

General T File 54.03

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Comdr. Jim Donovan to see  
W.D.W.

OFFICE OF U. S. CHIEF OF COUNSEL.

Notes of Staff Meeting, 31 August 1945.

PRESENT: Mr. Justice Jackson  
Mr. Alderman  
Mr. Shea  
Col. Taylor  
Lt. Col. Wheeler  
Ensign Jackson  
Mr. Whitney

1. List of Defendants

The list released to the newspapers on 29 August can be added to at any time, but it will be embarrassing to withdraw any names from it. Since, for example, Kaltenbrunner is the only defendant on the present list who may be said to represent the Gestapo, it is likely that another name or names should be added to provide adequate representation of that organization. Colonel Taylor commented that the High Command, as well as the SS, is not now properly represented. In the preparation for trial, it can be assumed that the list is not frozen.

2. Translation Problem:

Mr. Justice Jackson will request that translation machines, which permit simultaneous translation of proceedings into several languages, be provided for the trial. The principal difficulty will be to obtain adequate competent individuals to do the translating.

3. Distribution of Staff Evidence Analysis Sheets:

The number of these sheets to be distributed should be reduced below the present number requested by the various Committees and Staff members. Colonel Wheeler is to work out a reduction with the interested Committees and Staff Members.

4. Vatican Evidence on Persecution of the Churches:

The Justice's recent mission to the Vatican was given full cooperation. A memorandum from the Vatican (the Acting Secretary of State, Mons. Tardini) has been prepared and will be distributed. Definite facts as to persecutions are set forth, including charges made in correspondence dated 29 August 1941 to Ribbentrop, setting out the number of individual Church personnel sent to concentration camps, their names, etc. This material can probably be put into evidence in documentary form, but will require some modification to

make it more factual and effective and properly authenticated.

Father Walsh, who arrived after the Justice's departure for Italy, should be able to obtain additional evidence from various individuals to whom he has special means of access. (His studies on geopolitics and any further investigation along that line are beyond the scope of our case as presently envisaged).

5. Assistance on Studies of Military Organizations:

As recommended by Colonel Taylor, the Justice will take up with the British authorities, through the Attorney General, the obtaining as consultants of some British authorities on this subject, who have worked on it for many years.

6. Evidence of Persecution of the Jews:

Professor Lauterpacht, of Cambridge University, has been retained by the British War Crimes Executive as an authority on International Law. A Committee on which prominent Jewish organizations are represented is working up materials for introduction in evidence on the number of Jews exterminated, etc.

7. Polish Atrocities:

Dr. Leskin has information that a very large amount of evidence of atrocities in Poland is accumulated in Warsaw. The Justice will urge General Mikitchenko to obtain Russian cooperation in getting this evidence.

8. Atrocities in Italy, Hungary, and the Balkans:

Mr. Polakoff, General Richmond, and others, have advised the Justice that local trials in Italy are proceeding with dispatch and discrimination. The situation in Hungary and Yugoslavia, and in other Balkan countries is so confused that it is inadvisable to attempt to cover them in the trial of major war criminals.

9. Form of Indictment:

Pursuant to the language of the Four-Power Agreement, the Indictment must do more than merely charging an offense in the language of the definition of crimes contained in that Agreement. On the other hand, there is no requirement that evidence be set forth. It may be advisable to incorporate some evidence by reference, such as Congressional and Parliamentary reports on concentration camps. Incorporation of detailed evidence, however,

is impracticable, since the selection of some evidence and the exclusion of other evidence would weaken the whole indictment and make difficult the use of later discovered or other evidence. Mr. Alderman has received from Dr. Hazard an illuminating presentation of the Russian concept of an indictment and preliminary investigation.

#### 10. Procurement of additional Personnel to Screen Documents

Request has been made for making available at document centers considerable additional personnel for screening of documents for relevance on major war criminals. Colonel Taylor has conferred with Col. W. B. Dixon and Col. Gronich, the War Department representative at Frankfurt, and with other War Department installations on this matter and expects satisfactory results.

The Justice cautioned against crossing wires, particularly in going to higher authority for assistance before all channels through Colonel Gill to WFFA authorities have been tried. General Eisenhower and General Bull have given complete cooperation. Appeals to Washington especially should be avoided without proper occasion and clearance.

#### 11. Treaty Project

Mr. Shea reported for Committee 1 that the JAG Treaty Project has turned out well, and that he has invited representatives of the other Governments to inspect the various dossiers.

#### 12. Move to Nuremberg

Nothing has developed to change the decision to move the Evidence Collection and Analysis Section to Nuremberg on 10 September and the main body of the Staff by 17 September. Integration of the work between Colonel Story's group and Colonel Wheeler's group will be worked out by them at Nuremberg.

#### 13. Reports From other United Nations

Mr. Alderman and Colonel Taylor have been working with representatives of other United Nations in connection with the preparation of official reports by their Governments as to atrocities and other acts affecting those countries. All necessary action should be taken to obtain these reports in the most helpful form.

14. Surrender of Prisoners for Legal Trials:

The function of the Chiefs of Counsel is merely to indicate whether any requested prisoner is wanted as a defendant or witness for the major case. The military authorities to whom the State Department has delegated this matter have the responsibility of determining disposition of the prisoners, especially as between the two or more countries which may have requested the same individual. There appears to be no objection to receiving these requests and passing the request along to the proper military authorities with appropriate notification that the individuals involved are or are not wanted in connection with the case. The question was raised as to whether it is necessary to consult the other chief prosecutors in advance before deciding whether any individual is wanted for the main case. Such a procedure would cause considerable delay. It may be that concurrent notification to the chief prosecutors will be sufficient in most cases.

15. General Situation:

Justice Jackson expressed optimism as to the development of the case. The principal difficulty will be tying in the defendants and organizations to the planning and commencement of aggressive war and atrocities committed. Evidence of the existence of the common plan appears to be developing satisfactorily; and if the existence of the plan can be adequately proved, the connection of the defendants with the plan can be largely a matter of inference, with the burden on highly placed individuals in effect to disprove their connection with it. In the case of a man like Schacht, for example, the question will be principally whether he had knowledge that the program in which he participated was intended for aggression. Whether the evidence to be relied upon will be primarily documentary, or to what extent individual witnesses will be called, cannot be determined at this stage but must depend upon developments.

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