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Hedged off from the main American military cemetery in Oise-Aisne, France, is a graveyard, known as Plot E, marked by ninety-six small, numbered, black plaques embedded in the ground. Each plaque represents an unnamed American serviceman executed by his country during the Second World War and a disproportionate number of the 'dishonorable dead' in this 'perfectly designed anti-memorial' are African American, a damning indictment of American military justice.[1] African American servicemen faced severe prejudice and stiffer penalties and were much more liable to be executed for murder, as well as jailed for other offences, than their white counterparts, a pattern repeated in all theatres of the conflict.[2] Being stationed abroad, therefore, offered no respite from Jim Crow: American troops in the United Kingdom, for example, were subject to American military law, not British civil law, due to the Visiting Forces Act (VFA) a wartime measure hastily passed in 1942. Under the VFA, the United Kingdom ceded jurisdiction over American military personnel even in cases involving British civilians; this wartime expedient made the British obliquely complicit in the often unequal and racist application of American military justice; in addition, rape was a capital crime in American military law, though not in British civil law.[3]

The plaques at Oise-Aisne do not, however, solely represent injustice and certainly not as the military defined it; the uncomfortable reality is that almost all of those buried here

committed horrendous crimes, including the central case discussed in here. Yet, this ruthless justice, whatever its apparent military, judicial or disciplinary necessity, could be, and was, selectively applied. Those interred were not inevitably innocent, though some possibly were, and this is neither a condemnation of the death penalty in a wartime context, nor is it necessarily exposing a miscarriage of justice, per se (at least in military terms), although it is arguably racism which helped to determine the severity or leniency of sentencing; it could even be the defining factor. Quite simply, American military justice was not blind, and emphatically not color-blind, as it was used to reinforce segregation, and its attendant cultural structures, and, significantly, to discourage interracial sex and its tacit acceptance of the veracity of the so-called 'rape myth'.[4]

This study is yet another demonstration of how American race relations operated and continue to operate: unequal justice, inadequate defense, institutional racism, assumptions about inherent black criminality and fear of the over-sexualized black man and his apparent taste for white women, itself a white European invention which was now being reimported, even if the United Kingdom, with its negligible black population, did not have a formal 'color-line'.[5] It occurs when lynching in America was disappearing, if not quite extinguished, where Southern courts and their all-white juries shamelessly dispensed justice without a noose, but it was lynch law in all but name. The army, rigidly segregated, with many white southern commanders, often leading black units, carried these notions with it wherever it went; indeed, military discipline enhanced them, and it harshly policed taboo-shattering, transgressive, sexual relations whenever it could.[6] Thus, ten of the eighteen executed in the United Kingdom were African American, when only approximately 10% of American military personnel were black, statistics which tell their own stark story.[7] That said, African American servicemen could be reprieved, for example, the high profile case of Leroy Henry, cleared of a rape near Bristol in 1944, or had sentences commuted, such as Sammie Mickles,

who killed a Polish seaman in Edinburgh in November 1942. These two cases, as will be shown, both actually confirm the pervasiveness of the military's institutional racism.

Northern Ireland, small, comparatively isolated and with no black population, acts as a microcosm for this institutional judicial racism, offering an effective case study of how racism and double-standards operated. It had its own parliament at Stormont, which was subservient to Westminster on foreign and defense policy, and was geographically separated from the rest of the United Kingdom by the Irish Sea. Northern Ireland's sectarian divisions between the majority Protestant (pro-British unionists) and minority Catholic (Irish nationalist) populations, with the government exclusively made up of the former and discriminating against the latter, added an extra layer of complexity to dealings with the Americans. American crimes could spark the tinderbox of sectarianism, especially if those committed against Catholics went unpunished; therefore, the effective policing of US servicemen had much more serious political connotations than elsewhere in the UK. To Irish nationalists, the American presence was opportunistically, if ineffectively, protested against as further evidence of the apparent illegitimacy of the partition of Ireland, as the Americans were publicly condemned as 'occupiers' as much as the British were. Moreover, the centrality of religion to life in Northern Ireland made it a very conservative society, especially regarding female sexuality.[8]

Plaque number 92 at Oise-Aisne belongs to Private Wiley Harris.[9] A 26 year-old African American native of Georgia, married with a young daughter, Harris was with the 28th Quartermaster Battalion. In March 1944 he left his camp in Poyntzpass on a twenty-four hour pass, seeking alcohol and sex. After taking a train to Belfast and checking into the 'colored' American Red Cross Club on James Street, he went to the York Road area where comrades were already drinking. By midnight one man would be dead and Harris would be back in the Red Cross Club frantically cleaning blood from his uniform. Harris drank steadily and,

shortly after 10pm, he willingly paid the one pound asking price to go to an air raid shelter with a prostitute named Eileen Megaw. The man who brokered the deal, Harry Coogan, waited outside to watch for police.

Coogan and Megaw had operated similarly earlier: at about 9.30pm she had had sex in the same air-raid shelter with Harris's comrade Sergeant John W. London, so Harris had no reason to be suspicious.[10] Whether pre-arranged or not is unclear, and Megaw was not interrogated about it at Harris's court-martial, but before the two could have intercourse, Coogan raised the alarm. On exiting the shelter and retrieving his torch from Coogan, Harris saw no police and asked Megaw to return inside. She refused and also refused to return his money, after initially, according to witnesses, agreeing to do so.[11] Harris recalled in his statement: 'I asked the girl for my money. The man said, 'She can't give you the money back.' The girl started to run and I grabbed her…. the girl and I were trying to pick up the money, just at this time the man hit me a blow on the right cheek with his fist and a crowd began to gather.'[12] She dropped the coins and she and Harris scrambled to retrieve them, while doing so, Coogan shouted, according to eyewitness Annie Murdoch, 'This nigger is going to stab this woman but I'll not let him' and punched Harris.[13] Her sister-in-law, Bridget Murdoch, grabbed Coogan's arm and urged him not to hit Harris. Harris retaliated by stabbing Coogan sixteen times in the body and head with a knife he had in his pocket, while Megaw fled screaming. With a crowd gathering and Coogan prostrate in a pool of blood, Harris too fled, pursued by James Tynan.[14]

At the Red Cross Club, witnesses saw Harris with blood on his hands and clothes. The following day back in Poyntzpass Sergeant James O'Connor from the United States Army Criminal Investigation Division (CID), told Harris he was his friend and took a statement.[15] Harris, without legal representation, recounted the previous night's events, admitting to stabbing Coogan. Within ten days Harris had been tried, convicted and sentenced to death. In

May he was hanged at Shepton Mallet prison in Somerset.[16] Harris's guilt is undeniable: he was armed and subjected Coogan to a ferocious assault.[17] Yet, questions remain. Harris was not the first American to kill a civilian in Northern Ireland, but where previous white killers were given long jail sentences and dishonorable discharges, he was the first to be executed, and his race set him apart.

'Absolute and Exclusive Jurisdiction': The Imported Context

The theoretical basis of this piece is primarily J. Robert Lilly and J. Michael Thomson's 1997 article 'Executing US Soldiers in England, World War II', which offers excellent analysis of the political, military and judicial context of capital cases involving US soldiers in the United Kingdom.[18] Their research demonstrates that the death penalty 'has been disproportionately applied to the financially disadvantaged, people of colour (especially African Americans) and those with white victims' and this certainly applies to Harris.[19] They go much further, however. They examine the 'imported context' of the American presence, endorsed by Westminster and Stormont and underpinned by the VFA. As they elaborate, 'the 'imported' model emphasizes the notion that judicial culture is brought in from the outside, a process not unlike the importation and imposition of cultural hegemony by a colonial power'.[20] This, they argue, happened in the United Kingdom, a view supported by Allison Gough: 'the military acted as a conduit for the exportation of American racial attitudes during World War II. In the name of military efficiency and expediency, and with claims that the Army should not be an organ of social change Jim Crow practices... were transplanted.'[21] With American justice, therefore, came racial discrimination and both Westminster and Stormont had to forge responses to the influx of American soldiers and the importation of American racism.[22]

The difficulties encountered by minorities within the military judiciary were compounded by the emphasis upon achieving convictions and the insinuation that too meticulous a defense would hamper the lawyers' careers. The onus was on short trials, tokenistic defense and convictions:

> The power of military commanders greatly influenced, if not in fact determined, the outcome of courts-martial trials, including capital cases…. [commanders] select the officers who serve as prosecutors, defense counsel and jurors, while retaining the power to evaluate these officers' performances and thus influence their future careers…. Vigorous defense efforts were not only discouraged, but considered egregiously hostile acts toward command.[23]

Defense counsels, often career soldiers rather than lawyers, were underprepared, granted few resources, beyond access to the defendant, and were wary of alienating superiors, while convictions rather than acquittals served military justice. To make matters worse, charges were brought by officers, who were almost invariably white.[24] All of these factors are pertinent to the Harris case. In a later work, Lilly notes that civilian and military justice have very different motivations and goals: 'civilian rulers see military justice as extensions of civilian justice, while career militarists view the courts as a means of discipline.'[25] Elizabeth Hillman concurs, seeing courts-martial as a disciplinary means to maintain 'obedience and conformity'.[26] 'Military justice', Lurie concludes, 'is virtually inseparable from military discipline'.[27] A 1943 text used at the Judge Advocate General's (JAG) school at the University of Michigan confessed as much: 'Strictly speaking, a court-martial is not a court at all in the full sense of the term, but simply an instrumentality of the executive power of the President for enforcement of discipline in the armed forces'.[28] Harsh sentencing, including the death penalty, was patently as much about setting an example as it was a punishment of individuals.[29]

In a global war and a multi-million man army, there was logic in circumventing the niceties of jurisprudence. Indeed, a functioning military legal system that tried to reflect the values of civilian law is noteworthy. That said, the system was unforgiving for anyone, black

or white, ensnared by it, with extraordinarily high conviction rates, disproportionate punishment and massive discrepancies in sentencing for the same crimes, factors grotesquely magnified when race became involved.[30] The Americans sought jurisdiction over their men not simply out of distrust of other countries' judicial systems and their ability to treat their soldiers fairly, although this is implicit; rather, a predominantly conscript army required a very specific legal system tailored to cope with both its scale, and the necessity of maintaining discipline and morale within what was, in effect, an involuntary force; this force, therefore, had to be accountable solely to American military law.[31] These factors became unavoidably and inevitably interlocked with American racial prejudice. Perhaps ironically, the procedures employed in the Second World War were a flawed response to the racist and summary application of military justice in the First World War.

The 'Houston Riot' of August 1917 began after a dispute between local police and African American troops descended into a gun battle that left twenty people dead: four of the soldiers, four policemen and twelve civilians. It resulted in the execution of nineteen African American soldiers and life sentences for a further forty-one during three trials. Thirteen of the executions took place within a week of the first trial, swiftness in accordance with the contemporary Articles of War; yet it left no time for appeals.[32] After the second court-martial, new rules were introduced, General Orders No. 167, preventing executions until the cases had been reviewed by JAG and, ultimately, death sentences required presidential approval. Six more executions resulted, along with a number of commuted sentences. President Woodrow Wilson publicly declared the trials fair and the executions justified.[33]

Boards of Review were set-up in 1919, evolving into *The Manual for Courts Martial* of 1928, the basis for American military law in the Second World War.[34] Due to the VFA, Lilly asserts, the manual became 'the only legal umbrella under which troops would be tried and punished.'[35] The Judge Advocate General during the war, General Myron C. Cramer, was

responsible for courts-martial, while the Boards of Review, containing three senior officers, located within the Branch Office of the Judge Advocate General (BOTJAG), ensured convictions were sound. In addition, the Staff Judge Advocate (SJA) advised commanders prior to trials on the need for a court-martial, and then reviewed convictions afterwards. After a trial, the Board of Review would confirm or commute the sentence, before it was signed off by the JAG or one of his deputies. Evidently aware of racial discrimination within system, from December 1943, courts-martial of African Americans had to have a black officer present.[36] Acknowledging the lack of African American officers, a memorandum explaining the policy was circulated from March 1944; however, commanders could only re-distribute it by word-of-mouth: hard-copies were not to be reproduced.[37]

Stormont enthusiastically received American soldiers in January 1942 and, despite some reservations at cabinet level, it also accepted the VFA. The death penalty still operated for murder throughout the United Kingdom; in Northern Ireland there had been eight executions since its formation in 1921. In September 1942 six Irish Republican Army (IRA) terrorists were sentenced to death for the murder of a police officer, although ultimately only the teenage ringleader was executed.[38] Britain, including Northern Ireland, readily accepted the need for death penalty, even if both were generally circumspect in its application.

In June 1942, Northern Ireland's Attorney General, John MacDermott, having been 'consulted informally' on the Visiting Forces bill by London, reported to the cabinet. 'Its most important feature,' he concluded, 'was the withdrawal from all courts in the United Kingdom of any criminal jurisdiction' and granting American service courts 'an absolute and exclusive jurisdiction' over criminality by American troops. He felt, nonetheless, that the power to pursue criminal proceedings should be retained and exercised expediently, for example, civil trials could be periodically pragmatic and in everyone's interests, particularly as 'local feeling may make the Americans anxious to have a trial in the civil courts,' but only

with the express consent of the 'appropriate American authority'.[39] Thus, Stormont would defer to the Americans, demonstrating the legal foundation for Lilly and Thomson's notion of imported context, if not recognizing its potential consequences. The cabinet approved, enabling the Americans and Stormont to act with a degree of flexibility. MacDermott's instincts were generally sound, insofar as the Americans saw the benefit of public trials in capital cases, nonetheless these would be courts-martial as they would not cede jurisdiction, moreover, civilian witnesses would be subject to American military processes. The Americans did at least recognize the need for justice to be seen to be done.

Keenly aware of the Catholic Church and the Eire government's public hostility to the American presence, Parker Buhrman, the American consul in Belfast, fretted constantly about relations between Americans and locals. Though unspoken by Stormont, Buhrman recognised that the murder of a Catholic could drive a wedge between this community and the Americans and even become a pretext for terrorism aimed at Americans. Buhrman believed, for example, that the priest at the funeral of Edward Clenaghan, killed by two Americans in September 1942, was attempting to incite violence against Americans.[40] Certainly there was an Irish nationalist tradition of eulogizing the dead as a way of motivating the living, yet Buhrman was unduly paranoid. An American padre attended the service as did members of Clenaghan's Air Raid Protection (ARP) unit, hardly evidence of the deceased's radicalism.

'Wounds Feloniously Inflicted': Killings by White Americans

During the so-called American 'occupation' of Northern Ireland, which occurred in two stages, from January to November 1942 and from November 1943 until June 1944, US soldiers were responsible for seven deaths, killing five civilians, one British soldier and one American soldier. American soldiers committed many other crimes, mainly vandalism and brawling (local newspapers did not report sex crimes, and they rarely appear in police reports

to the government), and were often the victims of civilians or British servicemen themselves.[41] Given the numbers stationed in Northern Ireland, 120,000 on the eve of D-Day in 1944 (out of a population of 1.2 million) and 300,000 overall, the availability of alcohol and the febrile environment of wartime, this is no shock; so few deaths is perhaps a greater surprise.[42]

As the first place to host Americans, Northern Ireland would become the incubator for how the United Kingdom responded to American military justice, witnessing, for instance, the first court-martial for the killing of a civilian. It saw the first murder of an African American soldier by his white comrades, which was the only case there which did not result in a trial, illustrating the lack of judicial rigor where the victim was black. It also saw the first killing of a British soldier by an American and the first convictions for Americans who killed civilians; these latter convictions became templates for future courts-martial, including that of Harris, and showed how racism affected mitigation and sentencing. Late in the war, there was a rare example of a professional defense by committed career lawyers for a soldier accused of murder (and, in this case, rape).[43]

The seven cases have some commonalities, and also notable differences. In only one of the five involving civilians was the alleged assailant on duty. Only one was racially motivated with a black victim; drunkenness was a prime factor in five, including the one fatality involving British and American soldiers. One involved sexual violence, but two involved prostitution. Two of the cases directly involve race: William Jenkins, an African American soldier, was shot by American Military Police (MPs) in Antrim in September 1942; and in March 1944, Harris murdered Coogan in Belfast. The other cases, all involving white GIs, will be analysed to suggest that racism, alongside his crime, sealed Harris's fate.

The first court-martial open to the public occurred in April 1942 after the shooting dead of a bus driver, Albert Rodden, by Sgt. William Clipsham in County Londonderry. A civilian death necessitated a coroner's inquest, which, in this case, preceded Clipsham's court-martial. This was potentially problematic for both civilian and military authorities if the coroner's jury and the court-martial came to radically different conclusions; still it inferred that Americans were somewhat accountable to the local authorities. If the verdicts coincided, the coroner would legitimize the court-martial and ease local tensions.[44] In Rodden's case, the open verdict broadly agreed with the later court-martial, declaring his death accidental.[45]

The openness of Cilpsham's court-martial served an important public relations function, showing that the Americans were not condoning their soldiers' actions and justice would be served.[46] The trial heard that Rodden's bus joined an American convoy, cutting off the last vehicle, Clipsham's scout car, and according to several American witnesses, refused to let Clipsham pass by seemingly purposely blocking the road. When the car eventually drew alongside the bus, the bus swerved knocking it into a kerb, causing the machine gun mounted on the vehicle near Clipsham to fire, killing Rodden and making his bus crash. The court-martial unanimously concluded that the weapon was defective and was triggered by the car hitting the kerb; Clipsham was cleared of manslaughter.[47]

The next death involved the endemic inter-racial antipathy among American servicemen in the United Kingdom. The authorities offered various solutions, including informal segregation, displacing rather than eliminating tensions, and inter-racial violence remained a problem throughout the Americans' sojourn.[48] Violence was usually instigated by white Americans resentful that African Americans refused to be subservient, with particular hostility for relationships between African Americans and local women. The military's response was to publicly condemn violence, but privately reinforce Jim Crow, refusing to confront the white troops' behavior. Limited, half-hearted and poorly implemented remedial

efforts failed as, generally, commanders devolved responsibility to junior officers and NCOs, often in the form of 'Good Conduct Committees'.[49] The seriousness of the problem had fatal consequences in September 1942 when Pvt. William Jenkins was, as noted, shot by white MPs in the town of Antrim. His comrades found his body handcuffed to railings and, enraged by the hallmarks of a lynching, returned to base, broke into the armory, before around twenty of them, now armed, headed back to town.[50] Several white soldiers were accosted by the group and one was shot and wounded.[51]

The US military was sufficiently concerned to send General Benjamin O. Davis, the army's first African American general, to investigate racial friction.[52] His eventual report was condemned by the African American press as, while it criticized commanders, it underplayed inter-racial tensions.[53] Amid questions about racism and segregation, the fate of Jenkins was ignored. No-one stood trial for his murder, despite him being killed by MPs who should have been identifiable (an MP sergeant was 'standing near' Jenkins's body when the latter's commanding officer arrived); the murder weapon was American and probably traceable.[54] Tellingly, General Davis made no attempt to prosecute the culprits and it would seem that little effort was made to do so; all starkly illustrating the lack of investigative thoroughness where the victim was black.[55] Had there been a court-martial, then the military was under no obligation to make it public or involve local authorities, moreover, there was no civil inquest, as it was essentially an internal American matter.[56] The only person to be court-martialled was Private George McDaniels, who shot the white soldier and was found guilty of assault with a deadly weapon; he received five years' imprisonment and a dishonorable discharge.[57]

The British and Americans correctly anticipated friction between their armies. In August 1942, a brawl at a dance in Randalstown resulted in the fatal stabbing of a Scottish soldier Pvt. Owen McLoughlin, an active participant, and the stabbings of two Americans.[58] The coroner's inquest jury returned 'a verdict of death from wounds feloniously inflicted by a

person unknown'.[59] The American accused of killing McLoughlin, Pvt. William E. Davis was tried the following month.[60] The hearing lasted two days, where most hearings for capital cases lasted one day. Found not guilty of murder, he was convicted of manslaughter and sentenced to eight years' imprisonment with a dishonorable discharge.[61] National rivalry and pay, caused Anglo-American tensions; but on this occasion, Burhman, who held British troops largely culpable, was not particularly concerned.[62] The local police were also fairly phlegmatic about the incident.[63]

Edward Clenaghan was killed by two American soldiers near Aghalee in County Armagh on 21 September 1942. Working at his mother's pub, Clenaghan argued with Privates Herbert G. Jacobs and Embra H. Farley who were drunk and refusing to leave. After clearing the pub, Clenaghan and his brother James heard a window being broken. Outside the two soldiers, 'started to use filthy language and produced two beer bottles which they were waving about'.[64] Edward left on his bicycle to complain to their commander; when he did not return, James searched for him, finding him in a ditch and his bicycle gone. He died later that night of a fractured skull.

The coroner's investigation took place the following day - with American representatives present - and the court-martial on 8 October, producing almost identical narratives, confirming the chronology previously outlined in the press.[65] Jacobs claimed no recollection beyond arguing with James Clenaghan who 'said he would cut their throats', then struggling with Edward in a ditch, and hitting him with his helmet.[66] The one-day trial generated considerable local interest and Buhrman was again anxious.[67] Police Commissioner Ewing Gilfillan, noted that 'considerable resentment was caused in the locality at the time, but this has now subsided owing to the vigorous action taken by the American authorities in assisting in the investigation.'[68] This was two days after the trial, so Gilfillan's optimism is perhaps premature.

As was often the case in capital courts martial, the accused declined to take the stand, relying on pre-trial statements for their defense. Defense counsel claimed, despite the overwhelming evidence, that there was 'a reasonable doubt that they were the guilty men', an odd strategy, in the face of potential death sentences, especially as James Clenaghan had identified Jacobs.[69] After short closing statements from the defense and prosecution, the court recessed briefly, before the two were found guilty of manslaughter and sentenced to ten years' imprisonment.[70] The *Belfast Telegraph* reported that Farley and Jacobs 'appeared to be overjoyed'; perhaps more surprisingly, several witnesses 'congratulated them upon escaping the death penalty.'[71] This reaction seemed to confirm Gilfillan's view of no residual resentment locally; moreover, as justice was swift and decisive, the court-martial represented an American judicial and public relations success.

On 4 October 1942, Private Lawrence McKenzie was drinking whiskey in his barracks near Castlewellan, County Down, and, drunk, he made the short walk to Mary Jane 'Minnie' Martin's cottage beside the base. Martin was 48 years old, a deaf-mute and a known prostitute. There, McKenzie wrote on a piece of paper that he wanted to go upstairs, and the pair agreed a price. As they began to have intercourse, the bed broke and she panicked, making noises unintelligible to McKenzie, he tried to silence her, putting his hands around her throat. She was found dead by a neighbor several days later.

McKenzie visited a local priest before admitting his guilt in a sworn statement voluntarily given to police.[72] He was initially charged with murder, reduced to manslaughter at his court-martial, found guilty and sentenced to ten years' hard labor. The court-martial accepted that there was no malice-aforethought and that his drunkenness which, while not a mitigating factor, had clouded his judgement. The Review Board upheld the original verdict and punishment. It also stated that the fact the assailant and victim were having sexual intercourse 'can have no legal force in determining whether the homicide was murder. The

fact that they were engaged in such act when the homicide occurred is, however, relevant and material evidence'.[73] It also noted that 'the lustful conduct of accused is not a correlative of malice-aforethought'.[74]

McKenzie can consider himself, more so that Jacobs and Farley, very fortunate to avoid the noose. The court-martial and, particularly, the review took a fairly lenient view of what constituted manslaughter, rather than murder, and the fact that McKenzie was drunk, had not planned to kill Martin and the lack of evidence of sexual violence spared him. The review said of his drunkenness: 'while it is true that voluntary intoxication is no defense, the fact that accused was in such condition has a direct bearing and relevancy in determining his intention and purpose…. He acted under the impulse of passion accentuated by his intoxication'.[75] The coroner reported on 8 October, in the review's words, that 'there were no signs of rape present but bruises on the legs, thighs and shoulders indicated that a considerable struggle had taken place'.[76]

Despite some fundamental differences, the Clenaghan and Martin cases are the most pertinent to the Harris court-martial, highlighting institutional racism where Harris is concerned. These cases establish that Americans who drunkenly killed civilians could receive relative leniency, resulting in manslaughter verdicts. They took place some eighteen months before Harris's trial, but two of the three judge advocates on the Board of Review, B. Franklin Riter and Birney M. Van Benschoten, were involved in all of the cases, creating a reasonable expectation of consistency. The cases were also, crucially, specifically used by Riter, Van Benschoten and Ellwood Sargent (who did not preside in the earlier reviews) in relation to premeditation in the Harris case. 'Within the principles of CM ETO82, McKenzie and CM ETO72, Jacobs and Farley', they ruled, 'there was neither adequate provocation nor hot-blooded mutual combat'.[77] This reinforces the sense that the mitigation accepted in the Clenaghan and Martin cases, especially McKenzie's drunkenness (not to mention his 'lustful

conduct'), helped to determine premeditation (or lack of it) and what constituted provocation, is summarily dismissed in Harris's trial. Moreover, Farley and Jacobs, and McKenzie's arguably unprovoked violence lacked the element of self-defense; the ferocity of Harris's retaliation was emphasized, while allowances were made for white Americans. Harris, shorn of mitigating factors, was exposed to the harshest sanctions of American military law.

'Notes on Relations with Colored Troops': Stereotyping Justice

There was a perception both within the American military and among elements of the British public, as Sonya Rose notes, that 'unbridled sexuality and lack of self-control were racial traits'.[78] Paranoia about black male sexuality and interracial sex is important in understanding the Harris case. Even as late as 1944, interracial sex was seen as abnormal (interracial marriage was illegal in around US 30 states), while some British officials viewed it as sexual perversion.[79] Westminster privately discouraged fraternisation between African Americans and locals, particularly women and feared that 'brown babies' would be left behind, leading to some ill-advised and offensive missives from British officials.[80] Added to this were archaic views of female sexuality; as Rose notes, 'young women and girls who frolicked with soldiers, especially African American soldiers, were depicted in terms that defined them as selfish and irresponsible' and those who associated with black soldiers were seen as 'especially immoral or degraded'.[81]

The American military hierarchy subconsciously sought to protect white womanhood meaning that the importation of Jim Crow included keeping black men away from British women. Informally, white soldiers attacked black violators and shunned the white women they associated with. Officialdom operated slightly more subtly, though with much the same intentions, and also draconically: of the eighteen Americans executed in the United Kingdom, five of the six executed for rape, not a capital crime in British law, were black (the other was

Latino).[82] Four other Americans were executed for rape and murder: two were white, one was black and the other Latino; the remaining eight, including two African Americans, were executed for murder.[83] American servicemen had to have the permission of their commanding office to marry a British woman, a right rarely granted to African American soldiers; moreover, those who asked usually found themselves redeployed away from their white sweethearts.[84]

These attitudes were prevalent in the southern states, where the very suggestion that a African American man had had sex with a white woman could result in a lynching, a ritualistic and fatal deterrent; there were even those who believed that sex between a black man and a white woman was by definition non-consensual. In one African American unit stationed in the South, for example, the white officer put up a notice stating that any association with white women would be regarded as rape, and reminded his men that this carried the death penalty.[85] The legal system in the American south did not always kill transgressors, or those merely accused of violating the southern sexual caste system, but, as demonstrated by the Scottsboro case in 1931, anyone convicted of challenging southern mores (regardless of their actual guilt) potentially faced a 'judicial lynching.'[86] Scottsboro was merely the most blatant illustration of the disproportionality of American justice where the defendants were white and the accused black: black on white crime was invariably more severely dealt with than white on black crime; and American justice, both civilian and military (uniformed African American soldiers were subject to both), functioned to maintain the racist status-quo. After his resignation as Civilian Aide to the War Department in January 1943 over the failure tackle racism in the military, Judge William H. Hastie, the first African American federal judge, privately complained that 'the Army's use of military and civilian Courts to keep Negroes in their place through the imposition of specially harsh and severe punishment upon men who have expressed resentment against Jim Crow practices, is a

recurring evil and the cause of much bitterness among Negro members of the armed forces and civilians alike'.[87]

On some occasions African Americans would either be exonerated, the Leroy Henry case, or have a death sentence commuted, the Sammie Mickles case, to take two examples; but even these actually reinforced American fears about the intersection of race and sex in military justice. In 1944, Henry was found guilty of rape and sentenced to death, until it emerged that he had been having an affair, or at least had an 'arrangement', with his married accuser. Residents of Bath sent a 33,000 signature petition to Eisenhower and, as a result, he refused to confirm the death sentence, cleared Henry, and ordered him back to his unit with a clean record.[88] Once again, racism and sex, supported by flimsy, if convenient, evidence, arguably determined the harshness of the punishment. Mickles, by contrast, stabbed a Polish seaman called Jan Ciapciak in Edinburgh in November 1942.[89] The two had an altercation, after which Mickles returned to Ciapciak and stabbed him to death. Mickles was initially sentenced to death in late December, the first imposed upon an American in the United Kingdom, this reduced it to life imprisonment by the Review Board which ruled that, despite returning after the initial incident to stab Ciapciak, Mickles had not shown premeditation.[90] The Review Board found other technical problems with Mickles' conviction, but, unlike Harris, he clearly was not acting in self-defense and Ciapciak posed no threat when stabbed and the killing was not in the heat of the moment.[91] The absence of any kind of sexual context in this incident, a mere brawl between servicemen of different nationalities, may have helped to spare Mickles.

'The Negro': The Harris Trial

The opinion of the SJA before Harris's trial declared him guilty, noting that his statement 'was voluntarily made in full recognition of his rights'; that he had 'viciously

stabbed' Coogan and crucially concluding that he was not drunk, thus eliminating possible mitigation.[92] This was despite Megaw stating that Harris was 'feeling the liquor', and one of his comrades confirming that he had been drinking since 5pm (the killing occurred after 10pm) and was 'pretty high'.[93] The SJA found sufficient evidence of 'prima facie case for murder because of the knife being in his hand prior to being struck, the excessive force used to meet the assailant, and the furious viciousness of the wounds inflicted upon the deceased, from which malice and premeditation may be inferred'.[94] This analysis was provided by Colonel Robert C. Bard, who would also conduct the SJA's review, which confirmed the conviction and sentence. The officer who advised the court-martial that Harris was guilty of murder, therefore, would also judge the appropriateness of its verdict and sentence, essentially predetermining the review and rendering it and the trial foregone conclusions, except in the unlikely event of Riter, Van Benschoten and Sargent, the judge advocates on the Board of Review, overturning the conviction.[95]

Harris's nationality intrigued the local press more than his race. [96] The American military were evidently much more mindful of Harris's skin color than locals: when locals were testifying, they tended to refer to Harris as 'the soldier' or 'the colored soldier,' whereas members of the court, including Harris's own defense counsel, 1st Lieutenant DeWitt D. Irwin, often called him 'the negro soldier' or simply as 'the negro.'[97] The open trial, at Victoria Barracks, was attended by hundreds of locals who arrived early to secure a seat, and was reported extensively by all of Belfast's newspapers.[98]

Before the court-martial, evidence was gathered by the US Army CID and the local police, questioning soldiers and civilians respectively, and these statements were almost identical to the trial testimony. A narrative was quickly established, including confirmation from Megaw, an example of a young woman who had become 'an amateur prostitute' during to the war, that all three were drunk, Coogan, in fact, was 'highly intoxicated' and had 'struck

out and hit the American chap'.[99] She had met Sergeant London before and had had sex with another African American soldier in an air-raid shelter a couple of weeks previously. She admitted refusing to return the money, conceding, not only that 'If I hadn't been drunk I would have handed it to him', but also that Coogan would have prevented this regardless.[100]

Like many defendants, Harris chose not to testify but did take the stand to explain the context of his statement.[101] He said that O'Connor told him that he 'was from the States. He came here to help me. He was my friend.' Harris claimed that O'Connor said that it would be easier for him if he gave a statement, but he was made no promises, offered no reduction in punishment and was not coerced.[102] Under prosecution (known as the Trial Judge Advocate) direct-examination, he admitted agreeing to make the statement, not realizing that it could be used against him.[103] The president of the court nevertheless declared that, 'the accused voluntarily made this statement,' which, according to US military law, did not constitute self-incrimination.[104]

Harris was condemned, firstly, by the presence of the knife (or something 'shiny'), which two witnesses, Annie Murdock and Kathleen McGinness, saw in his hand *before* Coogan punched him; the acceptance by the court that he posed an immediate threat to Megaw; and, particularly, the ferocity of his retaliation.[105] Harris claimed that his knife was closed and in his pocket when struck and that he acted in self-defense, unaware if his assailant, who was shorter but of heavier build, was armed.[106] The court-martial rejected his account, accepting instead the testimony of McGinness, who stated: 'He [Harris] had the torch in his right hand and what appeared to be a knife with one blade pointed towards her [Megaw's] back.'[107]

Irwin's Assistant Defense Counsel was 1st Lt. Frederick D. Morrison, of the 46th Field Artillery Battalion, not to be confused with the colored 46th Field Artillery Brigade, meaning

that the requirement of having an African American officer present at the trial was not fulfilled.[108] The defense contended that Coogan and Megaw conspired to defraud Harris and had worked in this way before, despite this, Irwin did not think to ask Megaw about this under cross examination; it also demonstrated, and this was largely the extent of Irwin's case, that Harris had not threatened Megaw.[109] Irwin at least demanded the downgrading of the charge as there 'has been no showing of premeditation'.[110] The prosecution disagreed, successfully arguing that Harris was visibly in possession of a knife, even if struck first; moreover: 'sixteen wounds inflicted upon a man of smaller size would show that there was malice aforethought.'[111] The charge was not reduced. The prosecution emphasized that Harris was armed and retaliated violently when he could have easily fled; moreover, the prosecution said that he should have fled, speculating that he was motivated by sexual frustration and monetary loss, rather than fear: 'As for provocation, the prosecution knows of no basis for considering that one who has invested one pound in an attempt to secure sexual pleasure is justified in taking another's life in order to obtain back that one pound which he feels he has not received proper satisfaction for'.[112] Harris was unanimously found guilty and sentenced 'To be hanged by the neck until dead.'[113]

That Harris killed Coogan is beyond doubt. His statement incriminated him, and, besides, witnesses saw him with blood on his hands and clothes at the American Red Cross Club, even if only one person at the crime-scene, James Tynan, could positively identify him at the trial (although he could not in his initial statement).[114] Even Megaw conceded in her original statement: 'I would not be able to recognize this American soldier again.'[115] Unlike the killers of Clenaghan and Martin, he could make a case for self-defense. He had been hit first; yet, the court-martial insisted that his retaliation constituted malice aforethought. Compared to some Americans executed during the war, Harris was given a fair trial. Equally, the court defined manslaughter and premeditation narrowly. Harris's violence was the vital

factor; but the American military knew that letting him off this brutal killing could have a serious impact on relations between its troops and locals, indeed, it said as much in letters to the local police and Coogan's family after the execution.[116] Nevertheless, it is difficult to escape the view that clemency was not considered due to racism. Harris's crime does not appear radically different from those committed by Farley and Jacobs, and McKenzie.

The gap between perceptions of justice in Northern Irish and American eyes was demonstrated by Coogan's inquest and Stormont's response to Harris's death sentence. The inquest took place less than a week after the court-martial though before the verdict was announced, and was at odds with the American military's conclusions. It declared that Harris had acted without malice aforethought or premeditation. Moreover, Dr Love, the Coroner, specifically told the jurors to ignore the racial aspect of the case. Love, the *Irish News* reported, 'said that some of the jurors might be carried away by the fact that a white man had been stabbed by a coloured man, but this fact should be swept away from their minds. The whole thing was done in a moment of passion, and his impression was that Harris had no premeditation or any malice in his mind.'[117] Love continued: 'Coogan's conduct was a disgrace to all right thinking men'; the jury found no premeditation.[118] A coroner's jury in Northern Ireland would not be instinctively sympathetic to Coogan. In a conservative and religious society, many would have shared the coroner's view of Coogan as a 'moral degenerate'.

Stormont, stripped of jurisdiction by the VFA, was effectively a spectator, allowing the Americans to do with Harris as they chose. When the sentence was announced, officials privately conceded that they would have 'exercised the prerogative' and spared Harris.[119] Many churches, unions and private citizens contacted Prime Minister Sir Basil Brooke to urge clemency, but he was helpless to act.[120] He wrote in his diary that 'strong representations have been made to have the US coloured man reprieved, but, of course, as

this is American business we can only make representations.'[121] The Duke of Abercorn, the monarch's official representative in Northern Ireland, with Brooke's blessing, wrote in confidence to the American commander, General John C.H. Lee, urging clemency, although this was brusquely rebuffed.[122] As noted, Stormont believed in capital punishment in principle, nonetheless it clearly had reservations about Harris's sentence; however, the case revealed its impotence, and illustrates the functioning reality of imported context.

The American military, then, refused to entertain mercy. The review of the SJA written, as noted, by Colonel Robert C. Bard, unsurprisingly endorsed the verdict, but also simultaneously condemned Coogan and repositioned him as almost chivalrous and heroic in his defense of Megaw. Indeed, the SJA review reads further into the evidence than the trial, stressing the sexual element, for example, more so than the prosecution: 'the accused had been sexually stimulated and then by circumstances deprived of satisfaction.'[123] Bard concluded that Harris 'willingly made a statement amounting to a confession.'[124] He rejected Harris's claim that he was unarmed until struck, accepting testimony claiming the knife 'was held close to the woman's back.'[125] Bard re-argued his pre-trial opinion that Harris tried to force Megaw back into the air-raid shelter noting that a 'disinterested witness' had seen the knife, even if Megaw had not; Coogan, also seeing it, 'went to her rescue.' Nowhere else was it suggested that Harris was attempting to coerce Megaw back to the shelter, therefore, Bard's assumptions were unsupported by the evidence. Coogan, according to Bard, genuinely believed that Harris was going to stab Megaw and was, therefore, 'fully justified in going to her defense.'[126] Coogan's use of force was 'reasonable' while Harris's was 'excessive', clear evidence of malice aforethought. Bard conceded that no witness, including Megaw, could identify Harris; but his statement remained voluntary and admissible. Bard also acknowledged the local coroner's conclusions, nevertheless, 'I cannot agree with the verdict and do not feel impelled to change my opinion.'[127] Yet Bard did accept that Harris 'does not

realize the seriousness of his present offense. He is dull in appearance, but seems mentally alert.'[128]

The Assistant Judge Advocate, Captain H.R. Stadfield, completely concurred with Bard's findings. Lilly and Thomson argue that reviews by junior officers were 'no more than pro-forma check-sheets by officers who dare not contradict their superior', and Stadfield conforms to this.[129] He agreed that Harris tried to force Megaw back into the shelter, absent from any other testimony, and that Coogan genuinely feared for her safety, even while accepting that no-one heard Harris threaten Megaw or 'make any threatening gesture' before Coogan punched him. The evidence, regardless, 'establishes beyond reasonable doubt,' malice aforethought and premeditation. [130] Stadfield, therefore, assumed that Harris did, in fact, pose a physical threat to Megaw meaning Coogan's actions were justified, whereas Harris's retaliation was not. Harris was motivated by sexual frustration and financial loss rather than fear and self-defense: 'The circumstances in respect of his sexual desire being thwarted, the loss of his money and the subsequent intervention and attack by deceased are not sufficient to constitute such provocation as would in law reduce the crime of a cold-blooded, deliberate murder to the lesser degree of manslaughter.'[131] Stadfield accepted that only Harris's statement linked him to the crime as no-one could identify him, but this was admissible.[132] Moreover, 'the evidence is clear and convincing,' the trial was fair and there was 'no recommendation for clemency.'[133]

Bard and Stadfield's conclusions were endorsed by the BOTJAG Board of Review on 15 May. Riter, Van Benschoten and Sargent stated, for example, that 'the deceased thwarted accused in the gratification of his lustful desire'.[134] The implication was again that Coogan was actually, or thought he was, defending Megaw. They accepted that he was armed before struck, making him the aggressor, 'although the deceased struck the first blow', and judged that he was not 'seized with uncontrollable passion or fear.'[135] They further argued that

Harris was not sufficiently intoxicated to excuse his actions; neither did the fact that Coogan was 'a moral degenerate'.[136] Harris, they concluded, had been given a fair trial and the sentence should be carried out.[137]

Conclusion: Three Tragedies

The case is instructive in understanding the institutional mind-set of the American military when it came to racism, sex and crime. Military law is, of course, as much about maintaining discipline as it is about justice, and the punishment of violators serves the broader purpose of setting an example to others. In the context of a segregated military, and its consequent racial friction, harsh and racialized treatment of those like Harris has a brutal, self-serving logic. As Lilly and Thomson note, 'resistance to Jim Crow meant severe sanctions…. The result was almost a paranoid and compulsive enforcement of military discipline on African American soldiers found guilty of sex-related crimes'.[138] Harris could have been charged with manslaughter; had he been white, or not been seeking sex with a white woman, he may well have served a long jail sentence. Had he been tried in a local court, he would almost certainly have been spared.

The patterns of discrimination against, and excessive penalisation of, African Americans in civilian justice in the United States were echoed, exaggerated, and ultimately had the same intentions, in the military. The statistics speak for themselves, and the Harris case is a good example of the ways in which the insidiousness of American racism operated. Harris was guilty of a terrible crime, of that there is no question, one in which the application of the death penalty could be rationalized regardless of his race; nevertheless, racism was used by the military to ensure and then justify his execution, while the case is infected, both blatantly and by implication, by racism and the need to protect the status-quo. Harris also

exposes more systemic problems with American military justice, including the passive defense he was offered, the lack of an appeal and a preoccupation with sex offences.[139]

For Harris, each layer of military bureaucracy, ostensibly designed to ensure due process and fairness, actually reinforced the findings of the previous one, establishing Harris's obvious guilt and then justifying the death penalty. Bard's advice on behalf of the SJA was then confirmed by the SJA's review, written by Bard and Stadfield, and then endorsed by senior officers at BOTJAG and eventually signed off by Eisenhower. The lack of any deviation does point to consistency in judgement and proves, from the military's point of view, the fairness of the trial and the appropriateness of the sentence, and that the checks and balances built into the system were effective; yet, it also strongly implies, in line with Lilly and Thomson's model, that Harris's fate was pre-determined.

Three tragedies are at the heart of this case, the needless death of Coogan in a drunken squabble over a few coins, the execution of Harris for the brutality of his retaliation to Coogan's punch and Megaw, a young woman who would live with the consequences of her role in the whole sorry episode. An innocuous evening in a non-descript Belfast bar would end two lives and ruin another. In the context of the Second World War, this barely merits a footnote, yet in its own way, it shows the disconnection between the values America fought for and how it treated its own servicemen, exposing how racism permeated the military's judicial processes, as the maintenance of the racial status-quo, particularly regarding inter-racial sex, could, if not condemn a man to death, be a convenient pretext to justify the ultimate sanction available to the military.

[1] Many of those 'dishonorable dead' executed in the United Kingdom were initially buried in unconsecrated ground at Brookwood cemetery in London, but moved to Oise-Aisne, a First World War cemetery, in 1948 and 1949. Lilly, 'Dirty Details', 510. Plot E does not officially exist and is not on the American Battle Monuments Commission (ABMC) website. https://www.warhistoryonline.com/war-articles/oise-aisne-american-cemetery-plot-e-where-the-dishonorable-dead-from-wwii-are-buried.html. Accessed 21 June 2015; quotation from Alice Kaplan, *The Interpreter* (Chicago, IL, and London, 2005), 174. For a description of Plot E, see Kaplan, 173.

[2] The NAACP found that in Europe 42.3% of those convicted of sex crimes, 35% for crimes of violence, 74.1% of those sentenced to death, and 33.3% sentenced to life, were African American; only 2.9% sentence dismissals and 11.7% suspended sentences were for African Americans. Memorandum from Franklin H. Williams, to Mr White et al, 14 May 1946. NAACP Papers, Series 9, Reel 24, frame 1170. In

the Pacific conditions were even worse. See, for example, Walter A. Luzski, *A Rape of Justice: MacArthur and the New Guinea Hangings*, (Lanham, MD, 1991).
[3] There were 121 Americans convicted of rape in the UK during the war; 41 were African American. David Reynolds, *Rich Relations: The American Occupation of Britain, 1942-1945* (London: Phoenix Press, 2000), 232.
[4] For the 'rape myth', see, for example, Diane Miller Sommerville, 'The Rape Myth in the Old South Reconsidered', *The Journal of Southern History*, Vol. 61, No. 3 (Aug., 1995): 481-518; Angela Y. Davis, *Women, Race and Class* (New York: Vintage Books, 1983), 172-202.
[5] Most British government officials were reluctant to articulate their sexual racism, however, in October 1942, Home Secretary Herbert Morrison reported that 'Some British women appear to find a peculiar fascination in associating with men of colour and… the morale of British troops is likely to be upset by rumours of their wives and daughters being debauched by American coloured troops'. He stressed, however, that the British people would not accept American segregation. Norman Longmate, *The GIs: the Americans in Britain, 1942–5* (London, 1975), 54. Earlier, unofficial, unpublished advice from the British military, entitled 'Notes on Relations with Coloured Troops', stated: 'white women should not associate with coloured men'. This notorious memorandum was written by Major-General Arthur Dowler in August 1942. Cited in ibid., 121-122. Reynolds estimates that only 8,000 black people lived in the United Kingdom in 1939. Reynolds, 24. Gough puts the figure at between 10,000 and 15,000. Allison J. Gough, 'Messing Up Another Country's Customs: The Exportation of American Racism During World War II,' *World History Connected* (October 2007). http://www.historycooperative.org/journals/whc/5.1/gough.html (accessed 11 January 2011).
[6] J. Robert Lilly and J. Michael Thomson, 'Executing US Soldiers in England, World War II,' *British Journal of Criminology*, vol. 37, no.2 (Spring 1997): 283. Both black and white GIs commented on the former's sexual freedom in letters.
[7] Of the remainder, three were Latino and five were white. Lilly, 'Dirty Details', 497. Post-war the American military concluded that 'Negroes' were innately criminal. As Kaplan comments, 'Nowhere… is there even the shadow of suspicion that segregation itself might have played a role in creating a racial disparity in sentencing. No one, as yet, was willing to venture the obvious: it was patently absurd that 8.5 percent of the armed forces could be responsible for committing 79 percent of all capital crimes'. Kaplan, 156.
[8] For women in Northern Ireland during the war, see Leanne McCormick, '"One Yank and They're Off": Interaction between U.S. Troops and Northern Irish Women, 1942-1945,' *Journal of the History of Sexuality*, Volume 15, Number 2 (May 2006): 228-257.
[9] https://en.wikipedia.org/wiki/Oise-Aisne_American_Cemetery_Plot_E accessed 21 June 2015.
[10] *Court-Martial Record of Trial of Private Wiley Harris, Jr., 6924547*, 626th Ordinance Ammunition Co., ETO2007 (henceforth *CMR Harris*). The time of London and Megaw going to the shelter is from the Staff Judge Advocate review. Review of the Staff Judge Advocate (henceforth Review-SJA), by Colonel C. Robert Bard, JADG, Staff Judge Advocate (SJA), 23 March 1944, 2. *CMR Harris*.
[11] Summary of Evidence, INCL 5, Statement, Kathleen McGinness, March 9, 1944. *CMR Harris*.
[12] Criminal Investigation Division, Services of Supply [SOS], United States Army, European Theater of Operations (henceforth 'CID'), Exhibit "O", Statement of Pvt. Wiley Harris, 7 March 1944, Statement taken by Sgt O'Connor. *CMR Harris*
[13] Summary of Evidence, INCL 3, Statement, Mrs. Annie Murdoch, March 9, 1944. *CMR Harris*. Annie Murdoch was the only eyewitness who reported Coogan saying 'nigger.'
[14] The only discrepancies in these statements, including those of Harris and Megaw, are over whether Harris was armed when struck.
[15] O'Connor denied saying he was Harris's 'friend'. Review-SJA, by Colonel C. Robert Bard, JADG, SJA, 23 March 1944, 2. *CMR Harris*.
[16] American military executions were carried out by British executioner Albert Pierrepoint. Albert Pierrepoint, *Executioner, Pierrepoint* (London: Harrap, 1974), 140, cited in Lilly and Thomson, 'Executing US Soldiers', 266(n).
[17] Black soldiers routinely carried weapons for self-defense. Stormont officials, for example, commented on white officers searching their African American men before letting them leave camp. General G.S. Brunskill to Sir Robert Gransden (Cabinet Secretary), 20 December, 1943. CAB9CD/225/19. Public Record Office of Northern Ireland (PRONI).
[18] The most comprehensive study of African American troops in the United Kingdom remains Graham Smith's *When Jim Crow Met John Bull: Black American Soldiers in World War II Britain* (London: Taurus, 1987). In more recent years, a growing body of work on race and racism in the United Kingdom has emerged, including Gavin Schaffer, ('Fighting Racism: Black Soldiers and Workers in Britain during the Second World War,' *Immigrants and Minorities*, 28:2-3 2010), which offer a nuanced assessment of the treatment of African Americans by the British people and their own authorities. There are several general histories of African American servicemen during the war, for example, Christopher Paul Moore, *Fighting for America: Black Soldiers- The Unsung Heroes of World War II*, (New York: One World; Random House, 2005), and a number of memoirs, including Ivan J. Houston's *Black Warriors: The Buffalo Soldiers of World War II* (Bloomington, IN, 2009) which deals with the homefront in the US and the battlefront in Italy (see also Hondon B. Hargrove, *Buffalo Soldiers in Italy: Black Americans in World War II* (Jefferson, NC, 2003) for the Italian campaign). Good oral histories include Phillip McGuire's classic *Taps for a Jim Crow Army: Letters from Black Soldiers in World War II* (Lexington, KY, 1993).
[19] Lilly and Thomson, 'Executing US Soldiers', 262-263. 'The death penalty', concludes Banner, 'is a form of social control'. Stuart Banner, *The Death Penalty: An American History* (Boston, MA, 2002), 320, cited in Kaplan, 85.
[20] Lilly and Thomson, 'Executing US Soldiers', 264.
[21] Gough, 'Messing'.
[22] For British responses to Jim Crow, see Reynolds, 216-237.
[23] Lilly and Thomson, 'Executing US Soldiers', 265. The *Wisconsin Law Review* noted in 1946: 'The system is so flexible that it is almost entirely up to the commander to determine not only who shall be tried, for what offense and by what court but also what the result shall be in each case'. Cited in Robert Sherrill, *Military Justice is to Justice what Military Music is to Music* (New York: Harper and Row, 1970), 73. The Vanderbilt committee, appointed by the American Bar Association at the 'reluctant request of the War Department' in 1946, was highly critical of military justice and was a major factor in the creation of Uniform Code of Military Justice (UCMJ) of 1951. Sherrill, 73. See also Luther C. West, *They Call It Justice: Command Influence and the Court-Martial System* (New York: The Viking Press, 1977), 43-44.
[24] Elizabeth Lutes Hillman, *Defending America: Military Culture and the Cold War Court-Martial* (Princeton, NJ, 2005), 82.
[25] J. Robert Lilly, *Taken By Force: Rape and American GIs in Europe During World War II* (Basingstoke, 2007), 168. See also: Ronald W. Perry, *Racial Discrimination and Military Justice* (New York, London: Praeger Publishers, 1977), 6.
[26] Elizabeth Lutes Hillman, 'The "Good Soldier" Defense: Character Evidence and Military Rank at Courts-Martial', *The Yale Law Journal*, Vol. 108, No. 4 (Jan., 1999): 886.
[27] Jonathan Lurie, *Military Justice in America: The US Court of Appeals for the Armed Forces, 1775-1980*, Revised and abridged edition (Lawrence, KS, 2001), xi.
[28] Sherrill, 73.
[29] In certain cases, military justice, particularly its rituals surrounding execution, are reminiscent of lynching, most visibly the public executions in France during the war (those in the UK were private). The military considered hanging 'more ignominious than shooting'. Lilly, 'Dirty Details', 501. The war's most infamous case occurred in early 1945 when Private Eddie Slovik became the first American to be executed for desertion since the Civil War. See William Bradford Huie, *The Execution of Private Slovik* (Yardley, PA, 2004 (1954)) and

Clifton D. Bryant, *Khaki-Collar Crime: Deviant Behavior in the Military Context* (New York: The Free Press, Macmillan, 1979), 45; 339-342.
[30] Hillman, *Defending America*, 14. The literature on American courts-martial during the war is highly critical. Lurie, *Military Justice*, 76-78; Sherrill, 73; Lilly, *Taken by Force*, 169-183.
[31] 'Theirs was largely a conscript army', states Gardiner, 'that had been sent abroad against its will and thus 'on duty' all the time and should therefore be regulated by military law'. Janet Gardiner, *Wartime Britain, 1939-1945* (London: Headline, 2004), 518.
[32] The Articles of War dated back to the Revolutionary War and were periodically updated before being replaced by the UCMJ. Bryant, 27-28. For a monograph-length study see Lurie, *Military Justice*. The records of the initial Houston trials arrived in Washington DC for review four months after the executions. West, 31.
[33] For more details on the Houston Riot see, for example: Robert V. Haynes, *A Night of Violence: The Houston Riot of 1917* (Baton Rouge, LA, 1976); Calvin C. Smith, 'The Houston Riot of 1917, Revisited', *Houston Review*, volume 13 (1991): 85–95.
[34] Sherrill is scathing about the reforms, claiming they were 'no reform at all and actually perpetuated the old system'. Sherrill, 72.
[35] *The Manual for Courts Martial, Effective 1 April 1928, Corrected to 20 April 1943*, United States Government Printing Office, 1943; Lilly, 'Dirty Details', 495.
[36] Reynolds, 234. It was an unwritten rule that African American officers could not outrank whites, so black officers on courts-martial would almost certainly be junior. The twin burdens of racism and rank made defiance of senior officers unlikely.
[37] Memorandum from Maj. Gen. John C.H. Lee, 6 March 1944. RG338, VIII Corps, 250 Series: Discipline; 250.1 Morals and conduct, January 1943-June 1945. Cited in Kaplan, 195(n). This mirrored British reluctance to commit policies on race to paper. Only 700 officers out of 31,000 in the Quartermaster Corps were black. Kaplan, 69.
[38] Brian Barton, *Northern Ireland in the Second World War* (Belfast, 1995), 128.
[39] Conclusions of a Cabinet Meeting held in the Prime Minister's room, Houses of Parliament, 2 June, 1942. CAB 4/511/1 PRONI.
[40] 'Developments in Northern Ireland', Consul General Parker Buhrman to the Embassy [London], 25 September, 1942. RG84 Records of the foreign service posts of the Department of State; Great Britain: Classified general records, 1936-1949, Belfast Consulate General; 1936-1942; Confidential File, 1942, File no. 823. National Archives and Records Administration (henceforth, RG84/Confidential File/1942 File no. 823. NARA).
[41] Only one reported rape, on 7 June 1944, was found in government papers at PRONI. CAB/9/CD/225/18, Inspector General's Office, Royal Ulster Constabulary (RUC), monthly report, 7 July, 1944. PRONI.
[42] Figures from: Longmate, 289.
[43] In the final case, not dealt with here, William Harrison raped and murdered seven-year old Patricia Wylie in November 1944. Lilly and Thomson offer an excellent account and analysis of it, demonstrating that some lawyers were prepared to offer their clients a thorough defense, regardless of their guilt. Lilly and Thomson, 'Executing US Soldiers', 269-274.
[44] A relieved Buhrman reported before the court-martial that 'so far no untoward events have developed'. Consul General Parker Buhrman to Secretary of State, 24 April 1942, RG84/Confidential File/1942 File no. 823. NARA. The police said that convictions eased tensions. E. Gilfillan, RUC, to Gransden, 10 October 1942. CAB/9CD/225/18. PRONI. Barton disputes this, claiming that the killing created considerable resentment, particularly among Rodden's fellow Protestants, usually reliably pro-American and most definitely anti-IRA. Barton, 102
[45] *Derry Journal*, 24 April 1942; *Belfast Telegraph* (*BT*), 20 April 1942.
[46] *BT*, 1 May 1942. British officers from the Judge Advocate's Department also attended, observing the first US court-martial of its kind in the United Kingdom. Ibid.
[47] Stormont records include a transcript of Clipsham's trial. CAB9CD/225/2. PRONI. Brian Barton implies that Clipsham, fearing an IRA ambush, deliberately shot Rodden, and suggests the trial was a cover-up. Barton,102. The convoy was escorting General George C. Marshall, the American Chief of Staff.
[48] For details on racism and segregation in Northern Ireland see: Simon Topping, '"The Dusky Doughboys": Interaction between African American Soldiers and the Population of Northern Ireland during the Second World War', *Journal of American Studies*, Volume 47, Special Issue 04 (November 2013): 1131-1154; and Topping, 'Laying down the law to the Irish and the Coons: Stormont's response to American racial segregation during the Second World War', *Historical Research*, volume 86, no.234 (November 2013): 741-759.
[49] General Hartle, the US commander in Northern Ireland, suggested setting up these 'Good Conduct Committees'. Northern Ireland Base Command (Prov) United States Army; Report of Conference on "Rules of Conduct," 1 August 1942. CAB9CD/225/19. PRONI. See also, Reynolds, 221.
[50] *Board of Review*, volume 1, ETO139: *United States v. Private George McDaniels*, 34292415, Company G, 28th Quartermaster Regiment, 2 November 1942, 207. Antrim was one of numerous similar instances of wartime retaliatory violence by African Americans.
[51] Buhrman again worried about adverse publicity. Buhrman to Secretary of State, 14 October, RG84/Confidential File/1942, File no. 823. NARA.
[52] For a brief biography of General Davis, see *Norfolk Journal and Guide*, 3 October, 1942.
[53] For the black press's response, see: *Atlanta Daily World*, 6 October 1942; *Chicago Defender*, 17 October 1942; *Kansas City Call*, 18 December 1942; *Baltimore Afro-American*, 9 January 1943. Davis recommended deploying more black MPs and demanded that officers take more responsibility about racism. Topping, 'Laying down the law', 9-11. Davis carried out eight surveys of morale among African American troops between October 1941 and September 1943, many were seen as whitewashes by black troops and civil rights activists. Phillip McGuire, *He, Too, Spoke for Democracy: Judge Hastie, World War II and the Black Soldier* (New York: Greenwood Press, 1988), 66-67.
[54] *United States v. McDaniels*, 2 November 1942, 206.
[55] There were no newspaper reports of any trials pertaining to the Jenkins murder, nor is there any evidence from the JAG that an investigation took place or any record of a court-martial. Correspondence with NARA has failed to shed much further light on the case, beyond finding no evidence that anyone was ever charged in connection with Jenkins's death. His records, along with many others, were destroyed in a fire; however, his family had a claim file with the Department of Veterans Affairs. Theresa Fitzgerald, National Archives (St Louis), to the author, 3 April 2015.
[56] The absence of a civilian inquest was reported in *Ballymena Observer* (*BO*), 9 October 1942.
[57] *United States v. McDaniels*, 2 November 1942, 205-209.
[58] *BT*, 4 August 1942.
[59] *BO*, 7 August 1942. Officials underplayed similar incidents. Here, the local coroner eliminated premeditation. *BT*, 4 August 1942; *Board of Review*, volume 1, ETO29: *United States v. Private William E. Davis*, 38042586, 518th Engineer Company, 31 August 1942, 29-30.
[60] *BO*, 4 September 1942.
[61] Ibid. Two British soldiers were sentenced to three years penal servitude. Ibid., 10 October 1942.
[62] Buhrman to Secretary of State, 11 September 1942. RG84/Confidential File/1942 File no. 823. NARA.

[63] Gilfillan to Gransden, 8 September 1942. CAB9CD/225/18. PRONI. Gilfillan also noted that the 'coloured US troops get on well with the British but the fact that they mix well does not tend to help relations between our troops and other Americans who do not fraternize with the negroes at all'. Ibid.
[64] *Dromore Leader*, 26 September 1942.
[65] Ibid.
[66] Ibid; *Newsletter*, 23 September 1942; *BT*, 23 September 1942.
[67] Burhman to Secretary of State, 14 October 1942. RG84/Confidential File/1942 File no. 823. NARA.
[68] Gilfillan to Gransden 10 October 1942. CAB/9/CD/225/18. PRONI.
[69] *BT*, 9 October 1942.
[70] Ibid. Buhrman reported the outcome to Washington. Buhrman to Secretary of State, 14 October, RG84/Confidential File/1942 File no. 823. NARA.
[71] *BT*, 9 October 1942.
[72] McKenzie's visit to the priest was revealed in the press, but not at his trial. *Newsletter*, 21 October 1942; *Down Recorder*, 24 October 1942.
[73] *Board of Review*, volume 1, ETO82: *United States v. Technician First Class Lawrence H. McKenzie* (39389670), Company G, 1st Armored Division, 20 October 1942, 10. Underlining in original.
[74] Ibid.
[75] Ibid.
[76] Ibid.
[77] *Board of Review*, volume 6, ETO2007, *United States v. Private Wiley Harris, Jr.*, (6924547), 626th Ordnance Ammunition Company, 17 March 1944, 16. Underlining in original.
[78] Sonya O. Rose, 'Sex, Citizenship, and the Nation in World War II Britain', *The American Historical Review*, v103, no.4 (October 1998): 1158. Sexual assaults by black GIs were extremely rare, according to Longmate. Longmate, 126-127.
[79] Reynolds, 23; Rose, 'Sex, Citizenship', 1159; Schaffer also notes that interracial sex was seen as 'deviant'. Schaffer, 'Fighting Racism', 257. Only nineteen states did not have anti-miscegenation laws; they were finally repealed by the *Loving v. Virginia* Supreme Court decision of 1967.
[80] Secretary of State for War, Sir James Grigg, wanted to openly endorse American segregation. See Reynolds, 224-227; Longmate, 120-121. For a discussion of 'brown babies', see Plummer, 'Brown Babies: Race, Gender and Policy after World War Two, in *Window on Freedom: Race, Civil Rights and Foreign Affairs, 1945-1988*, Plummer (ed) (Chapel Hill, NC, 2003).
[81] Quotations from Sonya O. Rose, *Which People's War? National Identity and Citizenship in Wartime Britain, 1939-1945* (Oxford and London: Oxford University Press, 2003), 27 and 78. For discussion of wartime female sexuality, including attitudes towards relationships with African Americans, see Rose's work. Some women were even jailed for sleeping with black soldiers. Gardiner, 484.
[82] Statistics from Lilly, 'Dirty Details', p497. General Jacob L. Devers assigned particular towns to particular units. General Jacob L. Devers to Commanding General, SOS, ETOUSA, 25 October, 1943. RG498/HQETOUSA/HD/AF, Box 43, File 218. NARA. Rape would remain a capital crime in the US military until 1948. McGuire, *Hastie*, 89.
[83] Lilly, 'Dirty Details', p497.
[84] Requests of African American GIs to marry their white girlfriends were 'always refused' according to Gardiner. Gardiner, 481. That said, Valerie Hill-Jackson estimates that between 70 and 100 women from the long-established black community in Cardiff's Tiger Bay area married African American servicemen and moved to the States. http://www.gibrides.com/the-welsh-war-brides-of-tiger-bay/ accessed 23 June 2015. Hill-Jackson and 15th Floor Productions have made a documentary about this, *Tiger Brides* (2013).
[85] McGuire, *Hastie*, 88-89.
[86] Much has been written on Scottsboro, but for an analysis of it as a 'legal lynching', see Philip Dray, *At the Hands of Persons Unknown*: *Lynching of Black America* (New York: Modern Library, 2003), 303-324. In New Caledonia, two African American soldiers were initially given life sentences for allegedly raping a white prostitute. Given the flimsy evidence and harsh sentencing, Hastie viewed New Caledonia as the Army's Scottsboro. McGuire, *Hastie*, 88. See also, Gough, 'Messing'.
[87] William Hastie to Margaret C. McCulloch, Department of Social Science, Fisk University, 28 July 1944, cited in McGuire, *Hastie*, 87. For the punishment of African American troops for minor offences, see ibid., 71-73. Hastie served in the War Department from October 1940 until his resignation in January 1943. African Americans off-base in the south found themselves subject to 'Southern justice'.
[88] For details of the Henry case, see Smith, 1-4; 185-186 and Moore, 213.
[89] Unlike Henry, Mickles is entirely forgotten today, but his case was reported by African American and other US newspapers and even in Australia. *Reading Eagle* (Pennsylvania), 4 January 1943, https://news.google.com/newspapers?nid=1955&dat=19430103&id=uVwiAAAAIBAJ&sjid=epgFAAAAIBAJ&pg=3011,1309415&hl=en; *Afro-American*, 23 January 1943, https://news.google.com/newspapers?nid=2211&dat=19430123&id=mxAmAAAAIBAJ&sjid=rv0FAAAAIBAJ&pg=3582,5581755&hl=en ; *Sydney Morning Herald*, 5 January 1943, http://trove.nla.gov.au/ndp/del/article/17831897?searchTerm=&searchLimits=l-publictag=Capital+punishment; *Courier Mail*, (Brisbane), 6 January 1943, http://trove.nla.gov.au/ndp/del/article/42055686/2005477?zoomLevel=3. All accessed 26 May 2015.
[90] *Board of Review*, Volume 1, ETO292 *United States v. Private 1st Class Sammie Mickles* (34021930), 226th Q.M. Company, 29 December 1942, 231-262.
[91] Ibid., 259.
[92] Advice of Staff Judge Advocate; Staff Judge Advocate, XV Corps, US Army (henceforth 'Advice-SJA'), 11 March, 1944, To: The Commanding General, XV Corps, US Army, (henceforth 'GC XV') 1. *CMR Harris*.
[93] Cross examination of Eileen Megaw, 12, Record of Trial Proper: Confidential. Headquarters XV Corps United States Army, Office of the Commanding General, APO US Army Victoria Barracks, Belfast, Northern Ireland (henceforth 'Record of Trial Proper'), 17 March 1944; Redirect examination of Private Robert Fils by prosecution, ibid., 54. *CMR Harris*. Witnesses underwent 'direct examination' by the prosecution, 'cross examination' by the defense and 'examination' by the court. Witnesses could also face 'redirect examination' by any of the above. The only witness for the defense was Harris's commanding officer Captain Earl R. Garner.
[94] SJA to GC XV, 11 March, 1944, 2.
[95] West asserts that 'the maladministration of military justice in World War Two was of gigantic proportions', primarily because of 'command influence' over the court. West, 36.
[96] The *Northern Whig*, for example, did not mention Harris's race, while only the *Irish News* (*IN*) reported Coogan's use of 'Nigger'. *Northern Whig*, 18 March 1944; *IN*, 18 March 1944. This trial, and crime by black soldiers generally, is absent from African American newspapers. Harris's execution was, however, reported in the *New York Times*. *New York Times*, 27 May 1944.
[97] Cross examination of Eileen Megaw, 17 March 1944. Record of Trial Proper, p11-12. *CMR Harris*. 'Negro' is not capitalized.

[98] *BT*, 17 March 1944; *IN*, 18 March 1944; *Northern Whig*, 18 March 1944.
[99] Summary of Evidence, INCL 1, Statement, Eileen Mildred Megaw, March 9, 1944. *CMR Harris.* Note the non-racialized language of Megaw. The Board of Review mistakenly attributed Megaw's description of Coogan being 'highly intoxicated' to Harris. *United States v. Harris*, 2. On prostitution, see Rose, 'Sex, Citizenship', 1164. McCormick, 'One Yank', 249.
[100] Direct Examination of Megaw, 17 March 1944. Record of Trial Proper, 9. *CMR Harris*.
[101] Harris was allowed to cross examine witnesses when they gave their statements on 9 and 10 March 1944. He asked Megaw 'did I try to cut you?' to which she replied, 'no, you did not. I saw no weapon in your hands, at all'. Summary of Evidence, INCL 1, Statement, Eileen Mildred Megaw, March 9, 1944. *CMR Harris*.
[102] Direct Examination of Harris, 17 March 1944. Record of Trial Proper, 65. *CMR Harris*.
[103] Ibid., 66.
[104] Questions by the president, Ibid., 72. Regarding self-incrimination, and the Fifth Amendment, see *Digest of Opinions of the Branch Office of the Judge Advocate General with the European Theater of Operations US Army*, Volume 1, issued by Branch Office of the Judge Advocate General with the European Theater of Operations, U. S. Army APO 887, 1945, Index A, AW24, 27-28.
[105] Direct examination of Annie Murdock, 17 March 1944. Record of Trial Proper, 20. *CMR Harris*. Not all of the witnesses saw the whole incident, for example, Annie Murdock and her sister-in-law Bridget Murdock fled indoors when the altercation started. All saw the knife, or 'something shining', although some saw it in his left hand and others in his right. Cross examination of Bridget Murdoch, ibid., 15; direct examination of Kathleen McGinness, ibid., 22; direct examination of Kathleen Dickey, ibid., 26**.** In her original statement, Annie Murdock did not say if Harris was armed when struck. Exhibit 'E', Statement of Annie Murdock, 8 March 1944. *CMR Harris*.
[106] Summary of Evidence, Statement by the Accused, March 10, 1944, 2. *CMR Harris*.
[107] Summary of Evidence, INCL 5, Statement, Kathleen McGinness, March 9, 1944. McGinness was consistent about this, for example, when questioned by Harris. Summary of Evidence, INCL 5, Cross Examination by the Accused, March 10, 1944. *CMR Harris*. Other witnesses said that Harris had the torch in his left hand.
[108] Ironically, as well as serving in a unit with a very similar name to an African American one, Morrison's middle name was 'Douglas', however, the 46th Field Artillery Battalion was all-white. I am greatly indebted to Chris Farago of the 46th's website (http://www.46fabww2.org/) for confirming this for me. The memorandum requiring an African American officer be present was issued only eleven days before Harris's trial. Memorandum from Maj. Gen. John C.H. Lee, 6 March 1944. RG338, VIII Corps, 250 Series: Discipline; 250.1 Morals and conduct, January 1943-June 1945. Cited in Kaplan, 195(n).
[109] Sgt. London, cross examination, Record of Trial Proper, 17 March 1944. 47. *CMR Harris*.
[110] This discussion took place during the testimony of Captain Lide of the Medical Corps. Capt. Thomas N. Lide, Medical Corps, 317th Station Hospital, APO813, examination by court, Record of Trial Proper, 17 March 1944, 79. *CMR Harris.*
[111] Ibid.
[112] Ibid.
[113] Record of Trial Proper, 17 March 1944, 84. The sentence was confirmed by Eisenhower on 12 April 1944.
[114] Direct Examination of Tynan, 17 March 1944. Record of Trial Proper, 30. CMR *Harris.* CID, Exhibit "I," Statement of James Tynan, 9 March 1944, Statement taken by the RUC. *CMR Harris.*
[115] CID, Statement Megaw, 9 March 1944. *CMR Harris*.
[116] Wade H. Haislip, Major General, US Army Commanding, to Michael Coogan, 31 May 1944. A similar letter was sent to the local police. Haislip to District Inspector, Royal Ulster Constabulary, York Street, Belfast, 31 May 1944. *CMR Harris*.
[117] *IN*, 22 March 1944.
[118] *BT*, 21 March, 1944. The *Irish News* did not mention the Coroner's view of Coogan.
[119] Cabinet Meeting, 25 May 1944. CAB4/585, PRONI.
[120] Topping, 'Dusky Doughboys', 20-22**.** These pleas came Protestant churches and, generally, from unionists. Some explicitly mentioned racism as a factor in Harris's sentence. See, for example, 'A Loyal and Law-Abiding Citizen' to Brooke, 25 May 1944. CAB9CD/225/2. PRONI.
[121] Diary of Sir Basil Brooke, 25 May 1944. Brooke also stated: 'as far as I can make out the man he murdered deserved all he got'. D/3004/D/35.
[122] General John C. H. Lee to the Duke of Abercorn, 10 June 1944. PRONI, CAB9CD/225/2. Belfast's Lord Mayor also requested mercy. Telegram from Crawford McCullagh to the Commanding General, US Troops, Northern Ireland, 25 May 1944. LA/7/3A/120. PRONI.
[123] Review-SJA, by Colonel C. Robert Bard, JADG, SJA, 23 March 1944, 4. *CMR Harris.*
[124] Ibid., 2.
[125] Ibid.
[126] Ibid., 3.
[127] Ibid., 4-5.
[128] Review-SJA, 'Personal History of the Accused,' by Colonel C. Robert Bard, JADG, SJA, 23 March 1944.
[129] Lilly and Thomson, 'Executing US Soldiers', 279.
[130] Review SJA, by Captain H. R. Stadfield, JADG, Assistant Judge Advocate, c/signed by Brig. Gen. Ed C. Betts, SJA, 8 April 1944, 2.
[131] Ibid., 3.
[132] Ibid.
[133] Ibid., 4.
[134] *United States v. Harris*, 15.
[135] Ibid., 16.
[136] Ibid., 17.
[137] Ibid., 17-18. West notes: 'once these [review] boards affirmed a sentence, and it was approved by the theater staff judge advocate, the sentence, including the death penalty, could be carried out immediately', avoiding any interference from 'reform minded' officers in Washington. West, 37.
[138] Lilly and Thomson, 'Executing US Soldiers', 282.
[139] Lilly and Thomson discuss the Harris case in these terms, noting his passive defense, and talk more generally about the military's obsession with sex crimes. See also Alice Kaplan's account of the James Hendricks court-martial where a murder trial focussed primarily on the accused's attempted rape of a French woman rather than his, arguably accidental, killing of her husband. Kaplan, 58-59.