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UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

[Stamped: Dec. 15 1995]

MEMORANDUM FOR THE DEPUTY SECRETARY OF DEFENSE

SUBJECT: Advancement of Rear Admiral Kimmel and Major General Short

This review was undertaken in response to a commitment that former Deputy Secretary Deutch made to Senator Thurmond in April 1995. You assigned me to conduct it. In essence, you asked me to advise you whether actions taken toward General Short and Admiral Kimmel some 50 years ago were excessively harsh, and if so, whether posthumous advancement to three- and four-star rank is the appropriate remedy.

These issues are immediate and highly emotional to the descendants of Admiral Kimmel and General Short. [1] Family members feel that the Pearl Harbor commanders were scapegoats for a disaster that they could neither prevent nor mitigate, and that others who were blameworthy escaped both official censure and public humiliation. They argue that advancement (or, as they put it, restoration to highest rank held) is the best way to remove the stigma and obloquy.

More is at stake here than the reputations of two officers and the feelings of their families. The principle of equity requires that wrongs be set right. In addition, we owe it to posterity to ensure that our history is told correctly.

With support from a small team of DoD civilians and military officers, I studied the performance of the two commanders, the procedures that led to their relief and retirement and the reports of the several Pearl Harbor investigations. I also tried to understand the basis for the families' claim that General Short and Admiral Kimmel were unfairly denied restoration to three-star and four-star rank when that action became legally possible in 1947. The team reviewed thousands of pages of documents, read a number of secondary sources, visited Pearl Harbor and interviewed members of the families.

My findings are:

1. Responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short; it should be broadly shared.
 - a. The United States and Japan were pursuing policies that were leading inexorably to war. Japan had occupied Manchuria, was threatening much of Asia and had joined in a tripartite alliance with Italy and Germany. The US reaction was to stop selling Japan

[1] On December 7, 1941 Admiral Husband E. Kimmel was Commander in Chief, United States Fleet and Commander in Chief, United States Pacific Fleet—the Navy's second-highest officer after the Chief of Naval Operations. Lieutenant General Walter C. Short was Commander of the Army's Hawaiian Department.

[Certain typographical errors were corrected in this electronic copy of the Report after confirmation that changes were appropriate in consultation with Capt. S. Smith, USN, senior military adviser to the Hon. Edwin Dorn, on 25 January, 1996. LWJ]

Page 2

strategically important materials including oil (Japan bought most of its oil from the US) and, in the summer of 1941, to freeze Japanese assets in the US. Negotiations in the summer and fall of 1941 failed to break the impasse. By late November 1941, civilian and military leaders in the US had concluded that conflict was imminent; the only questions were when and where it would occur.

b. Admiral Kimmel and General Short were both sent "war warning" messages on November 27. They were advised that negotiations were stalemated and that Japan might take hostile action at any moment. Admiral Kimmel was ordered to execute a "defensive deployment" consistent with the US war plan in the Pacific; General Short was ordered to undertake "reconnaissance and other measures...", but his instructions were muddled somewhat by advice to avoid actions that would "alarm [Hawaii's] civil population or disclose intent."

c. Admiral Kimmel and General Short discussed the November 27 war warning, but concluded that an attack would occur in the Western Pacific, not in Hawaii. Indeed, the November 27 messages had mentioned the likelihood that the attack would occur in "the Philippines, Thai or Kra Peninsula or Borneo." Washington also did not expect Hawaii to be attacked. Further, it appears that Admiral Kimmel and General Short were depending on timely tactical warning from Washington, should Hawaii become a target. Military leaders in Washington, on the other hand, appear to have felt that the November 27 war warning would lead Admiral Kimmel and General Short to heighten their vigilance, and failed to examine closely what they actually were doing.

d. Officials in Washington did not send Admiral Kimmel and General Short other information, derived from the *Magic* project that broke the Japanese code, that might have given them a greater sense of urgency and caused them to surmise that Hawaii was a likely target. For example, Washington did not tell them that Japanese agents in Hawaii had been instructed to report on the precise location of ships at Pearl Harbor. (The Japanese attacked Hawaii, the Philippines and several other targets on the same day.)

e. Information-sharing and operational cooperation were hampered by bureaucratic rivalries. The Army and Navy were separate executive departments reporting directly to the President, and only the President could ensure that they were working together. Admiral Kimmel and General Short had cordial personal relations, but felt it inappropriate to inquire into one another's professional domains. This apparently was the standard at the time. General Short's mission was to defend the fleet in Hawaii; Admiral Kimmel apparently never asked in detail about General Short's plans. Admiral Kimmel's mission was to prepare for offensive operations against Japan. Early in 1941 the Navy also had assumed from the Army responsibility for conducting long-range aerial reconnaissance. Even after receiving the war warning, General Short apparently did not ask Admiral Kimmel whether the Navy actually was conducting long-range air patrols. Nevertheless, General Short assumed that he would receive the advance warning needed to launch Army Air Corps fighters, which were on four-hour alert, and to ready his anti-aircraft guns, whose ammunition was stored some distance from the batteries. Just as

Page 3

washington did not provide the Hawaii commanders with all the

memo.txt

intelligence that was derived from *Magic*, so it also appears that Admiral Kimmel had more intelligence than he chose to share with General Short. For example, Admiral Kimmel learned on December 2 that several Japanese carriers were "lost" to US intelligence; their radio signals had not been detected for more than two weeks. He did not tell General Short.

f. The run-up to Pearl Harbor was fraught with miscommunication, oversights and lack of follow-up. In his November 27 war warning message, Army Chief of Staff Marshall directed General Short to "undertake such reconnaissance and other measures as you deem necessary..." General Short assumed this order was misworded, because he believed General Marshall knew that the Navy had taken over the reconnaissance responsibility from the Army. He also assumed that the Navy was doing it. General Short's response to General Marshall described plans to defend against sabotage, but said nothing about reconnaissance. Apparently, no one in the War Department took note of the omission. The November 27 war warning from Admiral Stark, the Chief of Naval Operations (CNO), instructed Admiral Kimmel to undertake a "defensive deployment preparatory to carrying out the tasks assigned in WPL 46; [the war plan]." Exactly what Admiral Stark intended is not clear. Admiral Kimmel interpreted the CNO's guidance to mean that he (Admiral Kimmel) should continue what he had been doing for several weeks -- sending submarines and planes to patrol around Wake and Midway, and patrolling outside Pearl Harbor for Japanese submarines. Carrier task forces en route to Wake and Midway were doing aerial reconnaissance as part of their normal training, thus covering a portion of the Pacific west and southwest of Hawaii. "Deployment" also could have meant to sortie the fleet from Pearl Harbor. Admiral Kimmel did not do that. Instead, he kept his ships in port, but pointed their bows toward the entrance so that they could leave quickly if the need arose. Moving several dozen warships through Pearl Harbor's narrow channel and into fighting posture on the high seas would have taken several hours. No one in the Department of Navy took issue with Admiral Kimmel's interpretation of the CNO's instructions.

g. Resources were scarce. Washington didn't have enough cryptologists and linguists to decode all the Japanese message traffic, so the analysts gave priority to diplomatic traffic over military traffic. The Navy in Hawaii was short of planes and crews. The Army in Hawaii was short of munitions.

h. Finally, the Japanese attack was brilliantly conceived and flawlessly executed. It involved a bold new use of carriers. It required crossing four thousand miles of ocean undetected, which meant taking the storm-tossed northern route where there was little commercial shipping. It required new technology--torpedoes that could be used in the shallow, narrow confines of Pearl Harbor. And the attack required extraordinarily well trained air crews with commanders capable of coordinating more than 150 planes in each wave of attack. US Naval exercises during the 1930s and the British Navy's 1940 raid on the Italian fleet at Taranto had demonstrated the feasibility of carrier-based attacks. But the scale and complexity of the Japanese attack greatly exceeded anything envisioned before. American military experts underestimated Japanese capability.

Page 4

2. To say that responsibility is broadly shared is not to absolve Admiral Kimmel and General Short of accountability.

a. Military command is unique. A commander has plenary responsibility

Page 3

memo.txt

for the welfare of the people under his or her command, and is directly accountable for everything the unit does or fails to do. When a ship runs aground, the captain is accountable whether or not he/she was on the bridge at the time. When a unit is attacked, it is the Commander and not the intelligence officer or the sentry who is accountable. Command at the three- and four-star level involves daunting responsibilities. Military officers at that level operate with a great deal of independence. They must have extraordinary skill, foresight and judgment, and a willingness to be accountable for things about which they could not possibly have personal knowledge. Today, for example, the senior Commander in Hawaii is responsible for US military operations spanning half the world's surface -- from the west coast of the United States to the east coast of Asia. His fleets sail the Pacific, the Indian Ocean, the China Sea, the Sea of Japan, the Arctic and the Antarctic. This, in the understated language of military law, is "a position of importance and responsibility."

b. It was appropriate that Admiral Kimmel and General Short be relieved. In the immediate aftermath of the attack, their relief was occasioned by the need to restore confidence in the Navy and Army's leadership, especially in the Pacific, and to get going with the war. Subsequently, investigations concluded that both commanders made errors of judgment. I have seen no information that leads me to contradict that conclusion.

c. The intelligence available to Admiral Kimmel and General Short was sufficient to justify a higher level of vigilance than they chose to maintain. They knew that war was imminent, they knew that Japanese tactics featured surprise attacks, and Admiral Kimmel (though not General Short) knew that the US had lost track of Japan's carriers. Further, they had the resources to maintain a higher level of vigilance. Admiral Kimmel believed that the optimum aerial reconnaissance would require covering 360 degrees around Hawaii for a sustained period. The Navy clearly did not have enough planes for that. This does not mean, however, that Admiral Kimmel had to choose between ideal aerial reconnaissance and no aerial reconnaissance. The fleet also had cruisers and destroyers that could have been used as pickets to supplement air patrols, but were not.

d. Different choices might not have discovered the carrier armada and might not have prevented the attack, but different choices -- a different allocation of resources -- could have reduced the magnitude of the disaster. The Navy and the Army were at a low level of alert against aerial attack. Shipboard anti-aircraft guns were firing within five minutes. The Army was not able to bring its batteries into play during the first wave of the attack and only four Army Air Corps fighters managed to get airborne. US losses included 2,403 dead (1,177 of whom are entombed in the Arizona), 1,178 wounded, eight battleships, ten other vessels and more than 100 aircraft. Japanese losses were 29 aircraft, one large submarine and five midget submarines.

Page 5

3. The official treatment of Admiral Kimmel and General Short was substantively temperate and procedurally proper.

a. Admiral Kimmel and General Short were the objects of public vilification. At least one Member of Congress demanded that they be summarily dismissed, stripped of rank and denied retirement benefits. They received hate mail and death threats. The public and Congress were clamoring for information about Pearl Harbor. The news media went into a feeding frenzy, gobbling up tidbits of blame and punishment. Under the

Page 4

memo.txt

circumstances, it is not surprising that information very hurtful to Admiral Kimmel and General Short -- information implying that they would be court martialed, for example -- was given to the press. These things happen, often not for the most honorable of reasons. This does not mean, however, that Admiral Kimmel and General Short were victims of a smear campaign orchestrated by government officials.

b. In contrast to their treatment by some of the media, their official treatment was substantively temperate. They were relieved, they reverted to two-star rank, and under the laws in force at the time, their retirements were at the two-star Level. Although there was mention of court martial, no charges were brought. Indeed, official statements and investigations seemed purposely to avoid wording that would lead to court martial. For example, the Roberts Commission used the phrase "dereliction of duty" -- a stinging rebuke, but at the time not a court martial offense. The Roberts Commission avoided other phrases, such as "culpable inefficiency" and "neglect of duty", that were court martial offenses. Later investigations such as the Joint Congressional Committee report eschewed "dereliction" in favor of "errors of judgment."

c. Admiral Kimmel requested a court martial in order to clear his name, but the request was not acted on. There is an allegation that the government feared bringing charges because a court martial would have put other senior military and civilian leaders in a bad light. This is possible. But it is equally possible that there simply were not sufficient grounds to sustain a successful prosecution. A court martial almost certainly would have revealed the existence of *Magic*, a key US intelligence asset.

d. I do not find major fault with the procedures used in the investigations. Family members have complained that Admiral Kimmel and General Short were denied "due process"; that is, they were not allowed to call their own witnesses or to cross-examine witnesses. But the calling and cross-examination of witnesses is characteristic of trials, not of investigations. Some of the investigations may have been more thorough than others, but I do not see a convincing basis for concluding that Admiral Kimmel and General Short were victims of government scapegoating or of a government-inspired smear campaign.

4. History has not been hostile to Admiral Kimmel and General Short.

a. None of the official reports ever held that Admiral Kimmel and General Short were solely responsible for the Pearl Harbor disaster, although the Roberts Commission came

Page 6

close. Later reports eschewed [sic] the stinging "dereliction of duty" rebuke in favor of "errors of judgment."

b. Historians who write about Pearl Harbor seem to be divided into three camps: those who hold Admiral Kimmel and General Short partly (but not solely) responsible; those who believe they were scapegoats; and those who lay much of the blame on bureaucratic factors such as the lack of coordination between the Army and the Navy. National Park Service guides at the Arizona Memorial, for example, focus on the factors that led to war and on the tactics used in the attack, not on individual military leaders. A 30-minute film produced exclusively for use at the Arizona Memorial mentions Admiral Kimmel and General Short only once, and not at all disparagingly. Admiral Kimmel and General Short are not discussed prominently or disparagingly in history classes at West Point, Annapolis

Page 5

memo.txt

and the Air Force Academy. Of eight US history texts in use at the service academies today, one is critical of Admiral Kimmel. Thus, while their reputations may have been damaged in the years immediately following Pearl Harbor, the passage of time has produced balance.

5. There is not a compelling basis for advancing either officer to a higher grade.

a. Their superiors concluded that Admiral Kimmel and General Short did not demonstrate the judgment required of people who serve at the three- and four-star level. That conclusion may seem harsh, but it is made all the time. I have not seen a convincing basis for contradicting it in the instant case. It also is important to keep in mind that retirement at the two-star grade is not an insult or a stigma. Very few officers rise to that level of distinction.

b. Retirement at three- and four-star level was not a right in 1947 and is not today. Officers are nominated for retirement at that level by the President at the President's discretion and based on his conclusion that they served satisfactorily at the temporary grades. His nomination is subject to the advice and consent of the Senate. A nominee's errors and indiscretions must be reported to the Senate as adverse information.

In sum, I cannot conclude that Admiral Kimmel and General Short were victims of unfair official actions and thus I cannot conclude that the official remedy of advancement on the retired list is in order. Admiral Kimmel and General Short did not have all the resources they felt necessary. Had they been provided more intelligence and clearer guidance, they might have understood their situation more clearly and behaved differently. Thus, responsibility for the magnitude of the Pearl Harbor disaster must be shared. But this is not a basis for contradicting the conclusion, drawn consistently over several investigations, that Admiral Kimmel and General Short committed errors of judgment. As commanders, they were accountable.

Admiral Kimmel and General Short suffered greatly for Pearl Harbor. They lost men for whom they were responsible. They felt that too much of the blame was placed on them. Their children and grandchildren continue to be haunted by it all. For all this, there can be sadness. But there can be no official remedy.

Page 7

I recommend that you provide a copy of this memorandum and attachment to Senator Thurmond, the families of Admiral Kimmel and General Short, the secretaries of Army and Navy and other interested parties.

/S/ Edwin Dorn

Attachment: Staff Report

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ADVANCEMENT
OF
REAR ADMIRAL KIMMEL
AND
MAJOR GENERAL SHORT
ON THE RETIRED LIST

Office of the Under Secretary of Defense
for Personnel and Readiness

December 1, 1995

CONTENTS

Table of Contents i
I. Introduction I-1
II. The Personnel Actions II-1
III. The Pearl Harbor Investigations III-1
IV. The Court of Public Opinion IV-1
V. Options for Further Action V-1

Page I-1

I. INTRODUCTION

BACKGROUND

On December 7, 1941, Admiral Husband E. Kimmel, USN, was Commander in Chief, United States Fleet, and Commander in Chief, United States Pacific Fleet. Lieutenant General Walter C. Short, USA, was Commander of the Army's Hawaiian Department. Later in that month, both were relieved of their commands and reverted to their permanent, two-star ranks. Major General Short retired February 28, 1942, and Rear Admiral Kimmel retired March 1, 1942. Under the laws in effect at that time, Admiral Kimmel retired as a Rear Admiral and General Short retired as a Major General, both two-star ranks. [1] General Short died in 1949 and Admiral Kimmel died in 1968.

Since the end of World War II, Admiral Kimmel, General Short, and their families have requested on several occasions that action be taken to advance those officers on the retired list to the highest grade they held while on active service. The requests were

[1] Under the law in effect when Admiral Kimmel retired, he retired in his permanent grade as a Rear Admiral (Act of May 22, 1917, 65th Cong., 1st Sess., Ch. 20, Section 18 (40 Stat. 89)). Similarly, General Short retired in his permanent grade of Major General (Act of Aug. 5, 1939 (53 Stat. 1214), as amended, Act of July 31, 1940 (54 Stat. 781); M.L. 1939, Supp. III, Section 286).

A few months after Admiral Kimmel retired, however, a law was enacted permitting any officer of the Navy who had served one year or more in the grade of vice admiral or admiral to retire at that grade (Act of June 16, 1942 (56 Stat. 370)). Admiral Kimmel was not eligible under this law because he had served less than one year as a four-star

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admiral. In August 1947, Congress removed the one-year requirement of the 1942 statute; this made Admiral Kimmel eligible for advancement on the retired list to four-star rank (Officer Personnel Act of 1947, Aug. 7, 1947, section 414, 61 Stat. 795). Although Admiral Kimmel has never been advanced to four-star rank, he began receiving retired pay based on the pay of a three-star admiral with the enactment of the Act of May 20, 1958 (72 Stat. 122, 130).

General Short was eligible for advancement on the retired list as a lieutenant general with the enactment of the Officer Personnel Act of 1947. Like the parallel Navy provision in the same Act, no minimum time of service in grade was specified. In June 1948, however, Congress enacted the Army and Air Force Vitalization and Retirement Equalization Act (P. L. 810, 80th Cong., June 29, 1948). A curious feature in this law (Section 203(a)) gave the Secretary of the Army the authority to advance any "commissioned officer of the regular Army . . . to the highest temporary grade in which he served satisfactorily for not less than six months while serving on active duty, as determined by the . . . Secretary." The provision, which only applied to world war II service, gave the Secretary of the Army the authority to advance General Short to lieutenant general on the retired list. This 1948 statute still is in effect, and recently provided the jurisdictional basis for the Army Board of Correction of Military Records (ABCMR) review of General Short's case. In that review (AC91-08788, 13 November 1991), the majority of the ABCMR recommended the advancement of General Short. The Deputy Assistant Secretary of the Army (DA Review Boards and Equal Employment Opportunity Compliance and Complaints Review), however, rejected the ABCMR's recommendation and denied the request posthumously to advance General Short on the retired list (memo SAMR-RB, 19 Dec 1991). The Secretary of the Army retains the authority to advance General Short. The Secretary of The Navy does not have any similar authority.

Page I-2

reviewed at the highest levels in the Department and the Executive Branch. Each of those requests was denied [2], most recently by President Clinton in December 1994 [3].

Early in 1995, Senator Strom Thurmond, Chairman of the Senate Armed Services Committee, and Representative Floyd Spence, Chairman of the House National Security Committee, asked that the Secretary of Defense attend a meeting on the issue with members of the Kimmel family [4]. In response to that request, then-Deputy Secretary of Defense John Deutch, Secretary of the Navy John H. Dalton, and Navy General Counsel Steven S. Honigman met with Senator Thurmond, members of the Kimmel family, historians and others on April 27, 1995. At that hearing, Chairman Thurmond asked that the Department reexamine the matter [5]. In response, Deputy Secretary Deutch pledged that:

"...this matter will be examined without preconception, that the judgments will be made fair on the basis of fact and with justice, and that we will speedily arrive at the best judgment we can on this matter." [6]

In subsequent correspondence, Senator Thurmond asked that the Department's review address the cases of both Admiral Kimmel and General Short and that the review be conducted at the Office of the Secretary of Defense level rather than at the Navy Department level [7]. In response to that request, Deputy Secretary of Defense John White asked Edwin Dorn, Under Secretary of Defense (Personnel and Readiness), to conduct

an independent review, and to report the results of his review not later than December 1, 1995. [8] This is that review.

PURPOSE

The purpose of this review is to ascertain and assess the facts and policies pertinent to the requests to advance Admiral Kimmel and General Short on the retired list, and to recommend appropriate action based on that assessment.

[2] See, for example, letters from Secretary Cheney, October 23, 1989; President Bush, December 2, 1991; Secretary Perry, September 7, 1994.

[3] Letter from President Clinton to Mr. Manning M. Kimmel, IV, December 1, 1994

[4] Letter from Sen. Strom Thurmond and Rep. Floyd Spence to Hon. William J. Perry, February 8, 1995.

[5] Thurmond, Sen. Strom, and others, "Remarks at Meeting of the Office of the Secretary of Defense and Members of the Kimmel Family Dealing with the Posthumous Restoration of the Rank of Admiral for Rear Admiral Husband E. Kimmel, United States Navy, April 27, 1995, Washington, D. C.", Transcript, p.7. Hereafter cited as "Thurmond transcript"

[6] *ibid.*, p. 7.

[7] Letter from Sen. Strom Thurmond to Hon. William J. Perry, May 17, 1995

[8] Letter from Hon. John White, Deputy Secretary of Defense, to Hon. Strom Thurmond, September 8, 1995

Page I-3

SCOPE AND SOURCES

Consistent with the Deputy Secretary's commitment to "producing a final DoD decision that will be recognized as principled, fair, and based on fact", [9] this review began with a compilation and exhaustive review of the written record, and additional materials developed especially for this review. Sources examined for this review include:

1. *The nine formal government investigations* of the events of December 7, 1941, culminating in the report of the Joint Congressional Committee on the Investigation of the Pearl Harbor Attack (JCC). Although the JCC report is a single volume [10], the current review is based on examination of original documents and other exhibits in the entire 39-volume hearing record [11], which includes the complete text of the earlier investigations.

2. *Personnel records for Admiral Kimmel and General Short*, provided by the National Personnel Records Center (NPRC) [12]. Service records of Admiral Kimmel are complete. The formal records of General Short are not in the NPRC files, and probably were destroyed during a massive fire on July 12, 1973. However, the NPRC was able to reconstruct some material regarding General Short from alternate sources at the NPRC and the Department of Veterans Affairs.

3. *Unofficial Assessments Published since 1946*, including books and articles. Among the books examined are Admiral Kimmel's own book, published in 1953 and the recent volume by Captain Beach, written in support of Admiral Kimmel and General Short [14].

4. *Materials associated with the several requests for advancement*, including correspondence with the families, Members of Congress, and the public; materials provided by the Kimmel and Short families; and other

5. NAVY COURT OF INQUIRY
Jul. 24- Oct. 19, 1944

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4. ARMY PEARL HARBOR BOARD
Jul. 20- Oct. 20, 1944

6. CLARKE INVESTIGATION
Aug. 4- Sep. 20, 1944

8. HEWITT INQUIRY
May 14- July 11, 1945

7. CLAUSEN INVESTIGATION
Jan. 24- Sep. 12, 1945 -----

-- 9. JOINT CONGRESSIONAL COMMITTEE --
Nov 15, 1945- May 23, 1946

Page I-5

APPROACH

As Deputy Secretary Deutch noted in the recent meeting hosted by Senator Thurmond, the issue turns on a balancing of accountability and fairness [15]. Accordingly, following this introduction the bulk of this report is devoted to a review of the record and an assessment of accountability, responsibility, and fairness in three distinct venues.

The retirement of Admiral Kimmel as a Rear Admiral and of General Short as a Major General was the direct result of two personnel actions in each case: relief from their Pearl Harbor commands in December, 1941, and retirements in February and March, 1942. After the war, legislation was enacted which would have made possible their advancement on the retired list; however, officials at the time declined to do so. Section II of this review addresses those personnel actions.

Much of the debate on the fairness to Admiral Kimmel and General Short has centered on the findings of the several formal investigations. [16] Section III of this review addresses those investigations.

The families are concerned with the "stigma and obloquy" flowing from early charges [17] and their persistent effect on public opinion. Thus, it is not sufficient to review only the personnel actions and investigations which constitute the Government's formal actions in these cases, so Section IV of this review addresses the "court of public opinion".

The final section of this review addresses options for further action.

[15] Thurmond transcript, p. 67

[16] For example, Mr. Edward R. Kimmel has stated. "the Roberts Commission...derelection of duty charge is the genesis Of the injustice done to Admiral Kimmel". Thurmond transcript. p. 18

[17] Mr. Edward R. Kimmel, Thurmond transcript, p. 19

II. THE PERSONNEL ACTIONS

This Section addresses three personnel actions affecting Admiral Kimmel and General Short: relief from their Pearl Harbor commands in December 1941; their retirements in February and March 1942; and the decisions not to advance them on the retired list.

RELIEF FROM COMMAND [1]

On February 1, 1941, Rear Admiral Husband E. Kimmel succeeded Admiral J. O. Richardson as Commander in Chief, Pacific Fleet and Commander in Chief, United States Fleet. [2] Incident to assuming these positions of command, Rear Admiral Kimmel also assumed the temporary rank of four-star Admiral. [3] At the time, the highest permanent grade that officers of the armed forces could hold was Rear Admiral or Major General (O-8). [4] Immediately after the Japanese attack on Pearl Harbor on December 7, 1941, Secretary of the Navy Frank Knox flew to Pearl Harbor on December 8 to conduct a preliminary investigation. Following Secretary Knox's report to the President on December 14, Admiral Kimmel was relieved of command and reverted to his permanent grade of Rear Admiral. [5]

Similarly, Major General Short replaced Major General Herron as Commander of the Army's Hawaiian Department, and assumed the temporary rank of Lieutenant General. General Short was also relieved of command on December 16, 1941, and reverted to his permanent grade of Major General. [6]

[1] Typically, relief and retirement of the most senior officers from the highest commands are handled personally and orally, and confirmed by very brief memoranda which do not give the reasons for the actions.

[2] Franklin D. Roosevelt letter Nav-3-D of January 7, 1941 to Rear Admiral Husband E. Kimmel: "In accordance with the provisions of an Act of Congress approved May 22, 1917, you are hereby designated as Commander in Chief, Pacific fleet, with additional duty as Commander in Chief, United States Fleet, with the rank of admiral, effective on the date of your taking over the command of the Pacific Fleet. In accordance with this designation you will assume the rank and hoist the flag of admiral on the above mentioned date." Documents in Rear Admiral Kimmel's service record indicate that he assumed duties as CincPac and CominCh on February 1, 1941.

[3] Rear Admiral Kimmel's temporary designation as a four star admiral was made under the provisions of existing law which allowed the President to designate six officers as Commanders of Fleets or subdivisions thereof with the rank of admiral or vice Admiral. Act of May 22, 1917, 65th Cong., 1st Sess., Ch. 20, § 18, 40 Stat. 89. Such advancements to the rank of admiral or vice admiral were to be in effect only during the incumbency of the designated flag officer. Id. ("... when an officer with the rank of admiral or vice admiral is detached from the command of a fleet or subdivision thereof . . . he shall return to his regular rank in the list of officers of the Navy . . .").

[4] This had long been the case. For example, Admiral Charles Frederick Hughes, the Chief of Naval Operations from 1927-1930, retired in his permanent grade of rear admiral. William R. Braisted, 'Charles Frederick Hughes', in "The Chiefs of Naval Operations" (Robert William Love, Jr., ed. 1980), p. 66. It is still the case today that retirement in a higher grade than O-8 requires nomination by the President and confirmation by the Senate.

[5] Secretary of the Navy Knox directed the relief of Admiral Kimmel on 16 December 1941 (PHA 5:2430), confirmed by SECNAV ltr 14358 of 3 January 1942.

[6] PHA, 3:1529.

Page II-2

For reasons both legal and practical, command in the United States Armed Forces has a special character. That character is distinct from rank. The need to maintain good order and discipline at all levels of command when lives are at stake creates an environment unique to the command of military units. As the Supreme Court has noted, "no military organization can function without strict discipline and regulation that would be unacceptable in a civilian setting" [7] and that "the rights of men in the armed forces must perforce be conditioned to meet certain overriding demands of discipline and duty ..." [8]

There is no entitlement or right to command. No one in the military has a right to any particular assignment or position, and any military member may be reassigned to a position of greater or lesser responsibility by senior officials in the chain of command at their discretion. [9] This authority flows from the President's constitutional powers as Commander-in-Chief, [10] and is so well established that no court has ever recognized a right to "due process" review of military personnel assignment decisions. The authority to make such changes remains a key constitutional prerogative of the President, and the practical necessity for such authority in the unique context of the military remains central to the accomplishment of the military mission.

An officer may be relieved of command if a superior decides the officer has failed to exercise sound judgment. [11] Moreover, an officer may be relieved of command simply because of an entirely subjective loss of confidence by superiors in the chain of command. [12] The grounds for detachment of an officer in command reflect the critical importance of trust and confidence in the

[7] Chappell v. Wallace, 462 U.S. 296, 300 (1983).

[8] Ibid., quoting Burns v. Wilson, 346 U.S. 137, 140 (1953).

[9] Over the years many officers relieved of command have challenged the discretion of senior officials in the chain of command to relieve and reassign them. In such cases the relieved officer have claimed a right to "due process" under the Fifth Amendment of the U.S. Constitution, which states, in pertinent part, that "nor shall life, liberty or property be deprived without due process of law." The federal courts, however, have consistently refused to invade the unreviewable discretion of senior officials to assign and reassign military personnel, noting that service members have no protected "liberty" or "property" interest in their assignments. See, e. g., Orloff v. Willoughby, 345 U.S. 83 (1953) (Army physician's assignment as laboratory technician not reviewable); Sebra v. Neville, 801 F.2d 1135, 1141 ("The policy behind the rule is clear, the military would grind to a halt if every transfer was open to legal challenge."); Covington v. Anderson, 487 F.2d 660, 665 (9th Cir. 1973) (military duty assignments are unreviewable because "[a]ny attempt of the federal courts . . . to take over review of military duty assignments . . . would obviously be fraught with practical difficulties for both the armed forces and the courts." (quoting Arnheiter v. Ignatious, 292 F. Supp. 911, 921 (N. D. Cal. 1968), aff'd, 435 F.2d 691 (9th Cir. 1970)). See also Crenshaw v. United States, 134 U.S. 99 (1890) (no right to appointment) and United States ex rel. Edwards v. Root, 22 App DC 419, aff'd 195 U.S. 626 (1903) (no right to promotion). The President and subordinate officials in the chain of command have primary authority to remove and replace subordinate commanders. See Mullan v. United States, 140 U.S. 240 (1891); Wallace v. United States, 257 U.S. 541 (1922). This authority is essential to the

efficient functioning of a military organization.

[10] U. S. Constitution., Article II, Section 2.

[11] Naval Military Personnel Manual (MILPERSMAN) 3410105.7a

[12] MILPERSMAN 3410105.3. Other bases for detachment for cause of any officer include misconduct, unsatisfactory performance involving one or more significant events resulting from gross negligence or where complete disregard of duty is involved, and unsatisfactory performance of duty over an extended period of time.

Page II-3

chain of command, and the highly discretionary nature of decisions to relieve officers in command. The guidance in 1941 was much like today's:

"The unique position of trust and responsibility an officer in command possesses; his or her role in shaping morale, good order, and discipline within the command; and his or her influence on mission requirements and command readiness make it imperative that immediate superiors have full confidence in the officer's judgment and ability to command. [13]"

In sum, relief does not require a finding of misconduct or unsatisfactory performance -- merely of loss of confidence with regard to the specific command in question. Given the scope of the defeat at Pearl Harbor and the need to reform the forces in the Pacific for the conduct of the war, it follows that the relief of Admiral Kimmel and General Short was consistent with military practice. Their relief also was reasonable because the Roberts Commission investigation, which began at that time, would detract their time and attention from war activities [14].

The standard for relieving an officer in command is not whether he or she has objectively committed some misconduct that warrants such relief, but whether senior officials subjectively conclude that he or she can continue to command effectively under all circumstances. Service in positions of command is a privilege, not a right. Relief of an officer in command may cause embarrassment or injury to reputation, but that is a risk inherent in the nature of command itself, as should have been evident to Admiral Kimmel in particular when he succeeded Admiral Richardson, who had been summarily relieved by President Roosevelt. [15]

Concerns about "fairness" must yield to the needs of the country and the armed forces. Consequently, it is difficult to argue that relief of Admiral Kimmel and General Short was "unfair," given the magnitude of the disaster at Pearl Harbor and their positions in direct command of the defeated forces. Moreover, the Chief of Naval Operations was also relieved shortly thereafter, although he was reassigned to another four-star position.

[13] MILPERSMAN 3410105.3d.

[14] Secretary Stimson explained that relief "avoids a situation where officials charged with the responsibility for the future security of the vital naval base would otherwise in this critical hour also be involved in the searching investigation ordered yesterday by the President," quoted in Prange, Gordon W., "At Dawn We Slept", New York, McGraw-Hill, 1981, p. 588.

[15] Husband E. Kimmel, "Admiral Kimmel's Own Story of Pearl Harbor", U.S. News and World Report, Dec. 10, 1954, p. 69 ("His [Admiral Richardson's] summary removal was my first concern. I was informed that Richardson had been removed from command because he hurt Mr. Roosevelt's feelings by some forceful recommendations") .

Page II-4

RETIREMENT [16]

Following their relief from the Hawaiian commands, Admiral Kimmel and General Short reverted to their permanent ranks and were given temporary assignments. Both Admiral Kimmel and General Short sought new commands commensurate with their former ranks that would contribute to the war effort. [17]

Such assignments were not immediately forthcoming. Eventually, General Short submitted retirement papers. Although he hoped that his application for retirement would not be accepted, [18] it was, and he retired on February 28, 1942.

Admiral Kimmel learned that General Short had submitted his retirement papers, and interpreted that as a signal that he should do so as well. [19] He did, and retired on March 1, 1942. Under the laws in effect at the time, both officers retired at their permanent two-star grades.

It has been asserted in several venues that Admiral Kimmel and General Short were "forced into retirement". There is no evidence to support that claim. Rather, it appears that new assignments were not immediately forthcoming, and General Short initiated a chain of events that were accepted at face value, to the disappointment of both him and Admiral Kimmel. These events give rise to two questions: (1) should Admiral Kimmel and General Short have been given new assignments, and (2) should the retirement offers have been accepted?

Three- and four-star positions are lofty and few. In the Navy in 1941, for example, there were only six. [20] It is neither surprising nor inappropriate that leaders of the time, having relieved Admiral Kimmel and General Short of their Hawaiian commands and, faced with the Roberts report findings of dereliction of duty, [21] did not immediately find other positions of comparable rank for them.

It is important to remember that the state of the Allied cause in both the Atlantic and the Pacific was extremely perilous in the dark days of early 1942. The greatest national need at the time was to prosecute the global war against both Germany and Japan. Anything that distracted command energies from that cause could have been unwise. Under those circumstances, it would have been surprising indeed if the leaders of the time declined the opportunity to accept the retirement of the officers most visibly associated with the disaster at Pearl Harbor, and thus to put that debacle behind them.

[16] In part as a courtesy to the officers, retirement of the most senior officers from lofty commands usually is handled personally and orally, and confirmed by very brief memoranda which do not give the reasons for the actions.

[17] Prange, p. 606-607

[18] Ibid

[19] PHA, 17:2728.

[20] Act of May 22, 1917, 40 Stat. 89 (authorizing the appointment of six admirals and vice admirals).

[21] PHA, 7:3285-3300.

Page II-5

Again, concerns about "fairness" must yield to the needs of the country and the armed forces. Nevertheless, it is difficult to conclude that

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accepting the offers of retirement was unfair at the time. Two-star rank is very prestigious; it is hardly ignominious.

Although post-war legislative reforms eliminated the distinction between permanent and temporary grades at two-star levels and below, today three- and four-star ranks remain in a special category. Indeed, under current law [22] positions occupied by lieutenant generals, vice admirals, generals and admirals are positions of "importance and responsibility." An officer may be assigned to such a position only if nominated by the President and confirmed by the Senate. The entire process must be repeated if a serving three- or four-star officer is transferred to another position at the same rank. Similarly, occupants of such positions may retire in those grades only if the President once again nominates them and the Senate confirms them to retire in those grades. Otherwise, an officer automatically retires at the permanent grade of two-star or below. In recent years, the Services have declined to seek nomination of several serving three-star officers for retirement at that grade, and the Senate has declined to confirm at least one other, all for what by most standards would be considered administrative oversights, personal indiscretions, or errors of judgment -- none involving loss of life.

ADVANCEMENT ON THE RETIRED LIST

The Armed Forces were governed throughout the war by laws which distinguished between permanent and temporary ranks. [23] The vast expansion of all ranks during the war created significant disparities between permanent ranks and those far higher ranks in which many officers had fought during much of the war. Recognizing that this disparity had a significant effect on retired ranks, Congress enacted the Officer Personnel Act of 1947, [24] intended among other things to permit officers to be advanced on the retired list to the highest rank held while on active service during the war. [25]

Officers at other ranks, including one- and two-star generals and admirals (some of whom had been reduced in rank when relieved), were advanced under the provisions of that Act. However,

[22] 10 USC 601.

[23] E.g., Act of May 22, 1917, 40 Stat. 89 (Navy); Act of Aug. 5, 1939, 53 Stat. 1214 (Army).

[24] Officer Personnel Act of 1947, second 414, 61 Stat. 795.

[25] The rapid expansion of the Armed Forces in World War II led to the promotion of many officers to temporary grades, often significantly higher in rank than their permanent grades. Because of wartime exigencies, a large number of such promotions or "appointments" to a higher grade were made without the advice and consent of the Senate. Consequently, at the end of World War II, an officer might have a permanent rank of Captain, but be serving as a colonel because of a temporary appointment. Congress recognized that it was unjust to those who had served in a higher grade, albeit without the advice and consent of the Senate, not to be able to retire in that higher grade. This recognition was a principal reason behind the enactment of the Officer Personnel Act of 1947 provisions relating to advancement on the retired list to the highest rank held.

Page II-6

Leaders at the time declined to advance Admiral Kimmel and General Short under the Act. [26] There is little in the record to indicate why those decisions were reached.

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By the time of those decisions, the war was over and the full record of the Joint Congressional Committee hearings on the Pearl Harbor attack (including the decoded Japanese messages which have been the basis of much subsequent debate) was publicly available. It follows that those decisions must have been informed decisions. Clearly, the decisions were within the discretion of the decisionmakers at the time. Further, those decisions have been reviewed on numerous occasions at the highest levels in several Administrations, and in each case decisionmakers have declined to propose advancement. [27]

Presumably decisions not to advance Admiral Kimmel and General Short were based on review of their performance at Pearl Harbor. Thus, determining whether these decisions were fair requires examination of that performance. The final findings by the Services and by the Joint Congressional Committee on the Pearl Harbor Attack were that Admiral Kimmel and General Short were not guilty of offenses worthy of courts-martial, but that they had committed "errors of judgment". Furthermore, the Secretary of the Navy made explicit his determination of the career implications of such errors in the case of Admiral Kimmel: that he had "failed to demonstrate the superior judgment necessary for exercising command commensurate with [his] rank and assigned duties" and therefore the Secretary considered that "appropriate action should be taken to insure that [Admiral Kimmel not] be recalled to active duty in the future for any position in which the exercise of superior judgment is necessary." [28]

Advancement is a privilege, not a right, and must be based on performance. Admiral Trost, then the Chief of Naval Operations, wrote in connection with this issue, "there is a vast difference between a degree of fault which does not warrant a punitive action and a level of performance which would warrant bestowal of a privilege." [29] Thus, if the findings of the JCC with regard to the performance of these officers were and remain valid, advancement is not warranted. The next Section of this review addresses those findings.

[26] Notice that the 1947 Act does not provide for "restoration" of the highest grade or rank held, a term used by the Kimmel family. "Restoration" implies the resumption or a right or entitlement, an individualized "property" interest in a rank or grade that has been taken away. Service in three- or four-star grade had always been a temporary privilege. The 1947 law provided for the discretionary grant of that privileged status de novo to members of that class of officers who had enjoyed it previously, should the President and the Senate so choose.

[27] See, for example, letters from Secretary Richard Cheney, October 23, 1989; President George Bush, December 2, 1991; Secretary William J. Perry, September 7, 1994, and from President William Clinton, December 1, 1994.

[28] PHA 16:2429, SECNAV Forrestal's Fourth Endorsement of the 1944 Court of Inquiry. (James Forrestal became Secretary of the Navy after the death of Secretary Knox in April, 1944.)

[29] CNO First Endorsement on DIRNAVHIST memo of 5 Jan 88, CNO Ser 00/8U5000015 of 19 Jan 88, to SECNAV. Although he declined to do so in this January 1988 letter, Admiral Trost later recommended consideration of advancement of Admiral Kimmel on the retired list. His distinction between punitive action and privileges, however, is still apt.

III. THE PEARL HARBOR INVESTIGATIONS

THE RECORD

There were nine separate Pearl Harbor investigations from 1941 through 1946. [1] The first began the day after the event, when Secretary of the Navy Frank Knox flew to Pearl Harbor to find out what had happened, and to try to understand why. In less than a week, Secretary Knox visited the damaged installations at Pearl Harbor and interviewed numerous individuals, including Admiral Kimmel and General Short. Secretary Knox's report [2] concludes:

"The Japanese air attack on the Island of Oahu on December 7th was a complete surprise to both the Army and the Navy. Its initial success, which included almost all the damage done, was due to a lack of a state of readiness against such an air attack, by both branches of the Service. This statement was made by me to both General Short and Admiral Kimmel, and both agreed that it was entirely true. Neither Army or Navy Commandants in Oahu regarded such an attack as at all likely, because of the danger which such a carrier-borne attack would confront in view of the preponderance of the American naval strength in Hawaiian waters...Neither Short nor Kimmel, at the time of the attack, had any knowledge of the plain intimations of some surprise move, made clear in Washington, through the interception of Japanese instructions to Nomura..." [3]

"There was no attempt by either Admiral Kimmel or General Short to alibi the lack of a state of readiness for the air attack. Both admitted that they did not expect it, and had taken no adequate measures to meet one if it came. Both Kimmel and Short evidently regarded an air attack as extremely unlikely...Both felt that if any surprise attack was attempted it would be made in the Far East. [4]"

Secretary Knox's report was delivered to President Roosevelt on December 14, 1941. On December 16, after consultation with the President, Secretary of the Navy Knox and Secretary of War Stimson directed the relief of Admiral Kimmel and General Short, respectively. [5]

[1] Figure 1 in Section I diagrams the nine investigations, showing how each relates to Admiral Kimmel or General Short, or both. This Section, however, discusses only the five investigations most pertinent to this review.

[2] Report by the Secretary of the Navy to the President, reproduced in PHA 5:2338-45 and 24:1749-56.

[3] PHA 5:2338.

[4] PHA 5:2342.

[5] Secretary of the Navy Knox relieved Admiral Kimmel of his command on 16 December 1941. PHA, 5:2430. That same day, Secretary of War Stimson relieved General Short of his command. Henry L. Stimson Diary, Yale Univ. Library, 17 December 1941. Both Knox and Stimson acted after consultation with President Roosevelt.

The President then established a five-member Commission, headed by Owen J. Roberts, a sitting Associate Justice of the Supreme Court, to determine whether "any derelictions or errors of judgment on the part of United States Army or Navy personnel contributed to such successes as were achieved by the enemy on the occasion mentioned, and if so, what

these derelictions or errors were, and who were responsible therefor."
[6]

The Roberts Commission conducted meetings during the period from December 18, 1941, through January 23, 1942, interviewed 127 witnesses, and examined a large number of documents. One of the Commission's conclusions is the source of much of the controversy in the cases of Admiral Kimmel [7] and General Short and thus is worth repeating in its entirety:

"17. In light of the warnings and directions to take appropriate action, transmitted to both commanders between November 27 and December 7, and the obligation under the system of coordination then in effect for joint cooperative action on their part, it was a *dereliction of duty* on the part of each of them not to consult and confer with the other respecting the meaning and intent of the warnings, and the appropriate measures of defense required by the imminence of hostilities. The attitude of each, that he was not required to inform himself of, and his lack of interest in, the measures undertaken by the other to carry out the responsibility assigned to such other under the provisions of the plans then in effect, demonstrated on the part of each a lack of appreciation of the responsibilities vested in them and inherent in their positions as Commander in Chief, Pacific Fleet, and Commanding General, Hawaiian Department." [8] [emphasis added]

These are the harshest words in the report which finds relatively little fault with actions in Washington, although it acknowledges that the "evidence touches subjects which in the national interest should remain secret" [9]. The Roberts Commission report was submitted to the President on January 23, 1942, and released to the public on January 24, 1942. Admiral Kimmel and General Short retired about a month later.

"Dereliction of duty" was not then a court-martial offense as such, but it was harsh language. Although court-martial charges against Admiral Kimmel and General Short were considered during 1942, no charges were preferred, in part because of the wartime need for secrecy and in part because of doubts that such charges could be sustained. [10]

[6] Executive Order 8983, 18 December 1941; reproduced in part in Roberts, Owen J., et al., letter report to the President, January 23, 1942, p. 1., PHA 7:3285.

[7] For example, Mr. Edward R. Kimmel has stated, "the Roberts Commission...dereliction of duty charge is the genesis of the injustice done to Admiral Kimmel." Thurmond transcript, p. 18.

[8] Roberts, op. cit., p.22.

[9] Ibid., p. 2.

[10] Secretary of War Knox announced on 26 February 1942 that "he had directed the preparation of charges for the trial by court-martial of General Short, alleging dereliction of duty." PHA, 19:3811. The Office of the Judge Advocate General of The Navy also drafted charges and specifications for use in general court-martial proceedings against Admiral Kimmel. PHA, 11:5495-5497. Both the Army and the Navy later decided, however, that trial by court-martial was inappropriate. The Judge Advocate General [footnote continued on page III-3]

Page III-3

Admiral Kimmel in particular was mortified by the accusation of "dereliction of duty" and almost immediately began to press for a court-martial or other formal proceeding to clear his name". In part because of continuing public debate on the Pearl Harbor issue but largely though

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the efforts of Admiral Kimmel's own lawyer, [12] Congress in 1944 passed a resolution that directed "[t]he Secretary of War and the Secretary of the Navy. . . severally . . . to proceed forthwith with an investigation into the facts surrounding the catastrophe." [13] To carry out those responsibilities, the Secretaries created two Boards, a Navy Court of Inquiry' and an Army Pearl Harbor Board. [15]

The Navy Court of Inquiry concluded "that no offenses have been committed nor serious blame incurred on the part of any person in the naval service". [16] In his endorsement, the Chief of Naval Operations, Admiral Ernest King, disagreed. He found evidence of error and concluded,

"6. The derelictions [17] on the part of Admiral [Harold] Stark and Admiral Kimmel were faults of omission rather than faults of commission. In the case in question, they indicate the lack of the superior judgment necessary for exercising command commensurate with their rank and assigned duties, rather than culpable inefficiency [18].

"7. Since trial by general court martial is not warranted by the evidence adduced, appropriate administrative action would appear to be the relegation of both these officers to positions in which lack of superior judgment may not result in future errors." [19]

After further investigation and review, Secretary of the Navy James Forrestal agreed that Admirals Stark and Kimmel "failed to demonstrate the superior judgment necessary for

[footnote 10, cont.] of the Army, for example, opined that General Short's mistakes "were honest ones, not the result of conscious fault, and having in mind all the circumstances, do not constitute a criminal neglect of duty." PHA, 39:253-54.

[11] See, for example, Admiral Kimmel's letter to Admiral Stark dated February 22, 1942, quoted in Kimmel, op. cit., p. 182. There is a useful chronicle of Admiral Kimmel's efforts in Prange, op. cit., Chapter 72.

[12] Kimmel, op. cit., Preface, p. ix

[13] PHA 3:1358.

[14] Appointed pursuant to the provisions of P. L. 339 (78th Cong.), approved June 13, 1944. By order of SECNAV Forrestal, the Navy Court held sessions beginning July 24, 1944, and concluded its inquiry on October 19, 1944.

[15] Appointed pursuant to the provisions of P. L. 339 (78th Cong.), approved June 13, 1944. By order of The Adjutant General, war Department, the Army Pearl Harbor Board held sessions beginning July 20, 1944, and concluded its investigation on October 20, 1944.

[16] Naval Court of Inquiry, p. 1-46.

[17] This usage of "dereliction" is its plain-language meaning, and does not connote a court-martial offense.

[18] "Culpable inefficiency" was a court-martial offense at the time; it is thus explicitly rejected here.

[19] PHA, 39:343-45; CNO to SECNAV, Second Endorsement, 6 November 1944, p. 3-15

Page III-4

exercising command commensurate with their rank and assigned duties" and considered that "appropriate action should be taken to insure that neither of them will be recalled to active duty in the future for any position in which the exercise of superior judgment is necessary." [20] [21]

The Army's Pearl Harbor Board generally criticized the conduct of the Secretary of State, the Chief of Staff, the then Chief of War Plans Division, and General Short, [22] but made no recommendations. The Army's Judge Advocate General, reviewing the report, suggested that General Short was guilty of errors of judgment, but that those errors did not rise to levels appropriate for court-martial. [23]

The reports of the Navy Court of Inquiry and the Army Pearl Harbor Board, together with the endorsements of the Secretaries, stand as official "corrections" by the Services of the Roberts Commission's finding of dereliction. The Court and the Board concluded that the evidence was insufficient to warrant court-martial of Admiral Kimmel or General Short. However, the evidence strongly suggested "errors of judgment."

Investigations of the events at Pearl Harbor culminated in the lengthy hearings and voluminous publications of the Joint Congressional Committee on the Pearl Harbor Attack. The JCC concluded that "[t]he disaster of Pearl Harbor was the failure, with attendant increase in personnel and material losses, of the Army and the Navy to institute measures designed to detect an approaching hostile force, to effect a state of readiness commensurate with the realization that war was at hand, and to employ every facility at their command in repelling the Japanese." [24] The JCC recognized the importance of the failure of the Army and the Navy in Washington to transmit critical information to the Hawaiian commanders. [25] Nevertheless, it found that:

"8....the Hawaiian commands failed-

"(a) To discharge their responsibilities in the light of the warnings received from Washington, other information possessed by them, and the principle of command by mutual cooperation."

"(b) To integrate and coordinate their facilities for defense and to alert properly the Army and Navy establishments in Hawaii, particularly in the light of the warnings and intelligence available to them during the period November 27 to December 7, 1941."

"(c) To effect liaison on a basis designed to acquaint each of them with the operations of the other, which was necessary to their joint security, and to exchange fully all significant intelligence."

[20] PHA, 16:2429; SECNAV, Fourth Endorsement, 13 August 1945, p. 5-21.

[21] After the war, Admiral King moderated his judgment somewhat. Letter to the Secretary of the Navy dated July 14, 1948, quoted in Kimmel, op. cit., p. 161

[22] PHA 3:1450-51.

[23] PHA 3:1477 et. seq.

[24] JCC, p. 251.

[25] Ibid., p. 252.

Page III-5

"(d) To maintain a more effective reconnaissance within the limits of their equipment."

"(e) To effect a state of readiness throughout the Army and Navy establishments designed to meet all possible attacks."

"(f) To employ the facilities, materiel, and personnel at their command, which were adequate at least to have greatly minimized the effects of

the attack, in repelling the Japanese raiders."

"(g) To appreciate the significance of intelligence and other information available to them."

"9. The errors made by the Hawaiian commands were errors of judgment and not derelictions of duty." [26]

Even the minority report, which suggested greater focus on failures by the civilian and military leadership in Washington, "agree[d] that the high command in Hawaii was subject to criticism for concluding that Hawaii was not in danger." [27]

Thus, the final official pronouncements of the government on the responsibility for Pearl Harbor found that Admiral Kimmel and General Short committed errors of judgment, but that those errors did not rise to the level of court-martial offenses. Those official pronouncements make clear that Admiral Kimmel and General Short were by no means solely responsible for what happened at Pearl Harbor, and that others also deserved blame. The balance of this section assesses whether those assessments are still valid.

A CURRENT ASSESSMENT

In the intervening 54 years, there has been a vast outpouring of publications on the events at Pearl Harbor. Much detail has been added to enrich our understanding of those events, and many new interpretive insights have been offered.

An objective reading of the historical record suggests that the story of Pearl Harbor is far from simple. The reasons for the disastrous defeat at Pearl Harbor form a tapestry woven of many threads, including the inevitable advantage of an aggressor free to choose the time, place, and form of a surprise attack in a time of nominal peace, and the brilliant planning and flawless execution by a Japanese Navy whose capabilities were seriously underestimated by many Americans.

Two specific failures have been at the center of the historical debate: (1) the failure of officials in Washington, privy to intercepted Japanese diplomatic communications, to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that those communications should have engendered; and (2) the failure of the commanders in Hawaii to make adequate preparations in light of the information they did have. The balance of this review focuses on these two failures.

[26] Ibid.

[27] Ibid., p. 266-A.

Page III-6

Given Japanese planning and determination to attack the US fleet in Hawaii and the limited American resources stretched across the Pacific, the attack on Pearl Harbor probably could not have been prevented. Consequently, the failure at Pearl Harbor is not failure to prevent that attack. Rather, the nature of the failure was the disproportionate losses in American lives and materiel when compared with Japanese losses. [28] This disproportionality resulted principally from the American failure to anticipate and prepare for the possibility of a surprise aerial attack on Pearl Harbor.

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It is clear today, as should have been clear since 1946 to any serious reader of the JCC hearing record, that Admiral Kimmel and General Short were not solely responsible for the defeat at Pearl Harbor.

To say that Admiral Kimmel and General Short were not solely responsible does not, however, necessarily imply that they were totally blameless. To assess the degree of their responsibility, and thus their performance, it is necessary to consider their mission, the information they had, the resources they had, and what they did with that information and those resources.

General Short's mission was to protect the fleet at Pearl Harbor. On February 7, 1941, General Short's first day as Commander of the Hawaiian Department, Army Chief of Staff General George Marshall wrote to him:

"The fullest protection for the Fleet is *the* rather than *a* major consideration for us, there can be little question about that. . ." (emphasis in original)

and in his closing paragraph reiterated:

"Please keep clearly in mind in all of your negotiations that our mission is to protect the base and the Naval concentrations..." [29]

Admiral Kimmel had the "general duty" to "take all practicable steps to keep the ships of his command ready for battle." [30] This required drills and exercises " . . . done in such a manner as will most conduce to maintaining the fleet in constant readiness for war in all its phases. [31] In regards to Hawaii, Admiral Kimmel's mission was to provide long-range reconnaissance and to cooperate with the Army in the defense of the fleet.

[28] US losses included 2,403 dead, 1,178 wounded, and eight battleships, three light cruisers, three destroyers, and four auxiliary craft sunk, capsized, or damaged. Aircraft losses included 13 Navy fighters, 21 scout bombers, 46 patrol bombers, four B-17s, 12 B-18s, 32 P-40s, and 20 P-36s. Many other aircraft were damaged. Japanese losses totaled 29 aircraft, one large submarine and five midget submarines. PHA 7:3069-70: 12:354-58; 22:60-61.

[29] PHA 15:1601-1602.

[30] PHA 17:2833, quoting "Navy Regulations Setting Forth the General Duties of a Commander-in-Chief," Art. 687.

[31] Ibid., Art. 692.

[32] PHA 32:219.

Page III-7

Both Admiral Kimmel and General Short asserted that information they received from Washington and their own staffs was insufficiently explicit or specific to prompt greater readiness to defend against air attack. Even the November 27, 1941 "war warning" message, testified both commanders, was ambiguous; it provided no warning of an impending surprise attack by aircraft. [33] In light of this claimed lack of information, it is important to examine what information Admiral Kimmel and General Short did have.

First, Admiral Kimmel and General Short knew that their primary mission -- indeed virtually their only mission -- was to prepare for war with Japan. [34]

Second, Admiral Kimmel and General Short knew that war with Japan was

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highly likely. Throughout 1941, newspapers were full of news of war in Asia and Europe. Japan had been at war in China since 1937, and reportedly had some 75,000 Japanese troops occupying French Indo-China. [35] Tensions between the United States and Japan had been increasing. President Roosevelt had taken steps to freeze Japanese assets in the United States, and US oil shipments, accounting for most of Japan's supply, had ceased. [36] Members of both the House and the Senate periodically called upon Roosevelt to declare war on Japan. [37] Japanese aggression in Asia and US determination to stop it made war almost inevitable. Germany, Japan's Axis partner, had occupied Denmark, Norway, Poland, and the Low Countries and much of France. Germany had also attacked the Soviet Union that summer, and the Wehrmacht's "blitzkrieg" had inflicted massive Soviet losses. The United States became increasingly involved in measures short of war. Honolulu newspapers reported the sinking of an American destroyer and an American tanker in the Atlantic in November 1941. [38]

[33] Admiral Kimmel, PHA 6:2498, 2518. General Short, PHA 7:2921-22; 2951, 1959.

[34] The Navy's basic war plan, implemented in the Pacific by W[ar] P[lan] Pac[ific] 46, focused exclusively on Japan as the enemy. PHA 17:2571-2600. Admiral Kimmel wrote: "in the case of war . . . [w]e must be in a position to minimize our own losses, and to inflict maximum damage on the Japanese fleet, merchant shipping, and bases." PHA 16:2252-53 Given that General Short's mission was to protect the fleet, he necessarily focused on Japan as the aggressor; General Short expected a Japanese invasion of Oahu. PHA, 15:1626.

[35] "Japan Mechanized Army Massed in Indo-China." The Honolulu Advertiser. 3 December 1941, p. 1. "Foreign military intelligence reports from Saigon today said the Japanese are concentrating a mechanized striking force in southern Indo-China. . . it [is] estimated that Japan has 75,000 troops in southern Indo-China."

[36] President Roosevelt ordered an embargo on exports to Japan of high-octane gasoline and crude oil on 1 August 1941. This embargo complemented the earlier embargo on scrap iron and steel, announced by the President in September 1940. See also, Beach, op cit., p. 20 ("Nearly all Japan's fuel oil came through the United States. . .")

[36] "US-Japan War Emphasized by Spokesmen," The Honolulu Advertiser, 10 November 1941, p. 1.

[37] Honolulu Star-Bulletin, 22 November 1941, p. 1.

Page III-8

Third, Admiral Kimmel and General Short knew that, if war came, Japan would strike the first blow, if only because the United States would not. [39]

Fourth, Admiral Kimmel and General Short knew that a surprise attack probably would precede a declaration of war. Japan had begun its war with Russia in 1905 with a successful surprise attack on the Russian fleet at Port Arthur. Japan's attack on North China in 1937 had not been preceded by a declaration of war either. The Mash 31, 1941 Martin-Bellinger Report [40] likewise noted that "[i]n the past Orange [Japan] has never preceded hostile actions by a declaration of war." [41] Additionally, on April 1, 1941, Naval Intelligence in Washington alerted all naval districts-"including Hawaii-that "past experience shows the Axis Powers often begin . . . [attacks] on Saturdays and Sundays or on national holidays. . ." [42] Admiral Kimmel's standing order to the fleet assumed "[t]hat a declaration of war may be preceded by:"(1) a surprise attack on ships in Pearl Harbor, (2) a surprise submarine attack on ships in operating area, and (3) a combination of these two".

Page 7

[43] On February 18, 1941, for example, Admiral Kimmel wrote: "I feel that a surprise attack (submarine, air, or combined) on Pearl Harbor is a possibility." [44] General Short similarly knew that a surprise attack was likely, given that he had read the Martin-Bellinger Report. [45]

Fifth, Admiral Kimmel and General Short knew that the initial Japanese attack *could* fall on Pearl Harbor. Although they shared in the conventional wisdom of the era, buttressed by confirmed intelligence reports of Japanese ship movements in the Far East, that the attack most probably would occur in the Far East, [46] the fact that they took vigorous measures to defend against submarine attack and sabotage and conducted drills in repelling invasion testifies to their understanding that the war *could* come to Pearl Harbor.

Sixth, Admiral Kimmel and General Short knew that an attack on Pearl Harbor could come in the form of an attack from carriers. Shortly after taking command, both Admiral Kimmel and General Short received copies of an assessment by the Secretary of the Navy, in which the Secretary of the Army concurred, that:

"If war eventuates with Japan, it is believed easily possible that hostilities would be initiated by a surprise attack upon the Fleet or the Naval Base at Pearl Harbor."

[39] This was reemphasized in General Marshall's November 27, 1941 message to General Short (Reproduced on page III-14, below). See also PHA, 14:1328.

[40] Major General Frederick Martin, Commander, Hawaiian Air Force, and Rear Admiral Patrick Bellinger, Hawaiian Based Patrol Wing (Martin's navy counterpart), prepared the Report. It was a plan for joint action if Oahu or the Pacific Fleet were attacked. Martin was under General Short's overall command. PHA, 22:349-354.

[41] PHA, 22:349.

[42] PHA, 4:1896.

[43] His order 2CL-41 (Revised) October 14, 1941, reproduced in Kimmel, op. cit., p. 189

[44] Letter from Admiral Kimmel to Admiral Stark, PHA, 16:2228.

[45] See fn 50, infra, and accompanying text.

[46] The "war warning" message of November 27th (text below) reinforced that view.

Page III-9

"...[T]he inherent possibilities of a major disaster to the Fleet or naval base warrant taking every step, as rapidly as can be done, that will increase the joint readiness of the Army and Navy to withstand a raid of the character mentioned above.

"The dangers envisaged in their order of importance and probability are considered to be:

- (1) Air bombing attack.
- (2) Air torpedo attack.
- (3) Sabotage.
- (4) Submarine attack.
- (5) Mining.
- (6) Bombardment by gun fire." [47]

Admiral Kimmel immediately complained to Admiral Stark of the inadequacy of the Army's air defenses at Pearl Harbor, especially interceptor aircraft and antiaircraft guns. Admiral Stark passed these concerns to General Marshall, and General Marshall emphasized to General Short his

own concern about air attack:

"My impression of the Hawaiian problem has been that if no serious harm is done us during the first six hours of known hostilities, thereafter the existing defenses would discourage an enemy against the hazard of an attack. The risk of sabotage and the risk involved in a surprise raid by air and by submarine, constitute the real perils of the situation. Frankly, I do not see any landing threat in the Hawaiian Islands so long as we have air superiority..." [48]

General Marshall wrote these comments on General Short's first day as Commander of the Army's Hawaiian Department.

Seventh, Admiral Kimmel and General Short knew from their own staffs of the danger of surprise air attack. On March 31, 1941, Admiral Bellinger and General Martin reported to both Admiral Kimmel and General Short that "[a] successful, sudden raid against our ships and Naval installations on Oahu might prevent effective offensive action by our forces in the western Pacific for a long period..." and "[i]t appears possible that Orange [Japanese] submarines and/or an Orange fast raiding force might arrive in Hawaiian waters with no prior warning from our intelligence service. [49]

Eighth, Admiral Kimmel and General Short knew from recent events that the idea of a carrier air attack on Pearl Harbor was not new. General Billy Mitchell forecast an assault by carrier launched aircraft on Pearl Harbor after his 1924 Asian tour. [50] The US Navy had

[47] PHA 4:1939-40 and 23:1114; JCC, p.76

[48] Letter of February 7, 1941. PHA 15:1601-1602

[49] PHA, 22:349.

[50] See generally, Russell F. Weigley, "History of the United States Army", New York, 1967, pp. 412-414.

Page III-10

fleet exercises and war games involving air strikes on Pearl Harbor in the 1930s. [51] Admiral Kimmel and General Short must have been aware of the enormously successful attack by British carrier-based torpedo bombers on the harbor at Taranto in November 1940, which sank or damaged the Italian Navy's most modern battleships. [52]

Ninth, both Admiral Kimmel and General Short made statements prior to December 7, 1941 that acknowledged the possibility of an air attack on their forces. Admiral Kimmel, for example, in a letter to Admiral Stark on February 18, 1941, stated "I feel that a surprise attack (submarine, air, or combined) on Pearl Harbor is a possibility." [53] Similarly, the August 14, 1941 Honolulu Advertiser, in an article titled: "General Short Sees Danger of Oahu Air Raid," quoted General Short as saying that "an attack upon these [Hawaiian] islands is not impossible and in certain situations it might not be improbable." [54]

Tenth, Admiral Kimmel was briefed on December 2, 1941, that American intelligence had lost track of the Japanese carriers. [55]

Despite this mass of evidence, the practical difficulties [56] of conducting an aerial attack may have caused Admiral Kimmel and General Short to minimize its likelihood. [57]

Finally, Admiral Kimmel and General Short knew that the initial attack *could* occur within weeks or days. Tension had been building between

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the United States and Japan, and on November 27, 1941, Admiral Kimmel received from the Chief of Naval Operations the following message:

"This dispatch is to be considered a war warning. Negotiations with Japan looking forward toward stabilization of conditions in the Pacific have ceased and an aggressive move by Japan is expected within the next few days. The number and equipment of Jap[anese] troops and the organization of naval task forces indicates an amphibious expedition against either the Philippines or Kra Peninsula or possibly Borneo. Execute an appropriate defensive deployment preparatory to carrying out the tasks assigned in WPL 46. Inform District and Army authorities. A similar warning is being sent by War Department. SPENAVO [58] inform British.

[51] See generally, Hawaiian Department, 'Joint Army and Navy Maneuvers, Raid Phase, Jan. 29-31, 1933'

[52] Newton, Don and A. Cecil Hampshire, "Taranto", London, 1959; Lowry, Thomas P. and John W. G. Wellham, "The Attack on Taranto". Mechanicsburg, Stackpole Press, 1995. The British attack was carried out by 21 biplanes operating from a single carrier.

[53] PHA, Part 16, p. 2228.

[54] "General Short Sees Danger of Oahu Air Raid," The Honolulu Advertiser, 14 August 1941, p. 2.

[55] PHA 10:4837-38

[56] Among the factors making a carrier air attack unlikely were the large distance to be covered in sailing from Japan to Hawaii, the requirement to refuel any carrier task force during its voyage, and the difficulty of such a carrier force remaining undetected.

[57] In his report to the President, Secretary Knox wrote that: "The Japanese attack . . . was a complete surprise to both the Army and the Navy." PHA 5:2338.

[58] Special Naval Observer. JCC, p. 98 fn. 99.

Page III-11

Continental District Guam Samoa directed take appropriate measures against sabotage." [59]

Admiral Turner, the drafter of this "war warning" message, expected Admiral Kimmel to deploy his forces, that is, to depart the harbor with his fleet. [60] Admiral Kimmel, however, did not interpret the phrase "[e]xecute an appropriate defensive deployment" in this way, and Admiral Kimmel's interpretation was not unreasonable.

General Short received a similar message on November 27, 1941:

"Negotiations with Japan appear to be terminated to all practical purposes with only the barest possibilities that the Japanese Government might come back to offer to continue. Japanese further action unpredictable but hostile action possible at any moment. If hostilities cannot, repeat cannot, be avoided the United States desires that Japan commit the first overt act. This policy should not, repeat not, be construed as restricting you to a course of action that might jeopardize your defense. Prior to hostile Japanese action you are directed to undertake such reconnaissance and other measures as you deem necessary but these measures should be carried out so as not, repeat not, to alarm civil population or disclose intent. Report measures taken. Should hostilities occur you will carry out the tasks assigned in Rainbow Five so far as they pertain to Japan. Limit dissemination of this highly secret information to minimum essential officers." [61]

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Once General Short received the war warning message of November 27th, he was expected to have effected the best possible defense, to include defending against a possible aerial attack. [62]

It has been argued that this "war warning" language is ambiguous. [63] Yet the actions of all the parties in Pearl Harbor indicate that they took the warning seriously and responded with vigor. Admiral Kimmel issued orders to the fleet to "exercise extreme vigilance against submarines in operating areas and to depth bomb all contacts expected to be hostile in the fleet operating areas." [64] Indeed, the first shots on December 7 were fired not at dawn by Japanese aircraft but well before dawn by Admiral Kimmel's aggressive antisubmarine patrols. [65] Ships in port in Pearl Harbor were required to keep antiaircraft guns at the ready. After meeting with Admiral Kimmel, Vice Admiral William F. "Bull"

[59] Photocopy of original in Clausen, Henry C., and Bruce Lee, "Pearl Harbor: Final Judgment". New York, Crown, 1992, following p. 262. See also PHA, 14:1406; JCC, p. 98. Some of the copies in the literature contain transcription errors.

[60] "Turner Describes Deployment," The New York Times, 21 December 1945, p. 2, col. 3; see "The New Military and Naval Dictionary" (F. Gaynor, ed.), New York, 1951. ("deploy--(Navy) to change from a cruising or contact disposition to a battle disposition")

[61] Photocopy of original in Clausen, op. cit. See also PHA, 14:1328; JCC, p. 102

[62] JCC 119-133

[63] See, for example, Beach, op. cit., 165, 171.

[64] Dispatch CincPac to Pacific Fleet, Info OpNav, November 28, 1941, 280355, PHA 17:496, quoted in Kimmel, op cit. p. 74, note 55.

[65] Kimmel, op cit. p. 77.

Page III-12

Halsey, then Commander, Aircraft Battle Force, placed his carrier task force on a war footing, instituted aircraft patrols with orders to "shoot down any plane seen in the air that was not known to be one of our own." [66] On receiving the Army war warning message, which was ambiguously worded, General Short ordered Alert Number 1 -- an alert against sabotage. [67] Thus, the Hawaiian commands on December 7 were ready to meet almost any attack -- except one arriving quickly from the air.

Additionally, Admiral Kimmel knew three things that General Short did not know. First, he learned on December 1, 1941 that the Japanese Navy had unexpectedly changed its call signs. [68] This information was not shared with General Short. Second, Admiral Kimmel learned on December 2, 1941 that the location of four Japanese carriers was unknown. [69] This was because the carriers had not engaged in radio traffic for between 15-25 days. [70] This apparent radio silence, however, also was not passed to General Short, because Admiral Kimmel assumed that the carriers remained in home waters. [71] Third, Admiral Kimmel learned on December 3, 1941 of the existence of "Purple" machines [72], and that the Japan had ordered certain consulates and embassies to destroy their codes. [73] Admiral Kimmel, however, did not view the code destruction "of any vital importance . . ." [74] and did not tell General Short about it. [75] Yet code destruction suggested that hostilities were imminent since communication between Japan and her overseas officials were at an end.

There were two things that Admiral Kimmel and General Short did *not*

know.

Admiral Kimmel and General Short did not know that the initial Japanese attack would take the form of a carrier air attack on Pearl Harbor. Admittedly, there were many indications of Japanese intent to attack in the Far East, and some key members of Admiral Kimmel's and General Short's staffs shared their skepticism about the likelihood of an attack on Pearl Harbor. [76] Nonetheless, it was an error for Admiral Kimmel and General Short to draw inferences only from presumptions about the enemy's intentions, and to ignore his capabilities.

[66] William F. Halsey, *Admiral Halsey's Story*, New York, 1947, pp. 75-76.

[67] PHA, 27:156-158.

[68] PHA, 10:4680. This was the first time the Japanese changed call signs twice in a 30 day period.

[69] PHA, 36:138.

[70] PHA, 10:4839.

[71] PHA, 10:4839-40.

[72] The "Purple" machines were electronic decoding machines that decrypted Japanese message intercepts. These messages were known as "Magic."

[73] PHA, 14:1408.

[74] PHA, 6:2764.

[75] PHA, 6:2764-65.

[76] For example, Admiral Kimmel's war plans officer, Capt. Charles McMorris, assured Admiral Kimmel on the 27th that there were no "prospects" of an air attack. PHA, 27:412; 28:1497. See also, Prange op cit. p. 401

Page III-13

Admiral Kimmel and General Short did not know exactly when hostilities would start. Nonetheless, what they did know should have been sufficient to cause them to make ready defenses against air attack, as they did against other forms of attack.

Thus the crucial question becomes: *in the certain knowledge that the United States and Japan were moving inexorably and ever more rapidly toward war but not knowing exactly where, when, or how Japan would strike, what did Admiral Kimmel and General Short do to resolve their uncertainty?*

By his actions, General Short assumed he would have at least four hours warning of an air attack. [77] Since he employed none of his assets in reconnaissance or surveillance, he could get that warning only from the Navy or from Washington. Under the agreement in place in Hawaii, the Navy was responsible for long-range reconnaissance. Admiral Kimmel conducted no long-range air reconnaissance out of Oahu. Thus on December 7th he could get warning only from Washington.

This exclusive reliance on Washington for both tactical and strategic warning is at the heart of the failure at Pearl Harbor, and of the debate about the failure. The record suggests that officials in Washington believed they had provided strategic warning with their messages of November 27th; neither Admiral Kimmel nor General Short read the messages that way. The debate over the handling of Japan's 14-part message [78] on December 6th and the morning of the 7th is about tactical warning. Admiral Kimmel and General Short did not get tactical warning.

Later, Admiral Kimmel argued, "This lack of action on the part of both

the war and Navy Departments must have been in accordance with high political direction....These two agencies were responsible only to the President of the United States. It is impossible to believe that both these agencies of such proved reliability and competence should simultaneously and repeatedly fail in such a crisis." [79] Although Admiral Kimmel did not know late in 1941 that he was not getting all the Magic product, he knew of Magic's existence. [80] He had sought and extracted from Admiral Stark a promise to provide all the warning available. [81] Thus, as a practical matter Admiral Kimmel effectively placed total faith -- and the security of the forces in Pearl Harbor against air attack -- in Washington's ability to obtain and provide to him timely and unambiguous strategic and tactical warning from the Magic and other intercepts alone. This faith was not justified, nor was it consistent with his assessment of other technological developments of the time, or since. Even with today's satellite intelligence and instantaneous world-wide communication, it still is not prudent to depend exclusively on Washington for timely and unambiguous information.

[77] His fighter aircraft were on four-hour alert, and the majority of his anti-aircraft batteries were able to come into action two and a half to three hours after the attack. See the Knox investigation for a detailed discussion of response times.

[78] For an explanation of the significance of the "14-part" message, see Fig. 2, fn 15, on page III-18.

[79] Kimmel, op cit. p. 4

[80] PHA, 6:2539; 14:1408.

[81] PHA, 6:2539-43.

Page III-14

Fig. 2, which appears at the end of this chapter, sets out, with explanatory notes, specific items known in Washington, and by Admiral Kimmel and General Short.

The record of 1941 is filled with urgent requests from Admiral Kimmel and General Short for more resources, especially fighter and reconnaissance aircraft, to buttress Hawaii's defenses against air attack. American resources were stretched thin, and American strategy consciously gave priority to the Atlantic and to buttressing the even weaker defenses in the Philippines. Nevertheless, Admiral Kimmel and General Short were not without resources for defense against air attack on Hawaii.

Together, Admiral Kimmel and General Short had 49 serviceable Catalina long-range patrol aircraft, and six serviceable B-17 long-range bombers useful for reconnaissance. They also had a significant force of cruisers with embarked scout-observation floatplanes, destroyers, several land-based radar stations capable of detecting aircraft at substantial ranges, [82] coast watch stations, nearly a hundred P-40 fighter aircraft (the most modern in the American inventory), and several hundred anti-aircraft guns on land and on ships in the harbor.

There were significant competing demands on the delicate Catalinas and practical limitations on the employment of each of the other resources. Nevertheless, if properly employed in an integrated and coordinated fashion at a reasonable state of readiness, these resources could have made an enormous and perhaps critical difference in the events of December 7.

Only the guns on the ships were able to respond in significant numbers on December 7. However, not all were able to respond immediately. [83]

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The reconnaissance aircraft were being conserved for other tasks. The use of destroyers and cruisers and their float planes in reconnaissance apparently was not considered. The radars were used only for training, and not during the hours of the attack [84]. The coast watch stations were not manned. The fighters were on four-hour alert. [85] Mobile land-based anti-aircraft guns were not deployed, and ammunition was kept separate from the guns. And, despite the existence of agreements and plans for cooperation in air defense, the air defense system was not coordinated between the Army and the Navy.

[82] Six mobile radar stations had been operating daily. They were, however, only training. As General Short said: "At that time we had just gotten in the machines and set up. I thought this was fine training for them. I was trying to get training and was doing it for training more than any idea that it would be real . . ." PHA 22:35.

[83] Most were in action in four minutes. The fratricide wrought on U. S. aircraft from the Enterprise attempting to land at Ford Island later that day suggests what fully alerted gun crews might have done to the first wave of Japanese torpedo bombers.

[84] An Army radar, scheduled to have been shut down, in fact detected the approaching Japanese aircraft fifty minutes before they struck the fleet, but the contacts were erroneously presumed friendly. Given the newness of the equipment, and its inexperienced operators, the belief that the approaching aircraft were "friendly" was not unreasonable.

[85] The few fighter aircraft able to take to the air were highly effective. See Knox investigation.

Page III-15

Finally, passive defense measures were available which might have mitigated the effect of the raids that did occur. First, training patterns could have been altered in response to heightened tensions. The Navy trained hard during the week, but its ships generally were in port on Saturdays and Sundays. The touchstone of Japanese planning was this predictable ship location. Second, aircraft revetments had been constructed but were not used because the fear of sabotage was greater than the fear of air attack. Had some aircraft been in revetments, rather than lined up wing-to-wing, losses in material would have been mitigated. Third, anti-torpedo baffles or nets could have been used within Pearl Harbor for protection against torpedo plane attacks. These items were not furnished to Admiral Kimmel, but they might have been requested [86] Fourth, Admiral Kimmel and General Short could have used barrage balloons in selected areas to restrict the most dangerous air approaches to "battleship row." [87]

Although the commanders in Hawaii failed to make adequate preparations in light of the information they had, more information was available in Washington but not forwarded to them (Figure 2). Army and Navy officials in Washington were privy to intercepted Japanese diplomatic communications (notably the "bomb plot", "winds", "pilot", and "fourteen part" messages [88]) which provided crucial confirmation of the imminence of war. Read together and with the leisure, focus, and clarity of hindsight, these messages point strongly toward an attack on Pearl Harbor at dawn on the 7th.

However, it is not clear that they were read together in 1941. The "bomb plot" message -- the only one that points clearly to Pearl Harbor -- seems not to have been correctly interpreted or widely disseminated at the time. [89] The "winds" message points to increasing imminence of attack, a point that the "war warning" messages of November 27 attempted to convey. The "pilot", "fourteen part", and "one o'clock" messages

point, by the evening of December 6th, to war at dawn (Hawaii time) on the 7th-not to an attack

[86] Admiral Kimmel's predecessor, Admiral Richardson, had decided against torpedo baffles or nets, and Admiral Kimmel inherited this decision. Had Admiral Kimmel seen the possibility of a torpedo aerial attack, however, he might have requested the Navy Department to furnish him with such items, or at least the equipment to manufacture them. PHA, 5:2350. Certainly, Admiral Kimmel was aware that his ships were vulnerable to such an attack. For example, CNO Stark, in a letter to Admiral Kimmel, 13 June 1941, wrote: "A minimum depth of water of 75 feet may be assumed necessary to successfully drop torpedoes from planes. About 200 yards of torpedo run is necessary before the exploding device is armed, but this may be altered . . . Recent developments have shown that United States and British torpedoes may be dropped from planes at heights of as much as 300 feet, and in some cases make initial dives of considerably less than 75 feet, and make excellent runs. *Hence, it may be stated that it cannot be assumed that any capital ship or other valuable vessel is safe when at anchor from this type of attack if surrounded by water at a sufficient distance to permit an attack to be developed and a sufficient run to arm the torpedo*." (Emphasis added) PHA, 5:2266. Because Pearl Harbor's depth was between 30-40 feet, Admiral Kimmel considered the use of baffles or nets to be limited, and did not press the Navy Department to supply them.

[87] The use of these sausage shaped balloons tethered to long wires was suggested by Secretary of the Army Stimson to Secretary of the Navy Knox 7 February 1941; a copy of this letter went to General Short. He was "direct[ed] . . . to cooperate with local naval authorities" in deciding whether to use such balloons to protect the Fleet and base facilities. PHA. 14:1003-1004.

[88] See Fig. 2 for an explanation of these messages and their relevance.

[89] See, for example, JCC, pp. 181-189

Page III-16

on Hawaii-but officials in Washington were neither energetic nor effective in getting that warning to the Hawaiian commanders.

Various conspiracy theories [90] have been advanced, but no evidence has been offered to support those theories. Rather, the evidence of the handling of these messages in Washington reveals some ineptitude, some unwarranted assumptions and misestimates, limited coordination, ambiguous language, and lack of clarification and follow-up at higher levels.

Together, these characteristics resulted in failure by senior Army and Navy leadership to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that those intercepts should have engendered. The Service reports and the Joint Congressional Committee properly recognized and criticized those failures as errors of judgment which must take their place alongside the errors of judgment by Admiral Kimmel and General Short.

Advocates for Admiral Kimmel and General Short argue, in effect, that the failure of Washington officials to provide the critical intercepts to the Hawaiian commanders excuses any errors made in Hawaii. It does not. No warfighting commander ever has enough information or enough resources. It is the job of the commander to carry out his or her mission as best he or she can with the information and resources available to him or her. Indeed, placing exclusive reliance on

Washington for tactical as well as strategic warning of air attack was an act of misplaced faith.

In summary, this review of the Pearl Harbor investigations and of the available evidence provides no reason to reverse the conclusions of the Services and the Joint Congressional Committee that Admiral Kimmel and General Short made errors of judgment in the use of the information and the employment of the forces available to them.

Advocates for Admiral Kimmel and General Short also suggest that they were held to a higher standard than their superiors. A full reading of the proceedings and reports of those panels suggests clear recognition of the faults at all levels. That said, Admiral Kimmel and General Short were the highest ranking commanders at Pearl Harbor; it was appropriate to subject their actions to closer scrutiny and accountability. Additionally, the decisions affecting Admiral Kimmel and General Short were tailored to their individual situations; what did or did not happen to others is not an appropriate consideration. Finally, the catastrophe at Pearl Harbor remains a distinct and unique historical event in US history, and this explains in part why Admiral Kimmel and General Short were uniquely affected by it.

Finally, advocates for Admiral Kimmel and General Short argue that the Pearl Harbor investigations were conducted in a manner unfair to those officers. Yet none of these investigations was a judicial tribunal, and none had the power to impose sentences or

[90] See, for example Harry E. Barnes, "Perpetual War for Perpetual Peace", Caldwell, Id: Caxton Printers, 1953; Robert A. Theobald, "The Final Secret of Pearl Harbor", New York: Devin-Adair. Co., 1954.

Page III-17

otherwise punish an individual, much less bring charges against anyone. Rather, the investigations were for fact-finding. There is generally no right to "due process" -- in the sense of a right to counsel and to cross-examine witnesses -- at a fact-finding investigation. And General Short stated at the time that the record of the Joint Committee, if not its findings, provided vindication of his position. [91] Interestingly, no new discoveries have emerged since publication of the Joint Committee's report that would radically change the facts contained in the source material it published. Indeed, the 39 volumes of hearings and exhibits have provided the factual basis for almost all of the modern interpretations.

[91] See section IV, infra, . fn 19 and accompanying text.

Page III-18

Fig. 2: Information Known in Washington and Hawaii

October 9-December 7, 1941

Date	Item	Washington	Kimmel	Short
Oct. 9	"Bombplot" [1] message	X [2]		
Nov. 26-28	"Winds" message [3]	X [4]	X [5]	

		part_3.txt		
Nov. 27	"War warning" message	X	X	X
Dec. 1	Carrier call sign change	X [6]	X [7]	
Dec. 2	"Lost" carriers	X [8]	X [9]	
Dec. 3-6	Code destruction	X [10]	X [11]	X
Dec. 4-6	"Winds execute" message [12]			
Dec. 6	"Pilot" message [13]	X [14]		
Dec. 7	"Part 14" message [15]	X		
Dec. 7	"One o'clock message [16]	X		

[1] The "bomb plot" message was an instruction from Tokyo to the Honolulu consulate to give precise locations of all ships moored in Pearl Harbor. The import of this request to set up a grid system for reporting the presence and position of ships in Pearl Harbor was not appreciated, as the "bomb plot" message did not by itself prove that the Japanese intended to attack Pearl Harbor. Rather, a pre-attack reading of the message might have reinforced the suspicion of sabotage.

[2] First translated by the Army in Washington on Oct. 9th.

[3] The "winds" code was established by the Japanese to give a "special message in an emergency" and was to be broadcast in the middle of the daily Japanese-language short-wave news broadcast. The "winds" codes were: "East wind, rain" (war between Japan-US); "North wind, cloudy" (war between Japan-USSR); "West wind, clear" (war between Japan-Britain.) The "winds" code was a diplomatic -- not military -- code. JCC, p. 470. The existence of the "winds" code did not surprise Washington; most believed war with Japan was imminent. Additionally, the "winds" code never revealed that Pearl Harbor would be attacked. Note that implementation of the "winds code" required a complementary "winds execute" message.

[4] Washington received its first "winds" code traffic on Nov. 26 & 28; its last "winds" code information on Dec. 4th, JCC, p. 470.

[5] Admiral Kimmel learned of the "winds" code in a Nov. 28th dispatch to him from the US Asiatic Fleet. JCC, p. 470.

Page III-19

[6] Washington learned that the Japanese Navy unexpectedly changed its call signs on Dec. 1st. Previously, call signs were changed every six months, and had last been changed on Nov. 1st. JCC, p. 134.

[7] Admiral Kimmel learned of this call sign change on Dec. 1st. JCC, p. 134

[8] No radio traffic from four Japanese carriers had been monitored for between 15-25 days. Consequently, their location was unknown. Washington learned this on Dec. 2. JCC, p. 134.

[9] JCC, p. 133. Admiral Kimmel did not pass this information to General Short because he assumed the four Japanese carriers remained in "home" waters. JCC, p. 135.

[10] Washington learned of Japan's orders to certain consulates and embassies to burn codes on Dec. 3. JCC, p. 130

[11] Admiral Kimmel learned of Japan's orders to certain consulates and embassies to burn codes on Dec. 3. JCC, p. 130. He did not consider it to be of "vital importance." JCC, p. 130. Consequently, he did not pass it on to General Short. JCC, p. 131. General Short, however, did receive information from his staff that the Japanese were burning their codes and papers on Dec. 6th. JCC, p. 132. The JCC concluded that "[w]hile the

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order to burn codes may not always mean war in a diplomatic sense, it very definitely meant war -- and soon -- in a military sense after the "war warning" of November 27." JCC, p. 131.

[12] Probably did not exist. Capt. L. Safford testified before the JCC that an implementing winds execute message was received in the Navy Department on the morning of Dec. 4th. This message announced war between the US and Japan. No credible evidence, however, supported Safford's claim. The JCC concluded, after "considering all the evidence relating to the winds code . . . that no genuine message . . . was received in the War or Navy Department prior to December 7, 1941." JCC, p. 486. Assuming *arguendo* that a genuine execute message had been intercepted, the JCC "concluded that such fact would have added nothing to what was already known concerning the critical character of our relations with the Empire of Japan." That is, a "winds execute" message would not indicate the timing or location of any Japanese attack.

[13] The "Pilot" message was a message from Japan to her Ambassadors in Washington advising them that the Japanese reply to the American note of 26 November was ready and being sent to them in 14 parts; that it was to be treated with great secrecy pending instructions as to the time of its delivery; and that time for its delivery was to be fixed in a separate message. JCC, p. 210.

[14] Washington had the text of the "Pilot" message on Dec. 6th. JCC, p. 210.

[15] The first 13 parts of the 14-part Japanese memorandum were received by the Navy on Dec. 6th. These 13 parts indicated that negotiations were at an end. Although President Roosevelt apparently stated that 'this means war', "it is significant that there was no indication as to when or where war might be expected." JCC, p. 217. The 14th part of the message was decoded and available for distribution between 7:30 and 8:00 a.m. on Dec. 7th. JCC, p. 221. The 14th part of the message also stated that negotiations were at an end. Nothing in "Part 14" indicated that Pearl Harbor would be attacked

[16] The "one o'clock" [Eastern Standard Time] message specified the time for delivery of the Japanese 14-part memorandum to the United States. When Washington officials learned of the "one o'clock" message, they knew that something important would happen. General Marshall, for example, stated that he was certain "something was going to happen at 1 o'clock." JCC, p. 223. No one in Washington, however, knew what would happen, or where it would happen.

IV. THE COURT OF PUBLIC OPINION

The families of Admiral Kimmel are concerned with the "stigma and obloquy" flowing from early charges [1] and their persistent effect on public opinion. Because it is not sufficient to review the personnel actions and investigations which constitute the Government's formal actions in these cases, this Section of the review addresses accountability, responsibility, and fairness in the "court of public opinion".

THE RECORD

Three periods must be distinguished: (1) the early war years, (2) the period of response to the reports of the Service boards and of Joint Congressional Committee, and (3) the postwar period.

The Early War Years

The national response to the Japanese attack on Pearl Harbor took two forms. The first was the national rage at Japan for the surprise attack, captured, echoed, and perhaps led by President Roosevelt's characterization of December 7th as "a date which will live in infamy" in his speech to Congress.

The second response, following almost immediately, was shock and disbelief at the extent of the devastation, the one-sidedness of the battle, and the obvious unreadiness of the American forces. These sentiments turned rapidly to incessant demands, that continue to this day, for explanation and for identification of those responsible. "[T]he American citizenry...were less interested in why the Japanese had attacked Pearl Harbor than in how they got away with it." [2]

Interest immediately and inevitably focused on the officials in command in Pearl Harbor. Admiral Kimmel said, "The flood of abuse and misrepresentation began immediately after the attack. My court-martial was demanded on the floor of the House of Representatives on Monday, December 8, 1941." [3]

That same day, Secretary Knox left for Pearl Harbor. After he returned and reported to the President, the full text of his report [4] was released to the public on December 15th. The relief of Admiral Kimmel and General Short was announced on December 17th. Although the press releases merely announced their relief without comment and Secretary Stimson explained that the action "avoids a situation where officials charged with the responsibility

[1] Mr. Edward R. Kimmel, Thurmond transcript, p. 19

[2] Prange, p. 584

[3] Kimmel, op. cit., p. 170. General Short was largely silent during these years and did not write his memoirs.

[4] The sections pertinent to Admiral Kimmel and General Short are quoted in Section III, supra.

for the future security of the vital naval base would otherwise in this critical hour also be involved in the searching [Roberts] investigation ordered yesterday by the President" [5], the plain language of the Knox report and the juxtaposition of that report with the relief of the

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Hawaiian commanders naturally focused attention on those individuals. Admiral Kimmel saw a more sinister interpretation: "After the Secretary of the Navy, Mr. Frank Knox, reported to the President the result of his inspection at Pearl Harbor, additional statements were released which augmented the campaign of vilification." [6]

The Roberts Commission report, containing the "dereliction of duty" language, was presented to the President on January 24, 1942, and released to the press that same day. The Commission's findings do not indicate a determined effort by the Commission to single out Admiral Kimmel and General Short as scapegoats to bear all of the blame for the disaster at Pearl Harbor. However, the harm to Admiral Kimmel's and General Short's reputations began almost immediately. The headline on the front page of the New York Times the next day read: "ROBERTS BOARD BLAMES KIMMEL AND SHORT; WARNINGS TO DEFEND HAWAII NOT HEEDDED." A sub-headline added: "Stark and Marshall Directed Hawaii Chiefs to Prepare - Courts-Martial Likely." [7] Admiral Kimmel found that "[w]hen the Roberts report was published a veritable hurricane of charges were hurled indiscriminately at Short and me." [8]

Although the President stated that that he did not intend to order courts-martial or take any other action personally [9] and the Services took no further action, the accusation of "dereliction of duty" remained unchallenged in public, and the announcements of the retirements of Admiral Kimmel and General Short made public the reservation "without condonation of any offense or prejudice to any future disciplinary action." This had the effect of leaving the issue unresolved in the public sphere. Admiral Kimmel complained to Admiral Stark on February 22, 1942:

"I stand ready at any time to accept the consequences of my acts. I do not wish to embarrass the government in the conduct of the war. I do feel, however, that my crucifixion before the public has about reached the limit. I am in daily receipt of letters from irresponsible people over the country taking me to task and even threatening to kill me. I am not particularly concerned except as it shows the effect on the public of articles published about me.

"I feel that the publication of paragraph two of the Secretary's letter of February 16 [accepting Admiral Kimmel's retirement "without condonation of any offense"] will further inflame the public and do me a great injustice." [10]

[5] Stimson Diary, December 17, 1941

[6] Kimmel, p. 170

[7] James B. Reston. "Roberts Board Blames Kimmel and Short", N.Y. Times, Jan 25, 1942, p. 1, col. 8.

[8] Kimmel, p. 170

[9] "Inquiry on Hawaii Urged in Congress", N.Y. Times, Jan 27, 1942, p. 4, col. 1.

[10] Kimmel, p. 182

Page IV-3

The need to keep secret the Magic intercepts (of which Admiral Kimmel had some knowledge but General Short did not) effectively precluded informed and objective public discussion during the war years of the Pearl Harbor issue, or final resolution of Admiral Kimmel's and General Short's role. The need to keep Magic secret precluded even explaining to the public the necessity of keeping it secret.

Nevertheless, the public clamor for fuller investigation of fault in Washington began almost immediately after the publication of the Roberts Commission report. On January 27th, the New York Times reported that members of Congress from both parties were demanding a full Congressional investigation, asserting that officials in Washington had been remiss in failing to follow up on actions being taken at Pearl Harbor, and charging that there had not been proper coordination between the Army and Navy. [11] The debate in Congress immediately took on a partisan political tone, as reported in the press. [12] After the initial blaze of interest in additional investigation into responsibility for the disaster at Pearl Harbor in early 1942, Admiral Kimmel and General Short appeared from time to time in the press in 1943 and 1944 in connection with the extension by federal law, or waiver, of the statute of limitations on courts-martial. Debates in Congress over courts-martial also took on a partisan tone as the 1944 election neared. [13]

The Service Boards and the Joint Congressional Committee

Suggestions that the Army Pearl Harbor Board and the Navy Court of Inquiry would clear General Short and Admiral Kimmel began to appear in November and December 1944. [14] Admiral Kimmel's counsel, Charles B. Rugg, stated publicly that the findings of the Roberts Commission had been corrected by the Court of Inquiry:

"Kimmel Cleared, Says Lawyer

"BOSTON, Dec. 1 - Charles B. Rugg, counsel for Rear Admiral Husband E. Kimmel, declared here tonight that "the statement of Secretary of the Navy Forrestal means that Admiral Kimmel has been cleared" of charges of dere-

[11] "Inquiry on Hawaii Urged in Congress", N.Y. Times, Jan 27, 1942, p. 4, col. 1. By the next day, a list of specific topics that many in Congress wanted to further investigate was published in the press, including the degree of responsibility of the Administration, and the reason messages from Washington focused on the Far East as the most likely point of attack. Arthur Krock, "Pearl Harbor Issue: Many in Congress Want Inquiry", N.Y. Times, Jan 28, 1942, p. 5, col 2.

[12] Republicans Push Inquiry on Hawaii, N.Y. Times, Jan 28, p. 5, col. 1 (Representative Whittington of Mississippi told the House that Pearl Harbor "could not be permitted to rest by finding the Hawaiian area commanders derelict in their duty.").

[13] Kathleen McLaughlin, "House Votes Trial for Short, Kimmel", N.Y. Times, June 7, 1944, p. 11, col 8.

[14] E.g., "Hints Vindication of Kimmel, Short", N.Y. Times, Nov. 26, 1944, p. 44, col. 3; Lewis Wood, "Kimmel and Short Will Not be Tried", N.Y. Times, Dec. 2, 1944, p. 1, col. 7.

Page IV-4

fiction of duty at Pearl Harbor." [15]

Final release of the reports made front page news in August 1945, with reports that Marshall, Secretary of State Cordell Hull, Stark and Lieutenant General Leonard Gerow [16] had also been cited for various failures. [17]

After the war, the veil of secrecy was lifted from the intercepts, and, with the permission of President Truman [18] the Joint Congressional Committee explained the Magic intercepts and published the full texts of

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the critical messages. Again, issues associated with the Congressional investigation stimulated lively partisan debate, with accusations that Democrats on the Committee would control the proceedings. [19] In July 1946, the Joint Congressional Committee's findings were described in the press as exonerating Roosevelt and determining that "the overshadowing responsibility . . . lay with the Navy and Army commanders in Hawaii," Admiral Kimmel and General Short. While neither Admiral Kimmel nor General Short was happy with the Commission's findings, General Short at least could argue that ". . . I am satisfied that the testimony presented at the hearings fully absolved me from any blame and I believe such will be the verdict of history. As I have stated before, my conscience is clear." [21] Testimony to the completeness of the Commission's review is the fact that the many analyses and interpretations published since 1946 have drawn primarily on the primary sources published in the JCC hearings record.

The Post-War Period

On the other hand, sober analysis in the years since the publication of the Joint Congressional Committee's report has produced a number of works of nuanced and balanced scholarship which constitute the beginnings of the verdict of history. Those works, based on a careful reading of the entire record of the Joint Congressional Committee and of other primary sources that have come to light in the intervening years, are creating a responsible and increasingly accurate and just understanding of the tapestry of failure at Pearl Harbor. Ultimately, in a free society this must be the function of the academic community, and it is one that the academic community is performing well in this case.

[15] N. Y. Times, Dec. 2, 1944, p. 5, col. 6.

[16] In December, 1941, a brigadier general and Chief, Army War Plans Division.

[17] E g., "ARMY, NAVY REPORT ON PEARL HARBOR; MARSHALL, HULL AND STARK CENSURED", N.Y. Times, Aug. 30, 1945, p. 1., col. 1. The full texts of the Army and Navy reports were reproduced in section 2 of the same issue of the Times.

[18] JCC, Appendix C

[19] C. P. Trussell, "Angry Senators Debate on 'Records' of Pearl Harbor", N.Y. Times, Nov. 3, 1944, p. 1, col. 6; "Hannegan Says Republicans are Trying to Smear the Memory of Roosevelt", N.Y. Times, Nov. 18, 1945, p. 2, col. 5; W. H. Lawrence, "Pearl Harbor Inquiry Enmeshed in Politics", N.Y. Times, Nov. 18, IV, p.5, col. 1.

[20] William S. White, "Roosevelt Found Blameless for Pearl Harbor Disaster", New York Times, July 21, 1946, p. 1, col. 2. "Short Reiterates Stand," New York Times, July 21, 1946, p. 12, col. 6.

Page IV-5

ASSESSMENT

Without question, Admiral Kimmel and General Short got "bad press" in the war years, especially in the immediate aftermath of the attack and of the publication of the Roberts Commission's report. The critical contribution of Magic and Purple to the war effort meant that questions could not be answered while the war raged, and in that sense to some degree Admiral Kimmel and General Short's reputations were sacrificed to the war effort. While concentration on them deflected attention away from others, perhaps conveniently, there is no evidence of organized efforts to make Admiral Kimmel and General Short into "scapegoats" and little evidence of efforts to vilify them personally. In particular, there is no evidence of official government actions directed only

against their reputations. There is, however, also no evidence of government actions to deflect criticism from Admiral Kimmel and General Short.

Pearl Harbor occurred in the midst of a spirited debate between isolationists and interventionists. The energies of those debates were not stifled by Pearl Harbor, but redirected. To a certain extent, Admiral Kimmel and General Short became *causes celebre* in that partisan rivalry. This was, and occasionally is today, the result of the politically charged world in which officers holding three-star and four-star positions become involved by virtue of their high public offices, often with consequences out of all proportion to one's talents or standing as a military professional. Indeed, Admiral Kimmel willingly and even eagerly entered that fray, keeping the issue of his reputation before the public; his autobiography details his efforts, some of which have been cited in this report. [22]

With the publication of the Joint Congressional Committee's report -- a gold mine of primary sources -- and the growing body of valid scholarship, a responsible and increasingly accurate and just understanding of the nature of the failure at Pearl Harbor is emerging. In this process Admiral Kimmel and General Short are taking their rightful place -- certainly not solely to blame for the disaster at Pearl Harbor but also certainly not entirely innocent of error. There is nothing that government can or should do to alter that process.

[22] Kimmel, op. cit.

V. OPTIONS FOR FURTHER ACTION

PROMOTION BASED ON PERFORMANCE

No significant error was committed in any of the three personnel actions. [1] Their cumulative effect placed Admiral Kimmel and General Short in their current two-star rank on the retired list. Relief and retirement were all but inevitable, and not unfair under the circumstances.

Promotion is based on potential, and not on past performance. That is, promotion is based on expectation of performance at the level to which the individual is being considered for promotion. At the time of the Japanese attack on Pearl Harbor, Admiral Kimmel and General Short had been promoted to four-star and three-star rank, respectively, based on their potential for performance at that Level of command. Their relief on 16 December 1941 reflected the Service Secretaries' assessment that their potential for continued service at those grades had changed.

By the end of 1946, the Services and the Joint Congressional Committee had independently concluded that Admiral Kimmel and General Short had adequate information to suggest placing their forces in a higher state of readiness to defend against an air attack on Pearl Harbor. They had sufficient forces to put up an effective as well as spirited defense had those forces been alerted and coordinated. Government officials at the highest levels reached similar conclusions over the next 50 years. This DoD study -- after examining all the facts and circumstances anew -- finds no basis to change the conclusion reached by the Services, Joint Congressional Committee and others-that Admiral Kimmel and General Short made "errors of judgment".

This report concludes that Admiral Kimmel and General Short were not solely responsible for the disaster at Pearl Harbor. Others made significant errors of judgment. In particular, senior Army and Navy leaders failed to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that intercepted Japanese messages should have engendered. That they did not do so does not excuse the errors of Admiral Kimmel and General Short. The scope of the disaster at Pearl Harbor and the lofty ranks of Admiral Kimmel and General Short set them apart from others who served in World War II. The decisions not to promote or advance them on the retired list, or otherwise restore their temporary ranks, were not unfair. There is no basis to require reversal of those decisions.

As noted earlier, three- and four-star grades are "positions of importance and responsibility" requiring individual Senate confirmation. As earlier sections of this review suggest, though perhaps at times they were unfairly characterized, Admiral Kimmel and General Short were not entirely blameless in connection with Pearl Harbor. They were the

[1] See Section II, above.

Page V-2

men in charge at the site of the worst military disaster in US history, and their errors of judgment were of sufficient magnitude to lead to the conclusion that their overall performance did not compare favorably to that expected of other three-star and four-star officers of their era.

PROMOTION BASED ON OTHER CONSIDERATIONS

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Article II, Section 2 of the Constitution gives the President broad power, with the advice and consent of the Senate, to appoint officers in the Armed Forces. [2] The President may use that discretionary authority to appoint an officer independently of the statutes that otherwise govern the promotion process. [3] Thus, the President has the power to nominate Admiral Kimmel and General Short for posthumous advancement on the retired list.

Because of their unique positions as the commanders on the scene in Hawaii, it was inevitable that much of the weight of public dismay over the Pearl Harbor disaster focused immediately on Admiral Kimmel and General Short. The need to keep secret the nation's codebreaking capabilities prevented knowledgeable officials from correcting the record during the war years. The families of Admiral Kimmel and General Short are concerned today with the lingering effects of reports published over fifty years ago. They argue that the "stigma and obloquy" from that era persist, and demand official government action, saying "the vehicle we have chosen" [4] to restore those officers' reputations is advancement on the retired list.

Advancement on the retired list is not an appropriate vehicle with which to remedy damage to reputation. With the end of the war and the publication of the reports of the Services and the Joint Congressional Committee came official public determinations that Admiral Kimmel and General Short were not solely responsible for the disaster at Pearl Harbor, clear public affirmations that their errors of judgment did not rise to the level of dereliction, and that others also made errors of judgment. There the official public record stands, as it should.

It is indisputable that Admiral Kimmel and General Short got more than their fair share of bad press in the early war years, and that the errors of others, whose errors contributed to the disaster at Pearl Harbor, generally escaped censure. Posthumous advancement in rank, however, necessarily would be based on the judgment that, at a minimum, they had served satisfactorily at the three- and four-star level. Their superiors at the time decided that they had not, and there is no compelling basis to contradict this earlier decision.

[2] US Const., Article II, Section 2. The President "shall have the Power, by and with the Advice and Consent of the Senate . . . [to] appoint . . . Officers of the United States." Today, Senate confirmation is required before an officer appointed to a three-star or four-star position may serve in such a grade. 10 U.S.C. § 601(a).

[3] During times of national emergency, the President has expanded powers to make temporary appointments of officers in the Armed Forces. 10 USC 603.

[4] Thurmond transcript, p. 19.

Page v-3

To use posthumous advancement to compensate for harsh treatment in the media, as a form of official apology or as a symbolic act, would not be appropriate. Additionally, there is no precedent for such an advancement. Finally, using advancement or promotion for such purposes would be manifestly unfair to those who earned advancement based on performance, and would imply a double standard for advancement in the armed services. The highest retired grades to which an officer may aspire should not be conferred on anyone as an apology. Rather, those grades should be reserved for those officers whose performance stands out above others.

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CONCLUSIONS

An examination of the record does not show that advancement of Admiral Kimmel and General Short on the retired list is warranted.