

OFFICE OF STRATEGIC SERVICES

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Washington, D. C.

12 April 1945

MEMORANDUM

TO: Special List
FROM: General Counsel
SUBJECT: War Crimes Information Memo #1

The following informational summary is designed to acquaint OSS personnel with the general historical background of the United Nations' plans for the apprehension and punishment of "war criminals." OSS participation in the "war crimes" program was outlined in an inter-office memorandum from the Director, dated 15 December 1944, which will be implemented in the future at a time when an agency program may be considered.

The earliest statement made by President Roosevelt was occasioned by the Nazi execution of hostages in France. Referring to these atrocities, the President said on 25 October 1941 that their frightfulness would "only sow the seeds of hatred which will one day bring fearful retribution." On the same day, Prime Minister Churchill associated his government with the President's declaration and declared, "Retribution for these crimes must henceforth take its place among the major purposes of the war."

These statements by the President and Mr. Churchill were followed by the "St. James Declaration" on 13 January 1942 by the London governments-in-exile of nine enemy-occupied countries, affirming their determination to punish "war criminals."

On 17 July 1942, President Roosevelt, referring to German outrages, wrote that: "... The American people ... will hold the perpetrators of these crimes to strict accountability in a day of reckoning which will surely come." Again, on 21 August 1942, the President declared:

"... When victory has been achieved, it is the purpose of the Government of the United States, and I know it is the purpose of each of the United Nations, to make appropriate use of the information and evidence in respect to these barbaric crimes of the invaders in Europe and Asia. It seems only fair that they should have this warning; the time will come when they shall have to stand in courts of law in the very countries which they are now oppressing and answer for their acts."

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On 7 October 1942 the United States and Great Britain issued simultaneous declarations that a United Nations War Crimes Commission would be established to affix the responsibility of those individuals guilty of "war crimes," and to collect and to assess all the available evidence in cooperation with other governments. It was also declared that, on surrender, the enemy must deliver up those "war criminals" within its jurisdiction. (This provision has already appeared in the armistice terms of Finland, Roumania, Hungary and Bulgaria.) The announcement pointed out that it was not the intention of the United Nations to resort to mass reprisals but to punish "ringleaders responsible for the organized murder of thousands of innocent persons and the commission of atrocities which have violated every tenet of the Christian faith." These corresponding statements were communicated to the Dominions and India, China and Russia with the view of obtaining their concurrence and cooperation. The Allied governments-in-exile in London, and the French National Committee, approved and adopted these.

On 17 December 1942 the United Nations issued a joint statement that the guilty would not escape, emphasizing that the Allied Governments would "resolutely press on with all practical measures" necessary to achieve this end.

On 20 October 1943 the United Nations War Crimes Commission was established in London to receive evidence submitted by the State Commissions of the various countries and to compile lists of "war criminals." The member nations would cooperate by (a) reporting all "crimes" committed against any United Nations' nationals, (b) deciding what "war crimes" should be brought before the Commission, and (c) supplying the Commission with the evidence required for prosecution. The Commission itself was not given the power to prefer charges.

The Soviet Government has not been associated with the Commission but has issued many statements on the subject and has held several "war crimes" trials. Most notable of its unilateral declarations was that of 15 October 1942 in which were urged the extradition, prosecution and stern punishment of "hitlerites and their accomplices guilty of organization, encouragement, or perpetration of crimes in occupied territories." Most prominent of the trials was that held in Kharkov in December of 1943, resulting in the conviction and execution of three Germans and one Russian.

On 1 November 1943, following the Moscow Conference, the pronouncement known as the "Declaration on Atrocities" was made by the United States, Great Britain and Russia. This declaration reiterated a firm determination that the guilty would be punished, and that among the guilty would be included all who had taken a "consenting part" in atrocities. The guilty were to be sent back, whenever possible, to the countries in which their crimes were

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committed, to be judged and punished according to the laws and before the tribunals of those liberated countries. Where geographical location could not be established, punishment would be prescribed by a joint decision of the Governments of the Allies.

On 24 March 1944 President Roosevelt, referring to the continuing German massacre of Jews, declared:

"It is, therefore, fitting that we should again proclaim our determination that none who participate in these acts of savagery shall go unpunished. The United Nations have made it clear that they will pursue the guilty and deliver them up in order that justice be done. The warning applies not only to the leaders, but also to their functionaries and subordinates in Germany, and in the satellite countries. All who knowingly take part in the deportation of Jews to their death in Poland, or Norwegians and French to their death in Germany, are equally guilty with the executioner. All who share the guilt shall share the punishment."

On 25 September 1944 the Secretary of War, with the concurrence of the Department of State and the Navy Department, designated the Office of the Judge Advocate General, War Department, as the central agency to insure the punishment of individuals guilty of atrocities against the United States military and civilian personnel, and other nationals of the United States. The duties of this agency, as defined in several directives, include the collection and evaluation of "war crimes" evidence, together with arrangements for apprehension and prompt trial of persons against whom a prima facie case could be made.

Pursuant to these directives, a War Crimes Office has been established within the Office of the Judge Advocate General, under the direction of Brigadier General John M. Weir. To this office, the Judge Advocate General of the Navy has assigned representatives. Announcement to the Commanding Generals in the European and Pacific Theaters of the establishment of the War Crimes Office was made on 25 December 1944 in a secret directive from the Acting Adjutant General. Each Theater Headquarters was ordered to establish a War Crimes Branch for the investigation of evidence, including information relating to crimes against nationals of other countries for transmission to the governments concerned. No criminals are to be tried before military tribunals, except those cases in which the offenses involved the security of military operations or occupation. There is to be no disclosure to individuals detained that they will be subjected to trial for war crimes. The Theater Directive states that Navy, War and State Departments will function jointly with the central agency established in the War Department.

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In January, 1945, it was announced that Mr. Herbert Pell, American representative on the United Nations War Crimes Commission since its origin, had been replaced by Lt. Col. Joseph V. Hodgson, J.A.G.D., formerly of the War Crimes Office.

On 1 February 1945, Assistant Secretary of State Grew issued a public statement that this Government has worked out proposals, for the realization of the objectives stated in the past two years, which are as forthright and far-reaching as the objectives they are intended to implement.

On 12 February 1945, the United States, Great Britain and Russia announced, following the Yalta Conference, that it was their inflexible purpose to destroy German militarism and Nazism and to insure that Germany will never again be able to disturb the peace of the world. One of the elements mentioned in achieving this objective was the bringing to "just and swift punishment" of all "war criminals".

Certain Congressional interest in the subject of "war crimes" should be noted. A joint resolution was introduced by Representative Celler (N.Y.) on 5 February 1945, that a commission be created to cooperate with the United Nations War Crimes Commission in planning the punishment of "war criminals". Public hearings on this resolution have been held by the House Committee on Foreign Affairs. Other legislation embodying various proposals on "war crimes" has also been introduced.


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