CHAPTER XII

MACHINERY FOR THE TRACING AND APPREHENSION OF WAR CRIMINALS

INTRODUCTORY NOTES

From its establishment until nearly the very end of its existence, the United Nations War Crimes Commission attached great importance to devising practical ways and means for use by the Allied Governments in the field of identifying, tracing and apprehending the individuals guilty of war crimes. It examined this question periodically, and submitted to member Governments a series of proposals and recommendations which would best fit the requirements, closely following the development of actual measures undertaken by the Governments to secure the arrest of war criminals.

On many occasions the Commission’s recommendations directly influenced governmental action, and on many others they served as a general guide to the Allied authorities as to what action should be undertaken at the appropriate time. These activities are recorded in the first part of this Chapter.

The second part contains a comprehensive survey of the actual machinery set up by the Allied authorities. This concerns the machinery established by the military authorities, who have from the outset been entrusted by the Governments with the task of discovering and arresting war criminals, as being the authorities best placed to carry out this task. It will be seen that this machinery gradually became a very active and important part of the general Allied military organisation, and that it grew into a vast system all over the world. It was the first of its kind to be created in history, and for this reason it had to be put on its feet without any previous experience to guide it. Considering the difficulties, one can only pay tribute to the military personnel for the efficiency which rendered possible the just punishment of thousands of war criminals.

A. PROPOSALS AND RECOMMENDATIONS OF THE COMMISSION

(i) TRACING AND APPREHENSION OF PERSONS IN AUTHORITY IN OCCUPIED TERRITORIES

On 25th April, 1944, the Belgian representative and Chairman of the Committee on Facts and Evidence, submitted a proposal(1) for improving the methods of collecting evidence regarding war crimes, in view of the difficulties existing at that time in obtaining particulars of crimes from the territories where they were being perpetrated. At the same time stress was laid on the importance of devising means for identifying the individuals responsible. Since it was “impossible that major crimes were perpetrated

(1) C.14. 25.4.44. Proposal by the Chairman of Committee I regarding the future programme of the Committee.
without the knowledge and consent of responsible persons who were in charge or in command in the occupied countries, it was suggested that all individuals, civil or military, who were susceptible of carrying some responsibility in the commission of crimes be placed in custody immediately after the armistice. These should include officers in command of larger units, from army groups down to regiments. After their arrest, particulars regarding their identity should be made known to the populations concerned, which would in turn make possible the collection of facts to provide or dismiss legal grounds for their trial.

Discussions on this recommendation were held in the Enforcement Committee. In its first draft(1) the Committee attempted to draw up a specific list of individuals who should be detained and suggested the apprehension of all members of the Gestapo, all commanding and senior officers of the German army and of German military organisations, above the rank of major, and of all civil servants who had held a position in the occupied territories at a salary above a given amount. It also recommended that the various Allied authorities should compile and have ready lists of all enemy civil and military persons in authority in each occupied country, since 1939, such as Gauleiters, Governors, Chiefs of the S.S. and Gestapo, with particulars regarding their identity. This latter recommendation was made following a resolution to this effect, adopted by the Commission on 4th April, 1944.(2) on a motion submitted by the French representative. In an alternative draft(3) the Belgian representative, recommended that the civil servants to be included should be those who had an annual salary of above 4,000 RM, or who were assimilated to a rank corresponding at least to that of a major.

After debate in the Commission, a final draft was discussed and on its basis formal recommendations were adopted for transmission to member Governments on 16th May, 1944.(4) In these recommendations it was first recognised that the mere preparation of lists of persons presumably guilty of war crimes could not suffice for the purpose of bringing all war criminals to book. This was especially recognised with reference to the fact that at that time Governments whose territories were occupied lacked the machinery, personnel and the necessary information. The following two measures to ensure the apprehension of war criminals were, therefore, recommended:

(a) That 'all persons, who have held a responsible position in the occupied countries or in the army or military or political organisations should be available, immediately after the armistice, to be examined upon any crimes which may have been committed in their sector or command'.

(b) That, for this purpose, the Allied Governments 'should compile and communicate to the Commission lists of all enemy civil and military

---

(1) C.17, 6.5.44. Measures proposed by M. de Baer to ensure capture of war criminals—draft recommendations to the Governments prepared by Committee II.
(2) See M.14, 4.4.44, p. 3.
(3) C.17(1). 9.5.44. Measures proposed by M. de Baer to ensure capture of war criminals—draft recommendations to the Governments proposed by M. de Baer in place of those contained in Document C.17.
(4) C.17(2). 12.5.44. Second draft prepared by Committee II; also C.21, 18.5.44, Measures to ensure capture of war criminals—recommendations to the Governments adopted by the UNWCC on 16th May, 1944.
persons in authority in each occupied district, including Gauleiters, Governors, chiefs of the S.S., chiefs of the Gestapo, etc., with as complete particulars as possible regarding these persons' identity and some of the more important crimes committed in the provinces, districts, towns or camps where they are or were in authority”.

(c) That it was “particularly necessary that on the conclusion of the armistice the military authorities should put and keep under control all persons whom they find to have been members of the S.S. or the the Gestapo”.

Finally, it was recommended that analogous measures be taken as regards “other Axis Powers and satellites”.

(ii) PROPOSALS TO ESTABLISH AGENCIES IN EX-ENEMY COUNTRIES

During the period from May, 1944, to June, 1945, various suggestions regarding the establishment of special war crimes agencies in ex-enemy countries were considered by the Commission. All the proposals envisaged, as one of the major tasks of such agencies, the tracing and apprehension of war criminals who would be located in ex-enemy countries, after these countries had been occupied by the Allied Forces.

(1) Proposal for an Agency in Germany

When submitting his proposals mentioned above concerning the apprehension of persons in authority,(1) the Chairman of the Committee on Facts and Evidence suggested the creation of a United Nations body in Germany, whose tasks would include the finding of war criminals located in Germany after the allied invasion, and their subsequent arrest and detention in preventive custody. The proposed body should carry out interrogations of the arrested persons, possibly making a summary investigation of the statements thus collected, with a view to turning them over to the authorities of the country where their trial was to be held. Stress was laid on the importance of establishing such a body in order to prevent a state of chaos following the collapse of Germany, thus assisting most criminals to escape.

After these recommendations had been examined by the Committee on Enforcement, the Belgian Office submitted a further proposal.(2) This recommended the creation of an international or United Nations agency to deal with the tracing and apprehension of war criminals, not only in Germany but in any of the ex-enemy countries. It was pointed out that in the absence of such an agency the whole burden of tracing and apprehension would fall on the military occupation authorities. The only possibility of relieving them would be to utilise the judicial machinery of the enemy countries themselves, a course which was most undesirable.

The agency was to be vested with the following powers:—

(a) to locate the whereabouts and to find within enemy territory the accused whose names and other particulars would be provided by the U.N.W.C.C. or National Offices;

---

(1) See C.14 of 25.4.44.
(2) Doc. II/14, 17.5.44. Proposals made by M. Dumon on the lines suggested by M. de Baer in his report of 9th May (Doc. II/13) and concerning the Institution of a War Crimes Office in enemy countries after the Armistice.
(b) to hear and examine any witnesses or experts;
(c) to ascertain the identity of all persons guilty of war crimes;
(d) to issue search warrants;
(e) to place and keep in custody the accused persons;
(f) to make, on the spot, such surveys as could not conveniently be carried out in other countries;
(g) to ensure the conveyance of the accused and witnesses to their place of destination;
(h) eventually to ask, at the special request of an allied nation, for the extradition of war criminals from neutral countries;
(i) to collect information which might lead to the discovery of other crimes or of further evidence.

It was suggested that the agency should be composed of twenty members, vested with functions similar to those of investigating judges (juges d'instruction) and assisted by an appropriate number of clerks, C.I.D. officers or constables, having at their disposal a modern laboratory of criminology and scientific police, as well as the assistance, for enforcement, of the Allied military authorities. The various interested Allied Governments could provide the agency with the assistance of their judicial machinery and police, while a term to be inserted in the Armistice should bind the enemy Governments to assist its operations.

The agency should be created by means of an international convention, which could, if necessary, be incorporated into the national legislation of the Allied Governments. It might, eventually, be the nucleus of a post-war international institution, whose role would be to investigate offences against international criminal law.

In the course of discussions in the Enforcement Committee, it was agreed in principle that the establishment of such a body or agency should be recommended to the member Governments, but it was pointed out that it could not be established without the consent of the military authorities. As to its actual status, there were differences of opinion, some maintaining that it should be an independent, judicial body, cooperating with the Commission but having a separate status; others considering that it should be an organ of the Commission, attached to or forming part of Army Headquarters, and operating through the occupying forces. In regard to its actual constitution, some preferred to see it established by an order of the Commander-in-Chief or by a clause in the armistice terms, without having recourse to a special treaty.

In the draft report submitted to the Commission on 30th May, 1944,(1) it was recommended that there should be an agency "attached to or established as part of the Commander-in-Chief’s Headquarters in each enemy territory", and that it should be established by "an Order of the Commander-in-Chief or a clause in the armistice terms." It was also recommended that such an agency should be an organ of the War Crimes Commission, "attached to or forming part of Army Headquarters and operating as part of and through the occupying forces". Its functions

(1) C.24. 30.5.44. Establishment in enemy territory of War Crimes Offices—Draft report by the Commission, submitted by Committee II.
were suggested on the same lines as previously recommended in the Committee, except that the agency was to be vested with the power to approach neutral Governments, with a view to obtaining the surrender (extradition) of war criminals. This proposal was, however, omitted from the draft recommendations of the Commission. All suggestions were made "subject to their being found to be practicable by the United Nations military authorities".

A note by the Chairman of the Commission was circulated to members on 9th June, 1944. After having made reference to the principle that no agency could be established without the concurrence of the military authorities, the Chairman reported that he had discussed the matter at an informal and unofficial meeting with some members of the staff of the Commander-in-Chief (S.H.A.E.F.), and that it seemed probable that the military authorities would agree to the appointment of the proposed agency. He submitted a text giving the conclusions reached at the meeting and suggested that it be used as the basis for a formal recommendation by the Commission and for a "directive" by the Combined Chiefs of Staff. At its meeting held on 13th June, 1944, the Commission adopted the text proposed by the Chairman as a recommendation to be made to member Governments.

This recommendation was couched in general terms only, as it was considered that specific questions regarding the composition, functions and nature of the agency were more suited for decision by the military authorities themselves. The first premise was that "it will be of great assistance to the War Crimes Commission if a group or agency could be attached to, or form part of, the appropriate section of the Supreme Allied Commander, in order to help the Commission in the task with which it has been entrusted ". The assistance requested was for the identification and location of individuals wanted for trial as war criminals, their arrest, custody and surrender to the competent courts; the collection of evidence in a form which could be used at the trials and of information in cases where perpetrators of war crimes had not yet been identified. The question of the connections of such an agency or group was limited to expressing the desire that it "should be in touch with the War Crimes Commission ".

This recommendation was communicated to member Governments for action. As will be seen later, it led to the creation of an elaborate machinery which was to be set up entirely as part of the Allied military authorities and which subsequently established permanent connection with the Commission.

In a letter sent to the Chairman of the Commission on 24th July, 1944, the Belgian representative, as one of the promoters of the project, expressed dissatisfaction at the absence of information concerning the action of the Governments upon the Commission's recommendation. He particularly

(1) C.28, 9.6.44, Establishment in enemy territory of a War Crimes Office—Note by the Chairman of the Commission.
(2) See M. 22 and C.30., 15.6.44, Recommendations regarding the establishment in enemy territory of an appropriate agency to assist the Commission in its work, adopted by the Commission on June 13th, 1944.
stressed the fact that information showed that, while suppressing as much evidence of their crimes as possible, the Germans were making large scale preparations to escape the consequences of their guilt. He therefore repeated the need for setting up in Germany a body such as the one proposed, without further delay.

He underlined the need for the members of that body to be familiar with the continental practice in interrogating the suspected war criminals, and therefore suggested that it should be directed by a member of the Commission, or else that it be in constant and close liaison with the Commission. Lack of liaison with organs which would be charged with carrying out the duties required in Germany, and lack of knowledge as to whether there even were any such organs, were to be deplored.

Several months later, the Commission received information regarding a highly secret document from the Supreme Headquarters of the Allied Expeditionary Force (S.H.A.E.F.), bringing the first news of the steps taken by the military authorities in this matter. The document, whose code-name was "Eclipse Memorandum No. 18" and was dated 16th January, 1945, laid down that during the operational phase of the Allied Forces in Europe, which was still in progress at the time of the communication, "particulars of war crimes committed against other Allied civilians (other than British and United States) or members of the resistance movements which come to the notice of Commanders, will be forwarded to the G-1 Division S.H.A.E.F., for transmission to the Allied authorities concerned who will carry out the final investigation."

This communication was received at the time when S.H.A.E.F. was organising its own Anglo-American military war crimes branches and was calling upon Allied nations to send liaison teams or, as they were alternatively called, war crimes investigation detachments, to be attached to these branches, an account of which will be found later. The document contained, in a condensed form, the description of the machinery which was to be set up, namely, that the forces under S.H.A.E.F. would collect evidence in operational areas, and that the Allied nations would be called on to carry out any further investigations, including the tracing and apprehension of war criminals wanted by them for trial. All these preparations were related in the first place to Germany, and were subsequently extended to Austria.

There was considerable criticism in the Commission, particularly from the Chairman of the Committee on Facts and Evidence, that instead of the body originally envisaged by the Commission, machinery was being created as a component part of the regular military organisation. On 23rd April, 1945(1) he renewed his previous recommendation for an international body in Germany, expressing the opinion that evidence collected by S.H.A.E.F. officers, with a view to tracing and apprehending war criminals, would represent an "amateur recording haphazardly taken down by officers who, unlike lawyers and continental investigating magistrates, were not specialists trained for that kind of work". He

---

(1) C.97. 23.4.55. Renewal of the proposal made by M. de Baer on April 7th to institute in Germany an agency for the investigation of war crimes. Memorandum by M. de Baer.
referred to the current rumour that S.S.-men and even war criminals listed by the Commission were being left in charge of concentration camps, and that not even their names were being taken down. He also stressed that there was, so far, no evidence of qualified Allied representatives having been called upon to collect evidence in camps liberated by the Allied forces, such as Belsen and Buchenwald, where their own nationals had been interned and tortured. He concluded that with such a state of things the evidence was rapidly disappearing, and that, on the other hand, many prisoners of war, who were war criminals, might be released on account of the impossibility for the Allied nations concerned to bring charges against them owing to lack of means of collecting the evidence required.

Shortly after this, however, it was learned that the Allied military authorities in Germany had called for the assistance of the Allied liaison teams. It had been decided that the military occupation authorities should set up their own war crimes branches, to carry out duties similar to those proposed in regard to the Commission’s agency.

In a report submitted on 9th July, 1945, regarding the initial stages of this machinery, the Czechoslovak representative drew the attention of the Commission to the fact that the machinery in question lacked a central war crimes office for the whole of Germany. He expressed the opinion that such an office should be set up in order to co-ordinate the work of the various zonal military agencies, and that it should be attached either to the Allied Military Government or to the Allied Control Council in Berlin. He also stressed the importance of setting up such an office with a view to obtaining the co-operation of the U.S.S.R., which was not represented on the Commission. In practice, however, such a body was never established.

(2) Proposal for an Agency in Italy

At the Commission’s meeting of 10th May, 1945, the Yugoslav representative raised the question of establishing in Italy an agency of the Commission which would perform the same tasks as the agency proposed for Germany. He was supported by the Czechoslovak delegate.

On 14th May, 1945, the Yugoslav representative submitted a formal motion on the matter. He referred to a memorandum which the Enforcement Committee had presented to the Commission a few days earlier, and in which it had recommended immediate negotiations with the Supreme Allied Commanders in the various theatres of operation, with a view to making arrangements for co-ordinating their activities in the collection of evidence and the tracing of war criminals with those of the Commission. In this connection he also referred to steps being undertaken with the Allied Command for Germany (S.H.A.E.F.) in regard to the proposed agency for Germany and asked that similar steps be taken with the command in Italy. He stated that crimes perpetrated by

(1) C.1134. 9.7.45. Work of the Czechoslovak investigating team attached to the H.Q. 12th Army Group in Wiesbaden. Report by Dr. Eder.
(2) C.1110. 14.5.45. Establishment of an agency attached to the Allied Control Commission in Italy. Proposal by Dr. Živkovic.
(3) C.99. 25.4.45. Memorandum on the integration of agencies concerned with war criminals. Submitted by Committee II.
Italians against nationals of the United Nations, namely in Yugoslavia, France, Greece and Albania, did not, in any respect, fall short of those committed by the Germans. He therefore thought that the time had come to enforce the provision inserted two years before in the Italian terms of surrender (Art. 29), according to which Italy was under an obligation to surrender war criminals. So far as he was aware, while the Allied command in Germany had started apprehending war criminals, this was not being done in Italy, and there was no indication that such action was contemplated in the near future. He therefore proposed that the Commission should make an approach to the Allied Control Commission in Italy, with a view to attaching an agency of its own to the Control Commission. This agency should act both as an advisory body and an executive organ in carrying out the terms of surrender regarding the tracing and handing over of Italian war criminals. He recommended that it be composed of five to six members, four of whom should represent France, Yugoslavia, Greece and Albania, the countries directly affected. In conclusion, he expressed the fear that if such machinery for the apprehension of war criminals in Italy were not established without delay, the Governments and public opinion in the countries directly concerned might feel that the Commission was not acting uniformly with regard to all war criminals, and that many of them would not be brought to justice.

The motion was discussed by the Commission on 25th May, 1945,(1) and referred to the Enforcement Committee. At the latter’s first meeting on the subject, the United Kingdom delegate reminded members of the views expressed by the Chairman of the Commission on 25th May, that the Commission was not acquainted with the activities of the Allied military authorities in Italy concerning the apprehension of war criminals and suggested that, prior to adopting a recommendation on the Yugoslav motion, he should endeavour to obtain the necessary information.(2)

On 19th June, 1945, the United Kingdom delegate communicated to the Committee the substance of a telegram received from the Minister in Caserta to the Foreign Office, dated 16th June, and containing the information requested.(3) From this it appeared that arrangements had already been made by the Allied Command in Italy to meet the requirements regarding the tracing and apprehension of war criminals. A Committee had been appointed by the Supreme Allied Commander and had held a meeting on 27th March, 1945. The Committee had decided upon the following:

(a) That national missions should be called to come to Italy to investigate for themselves all cases relating to wanted war criminals and their whereabouts, and that they should do so under Allied control.

(b) That the agency to supervise these missions should be the Allied Commander in Italy, and in the case of Cefalonia (Greece) the representatives of the British forces in Greece, acting under directives from the Committee.

(1) See M.62, 25.5.45.
(2) See M.63, 30.5.45.
(3) II/31, 22.6.45. Establishment of an agency in Italy: communication from the Minister at Caserta to the Foreign Office.
(c) That the Governments concerned should be asked to communicate detailed proposals concerning the scope of their missions.

(d) That, upon reception of these proposals, a new meeting should be held of the Committee, with the Allied Control Commission representative attending, in order to decide conditions under which the national missions would be admitted.

It was stated that the Yugoslav and Greek delegates to the Advisory Council for Italy had been requested to submit the above detailed proposals, and that no reply had yet been received from them. In view of this, the Enforcement Committee decided to postpone the Yugoslav motion until such time as the Yugoslav Government should wish to place it on the Committee's agenda for further consideration.\(^{(1)}\)

The motion, however, was not renewed.

(3) Proposal for an Agency in Japan

In June, 1945, a proposal was submitted for recommending the setting up of a war crimes agency in Japan. The proposal was made with reference to the recommendation previously adopted by the Commission in connection with the establishment of an agency in Germany, which had accepted the principle of having war crimes agencies set up in enemy territory.

The proposal was studied by the Enforcement Committee, who entrusted the Chinese representative with the duty of preparing a draft recommendation. After some discussion a final draft was submitted to the Commission,\(^{(2)}\) which was unanimously adopted at its session of 15th August, 1945.\(^{(3)}\)

In this latter recommendation notice was taken of the recommendation of 13th June, 1944,\(^{(4)}\) and the opinion was expressed that events which had taken place during the occupation of Germany had fully justified the proposal to create machinery for tracing and apprehending war criminals in Germany. Now it was thought desirable to create similar machinery for apprehending war criminals in Japanese territory. Making use of the experience acquired in the past year regarding the most practical means of achieving this goal, it was suggested that the machinery required for Japanese territory be set up on military level and be run by the military authorities concerned. The following was therefore recommended:

(a) That the various Supreme Allied Commands operating in Japanese territory be invited to create special military branches for the purpose of collecting evidence, apprehending Japanese war criminals, putting them into custody and handing them over to the competent courts for trial.

(b) That a representative from each of the National Offices concerned be attached as liaison officer to each of the Supreme Allied Commands

---

\(^{(1)}\) See M.66., 20.6.45.

\(^{(2)}\) II/48, 12.6.45, Draft Recommendation regarding the establishment of an agency or agencies inside Japanese territory to investigate war crimes.

\(^{(3)}\) C.122(1), 12.6.45, Recommendation regarding the establishment of an agency or agencies inside Japanese territory to investigate war crimes—adopted on 15th August, 1945.

\(^{(4)}\) C.30, 15.6.44, Recommendations regarding the establishment in enemy territory of an appropriate agency to assist the Commission in its work—adopted by the Commission on 13th June, 1944.
concerned. He would be invited to take charge with his own team of the investigation of crimes concerning nationals of his country, and would co-operate with the command in all other related matters.

(c) That the U.N.W.C.C. or its Sub-Commission in the Far East transmit lists of war criminals direct to the military commands concerned, and that the fullest co-ordination of activities and exchange of information regarding the evidence and the tracing and apprehension of war criminals be established between the U.N.W.C.C. and the various Commands concerned.

Since no final action on this recommendation could be taken until the views of the Far-Eastern Sub-Commission were obtained, the matter was referred to the Sub-Commission and was considered at its meetings held in Chungking in July and August, 1945. On 15th August it was learnt that the proposal had been endorsed by the Sub-Commission without amendment and the recommendation was consequently finally adopted by the Commission, and communicated to the Governments for action.

Such an agency was established by the military authorities within the machinery of the Allied Commands in the Far East, a description of which will be found later in this Chapter.

(iii) PROPOSAL FOR CLAUSES IN ACTS OF ARMISTICE AND PEACE TREATIES

During the first half of 1944 the Enforcement Committee was concerned with drafting provisions to be inserted in the armistices and peace treaties regarding the apprehension and surrender of war criminals, and the Commission approved a text of such draft provisions in June, 1944. Full details, however, of the discussions in the Committee and the recommendations of the Commission on this matter are given in a later chapter.

(iv) PROPOSAL FOR A CENTRAL INVESTIGATING BRANCH OF THE COMMISSION

During the year that followed the establishment of the Commission, dissatisfaction had been expressed from time to time by various members at the comparatively small number of cases submitted to it by member Governments, and at the small amount of evidence concerning the identity of the perpetrators of war crimes reaching the Commission as a result. It was felt more and more strongly that the system hitherto in use ought to be modified to remedy this situation. All complaints expressed were to the effect that the offices of the various member Governments—National Offices as they were called—were failing, for one reason or another, to cope adequately with the mass of information regarding the crimes perpetrated in their countries by the enemy. At that time (1944) it was realised that there were obstacles beyond the control of the National Offices, particularly the material difficulty of collecting evidence in the occupied territories, and transmitting it to the Commission in London. The principal result of such difficulties, it was felt, was to impede the attainment of the main object of the Commission's work—the identification and apprehension of war criminals due for trial.

(1) See M.75, 15.8.45.
(2) See Chapter XIII, section A(iii), p. 400 et seq.
In the proposals submitted by the Chairman of the Committee on Facts and Evidence early in 1944—\(\text{1}^{(1)}\)—which were mentioned previously in this Chapter and made with a view to improving the methods of collecting such evidence—special emphasis was laid upon this situation. The Chairman of the Committee had proposed that the Commission should itself undertake to collect the evidence which the National Offices were unable to communicate. His views were approved by the Commission as early as May, 1944.

However, it was not until a comprehensive proposal was presented by Lord Wright—then representing the Australian Government—that the matter was fully debated and action taken upon it.

In a document submitted on 6th November, 1944,\(\text{2}^{(2)}\) Lord Wright made concrete proposals, the chief object of which was, as he put it, "to apprehend every available war criminal", and the specific object "to obtain particulars of every war crime in order to supply military authorities with details to enable them to take every war criminal into custody".

In this document stress was laid on the fact that an enormous amount of information was waiting to be gathered in numerous places, such as in the offices of the member Governments; the offices of the various Service Departments and their offshoots (prisoners of war departments; historical sections, etc.); in the U.S.S.R. War Crimes Commission; and in all the localities where the crimes were committed, in the liberated and unliberated countries.

It was pointed out that, according to the experience acquired by that time, the gathering of such information should be carried out not by the National Offices, but by the Commission itself. It was proposed that this task be entrusted to a special "investigating" or "investigation" officer, civilian or military, who would be placed at the head of a new branch, the "Investigating Branch of the United Nations War Crimes Commission". The main headquarters would be in London, with local headquarters in each of the capitals of the countries concerned. Local headquarters or agencies of the Investigating Branch would have travelling investigatory groups, moving on circuit from place to place. In addition to collecting particulars on the spot in the various countries, the Branch would at the same time assemble data in the main headquarters concerning the identity of the perpetrators and would transmit them to the apprehending military authorities. The scheme was accompanied by details concerning the actual shape and function of the proposed Branch.

In this manner an issue of principle, which affected the whole system then in operation for collecting and dealing with the evidence concerning war crimes and their perpetrators, was brought before the Commission. The main question was whether the Commission was to remain in the position of a receiver of information, to the extent to which this information was being submitted to it by the Offices of the National Governments, or whether it was to take initiative parallel to the governmental action in this

---

\(1^{(1)}\) C.14, 25,\text{A.44}.

\(2^{(2)}\) C.62, 6,11,\text{A.44}, Apprehension of war criminals.
respect. This involved the question of the Commission's competence and terms of reference and that of its relationship with the National Offices.

In his proposal, Lord Wright answered these questions by saying that, under its terms of reference, the Commission had been specifically charged by the Governments with the duty of obtaining all possible data which the military authorities would need to apprehend war criminals. It was, therefore, entitled to carry out direct investigation. When presenting his proposal to the Commission on 7th November, 1944,(1) he met objections which he anticipated would be raised that the operation of investing agencies of the Commission in the national territories concerned was a derogation of national sovereignty, by stating that a scheme could be devised to achieve the purpose without infringing the sovereign rights of member nations. However, it was precisely these objections which were raised in the Commission. All members agreed with the main object and purposes of the proposal, but many were doubtful whether they could be achieved in the manner suggested.

The French representative stated that National Offices of the invaded countries did not deserve the criticism levelled against them. He referred to the practical impossibility of such countries compiling and presenting the information before their territories had been completely liberated, and stated that such information would no doubt be effectively collected and submitted when the time came. He announced the establishment of a special French war crimes department in the liberated parts of France, and considered that no external organisation could take the place of National Offices in carrying out tasks which actually fell within their own competence.

A similar attitude was taken by the Norwegian, Czechoslovak, Dutch, Greek, Yugoslav, Polish and Chinese delegates. They pointed out that National Offices were, or soon would be, operating in their respective countries, and that they would and could carry out their duty only after complete liberation. In their opinion no better results would be achieved by instituting investigating agencies of the Commission, for the reason that no such agency could operate without the consent of the Governments concerned and without the assistance of their own investigating organs. Therefore, the real issue was to impress upon the National Offices the need to speed up their work and to improve their links with the Commission, and not to substitute the activities of the former by those of the latter.

The Chinese, Yugoslav and Polish delegates advocated the sending out of liaison officers from the Commission to the various National Offices, in order to assist them in an advisory capacity with full particulars as to what was being required by the Commission. The Indian representative suggested that the National Offices should send liaison officers to the Commission, to learn the Commission's method of work and requirements, and return to their National Offices to transmit the experience acquired. Several members were of the opinion that the Branch and agencies proposed would be needed only for enemy territory, such as the agency proposed for Germany.

(1) See M.36, 7.11.44.
At its meetings of 7th and 15th November, 1944, the Commission decided to refer the scheme to the Enforcement Committee. The Yugoslav representative submitted to that body a comprehensive report on the matter on 29th November, 1944.\(^{(1)}\)

The report recommended that a Central Investigating Branch or Bureau at the Commission’s headquarters would be required for collecting the evidence not available to the National Offices, including that available only in enemy territory, and that agencies should be set up in enemy territory for that purpose. As to the collection of evidence in Allied territory, it was recommended that this should be carried out by the National Offices, as being best fitted for the task, and that liaison officers from the Commission should be attached to them.

The matter was fully debated in the Committee and formal conclusions\(^{(2)}\) were submitted to the Commission for adoption and action. These reflected the opinion prevailing in the Commission that it should not unduly infringe the competence of the National Governments. It was recognised that the National Offices were the bodies primarily concerned with collecting evidence regarding war crimes. It was, however, recommended that “close contacts between the Commission and the National Offices should be maintained”, where necessary by means of liaison officers, which the Governments would appoint and attach to the Commission. The proposal to have a Central Investigation Officer appointed by the Commission at its headquarters was accepted. However, his functions were reduced to “assisting the National Offices at their request in the investigation of war crimes; to collecting evidence which was available to the Commission in order to transmit it to the National Offices; and to co-ordinating the evidence”. Finally, a modification of the internal organisation of the Commission was suggested in that it was recommended that an official should be appointed, whose duty it would be to examine all charges of the National Offices, and to draw the attention of the National Offices to all additional information in the possession of the Commission.

These conclusions were adopted by the Commission at its meeting of 20th December, 1944, with some verbal amendments.\(^{(3)}\)

The rapid improvement in the work of the National Offices and of their liaison with the Commission from the beginning of 1945, and the gradual reorganisation of the Commission’s internal machinery, made it unnecessary to appoint the investigation officer. For the same reason no Government felt the need to appoint, in addition to their representatives, special liaison officers. A mass of information began to flow in from the National Offices at regular intervals, with an ever increasing amount of data regarding the identity of the perpetrators of war crimes. On the

---

\(^{(1)}\) II/36, 29.11.44, Report of Dr. R. Zvoncic on the modification of the system now in operation for collection of evidence in respect of war crimes as proposed by the Australian delegation.

\(^{(2)}\) C.66, 20.11.44, Australian proposal for a modification of the system now in use for the collection of evidence in respect of war crimes.

other hand the Commission’s Research Office proved to be sufficient for the purpose of gathering and circulating information and evidence not available to the National Offices. It carried out on many occasions inquiries at the request of the National Offices and thus assisted them in obtaining the evidence sought for.

(v) PROPOSALS FOR CO-OPERATION WITH S.H.A.E.F.

In connection with its activities concerning the question of securing the arrest of war criminals, the Enforcement Committee submitted in July, 1944, suggestions regarding the co-operation between the Commission and General Eisenhower’s Headquarters. Referring to its previous suggestions relating to the establishment of a War Crimes Agency attached to the Supreme Headquarters of the Allied Expeditionary Force (S.H.A.E.F.) in Europe, and to the internment of Gestapo and S.S. members, the Committee stressed the fact that the only body capable of action in Europe was S.H.A.E.F. It expressed the conviction that “without direct and close collaboration” between the Commission and S.H.A.E.F., the work of the Commission would be a “failure”. The Committee, therefore, suggested that the Chairman of the Commission should undertake the necessary steps to tighten the contacts already made with S.H.A.E.F.’s representatives concerning:

(a) The establishment of the War Crimes Agency proposed in connection with the apprehension of war criminals;
(b) The apprehension more particularly of S.A., S.S. and Gestapo members;
(c) The appointment of liaison officers between the Commission and S.H.A.E.F.

These suggestions having been approved by the Commission on 8th August, 1944, a meeting was held on 30th November, 1944, between the Enforcement Committee and S.H.A.E.F.’s chief representative, Brigadier Foster, and his staff. Brigadier Foster informed the Committee that the general policy of S.H.A.E.F. in apprehending war criminals in Germany was to keep in custody all individuals suspected of endangering the security of the Allied occupation forces (so-called security suspects). This would automatically include a large number of war criminals, though special investigations would have to be started, since the arrests were not being made from the war crimes point of view. He explained, however, that this task would be met by another action soon to be undertaken by S.H.A.E.F., that is, by the arrest of all members of the Gestapo and all S.S. officers and non-commissioned officers above certain ranks. This would include about 185,000 individuals. He said that, in addition, all Germans who were in charge of concentration and P.O.W. camps would also automatically be apprehended and kept in custody. On the other hand, measures were being taken to set up a permanent machinery for the systematic collection of evidence regarding war crimes, but many questions still remained to be decided by the Combined Chiefs of Staff.

After this meeting, difficulties arising out of the many duties with which

---

(1) C.36, 24.7.44, Suggestions by Committee II regarding co-operation with General Eisenhower’s Headquarters.
(2) See M.27., 8.8.44.
S.H.A.E.F. was entrusted in conducting its operational and occupation tasks, prevented a close and regular liaison from being established as early as was desired. From 2nd May, 1945, however, this liaison was maintained by an officer from S.H.A.E.F. regularly attending the meetings of the Commission.

(vi) PROPOSAL FOR DETAINING PRISONERS OF WAR PENDING INVESTIGATIONS

In February, 1945, the Committee on Facts and Evidence proposed to the Commission that a recommendation should be sent to the member Governments inviting them to detain in custody all prisoners of war under their control, until full investigations as to whether they were guilty of war crimes were completed.(1)

The Committee pointed out that among prisoners of war there were individuals who had themselves committed war crimes or who had knowledge of such crimes. For this reason many prisoners would try to avoid disclosing their true identity and divulging the information in their possession. It was therefore suggested that appropriate measures should be taken to identify the prisoners and to secure the information which they might possess before their release and/or repatriation. It was pointed out that, unless this was done, the ultimate apprehension of war criminals would be "rendered extremely and unnecessarily difficult", and that many released war criminals might never be re-apprehended.

The proposal was considered by the Commission on 14th February, 1944. It was unanimously adopted(2) and submitted to the Governments for action.

(vii) PROPOSAL FOR IDENTIFICATION OF WAR CRIMINALS BY MEANS OF FILMS

In June, 1946, the United States representative brought to the attention of the Commission an article published by Professor Raphael Lemkin, and proposed that the subject matter be discussed by the Commission. According to a condensed version of the article, which was circulated to members,(3) the author suggested that movie pictures should be used as a means of discovering and identifying war criminals. In normal conditions the identification of a criminal was easily achieved by confronting him with the victim or the witnesses of the crime, but in the case of war criminals this was not possible, because of the great number of individuals involved, both on the side of the criminals and on the side of the victims and witnesses. In such circumstances only notorious criminals were sought after and the discovery of the lesser ones was largely left to chance.

To remedy this situation the author suggested the production and use of international war criminals' films. He proposed the following method: inmates of all camps in which civilian internees or ex-enemy prisoners of war were held should be filmed and such films displayed in camps of

(1) C.77, 14.2.45, Draft Recommendations to the Governments to detain prisoners of war pending war crime investigations. Text proposed by Committee I.
(2) C.77(1), 14.2.45, Recommendations to the Governments to detain prisoners of war pending war crime investigation. Adopted 14th February, 1945.
displaced persons and in all ex-occupied countries. These films could also be shown in other places and countries in which victims of war crimes were residing, such as in New York, Shanghai, Palestine, Sweden and Portugal. The filming would be made in a manner permitting easy identification, and the pictures displayed several times to the same audience. The author suggested that this task be undertaken by the United Nations War Crimes Commission.

The Commission considered the matter on 27th September, 1946. The United States representative said that, since he brought the question before the Commission, he had explored its practical possibilities with persons in charge of war crimes prosecutions in Germany. He had so far obtained discouraging answers. The authorities concerned had serious fears that the scheme would be impracticable, because of the shortage of trained personnel available to operate the plan. He therefore did not feel prepared to give unreserved support to the proposal.

The Chairman of the Commission, Lord Wright, expressed the same apprehensions and was of the opinion that the scheme could be operated only if a new organisation were set up for the purpose, with sufficient funds and personnel.

Similar views were expressed by the United Kingdom, Canadian, Australian, New Zealand, Dutch, Polish and other representatives, while the Chinese delegate considered that the task lay outside the Commission’s competence. The Czechoslovak representative suggested that, if anything were done on the lines proposed, films should not be shown to large audiences, since this could bring more confusion than clarification in identifying war criminals. The Yugoslav and Belgian delegates suggested the use of photographs instead of films.

As a result the proposal was rejected as impracticable, though the object was appreciated and supported by all members.(1)

B. MACHINERY SET UP BY THE ALLIED AUTHORITIES

(i) GENERAL DESCRIPTION

As has been stressed, the task of locating and arresting war criminals was entrusted to the military authorities. It was felt, with good reason, that they would be in the best position to carry out the assignment in view of the direct control to be exercised by them over prisoners of war and over the population in ex-enemy territories, as well as of the fact that the main bulk of war criminals was to be found within these two large bodies of individuals.

Consequently it was left to the military authorities to devise proper machinery with their regular services or branches. The proposal originally advocated by some members of the Commission to create an independent agency was thus abandoned in favour of the course suggested in the Commission’s recommendation of 13th June, 1944.

(1) See M.113. 27.9.46.
The main burden fell upon the authorities charged with occupation duties in enemy territory, and it is with their machinery that we are here concerned. Apart from their main agencies, there were those of the Governments of the ex-occupied Allied countries, which operated in their respective national territories with similar objectives and means of action. As, however, the largest number of war criminals were to be found outside Allied countries, in the ranks of enemy units gradually retreating towards their homelands or else located in enemy territory at the time of the Allied advance, the national agencies' field of action was more concerned with uncovering crimes committed in their territory and establishing the perpetrators' identity, than in effecting the arrest of war criminals. They took, however, an active part in the work of the Allied commands in enemy countries by means of liaison teams and officers.

The Allied commands controlling enemy territory created appropriate organs to meet the assignment. These organs formed part of a general machinery which was erected to deal with war crimes in all their aspects, and not only regarding the tracing and apprehension of war criminals. The bringing of war criminals to trial before military or occupation courts, their surrender to various countries and their national courts, as well as the investigation of war crimes perpetrated in enemy territory or elsewhere by individuals located or domiciled in areas controlled by the Allied occupying authorities, fell also within their field of action. This vast machinery developed within the body of the individual commands concerned and attained large proportions in various parts of the world. In territories which remained occupied, such as in Germany, this purely military machinery was connected with that dealing with civil affairs, that is with military government. The link concerned policy matters of a general or more important nature, as well as questions involving the interests of several nations. In all cases the specific task of tracing and apprehending war criminals remained in the hands of the commands in the field charged with occupation duties.

Such organs and machinery were set up both in Europe and in the Far East. In Europe they operated in Germany, Austria and Italy, and in the Far East there were two centres, one in Japan (Tokyo) and the other in Malaya (Singapore). Information relative to Austria will be found in the parts dealing with Germany and Italy, as the Austrian agency came under centres operating or otherwise located in Germany or Italy. The machinery in Germany and Japan is still in operation (March 1948) but is expected to terminate its functions in the near future.

The information is grouped around two types of agencies: the central agencies of each of the powers concerned, and the local agencies of such central bodies distributed in various parts of the world.

The latter comprise still further types of offices engaged in the location and arrest of war criminals. One type consisted in the war crimes branches or groups organised by each command and directing all activities in the respective areas. Another type existed in the form of liaison teams attached to the said war crimes branches by Allied nations claiming war criminals for trial. Such liaison teams were detached particularly by
nations who did not provide occupation forces in enemy territory. These
two types of agencies worked in close co-operation so that it was convenient
to treat them together. A third type is exemplified in the work of the
Central Registry for War Criminals and Security Suspects, commonly
known as “C.R.O.W.C.A.S.S.”. This agency was created for Europe, and
particularly for Germany. It pooled all data concerning the identity and
whereabouts of war criminals and distributed them to the interested parties.
It had a counter-part in some Far Eastern areas.

(ii) CENTRAL AGENCIES

War crimes agencies set up in the various parts of Europe and the
Far East were organised by the United States, British and French
authorities, the largest being those of the United States and Great Britain.
In the areas controlled by each of these powers the agencies formed part
of a network directed by and supervised by a central body.

The United States agencies came under the War Crimes Office of the
Judge Advocate General’s Office in Washington, formed in October, 1944,
by instruction of the Secretary of War. The functions and duties of this
office were subsequently (4th March, 1946), transferred to the Civil Affairs
Division. It was a joint central agency of all the services of the United
States forces. By agreement between the State, Navy and War Depart-
ments(1) it was established as a branch of the War Department to act on
behalf of the three departments in war crimes matters. In December,
1944, the War Crimes Office instructed the United States commanders in
the various theatres of operations to establish in each of their respective
commands a war crimes branch. Such branches were established in the
Judge Advocate Section of the following United States commands:
South West Pacific Area under General MacArthur; European Theatre of
Operations, covering Germany; Mediterranean Theatre of Operations,
covering Italy; Pacific Ocean Areas; India-Burma Theatre; and China
Theatre. Each war crimes branch operated under the supervision of the
central War Crimes Office in Washington.

The British machinery was set up on a similar footing. The central
agency was the Judge Advocate General’s Office of the War Office, and
the officer in charge was the Military Deputy of the Judge Advocate
General. No particular name was given to the organisation, but it was a
replica of the American central War Crimes Office. It controlled the
operations of a number of war crimes branches or groups, such as those
of the British Army of the Rhine, covering Germany; of the Central
Mediterranean Forces, covering Italy; of the British Troops in Austria,
and of the Allied Land Forces, South East Asia.

The French war crimes agencies came under the Directorate of the
Office for the Investigation of War Crimes of the Ministry of Justice
(Direction du Service de Recherches des Crimes de Guerre). It supervised
the operations of French war crimes branches in Germany and Austria,
and in French Far Eastern possessions.

(1) The latter controls the American land and air forces.
It will now be seen how these central bodies ramified in the field and how their local agencies functioned in their respective areas.\(^{(1)}\)

(iii) LOCAL AGENCIES

1. EUROPEAN WAR CRIMES BRANCHES AND LIAISON TEAMS

(a) Germany

(1) Initial Inter-Allied Command\(^*\) (S.H.A.E.F.)

The first war crimes agency for Germany was established by the Supreme Headquarters, Allied Expeditionary Force (S.H.A.E.F.) under General D. Eisenhower. S.H.A.E.F. was a combined, inter-allied command composed of United States, British and French units. There were two United States Army Groups (6th and 12th), one British Army Group (21st), and a French Army (First Army). The staff of the Supreme Headquarters was composed of American and British officers, and was consequently an Anglo-American unit. One section of S.H.A.E.F. was charged with planning the occupation and military government of Germany, and was called the "German Country Unit". It was organised in England in 1943, and was subsequently moved to France and to Germany. This Unit had its Legal Division, and the Division was entrusted with making plans and devising measures for the tracing and apprehension of war criminals.

The German Country Unit was, however, only a planning agency, without operational responsibility. Therefore, prior to the close of military operations, all matters relating to the military government and to war crimes were carried out by the commands in the field. During this period the American and British units were organised on the same footing. Headquarters of each Group, Army, Corps and Division had a Judge Advocate Section and this was in charge of all war crimes matters, including the arrest of war criminals. At that time it did not appear to the military authorities that the war crimes problem would have much relation to the civilian population, so that the Judge Advocate Sections were held to be the most appropriate agencies.

It was soon realised, however, that these Sections were not sufficient or adequate. In addition, the close of hostilities and the division of occupation territories into the various zones made it necessary to re-organise the existing machinery. It is at this juncture that the machinery split up between the various national commands.

(2) United States Authorities

Initial Stages. After the surrender of Germany, the United States 12th Army Group was assigned the duty of remaining in Germany for occupation purposes, and became the main war crimes agency of the American forces in Europe. It had its own Judge Advocate Section and four Army War Crimes Branches as its sub-sections in each Army. Each War Crimes

---

\(^{(1)}\) The information has been compiled from official sources made available to the Commission. Some of the information regarding the United States authorities was compiled from data published by W. E. Fletcher in *American Organisation for Prosecution of German War Criminals*. The author was at one time Chief of the War Crimes Branch, Legal Division, Office of Military Government for Germany (U.S.).
Branch had field investigating officers and war crimes investigating teams. The primary function of the investigating officers was to make preliminary reports of suspected war crimes to the Army Judge Advocate. The latter determined whether such cases should be referred to the investigating teams for complete investigation and eventual location and arrest of the criminals.

This machinery remained in operation until the dissolution of S.H.A.E.F., which took place in July, 1945.

U.S.F.E.T. At that time the United States 12th Army Group Headquarters was dissolved and the command of the American forces in Germany was assumed by a new agency, the Headquarters, United States Forces, European Theatre, (U.S.F.E.T.).

A reorganisation took place which resulted in the appointment of a Deputy Theatre Judge Advocate for War Crimes and the setting up of a War Crimes Branch of the Office of the Theatre Judge Advocate. The latter was placed under the Deputy Theatre Judge Advocate for War Crimes. Subsequently the Branch was renamed "War Crimes Group", and continued until July 1948, when it was due to be disbanded.

The internal machinery of this War Crimes Branch or Group remained on a similar footing to that of its predecessor in the 12th Army Group. The work was carried out by investigating officers and investigating teams.

The work of the Group extended to Austria through appropriate local organs.

United States Military Government agency. Together with the War Crimes Branch created within the American field command in Germany (U.S.F.E.T.), an agency was set up within the machinery of the United States Military Government for Germany.

It derived from the original German Country Unit. The latter's functions were temporarily taken over by U.S.F.E.T. at the time of S.H.A.E.F. 's dissolution, and were eventually assumed by the United States Group, Control Council, (Germany). This Group became the American element of the Allied Control Council for Germany, which is the higher quadripartite authority for civil affairs in Germany. In the beginning the United States Group was not responsible for the military government in the United States zone. By the end of 1945, however, all the military government functions hitherto carried out by U.S.F.E.T. (Civil Affairs Division) were transferred to the United States element of the Control Council. On this occasion the name of the United States Group, Control Council (Germany) was changed to "Office of Military Government for Germany (U.S.)", commonly known as O.M.G.U.S.

It was within this machinery that the United States Military Government formed an agency for war crimes. The agency was the Legal Division of O.M.G.U.S. It had four branches, one of which was a War Crimes Branch. The Branch was formed to meet problems arising between the four occupying powers in the field of war crimes and was placed under a Deputy Director. This post was occupied by U.S.F.E.T.'s Theatre Judge
Advocate, General Betts, who performed this duty in addition to that of the Theatre Judge Advocate, and who, in this manner, controlled simultaneously both the machinery of the military government and that of the field forces under U.S.F.E.T.

*Functions and Achievements.* The burden of tracing, apprehending and detaining war criminals in the United States zone of Germany fell on the War Crimes Branch of U.S.F.E.T.

As already mentioned, its main instruments of action were the investigating teams. They normally consisted of two officers and an interpreter, and were spread out in a great network all over Western Germany, in order to trace and arrest war criminals. In addition to the United States zone they operated, with the consent of the appropriate authorities, also in the British and French zones. Apart from these American units, there were liaison investigating teams of various Allied nations. They came into being as a result of an invitation given by General Eisenhower in May, 1945. A very large number of nations sent such teams and they were attached to U.S.F.E.T.'s War Crimes Branch, as well as to the British machinery in Germany. They dealt with all cases concerning war criminals wanted for trial by their respective countries, and were entrusted by the United States War Crimes Branch with carrying out personal searches and arrests of such criminals.

Liaison investigating teams of some nations were headed by their representatives on the Commission, such as in the case of Czechoslovakia, whose team in the United States zone was led by Dr. B. Ečer.

Once located and arrested, war criminals were detained in so-called "enclosures" (camps) under the direct supervision of U.S.F.E.T. They were handed over for trial to other nations only after careful examination of each case and upon special decision of the War Crimes Branch.

In addition to its own and Allied investigating teams, the War Crimes Branch had at its disposal an extensive war crimes library, a document centre and a translation bureau, in which all the information required for tracing war criminals was concentrated.

The initial stage in starting an investigation, in order to arrest a war criminal, consisted in determining the name and/or other identification data of the criminal. Such information was obtained from the Commission's Lists and from other sources, including those submitted by the various governments through their liaison teams. The process which developed as a consequence of identification data consisted in a multitude of operations, organised and carried out in close co-operation with other agencies, in particular with the Central Registry of War Criminals and Security Suspects (C.R.O.W.C.A.S.S.).

One of the basic steps was to file a Wanted Report on all war criminal suspects and witnesses to war crimes with C.R.O.W.C.A.S.S. The Wanted Lists published by the Commission and C.R.O.W.C.A.S.S. were distributed to all field agencies involved in detention, intelligence and security work.

(1) See M.60, 10.5.1945, p. 2.
(2) See below p. 376 et seq.
Another initial step was to send a copy of the Wanted Reports filed with C.R.O.W.C.A.S.S. to the Prisoner of War Information Bureau, at Theatre level, the objective of which agency was to collect data and establish a complete file on all prisoners of war captured by the American armed forces.

In connection with the distribution of the Commission. Wanted Lists and the Wanted Lists published by C.R.O.W.C.A.S.S., special emphasis was placed upon distribution to the Counter Intelligence Corps, and assuring that appropriate distribution was made to all the field agencies. That Corps established and maintained a central registry of all individuals in automatic arrest categories.

When such operations revealed the information concerning the suspected criminal’s whereabouts, the investigation was from the start entrusted to, and carried out by, the investigating teams.

It is impossible to put on record all the achievements of the United States War Crimes Branch and the investigating teams in Germany. It should, however, be stressed that they functioned with great efficiency and were responsible for the location and arrest of thousands of war criminals, many of whom ranked high in the Commission’s Lists. It identified and apprehended numerous criminals involved in atrocities perpetrated in the concentration camps of Buchenwald, Mauthausen and Dachau, and thus made their trial and punishment possible. The following two specific cases can conveniently be mentioned as an illustration of the efficiency of the United States investigating teams.

One case concerned war criminals responsible for the so-called Malmédy Massacre, where many Belgian civilians and American prisoners of war were slaughtered by the Germans. After overrunning the area involved in the Ardennes Counter Offensive, a considerable period of time spent on investigating the case failed to reveal the whereabouts or even the identity of the perpetrators. Repeated inquiries in the area finally uncovered a slip of paper in the possession of a Belgian civilian in the area, which gave the name and home address of a German tank commander who participated in that Offensive. It appeared that the Belgian civilian had told the tank commander that he was a German collaborator and that his home had been needlessly fired upon. The tank commander then jotted down his name and address and suggested that the matter be reported to the appropriate German authorities. This led indicated that the 1st S.S. Panzer Regiment, 1st S.S. Panzer Division, I S.S. Panzer Corps, Sixth S.S. Panzer Army, had operated in the vicinity of some of these killings. The remnant of that regiment was captured in Austria. However, a hurried examination of the list of the members of the unit present did not disclose the name of the man who delivered the slip of paper, nor did it provide any lead which would permit the interrogation of members of the unit on an effective basis.

A war crimes investigator was dispatched to Berlin. The house at the address in question had been completely demolished. Inquiry in the area revealed that the man wanted had been a baker’s assistant, but it appeared that he had not recently been in the area. Nevertheless, all
bakeries in the area were combed. When the investigator had almost decided to give up the search as futile, he noticed a bakery which he had not checked. Without disclosing his purpose, he entered and visited the manager and gathered that a former member of an S.S. unit was working in the bakery. Further visits to the manager and his assistant revealed that the assistant was the man in question.

A start in the development of the case had thus been made, but the baker's assistant did not seem to be in possession of much information and cared less about revealing it. However, sufficient of the names as to battalion, company, platoon leaders, etc., were gathered to give many leads, but an examination of the names of prisoners of war in detention failed to reveal most of those wanted. At this stage in the development of the case, a command directive was sent to all detention installations in the zone requiring that they send all individuals in their custody known to have been, or who probably had been, members of the 1st S.S. Panzer Regiment to Civilian Internment Enclosure, No. 78, located in the vicinity of Ludwigsburg. As a consequence, over 1,000 were sent there. Enlisted men disclosed the identity of officers and vice-versa. The 1,000 were screened down to below 300 and the real interrogation then commenced, permitting of a successful trial, commonly known as the Malmady Massacre Case.

The second case related to an important war criminal, Von Posern, implicated in crimes committed in a concentration camp (Mauthausen). A War Crimes Enclosure was established in the Dachau concentration camp, where all individuals, who appeared to be of war crimes interest to the United States and other United Nations, were segregated. As an incident of such segregation, Hans Karl Von Posern was moved to the War Crimes Enclosure. Notwithstanding the intensive screening and interrogation which was conducted there, it seemed impossible to obtain satisfactory proof against Von Posern. Consequently, he was released from detention. Later he made an effort to appear as defence counsel in the trials at Dachau. Soon thereafter, military government agencies charged him with practicing law without a license, and upon inquiry in the vicinity of his home in Ulm, Germany, an individual charged him with participating in the operation of the Mauthausen concentration camp. Von Posern was again moved to Dachau and with this lead his guilt was eventually established and his case tried. He was convicted and sentenced to life imprisonment.

(3) British Authorities

The setting up of the British war crimes agency in Germany followed similar lines to that of the American agency in that it passed through several stages before it reached its final shape.

Initial Stage. The British unit under S.H.A.E.F., which corresponded to the United States 12th Army Group and its war crimes assignment, was 21st Army Group. It was commanded by Field Marshal Montgomery, and at the close of military operations in Germany early in 1945, it organised its own war crimes agency.
This first took the shape of a War Crimes Section of the Judge Advocate General’s Branch of 21st Army Group Headquarters. The Section had under it, as instruments of action, three investigating teams. Each of these teams was charged simultaneously with establishing the crimes in its field of operation and after that with locating and apprehending the criminals.

At that time the scope of the field investigation of war crimes was not appreciated. The extent and nature of the atrocities in concentration camps were only half realised and a few isolated crimes only, such as the murder of 50 R.A.F. officers from a prisoner of war camp (Stalag Luft III), were known. The systematic murder of pilots and commandos all over Germany, and the appalling atrocities in the minor concentration camps such as Arbeiterziehungslagern (Work Education Camps) attached to factories, etc., were not even guessed at. The idea was that the war crimes investigation teams would be moved on to the site of a war crime, pursue their investigations and record details of the wanted men, with the reasonable certainty that they would turn up sooner or later, or collect the wanted men as a result of the comparison on the C.R.O.W.C.A.S.S. Wanted Lists with the C.R.O.W.C.A.S.S. list of detained Germans.

By September, 1945, it became clear that this planning would not produce the desired results. In the British zone, operations "Barleycorn", "Coalscuttle", etc., had the effect of releasing immediately a large number of Germans who were wanted for work with the harvest and in the mines, and who claimed to be farmers and miners. Some of these persons never appeared in any Detention Lists at all and they therefore went in and out of British hands without being recorded in the C.R.O.W.C.A.S.S. lists of detained persons. It also became clear that many of the crimes were crimes of comparatively limited scope, which would not require the attention of an entire war crimes investigation team, and that the organisation must be more flexible, so as to cover both the complicated and simple types of investigation. Another defect of the system of war crimes investigation teams was soon revealed. The investigator's first duty was to establish the facts and details of the commission of a war crime. Having done so, the next task was to locate the criminal. Skill at ascertaining the location of the criminal required quite different qualities from those required of an investigator. What was happening was that investigators, having established the facts and details of a war crime, were then required to undertake a long search for the criminals during which period their services were not available to carry out further investigations.

Transitional or Experimental Stage. Accordingly, it was considered that a special team employed only on searches would probably relieve the investigators of the task of searching for the actual criminals, and that searchers would soon become specialists in the task of what amounted to looking for a needle in a haystack. As an experiment two corporals from the Royal Air Force Police, were instructed, on the information available, to locate the murderers of a party of R.A.F. personnel at Hopsten aerodrome. Neither of these non-commissioned officers spoke German; both of them, however, were experienced service policemen. Armed with maps, equipped with a jeep and information on all clues
as to the perpetrators in the possession of the investigators, they set out. Three days later they returned with one of the principal criminals and clues to the others, with the result that what was known as the Dreierwalde trial led to the conviction of 8 people for the murder of these R.A.F. officers.\(^1\)

As a result of this test a special Section, which operated under the name of "Haystack" was formed, composed of officers with a talent for this type of work. They were equipped with the known details of the alleged war criminals and their instructions were to find them. The experiment was a success from the beginning and at the time of writing "Haystack" have made 496 arrests.

By the end of the year all three war crimes investigations teams were equipped with personnel and transport. But the lack of flexibility of the organisation had already been sufficiently demonstrated and the teams were no longer employed on a one-team-one-case basis. Each team was given a number of cases to work on, but even that was unsatisfactory. As a consequence, at the end of the year all three teams were merged into one team, known as the "War Crimes Investigation Unit", which included the Search Section, the official name for "Haystack". The method of investigation adopted was that the Commanding Officer of the team was provided with a brief on each case, with all the facts available which the War Crimes Section of J.A.G.'s Branch decided indicated the commission of a war crime. On this brief he conducted the investigation, allotting thereto as many officers and non-commissioned officers as the case merited, and referring the case back to the War Crimes Section of J.A.G.'s Branch from time to time. Some cases occupied the attention of a body of officers and non-commissioned officers for a long period. Others were dealt with by one officer who completed the investigation and wrote the report on that case, which was then considered by the War Crimes Section of J.A.G.'s Branch. If that Section agreed with the conclusion of the investigator, "Haystack" were instructed to search for those criminals not yet in custody. In due course the case was submitted to J.A.G.'s Office, London, for decision on the charges and advice on the evidence to be given at the trial.

**B.A.O.R.** By this time 21st Army Group Headquarters had been dissolved and the command assumed by a new agency, the British Army of the Rhine (B.A.O.R.). The activities of the War Crimes Section of the Judge Advocate General's Branch and its relations with other branches of B.A.O.R., as well as with other agencies, had developed into a vast operation, so that there soon appeared a need for administrative re-organisation.

In January, 1947, the War Crimes Section, the War Crimes Investigating Unit and various other offices were all merged into a single unit known as "War Crimes Group, North West Europe". The structure of the Group remained substantially the same as before. It included a Legal Section which was the former War Crimes Section of the J.A.G.'s Branch;

---

an Executive Section whose duties were previously performed by the Branch of the staff of B.A.O.R.; and a Field Investigation Section which replaced the transitional War Crimes Investigation Unit, and which included "Haystack".

The Group came under the Judge Advocate General in the War Office for matters affecting war crimes policy, and under the Deputy Adjutant General of B.A.O.R. for executive action.

**Functions and Achievements.** The British War Crimes Agency in Germany functioned on lines similar to those of the American agency. One of its chief tasks was to trace and arrest war criminals. It obtained data regarding the identity of war criminals to be apprehended from its own investigating teams, from Allied liaison teams attached to it and from the Lists of the Commission. All information collected by the teams was referred to C.R.O.W.C.A.S.S. for registration and further investigation as to the wanted person’s whereabouts. On the other hand, names and other identification data of prisoners of war, suspected war criminals and security suspects detained in the British zone were also communicated to C.R.O.W.C.A.S.S. in order to make such information available to other parties engaged in the tracing of war criminals.

From September, 1945, when the machinery started functioning on a regular and systematic basis, to the time of writing, several thousand war criminals have been traced and arrested, and as a result brought to trial in the British zone or handed over for trial to other nations. Some 500 cases were investigated, and in the British zone 684 war criminals were tried, in addition to those at present being tried, out of which 487 were convicted. This includes criminals tried for atrocities in the notorious Belsen concentration camp. Nearly 500 arrests were made by "Haystack" who operated not only for the British but for the Allies as well. 3,697 war criminals were apprehended and handed over to Allied nations for trial, and in March, 1948 another 832 were being held in custody awaiting trial or surrender. 58 further cases were awaiting investigation.

The investigations in the field were carried out by specially selected teams, which worked exclusively on these cases. Some cases occupied their attention for a long period, and some required in addition a large team. So, for instance, the investigation of crimes perpetrated in Ravensbruck, another ill-famed concentration camp, took a full year. The investigation of the so-called "Stalag Luft III Case" concerning the murder of R.A.F. officers detained by the Germans as prisoners of war, engaged a team of 21 R.A.F. officers and warrant officers and 16 interpreters. The investigation was carried out by the R.A.F. Special Investigation Branch which was in continuous operation for more than two years. 18 accused had been traced, arrested and brought to trial, and the investigation continued.

From 1945 onwards all the Allies (except the Russians) maintained war crimes liaison groups and investigation teams operating in the British zone, and up to May, 1947, they effected such arrests in the zone as they wished to do, but extradition from the zone was controlled by B.A.O.R. As from the end of May, 1947, their power to arrest was taken
away from them by the order of the Commander-in-Chief and arrests on
their behalf were effected either by officers of War Crimes Group or
Public Safety Officers operating under a warrant issued from the Legal
Division of the Control Commission for Germany. Up to this date all
the arrests on behalf of the Russians had been made by the War Crimes
Group and thereafter they were made by Public Safety Officers on evidence
supplied by the Russians to War Crimes Group and transmitted by them
to the Legal Division of the Control Council for Germany.

The following three cases are illustrative of how the British machinery
actually operated in the field and what difficulties its investigating personnel
had to overcome.

Shortly after Christmas, 1945, an investigation officer was instructed
to search for and arrest Ludwig Heinemann, a chief of the German
Security Police (S.D.). He was wanted for trial by the Netherlands for
the murder of 2 Englishmen and 3 Dutchmen, as well as for other crimes
perpetrated in Holland. In the course of inquiries in Holland the British
investigating officer came across evidence in a counter intelligence report,
emanating from the 1st Canadian Corps, indicating that Heinemann was
believed to be in custody somewhere in the 1st Canadian Corps area.
Records of persons arrested were, however, at that time, practically
non-existent. Systematic inquiries at every internment camp in Holland
produced no result, but the officer learned that Heinemann was well-
known in police circles in Dusseldorf and therefore directed his enquiries
to that quarter. He was informed by the chief of police in Dusseldorf
that Heinemann had in pre-war days been sentenced to imprisonment for
brutality.

Other information obtained from ex-members of the S.D. in Holland
was that Heinemann was last seen under arrest somewhere near Amersfoort
towards the end of the war. It was also suggested that he might be
masquerading as an ordinary policeman under the name of Schmitz, which
was the name of his parents in law. In the Iserlohn area it was ascertained
that Heinemann at one time lived in Neuss. The investigating officer,
therefore, made a search in that town and discovered that a Mrs. Heinemann
and her children were living in Neuss. He proceeded to the address
indicated, only to find the place in ruins and uninhabited. He then
referred to the food office, the records of which indicated that this particular
Heinemann family had moved to an address at Section G 92 Neuss/Rhein.
The officer found Section G to be a large area. The buildings were not
numbered in sequence and it seemed that inquiries amongst local residents
would be the only means whereby he would trace No. 92. The investigating
officer approached a bus queue and called a woman forward who, on
being questioned, informed him that No. 92 was about 1½ kilometres
further along the road on the right. He followed these directions but they
proved fruitless. He next questioned a policeman and reached the house
under the latter’s directions. There he found his woman informant of
the bus queue. She proved to be the wife of Heinemann. She insisted
that she had not seen her husband since some time before the end of the
war and that he was dead. The officer arrested her and she was sentenced
to three months imprisonment for contravening Military Government regulations by misleading a British officer in the course of his duty.

Early in March the investigating officer received information that a man by the name of Schmitz had been arrested in Hamm whilst applying for food ration cards. He was found to be in possession of numerous rubber stamps by means of which he could have provided himself with forged documents. These stamps were handed over to the investigating officer by the Intelligence Section, to whom, on interrogation, the prisoner admitted his name was Heinemann. At the time of his arrest he had grown a moustache and he bore no resemblance whatsoever to the photograph which had been obtained of him and which depicted him in Obersturmführer’s uniform. On interrogation he admitted that he had at the end of the war adopted the name of Schmitz and been since living at Munster. He added that he had contacted his wife on one or two occasions and in January, 1946, had taken the risk of visiting her in Neuss. He was in fact at the house when his wife returned after the investigating officer had asked her for directions. He was warned by her and on seeing the officer approaching the house had hidden in the woods nearby.

The second case concerned an S.S. officer, Walter Albath, wanted for trial by Great Britain for the shooting without trial of 30 Russian prisoners, including 4 women. The investigation started at Dusseldorf, and the services of a German civilian who had known the Albath family were secured. The investigating team moved by motor car and had to visit many places before it located the wanted man. Some papers found at Herschied, among belongings Albath’s wife had left behind with a family where she and her husband used to stay during the war, disclosed her address at Dortmund. Before going there the team made checks at the local telephone exchange to make sure that no long distance calls had been made to Frau Albath to advise her of the team’s arrival and search. In Dortmund the team found Frau Albath’s parents at the address. They contended that she had not been home for two or three months and denied any knowledge of her whereabouts. Frau Albath’s mother mentioned, however, a family by the name of Kracke living near Hoya, where Frau Albath occasionally left her children. Her parents were taken into custody pending completion of the investigation. The inquiries made disclosed that no less than six large farm houses in the area were each occupied by one or more persons of the name of Kracke. The team called in the assistance of an R.A.F. station located in the neighbourhood, and at 10.30 in the evening raided with six search parties all the farm houses simultaneously. Six German policemen were also used. The man and his wife were not found, but it was ascertained that Albath had visited one of the families two weeks before, that he had left by train in the direction of Hanover, and that he had carried in his suitcase a bottle of petrol for cleaning his hands, because he was employed, as a witness put it, on “dirty work”. One witness vaguely mentioned that Albath had some connection with the manufacture of artificial limbs. The team moved to Hanover and made inquiries at the German police headquarters, the authorities dealing with accommodation and labour licences, and at every factory or workshop connected with the
man manufacture of orthopaedic equipment. It also visited the refugee organisations and showed Albath’s photograph to dozens of directors, managers and employees, but no one recognised him. Finally, the team visited an oil and petroleum factory, remembering Albath’s bottle of petrol and the fact that petrol was very scarce and difficult to obtain. The manager was ordered to gather all his foremen in the office block and to call them in one by one. One of these foremen recognised Albath from a photograph as being one of the workers in the boiler rooms at the refinery. He knew him well under the assumed name of Wiegand and remembered that he had left three weeks previously to seek employment in an artificial limb factory. Albath was registered at the factory as living with a family called by the name of Gems, at Hanover. The foreman was made to visit the family one evening and brought back the information that Albath was due to arrive the following night. A trap was set and the man was arrested while he was entering the house.

The third case concerned the arrest of Oswald Pohl, one of the principal heads of the S.S., who shared responsibility as a leading figure for atrocities committed in concentration camps and for other crimes.

Shortly after the cessation of hostilities in Germany, it was learned from S.S. prisoners that Pohl had formed a “South Group” which had left Berlin on 15th April, 1945, for Dachau. After two months of work and some 5,000 miles travelling following this clue, it was established that Pohl had decided that the Group could not hold its emergency headquarters at Dachau, and had ordered a general withdrawal before the arrival of the Allied troops. He directed the Group to split up, and himself disappeared with two adjutants, Schiller and Witt. The two adjutants were seen from time to time, whereas Pohl was never seen again. Pohl’s wife had been held in custody by the American authorities for a few weeks at the end of 1945. She had been interrogated by them, but the results were not very helpful. She declared that her husband left her in May, 1945, bound for Austria. She insisted that she had heard nothing more of him and stated emphatically that she would not, even if she possessed the information, disclose his present whereabouts—not even if she had to face a firing squad. It was obvious that Pohl was somewhere in hiding and under such conditions would be bound to have some outside contacts. It was found that one of his adjutants, Witt, had given himself up at Lubeck in March, 1946. He was interrogated by the camp authorities when he surrendered and made a statement to the effect that he parted company with Pohl in May, 1945, at Bruningsau, since when he had heard nothing more. The war crimes investigating team decided to re-interrogate Witt thoroughly. On this occasion the latter appeared dejected and voluntarily withdrew his original statement. He said that he had accompanied Pohl from Bruningsau in May, 1945, when the pair of them made their way across Germany on foot arriving in Hamburg in June, 1945. They obtained food during the journey by doing odd jobs for farmers and arrived in Hamburg under assumed names. Witt was unable to remember the exact name adopted by Pohl, but thought it was something like “Gries” or “Knie”. Pohl, apparently to reduce the possibility of recognition, had grown a moustache. Witt went on to
say that he eventually left Hamburg and joined his wife in Lubeck. After that he saw Pohl once, when Pohl informed him that he was living somewhere in the country near Hamburg. At the same time Pohl produced a passport photograph of himself which he said had been taken to enable him to procure a new identity card. Finally, Witt mentioned that he had once received a postcard from Pohl, after which he had lost all trace of him. It was signed "Ludwig" and was post-marked Verden. The investigation was thus transferred to Verden. Verden is a small town south-east of Hamburg. It was found that not only the post office in Verden but all the other post offices in the Kreis of Verden used the same type of post mark. A Kreis being a rural district of about 400 villages, the post mark was clearly not going to afford much help. However, every village had its own register of inhabitants. A search of these returns gave disappointing results. No name such as Gries or Knie appeared, and another line of inquiry had to be sought. In his statement Witt had mentioned the name of Werner Westphal, Pohl's son-in-law, and quoted his Hamburg address. Investigation disclosed that a certain Werner Westphal had been registered at the address quoted, but that he had left Hamburg in October, 1945. When leaving he gave his destination as Verden. It seemed likely therefore that Pohl would now be living with Werner Westphal in Verden. The register of residents established that Werner Westphal was residing at an address with a certain Mrs. Topp. The register also indicated that this Mrs. Topp was Westphal's sister and that their father, a retired policeman, was living in the neighbouring village of Ottersberg. It was found that the house where Mrs. Topp and Werner Westphal were supposed to be living was situated opposite some barracks occupied by a British unit. A corporal in charge of the Intelligence Section of this unit was a very capable little Irishman, keen on his job and possessing some knowledge of the German language. In a short time the Section had constructed on the roof of the barracks an exceedingly well camouflaged observation post, from which, with field glasses, it was possible to keep the Topp house under observation. The men keeping observation maintained a detailed record of everything that took place near the house, and in due course they were soon able to recognise Werner Westphal. Numerous visitors called and cars also stopped at the house from time to time. While all this was going on yet another line of inquiry was started. As already mentioned it was learned from Witt that Pohl had had a passport photograph taken. It was learned that there was a dealer specialising in identity photographs who was established in the village of Ottersberg, the village where Werner Westphal's father was supposed to be living. The Public Safety Officer loaned the services of one of his German police officials who was dispatched to Ottersberg to collect such plates as he could from the photographer there. A plate was found bearing two portraits. It was neatly marked Karl Westphal and Ludwig Gniss, the latter being Pohl's assumed name. Meanwhile the man keeping observation on the Topp house reported the presence of a strange visitor. He was an elderly man, dressed in gardening clothes and he had a moustache. It was impossible to say, however, whether this individual was Pohl or whether he was Mrs. Topp's father Karl Westphal on a visit from Ottersberg. Examination of the resident's lists of all the villages in the vicinity disclosed the name