

000.5 WAR CRIMES  
MISCELLANEOUS

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File No. 000.5 - WAR CRIMES - MISCELLANEOUS

**SECRET**

No.	FROM	DATE	TO	SYNOPSIS
1	CCS	11May45	CCS Dist	CCS 705/4. "Obligations of Theater Comdrs. in Relation to War Crimes".
2	CCS	12May45	CCS Dist	CCS 705/6. Approval of CCS 705/4, and Implementation.
3	CCS	8Jun45	CCS Dist	CCS 705/7. "Trial and Punishment of War Criminals", consideration of a Report by CCAC, with Executive Order 9547, Providing for Rep. of US in Trials of Leaders of Axis Powers in Europe.
4	CCS	20June45	CCS Dist	CCS 705/8. Announcing Approval of Rec. in CCS 705/7.
5	CCS	7Jul45	CCS Dist	CCS 705/9. "Policy as to Disposition of War Criminals, Renegades and Quislings."
6	CCS	15Jun45	CCS Dist	CCS 576/10. "Disposal of Allied and Neutral Nationals Captured while Serving <del>XXX</del> in Enemy Forces.
7	CCS	14Aug44	CCS Dist	CCS 576/5. Announcing App. of Rec. of CAC on Page of CCS 576/4, and its Implementation. "Disposal of Memb. of Pro-Axis Para Mil. & Collaborationist Orgns."
8	CCS	4Aug44	CCS Dist	CCS 576/4. Subject as Above.
9	JCS	25Sep45	JCS Dist	JCS 1023/3. "Obligations of Theater Comdrs in Relation to War Crimes".
10	CCS	13Jul45	CCS Dist	CCS 913. "Disposition of Italian Nationals now in Switzerland".
11	CCS	24Jul45	CCS Dist	CCS 913/1. Announcing App. of CCS 913, and its Implementation.
12	Sec of Navy	15Oct45	Sec of State	Serial 572113. Australian desires to secure list of Aust. & other Allied Nationals Interned by Japs, with statements as to their treatment.
13	Capt. Lalor	4 Nov.46	Sec. SWNCC	RE: Handover of Italian War Crininals to the Yugoslavs. THIS IS NOT DECLASSIFIED

**SECRET**

E.O. 11652, Sec. 3(E) and 5(D) or (F)  
**NND 750052**  
 By CDP NARS, Date 1 OCT 1974



*SWNCC 000.5 (War Crim) Misc.*

*Return to SWNCC Secretariat Room 178*

THE JOINT CHIEFS OF STAFF  
WASHINGTON 25, D. C.

SM-7024  
4 November 1946

~~TOP SECRET~~

*0005  
War Crimes  
misc -*

MEMORANDUM FOR THE SECRETARY, STATE-WAR-NAVY  
COORDINATING COMMITTEE:

Subject: Handover of Italian War  
Criminals to the Yugoslavs.

Enclosure: CM-IN 437 (2 Nov 46) Copy No. 63.

The enclosed message is forwarded for information.

SWNCC SECRETARIAT

- State Member \_\_\_\_\_
- Army Member \_\_\_\_\_
- Navy Member \_\_\_\_\_
- Ass't State Member \_\_\_\_\_
- Ass't Army Member \_\_\_\_\_
- Ass't Navy Member \_\_\_\_\_
- Executive Secretary \_\_\_\_\_
- Ass't Exec. Secretary \_\_\_\_\_
- State Adm. Assistant \_\_\_\_\_
- Army Adm. Assistant \_\_\_\_\_
- Navy Adm. Assistant \_\_\_\_\_
- File \_\_\_\_\_

*WGL*

*W. G. Lalor*  
W. G. LALOR,  
Captain, U. S. Navy,  
Deputy Secretary

NOV 4 1946



3308

DECLASSIFIED  
Authority AND 740132  
EARS, Date JAN 17 1976 1977

~~TOP SECRET~~

(13)



WAR DEPARTMENT  
CLASSIFIED MESSAGE CENTER  
INCOMING CLASSIFIED MESSAGE

~~TOP SECRET~~

~~TOP SECRET TOT~~

PRIORITY

PARAPHRASE NOT REQUIRED. HANDLE AS TOP SECRET CORRESPONDENCE  
PER PARAS 51 (1) and 60 (a) AR 380-5.

From: AFHQ Caserta Italy sgd SACMED cite FHGEG  
To: War Department for CCS and Cabinet Offices Whitehall  
for BCS  
Info: CINCMED  
Nr: FX-73028 NAP-1230 2 November 1946  
Ref FAN 696.

1. Your ruling was communicated to ALCOM with my instructions as to the manner in which it was to be conveyed to the governmental representatives concerned.

2. The Chief Commissioner, ALCOM has now reported to me the reaction thereto of the Yugoslav and French delegates. This is repeated in para 3 and is transmitted for your information.

3. "Previously Yugoslav Delegate had placed question of extradition of Italian War Criminals on agenda for Advisory Council for Italy meeting today (25 October 46). At meeting today he stated that "CCS had no right to make such a decision" in view of the long terms armistice.

"I stated that I had been instructed that matter is one to be raised with American and British Governments.

"French Delegate to ACI stated that the position of government requesting war criminals was embarrassing under CCS ruling. That he had advised his government of this ruling and that he assumed that his government would take up the matter with the American and British Governments."

End.

ACTION: Col McFarland  
INFO : Gen Spatz, Adm Leahy, Mr Petersen, Gen Nichols,  
Gen Chamberlin, Gen Norstad, AAG Winitz, GSA  
ON IN 437 (2 Nov 46) DTG 021730A er  
TOP SECRET

COPY NO. 2

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN



The Secret.  
of the Navy

*AntR*

Serial 572113

*091 Australia*

Sir:

15 OCT 1945

Reference is made to the letter from the Department of State, SWP. of 14 September 1945, transmitting a copy of a note from the Australian Minister dated 25 August 1945, with enclosure, wherein the Australian Government states that it desires to obtain immediately from the Japanese complete lists of Australian and other Allied prisoners of war and civilian internees, together with full records of evidence of their treatment during custody.

The United States War Crimes Office has taken steps to secure the desired information from its branch office under the Army Theater Judge Advocate and all American prisoners who have been released are being interrogated either in the Theater or in the United States as to their treatment. A Central Record and Information Office of Japanese war criminals and war crimes is being established under the Supreme Commander in Japan. All records and files of this Central Office will be available to any interested United Nation.

Brig. General John M. Weir, U. S. Army, Assistant Judge Advocate General, and Director, War Crimes Office, under date of 28 September 1945 communicated to the Theater War Crimes Office the desire of the Australian Government for information requested with instructions to make such information available to Australian authorities in the field.

Respectfully,

FORRESTAL

The Honorable,  
The Secretary of State.

CC: SWNCC Secretariat ✓

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War Crimes,  
Misc.

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COPY NO. 94

C.C.S. 913/1

24 July 1945

COMBINED CHIEFS OF STAFF

DISPOSITION OF ITALIAN NATIONALS NOW IN SWITZERLAND  
Reference: C.C.S. 913

Note by the Secretaries

The Combined Chiefs of Staff have approved the recommendation in C.C.S. 913 and the message in Enclosure "A" thereto was dispatched to the Supreme Allied Commander, Mediterranean as FAN 598.

A. J. MCFARLAND,  
A. T. CORNWALL-JONES,  
Combined Secretariat.

CCS 913/1

DECLASSIFIED  
E.O. 11652, Sec. 3(E) and 5(D) or (F)  
NND 750052  
By CLB NARS, Date 1 OCT 1974

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COPY NO. 82

C.C.S. 913

13 July 1945

COMBINED CHIEFS OF STAFF

DISPOSITION OF ITALIAN NATIONALS NOW IN SWITZERLAND

Report by the Combined Civil Affairs Committee

1. NAF 1017 (Enclosure "B") was referred to the Combined Civil Affairs Committee for consideration and draft of a reply.
2. The Committee recommends that the draft message (Enclosure "A"), which has been approved by the Department of State (Mr. Matthews) be dispatched to the Supreme Allied Commander, Mediterranean.

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E.O. 11652, Sec. 3(E) and 5(D) or (F)

NND 750052

By CSA NARS, Date 1 OCT 1974

CCS 913

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~~SECRET~~ENCLOSURE "A"D R A F TMESSAGE TO THE SUPREME ALLIED COMMANDER,  
MEDITERRANEAN, IN REPLY TO NAF 1017

In event of expulsion from Switzerland of Italians listed inurad NAF 1017 of 21 June, they may be turned over to Italian Government with exception of Guiseppe Bastianini. He is on list of United Nations War Crimes Commission which will be distributed soon. Bastianini was placed on list at instance of Yugoslav Government. Yugoslavs are seeking his extradition from Switzerland. In the event this fails and he is repatriated you should take and hold him in custody and report whether Italian Government desires him, and if so, upon what grounds, together with your recommendations. Thereafter, specific instructions will be given as to his disposition.



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ENCLOSURE "B"

NAF 1017

From: Supreme Allied Commander, Mediterranean  
To: Combined Chiefs of Staff  
Information - Supreme Headquarters Allied Expeditionary Force  
Nr: FX 96705                      NAF 1017                      21 June 1945

Informal information received indicates Switzerland considering expulsion to Italy individuals listed below subject to approval of Allied authorities.

Ciano, Edda, Mussolini's daughter.

Volfi de Misurata, Count Guisepe, former Minister of Finance

Alfieri Dino, former Minister of Foreign Affairs.

Puricelli Piero, former Director of Banca Commercials.

Visconti de Modrone, former Vice President of Institute of Fascist Culture.

Pucci Doctor Puccio, President of Italian Olympic Committee.

Bastianini Giuseppe, former Under Secretary of Foreign Affairs.

Benni Antoni Stefano, former Minister of Communications.

None of these individuals is listed in United Nations war criminals list. It is recommended that in event of repatriation, they be turned over to Italian Government. Request approval this procedure or outline policy to be followed.

END.

CM-IN-20449 (22 June 45)



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COPY NO. 84

J.C.S. 1023/3

25 September 1944

Pages 35 - 38, incl.

JOINT CHIEFS OF STAFF

OBLIGATIONS OF THEATER COMMANDERS IN RELATION TO WAR CRIMES  
Reference: J.C.S. 1023 Series

Note by the Secretaries

The enclosed memorandum by the Commander in Chief, United States Fleet and Chief of Naval Operations, is submitted for consideration by the Joint Chiefs of Staff.

A. J. McFARLAND,  
E. D. GRAVES, JR.,  
Joint Secretariat.

JCS 1023/3

DECLASSIFIED  
E.O. 11652, Sec. 3(E) and 5(D) or (F)  
NND 750052  
By CSA NARS, Date 1 OCT 1974

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E N C L O S U R E

UNITED STATES FLEET  
Headquarters of the Commander in Chief  
NAVY DEPARTMENT  
Washington 25, D. C.

Serial: 002764

25 Sep 1944

MEMORANDUM FOR JOINT CHIEFS OF STAFF

Subj: JCS 1023/2 - War Crimes, proposed instructions to theater commanders.

1. In view of the increasing urgency of immediately furnishing basic working instructions concerning war crimes to theater commanders in Europe, it is recommended that JCS 1023 with the following amendments be approved by the Joint Chiefs of Staff.

a. In paragraph 1, line 1, of the Draft Instructions (JCS 1023, page 23) change the word "covers" to the word "includes."

By this change paragraph 1 will state a generally acceptable description of the war crimes with which the directive is concerned, and at the same time will remove the disagreements which the proposed definition in its present form raises in regard to its scope and its possible interference with the proper jurisdiction of military commanders and of war crime tribunals.

b. Substitute the attached list for the typical list of war crimes referred to in paragraph 2 (JCS 1023, page 23) and set out in pages 27 and 28.

The substitute list meets the objections stated in JCS 1023/1, page 30, paragraph 1b (2) and (3) and is in accordance with the amendments to the original list as proposed in JCS 1023/2, page 34. The war crimes



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included in the substitute list are recognized in the War Department basic field manual Rules of Land Warfare (1940), in the Hague Conventions of 1907, in the Paris Peace Conference list of 1919, or in the Geneva Conventions of 1929.

2. The Secretary of the Navy received from the Secretary of War, subsequent to the preparation of JCS 1023/1, a proposal to establish a National War Crimes Office under the cognizance of the Judge Advocate General of the Army, with a Navy Liaison Officer, which proposal with certain modifications, will provide an acceptable substitute for the sub-committees proposed in JCS 1023/1 and 1023/2.

/s/ E. J. King  
Admiral, U.S. Navy



~~SECRET~~A P P E N D I X

## TYPICAL ILLUSTRATIVE LIST OF WAR CRIMES

NOTE: The crimes listed are given as illustrative examples of war crimes. Many war crimes are not included in the list. Certain war crimes may be listed under more than one of the following classification headings; and the same criminal act may constitute, as under national criminal codes, more than one criminal offense.

I. Offenses against the Person

## 1. Murder.

--Types of persons against whom offense committed:

a. Member of armed forces: (1) Requesting quarter or bearing flag of truce; (2) hospitalized by wounds or illness; (3) prisoner of war.

b. Civilian public official, hostage or internee.

c. Civilian under military government or occupation.

2. Assault less than murder: Illegal injury, torture, or other mistreatment of persons listed above (1a - c), particularly illegal treatment of wounded or sick members of enemy armed forces, or mistreatment of prisoner of war; rape and abduction for prostitution; causing illness or other injury by unnecessarily depriving persons of shelter, clothing, or other means of sustenance.

## 3. Illegal Imprisonment.

4. Punishment without trial or other due process of law; on charge of war crime or other charge; infliction of cruel or unusual punishment.

II. Offenses against Property

5. Theft. Includes pillage and plunder.



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6. Extortion. Includes illegal requisition and collective penalty.

7. Arson.

8. Destruction of property without legitimate military necessity. Includes destruction of religious, charitable, educational or historic building or monument.

### III. Offenses of Unlawful Belligerency

9. Using illegal bullets, gases, appliances and methods of warfare, such as unlawful use of poison or the use of civilians as screens for troops or in other military operations.

10. Systematic terrorism, such as the arbitrary selection and killing or injuring of innocent individuals as punishment for sabotage or similar acts by unknown persons.

11. Misusing Red Cross flag for military purposes.

12. Quarter: Ordering refusal to grant quarter; or refusing to grant quarter; or requesting quarter with treacherous intent.

13. Attacking or destroying hospital deliberately.

14. Attacking or destroying hospital ship or relief ship deliberately.

15. Employing prisoner of war on unauthorized work.

16. Disregarding the rights of a prisoner of war.

### IV. Offenses Committed by Members of Military Government

17. Attempting to denationalize inhabitants.

18. Deporting inhabitants.

19. Enlisting inhabitants by compulsion for military operations or service.

20. Destroying, devastating or removing the national resources of the occupied nation.



~~SECRET~~COPY NO. 113C.C.S. 576/44 August 1944COMBINED CHIEFS OF STAFFDISPOSAL OF MEMBERS OF PRO-AXIS PARA MILITARY  
AND COLLABORATIONIST ORGANIZATIONSReference: a. C.C.S. 576 SeriesReport by the Combined Administrative Committee

1. C.C.S. 576/1 was returned to the Combined Administrative Committee for reconsideration in the light of the amendments proposed in C.C.S. 576/2 and C.C.S. 576/3 with the view toward producing an agreed directive to the Supreme Commander, Allied Expeditionary Force.

2. The enclosed draft directive incorporates the amendments proposed by the United States Chiefs of Staff (C.C.S. 576/3), and the amendments proposed by the Representatives of the British Chiefs of Staff (C.C.S. 576/2) with the exception that the term "disciplinary purposes" is included in the last sentence of paragraph 2 thereof.

3. The Combined Administrative Committee recommends the approval of the enclosed draft directive to Supreme Commander, Allied Expeditionary Force.

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E.O. 11652, Sec. 3(E) and 5(D) or (E)

NND 750052By CRD NARS, Date 1 OCT 1974

(8)



~~SECRET~~E N C L O S U R ED R A F TDIRECTIVE TO SUPREME COMMANDER,  
ALLIED EXPEDITIONARY FORCE

1. Concerning your AG 383-1 dated 20 May 1944 (Disposal of Members of Para Military and Collaborationist Organizations), there are three possible categories to be considered, namely:

Category (i). Allied Nationals captured when serving in German military or para military formations.

Category (ii). Allied Nationals captured when serving in military or para military organizations of collaborationist "governments" or authorities of Allied nations, e.g. Dutch Nazis, Quisling's Herd, Vichy Militia, etc.

Category (iii). Other Allied Nationals who are captured or taken into custody or seek the protection of the A.E.F. who have not borne arms against the Allied forces but who have collaborated actively with the enemy.

2. Persons who are held in categories (i) and (ii) will for the present be treated in all respects as prisoners of war in accordance with the Prisoners of War Convention. Persons who are held in category (iii) will be treated for the time being as civil internees. None of the personnel of any of these categories will be handed over to any Allied authorities except by arrangements between the governments concerned, or unless they have been found to be suitable for incorporation in their national forces or for formation into units for labor purposes. It is likely that Allied authorities will press strongly for transfer of such persons to them for disciplinary purposes, and our refusal to hand them over immediately will be based on the necessity of avoiding all risk of reprisals and not upon any argument as to their status.



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3. Special steps will be taken by you to see that all persons in categories (ii) and (iii) are clearly identified as quislings or collaborationists and that all detailed information about them is made available to the authorities responsible for their detention or evacuation. Unless this is done, there is a serious risk that many will become mixed with genuine refugees and regain their freedom. Special care will be taken to identify and keep records of all such persons at the time they are taken into custody or as soon thereafter as is reasonably possible. All relevant documents will accompany them if they are moved.

4. Collaborationists and quislings will be distinguished from actual or suspected criminals. If a collaborationist is suspected of having also committed a war crime, procedure appropriate to war criminals will be applied to him pending a decision as to which offense he should be tried for.



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COPY NO. 86

C.C.S. 576/5

14 August 1944

COMBINED CHIEFS OF STAFF

DISPOSAL OF MEMBERS OF PRO-AXIS PARA MILITARY  
AND COLLABORATIONIST ORGANIZATIONS

Note by the Secretaries

The Combined Chiefs of Staff have approved the recommendation of the Combined Administrative Committee on page 1 of C.C.S. 576/4. The message to the Supreme Commander, Allied Expeditionary Force has been dispatched as FACS 53.

A. J. McFARLAND,  
A. T. CORNWALL-JONES,  
Combined Secretariat.

CCS 576/5

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E.O. 11652, Sec. 3(E) and 5(D) or (E)  
NND 750052  
By clp NARS, Date 1 OCT 1974

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COPY NO. 82

C.C.S. 576/10

15 June 1945

COMBINED CHIEFS OF STAFFDISPOSAL OF ALLIED AND NEUTRAL NATIONALS  
CAPTURED WHILE SERVING IN ENEMY FORCES

Reference: C.C.S. 576 Series

Report by the Combined Administrative CommitteeTHE PROBLEM

1. As a matter of urgency to consider a request by the Supreme Commander, Allied Expeditionary Force (SCAEF) in SCAF 436 (Appendix "B", page 4) for instructions as to the disposal of Allied and neutral nationals captured while serving in enemy forces.

FACTS BEARING ON THE PROBLEM

2. In FACS 53, a directive was issued by the Combined Chiefs of Staff to SCAEF with regard to the disposal of members of para military collaborationist organizations. A further directive was issued to SCAEF in FACS 94, amending the directive in FACS 53 so as to permit SCAEF to continue to hand over to the French authorities French suspects not entitled to a prisoner of war status (C.C.S. 576/8, page 1).

3. SCAF 436 supersedes SCAF 191 (C.C.S. 576/8, page 5) which had requested modification of the existing instructions contained in FACS 53 (C.C.S. 576/4) as amended by FACS 94 (C.C.S. 576/6, page 3) regarding disposal of Allied nationals captured while serving in the enemy forces. Additionally SCAEF raises the question as to the disposal of neutrals captured under similar circumstances.

4. The unconditional surrender and occupation of Germany has removed the possibility of reprisals against Allied prisoners of war and it is no longer necessary to maintain, as to Allied

CCS 576/10

- 1 -

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E.O. 11652, Sec. 3(E) and 5(D) or (E)  
NND 750052  
By CGO NARS, Date 1 OCT 1974

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nationals, the policy heretofore followed that all persons captured in German uniform while serving in German formations were to be regarded as German prisoners of war.

5. The European Advisory Commission has presently under consideration a proposed directive on United Nations renegades and quislings. This directive, if approved, looks toward the release to the United Nation concerned of any of its respective nationals who have assisted or collaborated with the enemy.

6. The Department of State and British Foreign Office have issued instructions to their representatives in Italy concerning the disposal of dissident Yugoslav troops. These instructions which are still extant, are being forwarded to SCAEF by Foreign Office and State Department representatives for his information.

#### CONCLUSIONS

7. Pending decision of the European Advisory Commission, the action recommended by SCAEF in SCAF 436 should be approved except that, as to dissident Yugoslav troops, such personnel should be handled in accordance with existing Foreign Office and Department of State instructions.

8. Neutrals with ardent Nazi tendencies should continue to be retained in custody as German prisoners of war.

#### RECOMMENDATION

9. That the message in Appendix "A" be dispatched to the Supreme Commander, Allied Expeditionary Force.



~~SECRET~~APPENDIX "A"D R A F TMESSAGE TO SUPREME COMMANDER, ALLIED EXPEDITIONARY FORCE

1. This replies to SCAF 436 which supersedes SCAF 191. It is assumed that you have given consideration in connection with categories A and B to making the necessary arrangements to insure that material witnesses will be available for war crimes trials. Since receipt of SCAF 191 the United Kingdom and United States representatives on the European Advisory Commission have each presented for consideration by that body a proposed directive on United Nations renegades and quislings. Pending decision by that body, the action being taken by you with respect to nationals of Belgium, France, Luxembourg and the Netherlands is approved.

2. Your proposal 1 is approved, except that as to dissident Yugoslav troops, you should proceed in accordance with existing Foreign Office and Department of State instructions, which are being forwarded to you by their representatives.

3. As to proposal 2, those neutrals of ardent Nazi tendencies will continue to be retained as German prisoners of war. Transfer of other neutrals who cannot be classified as war criminals or security suspects to their own governments, is approved.



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APPENDIX "B"

From: Supreme Commander, Allied Expeditionary Force,  
Forward, Frankfurt, Germany

To: Combined Chiefs of Staff

Nr: FWD 23567                      SCAF 436                      5 June 1945

Disposal of Allied and neutral nationals captured when serving in enemy forces is subject.

Present instructions for Allied nationals are based upon FACS 53 (C.C.S. 576/4, page 2) amended by FACS 94 (C.C.S. 576/6, page 3) in accordance with our SCAF 84 (C.C.S. 576/6, page 4). Present cable supersedes SCAF 191 (C.C.S. 576/8, page 5) which requested modification of present instructions. Unconditional surrender and occupation of Germany have removed possibility of reprisals against Allied prisoners of war.

It is urgently necessary to reduce the number of prisoners of war at earliest opportunity by discharging all classes of prisoners not likely to be required by Allies. All nationals of Belgium, France, Luxembourg, and Netherlands are now being handed over to their national authorities, subject to the following exceptions:

A. War criminals whose crimes were committed against nations other than their own.

B. Security suspects and other persons wanted by United Nations other than their own.

It is now proposed:

1. To similarly deliver citizens of all other United Nations (except nationals of Estonia, Latvia, Lithuania, and Poland) to their national authorities, with the same exceptions as above, as soon as necessary arrangements can be effected.



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2. To deliver all neutrals to their own governments, less same exceptions as above. In this connection instructions are requested as to whether any special treatment should be accorded to those with ardent Nazi tendencies but who cannot be classified as war criminals or security suspects.

Disposal of Soviet categories is covered by Crimea Agreement. Disposal of nationals of Poland and other Baltic countries is awaiting clarification of policy.

Authority for above action urgently required. Presume you will consult both British and U.S. Governments, which may entail some delay. If decisions regarding disposal of any part of the above are likely to cause delay, request immediate authority be given for any portion that you can now approve.

End

CM-IN-4674

(5 Jun 45)



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C.C.S. 705/9

7 July 1945

DECLASSIFIED  
E.O. 11652, Sec. 3(E) and 5(D) or (E)  
NND 750052  
By CRD NARS, Date 1 OCT 1974

COPY NO. 23

(SPECIAL DISTRIBUTION)

COMBINED CHIEFS OF STAFF

POLICY AS TO DISPOSITION OF WAR CRIMINALS  
RENEGADES AND QUISLINGS

U.S. DISTRIBUTION

COPY NO.

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Admiral Leahy	1	General Hildring	9
General Marshall	2 & 5	Admiral McCrea	10
Admiral King	3 & 6	Secy, JCS	11
General Arnold	4	Secy, JCAC	12
General Handy	7		
Admiral Edwards	8		



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COPY NO. 23

C.C.S. 705/9

7 July 1945

COMBINED CHIEFS OF STAFF

POLICY AS TO DISPOSITION OF WAR CRIMINALS  
RENEGADES AND QUISLINGS  
Reference: C.C.S. 705/7

Memorandum by the Representatives  
of the British Chiefs of Staff

The Representatives of the British Chiefs of Staff are instructed to propose the despatch by the Combined Chiefs of Staff of the reply to SCAF 406 paragraph 1 (C.C.S. 705/7) and NAF 973 (C.C.S. 705/7) at the Enclosure.



~~SECRET~~

ENCLOSURE

DRAFT

CABLE TO THE SUPREME COMMANDER, ALLIED EXPEDITIONARY FORCE  
AND THE SUPREME ALLIED COMMANDER, MEDITERRANEAN

1. This cable answers paragraph 1 of SCAF 406 (repeated today to SACMED) and NAF 973. This directive applies to all persons held by forces under your command suspected of having committed war crimes in a country formerly occupied by the Germans or in Italy. It does not apply to such renegades and quislings as are not war criminals.

2. You should hand over Germans wanted for war crimes against Allied nationals or Italy to respective national authorities subject to exceptions in paragraph 3 below and provided that the military authorities on the spot have no reason (a) either to doubt the bona fides of, and war crimes justification for, any Allied request for war criminals, or (b) to consider (without further reference to the Combined Chiefs of Staff) that there are special circumstances which may make transfer undesirable.

3. Excepted from above procedure are persons:

a. Required for trial before courts under your command.

b. Who held high political, civil or military position in Germany or in one of its allies, co-belligerents, or satellites, who may be required for trial before an international tribunal.

c. Required as witnesses in trials referred to in a or b above.

d. Required by U.S. or U.K. Governments as defendants or witnesses for trials of major war criminals, Gestapo and similar organizations.

e. Required in connection with war crimes against American or British subjects.



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f. Requested by two or more allied nations.

g. Requested, but whose cases involve special political or other unusual considerations, which cases should be given careful study in consultation with your political advisers before delivery is made.

4. Procedure for handing over should be as follows:

a. Persons on the United Nations War Crimes Commission (UNWCC) German lists (other than those freshly included in lists Nos. 7 and 9) should be handed over without question, provided that:

(1) The UNWCC lists shows them as wanted for trial solely by applicant country;

(2) There is no reason for supposing after reference to "Central Registry of War Criminals and Security Suspects" at Supreme Headquarters, Allied Expeditionary Force (SHAEF) that the U.S., U.K., or any other Allied country, want them as witnesses in other cases.

b. Persons not on UNWCC lists should be handed over subject to:

(1) Receipt from Allied authorities concerned of a plain statement that German asked for is wanted for one or more specified war crimes committed at specified date and place either in their territory or against their own nationals and:

(2) Reference to "Central Registry of War Criminals and Security Suspects" at SHAEF to ensure that there is no reason to suppose person is required as accused or witness by another Allied country. Military authorities would not be expected to check up bona fides of the charge but fact that ally concerned would have to commit himself to such statement might be some deterrent to requests on inadequate grounds.



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5. It is assumed that during continuance of SHAEF and Allied Force Headquarters Allied governments should forward their requests to those Headquarters with whom decision as to handing over should rest. After effective establishment of control commissions for Germany and Austria allied requests should be addressed to those bodies.

6. Above is reply to SCAF 406 paragraph 1 and to NAF 973, so far as trials of war criminals are concerned and will permit start being made with handovers in more straightforward cases.

7. You will receive further instructions on paragraph 2 of SCAF 406. In meantime please amplify reference in latter paragraph to neutral nationals wanted by single Allied state.



~~SECRET~~

COPY NO. 20

C.C.S. 705/8

(SPECIAL DISTRIBUTION)

20 June 1945

COMBINED CHIEFS OF STAFF

TRIAL AND PUNISHMENT OF WAR CRIMINALS

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By CB NARS, Date 1 OCT 1974



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C.C.S. 705/8

20 June 1945

COMBINED CHIEFS OF STAFF

TRIAL AND PUNISHMENT OF WAR CRIMINALS

References: a. C.C.S. 705/7  
b. FACS 245  
c. FAN 575 .

Note by the Secretaries

The Combined Chiefs of Staff have approved the recommendation in C.C.S. 705/7.

A. J. McFARLAND,  
A. T. CORNWALL-JONES,  
Combined Secretariat.

(H)



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COPY NO. 112

C.C.S. 705/7

8 June 1945

COMBINED CHIEFS OF STAFF

TRIAL AND PUNISHMENT OF WAR CRIMINALS

Report by the Combined Civil Affairs Committee

THE PROBLEM

1. To consider as a matter of priority (a) means of punishing war criminals in Germany, Austria and Italy during the period of combined command and (b) SCAF 431 (Appendix "F") and make recommendations to the Combined Chiefs of Staff.

FACTS BEARING ON THE PROBLEM

2. On 3 June 1945 SCAF 431 was referred to the Combined Civil Affairs Committee as a matter of priority in consonance with SCAF 406 (Appendix "C"). It is considered in this report rather than with SCAF 406 as the committee considers that the questions raised in the two messages are not related.

3. Annex 10 to the Moscow Declaration provides that those German officers and men and members of the Nazi Party who have been responsible for or who have taken a consenting part in atrocities, massacres and executions in the occupied countries and Italy will be sent back to the countries in which their crimes were committed to be judged and punished according to the laws of the countries concerned. That declaration is without prejudice to the case against major criminals whose offenses have no particular geographical localization. These will be punished by joint decision of the governments of the Allies.

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4. In the pre-surrender period the Supreme Commander, Allied Expeditionary Force (SCAEF), and the Supreme Allied Commander, Mediterranean Theater (SACMED), were directed to apprehend and hold for investigation and subsequent disposition all persons suspected of having committed war crimes (C.C.S. 551 and C.C.S. 247/5/D). Subsequently this rule has been relaxed to permit trial by theater commanders of persons who commit war crimes against forces under their command during the period of occupation.

5. The Combined Chiefs of Staff are considering a general statement of policy concerning the obligations of theater commanders in relation to war crimes (C.C.S. 705 series). In the meantime active hostilities have ceased, a great number of war criminals have been taken and await trial, the military courts established by the theater commanders have jurisdiction, but none are being tried. In this connection, the U.K. Government has indicated that it desires to try war criminals in areas occupied by British forces in special military courts to be established under Royal Warrant.

6. In SCAF 406 and NAF 973 (Appendix "D") SCAEF and SACMED request guidance concerning the disposition of persons requested for trial as war criminals by the one or more United Nations. This paper does not seek to answer those cables.

7. Paragraph 1 of the draft cable at Appendix "A" has been informally approved by Associate Justice Robert H. Jackson, who has been appointed by the President as the Chief of Counsel for the United States in the trials of the major war criminals (Appendix "E"). The Department of State (Mr. Matthews) has informally approved this report.



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DISCUSSION

8. It is of great importance in our control of Germany and our relations with the other United Nations that war criminals be punished as expeditiously as possible.

9. It is considered unnecessary to continue present restrictions against segregating suspected war criminals from other prisoners in northwest Europe and the Mediterranean (see Enclosure to C.C.S. 450, dispatched as FAN 291; and Enclosure to C.C.S. 705/4, dispatched as FACS 217 and FAN 551).

CONCLUSION

10. With certain exceptions SCAEF and SACMED should proceed with the trial and punishment of all war crimes.

RECOMMENDATION

11. That the message in Appendix "A" and the letter in Appendix "B" be dispatched.



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APPENDIX "A"

D R A F T

MESSAGE TO THE SUPREME COMMANDER, ALLIED EXPEDITIONARY FORCE  
AND THE SUPREME ALLIED COMMANDER, MEDITERRANEAN

Reference SCAF 431. (To SCAEF only)

1. Previous restriction on your trial of persons charged with war crimes now removed as indicated below. Whether offenses were committed before or after occupation by your forces and regardless of nationality of victim, you may proceed with such trials in military government courts under your command, except as provided in paragraph 3 of this message for British areas, and execute sentences subject to the following:

a. Trials of suspected war criminals who held high political, civil, or military positions should be deferred pending reference to Combined Chiefs of Staff to ascertain whether it is desired to try such persons before an international tribunal.

b. Trials of other persons, known also to be wanted by one or more of United Nations in accordance with the Moscow Declaration for trial for crimes committed outside your zone, should be deferred and report made to the CCS.

c. Execution of death sentences should be deferred when you believe testimony of those convicted would be of value in trial for other war criminals in any area whether within or without area of your responsibility and report made to the CCS.

2. Previous restrictions against segregation of suspected war criminals taken into custody in your theater as recently affirmed in FACS 217 and FAN 551 are rescinded.



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3. So far as area occupied by British forces is concerned no trials should take place until Royal Warrant establishing special military courts has been promulgated. This is expected shortly. It is intended that these special military courts and not military government courts will try war criminals in the area occupied by British forces.

4. This message is not intended to answer SCAF 406 and NAF 973. Answer to them will follow shortly. Meantime, the persons wanted in connection with war crimes should be retained by captor power and not handed over to other national authorities.



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APPENDIX "B"

D R A F T

LETTER TO THE DEPARTMENT OF STATE  
FROM THE UNITED STATES CHIEFS OF STAFF AND TO THE FOREIGN OFFICE  
FROM THE REPRESENTATIVES OF THE BRITISH CHIEFS OF STAFF

The Combined Chiefs of Staff have dispatched the enclosed message (Appendix "A") to the Supreme Commander, Allied Expeditionary Force, and the Supreme Allied Commander, Mediterranean. A copy of the cable is transmitted to you for such use as you may care to make of it.







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APPENDIX "D"

NAF 973

From: Supreme Allied Commander, Mediterranean

To: Combined Chiefs of Staff

Information:

Supreme Commander, Allied Expeditionary Force

Nr: FX 76482

NAF 973

16 May 1945

Subject is handing over to other countries American and British held prisoners of war (PW) concerned with war crimes.

1. Request has been received from Greek authorities for certain PW charged by them with war crimes to be handed over. The PW are also required as important witnesses against Greek collaborators.

2. Expect many similar applications from Greece and other nations.

3. Confirmation requested that such applications should be refused pending receipt of specific directive in spite of terms of Moscow Declaration that officers and men responsible for atrocities will be sent back to be judged by laws of liberated countries where deeds were done.

End

CM-IN-16343 (17 May 45)



~~SECRET~~APPENDIX "E"EXECUTIVE ORDER 9547DECLASSIFIED  
E.O. 11652, Sec. 11  
NND 750052  
By R, NARS Date 10/27/74

Providing for Representation of the United States in  
Preparing and Prosecuting Charges of Atrocities and War Crimes  
Against the Leaders of the European Axis Powers and Their  
Principal Agents and Accessories.

By virtue of the authority vested in me as President and  
as Commander in Chief of the Army and Navy, under the Constitution  
and statutes of the United States, it is ordered as follows:

1. Associate Justice Robert H. Jackson is hereby designated  
to act as the Representative of the United States and as its  
Chief of Counsel in preparing and prosecuting charges of  
atrocities and war crimes against such of the leaders of the  
European Axis powers and their principal agents and accessories  
as the United States may agree with any of the United Nations  
to bring to trial before an international military tribunal.  
He shall serve without additional compensation but shall receive  
such allowance for expenses as may be authorized by the President.

2. The Representative named herein is authorized to select  
and recommend to the President or to the head of any executive  
department, independent establishment, or other federal agency  
necessary personnel to assist in the performance of his duties  
hereunder. The head of each executive department, independent  
establishment, and other federal agency is hereby authorized to  
assist the Representative named herein in the performance of  
his duties hereunder and to employ such personnel and make such  
expenditures, within the limits of appropriations now or here-  
after available for the purpose, as the Representative named  
herein may deem necessary to accomplish the purposes of this  
order, and may make available, assign, or detail for duty with  
the Representative named herein such members of the armed  
forces and other personnel as may be requested for such purposes.



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3. The Representative named herein is authorized to cooperate with, and receive the assistance of, any foreign Government to the extent deemed necessary by him to accomplish the purposes of this order.

Harry S. Truman

The White House

May 2, 1945

(F. R. Doc. 45-7256; Filed, May 3, 1945; 10:57 a.m.)



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APPENDIX "F"

SCAF 431

From: Supreme Commander, Allied Expeditionary Force

To: Combined Chiefs of Staff

Nr: FWD 23184

SCAF 431

2 June 1945

Moscow declaration of war criminals provided that "Germans will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free governments which will be erected therein." This provides for crimes committed in liberated countries. There remains, however, a large number of Germans whose crimes have been committed against United Nations nationals in Germany notably commandants and guards of concentration camps for whose trials no provision has yet been made.

It is believed that the immediate trial of such persons by military tribunal set up by army group commanders under existing procedure for trial of battlefield crimes would have a salutary effect upon public opinion both in Germany and in Allied countries.

Authorities of United Nations would be invited to send representatives to attend trial of any criminal alleged to have committed crimes against their nationals. If practicable such representatives might be invited to sit as members of the court. No major war criminals would be tried under this procedure and any cases of doubt would be referred to you.

Ask immediate authority be given to set up these courts.

CM-IN-1918 (2 June 45)



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COPY NO. 89

C.C.S. 705/6

12 May 1945

COMBINED CHIEFS OF STAFF

OBLIGATIONS OF THEATER COMMANDERS IN RELATION  
TO WAR CRIMES

References: a. C.C.S. 705/4  
b. C.C.S. 705/5

Note by the Secretaries

The Combined Chiefs of Staff approved the recommendations in paragraph 3 of C.C.S. 705/4. The message in Appendix "A" thereto was dispatched to the Supreme Commander, Allied Expeditionary Force and the Supreme Allied Commander, Mediterranean as FACS 217 and FAN 551 respectively, and the memorandum in Appendix "B" was forwarded to the State Department and British Embassy under date of 12 May 1945.

A. J. McFARLAND,  
A. T. CORNWALL-JONES,  
Combined Secretariat.

CCS 705/6

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NND 750052  
By CRP NARS, Date 1 OCT 1974

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COPY NO. 93

C.C.S. 705/4

11 May 1945

COMBINED CHIEFS OF STAFF

OBLIGATIONS OF THEATER COMMANDERS IN RELATION TO WAR CRIMES

- References: a. C.C.S. 705/3  
b. Informal Memorandum by  
 British Representatives,  
 3 May 1945

Memorandum by the United States Chiefs of Staff

1. The United States Chiefs of Staff are of the opinion that it would be preferable not to include in the message contained in Enclosure "A" to C.C.S. 705/3 the sentence proposed by the British Chiefs of Staff which would prohibit disclosure to the Russians of the source of the lists of suspects. Since the Soviet Government knows that the United States and British Governments are represented on the War Crimes Commission, it is felt that such a prohibition might be open to misinterpretation should the Soviet authorities learn of it.

2. They further suggest that the directions regarding Italian war criminals, proposed in paragraph b (2) of the informal British memorandum of 3 May, be made permissive in terms in order to conform to the remainder of the message.

3. Subject to the changes indicated above, the United States Chiefs of Staff agree to the substance of the amendments proposed by the British Chiefs of Staff. However, in view of the German surrender they are of the opinion that several minor changes should be made in the wording of both the message for the theater commanders and the letter for the Department of State and British Embassy. They recommend therefore:

a. That the message contained in Appendix "A" be dispatched to the Supreme Commander, Allied Expeditionary Force; Supreme Allied Commander, Mediterranean; and Supreme Allied Commander, Southeast Asia Command.

b. That the letter contained in Appendix "B" be forwarded to the Department of State and British Embassy.

CCS 705/4

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 NND 750052  
 By CEP NARS, Date 1 OCT 1974

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APPENDIX "A"

D R A F T

MESSAGE TO THE SUPREME COMMANDER, ALLIED EXPEDITIONARY FORCE;  
SUPREME ALLIED COMMANDER, MEDITERRANEAN;  
AND SUPREME ALLIED COMMANDER, SOUTHEAST ASIA COMMAND

The United Nations War Crimes Commission has now prepared and is preparing lists of persons certified by it as being suspected of having committed war crimes. In view of the present situation in Europe, the Combined Chiefs of Staff consider that these lists should be made available to you as soon as possible. They are therefore requesting the appropriate United States and British agencies to arrange with the War Crimes Commission for the transmission of such lists to you direct. Upon receipt from the commission of these lists, and pending further instructions from the Combined Chiefs of Staff, you may apprehend and detain the persons certified in such lists, without requiring further proof of their having committed war crimes. They should not, however, at present, be arrested as "war criminals" but as normal prisoners of war or on security grounds. Italian war criminals at large in Italy may be apprehended, specific instructions being sought in cases where any have already been detained by Italian authorities or any who are now collaborating with us.



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APPENDIX "B"

D R A F T

LETTER TO THE DEPARTMENT OF STATE AND THE BRITISH EMBASSY

The Combined Chiefs of Staff understand that the United Nations War Crimes Commission has now prepared and is preparing lists of persons certified by it as being suspected of having committed war crimes. In view of the present situation in Europe, they believe that arrangements should be made to make these lists available as soon as possible to the Supreme Commander, Allied Expeditionary Force and to the Supreme Allied Commander, Mediterranean.

The Combined Chiefs of Staff are of the opinion that the most expeditious manner in which this can be done is to request the War Crimes Commission to furnish such lists direct to these two theater commanders. They therefore request that the Department of State and the British Foreign Office take appropriate action to arrange for the delivery of these lists. In this connection, the Combined Chiefs of Staff have authorized the two theater commanders to receive these lists direct from the commission and, pending receipt of further instructions, to apprehend and detain persons certified on these lists without requiring further proof of their having committed war crimes.