “experience has shown that isolated belligerent aircraft were using our territory to escape persecution or to prepare for an attack.” Accordingly, he ordered “the opening of fire…on all foreign aircraft, even isolated, which fly over our territory, except those apparatus that are clearly in trouble or those who demonstrate intent to land on our soil.”

Some Swiss anti-aircraft units used their expanded authority to justify unprovoked hostilities against American aircraft seeking to land in Switzerland. Lt. Ralph Jackson’s aircraft lost an engine while bombing Augsburg, Germany, on April 13, 1944, less than two weeks after the Schaffhausen incident. Jackson’s pilot flew to Switzerland, and although it “did not come under enemy fire [while in Germany],” the aircraft was attacked by Swiss anti-aircraft batteries while crossing Lake Constance. The bomber was then intercepted by Swiss fighters and directed to land on a grass field near Zurich, where the crew was quickly arrested by Swiss soldiers with submachine guns. Jackson recalled being taken to a building for interrogation by a Swiss officer who was educated in the United States and “spoke excellent English.” Jackson was extremely uncomfortable, as he was still wearing his thick, “fur-lined” flying suit. The Swiss officer wanted to know all the details of his mission, but Jackson wisely “refused to give more than name, rank and serial number.” Jackson changed the subject to the unprovoked the attack on his aircraft, informing the interrogator that one of his crew was wounded by the Swiss. In response, the Swiss officer “seemed proud that we were hit,” saying that the Swiss batteries “were [supposed] to hit us if they shot at us.” The officer

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then “voiced strong indignation” over the recent Schaffhausen bombing. The Swiss officer apparently found the incident so egregious that he believed it justified a proportional response from the Swiss military, such as the attack on Jackson’s airplane. Jackson “was unaware of the Schaffhausen fiasco” at the time, and he therefore “vehemently denied that the U.S. had bombed Switzerland.”

Other aircrews were also interrogated about Schaffhausen in an apparent attempt to find aircrews to hold accountable. On July 11, 1944, 2nd Lt. James Green’s B-24 Bomber Jaw-Ja Boy was hit by anti-aircraft fire while bombing Munich. The aircraft was knocked out of formation, lost an engine, and was rapidly losing fuel. The pilot chose to head to Switzerland, deciding that the only other options were to “bail out at the coast [of France] and become German POWs” or bail out over the English Channel. After the aircraft crossed the Swiss border it was hit a second time by Swiss anti-aircraft fire. According to Green, “Loud cracking, banging, booming explosions” filled the bomber, as well as multiple shrapnel holes and the pungent odor of cordite. The damaged aircraft set down on an airstrip near St. Gallen, where the crew was quickly arrested.

The crewmembers of Jaw-Ja Boy were interrogated by a Swiss Army major who spoke fluent English. The major was uninterested in the crew’s current mission to Munich, and instead asked whether they had participated in the April mission that bombed Schaffhausen. The entire crew responded with “what’s a Schaffhausen?”

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17 Ralph Jackson, “The Last Mission,” dated April 13, 1994, SIAA.

crew was lying, as they had in fact bombed Schaffhausen on their very first mission. According to Green, their lead navigator missed the target by ninety miles, and they were not told of the error until several days later. The crew apparently felt little guilt about the bombing, as they had no hand in the navigational mistake that caused the incident. Green related that the bombing “meant very little to us other than it counted towards the 25 [missions] we had to fly.” The Swiss interrogator probably knew that crew’s bombardment group had perpetrated the Schaffhausen bombing, but clearly was unable to prove that they were the minority of the group who were personally complicit in the incident. No charges were filed by the Swiss, although this outcome might well have changed if the crew had admitted its involvement.

Other aircrews that participated in the Schaffhausen bombing apparently felt more remorse about the mistake. A reporter visited the 392nd Bombardment Group’s base near Norwich, England, the day after the incident, and noted that “it was unusually quiet today at this base.” Many of the airmen were reportedly “too distressed to talk” after they learned of the mistaken bombing, but others expressed regret and noted that “Switzerland had provided a haven for distressed bombers whose crews now are interned there.” According to one lieutenant, “there are a lot of our airmen alive today because they were able to come down there instead of in enemy territory.”

Had the bombing of Schaffhausen remained an isolated incident, it is likely that the U.S. Legation successfully would have quelled most of the resultant diplomatic rancor with apologies and reparations. However, as the Allied air campaign expanded

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19 Ibid., 2, 5-7.

east, aerial violations of Swiss neutrality grew in frequency, establishing, in one historian’s words, a “pattern of violation, apology, reparation, and new violation.”\(^{21}\) A particularly volatile set of incidents occurred in September 1944, beginning with an aerial dogfight between Swiss and U.S. fighters on September 5, 1944. The Swiss fighters were escorting two U.S. bombers to Dübendorf Airfield in Zurich when two USAAF P-51 Mustangs appeared and engaged the Swiss aircraft. According to a Swiss observer on the ground, “I [saw] fairly high in the northeast sky four fighters which [were] entangled in combat, diving and banking.” The observer heard the “sharp report of the aircrafts’ weapons,” and a Swiss fighter was hit. The Swiss fighter “[spewed] out a large smoke plume and [went] into a spin like a leaf falling.”\(^{22}\) The U.S. fighters shot down both Swiss aircraft in the incident, killing one Swiss pilot and seriously wounding the other.\(^{23}\) Errant shells from the battle also ignited the roof of a carpentry shop and damaged several residential neighborhoods in Zurich.\(^{24}\) The intense aerial combat shocked the local population, who reportedly flocked outdoors and stood “gesticulating” and “looking up at the heavens.”\(^{25}\)


\(^{22}\) “Observations from Shaffhauserplatz,” translation of article from Neue Zuercher Zeitung, September 6, 1944, Morning Edition, p. 1, SIAA.

\(^{23}\) Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 5, 1944, No. 1717, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

\(^{24}\) “Impact of a Shell at the Epiletischen Institute” and “Danger due to Airplane and Anti-aircraft Munitions,” translation of articles from Neue Zuercher Zeitung, September 6, 1944, Morning Edition, p. 1, SIAA.

\(^{25}\) “Observations from Shaffhauserplatz,” translation of article from Neue Zuercher Zeitung, September 6, 1944, Morning Edition, p. 1, SIAA.
Only days after the dogfight between U.S. and Swiss fighters, U.S. P-51s again violated Swiss airspace and attacked the railway stations at Delémont and Moutier, destroying a locomotive and injuring four civilians. On September 9, a freight train was attacked at Rafz, injuring three Swiss civilians. In addition, 42 Allied violations of Swiss airspace near the city of Jura were reported. On September 11, over thirty violations of Swiss territory occurred, including an attack by two American P-47 Thunderbolts on the Zurich-Basel express train. This violation was less defensible than many other violations of Swiss neutrality, as the Rhine River clearly defined the Swiss border in this region.

These violations also affected all other diplomatic exchanges between the U.S. and Swiss governments. General Legge eventually reported that the repeated failure to observe the post-Schaffhausen agreement “not to bomb any target within 50 miles of [the] Swiss frontier” was “impairing [U.S.] prestige and causing bitter feelings.”

Swiss newspapers reflected a shift of opinion among the population, particularly “impatience and irritation” over the continued attacks. The Gazette of Lausanne expressed that “We hoped after Schaffhausen that precise instructions had been given to American aviators in [the] future to respect our air space,” and demanded that “[an] inquiry be made to establish clearly [the] responsibilities of those who killed one of our

26 Memos from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 8, and 10, 1944, Numbers 1729, and 1738, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

27 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 11, 1944, No. 1741, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

28 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated February 23, 1945, No. 2109, NARA, RG 319, E58, Top Secret Incoming and Outgoing Cables 1942-1952, Switzerland Box 41.
young [Swiss] aviators.” The newspaper claimed that “Swiss public opinion has been greatly aroused by these repeated violations of our air space and attacks by American aviators.” Similarly, the Tribune of Geneva accused American airmen of being “less careful than others to respect our neutrality,” and noted that “their knowledge of geography seems far less than that of the English [fliers].” The Swiss editors encouraged more draconian measures of reciprocity to avoid future incidents, since “the Yankee pilots seem less easily stopped by legal and political considerations.”

The U.S. Legation in Switzerland had little influence over operational employment of U.S. bombers in England and North Africa, and therefore was unable to affect or limit violations of Swiss neutrality beyond sending suggestions to senior USAAF leadership and attempting to placate Swiss authorities. Early feedback from the U.S. Legation in Switzerland suggested that many aircrews lacked adequate maps of Switzerland, and recommended “that navigators be given suitable maps of neutral countries near [their routes].” As a result of the incidents in September 1944, General Legge sent descriptions of Swiss airplane markings to General Arnold in the hope that this would aid U.S. pilots to differentiate between Swiss and German fighters. This was considered a contributing factor in misidentification of Swiss aircraft, since the Swiss Air

29 Newspapers quoted in telegram from Minister, U.S. Legation in Bern, Switzerland to U.S. Secretary of State, dated September 13, 1944, No. 6035, NARA, RG 59, Central Decimal File, 1940-1944, decimal 811.2354/9-1344, Box 7352.


31 Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 23, 1944, No. 1778, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.
Force possessed Messerschmitt Bf 109E fighters, which were manufactured and predominantly used in Germany.\textsuperscript{32} Legge also passed on details of Swiss efforts to avoid a repeat of aerial attacks, including the painting of Swiss crosses on fields and the roofs of houses along the border, flying observation balloons with Swiss colors, and even Swiss Army Commander in Chief General Henri Guisan’s suggesting the attachment of Swiss military observers to a higher U.S. Army headquarters.\textsuperscript{33} General Legge “[urged General Arnold] to support this [request] as [a] means of smoothing over [the] present difficult situation.”\textsuperscript{34} However, senior U.S. commanders resisted such requests, and often tried to avoid responsibility for the bombings.\textsuperscript{35} In October 1944, U.S. Secretary of War Henry Stimson proposed that “it is known that on occasion the Germans have repaired and flown Allied aircraft forced down in Axis territory,” and “it therefore is not impossible that violations of Swiss neutrality by aircraft with United States markings may have been made by the Germans.”\textsuperscript{36} The next month General Arnold invoked the same argument to U.S. intelligence officials, claiming that the Germans were intentionally

\textsuperscript{32} Prince, \textit{Shot from the Sky}, 13, 169.

\textsuperscript{33} Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 27, 1944, No. 1793, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

\textsuperscript{34} Memo from U.S. Military Attaché in Bern, Switzerland to U.S. War Department, dated September 15, 1944, No. 1752, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

\textsuperscript{35} Memo from War Department G2 to U.S. Military Attaché in Bern, Switzerland, dated November 27, 1943, No. 592, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 618.

\textsuperscript{36} Letter from the Secretary of War to the Secretary of State, dated October 12, 1944, NARA, RG 165, E418, Boxes 962-63.
trying to damage relations between the U.S. and Switzerland. The assertion was deemed utterly absurd by intelligence officials on the ground in Switzerland.\(^\text{37}\)

The U.S. and Swiss efforts to curb accidental bombings were to no avail, as the cities of Basel and Zurich were bombed by B-24s of the USAAF’s 392\(^{\text{nd}}\) and 466\(^{\text{th}}\) Bombardment Groups on March 4, 1945.\(^\text{38}\) This was the 392\(^{\text{nd}}\) Bombardment Group’s second major violation of Swiss neutrality in less than a year, as the same group had also bombed Schaffhausen in April 1944. In the newest incident, six bombers from the 392\(^{\text{nd}}\) dropped at least twenty-five demolition bombs and several incendiary bombs on the Schwamendingen suburb of Zurich. Two houses were destroyed and twenty were damaged, killing five residents and injuring twelve others.\(^\text{39}\) At roughly the same time, eight bombers from the 466\(^{\text{th}}\) and one errant plane from the 392\(^{\text{nd}}\) dropped forty to fifty bombs on the railroad freight station at Basel, injuring seven civilians and destroying a warehouse and several homes.\(^\text{40}\) The bombings shattered any remaining illusion that the USAAF control measures were effective in preventing accidental violations of Swiss


\(^{39}\) Report from Military Air Attaché, Bern, Switzerland, “Results and Effects of Aerial Bombing at Zurich, Switzerland,” dated March 10, 1945, and memo for record, “Recapitulation of Violations of Swiss Air Space Allegedly by United States Aircraft,” dated June 15, 1945, NARA, RG 165, E418, Boxes 962-63.

\(^{40}\) See report from Military Air Attaché, Bern, Switzerland, “Results and Effects of Aerial Bombing at Basel, Switzerland,” dated March 16, 1945, NARA, RG 165, E418, Boxes 962-63, and Granholm, *The Day We Bombed Switzerland*, 140.
neutrality. Accordingly, U.S. officials realized that they could not simply recycle the same diplomatic apologies and promises of reparations.

After learning of the bombings at Basel and Zurich, U.S. Army chief of staff General George C. Marshall informed Lt. General Carl A. Spaatz, commander of the U.S. Strategic Air Forces in Europe, that “the successive bombings of Swiss territory now demand more than expressions of regret.” Marshall therefore ordered Spaatz to “personally leave immediately for Geneva” and “present to [the] appropriate Swiss officials first hand information as to the causes of these incidents, the corrective action undertaken, and a formal apology.” Spaatz remarked to Lt. General James Doolittle that “the President is very unhappy,” “the State Department is very unhappy,” and even “General Eisenhower has called me” over the bombings. “What the hell do I say [to the Swiss]?” he asked Doolittle.

Spaatz reluctantly travelled to Switzerland and met with the Swiss Political Minister and Military Minister, as well as General Guisan. He conveyed his “personal regrets” over the violations, in particular “for the Swiss lives which had been lost as a result.” Spaatz briefed the Swiss authorities on his new control measures, a zone 150 miles from the Swiss border “within which there will be no attacks without positive identification of the target,” as well as a zone 50 miles from Switzerland “within which no attacks will be made” except on Spaatz’s personal authority. If he did approve attacks within the restricted zone, “only experienced crews [will be] permitted to participate.”

41 Telegram from War Department to General Spaatz, dated March 6, 1945, No. WAR 47850, Library of Congress, Washington, D.C., Manuscript Division, Carl Spaatz Papers, Box I: 23.

42 Quoted from Granholm, The Day We Bombed Switzerland, 143.
Spaatz also stressed the need to keep the restricted zones confidential in order to preclude the Germans from intentionally relocating “military or industrial operations” near Switzerland to avoid aerial attacks.\(^{43}\)

Spaatz claimed that General Guisan was “more than satisfied” with his control measures to mitigate the risk of future attacks. He noted that Guisan and most of the other Swiss authorities at the conference seemed “very understanding and cordial,” with the notable exception of the Military Minister, Karl Kobelt, the same official who negotiated the legal rights and treatment of American internees with the U.S. Legation. Spaatz understood that his mission was primarily a gesture for the sake of public relations, but he knew that it also had the potential to affect the treatment of interned Americans. Before his departure, he made certain to thank the Swiss Political Minister “particularly for the treatment which the Swiss Government had accorded our interned and escaped air crews.”\(^{44}\)

To prevent a recurrence of the Basel and Zurich bombings, Spaatz directed his subordinate commanders that “the program of indoctrination of all air crew personnel to avoid attacks which may result in damage to Swiss property or casualties to the Swiss people will be intensified.” He also warned his command that “personnel who commit acts which result in Swiss incidents will be subjected to severe disciplinary actions.”\(^{45}\) Spaatz lived up to his word: the USAAF pilot and navigator who led the squadron that

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\(^{44}\) Ibid.

\(^{45}\) “Signal Dispatched to MAAF” and “Signal Dispatched to Eight Air Force,” dated March 6, 1945, Library of Congress, Washington, D.C., Manuscript Division, Carl Spaatz Papers, Box I: 139.
bombed Zurich were tried by general courts-martial in June 1945. Although Spaatz was not directly involved in the proceedings, he used his influence to suggest that the charges go to trial. Otherwise the charges would likely have been dropped, since the investigating officer believed that the accidental bombing was due to “circumstances beyond [the pilot’s] control,” and claimed that “the decision to bomb appears to have been based upon the best available information.” Therefore, the investigator concluded that “[the] charges are not sustained by the evidence,” and advised that the evidence was insufficient “for a finding of guilty before a courts-martial.”\(^\text{46}\)

The acting Judge Advocate of the Eighth Air Force agreed, and also believed that the charges should not be referred to trial based on “the improbability of conviction.” However, he reversed his recommendation because General Spaatz “expressed a desire that charges be disposed of through trial, presumably in furtherance of relations with nations friendly to the United States and injured by the alleged misconduct of [the] accused.”\(^\text{47}\)

The court martial was noteworthy because it attempted the unprecedented step of holding American airmen criminally responsible for wartime damage in a neutral state, as well as the fact that the presiding officer was none other than actor Col. James “Jimmy” Stewart.\(^\text{48}\) First Lt. William Sincock, the pilot flying as squadron leader during the Zurich bombing, was charged with negligently “caus[ing] the planes of the formation he

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was then leading to drop bombs upon and near the city of Zurich, Switzerland, which territory belongs to Switzerland, a nation friendly to the United States of America and the United Nations.” Similarly, 1st Lt. Theodore Balides, the lead navigator for Lt. Sincock, was charged with “fail[ing] to maintain a complete and accurate log and chart” and “negligently and incorrectly determin[ing] the then existing geographical position of his aircraft to be in the area of Frieburg [sic], Germany.”

Both lieutenants were charged with violating the 96th Article of War, a general article that included “all disorders and neglects to the prejudice of good order and military discipline, all conduct of a nature to bring discredit upon the military service, and all crimes or offenses not capital [in nature].” The maximum punishment for a conviction on this charge was “dismissal, total forfeitures and confinement at hard labor for life.” According to the officers’ senior defense counsel, a bombardment group lead navigator named Captain Jackson Granholm, both defendants were “scared silly,” as they stood a “good chance” of serving time in a military prison.

The trial revealed that Lt. Sincock’s squadron lost visual contact with its parent bombardment group, and therefore the pilot opted to attack an unplanned target of opportunity. Lt. Balides had no reliable visual or radar navigation readings due to the


52 Granholm, The Day We Bombed Switzerland, 162-63.
poor weather and German electronic jamming, and so he utilized only an unreliable position estimated from a weather penetrating radar in conjunction with the technique of dead reckoning. This navigational technique consists of estimating an aircraft’s position based on previously known positions, course headings, indicated airspeed, estimated winds, and elapsed time. Unfortunately, without the benefit of accurate weather data or other navigational references, the technique is also incredibly inaccurate. Balides became completely disoriented when the squadron made several large turns, and he also made transcription mistakes that further exacerbated the error in his estimated position. This eventually led to the mistaken conclusion that the squadron was over Freiburg, when it was in fact approximately fifty-four miles to the southeast, in Switzerland.53

A parade of expert witnesses laid bare the standard operating procedures of the Eighth Air Force for bombing missions. Control measures emplaced after the Schaffhausen incident included the requirement for navigators to “notify [their] crew[s] by means of interphone as all international boundaries are crossed on all operational flights.”54 This would, in theory, require all navigators to announce crossing into Switzerland and lessen the likelihood of a mistaken bombing over neutral territory. However, according to defense counsel, there was “no evidence that anyone had ever paid any attention to this order.”55 Lead ships were also given ample authority in

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55 Granholm, The Day We Bombed Switzerland, 166.
selecting alternate targets of opportunity when it was “impossible or inadvisable to attack the assigned target.”\(^{56}\) Lt. Sincock’s copilot validated the common wisdom among aircrews that “[any] bomb dropped on Germany is a good bomb,” as “there is no point in carrying bombs over and bringing them back.” Retaining a heavy bomb load on the return flight could seriously impact fuel economy, and might result in no mission credit toward an aircrew’s tour requirement.\(^{57}\) In addition, the testimony of the 392\(^{nd}\) Bombardment Group’s briefing officer revealed that no specific guidance was issued for selecting targets of opportunity other than granting permission to bomb “any military objective positively identified as being in Germany east of the current bomb line and west of 12°.”\(^{58}\) According to the defense counsel, “the rule, more or less, was ‘drop [your bombs] where you think they’ll blow up something that might be important.’”\(^{59}\)

Perhaps both Sincock and Balides were negligent to some degree, but in order to be convicted the prosecution had to demonstrate “culpable negligence” on the part of the accused. According to the prosecuting attorney, this meant that the officers had to know “the probable consequences of [their acts], [and also be] reckless, intentionally or wantonly indifferent to the results.”\(^{60}\) The panel members apparently thought otherwise, as they sided with the defense. On June 2\(^{nd}\), 1945, they deliberated for less than an hour.


\(^{59}\) Granholm, The Day We Bombed Switzerland, 182.

and returned the verdict of “Not Guilty” on all counts.\textsuperscript{61} The verdict validated that the panel members saw Sincock’s and Balides’s actions as within the reasonable—and highly imperfect—operating procedures of the day. Although not a conviction, the verdict nevertheless allowed the USAAF leadership to claim that they investigated and prosecuted violations of Swiss neutrality, and therefore took the incidents seriously. According to one judge advocate involved in the trial, “apparently [the] case was tried in order that [the] record might be available to [the] State Dept. in any future negotiations over the incident [of bombing Zurich].”\textsuperscript{62} The verdict might also have warned other USAAF aircrews of the dangers of ignoring Swiss neutrality. However, the war in Europe ended the month prior to the trial’s inception.

Despite the external shift toward accountability for bombings of Switzerland, the USAAF leadership continued to express internal ambivalence about the mitigation of risk to neutral property. Even after the bombings of Basel and Zurich, General Spaatz expressed in private correspondence that “it has been inevitable that reliance on complicated equipment and techniques should result in some errors,” a reference to the new USAAF focus on bombing in poor weather without definitive visual identification of all targets. Spaatz felt that the new policy screening any targets within 150 miles of Switzerland was more restrictive “than normal prudence would demand.” In his view, attacking viable enemy targets near the Swiss border was a matter of military necessity outweighing collateral damage, and so he believed “it is understandable that some of our

\textsuperscript{61} Granholm, \textit{The Day We Bombed Switzerland}, 227.

bombs have fallen in the wrong place.” Spaatz was correct that many bombs did fall in the wrong locations, although whether this was “understandable” depends largely on perspective. By the end of the war, one estimate placed the number of Allied bombs dropped on Switzerland at nearly 5,000, a total of approximately 165 to 185 tons. Nearly 100 Swiss villages were hit, destroying about 150 buildings and damaging thousands more. In the course of the bombings, 84 Swiss citizens were killed and another 260 were wounded.

Claims for property damage in Switzerland were submitted to the U.S. Claims Service, which investigated allegations of violations of Swiss neutrality and recommended monetary settlements to the U.S. government. The single largest incidence of property damage from a crashed bomber was the destruction of Castle Wyden in Ossingen, Switzerland, which ironically was the home of ICRC President Max Huber. The castle was destroyed in July 1944 after a damaged B-24, *Jack Pine Joe*, was abandoned by 1st Lt. Archie Davis over Siegerhausen after the crew bailed out. The navigator, 2nd Lt. Johnson, bailed out over Munich, and the remainder of the crew parachuted into Switzerland. The copilot, 2nd Lt. Michael Ballbach, was killed when his parachute failed to open, and three other crewmembers who parachuted into Switzerland

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were treated for gunshot wounds. Swiss witnesses reported that “the white chutes could be seen very clearly and with binoculars it was also possible to see the slowly descending men.” The pilotless *Jack Pine Joe* flew another thirty kilometers and eventually collided with the turret of Castle Wyden, causing significant damage and engulfing the entire structure in flames. Huber’s daughter, her children, and servants were still in the castle, and newspapers reported that “a servant girl suffered a slight injury from the bomber’s crash.”

The Swiss Legation in Washington, D.C. reported the destruction of Castle Wyden to the U.S. government with more than the usual aide-mémoire. The Swiss Chargé d’Affaires, Dr. Feer, personally delivered a report and “deplored” the incident to a desk officer at the State Department. Feer noted the irony that such a disaster befell the ICRC president, “particularly since the International Red Cross did so much to alleviate the suffering of American prisoners of war and internees held by the enemy.” Feer correctly understood that Switzerland’s humanitarian services for American prisoners of war were a major point of diplomatic leverage, particularly since no other neutral countries were up to the task. However, the significance of the event was lost on the State Department desk officer, who diplomatically but unapologetically informed Feer

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66 MACR #6750, dated July 21, 1944, NARA, RG 92, M1380, and “Unerwünschte Ausländer: Ueberfliegun gen, Abstürze und Landungen,” *Die Tat*, no. 190, July 21, 1944, NARA RG 84, E3207, decimal 711.4, Box 100.


69 “Unerwünschte Ausländer: Ueberfliegungen, Abstürze und Landungen,” *Die Tat*, no. 190, July 21, 1944, NARA RG 84, E3207, decimal 711.4, Box 100.
that “as increasing numbers of bombers are used in missions against those parts of enemy territory which are near Switzerland, it is manifestly impossible to hope that occasional violations will not occur.”

In 1946 the Claims Service sent a U.S. Army Judge Advocate General officer, Captain H.B. White, to investigate the damage to Castle Wyden. Captain White recommended that “the Government of the United States accept responsibility for the claimant’s loss,” a figure that came to over $179,000, or over $2 million in 2011 dollars. The U.S. government was wise to accept responsibility for these incidents, as aircrews received explicit instructions that “In Switzerland and Axis controlled neutrals, all aircraft, equipment and cargo will be totally destroyed.” In the event of bailing out or ditching over enemy or neutral territory, USAAF pilots were instructed to “use every means available to him to have the aircraft destroy itself by fire on striking the ground,” including “leaving the battery and/or engine switches on, and/or putting the aircraft in an attitude that will cause it to strike the ground with the greatest amount of force.” Procedures even dictated that crews ignite thermite incendiary bombs over sensitive equipment and fire “several shots from a [pistol] into the cockpit and/or into any oil or gasoline” to “insure the aircraft catching fire.” These procedures were designed to ensure destruction of classified materials and denial of the aircraft to unfriendly forces,

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70 Memo from Assistant Chief, Division of Western European Affairs to Chief, Liaison Section, Theater Group, Operations Division, War Department General Staff, date July 26, 1944, NARA, RG 165, E418, Operations Division, Boxes 962-63.


but they also had the ancillary effect of exacerbating property damage when the aircraft impacted in populated areas. In the case of Switzerland, this occasionally turned the normally sympathetic public against American forces.

One Swiss newspaper, *Die Tat*, also decried the destruction of Castle Wyden, suggesting that American pilots should be held criminally responsible for the damage caused by their pilotless aircraft. According to the author, American pilots seeking refuge should endeavor “not to cause any damage within the neutral country whose protection and hospitality they are about to claim.” He argued that “the penal code should be invoked” when “injuries are caused to persons or damage to property.” The author argued that the Swiss government should make an example of an American bomber crew, as “once sentences have been passed upon some pilots who are not aware of their responsibility, and who, therefore will have to sit in prison for years or months instead of being able to enjoy a vacation in a mountain-hotel, we can be sure that members of foreign airforces [sic] will take good care not to leave their planes pilot-less.”

The article reflects the attitudes of some Swiss who were not content to simply resort to claims procedures to settle incidents of U.S. wartime violations of neutrality. In some cases they agitated for reciprocity against American airmen, the perceived architects of the violations.

Swiss authorities considered charging two American pilots with manslaughter or negligent homicide after their landing at Dübendorf resulted in the deaths of two fourteen and fifteen year old boys as well as injuries to two other teenagers. On March 18, 1944,

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73 Translation of “The Danger of Pilot-less Airplanes,” *Die Tat*, dated July 21, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.
1st Lt. Jean Sefton and 2nd Lt. Robert Steurer were on a mission to bomb Friedrichshafen, Germany, in their B-24, *Pistol Packin’ Mama*, when they lost one engine to a malfunction and another to enemy anti-aircraft fire. In addition, their electrical system was completely knocked out. According to Staff Sergeant John Miner, the right waist gunner, “We were unable to hold altitude on two engines” and so “we had only one viable option—to head for Switzerland.” The airplane made it to Dübendorf airfield in Zurich, but since the pilots could not hold their altitude they made an extremely low approach of only 12-15 meters off the ground. Staff Sergeant James Parker, the left waist gunner, recalled that “we were just skimming along the housetops to the final approach,” and “the pilot sent the Bombardier back to tell us to prepare for a crash landing.” As a result of the low altitude, the bomber struck a high voltage cable, and the severed wire sliced through “a large number of curious people” who had gathered on the edge of the airstrip to watch the spectacle of the landing aircraft. According to Sergeant Parker, the wire “fell to the ground with sparks flying about a foot or more into the air,” and simultaneously “two boys [fell] off of the bikes that they were sitting on.” One Swiss teenager was decapitated, while another suffered severe head trauma that later proved

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76 Statement of James Parker, “The Fifteenth Mission,” undated, SIAA.

77 Tribunal Militaire #44-1478, SFA, Box E 5330-01, 1975/95.

78 Statement of James Parker, “The Fifteenth Mission,” undated, SIAA.
fatal. Several other teenagers received less severe injuries, including a fractured leg, contusions, and minor abrasions. 79

Swiss authorities took the incident seriously and investigated whether the pilots were negligent for their actions. Swiss Army Colonel Karl Högger independently verified the condition of the bomber, noting that the electrical system was damaged and thus starting the engines “was not possible.” The Swiss officials installed new batteries on the aircraft, but still could not start one of the engines. Colonel Högger, who personally test flew the American bomber, testified that considering all the mechanical defects the pilots were “unable to land their aircraft correctly on Dübendorf Airfield.” Rather than finding negligence, the colonel noted that the crew “have done their best as responsible leaders under the circumstances,” particularly since the bomber easily could have crashed “somewhere in the village of Dubendorf or its immediate vicinity.” According to Högger, if the bomber had missed the airfield, the significant fuel remaining in its tanks would have produced “a far greater disaster.” 80

The investigating Swiss Army officer recommended no “further disciplinary consequences” for the American pilots, at least partly as a result of Colonel Högger’s favorable tests on the bomber. 81 The U.S. government also accepted responsibility and paid considerable indemnities to the surviving families. An investigating Claims Service officer recommended compensating the family of one of the Swiss boys with over 20,000 Swiss Francs for funeral expenses, the loss of a provider, and so-called “moral

79 Tribunal Militaire #44-1478, SFA, Box E 5330-01, 1975/95.

80 Ibid.

81 Ibid.
Medical fees for the surviving teenagers were apparently paid up front by the U.S. General Consul at Zurich, Sam Woods. In this case legal reciprocity was avoided, although the outcome might have been different had the American bomber not received such significant combat damage or if the U.S. government had not been as willing to admit fault and issue appropriate indemnities. Despite the avoidance of a trial, it is conceivable that this incident still engendered animosity toward Americans simply because of the tragic consequences and the fact that the Americans were the ones seeking refuge from their Swiss hosts. The aircraft commander, Lt. Sefton, was later charged again with crimes against the Swiss state, but his second offense was an unsuccessful attempt to escape.

U.S. legal indemnity stopped at the border of Switzerland, but this did not prevent the Swiss government from protesting attacks against its neutral property and persons in active combat zones. In August 1944 American pursuit planes attacked the car of W.E. Senger, the Swiss consul in Paris. Senger and his wife were driving from Paris to Montigny-sur-Loing, France when the attack occurred. Although the consul and his wife saw the approaching airplanes and escaped injury by running into the woods, their vehicle was completely destroyed after it was hit with “more than fifty bullets” and then set on fire. The Swiss government forwarded a note to the U.S. State Department listing the amount of damage, 765 Swiss Francs, and noting that the car “was marked with a

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84 Tribunal Militaire #44-3653, SFA, Box E 5330-01, 1975/95.
Swiss flag on its top.”85 Apparently they were hoping that the U.S. government would reimburse the sum. However, U.S. military officials were entirely unsympathetic. General Arnold was indignant, calling the Swiss note “a silly request” and asking “what does one expect in the war zone?”86 War Department officials noted that the attack took place “in the path of the advance of the United States armies,” and therefore suggested informing the Swiss that “any neutral who may choose to subject himself to the dangers of being present in the battle zone does so at his own risk.”87 The tone of this reply reflects the clear frustration of American commanders who were less attuned to the diplomatic consequences of such incidents and saw damage to Swiss property as unavoidable collateral damage. Although there was no apparent violation of international law in this case, it is likely that many U.S. commanders harbored similar views about damages incurred within Switzerland. The only distinction was that the illegality and indemnity of bombing Swiss soil prevented a similarly unvarnished response.

Total Swiss claims against the U.S. government for bombings and damage from abandoned and landed airplanes during the war eventually came to over 70 million Swiss Francs.88 After deducting preliminary payments, the U.S. government paid Switzerland

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85 Memo from Assistant Chief of Staff, War Department General Staff, to European Section, War Department Operations Division, dated November 10, 1944, No. 3088, and memo from Chief, Liaison Section, Theater Group, General Staff Operations Division, “Alleged Attack by American Pursuit Planes on Car of Mr. W.E. Senger, Swiss Consul in Paris,” dated November 29, 1944, NARA, RG 165, E418, Boxes 962-63.


88 Letter from Secretary of the Army to U.S. Secretary of State, dated February 25, 1949, NARA, RG 59, Central Decimal File, decimal 411.54, “Crash Landings.”
over 62 million Swiss Francs through an act of Congress in 1949. The amount was
equivalent to $14 million in 1949 dollars, or $132 million in 2011 dollars.\textsuperscript{89} The fact that
this debt remained unsettled years after the war’s conclusion rankled Swiss claimants and
diplomats, who expected not only prompt settlement but also steps that would effectively
mitigate future violations of Swiss neutrality. In 1947, the mayor of Schaffhausen
appealed to the U.S. State Department, complaining that rampant price inflation since the
original bombings rendered the original claims estimates from 1944 woefully
insufficient. According to the mayor, “a further delay in the repayment of damages
would seriously injure both private and industrial undertakings, as well as the City of
Schaffhausen,” which had advanced funds to several injured parties.\textsuperscript{90}

General Legge made it clear that the USAAF violations of Swiss neutrality hurt
the ongoing U.S. diplomacy over internment issues and noted that the incidents placed
him in a “difficult position,” particularly since he was trying to negotiate the repatriation
of the interned airmen before the end of the war. Legge complained to General Arnold in
late November 1944 that yet another series of attacks needed to be explained and
apologized for, and asked “shall responsibility be accepted with regret but without
excuse?” He also reminded Arnold that “attacks render our position and that of interned

\textsuperscript{89} Telegram from Secretary of the Army to Officer in Charge of American Mission, Bern, dated March 24,
1949, NARA, RG 59, Central Decimal File, decimal 411.54, “Crash Landings,” and Helmreich, “The
Diplomacy of Apology.”

\textsuperscript{90} W. Bringolf, “A Statement by the Mayor of Schaffhausen: When Will the Air Raid Damages be
Repaid?” Translation, Enclosure to dispatch 15383, dated August 20, 1947, Bern, NARA, RG 59, Central
Decimal File, decimal 411.54, “Bombing.”
airmen more difficult." Any American complaint over the Swiss application of international law governing internment could be rebutted by the fact that America was persistently violating the international law that guaranteed Swiss neutrality, perhaps a more serious charge when considering the deadly implications.

American bombings of Switzerland occasionally resulted in apparent reciprocity directed at damaged American bombers seeking to land in Switzerland. Less than a month after the bombing of Schaffhausen, Swiss fighter aircraft and anti-aircraft batteries shot down an American B-17 that was already badly damaged by enemy fighters while bombing Stuttgart, Germany, killing six American airmen. First Lt. Everett Bailey was flying the aircraft, Little Chub, which was losing altitude and unable to maneuver due to inoperative landing gear and severely damaged rudder controls. The crew was working to free the critically wounded ball turret gunner Sgt. Anthony Melazzi, who was unable to move, and three other crewmembers were also badly wounded. Unable to comply with Swiss orders to land, the bomber circled twice around Zurich, and was then attacked by Swiss fighters and anti-aircraft batteries as it approached Lake Griefen. The attacks set the bomber on fire and killed bombardier Lt. Jesse Greenebaum and left waist gunner Sgt. Richard Sendleback. The condition of the aircraft prompted the surviving crew to bail out at only 600 feet altitude. Lt. Bailey died after his parachute failed to open, and copilot Lt. James Burry went down with the airplane when it crashed into Lake Griefen.  

91 Memos from U.S. Military Attache in Bern, Switzerland to U.S. War Department, dated September 8 and November 27, 1944, Numbers 1729 and 1940, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

92 “The Bomber Shaffner Story,” undated, SIAA, and telegram from U.S. Secretary of State to U.S. Minister in Bern, Switzerland, dated May 30, 1944, No. 1861, NARA, RG 84, E3207, decimal 711.4, Box 100.
Several Swiss workers digging nearby irrigation canals witnessed the destruction of Little Chub, recounting that the flaming bomber “swept straight towards us like a sea of fire.” According to the workers, “the bomber had hardly passed us when two men jumped from it.” The American airmen apparently “had to jump through fire,” as “their hair was singed, [and] their hands were burned.” The airmen asked the workers whether any more of their crew had jumped, and were dismayed at the knowledge that “the rest could not possibly have survived.” The Americans refused to answer the questions of the Swiss workers except to explain that they could not land because of the severe damage to the airplane.93

The U.S. State Department directed a “formal energetic protest” against the Swiss government for the incident with Little Chub. According to the U.S. Legation in Switzerland, the Swiss fighters “[fired] upon a plane which was obviously in distress and which made no hostile maneuvers.” The Legation noted that the American bomber responded to the other Swiss instructions, which were to fire a flare in response to the Swiss prompt and lower their landing gear. The aircraft was clearly disabled in that “its left front wheel had been shot off and right wheel and tail wheel were down.”94 The response of the Swiss Political Department conceded that the American bomber “replied by a flare and lowered the right side of its landing gear, thus indicating its intention to land.” However, a subsequent response to a flare was reportedly unseen by the Swiss fighters, and the bomber altered “its course towards the south, while manifestly

93 “Eye-Witness Report from Pfaffhausen,” U.S. Legation translation, Neue Zuercher Zeitung, April 25, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

94 Dispatch from U.S Legation in Bern, Switzerland to Swiss Political Department, dated June 5, 1944, No. 1639, NARA, RG 84, E3207, decimal 711.4, Box 100.
increasing its speed.” According to the Swiss, the fighters were “led to believe that either the bomber was attempting to escape, or that it was out of control,” prompting the decision to shoot it down. Only after questioning the surviving crew did the Swiss learn that “they had really tried to land but were prevented from doing so by the jamming of the lower turret.” The Swiss military denied culpability in the matter because of the delayed responses of the Americans, and claimed that the Swiss fighters could not “take into account a contingency which they were unable, at the time, to determine with certainty.” 95 This was a retreat from an earlier argument that “Switzerland was obliged to shoot at all foreign planes violating her aerial space.” 96 According to Major General Friedrich Rihner, the Swiss Commander of Air Force and Air Defense, anti-aircraft batteries were still authorized to fire on foreign aircraft, but “[the] first salvo will be a warning.” 97 The Swiss government did offer one concession: it promised to remind its military pilots “to allow foreign planes in distress to have sufficient time to prepare for landing, providing they do not attempt to get away.” 98

Incidents like the downing of Little Chub, while relatively rare, may very well reflect the trickle-down effect of larger diplomatic relations played out at the individual or tactical level. The Swiss pilots in this incident certainly had the discretion to afford

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95 Translation of Dispatch from Swiss Political Department to U.S Legation in Bern, Switzerland, dated September 16, 1944, No. 1639. NARA, RG 84, E3207, decimal 711.4, Box 100.

96 Memorandum of Conversation, “Violation of Swiss aerial space by American Air Force,” dated May 2, 1944, NARA, RG 165, E418, Boxes 962-63.

97 Telegram from Military Attaché in Bern, Switzerland to War Department, dated May 13, 1944, No. 1383, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 614.

98 Translation of Dispatch from Swiss Political Department to U.S Legation in Bern, Switzerland, dated September 16, 1944, No. 1639. NARA, RG 84, E3207, decimal 711.4, Box 100.
the American aircraft more time to respond, but instead resorted to lethal force. This decision was possibly influenced by the relatively recent memory of the American violation of Swiss neutrality at Schaffhausen. Throughout the war Swiss fighters and anti-aircraft batteries fired on many American aircraft, downing at least six bombers and killing at least sixteen U.S. airmen. At least twenty British Royal Air Force airmen were also killed by the Swiss military during the same period. 99

Anecdotal evidence suggests that the vast majority of Swiss aerial engagements with Allied aircraft did not result in loss of life. At least one American airman reported that he believed the Swiss Army’s anti-aircraft batteries shot at his aircraft but “had no intention of hitting us.” 100 After an aerial battle between German and American pilots crossed into Swiss airspace in October 1944, the German government formally complained through diplomatic channels that Swiss defenders were “not aiming seriously” at the American aircraft. 101 In 1945, one author suggested that “the Swiss A.A. fire against Allied bombers has shown an inaccuracy which, from the Allied viewpoint, is highly commendable.” 102 These accounts corresponded with official Swiss policy that fighter and anti-aircraft fire should used as a warning before more deadly fire

99 Kamber, Schüsse auf die Befreier, 158.

100 Letter from Robert Mercado to Robert Long, dated November 7, 1988, SIAA.

101 Department of State Memorandum of Conversation, “Swiss protest concerning flight of American aircraft over Swiss territory,” dated October 12, 1943, NARA, RG 59, Central Decimal File, 1940-1944, decimal 811.2354/25, Box 7352.

was concentrated. However, the reports also demonstrated that the Swiss military’s minimum threshold for the use of hostile—if not lethal—fire was decidedly low, and that Swiss pilots and the commanders of anti-aircraft batteries had pre-authorization to use this force at their discretion. By delegating this authority to the lowest tactical level, the Swiss military introduced more subjectivity into the decision-making process and ensured that individual agency played a significant role in the application of force. This may explain why some Swiss defenders exercised restraint and escalation of force when receiving U.S. bombers, while others quickly resorted to lethal force. A Swiss investigation into allegations of anti-aircraft batteries engaging a damaged U.S. aircraft in July 1944 reached the conclusion that “[there was] no violation of standing orders but [rather a] lack of judgment on [the] part [of Swiss] personnel concerned.” The U.S. military attaché reported that “[Swiss] officers [were] reprimanded [and] excuses [were] made,” language that sounded remarkably similar to the U.S. apologies over accidental bombings of Switzerland.

American diplomacy in Switzerland was also heavily influenced by the value of the intelligence apparatus that the Allies established and maintained in the country. In 1942, the U.S. Legation in Switzerland was supplemented by agents of the newly organized OSS for the purpose of coordinating intelligence-gathering operations in

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103 Telegram from Military Attaché in Bern, Switzerland to War Department, dated May 13, 1944, No. 1383, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 614.

104 See telegram from U.S. Military Attaché in Bern, Switzerland to War Department, dated October 4, 1944, No. 1816, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615, and telegram from U.S. Military Attaché in Bern, Switzerland to War Department, dated July 26, 1944, No. 1585, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 614.
Europe. Switzerland, described by the OSS as “the main European listening post of both the Allied and enemy war fronts,” was selected as the OSS’s base for European operations due to its “geographic position,” as well as for the legal and operational cover that neutrality provided for espionage activities. Under the diplomatic cover of the Special Legal Assistant to the U.S. Minister, Allen W. Dulles was selected to head the OSS in Switzerland.

The OSS headquarters in Switzerland was in Bern, across the street from the U.S. military attaché’s office. As Dulles was short of labor and had only seventeen staff officers and assistants, he employed a number of escaped Americans who evaded from Axis-occupied territory to work as code clerks. Through this small office and three other branch offices in Geneva, Lugano, and Zurich, the OSS monitored fourteen foreign intelligence services and coordinated with and assisted nearly every resistance movement in Europe, including those in France, Italy, Austria, Germany, and Poland. The OSS Bern staff also employed over 100 sub-agents operating in these countries, primarily France. The personal connections that Dulles established with Swiss Intelligence also provided critical information, as the Swiss had direct contact with both the German and

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Italian intelligence services.\textsuperscript{109} OSS Switzerland provided early warning of the Axis rocket-bomb factory at Peenemunde, the movements of German warships, the scuttling of the French fleet at Toulon, and the capitulation of the German Army in Northern Italy.\textsuperscript{110} The OSS also coordinated the same “underground railway” network throughout Europe, which assisted over 4,000 downed aviators to return to Allied lines, including many Swiss internees.\textsuperscript{111} The OSS was therefore critical to Allied operations in Europe and certainly influenced the conduct of U.S. diplomacy, since too much political pressure against Switzerland might have jeopardized intelligence collection and other OSS operations.

On November 3, 1944, Dulles informed his superiors that General Henri Guisan personally expressed to him that the U.S. bombings of Switzerland were “seriously affecting [the] attitude [of the] Swiss people toward [the] USA.” Dulles agreed with Guisan, and stated “Personally I believe [the] situation created by [the] attacks makes it more difficult to get Swiss cooperation in our present task of penetrating Germany.”\textsuperscript{112} The potential political fallout over Allied bombings of Switzerland in the fall of 1944 had so concerned the head of the OSS, Brigadier General William Donovan, that he personally informed General Arnold that the Swiss might impede OSS intelligence-

\textsuperscript{109} Garliński, \textit{The Swiss Corridor}, 121.

\textsuperscript{110} Memo, “OSS – Switzerland,” dated October 31, 1944, NARA, RG 226, Entry 210, Box 76, p. 4, and Garliński, \textit{The Swiss Corridor}, 122.


\textsuperscript{112} Quoted in Petersen, \textit{From Hitler's Doorstep}, 394.
gathering operations as a result.\textsuperscript{113} Thus, competing interests influenced U.S. diplomatic
decisions in Switzerland, only one of which was the welfare of interned American
airmen.

Swiss government policies during the first several years of the war were also
heavily influenced by the threat of German invasion, a prospect that inspired widespread
fear among the Swiss population. In 1940, the German invasion of France spilled over
the Swiss border, testing Switzerland’s policy of armed neutrality and resulting in the
Swiss Air Force shooting down eleven Luftwaffe airplanes.\textsuperscript{114} An enraged Field Marshal
Hermann Goering responded by ordering a clandestine raid against Swiss airfields, but
the operation was thwarted when Swiss authorities intercepted the German saboteurs and
their explosives.\textsuperscript{115} After the fall of France, Swiss intelligence also learned that the
Germans were formulating plans to invade Switzerland.\textsuperscript{116} The attack did not come,
despite detailed planning by the German Army. Many Swiss attributed this outcome in
part to Switzerland’s ability to mobilize 850,000 soldiers, home guards, and auxiliaries,
nearly a quarter of its population, which ostensibly would resist in National Redoubt
strongholds in the Alps for years.\textsuperscript{117} Another factor was the German belief that an
invasion would prompt the Swiss to destroy the Saint Gotthard and Simplon rail tunnels
that linked Germany to Italy, thus nullifying much of its strategic value in transporting

\textsuperscript{113} Memo from General William Donovan to General Henry Arnold, dated November 10, 1944, NARA,
RG 226, E162, M1642, Roll 20.

\textsuperscript{114} Lombardi, \textit{The Swiss Air Power}, 35.

\textsuperscript{115} Wetter, \textit{Duell der Flieger und der Diplomaten}, 150.

\textsuperscript{116} Lombardi, \textit{The Swiss Air Power}, 36.

\textsuperscript{117} Thürer, \textit{Free and Swiss}, 157.
German coal that was vital to the Italian war effort. However, contemporary historiography has shifted against the explanation that the invasion was prevented by the Swiss posture of military resistance. Historians now believe that Switzerland was simply too economically useful to the Axis to justify invasion. A few of these services included rail transit, laundering looted assets, and providing electricity. Despite the fact that Switzerland was not invaded, it was still surrounded completely by the Axis from the summer of 1940 to the fall of 1944, a reality that arguably made economic accommodation with Germany inevitable.

Trade between neutrals and belligerents was permissible under international law during World War II. However, the 1907 Hague Convention provided that any “measure of restriction or prohibition” of any such trade must be “impartially applied” to all of the warring parties. Although the Swiss initially sold weapons such as Oerlikon anti-aircraft guns to France and Britain in 1939, the blockade after the fall of France forced an accommodation with Germany. The Allies put significant pressure on the Swiss to reduce exports of “objectionable items” to the Germans, such as “listing,” boycotting,

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118 Wilson, Switzerland, 50.


121 Vagts, “Switzerland, International Law and World War II,” 469.

122 See Articles 7, 8, and 9 of The 1907 Hague Convention (V).

and freezing the assets of Swiss companies that collaborated with Germany.\textsuperscript{124}

According to the U.S. Secretary of State, the listing campaign of Swiss companies was the “most effective initial weapon in achieving new ceilings on Swiss exports of arms and machinery.”\textsuperscript{125} The ICE, formed by the Swiss Government in the late 1990s to produce an impartial record of Swiss wartime practices, concluded that export of war material to Germany did occur under the auspices of the Swiss federal government, and therefore did “constitute a violation of neutrality.”\textsuperscript{126} However, the earlier exports to the Allied nations were equivalent violations. It is also important to note that Switzerland, with a massive new influx of refugees, was short of food, and lacked many important commodities like coal, iron, and mineral oil.\textsuperscript{127} Swiss economic cooperation with the Axis must be viewed in this light, as Switzerland lacked many of the basic commodities necessary for subsistence. Complete encirclement by the Axis left the nation with no viable alternatives. According to the ICE, “doing business with the enemy” was justified by the need to “supply the population with food and purchasing power.”\textsuperscript{128}

Even in late 1944 and early 1945 when the end of the war was in sight, the Allies still believed that the type and quantity of Swiss exports to Germany were aiding the enemy. In December 1944, U.S. Foreign Economic Administrator Leo Crowley

\textsuperscript{124} Britain, Switzerland, and the Second World War, 95, 41.

\textsuperscript{125} Telegram from the U.S. Secretary of State to the Ambassador in the United Kingdom, Number 5852, dated July 26, 1944, in United States Department of State, Foreign Relations of the United States Diplomatic Papers, 1944: Europe, Vol. IV, 751.

\textsuperscript{126} ICE, Switzerland, National Socialism, 401.


\textsuperscript{128} ICE, Switzerland, National Socialism, 178-9.
informed Acting Secretary of State Joseph Grew that he was “greatly disturbed about the lack of progress in economic warfare negotiations with Switzerland,” and recommended “immediate measures” to force the Swiss “to terminate at once their aid to our enemies.”129 In response, Grew rejected Crowley’s suggestion and conveyed that “For political reasons and for reasons arising out of the benefits to us of Switzerland’s neutral position and future potential usefulness in the economy of Europe it is inadvisable to place too great pressure upon the Swiss government at this time in order to attain pure economic warfare objectives.”130 Grew’s stance demonstrated that Washington afforded the Swiss special diplomatic considerations because Switzerland filled humanitarian mandates, among other services. Former Secretary of State Cordell Hull wrote in his memoirs:

“Toward Switzerland . . . our policy differed somewhat from that which we practiced toward other neutrals. We felt it essential, in presenting our demands and in exercising pressure to reduce Swiss exports of strategic manufactured goods to Germany, to avoid pushing Switzerland into a diplomatic rupture, or worse, with Germany. This was the reason that Switzerland, representing us diplomatically in enemy countries, was our sole link with them. We had to depend upon her representatives to ensure the welfare of American prisoners of war.”131

Hull’s remarks were intended to explain the lack of ultimatums in U.S. economic pressure against Switzerland, but Hull also cited the same “invaluable [humanitarian] services” provided by the Swiss in correspondence over alleged violations of Swiss


neutrality. Therefore, this argument contextualized the larger diplomatic negotiations between the U.S. and Swiss governments. For much of the war, U.S. diplomats could not afford to present unconditional demands to their Swiss counterparts, whether the concern was economic accommodation with Germany or unfavorable treatment of U.S. internees.

The U.S. position toughened once the end of the war was imminent. President Franklin Roosevelt personally intervened in January 1945, informing the Swiss president that “the time has arrived to renegotiate certain aspects of our war trade agreement with your country.” He reminded the Swiss that the U.S. “forbore pressing our demands when you were isolated by our enemy and were in no position to do other than carry on a large trade with him,” particularly since Switzerland exclusively rendered aid for “our men imprisoned in Germany.” However, now that “the fortunes of war have changed,” Roosevelt claimed that the U.S. was “in a better position to meet your most urgent needs and defend your liberties if they are threatened,” a reference to the much diminished likelihood of a German invasion or other reprisals. He also included a thinly veiled warning, claiming that “it would indeed be a trial to any freedom-loving Swiss to feel that he had in any way impeded the efforts of other freedom-loving countries to rid the world of a ruthless tyrant,” implying that continued Swiss collaboration with Germany might keep Hitler in power. Roosevelt added that “I speak strongly as every day the war is prolonged costs the lives of some of my countrymen.”

132 Letter from U.S. Secretary of State to U.S. Secretary of War, dated September 15, 1944, RG 165, E418, Boxes 962-63.

133 Letter from U.S. President Franklin D. Roosevelt to Swiss President Eduard von Steiger, dated January 19, 1945, NARA, RG 59, Central Decimal File 1945-1949, decimal 711.54, Box 3321.
Swiss officials eventually agreed to curtail their trade with Germany, although only about two months prior to the German surrender. At the conclusion of a trade conference with Swiss officials in March 1945, Roosevelt reflected that “we now have the assurance that Germany is receiving no more aid from trade with Switzerland or from use of Swiss transit facilities.”\(^{134}\) The Swiss committed to cut their exports to the Axis powers by approximately ninety percent, cease the export of electricity to Germany, reduce rail traffic between Germany and Italy, and block German assets.\(^{135}\) The Swiss actions were clearly a response to overwhelming U.S. diplomatic pressure, but the more notable fact is that Switzerland was not forced into this position earlier in the war. This in part reflects the significant leverage that Switzerland held over the beneficiaries of its humanitarian services.

The contestation of wartime economic policies also affected Swiss citizens on the personal level, including officials in important leadership positions. In a bizarre turn of events, in September of 1944 the FCIH commissioner, Major General Dollfus, was forced to appeal to the U.S. Legation for assistance moving his own financial assets. Dollfus previously transferred his securities to New York and then Argentina following the outbreak of war in Europe, as he wanted to keep his fortune safe from any impending invasion of Switzerland by Nazi Germany. However, by 1944 Dollfus was unable to obtain access to his securities, possibly as a result of the economic blockade. His applications for a special license from the U.S. Treasury Department were denied, and so

\(^{134}\) Note from Franklin D. Roosevelt, undated, Papers of President Franklin D. Roosevelt, O.F. 363, NARA, RG 59, Central Decimal File 1945-1949, decimal 711.54, Box 3321.

\(^{135}\) Letter from Assistant Secretary of State W.L. Clayton to Undersecretary of War Robert P. Patterson, dated March 13, 1945, NARA, RG 59, Central Decimal File 1945-1949, decimal 740.00112EW/3-1645, Box 3512.
he took his case up with the U.S. Legation in Switzerland.\textsuperscript{136} Dollfus appealed directly to U.S. Minister Leland Harrison, who met with the general and suggested several ways that he might petition for redress.\textsuperscript{137} This put the Swiss general in the decidedly awkward position of being indebted to the U.S. Legation only weeks prior to the diplomatic contestation over the treatment of American internees. Since both Dollfus and Harrison were key players in the exchanges over the punishment of escaping internees, it is possible that Dollfus’s financial affairs were an unspoken point of leverage in this debate. This illustrates that internment policies were not insulated from external diplomatic relations, in this case diplomacy that affected interests both of the state and of the individual.

The interplay of U.S. and Swiss diplomacy over violations of neutrality, intelligence collection, and economic collaboration is essential to understanding the debate over the application of international law to interned Americans. Although the legal framework for internees was similar to that of POWs, the application and enforcement of these rules differed significantly when the respective parties were not at war with each other. Belligerent countries in international armed conflict frequently cease all diplomacy and communicate via proxy, leveraging the threat of reprisals to enforce compliance with the law of armed conflict. In contrast, the relationship between the U.S. and Switzerland remained a more complex network of international and personal obligations that constantly influenced seemingly unrelated matters of diplomacy.

\textsuperscript{136} Memo from Minister, U.S. Legation in Bern, dated September 8, 1944, Library of Congress, Washington, D.C., Manuscript Division, Leland Harrison Papers, Box 47.

Nuanced reprisals still played a role in this discourse, but in this case the diplomatic impacts of perceived violations against Swiss sovereignty and American internees were more diffuse than simple retaliation in kind.
X. Consequences and Codification of New Law

The contestation over the incarceration of escaping American internees produced both short- and long-term impacts. There were consequences for some Swiss officials who were tainted by perceived FCIH failures, although most officials were not held accountable until after the war’s conclusion. Likewise, even after most Americans were paroled from Wauwilermoos and later repatriated, the leadership at the camp continued to mistreat internees of various other nationalities. The legal loophole that enabled the conditions at Wauwilermoos was not closed until 1949, at the postwar revision of the Geneva Conventions. This rewriting of international law is perhaps the most significant legal legacy of wartime internment in Switzerland. However, for the former internees themselves, the most lasting effects were the ambivalent memories of their internment experiences.

One of the first casualties from the discourse over the punishment of escaping Americans was the FCIH commissioner himself. At his own request General Dollfus was relieved of his duties as the FCIH commissioner in November 1944, the day after the American internees were paroled from Wauwilermoos.1 Dollfus claimed that he asked to be removed from his FCIH responsibilities because “my position as the Federal Commissioner has become incompatible with my duties as adjutant general of the

1 Letter from Oberstdivisionär Ruggero Dollfus to Major W. Huber, dated November 20, 1944, SFA, Box E5791, 1000/849, Vol. 652.
Army.”² He also privately complained that “the instances of my orders and my position being flouted have accumulated to such an extent lately that my situation has become intolerable,” an apparent reference to the insubordination of lower FCIH administrators.³ Dollfus continued in his position as the Swiss Army adjutant general for the remainder of the war and was eventually promoted to Lieutenant General.⁴ The FCIH was realigned under the Swiss Federal Military Department and administered by Colonel René Probst until the FCIH was liquidated in December 1945. Probst assumed the title of “Chief of the Commissariat” and was apparently the de facto FCIH commissioner, as no official was formally appointed to this position after Dollfus’s departure.⁵

Probst was tainted by another FCIH mishap in 1945, the so-called “internment commission scandal,” which saw an FCIH intermediary embezzle a half-million Swiss francs from the federal treasury. Minister Kobelt held Probst responsible, which elicited the bitter response by Probst that “we depart [from wartime service] as defamed soldiers, vilified well beyond our borders.”⁶ In a publication after the war, Probst acknowledged problems such as the fact that “petty, boorish attitudes on the part of the guard units were the cause of much harassment and bullying of internees as well as villagers,” but

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³ Memo from Swiss Army Adjutant General to Minister of Federal Military Department, dated November 6, 1944, No. 22741, SFA, Box E27, 1000/721, Vol. 14452, “Organisation und Personelles.”


⁶ Grivat, Internés en Suisse, 69.
nevertheless claimed that infrastructure improvements and other projects overseen by internment officials “compensated for the negative results.” He argued that “the lapses of individual functionaries did not unduly detract from the overall efforts of the [internment organization],” and claimed that “officialdom and Parliament” denied proper recognition to the FCIH.\(^7\)

Under Probst’s leadership, the American airmen who were released from Wauwilermoos were confined in other disciplinary camps to prevent future escapes. One such camp, Les Diablerets, was located in the canton of Vaud in western Switzerland. Similar to its counterparts in Adelboden, Davos, and Wengen, Les Diablerets was also a remote alpine village surrounded by mountains and accessible only by an electric railway. The village was billed as a “health-resort” and haven for winter sports.\(^8\) In late January 1945, Les Diablerets was inspected by Colonel Auguste Rilliet, the same ICRC delegate who inspected conditions in Wauwilermoos. Rilliet noted that the camp was recently created to house “internees who sought to escape from another camp.” The camp was exclusively comprised of interned American officers who had attempted escape, and all twenty-two of the airmen were housed in the Grand Hotel. According to the inspector, “the rooms are comfortable” with beds and a washbasin in each room, “the hotel is well heated,” and “the internees are in civilian clothes and want for nothing.” Food was reportedly identical to that served in other internment camps, and the kitchen was observed to be “well organized.” The Americans could apparently patronize the

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\(^7\) Probst, “Flüchtlinge und Internierte in der Schweiz,” 224, 233.

hotel’s bar, where “alcoholic beverages are permitted,” and distractions such as table tennis, books, newspapers, and radios were readily available.\(^9\)

Despite expanded privileges for internees, Les Diablerets was still designed expressly to prevent escape. Internees were strictly confined to the hotel, and the entry of outside visitors was prohibited. According to Rilliet, “the camp is guarded inside and outside each door and on each floor there are armed sentries.” Internees’ shoes were removed to prevent escape. Also, “for discipline, [internees’] pocket money had been withdrawn,” and they required approval from the camp commander before making any purchases. This step apparently prevented the internees from making any illicit purchases that might aid in escape.\(^10\) The administration at Les Diablerets certainly restricted many of the liberties that the Americans previously enjoyed, yet from Rilliet’s description the camp seemed a far cry from the conditions that internees experienced at Wauwilermoos. The camp appeared to finally embody the *custodia honesta* model of proportional punishment originally envisioned by the Swiss Federal Council in 1941, in that internees were confined but not harshly punished in a manner that might seem more appropriate for violent criminal offenders.

American internees who remained in Switzerland—either by choice or by virtue of confinement—were eventually repatriated in February, March, or May of 1945 in exchanges with German internees also held in Switzerland. The exchanges took at least five months to negotiate, as Swiss diplomats acted as intermediaries between the U.S. and

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\(^10\) Ibid.
German legations in Switzerland. The only Swiss condition to the exchanges was that the repatriated internees would not be employed again in the European theater of operations.\textsuperscript{11} Complicating matters was the fact that about 1,200 of the 2,500 German internees in Switzerland were civilian border guards and customs officials, and according to U.S. officials “their return to Germany [was] of no particular interest to the German authorities.”\textsuperscript{12} The German government, represented by Minister Otto Köcher, initially refused to accept a one-for-one exchange, and would only consider exchanging two German soldiers for every one American. The U.S. government finally agreed to these terms, but only after approval from the Joint Chiefs of Staff, who at first rejected the unequal trade.\textsuperscript{13} The reason for the eventual compromise, according to General Legge, was that a smaller number of American aviators would be “much more valuable to the [United States]” than a larger number of Germans “of mediocre caliber would be to [Germany].”\textsuperscript{14} Accordingly, 514 American internees were repatriated on February 17, and 109 internees were repatriated on March 7.\textsuperscript{15} Switzerland agreed to release all

\textsuperscript{11} Letter from Jerome Huddle to Marcel Pilet-Golaz, dated December 23, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

\textsuperscript{12} Memo from Jerome Huddle to General Barnwell Legge, “Proposed exchange of military internees,” dated 24 November 1944, NARA, RG 84, E3207, decimal 711.4, Box 100, and Jerome Huddle, “Excerpt from memorandum of conversation with Minister Walter Stucki,” dated January 31, 1945, NARA, RG 84, E3207, Box 112.

\textsuperscript{13} Jerome Huddle, “Extract from memorandum of conversation with M. Pilet-Golaz,” dated December 28, 1944, NARA, RG 84, E3207, decimal 711.4, Box 100.

\textsuperscript{14} Memo from U.S. Military Attaché in Bern, Switzerland to War Department G2, dated December 10, 1944, No. 1970, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 615.

\textsuperscript{15} Memo from U.S. Military Attaché in Bern, Switzerland to War Department G2, dated February 18, 1945, No. 2102, and memo from U.S. Military Attaché in Bern, Switzerland to War Department G2, dated March 7, 1945, No. 2135, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.
remaining Allied internees after the surrender of Germany in May 1945, since there was no longer a legal obligation to keep them interned. On May 17, the remaining 86 internees were driven by truck to Lyon, flown to Le Havre, and then taken by boat to the United States.

Sergeant Clinton Norby was among one of the last groups of American internees to leave the country. He recalled that the U.S. Legation advanced the airmen $50 in pay “so we could buy some souvenirs.” Norby purchased several watches and a leather wallet for the trip home. The customs limit was a maximum of five watches, three cameras, and no more than $50 worth of any foreign currency. The Americans were bused to the train station and traveled to Bern, where they were given a send-off complete with musical numbers, comedians, and alcohol. Early the next morning the group boarded another train for Geneva, arriving at 5:00 AM. After breakfast, the departing Americans went through customs and their identities were verified one last time before boarding several large “GI trucks.” The convoy travelled to Lyon, France, and delivered the airmen to a waiting C-47 airplane parked on a heavily damaged airfield. Sergeant Norby earned his passage, as he was assigned to “pull the props through and then stand fire guard.” For lack of a remaining seat, he then flew to England on the floor of the plane, “one of the roughest rides I ever had.”

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16 Memo from U.S. Military Attaché in Bern, Switzerland to War Department G2, dated May 12, 1945, No. 11, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 616.

17 Memo, “Status of Interned Personnel,” dated June 1, 1945, NARA, RG 319, E47, Box 1019.

Swiss and American officials discussed the sale of interned U.S. bombers to the Swiss Air Force at fifty percent of their production cost, but ultimately Swiss officials were not interested in long range bombers.\textsuperscript{19} This was ostensibly because the bombers were deemed too offensive for the military of a neutral state. The Swiss considered converting some bombers into transport planes, but the proposal was rejected.\textsuperscript{20} The Swiss did formally ask for the sale of at least ten P-51 fighters in March 1945, a request that was taken seriously by General Arnold in order to “benefit [the United States] by narrowing the existing breach between the U.S. and the Swiss.” However, the request was rejected by Lt. General Barney Giles, the deputy commander of the Army Air Forces, who informed Arnold that the P-51 supply was too critical to justify “diverting P-51’s to the Swiss Air Forces,” and also noted that “there is no military justification whatsoever” behind the request.\textsuperscript{21}

Of the 166 U.S. military aircraft that sought refuge in Switzerland, only 71 were eventually returned to the Allies in the fall of 1945. Forty-one of the airplanes were completely destroyed in crashes, and another thirty-nine were heavily damaged. Only about thirty of the remaining aircraft were deemed flight worthy, and the others were sorely in need of new engines or other repairs. In August 1945 a team of 120 U.S.

\textsuperscript{19} Letter from Admiral William D. Leahy, Chief of Staff to the Commander of the Army and Navy, to U.S. Secretary of State, dated October 19, 1944, NARA, RG 165, E418, Box 962-63, and memo from U.S. Military Attaché in Bern, Switzerland to War Department G2, dated May 8, 1944, No. 1363, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 614.

\textsuperscript{20} Cable from U.S. Military Attaché in Bern, Switzerland to War Department, dated April 20, 1944, NARA, No. 1315, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 613.

mechanics and aircrews arrived in Switzerland and refurbished the remaining aircraft, performing an average of 200 hours on each machine, including 19 engine changes. The bombers were flown back to England by October 1945, where most were eventually scrapped as surplus. The only U.S. aircraft to remain in Switzerland was a Stinson L-5 Sentinel that was interned in October 1944. The L-5 was purchased by the Swiss Air Force.  

Switzerland later acquisitioned other U.S. aircraft after the war, but none of these aircraft were formerly interned. In 1948 the Swiss purchased 130 war surplus P-51 Mustang fighters from the U.S. government for $4,000 each.

Switzerland received very little negative press over the internment of Americans, save for one article published in the continental edition of Yank: The Army Weekly in August 1945. The author of the article was 2nd Lieutenant Edward Cunningham, a B-17 pilot who was interned in Switzerland after suffering heavy combat damage during a bombing raid on April 24, 1944. His article described various U.S. internees’ attempts to escape and their resulting incarceration in Wauwilermoos, which was reportedly “rated as worse than the normal [POW] camp in Germany.” Cunningham echoed the U.S. Legation’s complaints about the “almost intolerable” conditions at Wauwilermoos such

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24 Cable from U.S. Military Attaché in Bern, Switzerland to War Department, dated May 1, 1944, No. 1353, NARA, RG 319, E57, Confidential and Secret Incoming and Outgoing Messages 1942-1945, Switzerland Box 627.
as overcrowding, straw beds, insufficient food, unhygienic conditions, and no recreational facilities. He described the “vicious dogs and guards with machine guns” who guarded the camp, and the fact that the guards “fired at many internees as they made a break for it.” Cunningham also cited that internees caught escaping were frequently held incommunicado for as long as ten days, and then were held in prison for months without trial. Finally, he reported that U.S. authorities protested to the Swiss government that “sentences [for escaping] should not exceed 30 days’ confinement, under the terms of the Geneva Convention,” and noted that Swiss authorities inexplicably refused to abide by this interpretation of international law. According to the author, “it was certainly an inconsistent policy for a country internationally famed for its humanitarianism toward [POWs] and other war victims.” In his opinion, “the only real loss the Swiss suffered in the war was the diminished prestige and respect of the rest of the world.”

Although Cunningham penned a scathing critique of the Swiss government and their so-called “obstructionist tactics,” he also lauded the sympathies of the Swiss public and their efforts to assist Americans. According to the author, “probably 90 percent of the Swiss people were openly pro-Allied,” and he cited their assistance to escaping internees as “proof that the average Swiss civilian did not share the obstructionist views of some government and army leaders.” Cunningham described how many Swiss citizens drove internees past checkpoints, gave them refuge in their homes, and warned them of pending arrests. He noted that “some of these sympathizers were later arrested,” and “several were jailed for helping the Americans.” Cunningham also documented that

some Swiss committed the ultimate offense of joining the Army of a foreign belligerent, including Allied forces. Those who did so reportedly were “barred from their country, under the threat of immediate arrest if they return home.”

The Yank article provoked both criticism and introspection in the Swiss press. One article published in several Swiss newspapers sought to eviscerate Cunningham and disprove his allegations point by point. The author first claimed, falsely, that Cunningham “has never been interned in Switzerland and his information is therefore second hand.” In response to Cunningham’s criticism of FCIH policies for escaped internees he argued that Switzerland had a responsibility to intercept and imprison escapees, and cited that under international law “a belligerent nation cannot allow a fighter in refuge in neutral territory to leave again for battle.” He also claimed the massive number of escaping internees actually caused the “unexpected and unbelievable overflow in the number of cases to be judged [in the Swiss military justice system].” Therefore, the author held the internees themselves responsible for their lack of due process and extended detention prior to trial. In response to Cunningham’s claims that conditions in Wauwilermoos were “almost intolerable,” he related that the Americans were billeted in “exactly the same conditions as the Swiss officers in their military barracks in the field,” and testified that the barracks at Wauwilermoos were not crowded at all. He argued that “the food [at Wauwilermoos] was far from being insufficient,” and claimed that in fact “the rations of the internees were superior to those of the civilian population.” Finally, the author claimed that the Americans complained about their treatment because “flyers have always been a little spoiled.” He concluded that the FCIH

26 Ibid.
had “fulfilled, at best, a very thankless task [of supervising internees],” and therefore that the accusations of ill-treatment were quite unjust. 27 The author’s identity is unknown, so it is impossible to speculate where he obtained the information for his rebuttal. However, it is clear that he interpreted Cunningham’s publication as pure slander, and apparently never considered that Swiss officials might be culpable for real or perceived injustices associated with internment.

Another response to Cunningham’s accusations was significantly less vindictive. First, the author acknowledged that Swiss wartime policies were often influenced by fear of the Axis powers, as the Swiss believed they might encourage reprisals if they appeared sympathetic to the Allies. He also confessed that “all too often the spirit in which we received our [military refugee] guests was not good,” which “explains in part the very mixed memories that many internees and refugees will take with them from here.” The author also speculated that the perception of mistreatment might partly be due to cultural relativism, as he claimed that it is difficult “to make valid judgments about the behavior of foreigners with different customs” since customs and morals “differ profoundly from one country to the next.” In his view, this problem of incompatible cultural norms might explain American opinions about the conditions in Swiss military prisons, which certainly shocked American officers and NCOs because “the American military customs differ so greatly from ours.” However, he hypothesized that the same conditions “would

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hardly outrage [Swiss] troops.”

The weakness of the author’s claim was the assumption that conditions in camps like Wauwilermoos were perfectly acceptable by Swiss standards, a judgment that arguably required firsthand knowledge. Nevertheless, his willingness to admit to lapses in the Swiss government’s handling of internment revealed a surprising degree of introspection, and suggested that not all Swiss citizens were willing to accept the government’s version of Switzerland’s wartime legacy.

Although by late 1944 the FCIH agreed to remove Americans from Wauwilermoos and reduce punishment for escape attempts, these concessions did not necessarily extend to internees of other nations. In May 1945 the continued mistreatment of Italian internees in the camp prompted an official protest from the Italian military attaché, General T. Bianchi. The Italian Legation visited Wauwilermoos, and noted that nine of its internees were punished with “rigorous confinement” and were “held under an excessively severe regime.” Out of a total of 260 soldiers of multiple nationalities in the camp, only the Italians were reportedly subjected to this punishment. The General considered their punishment unjustified, particularly since many were in confinement only “because they were arrested at the border while escaping.” Conditions under rigorous confinement were very poor, as the internees were not allowed hygiene facilities or water for washing for days on end. According to the attaché, “for their [latrine] they had a can,” and for the entire period of detention they were “filthy,” as they were not able to shave or clean themselves. One internee was infested with parasites, possibly lice or bedbugs, and since he was not treated, the infestation spread to the other internees. The

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Italians’ meager rations of “inedible soup without seasoning or vegetables” resulted in “a general weakness in the internees.”

General Bianchi also complained that the guards at Wauwilermoos “took advantage of their position,” particularly in reference to the Italians under rigorous punishment. He noted that the punishment tours were often arbitrarily extended by the guards, who seemed to have a cultural aversion to the Italians. The standard punishment tour was only confinement for twelve days, but in this case the nine Italians were sentenced to an extra ten days of punishment because one of the internees “pronounced a sentence [which was] misinterpreted or misunderstood by the Swiss-German guard.” The extra punishment for this internee was then extended to all of the Italians in the stockade. The guards reportedly woke the prisoners by spraying them with a water pump, and used the internees “to excite the dogs against.” This practice resulted in the Italians “having their garments torn” by the animals.

The Italian General concluded that “in Wauwilermoos they are very far from applying the Geneva Conventions relating to the treatment of prisoners of war.” He therefore appealed to the FCIH to “intervene energetically in order to end this state of affairs contrary to the most elementary principles of humanity.”

This protest was remarkably similar to the earlier American and British protests lodged seven months earlier. The similarities suggest that internees of other nations experienced comparable mistreatment at Wauwilermoos, and also demonstrate that the legal concessions to the

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30 Ibid.

31 Ibid.
U.S. and British legations were not applied to other internees with lesser diplomatic standing or leverage.

Colonel Auguste Rilliet of the ICRC recorded his first negative report about Wauwilermoos in July 1945, well after the last American internees were repatriated. He visited the camp with FCIH legal officer Major Florian Imer, the same official who routinely published laudatory reports on the camp conditions. Rilliet remarked that his inspection produced a “rather painful impression” compared to his previous visits, a clear reference to the deplorable conditions in the camp. Rilliet recorded complaints from several prisoners, including a German internee who was upset about the conditions of solitary confinement. According to Rilliet, the cells for solitary confinement were “part of the same brick building as the horse stable and the pigsty,” thus producing unsanitary conditions wherein “the pigsty smells up the small cells, because these are only ventilated by a small skylight in the roof.” He also observed that four men were confined in each cell, a number that he deemed “too many for its size.” Although new cells were recently constructed, Rilliet noted that “the prisoner has a wooden bed, a blanket and a bucket and eats in the cell,” an apparent reference to the fact that the bucket was used as a latrine. He claimed that “it is permissible to wonder whether the ventilation and light in the new cells are really adequate.” Rilliet also investigated the food in the camp, eliciting an admission from Captain Béguin that “there had not been enough food for a time” due to deficits in the larger FCIH supply system. Rilliet was offended by Béguin’s sergeant major, described by the inspector as an alcoholic, “loudmouthed” soldier who
“unceasingly insults the internees.” Rilliet recommended to both Major Imer and Captain Béguin “to have the Sergeant Major dismissed.”

Rilliet expressed deep dissatisfaction with the conditions in Wauwilermoos, a finding that stood in marked contrast to his earlier reports. He recorded that some punishments of various military refugees at the camp might be “contrary to international conventions,” and questioned “whether the ICRC should not intervene further on this subject.” It is difficult to explain why Rilliet’s impressions changed so dramatically, particularly since anecdotal evidence suggests that the conditions and leadership changed very little after his previous inspections. One clue is a reported reference to the “criticisms” of foreign powers over the poor treatment of Wauwilermoos prisoners, suggesting that Rilliet was now aware of the various diplomatic protests about the camp conditions. He also mentioned the fact that “the war is over and the POW camps have been opened abroad,” yet “there is still in Switzerland a camp, a disciplinary one at that, encircled by double strands of barbed wire behind which stand many guards, submachine guns in hand.”

This reflects awareness that the formal Swiss obligation to intern foreign forces ceased with the end of hostilities, as well as the hollow argument that Switzerland might suffer reprisals for failing to live up to its legal obligations.

In fairness, the Swiss government eventually did address misconduct at Wauwilermoos, although too late for U.S. airmen or many other nationalities interned in the camp. On July 31, 1945, Captain André Béguin was relieved of his command of

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33 Ibid.
Wauwilermoos pending an investigation into his conduct. On February 20, 1946, Béguin was charged by a court-martial of thirteen violations of the Swiss Military Penal Code, including the suppression of a prisoner’s complaint. Although the court acquitted Béguin of the suppression charge, he was found guilty of multiple offenses reminiscent of his past history of financial mismanagement. Béguin was convicted of ten charges, including fraud, embezzlement, bribery, abuse of authority, forgery, and disobedience. According to a local newspaper, he had defrauded over 15,000 Swiss Francs from at least twenty individuals, including officers, noncommissioned officers, physicians, the head of the military bar, and even internees under his charge. The newspaper called him a "humbug" and "bluffer" who “likes to live beyond his means.” The court sentenced Béguin to three and a half years in prison, stripped him of his rank, expelled him from the Swiss Army, and terminated his civil rights for a period of five years.

Colonel Probst apparently failed to comprehend how an officer like Béguin could escape his notice for so long. After Béguin’s conduct came to light, Probst claimed that “the many complaints that were filed with us were always thoroughly and conscientiously investigated by the military police, the Internment Legal Service, or the investigating judges, and they never incriminated Cpt. Béguin.” According to Probst, “inspections that I and others conducted always found everything to be in perfect order [in

34 Letter from FCIH Chief of Section to Captain André Béguin, dated September 19, 1945, SFA, Box E5330, 1975/95, Vol. 1945/2918I.


Wauwilermoos],” and he also revealed that Béguin was only investigated as a result of multiple reports of embezzlement and private debts.\textsuperscript{38} The other inspectors that Probst referred to included ICRC delegates, whose reports were cited by FCIH officials as evidence that Béguin’s conduct was beyond reproach. In 1945 one investigating magistrate cited that “Wauwilermoos prison camp was repeatedly visited by delegates of the International Red Cross,” and that the resulting inspection reports “contain nothing about any objectionable conditions.”\textsuperscript{39} FCIH officials were apparently unwilling to confront the possibility that the camp inspection reports were inaccurate, an attitude that appears naïve in hindsight. The inspection system relied on the Swiss Army to objectively police itself, a task that was predictably unrealistic.

Auguste Rilliet’s final inspection of Wauwilermoos occurred in November 1945, three months after Béguin’s relief from command. A total of ninety-three soldiers were still confined at the camp, of which seventy-four were Germans. The remainder of the population were Polish, Russian, French, and other Europeans. In contrast to Rilliet’s inspection in July, he recorded only minor criticisms of the camp’s conditions, such as the need to heat confinement cells in the winter. He remarked that “there are few escapes,” a marked change from earlier inspections in 1944. Rilliet summarized that his “The impression left by this visit is much better than the preceding one,” a change that he attributed to Béguin’s removal. He remarked that “calm has returned since the change of

\textsuperscript{38} Letter from Col. Probst, No. 1/P/bi, dated September 14, 1945, SFA, Box E5791, 1000/949, Vol. 687.

\textsuperscript{39} Memo from Colonel Lenzlinger, Grossrichter Div. Ger. 7, to Swiss Federal Military Department, dated July 30, 1945, SFA, Box E5330, 1975/95, Vol. 1945/2918.
camp management,” and “though the camp is still guarded by sentries with loaded weapons, the internees are no longer subject to vexatious bullying.”

The issue of internment rights remained alive in post-war reconsiderations of international law. The 1946 Preliminary Conference of National Red Cross Societies for the study of the Geneva Conventions convened in Geneva, Switzerland to recommend revisions to the Conventions “in view of the experience gained during the second World War.” According to the Conference report compiled by the ICRC, the Hague Convention of 1907 (V) contained only “a few vaguely worded Articles” concerning neutral obligations to intern foreign belligerents, and the recent war “showed that [these] present treaty stipulations are wholly inadequate.” Therefore, the ICRC recommended that “the treatment of internees should be fully and precisely defined in international law,” and “internees should benefit as a minimum by the same treatment as that prescribed by the Prisoner of War Convention.” A Norwegian Delegate who spoke for the majority agreed with the ICRC, and stated that “The minimum treatment to be afforded to these internees should be that provided for prisoners of war.” The Conference also debated the merits of listing a “moral duty” for neutral countries to admit all other categories of military and civilian refugees. They agreed that if interned, their treatment should also correspond to that afforded to prisoners of war.

The 1947 Conference of Government Experts for the Study of the Conventions for the Protection of War Victims convened to discuss further revisions to the 1929

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41 ICRC, Report on the Work of the Preliminary Conference of National Red Cross Societies for the study of the Conventions and of various Problems relative to the Red Cross (Geneva, ICRC, 1947), 81-3.
Geneva Conventions. The Conference again recommended expanding the list of persons protected by the Convention to include military internees, among other categories of combatants. The ICRC took the lead in suggesting “that military internees and escaped [POWs] in neutral countries should enjoy the same treatment as [POWs],” reasoning that this “was merely a question of application by analogy.”\(^{42}\) According to the Conference report, internees “should normally have been considered as [POWs],” but “suffered hardship through the fact that they were not explicitly named in the Convention.”\(^{43}\) The Conference considered this protection a minimum standard of treatment, “as military internees would as a rule be better off in a neutral country than in enemy territory.”\(^{44}\) The drafters of earlier conventions simply never envisioned a scenario where a supposedly neutral country would treat internees worse than POWs, particularly a neutral protecting power charged with enforcing laws governing POW treatment. According to the ICRC, giving military personnel interned in neutral countries the full protection of international law “was dealt with only perfunctorily in the Vth Hague Convention.”\(^{45}\) This explains why it took until the 1949 Convention to explicitly codify the requirement that military internees receive the same rights as POWs.

The Seventeenth ICRC Conference held at Stockholm, Sweden in August 1948 again addressed possible revisions to the 1929 Convention. The draft convention that


\(^{43}\) Ibid., 106.

\(^{44}\) Ibid., 112.

emerged from the Conference clearly reflected the strong U.S. pressure to apply POW rights to other categories of detained or interned military personnel. The proposed revisions to the 1929 Convention included an article that summarized all personnel who ought to receive the benefits of prisoners of war under the Convention:

“The following shall likewise be treated as prisoners of war under the present Convention: Persons belonging to one of the categories designated in the present Article, who have been accommodated by neutral or non-belligerent Powers in their territories, subject to the rules of international law peculiar to maritime warfare.”

At the prodding of the U.S. delegation during the legal commission debates at the Conference, the delegates also added the following language to the draft article:

“This Convention shall also provide a minimum standard of protection for any category of prisoners who are captured or detained as a result of an armed conflict, whose protection is not specifically provided for under some other Convention.”

At the time, an informal objection was made by the British delegate to the Conference, who complained that “the proposed paragraph would provide protection for all categories of people, including spies, war criminals, unauthorized underground movements and the like.” The U.S. delegate, Brigadier General Blackshear M. Bryan, dismissed the claim and noted that “this appears to be an unnecessarily broad interpretation.”

The 1949 Diplomatic Conference produced the final amendments that guaranteed explicit protections to internees of neutral countries. The committee that debated the application of POWs’ rights to internees of neutral countries was the Special Committee,

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which consisted of the delegates of eighteen countries as well as an ICRC representative.\textsuperscript{48} The Swiss delegate was elected as the committee chairman, and the United States delegate was elected as the vice-chairman.\textsuperscript{49} The Special Committee “was instructed to put into shape two Articles upon which radical differences of opinion had been encountered,” in particular Article 3 that “specifies the persons who are to benefit by the treatment laid down for prisoners of war.”\textsuperscript{50} In the committee hearings that dealt with the rights of internees, Britain first proposed the adoption of an amendment that “the provisions of this Convention shall apply to any of the persons referred to in Article 3 whom a neutral Power is required under International Law to detain in its territory during a conflict.”\textsuperscript{51} The explanation for this amendment was that “for practical reasons based mostly on experience, it seemed advisable to accord the same treatment [to internees of neutral countries] as for prisoners of war.”\textsuperscript{52} The British delegate explained that in particular the provisions of the Stockholm draft of the Convention relating to “Penal and Disciplinary Sanctions” should also apply to internees of neutral countries. The ICRC delegate agreed with the provision, but added that the amendment should be “subject always to a reservation regarding the stipulations concerning escape and repatriation.”\textsuperscript{53}

The commentary to the Diplomatic Conference clarified that the ICRC delegate meant


\textsuperscript{49} Ibid., 559.

\textsuperscript{50} Ibid., 559, 561.


that escaped POWs who fled to neutral countries should be treated as refugees rather than interned. 54

The British amendment affording internees the same rights as POWs was eventually adopted by a vote of seven to six. 55 After revision by the drafting committee, the final language added to the 1949 Geneva Convention (III) Relative to the Treatment of Prisoners of War stated:

“The following shall likewise be treated as prisoners of war under the present Convention: The persons belonging to one of the categories enumerated in the present article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under inter-national law, without prejudice to any more favourable treatment which these Powers may choose to give . . .” 56

The 1949 Convention also added an article that enabled the possibility of moving healthy POWs to neutral countries as an alternative to captivity by belligerent nations. 57

According to the ICRC, special safeguards now required that “the conditions of internment provided therein do not in any way prejudice the safeguards which the Convention affords to prisoners of war.” In the event that the neutral country is not a party to the Convention, the internment could still take place so long as “the conditions afforded to prisoners of war interned in neutral territory . . . at least conform to the minimum standards laid down by the Convention. If the neutral Power is not a party to


57 Ibid., Article 111. Previously this provision was only available for sick and injured POWs. See Jean S. Pictet, ed., Commentary on Geneva Convention III Relative to the Treatment of Prisoners of War (Geneva: ICRC, 1960), 522-23.
the Convention, it must nevertheless apply it or grant more favourable treatment."\(^{58}\) This language closed the loophole through which Switzerland denied internees the full protections of POWs during World War II.

It is significant to note that the American and ICRC participants in the 1949 treaty conference were some of the very same officials who dealt directly with the issue of internment rights during the war. Minister Leland Harrison, the head of the U.S. Legation in Switzerland who conveyed complaints over treatment of American internees to the Swiss government, was selected as the chairman of the U.S. delegation to the 1949 Convention.\(^{59}\) Accordingly, he participated in many committee meetings and signed the treaty for the U.S. government.\(^{60}\)

Jean Pictet, the same ICRC attorney who in 1944 blocked ICRC delegates in Switzerland from insisting that internees be afforded the same legal rights as POWs according to the “by analogy” interpretation of the 1929 Convention, was later in charge of the ICRC preparation for the 1949 Convention. He was the secretary-general of the 1946 Preliminary Conference of National Red Cross Societies, the rapporteur for the ICRC in the 1947 Conference of Government Experts, and had a leading role in the 1949

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\(^{59}\) See memo from Leland Harrison to the U.S. Secretary of State, dated March 25, 1949, NARA, RG 59, E5210, Box 4.

Diplomatic Conference as the director-general. Pictet also edited the ICRC’s authoritative *Commentary on the Geneva Conventions* published between 1952 and 1959, and compiled the *ICRC General Report on its Activities during the Second World War* in 1948. This placed Pictet in the challenging position of writing about the legal principles behind the 1949 Convention’s extension of POW rights to internees as well as the history of the application of this evolving rule in Switzerland during World War II, events that he directly influenced. In both cases he declined to mention that he personally curtailed the ICRC’s effort to extend the application of POW rights to internees during the war, and therefore directly influenced the application of the rule. This is significant because Switzerland might well have adopted a different position on the legality of punishing escaping internees if Pictet had instead recommended strongly protesting the actions of the Swiss government. Switzerland and Sweden were apparently the only dissenting voices during the war against an otherwise complete consensus on the legal rule affording internees the full rights of POWs. Such a consensus, combined with state practice, might very well have reified the rule as customary international law and therefore preempted the postwar codification. Pictet’s omission may be explained by the fact that his focus in compiling the *Commentary on the Geneva Conventions* and the *ICRC General Report on its Activities during the Second World War* was much broader.

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than the mere application of the 1929 Convention to internees. The histories were also written from the perspective of the ICRC as a whole rather than Pictet’s personal experiences. Therefore, it is likely that the omission never seemed problematic to him at all.

Despite the Swiss government’s stance from 1940-1945 that internees should not receive protection under the 1929 Convention, at the time of signature they made no reservations to the revised 1949 Convention that included protection for internees. In fact, at the time of signing, no state expressed reservations about the expansion of POW rights to internees of neutral countries. The treatment of military internees in Switzerland was certainly not the only example that convinced the ICRC to recommend that internees be explicitly guaranteed POW rights in the 1949 Convention. After the Italian Army capitulated in 1943, Germany threatened to classify captured Italian soldiers as “interned military personnel” with the specific intent of denying them the legal protections of POWs. Approximately 550,000 Italian soldiers were disarmed and transferred to Germany, where they were utilized as forced laborers. According to the ICRC, their condition “was worse than that of [POWs] of any other nationality, even of the Russians” until the intervention of the ICRC and other relief organizations.

Although it is arguable that the 1929 Geneva Convention intended full POW protections for internees, the ICRC ceased contesting the position of the Swiss

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64 Ibid., 342-57.
65 Schwarz, The Eye of the Hurricane, 137.
government until the revision of the Geneva Conventions at the end of the war. An ICRC report prepared for the 1947 Conference of Government Experts determined that although “military internees and escaped [POWs] in neutral countries should enjoy the same treatment as [POWs],” the lack of this protection “did not, on the whole, give rise to difficulties during the war.”\(^{67}\) In the case of U.S. internees in Switzerland, the ICRC later judged that “only the disciplinary punishments for attempted escape were more severe” and that their overall treatment “was by no means less favourable than that laid down by the 1929 Conventions.”\(^{68}\) Based on the ICRC inspection reports, it is reasonable to conclude that the ICRC received few alarming indicators over conditions in Wauwilermoos before the end of the war, although it certainly intervened on behalf of many internees over perceived shortcomings in the humanitarian conditions in various camps. It is also likely that the ICRC was more concerned with its mandate to protect internees who lacked diplomatic representation in Switzerland, since ostensibly they would have been the most apt to suffer abuse.

Internees like 2\(^{nd}\) Lt. James Misuraca who experienced the Swiss legal system firsthand eventually returned to the United States and reflected on their treatment while interned. Misuraca was heavily affected by the dichotomy between the conditions of regular internment and those in Swiss prisons. He was first impressed by the generosity of the Swiss people in Adelboden and Davos, recalling that “they liked the [American internees] and we liked them.” However, after Misuraca was caught during an escape attempt in October 1944, he spent a month incarcerated in Wauwilermoos before he

\(^{67}\) ICRC, *Conference of Government Experts*, 112.

eventually escaped to France. The experience of mistreatment at Wauwilermoos left him highly ambivalent about his six-month stay in Switzerland. Misuraca harbored deep resentment for the Swiss government, which he accused of “riding on [the Allies’] shoulders” through their policy of neutrality. He found it ironic that “instead of fighting [the Germans],” the Swiss Army was rigorously guarding interned Allied soldiers who might otherwise be helping to liberate Europe. Misuraca claimed that the Swiss Army was comprised of “toy soldiers,” a derogatory term that implied that they had “no substance” and were ideologically bankrupt.\(^69\)

Technical Sergeant Daniel Culler recounted his experience in Switzerland for U.S. officials in England after his repatriation. He was told by an intelligence officer that “everything you say will be placed before the International War Crimes Commission.” When Culler disclosed the extent of his mistreatment in Wauwilermoos, the interrogator called in a chaplain and accused the former internee of fabricating his story. Culler was then given an audience with an Army colonel, who also accused him of lying. According to the colonel, “there is no such place as Wauwilermoos in Switzerland, and if there was, the Swiss would not put any American soldier in there for nothing more than an attempted escape.” The colonel also explained that any press on the accusations could disrupt the delicate negotiations over the reparations for the accidental U.S. bombings of Switzerland. Therefore, he ordered Culler to maintain silence about his treatment, and destroyed the record of the interrogation.\(^70\)

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\(^69\) James Misuraca, telephone interview, June 17, 2011.

\(^70\) Culler, *Black Hole of Wauwilermoos*, 310, 313, 316. 348.
In fact, Culler’s mistreatment was filed with the War Crimes Commission, but not as a result of his own interrogation. His former pilot, fellow internee 1st Lt. George Telford, and another interned sergeant both reported Culler’s mistreatment to U.S. authorities in December 1944. According to Telford, the living conditions at Wauwilermoos were unacceptable, as “the beds are just straw with one blanket, in addition to which the sanitary conditions are about the most deplorable that I have ever seen.” He recalled that Culler was sentenced to an “indefinite” period in Wauwilermoos, and the Swiss Army “wouldn’t give the number of days he was supposed to be there.” Telford also relayed adverse treatment by the commandant of Wauwilermoos, who reportedly “belittled the American soldiers as a whole, and told them they were not fit to wear the uniform.”

The War Crimes Commission opened a file on the complaint, which listed “unknown Swiss authorities” who “punished T/Sgt Daniel Culler for his attempt at escape by confining him on two separate occasions[,] the last for an indefinite time.” However, the officials staffing the War Crimes Commission were uncertain how to prosecute allegations against citizens of a neutral country. According to one officer processing the file, the case merited investigation “in view of our friendly relations with Switzerland.” In the officer’s view, the situation “should be corrected at once, because we have other men there.” The official recommended “[taking] up [the] entire matter with [the] State Dept.” However, another reviewing officer disagreed and claimed that “Switzerland, not being at war, precludes her involvement in war crimes. Furthermore,

nothing serious is indicated and the Swiss reputation for fair dealing makes the anonymous information appear to be distorted.”72 The officer apparently terminated the case based on this assessment, in spite of the fact that the accusations were not anonymous but rather based on two sworn affidavits.

The War Crimes Commission also collected multiple accusations of war crimes against Captain André Béguin, most as a result of interrogations of returning internees. The accusations were filed with the War Crimes Office of Judge Advocate General’s Department of the War Department. The most common allegations against Béguin were “imprisonment under improper conditions,” “failure to provide Prisoners of War with proper medical care, food or quarters,” “men being confined to jail,” and “solitary confinement and [mistreatment] because they attempted to escape.”73 There is no evidence that the Commission attempted to exert jurisdiction over these alleged war crimes. As with Culler’s case, it is likely that officials were simply unwilling to attempt an indictment against an agent of a friendly nation. Alternately, it is also possible—although much less likely—that they knew about the pending charges against Béguin, and therefore were willing to let him face prosecution by his own government.

Daniel Culler returned to America wondering “why Switzerland, the headquarters of the International Red Cross, would not allow foreign military prisoners held in Swiss prisons to receive Red Cross food packages or to be visited by a Red Cross representative.” He felt that his treatment was inconsistent with Switzerland’s

72 Ibid.

73 See multiple affidavits filed in War Crimes Office, Judge Advocate General’s Department, War Department, NARA, RG 153, E279.
humanitarian ideals, and claimed that if “[Switzerland] was suppose[d] to protect POWs and other oppressed people from inhumane treatment,” then “under those same international laws, the Swiss should also be held accountable for the treatment of prisoners under their own command.”

Culler was correct that for a time Red Cross parcels were withheld from imprisoned internees, a policy that was eventually reversed over U.S. protests. Contrary to his assertion about Red Cross inspections, ICRC officials did in fact conduct inspections of conditions at Wauwilermoos. However, Culler arrived in the camp in June 1944, a month after Colonel Rilliet’s first inspection, and departed in September 1944, less than a month prior to Rilliet’s re-inspection. Therefore, Culler never had the opportunity to present his case to the ICRC delegation.

Although few American airmen in Switzerland likely suffered comparable physical and emotional trauma to what Culler experienced, many nevertheless developed the same doubts about the Swiss commitment to neutrality and humanitarian principles. Like Culler, Staff Sergeant Raymond Baus’s experience in Wauwilermoos also undermined his view of the ICRC’s mandate to protect prisoners of war. Baus found it particularly ironic that American internees in Wauwilermoos were in dire need for food when the ICRC headquarters were located in the same country. He claimed that “[we] were informed by the Red Cross through the American Legation that we were not considered sufficiently in need to warrant food parcels,” a response that he found unacceptable.

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74 Culler, *Black Hole of Wauwilermoos*, 311, 382.

75 Internment Data Card of Daniel Culler, SFA, Box E 5791, 1988/6.

76 Letter from Raymond Baus, undated, SIAA.
In 1995, the publication of Daniel Culler’s memoirs prompted a statement from Kaspar Villiger, the Swiss Minister of the Federal Military Department and nominal President of Switzerland. Villiger expressed regret that Culler was sentenced to prison for an offense that “was not defamatory,” and told him that “from today’s point of view the Swiss military court punished you very severely.” The Swiss President also lauded Culler, and claimed that “you and your comrades deserve the gratitude of the Swiss people” for helping to defeat fascism in Europe. This statement reflected a newfound willingness of some in Switzerland to reanalyze the history of their government’s actions during World War II, including the internment and mistreatment of foreign belligerents. However, in delivering his regrets, President Villiger also invoked the same argument used to justify the internment policy during the war, informing Culler that “[your] sentence reflects the important pressure exercised by other countries on Switzerland… The Swiss authorities were afraid that a less severe attitude toward attempts of interned military personnel to escape would be interpreted as preferential treatment by the other warring party.”

In November 1995, Culler was invited to revisit Switzerland by Olivier Grivat, editor of the Swiss newspaper 24 Heures and author of a historical survey on Swiss internment during World War II. Culler accepted the invitation, and was featured in a television documentary and several newspaper articles as a result of his visit. He was also given a thirty-minute audience with President Villiger, who reiterated his “regrets”

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77 Culler, Black Hole of Wauwilermoos, 386.

78 See Kreis, Switzerland and the Second World War, 126 n.47, and Grivat, Internés en Suisse 1939-1945.

about Culler’s treatment during the war. According to Culler, Villiger “was the most pleasant and sincere political person I had ever met.” Culler’s visit and his book produced ripple effects in both Switzerland and the U.S. The media coverage in Switzerland undoubtedly challenged the Swiss public’s “idealized collective memory” about internment during the war. A Swiss Presidential Committee was also created to consider financially compensating Culler for his mistreatment while interned. Prior to the publication of his book, Culler was designated a POW for U.S. Department of Veterans Affairs (VA) purposes, a status affording priority medical treatment within the VA system. However, he was not yet considered a POW for military purposes. In 1996, Culler wrote to U.S. Air Force Chief of Staff General Ronald R. Fogleman and sent him a copy of his memoirs. In response, Fogleman personally intervened to ensure that Culler received the Prisoner of War Medal, which had only recently been authorized for captives of non-enemies held outside of formal armed conflict. In approving the award, the Air Force determined that Culler was held captive by “foreign armed forces hostile to

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80 Daniel Culler, “Dan and Betty Culler Trip to Switzerland,” dated November 9, 1995, unpublished manuscript in possession of author.

81 This was the term used by the Independent Commission of Experts to describe the dominant historical memory of Switzerland’s actions during the war. See ICE, Switzerland, National Socialism and the Second World War, 497.

82 Culler, Black Hole of Wauwilermoos, 388. To the author’s knowledge, no compensation was ever approved by the Swiss government.

83 Letter from Adjudication Officer B. Corley to Daniel Culler, No. 345/211 C10 703 311, dated July 23, 1990, unpublished manuscript in possession of author.
the United States” under circumstances “comparable to those under which persons have generally been held captive by enemy armed forces during periods of armed conflict.”

For Culler’s POW Medal approval, see letter from General Ronald Fogleman to Daniel Culler, dated April 15, 1996, unpublished manuscript in possession of author. The amendment expanding the POW Medal to some captives of non-enemies held outside of formal armed conflict was incorporated in Public Law 101-189, the FY1990 National Defense Authorization Act. The POW Medal statute is codified at 10 U.S.C. § 1128. Prior to the 1989 change in the law, no hostages, detainees, or internees were authorized the medal. To date, only Culler and one other internee held in Wauwilermoos have received the POW Medal from the U.S. Air Force.
XI. Conclusion

The Swiss refusal to afford interned American airmen equivalent rights as POWs under the 1929 Geneva Convention was a questionable if not patently violative decision under emerging international law at the time. Ironically, the Swiss followed this policy despite their extensive history of neutrality, association with the ICRC, and a position of moral authority that seemingly presented compelling incentives to adhere to the full spirit of international treaties governing prisoner treatment. Yet a decision to fully rescind the contested internment policy may also have produced consequences that put the Swiss government in an untenable position. The Swiss government faced a choice between violating the spirit of the law and tarnishing their neutrality, or following the spirit of the law and risking possible reprisals by the German government.

Swiss and U.S. diplomats clearly operated in a complex web of competing interests, all of which were interrelated. To claim that the Swiss legal policy over internment was pursued for its own sake and was divorced from exterior influences would be a mischaracterization, just as the U.S. response to this policy was also influenced by competing policy objectives. In the early stages of the war the Swiss government faced the prospect of German invasion if it adopted a seemingly over-benevolent stance toward the Allies, although one could argue that adjustment of Swiss internment policies was unlikely to disrupt this balance by 1944. Political retribution for perceived negligence and resulting damages from the Allied Strategic Bombing Campaign were almost certainly stronger influences, as the Swiss sought leverage to curb
accidental aerial attacks against Swiss targets. Conversely, U.S. diplomats limited the
pressure they applied to solve the internment crisis, even near the end of the war when
Allied victory was considered imminent. The U.S. diplomats feared using political
ultimatums to enforce Swiss compliance with international law, being unwilling to risk
sacrificing Switzerland's value as a communications hub, intelligence center, and
protecting power for U.S. POWs in Europe.

Until late 1944, the Swiss chose to interpret the gray area of unenumerated POW
rights in a manner that justified their recalcitrant internment policies. In doing so they
tacitly enabled and condoned the resulting prisoner mistreatment. Many officials in the
Swiss government were well aware of the shortcomings of the military justice system,
which was painfully slow to function, seemingly violated baseline expectations of legal
due process, and disproportionately sentenced internees who attempted escape to lengthy
periods in Wauwilermoos. Swiss politicians and prosecutors cited ambiguity in the 1907
Hague Convention, domestic legal precedent, and the increasingly hollow threat of Axis
reprisal to justify their response to escaping military internees. However, even if Swiss
officials legitimately believed that these penalties were both legal and necessary to
strictly enforce the obligations of neutrality, this does not explain why they failed to
correct repeated abuses at Wauwilermoos that were indefensible under domestic or
international law.

FCIH administrators may not have intended to sanction the mistreatment at
Wauwilermoos, but they nevertheless played a part in enabling the conditions at the
camp. By advancing a loose interpretation of international law that minimized internees’
rights and granted the interning state a monopoly over their treatment, FCIH officials
created within interment policies the maneuver room that was exploited by unscrupulous individuals like André Béguin. Even after Béguin’s background and methods of camp administration came to light, the FCIH was content to ignore the accusations over his conduct. Their inaction seemed contrary to the Swiss commitment to humanitarian principles, but may also have reflected the same shortages of manpower and qualified leadership that allowed Béguin’s original recruitment to the organization. After all, Switzerland had a finite pool of professional military officers, and the FCIH did not attract many of these individuals to its ranks.

The response to the treatment of internees was not monolithic; some Swiss military officers, ICRC officials, and ordinary citizens recognized that confinement in Wauwilermoos disregarded basic humanitarian principles. They understood that this treatment flew in the face of the Swiss mandate to uphold international law and could potentially damage Switzerland’s standing as an impartial protecting power. Others simply disagreed with the Swiss government’s posture on neutrality, and by extension the internment of Allied belligerents in general. Therefore, they all contested the Swiss government’s inflexible legal interpretation of internee status in a variety of ways, ranging from complaints to belligerent actions that violated Swiss neutrality. These were all examples of grassroots cultural contestation over the application of international law that countered the legalistic FCIH interpretation and possibly helped to overturn it.

Swiss military officers like Major W. Huber sought to influence internment policies from inside the Swiss Army, apparently out of the belief that officials would concur with his assessment of the poor conditions at Wauwilermoos and respond in good faith to address his concerns. Other Swiss officers like 1st Lt. Max Regazzi felt that strict
neutrality was akin to surrender in the face of German aggression. His strong identification with an Italian-American airman over many of his dissimilar Swiss countrymen was also emblematic of the deep cultural fissures that challenged Swiss nationalism. Unlike Huber, Regazzi had no trust in the Swiss military to address his concerns over neutrality; he chose to circumvent procedural redress and instead violated standing orders to help American internees escape into France. His decision resulted in grave personal consequences, for although his illegal aid to the internees was an unsanctioned action, his status as a mobilized Swiss officer jeopardized both his personal neutrality as well as that of his government. Therefore, Swiss officials predictably distanced themselves from Regazzi and punished him severely for his conduct.

Some non-mobilized Swiss citizens also warned the Swiss Army about the consequences of excessive punishment at Wauwilermoos. Editors like Albert Adler and Paul Altheer correctly understood that the effects of FCIH internment policies could easily spread beyond the camps and ultimately jeopardize postwar relations. They sought to influence the strategic outcomes of the war rather than foster the Swiss Army’s narrow goal of interdicting future escapes. However, the editors also dutifully shielded their complaints from the Swiss public despite their unprecedented access as journalists, and in doing so they muted the full impact of their findings. Their decision to work within the FCIH was perhaps motivated by the naïve belief that internment officials would be responsive to their concerns. Alternately, the editors were possibly unwilling to shoulder the personal risks posed by more direct methods of addressing the conditions at Wauwilermoos, such as publishing muckraking exposés in violation of Swiss censorship regulations.
After the war, at least one prominent Swiss editor concluded that the censorship and political subordination of the Swiss press allowed “certain abuses that actually should have been detected.” In particular, he highlighted “the fraudulent activities of isolated officials in the internment system,” which were not immediately revealed by the press due to the heavy restrictions on such reporting. The editor called these cases the “dark side” of the wartime press control system, which he believed were lamentable but ultimately justified by the political necessity of censorship in a time of war.¹

In sharp contrast to the Swiss editors, other pro-Allied Swiss like Alex Mussard openly violated Swiss laws to help American internees. Like Regazzi, Mussard was less concerned about the exact implementation of internment policies. Rather, he affiliated strongly with France, and believed that “the freedom of Europe was more important than Swiss neutrality.”² In Mussard’s view, the conformance of Swiss internment policies to humanitarian principles made little difference if Swiss neutrality merely forestalled occupation by Nazi Germany. Thus, his resistance was grounded in the larger vision of defeating Germany, and he went far beyond simply helping Americans escape from internment to accomplish this goal. As a testament to his convictions, Mussard supplied weapons to the French resistance and personally fought against the Germans on at least one occasion. He represented a segment of Swiss society that challenged the very foundations of the country’s political order, perhaps the strongest cultural confrontation of all. Therefore, Mussard was anathema to the Swiss government, which sought to curtail his influence and eventually forced him into exile.


² Alex Mussard, letter to Robert Long, dated April 1, 1996, unpublished manuscript in possession of author.
ICRC assembly member Dr. Paul Martin also appealed to the Swiss government over the perceived inequity of severely punishing escaping internees as well as other shortcomings with the humanitarian conditions in the Swiss camps. It was certainly the ICRC’s purview to contest apparent violations of humanitarian law, but violations within Switzerland held a special significance because they undermined the ICRC’s mandate that inherently depended on the neutrality of the Swiss government. ICRC officials could not afford the perception of a double standard on prisoner treatment in their own country, and this perhaps gave them an additional incentive to ameliorate domestic conditions of internment.

In spite of the ICRC’s intentions, its dependence on Swiss neutrality probably undermined its ability to inspect and improve conditions of internment within Switzerland. The assumption that Switzerland would never tolerate adverse conditions of confinement apparently contributed to the ICRC’s decision not to inspect Swiss internment camps until 1944. Concessions to the Swiss government also jeopardized the ICRC’s core values of neutrality and political independence, and possibly interfered with the ICRC’s inspection of internment camps as well as the debate over the legal rights of internees. In fairness, ICRC President Max Huber probably realized that a refusal to compromise with FCIH officials on such issues as censorship of inspection reports might have resulted in the denial of any ICRC access to internees and escaped POWs. Therefore, consenting to some Swiss Army oversight and censorship was perhaps the only way that the ICRC addressed any of its concerns over internment. The only truly impartial inspection system would have required inspections by a neutral protecting power operating from outside of Switzerland, perhaps Sweden, but the approval of such a
system seems improbable under the political realities of the period. After all, if the Swiss Army only permitted ICRC camp inspections after the concession of censoring the ICRC reports, it is unlikely that they would have favorably considered the admission of foreign inspectors who would be immune to such oversight.

Despite the failure of the ICRC to obtain a Swiss consensus over internee rights during the war, this stalemate was not the end of the debate. The ICRC’s support for greater internee rights eventually resulted in codification of explicit treaty protections in the 1949 Geneva Convention Relative to the Treatment of Prisoners of War. Thus, the lack of customary protections during the war led the ICRC to modify the rules of internment in order to prevent a recurrence of the same contradictory practices in future conflicts. The ICRC certainly deserves credit for this initiative, although some questions about ICRC conduct during the war still remain unanswered. For example, why did the ICRC not reveal its problems with neutrality and impartiality vis-à-vis the Swiss government after the war’s conclusion? These concerns are entirely absent from the ICRC’s own history of its wartime service, which left this defective framework intact for future generations. Although it is doubtful that the same scenario of ICRC inspections within Switzerland will ever reoccur, the underlying question is still relevant to modern armed conflict: when a fundamental conflict of interest exists, who inspects the inspector?

Despite the resistance of the ICRC, Swiss civilians, and some government officials, the policy on escaping internees was only moderated after the long-term political ramifications became evident as a result of protests by the U.S. and British legations. Unlike their reaction to the internal complaints, Swiss officials could not
afford to ignore the possibility of reprisal from foreign governments who would almost certainly hold a dominant position in the postwar international order. However, they compromised in a symptomatic manner that ameliorated internment conditions for the imprisoned Americans and British but ceded no ground in the larger debate over the negotiation of international law. The FCIH’s decision may have been motivated by a desire to lessen the burden of implementing the policy shift, since limiting the compromise to American and British internees meant that it only applied to a small minority of the interned population.

As a result of the compromise, most American internees were quickly paroled from Wauwilermoos, but the camp continued to operate under the same commander until he was prosecuted after the war ended. Thus, internees of other nationalities who apparently committed identical offenses as the Americans continued to be punished excessively without redress well after the American internees were transferred and repatriated. The difference can perhaps be explained in part by the relative strength of diplomacy among the various interned nationalities. Although the U.S. Legation certainly had poor command and control of its internees in the country, it nevertheless exerted strong leverage over Switzerland when it came to the treatment of American personnel. The ability to exert this influence was a product of the U.S. government’s powerful political and military stance near the end of the war, conditions that were noticeably absent for internees of Axis countries or those who lacked functioning governments at all.

The compromise over the treatment of interned Americans seemingly averted any significant postwar fallout between the U.S. and Switzerland. Edward Cunningham’s
August 1945 article in *Yank: The Army Weekly* was perhaps the only exception. Cunningham claimed that the domestic conditions of internment in Switzerland were at odds with the Swiss duty to oversee humanitarian treatment of prisoners of war.³ The author’s views may not have reflected those of all Americans interned in Switzerland; however, it is fair to say that Cunningham’s sentiments echoed those of many of his comrades in Swiss prison camps. Thus, although the strict enforcement of Swiss internment policies apparently did not significantly affect Switzerland’s humanitarian reputation in the eyes of the international community, it did alter the perceptions of many individuals who experienced the policies firsthand. Those Americans who experienced both the benevolence of the mountain resort towns and the cruelty of the prison camps harbored ambivalent memories of their experiences; they felt indebted to many Swiss, while at the same time aggrieved at their treatment by others.

The Swiss reaction to Cunningham’s article reveals that some Swiss were also ambivalent about the administration of internment policies. While one Swiss author openly accused Cunningham of mischaracterizing and fabricating evidence, another acknowledged that the need to preserve neutrality did not justify inhumane treatment or shaping policies to appease the Axis powers. The two responses roughly correspond to the contemporary divide between Swiss popular memory of the war and more recent historiography, in that Switzerland still grapples with the notion that the legacy of its wartime actions were not beyond reproach. Swiss internment policies during World War II are not nearly as controversial as other issues such as racialized refugee policies and the retention of looted Nazi gold, but internment nevertheless was and still is part of

³ Cunningham, “The Swiss Stake.”
Switzerland’s nationalist narrative of the war. As such, authors have cited Swiss internment both as an example of a laudable humanitarian tradition as well as a case where asylum went awry.\textsuperscript{4} Perhaps the reality is that both of these characterizations were true, in that many military refugees benefited from internment when the alternative was imprisonment in the hands of an enemy, while simultaneously other internees were treated in ways that contradicted Switzerland’s self-acclaimed role as a guardian of humanitarian law.

The problems, politics, and consequences of Switzerland's internment policy remain relevant to contemporary armed conflict, even though the protecting power system is virtually defunct and internees of neutral countries are now explicitly guaranteed rights as POWs in the 1949 Geneva Conventions.\textsuperscript{5} Despite the changing face of warfare, in which combatants often lack clear labels such as “belligerent” or “internee,” or even clear mandates as combatants, the exploitation of gray areas in international law to deny prisoner rights still produces similar consequences today. The increasing frequency of conflict involving non-state actors has promoted a reliance on customary international law over treaty law governing actions in war, since most treaty law only covers conventional conflict between recognized states. Despite ICRC efforts to enumerate standards of state practice in an attempt to define customary international law over intra-state or non-international conflict, proving and enforcing customary law

\footnote{See the historiographical review of Swiss internment on page 7.}

\footnote{The most recent example of internment in Switzerland occurred during the Soviet war in Afghanistan, when an agreement signed in 1982 allowed Soviet prisoners held by the Mujahideen to be transferred to Swiss custody. See ICRC, \textit{Annual Report 1986} (Geneva: ICRC, 1987), 50, and J. Bruce Amstutz, \textit{Afghanistan: The First Five Years of Soviet Occupation} (Washington, D.C.: National Defense University, 1986), 160.}
remains extremely difficult. The lack of enumeration of humanitarian law for this type of emerging armed conflict makes it much more prone to subjective interpretation, particularly since state practice is inherently a fluid and evolving standard. As a result, the same type of disagreement and negotiation over emerging international law that occurred in Switzerland during World War II is all the more likely to resurface during contemporary conflicts. When this occurs, compliance with the spirit rather than the letter of humanitarian law may also be assisted by multiple factors beyond the diplomacy between nations. As in Switzerland, individuals who administer and observe policies will undoubtedly play a role in the enforcement of emerging customary law at the grassroots level.

After the attacks of September 11, 2001, the U.S. government chose to deny Geneva Conventions protections for detainees at Guantanamo Bay and elsewhere, claiming that terrorists did not fall under the treaties. In doing so, as a minimum, it created "maneuver room" that allowed for the subsequent prisoner abuse perpetrated by the military and the Central Intelligence Agency, and failed to internally police itself in the absence of impartial observers. Although the modern U.S. military is quite discernible from the Swiss Army’s FCIH during World War II, they both faced manpower shortages that resulted in detention operations supervised by personnel with

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7 This policy was eventually reversed in *Hamdan v. Rumsfeld, Secretary of Defense, et al.* (2006), 69. The Supreme Court determined that Common Article 3 of the 1949 Geneva Conventions applied to nonsignatories to the Conventions, thus requiring the defendant- an al Qaeda affiliate- to be tried by a "regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples."
questionable training or professionalism. The similarity of both outcomes demonstrates that the infinite possibilities of combat continue to produce legal loopholes, and states continue to exploit them into the present.
APPENDIX: PHOTOGRAPHS

An interned American aircrew immediately after they landed their damaged B-17 in Switzerland in April 1944. Source: Swiss Federal Archives at Bern, Box E5792, Photo #18643, Dossier 0625.

The recovery of B-17 # 42-102446 Little Chub from Lake Greifensee, Switzerland. Little Chub was shot down by Swiss fighters on April 24, 1944, killing six crewmembers. The U.S. State Department lodged official protests over the incident. Source: Swiss Internees Association Archives.
Swiss soldiers moving a damaged B-17 bomber. The aircraft landed in Geneva in April 1944 and was interned. Source: Swiss Federal Archives at Bern, Box E5792, Photos #18641, 18645, Dossier 0625.
B-17 # 42-97515, which crashed at Dübendorf Airfield near Zurich in March 1944. The landing was made without power as evidenced by the feathered propellers. Source: Swiss Federal Archives at Bern, Box E27, 1000/721, Vol. 14609.

The wreckage of B-24 # 42-100112, which crashed in Dietschwil, Switzerland in March 1944. Source: Swiss Federal Archives at Bern, Box E27, 1000/721, Vol. 14608.
The recovery of B-17F # 42-30057 *Raunchy*, ditched by 1st Lt. Sam R. Turner in Lake Constance, Switzerland, on 6 September 1943. Three engines on the airplane were shot out and the ball turret gunner was killed while bombing Stuttgart. Photo courtesy of 100th Bomb Group Foundation www.100thbg.com.
Leland Harrison, Minister of the U.S. Legation in Bern, Switzerland. Harrison negotiated the exchange of interned Americans and also protested the mistreatment of Americans in Wauwilermoos. Source: Library of Congress Prints and Photographs Division, call number LC-DIG-npcc-05751 [P&P].

Brigadier General Barnwell R. Legge, the military attaché at the U.S. Legation in Bern, Switzerland. As the administrative commander of the American internees in the country, he oversaw escape efforts and protested mistreatment of Americans sent to Wauwilermoos. Source: The Citadel Archives and Museum, Charleston, South Carolina.
Swiss General Henri Guisan and Military Dept. Minister Karl Kobelt in 1941. Guisan pressured the ICRC into allowing censorship of inspection reports of Swiss internment camps, and Kobelt led the Swiss rebuttal to U.S. complaints about insufficient legal protections for internees. Source: Swiss Federal Archives at Bern, Box E5792, Photo #22077, Dossier 0832.

Swiss Army Major General Ruggero Dollfus, the Adjutant General of the Swiss Army during World War II and the Commissioner of the Federal Commissariat for Internment and Hospitalization from 1943-1944. Dollfus fielded numerous complaints over conditions in Wauwilermoos, and in November 1944 he brokered a compromise to release U.S. internees from the camp and simultaneously resigned his post as commissioner. Source: Graphische Sammlung, Schweizerische Nationalbibliothek Bern.
Allen Dulles (right) receives the Medal for Merit from Assistant Secretary of War Howard Petersen for heading the Office of Strategic Services (OSS) in Switzerland. While in this role, Dulles reported that Allied bombings of Switzerland undermined U.S. intelligence collection. Source: U.S. National Archives and Records Administration, Photo #111-SC-259837.

Sam E. Woods, the U.S. Consul General in Zurich, Switzerland during World War II. Woods took many risks assisting hundreds of U.S. internees to escape into France, and also passed critical intelligence from German sources to President Roosevelt. Photo courtesy of Katie McClendon.
Swiss Army 1st Lt. Max Regazzi. Regazzi was sentenced by a Swiss military tribunal to 150 days imprisonment and five years probation for assisting American internees to escape from their camp at Davos. Source: Swiss Federal Archives at Bern, Tribunal Militaire #44-6669, Box E 5330-01, 1975/95.

Swiss citizen Alex Mussard (left) with a member of the French Resistance. Alex fought against the Germans in France and also helped several American internees escape from Switzerland. He was arrested while helping American internee 1st Lt. Ferris Martin cross the French border in September 1944. Mussard was imprisoned and later exiled from Switzerland. Source: Swiss Internees Association.
1st Lt. Ferris Martin, an American internee. Martin was caught crossing the French border with Alex Mussard in September 1944. He was incarcerated at Wauwilermoos, where he contracted tuberculosis. Photo courtesy of Ferris Martin.

2nd Lt. Floyd “Mac” MacSpadden, an American internee. The U.S. Legation designated MacSpadden as a liaison to several film distributors in Switzerland, a cover that allowed him to travel without restrictions and assist internees to escape into France. Photo courtesy of Chris MacSpadden.
Forged rail passes for two escaping American internees, Lt. John McFarland (alias Hans Brunner), and Lt. William Howell (alias Josef Baumann). The Americans were intercepted and incarcerated in Wauwilermoos, and five Swiss citizens were also imprisoned for helping them. Source: Swiss Federal Archives at Bern, Tribunal Militaire #44-6085, Box E 5330-01, 1975/95.
USAAF Technical Sergeant Daniel Culler, during gunnery training in 1942 and receiving an Air Medal in 1944. Culler was interned in Switzerland in March 1944, and was incarcerated in Wauwilermoos after he attempted to escape. He later received a statement of regret from the Swiss President, and was designated a prisoner of war by the U.S. Department of Veterans Affairs and the U.S. Air Force. Photos courtesy of Daniel Culler.

USAAF 1st Lt. George D. Telford, an American internee. Telford was shot by a Swiss border guard while escaping from Switzerland in September 1944. He later submitted complaints of war crimes at Wauwilermoos to the War Crimes Office of the War Department. The complaints were not investigated or prosecuted, apparently due to lack of jurisdiction. Photo courtesy of Frank Coune.
USAAF 1st Lt. Wallace O. Northfelt, a B-24 navigator who was shot down and interned in Switzerland in March 1944. Northfelt tried to escape in September 1944, but was caught and imprisoned in Wauwilermoos. After he returned to Allied control, Northfelt submitted complaints of war crimes at Wauwilermoos to the War Crimes Office of the War Department. Photo from author’s collection.

Swiss guard outside of Wauwilermoos. Source: Swiss Internees Association Archives, Lakewood, NJ.
Swiss Army Captain Andre Béguin, commander of Wauwilermoos. After the war, Béguin was tried and imprisoned in connection with his administration of the camp. Source: Swiss Federal Archives at Bern, Box E5791, 1000/949, Vol. 687.
Barracks at Wauwilermoos. The photographs were taken during an investigation into the shooting of a prisoner. Source: Swiss Federal Archives at Bern, Box E5330, 1975/95, Vol. 1945/2918I.

An American internee at Wauwilermoos. Source: Swiss Internees Association Archives, Lakewood, NJ.
Barracks at Wauwilermoos. The photographs were taken during an investigation into the shooting of a prisoner. Source: Swiss Federal Archives at Bern, Box E5330, Versement 1975/95, Vol. 1945/2918I.
Barracks at Wauwilermoos. The photographs were taken during an investigation into the shooting of a prisoner. Source: Swiss Federal Archives at Bern, Box E5330, Versement 1975/95, Vol. 1945/2918I.
Sketch of Wauwilermoos drawn by American internee. Source: Swiss Internees Association Archives, Lakewood, NJ.
Swiss Army Major Florian Imer, the Chief of Internment Legal Services for the Federal Commissariat for Internment and Hospitalization from 1941-1945. Imer inspected Wauwilermoos and reported that the conditions and leadership were both excellent, even after the ICRC reported serious concerns about the camp. Photo courtesy of Memoriav and Museum of Art and History, La Neuveville, Switzerland.

Swiss Army Colonel M. Auguste Rilliet, former commander of the Second Infantry Brigade in Geneva and chief ICRC delegate to Switzerland for internment issues. Rilliet inspected conditions in Wauwilermoos at least four times, but only reported unsatisfactory camp conditions after official protests were lodged by the United States and several other foreign powers. Source: Revue Internationale de la Croix-Rouge 309 (September 1944).
Dr. Paul E. Martin, ICRC Assembly member and Professor of History at the University of Geneva. Martin asked the Swiss Army to apply the prisoner of war protections in the 1929 Geneva Conventions to interned soldiers, but the request was denied. Source: Photothèque CICR, call number V-P-PER-E-00207A.

Dr. Max Huber, President of the International Committee of the Red Cross. Huber brokered an agreement with the Swiss Army to allow ICRC inspectors to access Swiss internment camps in exchange for prior review and censorship of inspection reports. His house was also destroyed by a USAAF bomber. Source: Library of Congress Prints and Photographs Division, call number LC-B2- 6265-9[P&P].
The city of Schaffhausen burning after the accidental U.S. raid on April 1, 1944. Source: Swiss Federal Archives at Bern, Box E27, Vol. 14354, Bd. 3-4.
Bombing damage in Schaffhausen after the accidental U.S. raid on April 1, 1944. Source: Swiss Federal Archives at Bern, Box E5792, Photo #26642, Dossier 1047.

Bombing damage in Schaffhausen after the accidental U.S. raid on April 1, 1944. Source: Swiss Federal Archives at Bern, Box E5792, Photo #08420, Dossier 0237.
Swiss soldiers extract an Allied bomb from an urban area. Source: Swiss Federal Archives at Bern, Box E27, Vol. 14354, bd. 1.
Swiss soldiers extract an Allied bomb from an urban area. Source: Swiss Federal Archives at Bern, Box E27, Vol. 14354, bd. 1.

ICRC President Max Huber’s house in Ossingen, Switzerland, before and after it was hit by an abandoned B-24 Liberator bomber in July 1944. Professor Huber submitted a claim to the U.S. Government for 769,040 Swiss Francs. Source: U.S. National Archives at College Park, College Park, MD, RG 59, Department of State Central Decimal File 1945-1949, 811.2354, Box 4693.
A Swiss Messerschmitt fighter damaged in combat in 1940, presumably in a dogfight with German aircraft during the fall of France. Source: Swiss Federal Archives at Bern, Box E5792, Photos #01263, 01284, Dossier 0035.
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