

Contra Costa County Bar Association - Port Chicago Task Force

2300 Clayton Road
Concord, CA 94520

August 9, 2023

The Honorable Franklin R. Parker
Assistant Secretary for Manpower & Reserve Affairs
United States Navy
Pentagon, Room 4E598
Washington, D.C. 20350

Re: Exoneration of the Port Chicago 50

Dear Assistant Secretary Parker:

Today marks the 79th anniversary of the Port Chicago work stoppage, when in 1944, following the Port Chicago disaster, 258 African American sailors objected to loading munitions in racially segregated divisions because they were not given specific training in handling explosives and were not provided working conditions that met legal safety standards. For this, fifty sailors, known as the Port Chicago 50, were charged with “mutiny” and convicted of “conspiracy to commit mutiny.”

We are writing to you, Secretary Parker, because we believe the convictions of the fifty African American sailors are a historic injustice. Following up on our July 17 letter marking the 79th anniversary of the disaster, we would like to outline the many reasons we believe exoneration would be appropriate and beneficial to our nation, and why we maintain the sailors were wrongfully convicted. We focus this letter on the unjustness of racial discrimination at Port Chicago Naval Magazine and the legality of the order to return to the work of loading ammunition under the same hazardous conditions that led to the disaster.

HISTORY

During World War II, racial segregation at Port Chicago Naval Magazine in the East San Francisco Bay Area relegated African Americans solely and separately to the hazardous task of loading high explosives onto cargo ships. Policies of racial segregation devalued the lives of African Americans, and at Port Chicago this was reflected in the working conditions, as command failed to provide sailors with specialized training in handling explosives and neglected to enforce safety protocols for African American divisions.

Port Chicago command prioritized speed and output over safety. Officers pitted divisions against each other in munitions-loading competitions, betting on the outcome and rewarding divisions that could load munitions the fastest. Large explosives were rolled and winches were overloaded to meet command’s incredibly high expectations for speed. African American sailors raised

concerns with their superiors on numerous occasions over safety procedures at Port Chicago. Unfortunately, these concerns, along with warnings from the Port Director, longshoreman's union, and Coast Guard, were dismissed by Port Chicago command, as they believed adhering to safety laws would prevent them from executing time-saving shortcuts.

On July 17, 1944, in the largest home front disaster of World War II, two massive explosions obliterated two cargo ships at Port Chicago Naval Magazine; killing 320 people, including all African American sailors loading munitions. The Port Chicago disaster accounted for 15% of all enlisted African American casualties in World War II.

The night of the disaster, African American survivors fought valiantly to put out fires and contain the damage caused by the explosions. Afterward, a Rear Admiral proclaimed, "I am gratified to learn that, as was expected, Negro personnel performed bravely and efficiently in the emergency."

As the Navy investigated the cause of the explosion, Port Chicago command placed blame directly on those who could not defend themselves: the deceased African American sailors. The report states that the explosion most likely happened because "colored enlisted personnel are neither temperamentally or intellectually capable of handling high explosives." The officers who enforced illegally-unsafe practices were completely absolved and said to have "worked loyally, conscientiously, intelligently, and effectively."

Following the disaster, Port Chicago naval personnel were granted 30-days survivor's leave, with the exception of all surviving African American sailors. Despite being recognized for their bravery in response to the disaster, the sailors were tasked with cleaning up the remnants and debris at the decimated Naval Magazine. The African American sailors, many of whom were injured and traumatized from the disaster, were told they would receive survivor's leave once they gathered the charred flesh and body parts of their brothers-in-arms and placed them in baskets. Sailors picked up arms, legs, shoes with feet still in them, and witnessed a severed head floating in the water. Once they finished this gruesome task, command denied their survivor's leave.

Despite this recovery of body parts, and knowing the names of every single African American sailor who died in the disaster, the fallen sailors' remains were buried at Golden Gate National Cemetery with headstones which simply read "Unknown U.S. Sailor."

It was under these circumstances that the surviving African American sailors were required to return to loading munitions at nearby Mare Island Naval Shipyard just three weeks after the disaster. The Navy's investigation into the cause of the Port Chicago explosions was not yet complete, so commanding officers did not know which precautions to take to prevent another disaster. The sailors would be serving under the same leadership responsible for previous safety violations and there would be no changes to procedures, conditions, or safety practices. The only significant change made at Mare Island was to move buildings and structures farther away from the pier, so if another disaster happened, the only lives lost would be African Americans.

On August 9, 1944, when ordered to unload munitions at Mare Island under these conditions, 258 African American sailors balked. The work stoppage was unplanned and spontaneous. It was

not an action taken to usurp authority or overtake the base, and officers attested to the sailors' respectful demeanor throughout. After further questioning, the sailors notably did not refuse to serve their country, but rather requested to be reassigned, transferred, or sent overseas for combat – anything but handling explosives. To these requests, an Admiral responded by saying, “I don't believe any of you have the guts to go to sea.” All requests were denied.

Threatened with execution, 208 sailors returned to loading munitions. Fifty sailors, known as the Port Chicago 50, stood firm and were charged, not with an “insubordinate conduct” charge, but with the more severe charge of “mutiny” – which carried a wartime punishment of death.

The disaster and work stoppage gained national media attention, and the public began to question why the handling of high explosives was being assigned exclusively to African Americans. Immediately following this public outcry, on August 12, 1944, internal documents marked “confidential” reveal Navy leadership told Mare Island command that “pains must be taken to insure that there is no justification for an opinion that any type of hazardous work is assigned exclusively to negro personnel.” Upon receipt of this directive, white sailors were assigned to load munitions at Mare Island to create the appearance that race was not a factor in assignments. In response to accusations of racial prejudice, another internal document stated that reports of racial discrimination at Port Chicago and Mare Island were “purely imagined” by the African American sailors.

When the Department of the Navy examined the circumstances surrounding the work stoppage, and how the sailors were threatened with execution for asking to be reassigned following the disaster, many in leadership believed the sailors' requests should have been granted. As a result, on October 9, 1944, while the Port Chicago 50 were on trial for mutiny, the Navy's Bureau of Personnel released a directive titled “Negro Enlisted Personnel - Abolishment of Restrictions on the Assignment Of” which allowed commands to lift racial segregation mandates where “personnel problems” were present. This was a pivotal step in the military's move toward racial integration, and is viewed by many as an acknowledgement that Port Chicago command should have managed the situation at Mare Island by simply granting the sailors their request to be reassigned.

For the Port Chicago 50, however, it was too late. As a mutiny never actually occurred at Mare Island, the prosecution could not prove the sailors were guilty of mutiny, so the sailors were convicted of “conspiracy to commit mutiny.” They were all sentenced to 8-15 years prison and hard labor. The sailors' Navy-appointed attorney would later say, “There is no such charge under Naval jurisdiction as ‘conspiracy to attempt mutiny.’ You either commit mutiny or you don't... Those men were no more guilty of mutiny than they were of flying to the moon.”

The mutiny trial, amplified by a national advocacy campaign in support of the sailors led by NAACP's Thurgood Marshall and supported by Eleanor Roosevelt, drew public attention to the injustices and atrocities our African American enlisted men faced under Jim Crow segregation.

In January 1946, following an appeal campaign led by Thurgood Marshall which was officially denied, Secretary of the Navy James Forrestal suspended the sailors' “bad conduct” discharges and they were surreptitiously released from prison after serving 17 months of their sentences.

The men were immediately returned to active duty in the Navy aboard ships, as if the mutiny convictions never happened. One month later, the Navy officially ended racial segregation.

Many have cited Secretary Forrestal's actions as evidence the Navy viewed the mutiny convictions as a mistake. Others call attention to the fact that if the Navy truly viewed the men as mutineers, they would never have sent them to sea aboard ships. Nevertheless, the sailors carried the incredible burden and shame of their convictions until their very last days.

RE-EXAMINING THE DECISION OF THE BOARD FOR CORRECTION OF NAVAL RECORDS

In our research and discussions, we have learned that internal naval documents from 1944 include evidence which absolves the sailors of wrongdoing; however, we are also aware that a 1993 review by the Board for Correction of Naval Records (BCNR) upheld the sailors' wrongful convictions.

In 1992, after much advocacy from supporters – including high-profile entertainers Morgan Freeman, Danny Glover, and Louis Gossett Jr. – the Navy's BCNR agreed to "examine all aspects of the allegations of racial prejudice and discrimination." Following a year-long review, unanimous findings and recommendations were issued on July 13, 1993 and made public on January 6, 1994. The conclusion was that the majority of sailors were convicted for "refusal to obey lawful orders" and "neither racial prejudice nor other improper factors tainted the original investigations and trials" therefore "no error or injustice occurred."

In an effort to assist the Navy in reaching a new judgment, we would like to give our comments on why we believe the BCNR's conclusion should be reconsidered. We have outlined our reasons below:

BCNR Review: Sailors "refused to obey a lawful order."

Response: The Navy's official investigation, or inquiry report, which was released after the Port Chicago 50 were charged, states that Port Chicago command ordered the African American sailors to load munitions in a way that was contrary to Coast Guard regulations:

"Instructions were in effect on 17 July 1944 [and] were to be followed in principle... Violations of some of these regulations occurred. These violations consisted of rolling depth charges, hoisting depth charges in nets, failure to use a mattress or [thrum] mat at times, and the wearing of shoes shod with uncovered nails."

The Coast Guard, which was a military service within the Department of the Navy, gave two supervisory details to Port Chicago and Mare Island: To instruct the sailors on required safety practices and ensure those practices were being followed. Neither of these orders were followed by Port Chicago or Mare Island command.

As we know, the sailors were not given specialized training for loading high explosives, so all loading practices and techniques were learned from, and encouraged by, their direct superiors. Sailors who questioned illegal methods were rebuked, ridiculed, dismissed, or deliberately misinformed.

In the three weeks following the Port Chicago disaster, Navy command made no changes to safety conditions or loading practices, as the inquiry report had not yet reached its conclusions. As a result, on August 9, 1944 when orders were handed down to load munitions, those orders were to continue performing outlawed loading practices which were contrary to federal safety code and Coast Guard regulations. Therefore, Mare Island command's orders to load munitions were unlawful, as they were contrary to US law, and the sailors were justified in refusing them.

Importantly, at this time the local Coast Guard Captain had standing orders in effect to strictly follow safety regulations. By disobeying unlawful requests to violate safety regulations, the African American sailors were actually in compliance with the Captain's orders. These Coast Guard orders had the same standing as any order issued by Port Chicago or Mare Island Naval command. When given conflicting orders in which one order is lawful and the other is unlawful, any military personnel would be obligated to refuse the unlawful order and obey the lawful order. This is the choice the sailors made, and that choice was obligatory and lawful.

Conclusion: The sailors did not refuse to obey lawful orders, as the BCNR review claims. The orders they refused were unlawful, as confirmed by the violations outlined in the Navy's inquiry report and the fact that sailors were not given additional training or instructions prior to orders issued on August 9, 1944.

BCNR Review: "Neither racial prejudice nor other improper factors tainted the original investigations and trials."

Response: The investigation report includes the "opinions" that African American sailors were inherently inferior to white sailors, including the theory that African Americans were "neither temperamentally [nor] intellectually capable of handling high explosives." This is, objectively, racial prejudice by definition. It was improper, and its inclusion in the inquiry report is proof that the investigation was tainted by explicit racial bias and racial prejudice.

In regard to the mutiny charges, written communications reveal Port Chicago command theorized that African American sailors are inherently more likely to commit mutiny because of their "low mentality" and susceptibility to "group influence." An Admiral wrote, "a considerable portion of the [African American] men involved are of low mentality, and as such are particularly susceptible to group influence and wild rumors." Another Captain said "negro enlisted personnel have certainly been subjected to outside propaganda and subversive influence" and these were "normal characteristics of negroes, as was to be expected." This evidence of racial bias and harmful stereotypes – particularly that the sailors were more likely to commit mutiny because of their race – tainted the mutiny charges and conspiracy convictions. Additionally, official correspondence between the Commanding Officer, Naval Ammunition Depot, Mare Island and superiors in his chain of command includes racially prejudicial stereotypes including characterizing African Americans as "lazy," "inefficient," and of "poor quality."

Degrading racial stereotypes such as these not only affected the investigation and mutiny charges, but were the underlying basis for the prosecution's arguments throughout the trial. The prosecution inexplicably used the mutiny trial to publicly blame the 202 deceased African

American sailors for causing the Port Chicago disaster. Much of this testimony was irrelevant to the case; however, the racially prejudicial nature of the testimony should not have been allowed as it tainted the trial.

It is also worth noting that the African American sailors were assigned to Port Chicago because of racism. The segregated Navy of that era deemed them fit for such an assignment because of the racial stereotypes and attitudes described above. Moreover, at Port Chicago, only African American sailors performed the task of loading ammunition. Racism put the sailors in this position of heightened risk, made more dangerous and deadly by their commanding officers, all of whom were white. Finally, before the disaster, these African American sailors provided warnings of the danger created by the white officers' orders, but the white officers disregarded that input, and again it was because of their racist attitudes and beliefs. Simply put, the Port Chicago 50 and the other African American sailors at Port Chicago experienced the oppression of a segregated Navy.

Against this backdrop, we strongly disagree with the report's conclusion, and our analysis of the trial proceedings confirms its many flaws, including denial of due process and other fundamental rights, prejudicial inferences, coercion, hearsay testimony, prohibiting testimony which would incriminate the Navy, and many others. Many of these improprieties were unprecedented in the history of the Navy, and were exclusively inflicted upon African American sailors.

Conclusion: The BCNR's claim that racial prejudice did not taint the investigation and trial is false.

BCNR Review: "No error or injustice occurred" with respect to the Port Chicago defendants.

Conclusion: In our judgment, the BCNR's conclusion is incorrect. The unlawful order that gave rise to the proceedings was the byproduct of racially disparate treatment. To those who argue that the need for discipline of the armed forces requires the Navy to turn a blind eye to this fact, and therefore, the mutiny convictions should not be expunged, we disagree. The mutiny convictions are a tainted miscarriage of justice. But our military is a reflection of our democratic values and principles, which means military discipline must accord with our precepts of justice. Here, the discipline was cruelly ironic, as these brave 50 men sparked a civil rights movement that included desegregation of the Navy.

To those who argue that the Port Chicago 50 should not be heard to complain about the hazardous working conditions because during wartime danger was a part of everyday life for everyone, our response would be that while it is true that during wartime everyone lives with more risk of harm, particularly the military, that is no defense of a deliberately imposed, avoidable risk of harm that was the byproduct of racial discrimination. And of course, the backdrop was our national wartime effort to combat fascist powers in Europe and Asia who imposed their notions of racial superiority on others.

To those who claim the Port Chicago 50 lacked courage, so their request for exoneration has less merit, our response would start with the fact that these men wanted to fight in the war, but due to segregation they were relegated to menial tasks far from the fight. In any event, we believe that any hesitancy to load ammunition at Mare Island was rational and reasonable, not just because of

the likeliness of another deadly explosion, but because command had exhibited flagrant negligence and continual disregard for the morale and physical well-being of the African American sailors under their command.

There are some who claim nothing should be done to exonerate the Port Chicago 50 because of the so-called "slippery slope" problem. This argument focuses on the logical fallacy that says we should not make a correct decision today because it will lead to more decisions in the future. Presumably, these decisions in the aggregate would endanger some group's view of finite resources or positions of interests, and due to that anticipated loss, there is opposition to making the decision at hand. Our response is that in matters of justice the focus should be on making the correct decision, one by one. That is a fundamental precept of our values of justice, as appellate court's make decisions every day that can have broader consequences by settling expectations of society around issues larger than those of the litigants. That is the nature of justice; each decision implicating an interest in justice must be made according to its needs and terms. It bears noting that the order to return to loading ammunition in the context of August 1944 would never be given in today's Navy.

Our arguments are shared by others. We include a copy of U.S. Coast Guard Commander Todd Moe's August 2021 article for the U.S. Naval Institute, "Port Chicago Revisited." We commend the entire article to you for its insightful discussion of the issues, but here is its ending:

“In the case of the Port Chicago 50, however, exoneration based on Captain Goss's illegal order would further edify the military justice system. It would demonstrate to the entire chain of command that junior military members have the ability to refuse unlawful orders without fear of reprisal. The Navy should complete the final step in this case -- and issue full exoneration of the Port Chicago 50. ”

We wholeheartedly agree and urge the Navy to take this step to not only correct the historic injustice meted out on the Port Chicago 50 but also strengthen the rule of military justice by demonstrating the importance of these overarching values.

TODAY

The fifty Port Chicago sailors are no longer with us, however we are proud to say they are now being revered as civil rights pioneers and national heroes for standing up against racial injustice and initiating the desegregation of the Navy.

The “mutineer” label the sailors carried throughout their lives is now seen as an unjust misnomer. The sailors were not given specialized training for loading high explosives, so all loading practices and techniques were learned from, and encouraged by, their direct superiors. This included outlawed practices and illegal shortcuts which were confirmed in the inquiry report as “violations” of federal safety law. Orders to load munitions in such a manner were therefore unlawful; justifying the sailors’ refusal as the correct and lawful response.

Today, historians at the Naval History and Heritage Command teach that the sailors’ actions probably prevented another disaster, likely saved lives, and changed the Navy for the better.

National Park Service interpreters at Port Chicago Naval Magazine National Memorial in Concord, California teach of the Port Chicago 50's courage and positive contributions to our nation's ongoing struggle for racial equality.

Secretary of the Navy Ray Mabus wrote in December 2015, "The Navy strongly supports pardons or other executive action on behalf of the [Port Chicago] sailors so long as those actions do not adversely impact the integrity of the military process."

In 2021, in an act of reverence for the Port Chicago sailors and their contributions to our civil rights history, the largest special district in the nation named a 2540-acre park in the East San Francisco Bay Area "Thurgood Marshall Regional Park – Home of the Port Chicago 50." In partnership with the National Park Service, the East Bay Regional Park's future world-class visitor center will memorialize the sailors who died in the Port Chicago disaster, and honor the 51 African American heroes who bravely stood up to assist our nation in its ongoing endeavor to form a more perfect union.

Last month, Vice President Kamala Harris wrote that the Port Chicago 50 "pushed for progress, and our Armed Forces are stronger today because they reflect the diversity of our country." On this matter, she stated, "we cannot turn away from the truth of our country's past and we must confront injustices that still persist." We provided a copy of the Vice President's letter with our July 17 letter.

OUR REQUEST

With the 80th Commemoration of the Port Chicago disaster next July and the initial opening of the "Home of the Port Chicago 50" scheduled for 2025, we are reaching out to the Navy to correct what we view as a glaring injustice. The legacies of these American heroes, which will soon be interpreted to hundreds of thousands of park visitors per year, are unfairly burdened by the wrongful convictions which are still reflected on their personnel records today. For this reason, we are humbly requesting the Navy clear the sailors' records of any less-than-honorable discharge and exonerate them of any charges of mutiny, or any other charges brought against them in the aftermath of the July 17, 1944 disaster at Port Chicago Naval Magazine.

In our view, posthumous exoneration of innocent sailors should not adversely impact the integrity of the military's process. In fact, we see many benefits to correcting the narrative from one of injustice and distrust to one of restitution and reconciliation. This action can be done at no cost, and we believe clearing their records would be healing and just for the sailors' legacies, their families, and to our broader society.

We would be remiss if we did not recognize that efforts to secure justice for the sailors have been ongoing since Thurgood Marshall and Eleanor Roosevelt advocated on their behalf nearly 80 years ago. Those efforts were reignited with the 1989 release of the book "The Port Chicago Mutiny" by author Dr. Robert Allen. Subsequent political advocacy from U.S. Representatives George Miller and Mark DeSaulnier, and tireless work from community organizations, resulted in the establishment of the National Park Service memorial site in 1994, the presidential pardon of one of the last living sailors in 1999, naming of the regional park in their honor in 2021, and the State of California's official endorsement of exoneration in 2022. In addition to the State of

California, exoneration is supported by National Park Service, National NAACP, East Bay Regional Park District, Reverend Diana McDaniel and the Friends of Port Chicago National Memorial, Contra Costa County Board of Supervisors, Contra Costa County Mayors Conference, US Representatives Barbara Lee and John Garamendi, U.S. Senator Dianne Feinstein, U.S. Senator Alex Padilla, former U.S. Senator Barbara Boxer, the cities of Albany, Concord, Walnut Creek, Martinez, and Orinda, California, and thousands of individuals, civil rights groups, and veterans organizations including United Veterans Council, Delta Veterans Group, and Disabled American Veterans - Department of California.

The U.S. Navy has continually demonstrated they stand by their commitment to excellence and the fair treatment of all, and we sincerely appreciate your personal commitment to correcting past injustices. The recent steps the Navy has taken to address and correct the injustices endured by the Philadelphia 15 gives us certainty that regardless of your decision to exonerate or not, you will examine the cases of these fifty sailors with a clear heart and an open mind.

We hope to make next year's commemoration a day of celebration where the ever-growing chorus of veterans and individuals who support the Port Chicago 50's cause of justice and equality are no longer at odds with the Navy's official stance. We truly hope you will join us on July 17, 2024 at the National Park Service site to commemorate the events of Port Chicago, and put to rest the negative stigma surrounding the sailors' heroic actions.

Thank you for taking the time to review our justifications for re-examining the case of the Port Chicago 50. We welcome the opportunity to discuss this important matter with you, as together we can bring long-overdue justice to the brave American sailors of Port Chicago Naval Magazine. We can be contacted at the address above or through CCCBA's Executive Director Jody Iorns at PortChicago50@cccba.org. Thank you.

Very truly yours,

/s/ Contra Costa County Bar Association's Port Chicago Task Force

/s/ Black Employees Collective

/s/ Citizens for Historical Equity

/s/ Parents of African American Achievement Collaborative Team (PAAACT)

Encls.