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RESTRICTED

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**MILITARY GOVERNMENT  
GERMANY**

**TECHNICAL MANUAL  
FOR  
LEGAL AND PRISON OFFICERS  
2nd EDITION**

RESTRICTED

MILITARY GOVERNMENT  
GERMANY

TECHNICAL MANUAL  
FOR  
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SUPREME HEADQUARTERS  
ALLIED EXPEDITIONARY FORCE  
G-5 DIVISION

This Manual is published for the guidance of Legal and Prison Officers and other Officers concerned with the discharge of legal and prison duties. The Manual is divided into four parts, the first of which is intended for Legal Officers and the second for Prison Officers. Parts III and IV provide a Glossary and an Index. The Manual contains Rules for Military Government Courts and the Guide to Procedure. It also contains detailed instructions with respect to the supervision of German Courts and an outline of German Criminal Law. The relevant forms to be used by Legal and Prison Officers are placed at the end of each section.

Certain extracts from Chapter V of Part II of the Military Government Handbook for Germany have been incorporated in the text, and a marginal reference to the section number in the Military Government Handbook is given in each case. It should be noted, however, that the whole of Chapter V has not been reprinted in the present edition. As Chapter V of the Handbook is now being revised, opportunity has been taken to introduce the proposed revisions in this Manual. Until, therefore, the revised Chapter V is issued there will be a discrepancy between the Manual and the Handbook. The former should, of course, be followed.

For the convenience of those who have used the first edition of the Manual, a separate table has been made showing where the old documents and supplements are incorporated in the new text. Supplements 2, 3, 4, 5 and 6 have been included in the main text and no longer appear as supplements. A list of the subjects covered by such supplements is included in the comparative table referred to above.

An English-German glossary of technical Military Government terms has been added.

In view of the provisions of Ordinance No. 3 making the English language official for the areas under the control of English-speaking forces and the French and English languages in the area under French Military Government control, German translations of the proclamation, laws and ordinances have not been included. However, German translations of the forms to be used by Military Government Courts and directions to German authorities, though they are not official texts, have been included for the convenience of practitioners.

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COMPARATIVE TABLE

The Comparative Table shows the Documents and paragraphs of the 1st Edition of the Technical Manual for Legal and Prison Officers (together with amendments and Supplements thereto) and the corresponding paragraphs of the 2nd Edition. Also such parts of the 1st Edition which have either been omitted or revised in the 2nd Edition.

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## PART I LEGAL



**SECTION 1.**  
**GENERAL POLICY.**

**M. G. LEGAL POLICY**

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562.

1. In addition to those set out in other manuals, the following policy objectives are to be pursued:

a. To restore and maintain law and order as far as the military situation permits.

b. To safeguard the persons, property and interests of the Allied Forces and of the United Nations and their nationals, including prisoners of war and displaced persons.

c. To destroy the legal foundations of German militarism, of Nazi domination, of the National Socialist Party and its affiliated organisations, and to suppress their activities as such.

d. To prevent the operation of all German laws which discriminate against persons on account of race, colour, creed or political opinions.

e. To reorganise the German system of justice so as to eliminate Nazi elements and Nazi doctrines.

f. To ensure that persons are not imprisoned or detained by German authorities without due legal process.

**STATEMENT OF RESPONSIBILITIES**

563. 2. **LEGISLATION.** As means to the above ends, Legislation will be enacted in Germany and directions given to the German authorities.

Refer to 564. 3. **MILITARY GOVERNMENT COURTS.** There will be established as soon as practicable, in accordance with the Military Government Courts Ordinance, such Military Government Courts as are required to maintain order and preserve the security of the Allied Forces. Army Group Commanders are authorised to appoint such courts, to review cases in such courts and, at their discretion, to designate an Officer or Officers serving on their Staff to act on their behalf, in the exercise of their powers as an appointing and reviewing authority (but not of those of a Confirming Authority as provided in para 5 below). Delegation and redelegation of all such powers to subordinate commanders and other officers are also authorized. Subject to such controls as Army Group Commanders may deem desirable, no formal appointment of a Summary Military Court need be required. The jurisdiction of such Military Government Courts over persons and offenses shall be as provided in the above-mentioned Ordinance, provided that, as a matter of policy, until further instructions, violations of the laws and usages of war will not be tried except with respect to persons charged with the commission of offenses which threaten to impair the security of the Allied Forces or the effectiveness and ability of such forces or members thereof, or with the commission of such offenses within the occupied territory subsequent to its occupation. Authorization as hereby provided with respect to Military Government Courts shall not be construed as depriving Army Group Commanders or any subordinate officers of any authority otherwise vested in them to appoint courts-martial, military commissions or other military tribunals which under the applicable authority may have concurrent jurisdiction with such Military Government Courts in respect of offenders or offenses.

Refer to 565. 4. **RULES OF MILITARY GOVERNMENT COURTS.** Rules of Military Government Courts, Forms for use therein and a Guide to

Procedure are contained in Sections 3 and 4 hereof. In accordance therewith, Army Group Commanders will ensure a uniform balanced system of Military Government Courts within their area of responsibility. They are authorized to exercise the powers referred to in such Rules or Guide as vested in Army Group Commanders, Military Government or Chief Legal Officer. Delegation and redelegation of such powers to subordinate commanders and other officers are also authorized.

5. **CONFIRMATION OF DEATH SENTENCES.** Power to confirm death sentences given by Military Government Courts is vested in Army Group Commanders and may be delegated to Army Commanders or Corps Commanders or Military District Commanders when designated (if not below the rank of Major-General). Army Group Commanders and such said officers to whom such power may be delegated are designated as officers having power to confirm sentences of death in accordance with Article VII of Ordinance No. 2. 566.

6. **GERMAN LAW AND NAZI CONTROL.** All Nazi, or otherwise undesirable, elements will be eliminated from the judiciary and administration of justice. On the commencement of occupation, all German courts will be closed and will not be allowed to re-open until a sufficient nucleus of personnel has been found who can be relied upon to administer justice free from Nazi principles and doctrines. Courts may be opened for purely administrative functions before they re-open for contentious business. Instructions for the re-opening of courts are contained in Section 5. 567.

7. **ABOLITION OF NAZI SPECIAL COURTS.** Special courts associated with the Nazi regime will not be permitted to re-open and judges and officials connected with them will be disqualified from acting in the ordinary German courts (see Section 1, Appendix I). 568.

8. **SUPERVISION OF GERMAN COURTS.** In the supervision of the German administration of justice, the following principles will be adhered to:

a. In general, the Germans themselves are responsible for the administration of justice as between themselves, provided that there is no interference with the objectives of Military Government.

b. Cases in which the interests of Military Government are effected will in general be withdrawn from the German courts and dealt with in Military Government Courts. It is the special duty of Military Government Officers to insure that justice is obtained by United Nations nationals (displaced persons and prisoners of war) in Germany. Refer to 569

c. In cases where it appears that a German court is administering justice in a manner contrary to the objectives of Military Government, the remedy should be by removal or disqualification of or disciplinary action against the judge or other official involved. Where necessary, cases may be re-tried in Military Government Courts.

9. **DENAZIFICATION.** The establishment of a working court system which will administer justice free from Nazi methods and Nazi doctrines is an urgent requirement of Military Government. The period while the courts are closed must be used for the initiation of this process. The following paragraphs deal with the principles and the practical methods of denazification.

10. **DENAZIFICATION OF GERMAN LEGAL PERSONNEL.** Denazification must necessarily be carried out as part of the process



e. Legal advice to the Senior Military Government Officer at each military, or Military Government, echelon, and to his staff; and responsibility generally for legal matters affecting the conduct of Military Government, including the securing of consistency and uniformity therein.

f. The study of German legislation and recommendations with respect to suspension of such parts thereof as may be required to carry out the policies of the Supreme Commander, AEF.

g. In conjunction with Public Safety Officers and CIC, the review of all persons held under detention and the release of political prisoners.

h. Investigation and recommendations respecting the internment of civilians and the detention and trial of war criminals, to the extent authorized and directed by higher authority.

i. The supervision of German administration of prisons, penitentiaries, and other penal institutions (but not concentration camps, which will be closed as such by Public Safety Officers).

557. **18. Liason on Legal Matters.** Legal Officers and Military Government Officers performing legal functions should bear constantly in mind the necessity for maintaining close liason with all elements of the Allied Forces affected by their activities or whose co-operation is needed in performing their functions effectively. These will include:

- a. headquarters of the military formation controlling the area;
- b. the Provost Marshal and Military Police;
- c. the CIC, G-2 and other Military Intelligence services;
- d. Military Government Public Safety officers, especially police; and

e. Military Government legal officers of the next higher and lower staffs or headquarters.

558. **19. Reports by Legal Officers.** Legal Officers and Military Government Officers will make promptly all reports on legal and prison matters required by their instructions. They will also report through technical channels, as well as to their military and Military Government headquarters or detachment commanders, all legal and prison matters in their areas requiring attention and not covered by instructions, with their recommendations as to the action to be taken.

559. **20. Miscellaneous Activities of Legal Officers.** In view of the numerous administrative activities conducted by the Ministry of Justice which do not directly concern the administration of the ordinary civil and criminal court and prisons, legal officers in the field will be called upon to assist in the handling of a great variety of matters which are the primary concern of other Military Government Specialists. In handling such matters, Legal Officers will work in close conjunction with the Military Government Officers primarily concerned therewith to avoid overlapping of function and duplication of work. Wherever possible, procedure in such matters will be cleared with the senior Military Government Officer of the area.

570. **21. Legal Personnel.** Supreme Headquarters will initially furnish legally qualified Military Government officers. These should be sufficient to provide legal advisers on staffs at all Military Government levels, a number of specialists for deployment at key points and a nucleus for the organisation of Military Courts.

571. Conditions may, however, be anticipated and should be provided for in which the establishment of Military Government Courts may become necessary on a considerable scale. For this purpose command-

ers are empowered to make use of legally trained officers, serving in the combatant forces. Officers who are not legally qualified may be used to constitute Summary Courts, but they will, if possible, first have attended under the instruction of, and be subject to control by legally qualified officers.

## LEGISLATION BY MILITARY GOVERNMENT

22. **Enactments.** Military Government legislation affecting the population of the occupied territory, to be issued by the Supreme Commander, will be classified as follows: Refer to 534.

a. **Proclamations.** General announcements of policy and action directed to the inhabitants of the occupied territory.

b. **Laws.** Legislation of general application affecting the inhabitants of the occupied territory, subject to the control of the issuing authority.

c. **Ordinances, Supreme Commanders Area of Control.** Legislation of general application on Subjects related to Military Government but not directly affecting the existing German Law.

d. **Army Group Area, Regional, District, etc., Ordinances.** Legislation affecting the inhabitants of a particular area occupied by a group of Armies, Region, District, etc.

e. **Notices.** Notices directed to the inhabitants of an area directing specified action to them.

f. **Regulations.** Rules and principles issued under a law or ordinance and intended to be binding on persons affected thereby.

23. **Military Government Instructions and Directions.**

a. Delegations of authority and other directions of Military Government Officers and detachments with respect to how, when, and by whom legislative matters shall be given effect will take the form of Military Government instructions. 535.

b. Directions to specified persons, including the German officials, as distinguished from direction to the public generally, will be known as Military Government Directions.

24. **METHOD OF ISSUANCE.**

a. Necessary initial legislation and directions will be furnished by Supreme Headquarters to Army Group commanders for promulgation, upon authorisation of Supreme Headquarters, by them or on their authority. Such promulgation will be effected by causing printed copies thereof to be posted in territory as it is occupied or by such other means of publication as commanders may deem appropriate. 563.

b. Subsequent Legislation will be enacted as follows:

(i) Legislation on subjects as to which uniformity of treatment throughout the Supreme Commander's area of control is desirable will be furnished by Supreme Headquarters and promulgated as set forth above.

(ii) Other legislation for a particular area may be enacted by the commanders having Military Government responsibility for the area concerned, or by subordinate officers in their discretion as that power may delegate. All legislation to be enacted by Army Gp. Commanders will be submitted prior to promulgation to Supreme Headquarters for approval, except on unusual occasions when the military situation requires emergency action to be taken, in which case a detailed report shall be made. In



delegating authority to subordinate commanders, such delegation should be subject to a similar restriction and will be limited to legislation of a character local to the area of responsibility of the officer to whom authority is so delegated, and will be accompanied by appropriate instructions to insure co-ordination between the various areas. The highest Military Government headquarters will take such action as may be appropriate to secure uniformity and co-ordination as it deems necessary.

c. Subsequent Directions will be issued in accordance with the principles applicable to Legislation. Directions will be used, rather than legislation, in all cases in which the action required can most effectively be carried out through the German governmental machinery.

d. Appropriate commanders may issue, and authorise subordinate officers to issue and enforce, any legislation and directions which operational or emergency conditions may require.

e. There will be reported to Supreme Headquarters the fact of issuance of any legislation or directions within the area of the Army Group Commander's responsibility, and Supreme Headquarters will be furnished with at least ten copies of any such legislation or directions not originating at Supreme Headquarters, as well as the date and place of issuance and publication and area of applicability of all Proclamations, Laws, Ordinances and Notices, including any furnished by Supreme Headquarters.

#### 25. Official Gazette.

a. Military Government will publish the official text of proclamations, ordinances, and other enactments of general interest to the German Public in an Official Gazette or Gazettes. Instructions regulating internal administration of Military Government will be distributed through channels and will not be published in the Gazette.

b. Enactments within each class (other than Notices and Regulations) shall be numbered serially for identification, or shall be given such other distinctive marking or means of designation as may be deemed appropriate for such purpose.

c. Enactments shall be deemed to have been promulgated and, unless otherwise specified therein, to have become effective when approved by the issuing authority, or upon occupation, whichever is later. Such approval shall be indicated by the signature of the issuing authority thereon or by such other means as he shall deem appropriate.

d. Where feasible, the effective date of an enactment will be stated thereon and in the Official Gazette. For the purpose of publication in the Gazette, the date of initial occupation shall be used for enactments becoming effective on occupation.

e. Enactments as published will not include the signature of the issuing authority. They will be headed "Military Government—Germany" and will set forth the area to which applicable (e. g. the Supreme Commander's area of control, Military Government Region, etc.). All enactments should be printed in Roman, not Gothic, type. The English and French text should be printed above or before the German.

f. All enactments should be given the widest publicity feasible in the area in which applicable. During the initial stages, publication will be by posting printed copies as widely as practicable and/or by such other means as the commanders responsible therefor deem appropriate.

#### 26. REGULATIONS.

In addition to publishing Military Government enactments in the Military Government Gazette there will be included the following:

a. Regulations of Military Government (in addition to proclamations, laws, and ordinances) having general application, such as censorship regulations, general licenses under the Property Control and Foreign Exchange Control Laws, etc.

b. Directions to German authorities or institutions having application, such as directions to banks, Stock exchanges, etc.

27. **Effective date.** It should be clearly understood (under para 24 above) that Military Government legislation (other than notices) becomes effective and binding within occupied territory not when it is actually promulgated or published (by posting or otherwise) but when it is deemed to have been promulgated — i. e. when it is approved by the issuing authority or upon occupation, whichever is later. The 'issuing authority' is in the case of all legislation headed "Supreme Commander's Area of Control" the Supreme Commander, and in the case of legislation headed "Army Group or Army Area of Control" the Army Group or Army Commander. In such cases, therefore, it is not necessary to prove actual publication by posting or otherwise: it is, at most, necessary to prove that the area within which an offence is alleged to have been committed, was occupied on the relevant date. Where, however, Military Government legislation creates a new offence (i. e. not a "malum in se") of which the population could not reasonably be aware without actual publication, proof of actual publication may be required on the measure of punishment, and in the absence of such proof the offence treated as technical.

In the case of notices (which are intended for local use as required by local commanders), proof of publication is required to establish legal effectiveness.

28. **Official Language.** The general principle applicable to all activities of Military Government is that English (or in French areas, French) is the official language in which all dealings with the German population will be conducted. Military Government is under no obligation to provide German or other translations of its orders or instructions and the onus of understanding them correctly is entirely upon the population. Correspondingly, German authorities or officials are obliged to furnish correct English translations of all official communications to Military Government, and to arrange for the translation into German of all official communications from Military Government.

In certain cases, and as a rule where legislation is concerned, Military Government may in fact publish a German translation. Such translation is purely for the assistance of the population and has no legal force: it may be varied from time to time and variations may not be cited for purposes of interpretation.

In French areas, French as well as English is an official language and binding upon the Germans in the same way. There will be occasions — owing to the presence in French areas of British or US officers — when English is used in such areas: in such cases English is official. It should be clearly realised that **as against the civil population** only one language (English or French) can be in use in any one transaction, and consequently whichever is in fact used is the official language. If there are any discrepancies between an English and a French text, these are not the concern of the population but must be adjusted administratively: the population cannot look beyond the text actually in use.



APPENDIX I to SECTION I  
CLASSIFICATION OF LEGAL PERSONNEL  
Category "A"

- A. Legal personnel to be mandatorily removed and not re-employed without the approval of Supreme Headquarters.
1. All persons whose mandatory removal is directed in Part III, Chapter II, of the Handbook (as revised).  
(NOTE that for convenience of reference a number of the legal personnel whose removal is so directed are included in the following list in black print.)
  2. All persons who have been engaged or employed at any time in any of the following appointments or activities:
    - (a) **Akademie für deutsches Recht:**  
President, Vicepresident, Directors and Treasurer.
    - (b) **Gemeinschaftslager Hans Kerrl:**  
Commandant and all instructors im Hauptamte.
    - (c) **Volksgerechtshof:**  
All judges, the Bürodirektor, the Oberreichsanwalt, and all other prosecutors.
    - (d) **Sondergerichte:**  
All Presiding and other permanent judges and prosecutors.
    - (e) **Party SS and SA Courts:**  
All judges, prosecutors and officials.
    - (f) **Standgerichte:**  
All presiding judges and prosecutors.
  3. All persons who have been employed or engaged in any of the following appointments or activities at any time since 1 Mar. 1939:
    - (a) **Reichsgericht:**  
President, judges of the Special Senate and all prosecutors.
    - (b) **Reichsjustizprüfungsamt:**  
President, Vice-President, Leiter and Mitglieder im Hauptamte der Prüfungsstelle.
    - (c) **Oberlandesgerichte:**  
All Presidents, Vice-Presidents and Generalstaatsanwälte.
    - (d) **Landgerichte:**  
All Presidents and Oberstaatsanwälte.
    - (e) **Hereditary Farm Courts:**  
President and Vice-President of the Reichserbhofgericht and the President and Vice-President of the Landeserbhofgericht in CELLE.
    - (f) **Disciplinary Courts (Dienststrafkammern) for legal personnel:**  
The President of any disciplinary court; the members of the Supreme Disciplinary Senate of the Reichsgericht.
    - (g) **Reichsverwaltungsgericht:**  
President, Vice-President and all presidents of Senates.
    - (h) **Reichsfinanzhof:**  
President and Vice-President.
    - (i) **Reichsarbeitsgericht:**  
President and Deputy.



- (j) **Reichsversicherungsamt:**  
President and Deputy.
- (k) **Reichsversorgungsgesetz:**  
President and Vice-President.
- (l) **Reichsrechnungshof:**  
President and all judges.
- (m) **Professional Chambers:**  
The Presidents, Vice-Presidents and all members of the Reichsnotarkammer, Reichspatentanwaltskammer and Reichsrechtsanwaltskammer; all members of the Supreme Honour Courts relating to these professions; the President of the Notarkasse.
- (n) **Personnel Officials:**  
All Personalreferenten at Reichsjustizministerium and all Courts.
- (o) **Reichspatentamt:**  
President, Vice-President.

#### Category "B"

- B. Personnel to be suspended and not re-employed unless there is positive evidence in their favour. Consent to their re-employment will not be given below Corps District level:
1. **Ministry of Justice:**  
All Ministerialdirigenten (unless they are deputies to the Ministerialdirektoren), and Ministerialräte who have presided over a Department.
  2. **Prüfungsämter:**  
All members not covered by A 3 (b) above.
  3. **Disciplinary Courts for legal personnel:**  
All members not covered by A 3 (f) above.
  4. All lawyers who have held regular employment in the Legal Advice Bureaux of the DAF or have been admitted to appear before Labour Courts of first instance.
  5. **Professional Chambers and Honour Courts relating to legal personnel:**  
All members not covered by A 3 (1) and (m) above.
  6. **Oberstes Fideikommissgericht (Entailed Estates Court):**  
President, Vice-President.
  7. **Oberlandesgerichte:**  
All Oberstaatsanwälte.
  8. **Schiffahrtsobergerichte:**  
All Presidents, Vice-Presidents.
  9. **Oberpräsenhof:**  
President, Deputy President.
  10. **Amtsgerichte:**  
All Dienstaufsichtsführende Richter.
  11. **Hereditary Farm Courts:**  
All judges of the Reichserbhofgericht, and the Landeserbhofgericht in CELLE not covered by A 3 (e) above.
  12. **Reichsverwaltungsgericht:**  
All members not covered by A 3 (g) above.
  13. **Reichsfinanzhof:**  
Presidents of Senates.



14. **Reichsarbeitsgericht:**  
Presidents of Senates.
15. Any persons who were either (a) **Staatssekretär**, Ministerialdirektor, or their deputies, or (b) employed or engaged in the appointment or activities specified in para A.3 during the period between 1 Jan 1935 and 1 Mar. 1939.

**Category "C"**

C. Personnel not included in Categories A and B may be retained in employment provided there is no positive evidence against them. They will be judged on their merits and in the light of any white lists available or personnel files found in Germany. General criteria for the determination of ardent Nazi sympathisers are to be found in Part III, Chapter II, of the Handbook. Additional criteria are:

1. **Age.** Judges etc., admitted since 1 Apr 1933 are more likely to be "Nazis".
2. **Legal Publications, Articles, etc.** Do they actively support Nazi doctrines?
3. **Legal Career.** Promotion (in particular rapid promotion since 1933) — demotion — transfer from important to less important activities (e. g. from Zivil to Strafkammer) or vice versa. (The exigencies of the war may have necessitated many abnormal moves of personnel) — dismissal — premature retirement — reactivation.
4. If a Judge — extent of participation in **Sondergerichte**.
5. If a lawyer — who were his clients?
6. Circumstances in which the person concerned joined the NSDAP after 1933.
7. Extra-official activities (in Nebenämtern and Nebenbeschäftigungen).
8. Religion (Roman Catholics less likely to be ardent Nazis).

**SECTION 2.**  
**MILITARY GOVERNMENT COURTS**

201. **Constitution of Courts.** Military Government Courts will be constituted in occupied territory as follows:

- a. General Military Courts, consisting of not less than three officers, of whom at least one shall be a lawyer serving in Military Government;
- b. Intermediate Military Courts, consisting of one or more officers of whom at least one shall be a lawyer serving in Military Government;
- c. Summary Military Courts, consisting of one or more officer, of whom one shall be a lawyer serving in Military Government, if available.

202. **Establishment of Courts.** Courts will be established, as needed. During the period in which responsibility for Military Government is vested in the Supreme Commander, the power to determine when and where Military Government Courts shall be established is delegated by the Supreme Commander to Army Group Commanders and the Berlin District Commander with authority for further delegation. Such power will normally be delegated, as need arises, to subordinate commanders. In the case of Summary Courts, such power may be delegated to OCs MG detachments as well as to subordinate military commanders. Military commanders of formations below Army Group to whom authority for appointment is delegated will normally, exercise such power upon the advice of the Senior Military Government Officer or delegate authority to him. Courts will be established as and when required. General and Intermediate courts will usually be appointed at the higher echelons, and Summary Courts will be established at many points, as needed. Appointment of Summary Courts may be made informally, and whenever practicable officers who are lawyers will be selected for appointment as Summary Courts.

203. **Jurisdiction, Procedure.**

(a) **GENERAL.**

Military Government Courts will be established and conducted in accordance with the following documents:

	Para
ORDINANCE No. 1. Crimes and Offences . . . . .	301
ORDINANCE No. 2. Military Government Courts . . . . .	302
Rules of Military Government Courts and Legal Forms . . . . .	305
Guide to Procedure, Military Government Courts . . . . .	306

The Guide is applicable primarily to Summary Military Courts. These documents contain full detailed instructions. M. G. detachments will be supplied with the required forms.

Military Government Courts have jurisdiction over offences against enactments of Military Government by Persons within the occupied territory, except members of the Allied Forces. The respective jurisdictions of General, Intermediate and Summary Military Courts are determined by the limitations on sentences which they may respectively impose as set forth in the Military Government Courts Ordinance. There is no appellate jurisdiction, but all cases will be reviewed administratively.

(b) **SPECIAL CLASSES OF PERSONNEL.**

(i) Recovered Allied Military Personnel who are still subject to their respective Service Laws are not subject to jurisdiction of Military Government Courts but should be tried by their respective Service Courts.



(ii) Liberated Soviet citizens shall be dealt with in accordance with existing instructions.

(iii) Disarmed members of the German Armed Forces, not classified as Prisoners of War, are subject to the jurisdiction of Military Government Courts. They will be dealt with by such courts in respect of offences for which they cannot be dealt with by German Courts Martial See Military Government Law No. 153.

539. 204. Special Functions of Summary Military Court. Summary Military Courts will not only try persons charged with lesser offences but (except where a case or class of cases has been expressly referred for trial by a higher court) will also be the courts before which all persons charged with offences against the Military Government will be brought for preliminary hearing. Where in the Summary Military Court's opinion a higher sentence should be imposed in the event of conviction than it has power to impose, the court will report the case to the legal officer concerned for reference to the appropriate Intermediate or General Military Court for trial.

Refer to 540. 205. Procedure of Courts. Military Government Courts are required to conform to the procedure set out in the Rules and Guide for Procedure (which, together with Legal Forms, are published in this Manual and in Military Government Instructions. These are designed to establish a system of justice which, in the interests of military security, is speedy, effective, and unhampered by unnecessary technicalities, and which at the same time manifestly conforms to the high standards of Anglo-American justice. Military Government Officers acting as Legal Officers or sitting on Military Government Courts are charged with the responsibility and duty of exercising the powers vested in them in such a way as will most effectively achieve these ends. Military Government Officers will also ensure that accused persons are familiar with and are duly accorded their rights as defined in Article V of Ordinance No. 2. such as the right to notice of the charges, to representation at the trial to petition for review).

Refer to 541. 206. Responsibility of Legal Officers. Legal officers, whether assigned to staffs or headquarters or to detachments, will have responsibility for the establishment and operation of Military Government Courts in their respective areas. Military Government Instructions will indicate channels through which required reports will be forwarded and at what staff or headquarters levels the records of trials and petitions for review will be reviewed. Legal officers will make appropriate recommendations to their Military Government staffs or Military Government officers as to all matters relating to the courts and their administration.

#### Control of Youthful Offenders.

207. Where a substantial number of offenses committed by juveniles is encountered which may be the result of a weakening in parental controls brought about by War and Nazi influences, the imposition of criminal responsibility on neglectful parents or guardians of juvenile offenders may be tried as a counter-measure. The penalty would be imposed where the parent or guardian failed to exercise a reasonable degree of parental control or supervision which might otherwise have prevented commission of the offense. This responsibility will be imposed only after notice has been given to the parent or guardian concerned either specifically by summoning him with his child and, in effect, paroling the child in his parent's custody pending good behavior or, where numerous offenses are anticipated, by the publication of the "Notice to Parents or Guardians" which is contained in Section 3 of this Manual.

208. If, after such notice, a juvenile commits an offense, charges may be laid against the parent or guardian for having committed an act "to the prejudice of good order or of the interests of the Allied Forces" in violation of Ordinance No. 1, para 43. He should then be tried under ordinary procedure except that he should be required to produce a satisfactory explanation of why he did not keep the child from committing the offense. Suggested dispositions of cases are indicated in paragraph 49 below.

209. In such instances, the Military Government Court at its discretion and, with the aim of choosing the form of punishment which will have the greatest effect in preventing recurrences of juvenile offenses and be the more effective means of restoring parental control, may dispose of cases involving juvenile offenders by any appropriate form of sentence or order authorized under the Rules, including any one of the following procedures or any combination of them:

(i) Summon the parents or other person charged with supervision of the juvenile offender upon charges of violation of Military Government enactments, i. e., para 43 of Ordinance No. 1;

(ii) Make any of the forms of disposition indicated in Rule 22;

(iii) Impose a fine on the responsible parent;

(iv) Impose a jail sentence upon the responsible parent or other person and commit the juvenile offender for the same period or for a different period;

(v) Make an order of commitment of the juvenile offender, whereby he is bound over to the care of his parents, the commitment to take effect in the event that there is a recurrence of criminal activity on his part;

(vi) Impose a sentence of fine and/or imprisonment upon the parents, suspend either or both sentences and place the juvenile offender in their custody with provision that in the event of recurrence of offenses on his part, the suspended sentence will become effective forthwith;

(vii) Combine the imposition of a fine with the additional order of commitment referred to in (v) above.

#### SENTENCES OF IMPRISONMENT IMPOSED BY MILITARY GOVERNMENT COURTS

210. Upon occupation of an area, it will be the duty of the officer commanding the Military Government Detachment to cause to be ascertained the identity, availability, conditions and types of penal institutions within the area and adjacent occupied areas, for incarceration of German nationals sentenced by MG Courts, and the suitability of said penal institutions, or other places that could be utilized, for confinement of nationals of United Nations sentenced by MG Courts in accordance with MG Instructions to Prison Officers, para 1108 c. The CO Det will report his findings to the MG Courts having jurisdiction in such area and will designate in such report where offender nationals of the United Nations are to be committed.

211. In sentencing other than nationals of the United Nations, the court will enter on the commitment warrant (Legal Form No. 5) the appropriate institution, or section, in which the prisoner is to be imprisoned, and the length of sentence and type of confinement which is to be served by applying the following principles:

Normal adult persons will be confined for sentences of:  
(1) Up to three (3) months, in a "Half" institution or "Half" section of a combined institution.



(2) Over three (3) months and under five (5) years, in a Gefängnis institution or Gefängnis section of a combined institution.

(3) Over five (5) years, in a Zuchthaus institution or Zuchthaus section of a combined institution.

(4) Over one (1) year but under five (5) years, when it is desired to be severe, in a Zuchthaus institution or Zuchthaus section of a combined institution.

b. Juveniles, criminal insane and other deviations from the normal adult offender will be confined in the nearest available institution of the type designed to treat such offenders.

212. In sentencing nationals of the United Nations, the court will enter on the commitment warrant (Legal Form No. 5) the name of the institution which he has been advised by the CO Det, pursuant to par. 210, is available for that purpose.

213. Sentenced prisoners, other than nationals of United Nations, will normally be delivered by MGPSOs to the local court prison (Gerichtsgefängnis) for transfer to the ultimate place of confinement by the German transfer system; nationals of United Nations will, if feasible, be delivered directly to the place of confinement.

214. Transfers of sentenced prisoners between institutions is an administrative function to be effected as authorized by SMGO's.

#### EXECUTION OF DEATH SENTENCES IMPOSED BY MILITARY GOVERNMENT COURTS

215. Upon pronouncement of a death sentence, pending confirmation thereof, the condemned will be remanded to the prison or place where he has been confined and there be segregated from other inmates or be transferred therefrom to a more appropriate place of confinement. Upon confirmation of sentence, there will be issued by the appropriate authority a Death Warrant directed to the Director of the prison where the execution is to take place or an order to the military commander of the area in which the court is located, dependent upon the type of execution prescribed in succeeding para. 216 or 217.

216. Death sentences imposed by Military Government Courts on other than nationals of the United Nations will be executed at the nearest suitable German prison by the prison authorities in a manner similar to that prescribed by section 13 of the German Criminal Code (Reichsstrafgesetzbuch) and by section 454 of the German Code of Criminal Procedure (Strafprozessordnung) for the carrying out of death penalties imposed by German courts, except when inconsistent with these instructions. The only mandatory witnesses shall be a MG Officer able to identify the condemned to be designated by the court, a German prison official, and a German registration officer of the place of execution. Where desired by the condemned, a chaplain or minister (preferably of the faith of the condemned) shall also be present. Other witnesses, including the defending counsel, may attend only through the permission of the SMGO of the area in which the execution is to take place.

217. Death sentences imposed by Military Government Courts on nationals of the United Nations will be by shooting and will be executed (normally under arrangements made by the Provost Marshal) by a firing squad of the Allied Forces in the area in such numbers, designation and procedure as prescribed by the military commander of the area in which the court is located. The only mandatory witnesses shall be a MG officer able to identify the condemned to be designated by the court, who shall take no further

part in the execution, and an Allied medical officer to give official pronouncement of death. Other witnesses, except a chaplain or minister for whom no specific permission is required, may attend only through permission of the SMGO as prescribed in para. 216 heretofore.

218. The body of an executed person may be turned over to his relatives on their request, to be buried without demonstration; otherwise it will be turned over to, or be retained by, the authorities of the nearest suitable German prison for burial.

219. Immediately after execution, the officer or official to whom the order or warrant was addressed, or his authorized representative, usually the Provost Marshal, will make out a Certificate of Executionary witness will countersign the Certificate or Return and will the time and place of execution. The MGO attending as a mandatory witness will countersign the Certificate or Return and will notify the German registration officials of the death and the disposition of the body in those cases where its representative was not present.

220. The Death Warrant issued to the Director of a prison in accordance with para 216 above will be in the form as in para 415. below, Legal Form No. 15.

221. The Order for Execution issued to the military Commander in accordance with para 217 above will be in the form as in para 416. below, Legal Form No. 16.

222. In the absence of German Authorities considered acceptable for the purpose of carrying out the functions and duties assigned to them by para 216 above, or for other cause considered sufficient by the military commander concerned, execution of death sentences imposed by Military Government Courts may be carried out by the Military Commander concerned in such manner as he may deem necessary or appropriate and not inconsistent with directives or other instructions issued by other higher headquarters.



ORDINANCE No. 1

301.

CRIMES AND OFFENSES

In order to provide for the security of the Allied Forces and to establish public order throughout the territory occupied by them it is ordered:

ARTICLE I

Capital Offenses

The following offenses are punishable by death or such other penalty as a Military Government Court may impose:

- (1) Espionage;
- (2) Communication with the enemy forces or, except through authorized channels, with any person in enemy territory not occupied by the Allied Forces;
- (3) Communication of information which may be dangerous to the security or property of the Allied Forces, or unauthorized possession of such information without promptly reporting it; and unauthorized communication by code or cipher;
- (4) Armed attack on or armed resistance to the Allied Forces;
- (5) Acting in defiance or contravention of terms imposed by the Allies upon Germany on its defeat or surrender, or of any orders supplementing such terms;
- (6) Acts or conduct in support or aid of any nation at war with any of the United Nations, or of the NSDAP or other organization dissolved or declared illegal by the Allied Forces, including publication and circulation of matter printed or written in aid of any thereof or the possession thereof with intent to publish or circulate, and the provocative display of flags, uniform, or insignia of any such organization;
- (7) Killing or assaulting any member of the Allied Forces;
- (8) Falsely pretending to be a member of the Allied Forces; unlawfully wearing any uniform of the Allied Forces;
- (9) Unlawful possession or control of any firearm, ammunition, explosive, or other war material or of apparatus or other means for transmitting messages;
- (10) Unauthorized use of any firearm or other deadly weapon, ammunition, explosive or similar war material;
- (11) Furthering the escape of any person detained by Allied authority or assisting or concealing any such person after escape;
- (12) Assisting any member of the enemy forces to avoid capture
- (13) Interference with transportation or communication or the operation of any public service or utility;
- (14) Sabotage of any war material of the Allied Forces or of any installations or property necessary or useful to military operations or the Military Government;
- (15) Wilful destruction, removal, interference with, or concealment of, records or archives of any nature, public or private;
- (16) Plunder, pillage or looting; robbing or abusing the dead or wounded;
- (17) Wilfully interfering with or misleading any member of or person acting under the authority of the Allied Forces in the performance of his duties;
- (18) Incitement to or participation in rioting or public disorder;

(19) Stealing, or obtaining by fraud, property of the Allied Forces or any member thereof;

(20) Any other violation of the laws of war or act in aid of the enemy or endangering the security of the Allied Forces.

ARTICLE II

Other Offenses

The following offenses are punishable by such penalty other than death as a Military Government Court may impose:

- (21) Disobedience of any proclamation, law, ordinance, notice or order of the Military Government or of any representative where a penalty is not expressly imposed or of any Germany authority issued pursuant to any such order;
- (22) Circulating without a permit during curfew which, unless otherwise provided by public notice, shall be sunset to sunrise;
- (23) In the coastal area leaving the shore in any vessel or otherwise except as authorized by Allied authority;
- (24) Moving any ship or vessel or any aircraft except as authorized by Military Government;
- (25) Failure, without authority, to have possession of a valid identity card;
- (26) Making, issuing or knowingly having possession of any false permit, identity card or other document of official concern to the Allied Forces, delivery of any such matter, whether false or valid, to any unauthorized person or for an unauthorized purpose;
- (27) Counterfeiting or altering any Allied Military Marks or any other currency, coin or stamps or having possession of or uttering any thereof, having reason to believe it to be false or altered, or having possession of or disposing of any property for use for any such purpose;
- (28) Inviting or conducting any member of the Allied Forces into a place designated "Off Limits" or "Out of Bounds", or supplying goods or services to such member in any such place;
- (29) Bribery, corruption or intimidation of any member of, or person acting under the authority of, the Allied Forces; receiving, or offering to receive, a bribe for non-performance of duty to the Allied Forces;
- (30) Obstructing or contravening any announced program or orders of the Military Government with respect to Allied prisoners of war or nationals of the United Nations in Germany, or assaulting, despoiling or without justification confining or otherwise infringing the rights of such prisoners or nationals;
- (31) Unauthorized possession, control or disposition of property belonging to the Allied Forces or to a member of the Allied Forces;
- (32) Destruction, concealment, unauthorized possession or disposition of, or interference with, any ship, installation, plant, equipment or other economic assets, or plans or records with respect thereto, required by the Military Government;
- (33) Knowingly making any false statement, orally or in writing, to any member of or person acting under the authority of, the Allied Forces in a matter of official concern; or in any manner defrauding, or refusing to give information required by Military Government;
- (34) False assumption of authority from the Allied Forces; wrongful possession or control of any part of an Allied uniform whether genuine or false;



(35) Defacement or unauthorized removal of written or printed matter posted under authority of Military Government;

(36) Wilful destruction, alteration or concealment of any work of art, monument or other cultural property created by another;

(37) Promoting, aiding or attending any public gathering for which no permit has been granted, unless held for religious purposes or in the exercise of functions authorized by the Allied Forces;

(38) Resisting arrest by a person acting under the authority of the Allied Forces, or escaping from arrest or detention imposed under such authority;

(39) Aiding, or failing to report, any person known to be wanted by the Allied Forces;

(40) Dissemination of any rumor calculated to alarm or excite the people or to undermine the morale of the Allied Forces;

(41) Conduct hostile or disrespectful to the Allied Forces or to any of the United Nations;

(42) Initiating or carrying out any criminal prosecution, disciplinary measure or any other form of punishment or victimisation (including boycotting) against any person for co-operating with the Allied Forces or the Military Government;

(43) Act to the prejudice of good order or of the interests of the Allied Forces or any member thereof.

### ARTICLE III

#### Attempts, Conspiracies

Anyone who attempts to commit, or conspires or agrees with another to commit, any offense, or who advises, assists in, or procures the commission of any offenses, or who having knowledge of an alleged offense fails to report it or assist an alleged offender to avoid arrest, shall be punishable as a principal.

### ARTICLE IV

#### Collective Fines

The Bürgermeister or other principal representative of any community may be charged and tried as representing the residents thereof with any offense for which such residents or a substantial number thereof are alleged to be collectively responsible, and in the event of his being convicted of such offense in his representative capacity, and collective responsibility being established, a collective fine may be imposed upon the community.

### ARTICLE V

#### Responsibility for Corporate Acts

Every director, official or employee of any incorporated or unincorporated company, society or association, and every partner or employee of a partnership, who in any such capacity, either alone or jointly with others, causes, directs, urges or votes in favour of an act or omission which constitutes an offense for which the company, society, association or partnership would be triable by a Military Government Court, shall be liable therefor as though such act or omission had been done or made in his individual capacity.

### ARTICLE VI

#### Defenses

(1) It shall be a good defense to any charge hereunder that the offense charged was an act of legitimate warfare by a person entitled to the status of a combatant.

(2) It shall not be a defense to any charge hereunder that the offense charged was committed under orders of any civil or military superior or of any person purporting to act as an official or member of the NSDAP or that the offense was committed under duress.

### ARTICLE VII

#### Definitions

(1) The expression "Allied Forces" as used herein and, in the absence of indication to the contrary, in Proclamations, Laws, Ordinances, Notices or Orders of the Military Government, includes persons subject to military, naval, or air force law or the jurisdiction of British Naval Courts and who are serving under the command of the Supreme Commander, Allied Expeditionary Force, or of any other Commander of any forces of the United Nations, and any military formation or civilian agency composed in whole or in part of such persons.

(2) The expression "enemy forces" includes all persons, whether entitled to belligerent status or not, who are engaged in armed resistance to the Allied Forces.

### ARTICLE VIII

#### Effective Date

This Ordinance shall become effective upon the date of its first promulgation.

By Order of Military Government.



sentence, to order a new trial, and to make such other orders as may be appropriate, but shall not set aside a finding of not guilty. The reviewing authority may increase the sentence in any case in which a petition of review has been filed which is considered to be frivolous, but shall not otherwise increase any sentence.

#### ARTICLE VII

##### Confirmation of Death Sentences

11. No sentence of death shall be executed unless and until confirmed in writing by the Supreme Commander, Allied Expeditionary Force, or other head of the Military Government for the time being, or such other officer as he may designate. The confirming authority shall have with respect to such sentence, all the powers of a reviewing authority.

#### ARTICLE VIII

##### Rules

12. Rules of Military Government Courts not inconsistent with this Ordinance prescribing the procedure of such courts and the mode of exercise of the powers conferred may be made, amended or supplemented by or under the authority of the Supreme Commander, Allied Expeditionary Force, or other head of the Military Government for the time being.

#### ARTICLE IX

##### Effective Date

13. This Ordinance shall become effective upon the date of the first promulgation.

By Order of Military Government.

#### ORDINANCE No. 3.

##### AMENDED(1)

#### 303. ENGLISH AND FRENCH — OFFICIAL LANGUAGES.

Within the Supreme Commander's Area of Control, the English language shall be the official language and all official matters concerning the Military Government shall, unless otherwise directed by it, be transacted in that language. In areas under the control of French forces, the French language is also an official language and all official matters with the French Military Authorities shall, unless otherwise directed by them, be transacted in that language.

Proclamations, laws, ordinances, notices, orders and other official documents issued or made by or under the authority of the Military Government may be in either the English or the French language or in both languages. The Military Government may at any time for any purpose make use of either the English or the French text and whichever text is in fact so used shall be, for the purpose of such use, the official text and shall be conclusive.

Every person affected by any proclamation, law, ordinance, notice, order or other official document of the Military Government will be held to the fulfillment of its term as expressed in its official text, and it shall not be a defence to any prosecution or proceeding arising out of a failure to obey or fulfil any proclamation, law, ordinance, notice, order or document that the terms of its official text were not understood or that any translation thereof into German was not an accurate translation of the official text.

This amended Ordinance shall become effective upon its first promulgation.

BY ORDER OF MILITARY GOVERNMENT.



## NOTICE

### 304. TO PARENTS AND GUARDIANS.

Parents, guardians or other persons having the custody or control of children under the age of eighteen years are charged with the duty of exercising reasonable efforts to prevent the commission of offences by such children against the Military Government. For neglect of such duty, parents, guardians and others shall themselves be subject to prosecution before a Military Government Court for action prejudicial to good order or the interests of the Allied Forces.

BY ORDER MILITARY GOVERNMENT.

### Bekanntmachung

#### für Eltern und Vormünder

Eltern, Vormünder und andere Personen, die die Betreuung und Aufsicht von Kindern unter 18 Jahren haben, wird zur Pflicht gemacht, jede zumutbare Sorgfalt anzuwenden, um die Begehung strafbarer Handlungen gegen die Militärregierung durch diese Kinder zu verhüten. Eltern, Vormünder und andere Personen, die diese Pflicht vernachlässigen, können persönlich vor einem Gericht der Militärregierung wegen Verhalten, das gegen die öffentliche Ordnung oder die Interessen der Alliierten Streitkräfte verstösst, angeklagt werden.

IM AUFTRAGE DER MILITÄRREGIERUNG.



R

## RULES OF PROCEDURE IN MILITARY GOVERNMENT COURTS

305.

1. Construction of Rules. These Rules shall be read with and subject to the Proclamation and Ordinance of the Military Government.

### Courts, Prosecutors and Counsel, and Officials.

#### 2. Courts.

(1) Before proceeding with the hearing of any case, a Military Government Court shall satisfy itself that it is properly constituted, having regard to whether it is a General, Intermediate or Summary Military Court, that no member of the court has a personal interest in the case, and that it has jurisdiction over the person and offence.

(2) In General and Intermediate Military Courts, and, when practicable, in a Summary Military Court, at least one member shall be a lawyer serving with the Military Government.

(3) When the court consists of more than one officer, the senior in rank shall preside except that when feasible a Legal officer shall be designated to preside by the Appointing Authority or by the senior in rank. The presiding officer shall be responsible for the making of the record and may require any other member to assist him in making it. Any member of the court may sign the record.

(4) No addition to or substitution in the membership of the court shall be made in the course of a trial. The failure of any member to be present throughout any trial shall not invalidate the trial, provided that the court is at no time reduced below the legal minimum. No member who has been absent at any time shall take any further part in the trial.

(5) Every issue shall be determined by a majority of the votes of the members of the court as then constituted, except that a two-thirds vote shall be required for a sentence of death. When the voting is evenly divided the presiding officer shall cast a second vote. When the court consists of more than one officer, voting shall be in inverse order of rank; except that the presiding officer shall always vote last.

#### 3. Prosecutors and Counsel.

(1) Any officer of the Allied Forces, or any other person acceptable to the court, may act as prosecutor.

(2) Any lawyer not debarred from appearing by the Military Government or by the court, or any other person with the consent of the court, may appear as defending counsel. The court may appoint an officer of the Allied Forces, or with the consent of the accused designate local counsel, to represent the accused or assist in his defence if the nature of the case makes it desirable. Before a General Military Court, where a sentence of death may be imposed, and the accused is not represented, the court shall appoint an officer of the Allied Forces to represent him at his trial.

4. Officials. A Military Government Court may appoint interpreters, reporters, advisers and other officials, either generally or for the trial of a particular case, who need not be members of the Allied Forces. Any official reporter or interpreter shall, before assuming his duties, take an oath in the form set out in Legal Forms, Military Government Courts, for the purpose of particular proceedings or of any term or session of the court.



## Preliminary Proceedings

### 5. Arrest and Summons.

(1) All proceedings in a Military Government Court will be commenced by summons to appear, warrant of arrest, or arrest without warrant.

(2) A warrant of arrest may be issued by any officer of the Allied Forces and may be executed by any member of the Allied Forces or any person acting under the authority thereof.

(3) A summons may be signed and served by any member of the Allied Forces or any person acting under the authority thereof except as may be otherwise directed by or under the authority of the Chief Legal Officer or an Army Group Commander.

### 6. Charges.

(1) A copy of the charges shall be delivered to an accused or his representative as soon as practicable after arrest and in any event before trial. Where proceedings are commenced by service of a summons adequately stating the charges, no separate charge sheet need be used. A copy of any amendment to the charges shall also be given to the accused unless waived in open court by him or his counsel.

(2) Each charge shall disclose one offence only and shall be particularised sufficiently to identify the place, the time and the subject matter of the alleged offence, and shall specify the provision under which the offence is charged.

(3) Any number of charges may be contained in the same charge sheet, and alternative charges may be based on the same facts.

(4) Two or more persons may be tried jointly for the same offence where the charge arises out of the same set of circumstances.

### 7. Arraignment and Pleadings.

(1) All persons arrested for an offence with or without a warrant will be brought as soon as practicable before a Summary Military Court, except that the Chief Legal Officer or any officer authorised by him may order that any particular case or class of cases be brought directly before an Intermediate or General Military Court for trial.

(2) A Summary Military Court, on the accused appearing before it, may defer the hearing if the accused has had insufficient time to prepare his defence or for other reasons, and in that event will order the accused to be detained in custody or released on or without bail on such terms as the court thinks fit.

(3) In the event of a decision to proceed, the court will read to the accused the charges brought against him and will ask the accused after the reading of each charge whether he pleads guilty or not guilty to it. If necessary, the Court will explain these terms to the accused. The Court will enter in the record of the case the plea made to each charge.

(4) At the time of pleading to the charges, the court may interrogate the accused as provided in Rule 10 (5).

(5) The court may accept a plea of guilty to an offence other than that charged and a plea of not guilty to the offence charged.

(6) If the answer of the accused to any charge is such that it appears he may not be guilty of the offence charged, then whatever his plea may be the court shall enter a plea of not guilty.

(7) A plea of not guilty of any offence for which a sentence of death may be imposed shall be entered by a Summary Military Court in any case reported for transfer to a General Military Court.

(8) A Summary or Intermediate Military Court may deal with any offence for which the penalty of death is authorised if it is satisfied that, in fact, a penalty, which it has power to inflict, is adequate.

(9) All charges to which an accused person pleads not guilty shall be tried together, unless on the application of the accused the court grants leave for any of them to be tried separately.

### 8. Procedure on Plea of Guilty in Summary Military Court.

(1) Upon a plea of guilty of all offences charged, a Summary Court will hear such statements for the prosecution and the defence and such evidence as it requires to enable it to determine the sentence to be imposed. If it has power to impose adequate punishment, it will proceed at once to the sentence.

(2) If in the opinion of the Summary Military Court a sentence should be imposed in excess of that which it has power to impose, it will report the case to the legal officer of the next higher Military Government echelon for reference to the appropriate Intermediate or General Military Court.

(3) Before such reference, a Summary Military Court may, however, in its discretion for the purpose of perpetuating the testimony or for any other reason, receive evidence respecting the commission of the alleged offence.

### 9. Procedure on Plea of Not Guilty in Summary Military Court.

(1) Upon a plea of not guilty, the court, either by way of preliminary hearing or as part of the trial, will hear such statements for the prosecution and the defence and such evidence as it requires to enable it to determine:

a. Whether the case should be referred for trial to an Intermediate or General Military Court, either because of its own lack of power to impose adequate sentence in the event of conviction, or for any other reason;

b. Whether there is sufficient substance to the charge to justify a trial thereon by any court.

(2) A Summary Military Court will then either:

a. dismiss some or all of the charges (whether or not the court would have had power to impose sufficient sentence in the event of a conviction);

b. report the case to the legal officer of the next higher M.G. echelon for reference to the appropriate Intermediate or General Military Court; or

c. retain the charges and proceed with the case.

(3) The court, even if it decides to report the case for reference to a higher court, may receive further evidence as provided in para. (3) of Rule 8, and should do so if there is any doubt as to the future availability of witnesses.

## TRIAL PROCEDURE

### 10. Trial Procedure in Summary Military Courts.

(1) A Summary Military Court shall be guided by the following outline of procedure, which may be modified to fit the circumstances of the particular case:

a. a statement by the prosecutor outlining the facts to be proved by the prosecution, and the calling of the prosecution's witnesses;

b. after each witness has given his evidence, cross-examination by the accused or his representative;

c. re-examination by the prosecutor of any witness upon any new matter appearing in the cross-examination or, with the court's consent, upon any other matter;



d. when all the witnesses for the prosecution have been called and the case for the prosecution closed, a statement by the accused or his representative, followed by the calling, examination, cross-examination and re-examination of the witnesses for the defence;

e. when all the witnesses for the defence have been called and the case for the defence closed, the calling by the prosecution, with leave of the court, or re-calling of any witness for the purpose of rebuttal of any material statement made by any witness for the defence or of giving evidence on any new matter raised by the defence;

f. a summing up by the prosecution following by a summing up by the accused or his representative;

g. consideration and announcement of the findings;

h. in the event of acquittal on all charges, the discharge of the accused;

i. in the event of conviction, hearing of statements and evidence for the prosecution and the defence, including evidence of prior conviction, bearing upon the sentence to be imposed;

j. consideration of sentence, and its announcement in open court.

(2) After the close of the case for the prosecution, the court may acquit the accused on any charge if it decides there is not sufficient evidence to support the charge and that the accused should not be required to answer it, and any such acquittal shall be entered in the record of the case. The court may on application of the prosecution also direct that any further charge or charges be preferred against the accused and may grant any necessary adjournment for that purpose.

(3) The court may at any stage of the examination question any witness and may call or re-call any witness at any time before finding if it considers it necessary in the interest of justice.

(4) Each witness called shall take an oath or make affirmation in the form contained in Legal Forms, Military Government Courts, before giving evidence, except that a child under fourteen years of age who in the judgment of the court does not understand the nature of an oath but nevertheless understands the duty of speaking the truth may give evidence without being sworn or making affirmation. The oath or affirmation may be administered either in English or in any other language.

(5) The court may interrogate the accused at the time of pleading or at the trial, but shall not apply any compulsion to require him to answer. Any statements then made may be received as evidence. If the accused chooses to testify at a later stage of the trial, he may do so, but he may not be required to do so and shall not be sworn.

(6) The Court shall have power to order trial in camera if it is necessary to prevent any prejudice to the security of the Allied Forces or for some other exceptional reason.

(7) In the event of the accused not appearing before the Court, the following action may be taken:

a. if it is proved that the accused was duly served with a summons to appear, the Court may proceed with the trial in his absence and may, if it considers the case against him proved, record a conviction and sentence;

b. if it is not so proved but the Court is satisfied that after reasonable steps have been taken to find and summon the accused, he cannot be found, the Court may proceed in his absence up to but not beyond the recording of evidence and making any order permitted under sub-rule (e) of this Rule. In the event of the accused being subsequently brought before the

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Court, such recorded evidence shall be admissible as evidence in the case, provided that the accused shall be entitled to cross-examine any of the original witnesses for the prosecution whose attendance can be procured (in which case the prosecution shall be entitled to re-examine) and both the prosecution and the accused shall be entitled to call fresh evidence;

c. in either of the above cases the Court shall appoint an officer of the Allied Forces or other suitable person to represent the defence;

d. in addition to its powers under Rule 14 (4) the Court may, in proceedings under sub-rule (a) of this Rule, for the purpose of enforcing a sentence of a fine make such order regarding the custody or disposition of any property which the accused owns or in which he has an interest as appears to be just and appropriate;

e. in proceedings under sub-rule (b) of this rule the Court may, whenever it appears to be just and appropriate, make an interim order for the custody or impounding of any property which the accused owns or in which he has an interest, pending the conclusion of the trial or may make any final order with respect to such property as may hereafter be authorized by further Rules of Procedure. This power of the Court is without prejudice to the powers of the Military Government under Law No. 52 (Blocking and Control of Property).

11. Trial Procedure in Intermediate and General Military Courts. The procedure in Intermediate and General Military Courts shall be the same as that provided herein for Summary Military Courts except that:

(1) the record of any evidence taken in a Summary Military Court will be made available to the Intermediate or General Military Court, and the record of any evidence taken in the Intermediate Military Court made available to the General Military Court, and any witness whose evidence differs from that given by him before the lower court may be cross-examined thereon or questioned by the court;

(2) if any witness is unavailable, the Intermediate or General Military Court may, after hearing the prosecution and defence, receive in evidence the record of his testimony in the lower court;

(3) a plea of guilty to an offence punishable by death may be accepted provided the court is satisfied from the nature of the case that the punishment of death would be clearly excessive and that a lesser punishment which it is within its power to impose would suffice.

## 12. Evidence.

(1) A Military Government Court shall in general admit oral, written and physical evidence having a bearing on the issues before it, and may exclude any evidence which in its opinion is of no value as proof. If security is at stake, evidence may be taken in camera or in exceptional cases where security demands it may be excluded altogether.

(2) The court shall in general require the production of the best evidence available.

(3) Evidence of bad character of an accused shall be admissible before finding only when the accused person has introduced evidence as to his own good character or as to the bad character of any witness for the prosecution.



### 13. Amendment of Charges and Pleas.

(1) A Military Government Court may amend a charge at any time before finding, provided that an adjournment is granted if necessary, and that no injustice is thereby done to the accused.

(2) An accused person may at any time before finding, with the leave of the court, alter a plea of not guilty to one of guilty.

(3) The court may on its own motion or at the request of the accused at any time before sentence alter a plea of guilty to one of not guilty.

(4) An accused person who has pleaded guilty to a charge in a Summary or Intermediate Military Court may, if the case is referred to a higher court for trial, alter that plea to one of not guilty.

### 14. Sentences.

(1) A Military Government Court shall announce its findings on each charge before it and shall pronounce one sentence in respect of all the charges upon which the accused is found guilty.

(2) Every sentence of imprisonment shall state the date of commencement thereof, which, if the accused was previously in custody, shall ordinarily make allowance for the period of custody.

(3) A Military Government Court shall, when imposing any fine, impose a sentence of imprisonment to be served in default of payment of such fine, and may direct the period within which the fine shall be paid. In the event of default in payment of a fine, the court may order the alternative sentence to be put into effect without bringing the accused again before the court. A report shall be made in the manner provided for transmission of records.

(4) In addition to or in lieu of sentence of fine, imprisonment or death (within its jurisdiction) a Military Government Court may:

(a) order the restitution to the lawful owner, or the forfeiture to, or temporary custody by, the Allied Forces or local public authority of any property including any proceeds thereof whether in their original form or converted into some other form of property where the accused is found guilty of an offence of which the illegal possession, use, purchase or sale of such property is an essential element;

(b) order the closing of any business premises or residence, the suspension of business, or the withdrawal or suspension of any licence for the operation of the same or any similar business, where the accused is found guilty of the illegal operation of a business, and, in any such case, may order the forfeiture to, or temporary custody by, the Allied Forces or local public authority of any stock in trade to which such illegal operation relates;

(c) order the accused to establish his residence within or without a designated area or not to leave or enter a designated area without permission.

(5) A Military Government Court in imposing any sentence may in exceptional circumstances suspended the execution thereof in whole or in part on such terms as it thinks fit.

(6) Except as the court may otherwise direct, every sentence except a sentence of death shall be put into execution forthwith and without awaiting the action of the Reviewing Authority.

(7) When an offence is charged under German Law the Court on conviction is not limited by the maximum sentence permitted under such law but may impose such sentence within its powers as the circumstances of the case may require provided that:

(a) except in cases of homicide, attempted homicide or assault with intent to do grievous bodily injury, no death sentence shall be imposed when it could not have been imposed under the German Law under which the charge was framed; and

(b) when the offence charged is a contravention (Übertretung) only, any sentence of imprisonment shall not exceed two years.

### General Provisions

#### 15. References to Higher Court.

(1) Whenever a Summary Military Court or Intermediate Military Court reports a case for reference to a higher court for trial, which either may do at any stage of the proceedings, the court shall:

(a) make a notation of such report in the record of the case,

(b) make and enter in the record, after hearing the prosecution and defence, an order directing that the accused be held in custody, or released on or without bail, pending trial, and

(c) send the record to the Legal Officer of the next higher MG echelon.

(2) Unless otherwise directed by the Chief Legal Officer, the Legal Officer of the next higher MG office shall refer the case for trial to an Intermediate or General Military Court as he deems appropriate, or may direct that the case be tried by the court which reported the case or by any other court.

#### 16. Attendance and Detention of Witnesses.

(1) A Military Government Court shall have power to summon as a witness any person except a child under fourteen years of age, in which case it may summon the parent or guardian to bring the child to attend as a witness, and except a member of the Allied Forces, in which case it may request the Commanding Officer of such member to order his attendance.

(2) Any person whom the court may summon as a witness may be ordered to bring with him any document or article in his possession or under his control which has a bearing on the issues in the case.

(3) Wherever the court has reason to believe that a witness may be intimidated or become unavailable at the trial, it may direct that he be detained as a material witness, provided that no such person shall be detained for a period of more than 21 days without a further order being made. A report of such detention shall be made forthwith in the manner provided for the transmission of the record.

17. Compellability of Witnesses. Any person other than the accused may be required to testify before a Military Government Court except a person of unsound mind, provided that no witness shall be required to incriminate himself and provided also that a court shall not compel

(1) a husband or wife or a parent or child to give evidence against the other;

(2) a legal adviser to disclose any communication between himself and a client made in the course of a professional relationship except when the communication was part of or connected with an unlawful act or omission;

(3) a priest to disclose any communication made in the course of a confession.

18. Contempt. A Military Government Court shall have power to hold in contempt any person, including the accused, counsel,



witness, officials, or spectators, who offends the dignity of the court, in any manner, or disregards its orders. Such contempt may be punished by fine, imprisonment or other appropriate punishment. In exercising its powers to punish for a contempt, a Military Government Court shall make a record which shall be transmitted and reviewed as in the case of any other sentence.

19. **Impounding.** A Military Government Court may in its discretion impound, by an order directing any person to be charged with the care thereof, any document or article relating to proceedings before it, whether or not it has been received in evidence.

20. **Disposition of Funds.** Receipt shall be given for all fines and property forfeited to the Allied Forces. Property forfeited to the Allied Forces shall be disposed of as the court shall direct, or in accordance with such procedure as may be prescribed with respect thereto by the Chief Legal Officer or under his authority. All fines and property shall be accounted for in accordance with financial instructions, Military Government. A record of fines shall be kept, by each court and report made to the Chief Legal Officer or as he may direct.

21. **Insanity.** Wherever a court is satisfied that the accused is unable by reason of insanity to understand the nature of the charges against him or the proceedings of the court, or that the accused committed the offence for which he is being tried but was insane when he committed it, the court shall record a finding of either such fact and may make an order providing for temporary custody pending direction by the Reviewing Authority for permanent custody or other disposition.

#### 22. Juvenile Offenders.

(1) In cases involving offenders under the age of 18 years, Military Government Courts shall adopt a flexible procedure based on the accepted practices of local juvenile courts and those of Great Britain and the United States or France (according to the nationality of the court), including so far as practicable the following measures:

- a. report by a Welfare Officer in advance of trial;
- b. detention, where necessary, in a special institution, or in any event apart from adult offenders;
- c. hearing informally in closed sessions;
- d. interrogation of parents and release in their custody if appropriate.

(2) An offender over 16 years of age but under 18 years of age may be treated in all respects as an adult unless in the opinion of the court his physical and mental immaturity make his treatment under section I (above) advisable.

#### 23. Records.

(1) Every Military Government Court shall in every case make and transmit to the Chief Legal Officer or as he may direct a record containing the date and place of its proceedings, the names of the members of the court, of the accused, of the prosecutor, and of defence counsel, the original charge sheet or summons, and pleas, any amendments to the charges or pleas made during the course of the trial, the name and the opinion of the adviser, if any, the findings, and the sentence or order of the court. In addition, in every case in which there is a plea of not guilty, the record shall contain minutes or summary of the essential evidence.

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A Summary Military Court may include the record of more than one case in a single report.

(2) Every Military Government Court shall keep a permanent register of its proceedings.

(3) If before the conclusion of any proceeding or before review, the record of such proceeding is lost or destroyed and no sufficient certificate of the substance of the proceeding can be obtained, the court or the Reviewing Authority may declare such proceeding null and void and remand the case for a new trial. A sufficient certificate shall be one signed by any member of the court embodying to the satisfaction of the Reviewing Authority the charges, findings and sentence and the effect of the material evidence.

#### 24. Review.

(1) Such cases or classes of cases as the Chief Legal Officer may direct will be administratively examined, and, if considered appropriate, submitted to a Reviewing Authority for review.

(2) A petition by a convicted person for review of the finding or sentence must be filed with the court within ten days of conviction, i.e. completion of announcement of findings and sentence (Rule 10 g. and j.). Petitions for Review shall be transmitted to the Chief Legal Officer or as he may direct in the same manner as records.

#### 25. Powers of Reviewing Authority.

(1) The Reviewing Authority may upon review:

a. affirm any finding of guilty, or set aside any such finding with or without ordering a new trial;

b. substitute for any finding of guilty a finding of guilty on an amended charge if it appears that the court might before finding and without prejudice to the accused have so amended that charge and that the court would have been satisfied on the evidence that the accused was guilty on the charge so amended;

c. affirm, suspend, reduce, commute or modify any sentence or order, and make appropriate order for the discharge of the accused or the return of fine or restitution of property;

d. increase any sentence where a Petition for Review which is considered frivolous has been filed and the evidence in the case warrants such increase.

(2) The Reviewing Authority may at any time remit or suspend any sentence or part thereof.

26. **Effect of Irregularities.** The proceedings shall not be invalidated, nor any findings or sentence disapproved, for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the Reviewing Authority, after an examination of the entire record, it shall appear that the error or omission has resulted in injustice to the accused.

27. **Procedure in Absence of Specific Rule.** Where no procedure has been directed in any matter, a Military Government Court may adopt such procedure as it thinks fit, provided no injustice is thereby done to the accused.

28. **Forms.** Forms used by Military Government Courts shall conform substantially to those set out in Legal Forms, Military Government Courts in Part I section 4 hereof.



## GUIDE TO PROCEDURE IN MILITARY GOVERNMENT COURTS

This guide is based upon and should be read in conjunction with the Military Government Courts Ordinance and the Rules of Military Government Courts, which for cross-reference purposes are represented by the symbols O and R, respectively. The comments contained in Part I, below, are referred to thereafter by the symbol C. The Guide is designed primarily for Summary Military Courts and prosecutors. Provisions inapplicable to Intermediate and General Courts should be disregarded by officers concerned with those courts.

## I. GENERAL.

1. **Basic Principle.** The purpose of Military Government Courts and of the principal enactments enforced by them is the protection of the Allied Forces and the advancement of their military objectives. All pertinent enactments must therefore be interpreted (as in fact a German defendant and defending counsel will expect them to be interpreted) broadly and in accordance with their obvious intention: all courts must be conducted with a view to the attainment of this purpose to the fullest possible extent. It is important, therefore, that when an offense against the Allied Forces has been established, appropriate punishment should be imposed with a view to the prevention of further such offenses. A technical and legalistic viewpoint must not be allowed to interfere with such a result.

2. **Role of Judge.** It is the practice in continental countries for the presiding judge to conduct the examination of the accused and witnesses and generally to take the leading part in the proceedings. Officers presiding in Military Government Courts where the prosecutor, defending counsel, or accused are not familiar with common law procedure may be obliged to do the same, and must in any event see that the interests of the accused are protected, and that the facts are fully brought out.

3. **Dignity of Court.** The court is responsible that its proceedings are such as to enhance the prestige of the Allied Forces. The judicial officer, prosecutor, and other military personnel should, if circumstances permit, wear full uniform, including tie if summer uniform, tunic or blouse if winter uniform, and will maintain a high standard of conduct. No disorders should be tolerated in or near the court.

4. **Modification of Procedure.** R 10(1). In simple cases, steps set forth in the Rules may be omitted or greatly abbreviated, but no rights of the accused may be disregarded. Opening statements in particular may frequently be omitted. The court is in complete control of the proceedings, and may cut short any person who becomes repetitious or wanders from the issue.

5. **Jurisdiction.** O II.

a. **Over persons.** During the pre-surrender period, Courts may be met with claims from accused to be treated as prisoners of war. Any person who succeeds in establishing this status is not subject to the jurisdiction of Military Government Courts and must be turned over to the Provost to be dealt with in accordance with the Geneva Convention of 27 July 1929. Doubtful case should be turned over to Counter Intelligence for interrogation.

b. **Over offenses.** The jurisdiction of Military Government Courts only arises in respect of offenses committed subsequent to occupation. Offenses committed prior to occupation must be left

to be dealt with by German courts unless they come under the category of War Crimes. The manner in which war criminals in general are to be dealt with will form the subject of separate instructions. In any case in which a specific accusation or evidence of a war crime is to be made against any person, the accused and the evidence should be held and disposed of under existing instructions.

6. **Adviser.** O IV 6. Whenever deemed necessary a Military Government Court may, on its own motion or the request of the accused, appoint an impartial adviser to assist the court in a particular case in checking the interpreter-giving testimony or written opinions as an expert on German law, local customs or technical matters. Such adviser may be invited to sit with the court, but not participate in the decision, and may be paid as a court official.

7. **Prosecutor.** R 3(1). The prosecutor should preferably be an officer of the Allied Forces, and may be a qualified other rank or enlisted man, or a member of the indigenous police or other indigenous authority.

8. **Interpreter.** Pains should be taken to obtain a qualified interpreter, because the task is difficult and important. The interpreter should translate directly and in the same person everything that is said, subject to the direction of the court. He should not be permitted to engage in colloquy on his own, or to conduct the proceedings in any respect in lieu of the court. Questions to witnesses should be addressed to the witness and not to the interpreter.

9. **Evidence.** Rule 12 does not incorporate the rules of evidence of British or American courts or of courts-martial. The only positive rules binding upon the Military Government Courts are found in Rule 12(3), Rule 17, and Rule 10(5). Hearsay evidence, including the statement of a witness not produced, is thus admissible, but if the matter is important and controverted every effort should be made to obtain the presence of the witness, and an adjournment may be ordered for that purpose. The guiding principle is to admit only evidence that will aid in determining the truth.

10. **Charges.** O V 8(a); R 6. The charge consists of two parts: the charge itself (e. g., "Circulating without a permit during curfew in violation of Ordinance No. 1, Sec. 22) and the particulars (e.g., "On 30 Sept. at 2300 was found in the public square"). Any offence committed with intent to aid the enemy should be charged under Crimes and Offenses Ordinance No. 1, Sec. 20, in addition to any other appropriate section, in order to permit imposition of a sentence of death. If there is no room on the charge sheet for the names of all the defendants or for all the charges, additional pages may be annexed and incorporated by reference. In general, multiplicity of charges based on the same set of facts will be avoided.

11. **Failure to Answer Summons.** If an accused or witness who has been summoned does not answer to the call at the appointed time, the court should order that he be arrested and brought before it, and may issue a warrant of arrest. Unexcused failure to appear is punishable as a contempt of court or under Crimes and Offenses Ordinance No. 1, Sec. 21.

12. **Interrogation of and Testimony by Accused.** R. 10(5). The interrogation of the accused by the court at the time of pleading is not known to British or American practice but is permitted at discretion because the process of pleading is unfamiliar to subjects of continental countries. The court should arrange to be provided prior to the trial with a dossier of the case against the



cannot be computed in accordance with the above scale, but must be limited to one year, the sentence and alternative sentence totaling two years.

b. Unless the entire fine is paid within the time fixed by the court, the full alternative prison sentence shall be put into effect and no credit shall be given for part payment. If, however, after the alternative prison sentence has been put into effect, the accused pays to the court which imposed the sentence (or, if unavailable, to the nearest court of similar jurisdiction) the entire amount of the fine or the balance due if a partial payment has been previously made, the court will issue an Order for Release (Legal Form No. 17.) from such alternative sentence. No credit on the fine shall be given for time served in prison.

c. The power to impose an alternative prison sentence should be exercised solely for the purpose of collecting the fine imposed. It is improper for the court deliberately to impose a fine which the accused is probably unable to pay, as a device for imposing a term of imprisonment otherwise beyond the power of the court to impose. If the case seems to call for a term of imprisonment beyond the power of the court, it should be referred to a higher court.

22. Disposition of Fines, other Funds and Property. Every M.G. Officer who collects fines or other monies pursuant to his legal duties will execute in triplicate a receipt voucher (Form CA/Gf 3). The original receipt will be given to the person paying money and the triplicate retained for the files of the officer. Duplicates of such receipts will be delivered to the nearest M.G. Sub-Accountant together with the corresponding funds. The Sub-Accountant will give in exchange a single receipt form (the original) covering the duplicate receipts and the money turned over. Property ordered forfeited or confiscated by the court will be turned over to the nearest M.G. Property Control Officer (against receipt).

Upon an order of the Reviewing Authority to refund a fine, the M.G. Officer will apply to the nearest M.G. Finance Officer for the necessary funds.

23. Numbering of cases; Disposition of Records. Cases will be numbered consecutively by each Summary, Intermediate and General Court in each area, and the record (Form 8) will show number, type of court, and area (town, city or other locality and in addition the district or other next higher political-subdivision). Records will in the first instance be filed at the Headquarters at which review is to be exercised. They will be filed at such Headquarters under courts of each type in each locality, and will be filed or indexed, with respect to the cases in each such court, alphabetically according to the names of the accused.

24. Proceedings in Camera. R. 10(6). Any order for trial in camera will be noted on the record and a report attached stating the reasons therefor. If any Intelligence Branch requests for security reasons that a particular trial or part of it be held in camera but the court is not satisfied as to the reasonableness of the request, the court will postpone or adjourn the trial and submit the question for decision to or in accordance with the instructions issued by or under the authority of the Chief Legal Officer or an Army Group Commander.

## II. CHECK LIST FOR TRIALS.

### A. Preliminary Matters.

#### 1. Personnel.

- a. Judge, O IV;
- b. Prosecutor, R 3(1); C 7.
- c. Adviser, if appointed, O IV 6; C 6.
- d. Interpreter; must be sworn R 4; C 8. Oath Form No. 14.
- e. Reporter, if appointed; must be sworn. Oath Form No. 14.
- f. Clerk, if possible, R 4.
- g. Guards to escort prisoners.
- h. Attendants to keep order, R 4.

#### 2. Courtroom.

- a. A regular local courtroom, if available.
  - b. Tables at same level for prosecutor and defense counsel. Suitable chairs or benches for personnel. Accused near defense counsel, but not too near. Interpreter not too near witness. Place for witnesses to wait outside courtroom until called. Accused and witnesses to stand during interrogation unless the Court gives special permission for them to be seated.
  - c. Flags of Great Britain, United States.
3. Transportation to bring prisoners and witnesses, if necessary.
  4. Serving of charges on accused as soon as practicable before trial. O V 8(a); R 6; C 10.
  5. Summoning of witnesses or request to attend. R. 16; C 11.
  6. Copies of record, commitments, and receipt for fine on hand; also the court register. R 23(2).

### B. Trial or Hearing.

#### Initial Steps.

1. Case called and charge sheet handed to court.
2. Court satisfies itself that it has jurisdiction of the person accused not a member of the Allied Forces or a person entitled to be treated as a prisoner of war) and of the offense. O II C 5.
3. Accused and witnesses identified; age and sex noted in record.
4. Accused asked if he has counsel. Counsel identified.
5. Reason for adjournment, if any, considered. R 7(2).
6. If accused under 18, court proceeds pursuant to Rule 22.
7. Charges read to accused by court; asked if "guilty" or "not guilty" after each charge. R 7.
8. Court interrogates accused and records statement, but shall not require an answer, nor shall accused be sworn. R 10(5); C 12.
9. Pleas to charges noted in record. R 7(3).
10. Statement of case by prosecutor. R 10(1) (a); C 4.

N.B. At this stage, and at every later stage before sentence in case of a plea of guilty, otherwise before finding of guilty or not guilty, the court must satisfy itself that it has power to give an adequate sentence. If not, it will report the case for reference to a higher court, but may first hear and record evidence, either because witnesses may become unavailable, or to determine whether there is a sufficient case to require accused to stand trial. R 8(2) (3); R 9. Report for reference noted in record and order made as to custody of accused or for release on or without bail. R 15.



### Plea of Guilty.

11. Evidence of character, including prior convictions R 8(1).
12. Statement by accused or defense counsel bearing on sentence R 8(1).
13. Sentence announced in open court. O VII; R 14; C 17, 18, 19, 20.

### Plea of Not Guilty.

14. Examination, cross-examination and re-examination by prosecution witnesses. R. 10(1) (a) (b) (c). Oath administered by Court. R 4.
15. Acquittal of accused on any charge, if not sufficient evidence to sustain it. R 10(2).

N.B. If the court has not power to impose an adequate sentence in event of conviction, but there is not sufficient substance to the charges to justify a trial by any court, the court may dismiss the charges at this stage or at a later stage, but will not "acquit" because that word presupposes a trial. R 9(1) (b); R 9(2) (a). This power should be exercised only in a very clear case.

16. Statement by accused or defense counsel. R. 10(1) (d); C 12.
17. Examination, cross-examination and re-examination of defense witnesses, including accused if he chooses to testify. R 10(1) (d). The accused shall not be sworn. R 10(5).
18. Rubutal testimony for prosecution. R. 10(1) (e).
19. Summing-up by prosecutor. R. 10(1) (f).
20. Summing-up by accused or defense counsel. R 10(1) (f).
21. Finding of guilty or not guilty on each charge, announced in open court. R 10(1) (g).
22. If acquittal, immediate discharge of accused. R 10(1) (h).
23. Statement, and evidence if desirable by prosecution bearing on sentence to be imposed, including evidence of prior convictions in any court. R. 10(1) (i).
24. Opportunity by defense to rebut any matters presented by prosecution bearing upon sentence. R. 10(1) (i).
25. One sentence announced in open court with respect to all charges on which accused found guilty. R. 10(j); R 14; C 17, 18, 19, 20.
26. Accused ordered removed in custody, or released as case may be.
27. Next case called.



## SECTION 4.

### Forms—Military Government Courts

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GA/GI 6

MILITARY GOVERNMENT COURT  
SUMMONS

Legal Form No. 1

No. .... (Place)

To ..... (Name) ..... (Date)

..... (Address)

50

You are hereby summoned and required to appear in person before a Summary Military Court at

..... (Address of Court) on ..... 194 at ..... upon the following charge: (Date) (Hour)

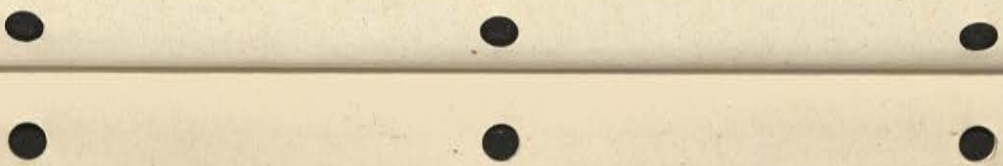
Charge: .....

Particulars: .....

Failure to comply with this summons will subject you to punishment.

By Order

..... (Signature of authorised person)



401

MILITÄRGERICHT  
VORLADUNG

Legal Form No. 1

Nr. .... (Ort)

..... (Name) ..... (Zeit)

..... (Anschrift)

Sie werden hiermit vorgeladen persönlich vor dem Einfachen Militärgerichte in ..... (Anschrift des Gerichtes)

51

am ..... 194 um ..... Uhr zu erscheinen um sich gegen die folgende Beschuldigung zu verantworten: (Datum) (Zeit)

Beschuldigung: .....

Einzelheiten: .....

Unentschuldigtes Fernbleiben wird bestraft.

Im Auftrage von,

..... (Autorisierte Unterschrift)



PROOF OF SERVICE

I hereby certify that I have this ..... day of ..... 194 at ..... served the summons of which this is a copy upon the person named therein: \*personally \*by leaving it at the address shown thereon \*by mailing it to the address shown thereon

(Signature of Person Serving Summons)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have this ..... day of ..... 194 personally received the summons of which this is a copy. \*Strike out words not applicable.

(Signature of Person served)

ZUSTELLUNGSNACHWEIS

Ich bestätige hiermit, daß ich am ..... 194 um ..... Uhr die Vorladung von der dies eine Abschrift ist, der darin genannten Person zugestellt habe (Tag und Monat) \*persönlich \*indem ich sie an die darin angegebene Anschrift brachte \*indem ich sie bei der Post an die angegebene Anschrift aufgab

(Unterschrift des Zustellers)

RÜCKSCHEIN

Ich bestätige, daß ich am ..... 194 persönlich eine Abschrift der unterzeichneten Vorladung erhalten habe. (Tag und Monat) \*Nichtzutreffendes ist durchzustreichen.

(Unterschrift der Person, der die Vorladung zugestellt wurde.)

MILITARY GOVERNMENT COURT

MILITÄRGERICHT

Warrant of Arrest

Haftbefehl.

To all Police: An alle Polizeibehörden:

You are hereby empowered and required to arrest one Sie werden hiermit ermächtigt und angewiesen

(Name) (Name)

(Address) (Anschrift)

and bring him without delay before the \*Summary \*Intermediate Military Court zu verhaften und unverzüglich dem \*General \*Einfachen \*Mittleren Militärgerichte \*Oberen

at in upon the following charge: vorzuführen, vor dem er sich wegen der folgenden Anklage zu ver- antworten hat:

Charge: Anklage:

Particulars: Einzelheiten:

By Order Im Auftrage von

(Signature of authorized person) (Autorisierte Unterschrift)

\*Strike out words not applicable. \*Nichtzutreffendes ist durchzustreichen.



**RETURN OF WARRANT**  
Zustellungsnachweis für den Haftbefehl

I hereby certify that on  
Ich bestätige hiermit, daß ich am ..... 194.....  
(day and month)  
(Tag und Monat)

\*was unable to serve this warrant as the defendant was not found.  
\*außerstande war die Verhaftung durchzuführen, da der Beschuldigte unauffindbar war.

\*duly served this warrant upon the defendant, and he is now confined at  
\*die Verhaftung durchführte und der Beschuldigte befindet sich in Haft

in .....  
awaiting order of trial.  
zwecks Anordnung der Gerichtsverhandlung.

.....  
(Signature of person serving warrant)  
(Unterschrift der Person, die die Verhaftung vornahm)

Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.

**MILITARY GOVERNMENT COURT**  
**MILITÄRGERICHT**

Charge Sheet  
Anklageschrift

Place .....  
Ort .....  
Date .....  
Datum .....

Name of accused .....  
Name des Angeklagten .....

is hereby charged with the following offences:  
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the  
\*Summary  
\*Intermediate Military Court to be held  
\*General

Die Verhandlung wird vor dem  
\*Einfachen  
\*Mittleren Militärgerichte  
\*Oberen

at ..... on ..... 194.....  
in ..... am .....  
(Address of Court)  
(Anschrift des Gerichtes)

at ..... By Order  
um ..... Uhr stattfinden. Im Auftrag von

Strike out words not applicable.  
Nichtzutreffendes ist durchzustreichen.  
(Signature of person preferring charges)  
(Unterschrift d. Vertreters d. Anklagebehörde)

Copy of above served on accused ..... 194.....  
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)  
(Unterschrift des Zustellers)



ARTIKEL V

Rechte des Angeklagten

8. Wer sich vor einem Gericht der Militärregierung zu verantworten hat, ist berechtigt:

(a) eine Abschrift der gegen ihn erhobenen Anklage vor der Verhandlung zu erhalten;

(b) bei der Verhandlung anwesend zu sein, daselbst auszusagen, an die Zeugen Fragen zu stellen und diese im Wege eines Kreuzverhörs zu vernehmen. Das Gericht kann in Abwesenheit des Angeklagten verhandeln, falls der Angeklagte dies beantragt hat und sein Antrag bewilligt wurde oder falls vermutet wird, dass der Angeklagte sich seiner Bestrafung durch Flucht zu entziehen versucht;

(c) sich mit einem Rechtsanwalt vor Beginn der Verhandlung zu beraten, sich selbst zu verteidigen oder sich bei der Verhandlung durch einen von ihm gewählten Rechtsanwalt vertreten zu lassen, unbeschadet der Befugnis des Gerichts das Auftreten von Personen zu untersagen;

(d) in Sachen, in denen die Todesstrafe verhängt werden kann, sich durch einen Offizier der Alliierten Streitkräfte vertreten zu lassen, falls er keinen anderen Verteidiger hat;

(e) zur Verhandlung nach seiner Wahl jeden Zeugen, dessen Aussage für seine Verteidigung wesentlich ist, mitzubringen oder auf seinen Antrag durch das Gericht vorladen zu lassen, falls dies ausführbar ist;

(f) das Gericht um Vertagung zu ersuchen, falls dies zur Vorbereitung seiner Verteidigung notwendig ist;

(g) zu veranlassen, dass ihm die Verhandlung übersetzt wird, falls er die Gerichtssprache nicht versteht;

(h) im Falle der Verurteilung, innerhalb der in den Verfahrensbestimmungen für die Gerichte der Militärregierung vorgesehenen Frist ein Gesuch mit Begründung zwecks Aufhebung oder Abänderung der gerichtlichen Feststellungen oder der Entscheidung über das Strafmaß einzureichen.

404. MILITARY GOVERNMENT COURT  
MILITÄRGERICHT  
Summons for Witness  
Zeugenvorladung

Place .....  
Ort .....  
Date ..... 194...  
Datum .....

To:

\*Herrn .....  
\*Frau .....  
\*Fräulein .....

Address:  
Anschrift:

You are hereby summoned and required to appear before the  
Sie werden hiermit vorgeladen vor dem

\*Summary  
\*Intermediate Military Court  
\*General ..... at .....  
\*Einfachen ..... in ..... (address of court)  
\*Mittleren Militärgerichte ..... (Anschrift des Gerichtes)  
\*Oberen .....

on ..... at ..... to testify and give evidence in the  
am (date) um (hour) Uhr persönlich zu erscheinen und  
(Datum)

case pending against .....  
als Zeuge in der Strafsache gegen ..... (name of accused) auszusagen.  
(Name des Angeklagten)

and you are required to bring with you the following documents or articles:  
Sie haben die folgenden genannten Dokumente und Gegenstände zur Verhandlung mitzubringen:

.....  
.....  
.....

Unexcused failure to comply with this summons will subject you to severe punishment.

Unentschuldigtes Fernbleiben wird auf das Strengste bestraft werden.

By order  
Im Auftrage von

.....  
(Signature of person authorised)  
(Unterschrift des Beauftragten)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.



**Proof of Service**  
**Zustellungsnachweis**

I hereby certify that I have this ..... 194.....  
Ich bestätige hiermit, daß ich am ..... 194.....  
(day) (month)  
(Tag und Monat)

at ..... served the summons of which this is a copy upon  
um ..... Uhr die Zeugenvorladung, wovon dies eine Abschrift ist,

the person named therein \*personally,  
\*by leaving it at the address shown thereon,  
\*by mailing it to the address shown thereon.

an die darin ge- \*persönlich  
nannte Person \*indem ich sie an die darin angegebene Anschrift brachte  
zugestellt habe. \*indem ich sie an die darin angegebene Anschrift bei der  
Post aufgab

.....  
(Signature of person serving summons)  
(Unterschrift des Zustellers)

**Acknowledgment of Service**  
**Rückschein**

I acknowledge that I have this ..... 194.....  
Ich bestätige hiermit, daß ich am ..... 194.....  
(day) (month)  
(Tag und Monat)

personally received the summons of which this is a copy.  
persönlich die Zeugenvorladung, wovon dies eine Abschrift ist, erhalten habe.

.....  
(Signature of person served with summons)  
(Unterschrift der Person, der die Vorladung  
zugestellt wurde)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.

**MILITARY GOVERNMENT COURT**  
**MILITÄRGERICHT**

405.

**Commitment**  
**Einlieferungsbefehl**

To: The Officer in charge of ..... \*Prison  
An den Leiter der(s) ..... \*Camp  
\*Strafanstalt  
\*Lagers

or any other prison or camp to which the prisoner may hereafter be lawfully transferred;  
oder irgend einer anderen Strafanstalt oder eines anderen Lagers, in welches der  
Strafgefangene späterhin rechtmäßig überwiesen werden wird;

Whereas one .....  
Der (die) Verurteilte .....  
has been convicted of the offence of .....  
ist wegen der folgenden strafbaren Handlung

.....  
And has been sentenced by the \*Summary  
\*Intermediate Military Court to serve a sentence  
\*General  
schuldig erkannt und vom \*Einfachen  
\*Mittleren Militärgerichte  
\*Oberen

of .....

zu .....

and to pay a fine of ..... verurteilt worden.  
und zu einer Geldstrafe von ..... 194.....  
the said sentence to commence on ..... (Date) zu erfolgen.  
Der Strafantritt hat am ..... (Datum)

Now, therefore, you are hereby authorized to receive the above-named  
Auf Grund des genannten Urteils sind Sie ermächtigt, den (die) genannten  
prisoner into your custody and detain him in accordance with the sentence so impos-  
sed or until further order of this Court  
Strafgefangenen in die Strafanstalt (das Lager) aufzunehmen, bis er (sie) die über ihn  
verhängte Strafe abgehüft hat oder bis Sie eine weitere Anordnung von diesem Gericht  
or a competent military authority and for so doing this shall be sufficient warrant.  
oder von einer zuständigen Militärbehörde erhalten werden. Diese Urkunde ermäch-  
tigt Sie zur Vornahme der Handlung.

Signed this ..... 194.....  
Gezeichnet am

.....  
(Presiding Officer — Vorsitzender)

\*Summary  
\*Intermediate Military Court of  
\*General  
\*Einfaches  
\*Mittleres Militärgericht  
\*Oberes

.....  
(Address of Court)  
(Anschrift des Gerichts)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.



MILITARY GOVERNMENT COURT  
MILITÄRGERICHT

406.

Commitment in Default of Payment of Fine  
Einlieferungsbefehl wegen Nichtbezahlung einer Geldstrafe

To: The Officer in Charge of .....  
An den Leiter der(s) .....  
\*Prison  
\*Camp  
\*Strafanstalt  
\*Lagers

or any other prison or camp to which the prisoner may hereafter be lawfully transferred:  
oder irgend einer anderen Strafanstalt, oder eines anderen Lagers, in welches der  
Strafgefangene späterhin rechtmäßig überwiesen werden wird:

Whereas one .....  
Der (die) Verurteilte  
has been convicted of the offence of .....  
ist wegen der folgenden strafbaren Handlung

and has been sentenced by the .....  
\*Summary  
\*Intermediate Military Court to pay fine of  
\*General  
schuldig erkannt und vom .....  
\*Einfachen  
\*Mittleren Militärgerichte zu einer Geldstrafe von;  
\*Oberen  
and in default of payment thereof of be .....  
und falls dieselbe nicht beigetrieben werden kann, zu  
imprisoned for ..... and  
einer Gefängnisstrafe von ..... verurteilt worden.

Whereas the said fine remains unpaid in the amount of, .....  
Der (Teil) Betrag von .....  
der genannten Geldstrafe kann nicht beigetrieben werden.

Now, thereof you are hereby authorized to receive the above named prisoner  
Auf Grund des genannten Urteiles sind Sie ermächtigt, den (die) genannten  
into your custody and detain him for .....  
Strafgefangenen in die Strafanstalt (das Lager)  
aufzunehmen und ihn (sie) für die Dauer von

commencing on ..... or until further order of this Court  
beginnend am ..... in Strafhaft zu behalten, es sei denn,  
or of competent military authority, and for so doing this shall be sufficient warrant.  
daß dieses Gericht oder eine andere zuständige Militärbehörde Ihnen eine weitere  
Weisung geben werden. Diese Urkunde ermächtigt Sie zur Vornahme der Handlung.

Signed this ..... 194...  
Gezeichnet am ..... (date)  
(Datum)

(Presiding Officer)  
(Vorsitzender)

\*Summary  
\*Intermediate Military Court of  
\*General  
\*Einfaches  
\*Mittleres Militärgericht  
\*Oberes

(Address of Court)  
(Anschrift des Gerichts)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.

MILITARY GOVERNMENT COURT  
MILITÄRGERICHT

407.

Commitment on Reference to Higher Court  
Einlieferungsbefehl bei Verweisung der Strafsache an eine höhere  
Instanz

To the Officer in Charge of .....  
An den Leiter der(s) .....  
\*Prison  
\*Camp  
\*Strafanstalt  
\*Lagers

or any other prison or camp to which the prisoner may hereafter be  
lawfully transferred:  
oder irgend einer anderen Strafanstalt oder eines anderen Lagers, in welches  
der Strafgefangene späterhin rechtmäßig überwiesen werden wird:

Whereas one .....  
Der Angeklagte  
has been charged with the offense of .....  
ist wegen der folgenden strafbaren Handlung

and has been brought before the .....  
\*Summary  
\*Intermediate Military Court and  
angeklagt worden und die Verhandlung hat vor dem .....  
\*Einfachen  
\*Mittleren Militär-  
gerichte stattgefunden.

Whereas the .....  
\*Summary  
\*Intermediate Military Court has reported the case for  
reference to a higher court

Das .....  
\*Einfache  
\*Mittlere Militärgericht hat jedoch über die Strafsache zum Zwecke  
der Entscheidung über ihre Verweisung an ein höheres Militärgericht  
Bericht erstattet.

Now, therefore, you are hereby authorized to receive the above named  
Sie werden daher ermächtigt, den Angeklagten in die Strafanstalt (das Lager)  
prisoner into your custody and to detain him until further order of competent  
aufzunehmen bis eine weitere Anordnung der zuständigen Militärbehörde  
military authority, and for so doing this shall be sufficient warrant.  
erfolgen wird. Diese Urkunde ermächtigt Sie zur Vornahme der Handlung.

(Presiding Officer)  
(Vorsitzender)

\*Summary  
\*Intermediate Military Court of  
\*Einfaches  
\*Mittleres Militärgericht

(Address of Court)  
(Anschrift des Gerichts)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.



MILITARY GOVERNMENT COURT

408. Case Record.

Case No. .... Prosecutor. ....  
 \*Summary ..... Defence Counsel. ....  
 \*Intermediate Military Court. ....  
 \*General ..... Interpreter. ....  
 Place ..... Reporter .....  
 Date ..... 194 .....

Members of Court:

.....  
 .....  
 .....

Accused

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence { Imprisonment { Term .....  
 { Beginning ..... 194 .....

{ Fine { Amount .....  
 { To be paid before ..... 194 .....

{ or in case of default of payment to serve a  
 { \*further term of .....  
 { imprisonment. ....

Charge Sheet and Record of Testimony are annexed hereto.

.....  
 (Signature of member of court.)

Review

Action of Reviewing Authority .....

.....  
 Signature of reviewing authority

\*Strike out words not applicable.

MILITARY GOVERNMENT COURT

408. MILITÄRGERICHT

Charge Sheet  
 Anklageschrift.

Place .....  
 Ort .....  
 Date .....  
 Datum .....

Name of accused .....  
 Name des Angeklagten .....

is hereby charged with the following offences:  
 wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the

Die Verhandlung wird vor dem

at ..... on ..... 194 .....

in (Address of court) am  
 (Anschrift des Gerichtes)

at ..... Uhr stattfinden.  
 um

By Order,  
 Im Auftrage von

\*Strike out words not applicable. (Signature of Person preferring charges.)  
 \*Nichtzutreffendes ist durchzustreichen. (Unterschrift des Vertreters der Anklagebehörde.)

Copy of above served on accused ..... 194 .....

Abschrift dem Angeklagten zugestellt am

.....  
 (Signature of person making service)  
 (Unterschrift des Zustellers)



MILITARY GOVERNMENT COURT

409.

MILITÄRGERICHT

**Cash Bail Undertaking by Accused**  
**Sicherheitsleistung des Angeklagten.**

Whereas I, \_\_\_\_\_ of \_\_\_\_\_  
 Ich, \_\_\_\_\_ von \_\_\_\_\_  
 (accused) (address)  
 (Name des Angeklagten) (Anschrift des Angeklagten)

am required to appear in person before the \_\_\_\_\_  
 wurde vorgeladen persönlich vor dem \_\_\_\_\_

\* Summary  
 \* Intermediate Military Court  
 \* General  
 \* Einfachen  
 \* Mittleren Militärgerichte  
 \* Oberen

at \_\_\_\_\_ on \_\_\_\_\_  
 in \_\_\_\_\_ am \_\_\_\_\_, 194\_\_\_\_  
 (Address of Court) (Anschrift des Gerichts)

at \_\_\_\_\_ or at such other place, date and hour as may be directed.  
 um \_\_\_\_\_ Uhr zu erscheinen. Änderungen in Ort, Datum und Zeit  
 (hour) können behördlich festgesetzt werden.

Now, therefore, I \_\_\_\_\_ hereby undertake  
 Ich \_\_\_\_\_ verpflichte mich

to appear at the place, date and hour aforesaid, and  
 daher, an dem festgesetzten Orte, Tage und Stunde persönlich zu erscheinen,

I further agree that if I shall fail to do so, the sum of \_\_\_\_\_  
 und ich erkläre mich damit einverstanden, daß im  
 Falle der Nichtbefolgung der Betrag von \_\_\_\_\_

deposited by me as bail may be ordered forfeited by the Court without  
 further notice to me.  
 den ich als Sicherheitsleistung hinterlegt habe, vom Gericht ohne weitere  
 Benachrichtigung verfallen erklärt werden kann.

\_\_\_\_\_  
 (Place) (Ort)

\_\_\_\_\_, 194\_\_\_\_  
 (Date) (Datum)

Witnessed by:  
 Zeuge:

\_\_\_\_\_  
 (Signature of Accused)  
 (Unterschrift des Angeklagten)

\* Strike out words not applicable.  
 \* Nichtzutreffendes ist durchzustreichen.



## MILITARY GOVERNMENT COURT

410.

## Petition for Review

NOTE: This form must be filed with the trial court, or as may otherwise be directed, within ten days of conviction.

\*Summary

\*Intermediate Military Court of .....

\*General

(Address of court)

Name of accused .....

Address of Accused ..... Date of arrest .....

Charge .....

Date of Trial ....., 194 ..... Date of Conviction ....., 194 .....

Sentence .....

Grounds of Petition .....

Date ....., 194 .....

(Signature of accused or his attorney)

## Remarks by Trial Judge or Local Legal Officer

Date ....., 194 .....

(Signature and Title)

## Recommendation on Review

(For use of Legal Adviser to Reviewing Authority only)

Date ....., 194 .....

(Signature and Title)

\*Strike out words not applicable.



MILITÄRGERICHT

410. Gesuch um Überprüfung

ZUR BEACHTUNG: Dieses Formular muß innerhalb von 10 Tagen, beginnend mit der Schuldigsprechung, bei demselben Gericht oder einer sonstigen dafür bezeichneten Behörde eingereicht werden.

- \*Einfaches
- \*Mittleres Militärgericht in .....
- \*Oberes

Name des (der) Angeklagten .....

in Haft genommen am .....

angeklagt wegen der folgenden strafbaren Handlung .....

Verhandlung stattgefunden am .....

Für schuldig befunden am .....

Urteil .....

Begründung des Gesuches .....

Datum .....

(Unterschrift des Angeklagten  
oder seines Rechtsvertreters)

\*Nichtzutreffendes ist durchzustreichen.

411.

REGISTER  
OF  
MILITARY GOVERNMENT COURT.

Military Court Location

FROM

..... 194 .....

TO

..... 194 .....

(inclusive.)

INSTRUCTIONS.

1. Every Military Government Court will maintain this register as a permanent record of its proceedings. Every case heard will be entered and numbered in chronological order.

2. A Court will be designated by the name of the town, city or locality and of the next larger political sub-division in which it is customarily held. One or more registers will be maintained continuously regardless of changes of personnel. Thus, if an officer who first holds court in a given locality moves on, he will leave the register behind to be continued by his successor.

3. Entries with respect to sentence and orders of the Court in the register and in the case record must be complete (including date of commencement of sentence of imprisonment, terms of suspension of sentence, etc.), so that further action can be taken by the court or by the reviewing authority from either the register or the case record as the case may be.

4. When a petition for review is filed, the date of receipt should be endorsed thereon, it should be checked against the register, any missing information added, and an appropriate entry made in the last column of the register. Entry should be made upon notice of the action of the reviewing authority.

5. Know the Military Government Courts Ordinance, the Crimes and Offences Ordinance, the Rules of Military Government Courts, and the Guide to Procedure in Military Government Courts.



Case No.	Date	Accused (Surname first) Age and Sex	Members of Court	Prosecutor	Defence Counsel	Charge(s)

Plea(s)	Find- ing(s)	Sentence and Orders	Fine	Fine Paid		Remarks. (Petition for Review filed, action on review, etc.)
				Amt.	Date	



MILITARY GOVERNMENT COURT

412. Request for attendance of member of  
Allied Forces as Witness.

To:

Case .....

Summary of Charges .....

1. It is requested that you will cause

to attend as a witness at the \*Summary  
\*Intermediate Military Court  
\*General

Sitting at ..... at ..... hrs.

on.....194....., to give evidence in the above-mentioned  
case and to bring with him.....

2. If for any reason you are unable to secure the attendance  
of the witness at the time and place stated, it is requested that you will

(a) Cause an officer to obtain a written statement from the  
witness of the evidence which he is able to give. Such  
statement should be made on oath, signed by the witness,  
countersigned by the officer taking the statement and

returned to .....

as soon as possible,

and

(b) State the alternative dates and times (if any) on which the  
witness could, if required, be made available to give evidence.

3. If the witness is no longer under your command, it is  
requested that you will state where he can be found.

.....  
(Signature of officer requiring  
witness's attendance.)

\*Strike out words not applicable.

MILITARY GOVERNMENT COURT  
MILITÄRGERICHT

413.

Order on Review  
Verfügung nach Nachprüfung

Case No.  
Strafsache Nr. ....

Order No.  
Verfügung Nr. ....

Whereas one .....  
(Name of accused) (Name des (der) Angeklagten)

was convicted of the offence of .....  
wegen der folgenden strafbaren Handlung .....

by the \*Summary  
\*Intermediate Military Court ..... at  
\*General ..... in .....  
\*Einfachen .....  
vom \*Mittleren Militärgerichte ..... (Address of Court)  
\*Oberen ..... (Anschrift des Gerichts)

and sentenced to .....  
Ist schuldig erkannt und zu .....

by judgment dated the ..... 194..... and  
durch Urteil vom ..... (Date) ..... verurteilt worden.  
(Datum)

Whereas the case has now come before me by way of review and after  
due consideration and .....  
Diese Strafsache ist mir zur Nachprüfung vorgelegt worden und nach ent-  
sprechendem Studium

in exercise of the powers conferred upon me, I hereby order:  
des Sachverhaltes und in Ausübung der mir übertragenen Befugnisse verfüge ich:

\*That the findings and the sentence be upheld.  
\*Der Schuldspruch und das Urteil werden bestätigt.

\*That the sentence imposed be reduced to .....  
\*Die Strafe wird herabgesetzt auf .....

and for so doing this shall be sufficient warrant.  
und dies ist eine rechtskräftige Ausfertigung für die herabgesetzte Strafe.

\*That the conviction be quashed and the said .....  
\*Der Schuldspruch wird aufgehoben und der obengenannte .....

.....  
be released forthwith unless detained for other lawful reason  
ist sofort aus der Haft zu entlassen, es sei denn, daß er aus

and for so doing this shall be sufficient warrant.  
anderen gesetzmäßigen Gründen in Haft verbleiben muß. Diese Urkunde ermächtigt  
zur Vornahme dieser Handlung.

\*That the said .....  
\*Die Sache des .....

be retried by .....  
wird zur Verhandlung zurückverwiesen an .....

Dated this ..... 194.....  
Gegeben am .....

.....  
(Signature of Reviewing Authority)  
(Unterschrift der nachprüfenden Behörde)

.....  
(Title)  
(Titel)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist durchzustreichen.



414.

## OATHS

## 1. Oath of witness.

"I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing."

## 2. Oath of interpreter.

"Do you swear by Almighty God that you will to the best of your ability truly translate the proceedings of this court as the court may require?"

Reporter replies, "I do".

## 3. Oath of official reporter.

"Do you swear by Almighty God that you will to the best of your ability truly record and transcribe the proceedings of this court?"

Reporter replies, "I do".

## 4. Affirmation.

The form of affirmation is the same as the oath, except that the words "solemnly affirm" are substituted for the words "Swear by God the Almighty and Omniscient".

414.

## EIDE

## 1. Zeugeneid.

"Ich schwöre bei Gott, dem Allmächtigen und Allwissenden, dass ich die reine Wahrheit sagen, nichts verschweigen und nichts hinzusetzen werde."

## 2. Eid des Dolmetschers.

"Schwören Sie bei Gott dem Allmächtigen dass Sie Ihr Bestes tun werden um die Vorgänge bei diesem Gerichte wahrheitsgetreu zu übersetzen, wie es gerichtlich bestimmt ist?"

Antwort des Dolmetschers: "Ich schwöre es, so wahr mir Gott helfe".

## 3. Eid des Offiziellen Berichterstatters.

"Schwören Sie bei Gott dem Allmächtigen dass Sie Ihr Bestes tun werden die Vorgänge bei diesem Gerichte wahrheitsgetreu niederzuschreiben und wiederzugeben?"

Antwort des Berichterstatters: "Ich schwöre es, so wahr mir Gott helfe".

## 4. Versicherung.

Die Form der Versicherung ist dieselbe wie die für den Eid jedoch werden anstatt der Worte "schwöre bei Gott, dem Allmächtigen und Allwissenden" die Worte "versichere feierlich" verwendet.



415. MILITARY GOVERNMENT—Germany  
DEATH WARRANT

Case No. ....

TO: The Director or Officer in charge of .....

(Name and Location of Prison)

WHEREAS one (Name of Condemned)

was on the ..... day of ..... 194 convicted by a  
General Military Court at ..... of the crime of

and sentenced by such Court to the penalty of death; and

WHEREAS in accordance with Military Government Ordinance  
No. 2, Article VII, such sentence has been duly confirmed

NOW THEREFORE I hereby order you to execute such sentence  
within 24 hours of receipt of this warrant by the method prescribed  
in Section 13 of the German Criminal Code and for so doing this  
shall be sufficient warrant.

Upon execution of said sentence the return below will be  
completed and forwarded to this headquarters.

(Signature)

(Rank—Appointment)

RETURN OF WARRANT

The above sentence imposed on .....

was put into execution at .....

(Location) on ..... 194

(Hour)

(Signature and Appointment)  
Prison Official

(Countersignature and Rank)  
Military Government Officer  
and Identifying Witness

416. - EXECUTION OF DEATH SENTENCE

To: Commanding Officer  
General

(Organization)

Date ..... 194

You will put into execution forthwith by a firing squad the sentence  
of death imposed by a General Military Court at .....

194 on .....

(Date) (Name of Condemned)

who was convicted by such Court of the crime  
of .....

which sentence has been duly confirmed.

Upon execution, the certificate below will be completed by you  
and returned to this headquarters.

By Order of .....

(Signature and Title)

CERTIFICATE OF EXECUTION

The above death sentence imposed on .....

was put into execution at .....

on ..... 194 at .....

(Date) (Hour)

(Signature and Rank)

(Organization)

(Countersignature and Rank)  
Military Government Officer  
and Identifying Witness



MILITARY GOVERNMENT COURT  
MILITÄRGERICHT.Order for Release on Payment of Fine  
Entlassungsbefehl nach Bezahlung der GeldstrafeTo: The Officer in Charge of  
An den Leiter der(s)\*Prison  
\*Camp  
\*Strafanstalt  
\*Lagers

or any other prison or camp to which the prisoner may have been or hereafter be lawfully transferred:  
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in welches der Strafgefangene rechtmässig überwiesen worden ist oder späterhin überwiesen werden wird:

Whereas one

Der—

was committed to your custody by a Commitment dated 194  
eingewiesen in Ihre Strafanstalt (Ihr Lager) auf Grund  
des Einlieferungsbefehls vom

to be imprisoned for \_\_\_\_\_ in default  
zwecks Verbüßung einer Gefängnisstrafe von \_\_\_\_\_ wegen  
of the payment of a fine of \_\_\_\_\_, and  
Nichtzahlung einer Geldstrafe von \_\_\_\_\_

Whereas the fine has now been paid in full,  
hat jetzt die Geldstrafe voll bezahlt.

Now, therefore, you are hereby ordered to release the said  
Deswegen werden Sie hiermit angewiesen, den besagten

from custody and imprisonment on account of the said fine,  
aus der Strafanstalt (dem Lager) und der Gefangenhaltung  
wegen der besagten Geldstrafe zu entlassen;

such release to be effected  
die Entlassung soll stattfinden

\*forthwith  
\*sogleich

\*Upon completion of the service of the term of imprisonment of  
\*nach Verbüßung der Strafzeit von

\_\_\_\_\_ to which the accused has also been sentenced  
, zu der der Angeklagte ebenfalls verurteilt worden ist.

and for so doing this shall be sufficient warrant.

Diese Urkunde ermächtigt Sie zur Vornahme der Handlung.

Signed this \_\_\_\_\_ 194  
Gezeichnet am

(Presiding Officer)  
(Vorsitzender)

\*Summary  
\*Intermediate Military Court of  
\*General  
\*Einfaches  
\*Mittleres Militärgericht  
\*Oberes

(Address of Court)  
(Anschrift des Gerichts)

\*Strike out words not applicable  
\*Nichtzutreffendes ist durchzustreichen

## OPENING AND CONTROL OF GERMAN COURTS

501. General. Upon occupation of enemy territory all courts will be suspended, and the special courts established by the Nazi regime will be dissolved. As soon as possible after the establishment of Military Government in any given area, the reorganization of the judicial system in that area will be undertaken. Full information as to personnel and as to the condition of court premises, records, and cases on hand will be obtained and reported to the next higher Military Government staff or headquarters.

## 502. Procedure for opening of German Courts.

Two elements are involved in the opening of German Courts: (a) the denazification of judicial and other legal personnel and (b) selection of courts to be opened and the issue of directions to the selected judges and prosecutors regarding the opening of the court and the conduct of business. Methods of denazification are dealt with in Section 1, paras 9—11. The subsequent steps are dealt with in the following paragraphs.

## 503. Selection of Courts.

It is impossible to apply a uniform and rigid procedure to the opening of courts in different areas subject to varying conditions. Consequently a flexible system has been devised which should be applicable with minor adjustments to any situation likely to be encountered. This is based upon the following considerations:

(a) Since the decree of 27 September 1944 the Oberlandesgericht has practically ceased to function as a judicial organization. Although use may be made of it for administrative purposes (see para 507, below, it will be some time, on account of the above decree and of shortage of legal personnel, before it can be restored for judicial work.

(b) In accordance with the principle of indirect rule, control should therefore be assumed by Military Government at the level of the Landgericht and Amtsgerichte controlled through that court.

(c) In early stages it may be necessary to open one or more Amtsgerichte before it is possible to open a Landgericht.

## 504. Action to reopen Courts.

In accordance with the above the following documents have been provided (see Section 8):

- (a) Instructions to Judges of Amtsgerichte (A G 1);
- (b) Instructions to President of Landgericht (LG 1);
- (c) Instructions to Oberstaatsanwalt at Landgericht (LG 2);
- (d) Instructions to Judges No. 1 (IJ 1).

## 505. Use of Documents.

These documents should be used as follows:

(a) If it is necessary to take immediate steps to reopen an Amtsgericht before the controlling Landgericht can be reopened, the selected judge should be served with AG 1 and IJ 1. He will continue to act in accordance with these and further instructions, under the direct control of Military Government, until control over him is assumed by the Landgericht. It will be seen that under AG 1 his jurisdiction is strictly limited in the first stages to those matters of immediate concern to Military Government but that he is made responsible for submitting from time to time recommendations for the extension of such jurisdiction (within the limits laid down by German law) for the approval of Military Government. Weekly



reports are called for. Criminal cases beyond the competence of the Amtsgericht may, pending opening of the Landgericht, be dealt with by Military Government Courts in urgent cases.

(b) Documents LG 1 and LG 2 can be used (together with LJ 1) either in the event that it is decided to commence with the opening of a Landgericht before any Amtsgericht has been opened or in the event that some Amtsgerichte within the Landgericht area have already been opened. It will be seen that under these documents the Landgericht is assigned in the first instance the tasks of reopening the Amtsgerichte under its control and its own Criminal Chamber (Strafkammer). The President is made responsible for submitting initial and subsequent plans for the approval of Military Government. Weekly reports are called for.

(c) Document LJ 1 is the first of a series of instructions to be issued by Military Government to Judges generally.

(d) The above documents may be added to or adapted in accordance with the requirements prevailing in any individual locality or as directed by higher authority provided that basic policy is not interfered with.

#### 506. Distribution of Judges.

On account of the shortage of qualified personnel the best use must be made of such suitable judges and prosecutors as may be found. First, therefore, an economical scale must be used in early stages. As a rough guide, on the basis of the business assigned to the Amtsgericht by AG 1, it may be taken that one judge could deal with such business for a town of 50,000 inhabitants. If more than one suitable judge is found in an area of this size, the Legal Officer at the next higher echelon should be informed so that he can be used elsewhere. Secondly, judges must be used where they are most suitable. Accordingly, Document LG 1 permits the Landgericht President to recommend the transfer of judges where he considers this desirable. Such recommendations should be accepted unless there is some strong reason to the contrary.

#### 507. The Oberlandesgericht.

Although it may not be practicable for some time to reopen the Oberlandesgerichte for court business, it may be possible to make use of the President and of the Generalstaatsanwalt for administrative purposes, particularly for the supervision of legal personnel and of prisons respectively. Whether this can be done depends upon finding of suitable persons to fill these important posts. No appointments to these posts will be made without the approval of Supreme Headquarters to which recommendations should be submitted with full particulars (including copies of Fragebogen) and suggestions regarding the business to be dealt with when appointed.

#### 508. Publicity.

The German authorities should be instructed to make suitable arrangements to publicise the opening of any court.

### SUPERVISION OF GERMAN ORDINARY COURTS.

#### 509. General Methods of Control.

Refer to 544. a. Legal officers will, to the extent possible, deal with the highest judicial officer and prosecutor of the area available as to problems which confront the entire local judiciary. Below the ministerial level, the Prosecutors (Generalstaatsanwälte) at the Oberlandesgerichte

hold important administrative positions, particularly in the control of prosecutors of the lower courts and of the prisons. The local officials must not be permitted to transfer responsibility to the Military Government but should be compelled to make recommendations in writing with respect to every problem submitted. Directions should be given in writing to the highest German legal authority in the areas, and through him to subordinate officials.

b. The operations of German Courts will be closely observed and needed correction obtained through changes in personnel, directions to administrative officials, transfer of cases to Military Government Courts, and similar measures.

c. Reports of all activities of the German prosecutors and courts should be required at weekly or other suitable intervals. Legal officers will personally observe the working of the courts to the extent possible and investigate all complaints. They will make recommendations with respect to removal and replacement of personnel and will pay particular attention to prosecution and trials of cases of interest to the Military Government.

#### 510. Objectives.

The German Courts will be controlled and supervised in order to insure the following:

a. That the German Courts do not assume jurisdiction over any case reserved to the jurisdiction of Military Government Courts;

b. That proceedings in any pending case and class of case not hitherto reserved to the jurisdiction of Military Government Courts are transferred to such jurisdiction if the disposition of such case or class of case is likely to be affected by hostility towards, or be prejudicial to, interests of Military Government;

c. That the German Courts are not used as a vehicle for open or covert propaganda against or disrespectful references to Military Government;

d. That the German Courts do not apply any Nazi laws or concepts of jurisprudence, the application of which has been forbidden by Military Government;

e. That judgments and sentences passed by the German Courts are not influenced by bias in favour of or prejudice against any individual because of his opinions race, religion or colour, or by pressure from any special interests or national or local organisation;

f. That no one holds an appointment as judge, Staatsanwalt or other, court official or practices as a notary or lawyer except by permission of Military Government;

g. Generally, that the German Courts conduct their proceedings in conformity with all instructions issued by Military Government, and, in particular, with the following laws of Military Government;

Law No. 2—German Courts;

Law No. 5—Dissolution of Nazi Party

Law No. 1—Abrogation of Nazi Law.

511. Review of Cases. The power reserved to set aside or modify any sentence or judgment of a German court may be exercised at any stage and need not await appeal to the German appellate court functioning in the occupied area. Legal officers will report all cases which appear to require review through Military Government channels.



Refer to 546. 512. **Transfer of Cases.** Legal offences will similarly report cases or classes of cases which should be transferred from German courts for trial in Military Government Courts. In ordering such transfer use will be made of of Legal Fom. G. C. 1. (see Section 8 below).

547. 513. **Administrative Matters.** The principal problems in connection with German courts will be administrative, especially until direct control over the Ministry of Justice is established. Problems of personnel, premises, finance, communication and transportation may greatly impede the operation of courts; and every effort will be made, subject to military exigencies, to require the German authorities to deal promptly and effectively with these problems.

548. 514. **Judges and Lawyers.** The Rechtswahrerbund, the present Nazi organization of judges and lawyers which superseded the former central and regional associations, is abolished by Mil Gov. Law No. 5. Pending directions from higher authority, Legal Officers may find it useful to encourage the formation of provisional committees to propose plans for local organizations and to represent the bar in dealings with the Military Government. Such organizations would necessarily be unofficial and provisional.

549. 515. **Control of Notaries.** Legal officers will exercise close supervision and control over notaries, who are public officials, under administrative supervision of the Amtsgerichte. Their functions include drafting and attesting of conveyances, mortgages, powers of attorney, marriage settlements, wills and other documents, certifying inventories, protesting bills of exchange, acting as offices of record and as custodians of cash and securities.

516. **NOTARIAL DOCUMENTS.** Attention should be given to the preservation of notarial documents. In any case, where their safety appears doubtful, they should be ordered to be transferred to the Amtsgericht for safe custody.

517. **OATHS.** In accordance with Law No. 2 Article V no person should be permitted to act as a judge, prosecutor, notary or lawyer until he has taken the oath in the form therein set out.

In the event, that by reason of religious or conscientious scruples, any prospective judge, prosecutor, notary or lawyer is unwilling to take the oath in the form mentioned above, such oath may be modified by substituting for the words "I swear by Almighty God" the words "I solemnly affirm" and similarly, the final sentence of the oath "So help me God" may be omitted.

In such instances the German phrase "Ich versichere feierlich" will be used as the translation of the English phrase "I solemnly affirm".

Such a modified affirmation will be an acceptable qualifying oath under para 8 of Article V of Law No. 2.

#### 518. **Outline of Organisation.**

The scheme of organisation involved will embody the principle of indirect control exercised at the highest existing level, i. e. if the static phase in the occupation has been reached and a complete group of courts (Oberlandesgericht, Land- and Amtsgericht) has been opened; the point of control will be the Oberlandesgericht. The Senior Prosecutor (Generalstaatsanwalt) at, and the President of the Oberlandesgericht will receive instructions direct from the Military District Headquarters and will be answerable to it for ensuring that these instructions are obeyed in the lower courts. Instructions will not normally be issued to court officials by Headquarters at lower levels than Military District; functions of legal officers at such lower levels will mainly be inspection of the courts at their level to



ascertain and report matters which Military District Headquarters should correct by the issue of instructions to the Generalstaatsanwalt at, or the President of the Oberlandesgericht. The main study and analysis of cases will be at Military District Headquarters on the basis of consolidated reports submitted by the Oberlandesgericht.

#### 519. Reports by Court Officials

The Senior Judge and the Senior Prosecutor (Staatsanwalt) at each court will be required:

(a) To forward

(1) The weekly report called for by Documents A. G. I. and L. G. I

(2) The fortnightly report called for by Document L. G. 2.

(b) To report within 24 hours any case in which the death penalty has been imposed and to stay execution of sentence until receipt of instructions from Military Government.

Directions issued when the courts are opened will specify the Headquarters to which the reports are to be sent and also the channels of transmission.

#### 520. Supervision Procedures. (Criminal Cases.)

The objectives of supervision are specified in paragraph 510 above. The manner and extent of this supervision will depend upon varying factors such as the phases of the military occupation, the number and type of courts open in any particular area, the volume of business in these courts, the estimated reliability of the court officials and the number of legal officers available. It is not therefore, proposed to prescribe any detailed routine of procedure. The duties of legal officers will, however, include the following:

(a) In conjunction with Public Safety Officers to study the list of cases awaiting trial and note and watch the progress of cases which are of interest to the Military Government. Under form I. J. I. judges are instructed to report to Military Government all cases under certain sections of the criminal code in which Military Government is interested. These cases should be carefully followed.

(b) From time to time, to visit the Court without previous warning and watch the conduct of the proceedings. The inspecting officer should, in general, sit beside the judge having previously inspected the judges papers in order to familiarise himself with the cases, but will take no part in the proceedings. This course should be taken sparingly and only by Legal Officers with a good understanding of the German language and German legal procedure. It is of value mainly as a demonstration of the effectiveness of Military Government control and care should be taken to present it formally in this character.

(c) At regular intervals, to inspect the court's register and original case files in order to test whether the weekly returns have been accurately made. Legal officers will not be expected to make a 100 per cent. check or study of the register or of the case files but will study a certain proportion of cases selected arbitrarily and all cases in which Military Government is interested in order to determine whether cases are being disposed of in a manner conforming to the objectives specified in paragraph 1 above. They will pay special attention to cases where the accused has been acquitted.



(d) From time to time to check the report of cases investigated but not brought to trial against the record of prison releases in order to insure that the report is accurate.

(e) To study the summary of criminal cases in order to obtain information and indications about such matters as the state and trends of crime in the area, the impact of Military Government on the civil population, the efficiency of the local German administration, etc.

(f) To insure that sufficient publicity is given in appropriate cases of interest to Military Government to the sentences imposed by the courts.

(g) To hold regular meetings with the President of the Court and the Senior Prosecutor, and, if not satisfied with regard to explanations given on any point, to request written reports to be submitted for reference to higher authority, if necessary.

(h) Having regard to the objectives specified in paragraph 1 above, to take such action within their competence and submit to higher authority through appropriate channels such reports, recommendations, and requests for directions as may be appropriate in respect of the following matters.

(1) suspension or trial by the Military Government Courts of any judge, Staatsanwalt, court official, notary or lawyer;

(2) stay or transfer of any case to the jurisdiction of the Military Government Courts;

(3) review of any concluded case with a view to re-trial by a Military Government Court or mitigation of sentence (including death sentence);

(4) any other matter arising out of the supervision of the German courts.

Legal officers will make no attempt to dictate the action to be taken by the court in any particular case.

#### 521. Supervision Procedures. (Civil Cases.)

The degree of supervision required will depend upon the types of civil courts which are opened, the classes of cases to be tried, and the prevailing conditions at and after the date when each court is opened.

(a) Legal officers will carry out periodical inspections of judgments rendered by the courts and, if necessary, will require a separate file to be kept at the courthouse containing a duplicate copy of each judgment. They will study any cases which are of interest to Military Government.

(b) They will also carry out such supervision over the non-contentious business of the court (Freiwillige Gerichtsbarkeit), including inspection of any court registers which are opened, as may be necessary to assist the work of other M.G. officers.

#### 522. Military Government Detachment Functions

Military Government detachments will be concerned with the immediate supervision of the Amtsgerichte in their areas. This will include:

(a) assisting in carrying out the prescribed procedure for vetting the judges, prosecutors and court and administrative officials attached to such courts and in eliminating unreliable persons from such activities, and substituting reliable personnel;

(b) supervising the handling of civil and criminal trials, the remand prisons (for accused persons held for trial), and the administrative services such as the Grundbuch (registry of land titles), the regulation of activities of notaries, etc., to assure that the German personnel are conducting such activities in accordance with policies established by the Military Government in its enactments and its instructions to the German authorities;

(c) assuring that the Amtsgerichte are keeping the records and making the reports required by such directions, and reporting to higher headquarters court activities requiring investigation or correction;

(d) keeping higher headquarters advised as to particular cases or classes of cases in the Amtsgerichte that should be transferred to Military Government Courts because of danger to Allied interests of permitting trial thereof by German courts (on account of local prejudices, pressure from German officials, etc.).



## SECTION 6.

## THE ADMINISTRATION OF JUSTICE IN GERMANY.

520. 601. THE GERMAN MINISTRY OF JUSTICE. The REICHS-MINISTERIUM (Ministry of Justice) headed by the Reich Minister of Justice, a member of the Reich Cabinet, supervises the administration of justice in Germany. It contains the following departments: I. Personnel and Organization; II. Personnel Training; III. Criminal and Juvenile Legislation; IV. Criminal Procedure; V. Penal Administration (Prisons); VI. Private Law and Civil Procedure, Peasant Law; VII. Commercial Law, Public Law and International Law; VIII. Budget and Financial Questions, Administration of Lands and Buildings, Salaries and Pensions, Business Routine.

Refer to 521. 602. COURTS AND TRIBUNALS SUPERVISED BY THE MINISTRY. The Ministry controls and supervises:

a. The ordinary courts of general civil and criminal jurisdiction which constitute a hierarchy consisting of: Reichsgericht (Supreme Court), Oberlandesgerichte (Courts of Appeal of 2nd and 3rd instance), Landgerichte (Courts of 1st and 2nd instance), Amtsgerichte (Courts of 1st instance) and, in Baden and Württemberg, Gemeindegerichte (Municipal Courts);

b. Courts with jurisdiction in special fields of law:

I. Reichsarbeitsgericht (Supreme Labor Court), Landesarbeitsgerichte (Labor Courts of Appeal), Arbeitsgerichte (Labor Courts of 1st instance). In administrative matters the Ministry of Labor exercises a concurrent jurisdiction.

II. Oberstes Fideikommissgericht (Supreme Entailed Estate Court), Fideikommissenate (Entailed Estate Courts of Appeal), Fideikommissgerichte (Entailed Estate Court of 1st instance).

III. Erbhofgerichte (Peasant Holding Court of Appeal), Anerbengerichte (Hereditary Peasant Courts of 1st instance).

IV. Entschuldungsämter (Tribunals for Liquidating Agricultural Indebtedness).

V. Erbgesundheitsobergerichte (Hereditary Health Courts of Appeal), Erbgesundheitsgerichte (Hereditary Health Courts of 1st instance).

VI. Schifffahrtsobergerichte (Courts of Appeal for inland navigation), Schifffahrtgerichte (Courts of 1st instance for inland navigation).

VII. Oberpreisenhof (Prize Court of Appeal), Preisengerichte (Prize Courts of 1st instance).

VIII. Dienststrafenrat (Supreme Disciplinary Court for judicial officers), Dienststrafkammern (Disciplinary Courts of 1st instance);

c. Special Courts with criminal jurisdiction over offences against the State and the Nazi Party consisting of:

I. Volksgerichtshof (Peoples Court).

II. Sondergerichte attached to Landgerichte.

603. OTHER AGENCIES SUPERVISED BY THE MINISTRY. These include:

a. Reichspatentamt (Patent Office).

b. Reichskommissar Feindlichen Vermögens (Controller of Enemy Property).

c. Reichsjustizprüfungsamt with Prüfungsstellen (Office for the Examination of judges, lawyers and public prosecutors).

- d. Akademie für Deutsches Recht (Academy for German Law).
- e. Reichsnotarkammer (Reich Chamber of Notaries).
- f. Notarkasse (Notary Fund).
- g. Reichsrechtsanwaltskammer (Reich Chamber of Lawyers) with Rechtsanwaltskammern (Local Chamber of Lawyers).
- h. Patentanwaltskammer (Chamber for Patent Agents).

604. TRIBUNALS AND JUDICIAL ORGANIZATIONS NOT CONTROLLED BY THE MINISTRY. There are a number of special tribunals having some of the attributes of courts, including the following which are supervised by the ministries indicated:

- a. Administrative Courts in the Länder (States) with the Reichsverwaltungsgericht as the Supreme Administrative Court of the Reich.
- b. Dienststrafkammern (Disciplinary Courts) for civil servants.
- c. Reichsversicherungsamt (Reich Insurance Office), the supreme tribunal for the settlement of social insurance claims, with Versicherungsämter (insurance offices) in lower instances.
- d. Reichskriegsschädenamt (Reich War Damage Office) attached to the Reichsverwaltungsgericht and having jurisdiction over claims for compensation for war damage.
- e. Reichsversorgungsgesetz (Reich Pension Court) for deciding pensions resulting from war service, and Versorgungsgesetze (Pension Courts of lower instance) supervised by the Ministry of Labor.
- f. Reichsfinanzhof (Supreme Reich Tax Court) with Finanzgerichte (Tax Courts) supervised by the Reich Ministry of Finance.

605. ORGANIZATION OF THE ORDINARY COURTS.

(a) Until 1944 four types of ordinary courts existed in Germany: the Amtsgerichte, Landgerichte, Oberlandesgerichte and the Reichsgericht. Refer to 524

(b) The Amtsgericht has jurisdiction over civil litigation where the subject matter is not worth more than 1500 RM. It has also jurisdiction in criminal matters, but cannot inflict punishment of more than 5 years of hard labor or of imprisonment. Part of the Amtsgerichte are departments conducting certain administrative tasks such as the charge of the Register of Landed Property (Grundbuch), the Register of Matrimonial Estates, the Register of Associations, the Commercial Register (Handelsregister), the enforcement of judgments of all kinds of courts, the grant of probate, the supervision of bankruptcies (Konkurs) and the of guardians. The Amtsgericht officiates always in departments consisting of a single judge.

(c) The Landgerichte have jurisdiction over all civil litigation where the subject matter in dispute is worth more than 1500 RM and over all matters relating to divorce and nullity of marriage. In criminal matters the Landgericht has jurisdiction in all matters which are outside the jurisdiction of the Amtsgericht. Formerly an appeal lay in many matters from the Amtsgericht to the Landgericht, but this has been suspended in 1944. The Landgericht officiates in civil litigation in chambers (Kammern) consisting of one judge and in criminal matters in chambers of three judges.

(d) Oberlandesgerichte are established within districts approximately the size of a province. Prior to 1944 they officiated in civil matters as courts of appeals against decisions of the Landgerichte.

(e) The Reichsgericht officiates in Civil and Criminal Senates. It heard formerly appeals against decisions of the Oberlandesgerichte. Now it is confined to hearing appeals in those cases where the Amtsgericht or Landgericht has given leave to appeal.



Before the war laymen sat as assessors in the criminal departments of the Amtsgericht and the Civil Chambers of the Landgericht, but in 1939 all lay assessors were abolished, allegedly to save man power.

(f) Attached to the Reichsgericht, the Oberlandesgericht and the Landgericht are Offices of Public Prosecutors at the various levels. These officials have also certain responsibilities over prison administration. The Public Prosecutors at the Oberlandesgerichte (Generalstaatsanwälte) have important supervisory and disciplinary function over the personnel of the offices and public prosecutors at the Landgerichte. Attached to the Amtsgerichte are public prosecutors (Amtsanwälte) who are under the supervision of the public prosecutor at the Landgericht of the district in which the Amtsgericht is situated.

(d) Before all Courts with the exception of the Amtsgericht the parties must in civil matters be represented by an Attorney (Rechtsanwalt) who must be admitted at the Court in question. Many Rechtsanwälte are at the same time public notaries (Notare) in which capacity they officiate in connection with conveyancing, making of wills, the formation of companies, etc.

#### 606. EFFECT OF RECENT LEGISLATION.

Refer to 525. A decree of September 27, 1944, published in the Reichsgesetzblatt, Part I, p. 229, contains a number of sweeping measures with go far towards suspending the normal system of administration of justice.

The most important provisions of the decree deal with litigious and non-litigious procedure, and with the extended use of not fully trained lawyers for judicial and other legal functions. Apart from that, a number of provisions are designed to reduce the administrative business of law courts, in such different fields as the keeping of public registries, the supervision of minors and supervisory activities in the settlement of wills.

(a) Measures affecting the administration of justice.

(I) Litigation (Streitige Gerichtsbarkeit).

Paragraph I completely eliminates the right of appeal against a decision of an Amtsgericht or a Landgericht in civil matters. An appeal on points of law (Revision) only goes to the Reichsgericht, provided such an appeal is granted by the lower court.

The same principles apply to labour litigation, where the Reichsarbeitsgericht takes the place of the Reichsgericht.

The result of this is that the court of appeal (Oberlandesgericht) in civil matters, and the Landesarbeitsgericht in labour matters have altogether ceased to function. Any remaining competences of these two courts are transferred to the competent Landgericht which decides with one judge only. All the remaining competences of the Oberlandesgericht (in matters of entail, public charities, etc.) are transferred to the Landgericht, and its supervisory functions over the administration of enemy property to the Ministry of Justice. Since criminal appeal jurisdiction to the Oberlandesgericht has already been eliminated by previous measures, the effect is that the Oberlandesgericht has altogether ceased to function, although this is not expressly stated in the decree.

(II) As a corollary to these provisions, practising lawyers hitherto admitted to practice before the Oberlandesgericht are given the right to appear before any Landgericht within the district of the Oberlandesgericht. Before the Landgericht a judge now has authority to give dispensation to a party from being represented by a lawyer

(Rechtsanwalt) where an adequate legal representation is not possible or such dispensation is convenient for other reasons. In such cases the judge may order another suitable person to represent the party. This is a revolutionary innovation; until now professional representation by a Rechtsanwalt has been compulsory before all courts above the Amtsgericht and the Arbeitsgericht. While this provision is obviously dictated by an acute shortage of lawyers, it may also express the recent tendency of Nazi jurisprudence to weaken the professional element in the administration of justice in favour of the layman.

(b) Legal Training.

A decree of May 16, 1942 (Reichsgesetzblatt I, page 333) had made it possible to entrust a Referendar, after 15 months of preparatory service, (compared with the normal 3 years) with the business of a judge, a public prosecutor or a practising lawyer. The necessary length of preparatory service has now been reduced to 9 months.

(c) Various other simplification measures.

Other measures range over a great variety of judicial business. The most important measures of general interest are the following:

(I) The business of the land registry (Grundbuch) is severely cut down. Entries are to be made only where special reasons, such as the necessities of the conduct of war, rectification of errors and entries by way of enforcement of judgments make the matter urgent. All other entries, including copies, certificates and information, also official entries designed to remove incorrect entries from the Grundbuch, are suspended. Similar restrictions apply to entries in the ship register (Schiffsregister) and in the registers for associations (Vereinsregister), for property arrangements between husband and wife (Güterrechtsregister) and for commercial matters (Handelsregister).

(d) In general the new measures are dominated by the extreme emergency situation and the necessity for the utmost economy in manpower. They amount to a practical standstill of the normal administration of justice. Moreover, they incidentally contain some changes of fundamental importance such as the admissibility of replacing professional lawyers by other persons before the courts and the absolute elimination of the court of appeal as the intermediate instance between the lower courts and the Reichsgericht. The present state of affairs could hardly be considered even as an emergency basis for the administration of justice in post-Nazi Germany.

#### 607. GERMAN LAW AND NAZI CONTROL.

(a) There are fundamental differences between Anglo-American Refer to 526. law and German law and corresponding differences with regard to legal practice and the administration of justice. These differences which are due to the difference in the historical development of these legal systems, have lately been further increased as a result of the influence of the Nazi system upon the theory and practice of the law.

(b) The bulk of German law is contained in a number of codes. These are supplemented by individual statutes. There is nothing comparable to either the English common law or to equity. All judicial activity proceeds in the form of interpretation — even though often a very free interpretation — of the codes and statutes. Many important elements of German law are derived from Roman law,



although in the last few decades there has been a revival of Germanic legal ideas. Canon law and the scholastic tradition have also had their share in the shaping of German legal tradition. Roman legal influence is especially strong in the Civil Code (Bürgerliches Gesetzbuch) in which most of the private law of the country is contained. This Code consists of five books. The first is a general part which deals in abstract terms with general conceptions applicable in all parts of private law, such as the law of persons, statutes of limitations, etc. The second book deals with contracts and torts, the third with the law of property (both movable and immovable), the fourth with the law of domestic relations and the fifth with the law of succession. There are furthermore Codes of Civil Procedure, Commercial Law, Criminal Law, Criminal Procedure, laws relating to bankruptcy, patents, copyrights, companies, juvenile criminal law, the constitution of the courts, social insurance, taxation, the legal position of civil servants, the law of municipal government, the law of attorneys and notaries and many other matters. Many important laws enacted during the Nazi period, deal only with a few short points and must be read in connection with the older more fundamental laws.

(c) Judgments of the Courts, even of the Reichsgericht, have no binding force, but a very strong persuasive authority. They are written by the judges and the official text is published in official reports or private legal publications. Law reporting as practised in Great Britain and the U.S.A. is therefore not required. Many laws contain wide general clauses which enable the judges to develop the law in accordance with the economic, social and ideological requirements of the times. During the Nazi period this system of general clauses has been further extended and many general conceptions have been introduced for the interpretation of which the Nazi ideology was considered as binding upon the judge. Thus a rule was introduced into the Criminal Code enabling the judge to punish a person although the act committed by latter was not a criminal offence designated as such in the Code, provided the act deserved punishment in view of the basic idea of one of the rules of the Criminal Code and in accordance with sound popular instincts. The phrase "sound popular instincts" has since been used in different connections in a number of other laws.

(d) Legal writings, especially commentaries can be quoted as persuasive authority in the German Courts and are often referred to as such in judgments. They constituted a further means of strengthening the control of Nazi ideology over German law as nearly all the works published after 1933 are strongly influenced by Nazi ideas. During the Nazi period more new laws were enacted than during any other period in German legal history. Often the statutes themselves contain only a few leading principles, the details being contained in numerous carrying-out orders and ministerial decrees, issued under very far reaching powers granted to the individual Minister in the main law.

(e) Under the Nazi regime the Ordinary Courts were deprived of jurisdiction over offences committed by members of the SS, the Police and the Gestapo. Special courts to deal with such offences and Party Courts for disputes between Party members were created. There were also special criminal courts (Sondergerichte) which tried any offence with a political character, including listening to foreign broadcasts and offences against the price restrictions. The most serious political offences were tried by the "People's Court", which constituted one of the most dreaded instruments of Nazi terror. The courts have held that they had no power to question the legal validity or the appropriateness of any political decision. This

term has been so widely interpreted as to exempt the Gestapo and many branches of the administration of both the State and the Party completely from the control of the courts. Nothing comparable to what has been called the "Rule of Law" in Great Britain and the U.S.A. could be considered as in existence in Nazi Germany.

## SECTION 7.

OUTLINE OF GERMAN CRIMINAL LAW  
AND PROCEDURE

(With extract from the German Criminal Code)

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FOREWORD

The survey and extracts contained in this section give an account of German Criminal Law and Procedure as it stood at the time of the surrender of Germany. Changes which have been or will be made under Military Government will be contained in Military Government Enactments and Instructions.

701

INTRODUCTION.

The principal sources of prevailing criminal law and procedure are three comprehensive codes, namely:

- (1) the Criminal Code (Strafgesetzbuch, StGB) of 1871;
- (2) the Code of Criminal Procedure (Strafprozessordnung, StPO) of 1877;
- (3) the Judicature Act (Gerichtsverfassungsgesetz, GVG) of 1877.

In the course of time, these codes have been altered by numerous amendments. In addition, a steadily growing number of laws and ordinances has supplemented the Codes. In more recent years, several distinct phases affecting the law of the Codes can be discerned: Firstly, certain emergency legislation was passed during the currency crisis of the early twenties and during the economic depression of the early thirties. Secondly, there was the impact of National Socialism. Thirdly, far-reaching changes have been effected by the enactment of war simplification measures. The nature of these changes gives the law now in force a somewhat transient character, and for that reason the following description includes certain of the earlier features which may possibly be restored in more normal times; this will permit a better understanding of the system as a whole. Nazi innovations which have been abolished by the laws of the Military Government are largely passed over.

702.

CRIMINAL PROCEDURE.

A. The Machinery of Criminal Justice Organisation and Jurisdiction of Ordinary Criminal Courts.

a. A hierarchy of four courts of law is entrusted with ordinary jurisdiction. These are, from inferior to higher courts respectively;

- (1) Amtsgericht;
- (2) Landgericht;
- (3) Oberlandesgericht;
- (4) Reichsgericht.

b. Before the war, original jurisdiction in criminal matters was exercised by the following courts:

- (1) The Amtsgericht

Cases were tried either by the Amtsrichter or by a Schöffengericht being a mixed bench consisting of the Amtsrichter and two Schöffen (lay assessors). Schöffengerichte were established only at the larger Amtsgerichte. Their jurisdiction extended to the territory of those Amtsgerichte where no such Schöffengericht existed. During the war the Schöffengericht was abolished, but cases which would have come before it may still be brought before the single judge at those larger Amtsgerichte where the Schöffengericht used to sit. This practice avoids a scattering of more important criminal cases.

- (2) The Landgericht.

Until September 1st, 1939, the Criminal Division of the Landgericht sat either as Grosse Strafkammer (3 judges and 2 lay assessors).



sors) or as Kleine Strafkammer (1 judge and 2 assessors). The former was the Court of first instance for all major criminal matters which exceeded the competence of the Amtsgericht, and as Court of Appeal against judgments of the Schöffengericht. The latter acted as Court of Appeal against judgments of the Amtsrichter.

By a Decree of September 1st 1939, one type of Strafkammer consisting of 3 professional judges was substituted. It exercises both the functions of an Appeal Court against judgments of the Amtsgericht, and the functions of a Criminal Court of first instance for major criminal offences which the Staatsanwalt brings before it. Very serious cases were formerly referred to the Court of Assizes (Schwurgericht) consisting of 3 professional judges and 6 jurors (Geschworenen). The Schwurgericht convened for several sessions each year. At the outbreak of the war the Schwurgericht was abolished. In 1944, the Strafkammer was reduced to one judge only.

c. Before the war, both the accused (Angeklagter) and the public prosecutor (Staatsanwalt) had the right of appeal (Berufung or Revision) from the decisions of a criminal court of original jurisdiction. If the trial (Verhandlung) had been conducted before the Amtsgericht, the party had the alternative of making either an appeal on facts and law (Berufung) to the Appellate Divisions of the District Court (Berufungsstrafkammer des Landgerichts) or an appeal restricted to points of law (Revision) to the Court of Appeals (Oberlandesgericht). From the Strafkammer as Court of first instance or from the Schwurgericht, there was only a Revision to the Reich Supreme Court (Reichsgericht).

d. Each of the criminal courts of first instance had its own jurisdiction, based largely on the degree of punishment imposed by law for specific offences. Thus offences punishable with a fine or with imprisonment (Gefängnis) were tried before the Amtsgericht, and offences punishable with penal servitude (Zuchthaus) up to ten years were brought before the Strafkammer. Capital cases and perjury cases were tried before the Schwurgericht. This simple system was made flexible by several exceptions and by a certain discretionary power granted to the Staatsanwalt.

e. The above system has been radically altered under the Nazi regime. The establishment of the Special Courts (Sondergerichte) and of the People's Court (Volkgerichtshof) has deprived the ordinary criminal courts of jurisdiction in many cases. Also, there is no appeal from these two courts. They have been abolished by Law No. 2 of Military Government.

The right to appeal from the two remaining criminal courts has been severely curtailed. From the Amtsgericht an appeal lies to the Strafkammer and from the Strafkammer as Court of First Instance a Revision may be made to the Reichsgericht.

Recent war simplification measures have restricted these appeals to exceptional cases in which leave to appeal has been granted by the trial court. The right of appeal will be gradually restored under Military Government.

The jurisdiction of the criminal courts of original jurisdiction no longer depends on the punishment provided by law for the particular offence. The Amtsgericht now has general power to impose sentences not to exceed five year's Zuchthaus, but may not impose preventive detention (Sicherungsverwahrung) or order castration (Entmannung). The Staatsanwalt may bring the case before the Amtsgericht if he believes the sentence will remain within the above limits otherwise, he will prosecute the case before the Strafkammer. If the Amtsrichter believes that the sentence should be more than he is authorized to inflict, he may refer the case to the Strafkam-



mer. The latter may try any case, including those in which the sentence remains below the 5 years' limit.

### 703. Organisation and Jurisdiction of Juvenile Courts.

a. Juvenile Courts (*Jugendgerichte*) to try offences committed by juveniles (*Jugendliche*) between 14 and 18 years of age were established for the first time in 1923. A judge, usually the one in charge of guardianship matters, acted as Juvenile Court Judge (*Jugendrichter*). He was given the power to impose punishments ranging up to ten years' *Gefängnis*, or to resort to educational measures (*Erziehungsmassregeln*), e. g. impose special conditions or protective supervision (*Schutzaufsicht*) or compulsory education in an institution or a foster-family (*Fürsorgeerziehung*). Such educational measures could be pronounced by judgement (*Urteil*), or the case could be referred to the Guardianship Section (*Vormundschafts-Abteilung*) of the *Amtsgericht* where the same judge would be in a position to apply the measures in an informal and flexible procedure. The Juvenile Court relied greatly on the co-operation of social welfare agencies.

b. Under the Nazi regime, the law concerning juvenile offenders has been re-codified in the Juvenile Court Act (*Jugendgerichtsgesetz*) of 1943. Jurisdiction over juvenile offenders has been assigned to both the *Amtsgericht* and the *Strafkammer* of the District Court. The traditional dual system of ordinary punishments and educational measures has been supplemented by a third of sanctions, namely disciplinary measures (*Zuchtmittel*). The most prominent disciplinary measure is youth arrest (*Jugendarrest*), which involves detention in a special institution for terms varying from one day to four weeks. Juveniles may be punished only by *Gefängnis*; fixed terms range from three months to ten years; an indeterminate sentence (*unbestimmte Verurteilung*) may be imposed with a range of from 9 months up to a maximum of 4 years. The age limits are no longer so rigid as in the past. Children between the ages of 12 and 14 years now be brought to trial in the same manner as older juvenile offenders, while juveniles who are considered to be serious criminals may be punished like adults, thus exposing them even to capital punishment. Inmates of a youth prison (*Jugendgefängnis*) may be turned over to the police for indefinite detention in special youth protective camps (*Jugendschutzlager*).

### 704. The *Staatsanwalt*.

a. The prosecution of criminal offences is the function of a non-judicial office which forms part of the administration of justice the *Staatsanwaltschaft*. Offices of the *Staatsanwaltschaft* are attached to all criminal courts. They are:

at the <i>Reichsgericht</i> :	the <i>Oberreichsanwalt</i> ,
at the <i>Oberlandesgericht</i> :	the <i>Generalstaatsanwalt</i> ,
at the <i>Landgericht</i> :	the <i>Oberstaatsanwalt</i> ,
at the <i>Amtsgericht</i> :	partly the <i>Oberstaatsanwalt</i> at the <i>Landgericht</i> , partly the <i>Amtsanwaltschaft</i> .

With the exception of the *Amtsanwälte*, the *Staatsanwälte* must be trained lawyers. Unlike judges they have to obey the orders of their superiors who may also intervene by assigning a case to another *Staatsanwalt* or by assuming it themselves.

b. The *Staatsanwalt* directs preliminary investigations (*Ermittlungsverfahren*). Before 1934, when Germany did not have a national Criminal Police (*Reichskriminalpolizei*), the *Staatsanwalt* normally conducted investigations using the police as his "auxiliaries" (*Hilfsbeamte*). While the law still proclaims this to be the case,



the actual situation has been reversed in recent years. The police now act independently of the Staatsanwaltschaft, and they submit their report only after completing the investigation, together with a summary of their findings and a recommendation for action by the prosecuting authorities. The Staatsanwaltschaft, however, is not bound by the police report and may request additional investigations.

c. The Staatsanwaltschaft has now been empowered to use compulsory measures which, before the war emergency, were reserved for judges. Such measures are warrants of arrest (vorläufige Festnahme), search (Durchsuchung) and seizure (Beschlagnahme), seizure of mail (Beschlagnahme auf der Post), perusal of documents (Durchsicht von Papieren) and viewing of a Body (Leichenschau). This increase in the powers of the Staatsanwalt, while significant from the legal point of view, sanctioned a practice which the police had increasingly adopted, though without legal authority, under the Nazi regime. Heretofore, the police were permitted to take compulsory measures only in emergencies, and judicial sanction had to be secured afterwards.

d. In principle, the Staatsanwalt must direct a preliminary investigation as soon as he becomes aware of a suspected criminal offence. At one time, all offences had to be prosecuted and the Staatsanwalt had no discretion (Ermessen) which would have permitted him to drop the prosecution in cases he considered unimportant. This rule was relaxed for the first time in 1924, when the law was amended with respect to contraventions; they need only be prosecuted if this is necessary to protect the public interest. Under more recent war simplification measures, the prosecutor may refrain from prosecuting delicts (Vergehen) if the offender's guilt is slight and the consequences of the act insignificant (Sec. 153 (2) StPO). Even crimes (Verbrechen) must be prosecuted only if necessary to protect the community (Volksgemeinschaft) during the war emergency.

e. When the Staatsanwalt decides that the case should be brought to a trial, he submits a charge sheet (Anklageschrift) and asks the court to fix a date for the trial. Before 1943, he asked the court to open the trial procedure formally (Eröffnungsbeschluss), but this formal action has now been replaced by the simple act of fixing a trial date. If the case is to be dropped, the Staatsanwalt stops the proceeding (Einstellung des Verfahrens). The accused is to be informed if he was interrogated by the judge; otherwise it is not necessary to let him know. Informants whose report (Anzeige) led to the preliminary investigation used to be informed if the procedure was discontinued; this too was abolished by a war decree.

The Staatsanwalt often applies for a Penal Order (amtsrichterlicher Strafbefehl). This is an order by the Amtsgericht imposing Freiheitsstrafe up to 6 months or fines (Geldstrafen). It has the force of a final judgment if the accused does not object (Einspruchserhebung) within 2 weeks after receiving it. Upon objection (Einspruch) the Amtsrichter will fix a date for trial and the case will proceed as do those initiated by regular charge sheet. Strafbefehle are used mostly in cases where the facts are quite clear and it is expected that the accused will submit to the sentence without trial.

f. At the trial (Verhandlung) the Staatsanwalt has the legal position of a party (Partei). A representative of the Staatsanwaltschaft must be present throughout the trial, though not necessarily the same Staatsanwalt who initiated the case. He may submit evidence (Beweisanträge) and with the approval of the presiding judge, ask witnesses (Zeugen) and experts (Sachverständige) specific questions.

After the hearing of the evidence (Schluss der Beweisaufnahme), he addresses the court on the questions of guilt (Schuldfrage) and punishment (Strafmass), and he may reply again to the pleadings (Schlussvorträge) of the defence, subject to the accused's right to have the last word (das letzte Wort). After final judgment and sentence by the court, he has the right of appeal which he may exert even in favour of the accused (Section 296 StPO). Even if no further ordinary legal remedies are applicable, the Oberreichsanwalt at the Reichsgericht may bring the case before the Reichsgericht within one year. He may do by either the Extraordinary Objection (ausserordentlicher Einspruch) or by the Complaint of Annulment (Nichtigkeitsbeschwerde). The first of these extraordinary remedies was introduced in 1939 for the purpose of political control; the other was established in 1940 and may in most cases be based on the assertion that the judgment is unjust in view of the proven facts, the law applied, or the sentence inflicted. It served as a useful though very limited instrument against the many judgements of Sondergerichte and of the Volksgerichtshof against which no ordinary remedy was permitted. With the abolition of these Courts and the suspension of the Reichsgericht these dangerously wide remedies formerly unknown to the German Law, have ceased to operate.

g. After conclusion of the trial, the Staatsanwaltschaft assumes responsibility for the execution of all sentences (Strafvollstreckung) except those pronounced by the Amtsrichter, who attends to the execution of all sentences imposed by him. This is purely an administrative function, while the actual serving of the sentence (Strafverbüßung) is in charge of special penal agencies (Strafvollzugsbehörde). In this capacity, the Staatsanwalt is required to turn over to the executioner persons sentenced to death, to summon or arrest convicted persons to serve their prison sentence, or to demand the payment of fines and, if necessary, to seize and sell the property of convicted persons in order to obtain funds for their payment.

The Generalstaatsanwalt at the Oberlandesgericht also exercises certain administrative functions. He supervises all penal institutions located in his district, acting as an intermediate administrative authority between the Reichsminister of Justice and the local institutions. The Staatsanwalt at some smaller Landgerichte may be in charge of a court prison (Gerichtsgefängnis). They are used mainly for prisoners awaiting trial (Untersuchungsgefangene) and those serving short sentences.

h. The Staatsanwalt also acts as the so-called Gnadenbehörde, that is he investigates and makes recommendations as to remission of sentences. He is not himself empowered to grant the remission of sentences (Straferlass), but makes reports to the higher authorities. In case no grounds for remission are indicated, the Staatsanwalt may decline applications in the name of the Reichsminister of Justice. However, the public prosecutor has the power to suspend conditionally fines and prison sentences up to one year (bedingte Strafaussetzung), and to grant final remission after the expiration of the probation period (Bewährungsfrist).

#### 705. Police.

a. As stated above, the creation of a Reichskriminalpolizei has had profound effects on both the participation of the police in criminal investigations and on the powers of the Staatsanwaltschaft. The other branches of the Police, such as the Order Police (Ordnungspolizei) and the Gendarmerie, continue to deal with the detection and investigation of crimes, but the direction and the more technical investigations are now centralized in the hands of the Criminal Police who are experts in criminology.



The new position of the police has not been brought about by changes in the Code of Criminal Procedure. The provisions of the Code still restrict compulsory measures of the police to emergency cases, but the Decree for the Protection of the People and the State of 28 February 1933 (RGBl. I 83) as amended permits arrests, searches, seizures and interference with the postal services even outside the limits established in specific laws. This decree gave the police considerable power in criminal investigations and made it quite independent from the judiciary, who were alone entitled to order compulsory measures.

b. The police may interrogate persons or summon (*vorladen*) them to give information. There is, however, no legal compulsion to make a statement before the police, nor are the latter entitled to administer an oath. According to the Code of Criminal Procedure, statements made before the police are to be forwarded to the *Staatsanwalt* without any undue delay, but in recent practice the police used to complete the investigation and prepare a summary of their findings before submitting the file to the prosecuting authorities. Statements made to the police are not admissible as evidence, and the police official in charge of the interrogation must appear in person as witness before the trial court. Statements made before a judge have a higher status; they may be used as evidence before the trial court. A judicial interrogation (*richterliche Vernehmung*) is necessary whenever it is doubtful whether the witness will be present at the trial, e.g. the severely wounded victim of an assault.

Police records (*Protokolle der Polizei*) may be used (1) to refresh the memory of a witness, or (2) to clarify inconsistent statements of a witness.

c. The police may seize (*beschlagnahmen*) objects which are to serve as evidence or which are instruments or products of an offence. The first group comprises documents or articles which will be inspected by the judge or an expert, e.g. a broken drawer, a bottle with poison. The second group comprises weapons, false keys, forged documents, counterfeit coins, etc. Correspondence between the accused and his near relatives or his doctor or counsel is exempt from seizure, if the documents are in the possession of such relatives, doctor and counsel. The same applies to the seizure of mail from the Post Office which is reserved to the *Staatsanwalt* who, before the war simplification statute of December 1944, had to turn it over untouched to the judge.

d. The conditions permitting searches are wider in scope if the person concerned is suspected of an offence. The police may search his rooms, his belongings and his person upon arrest. Other persons may be searched whenever it seems probable that the search will yield important evidence. Only in exceptional cases may a search be made at night. Without the owner's consent, only the judge may peruse papers, but the war simplification statute of December 1944 gives the same right to the *Staatsanwalt*. The police may do so on the basis of the Decree of 28 February 1933 which suspended all restrictions safeguarding such civil rights.

e. Similar conditions govern physical examinations (*körperliche Untersuchung*). Persons not charged with a criminal offence may be examined without their consent only in order to ascertain if their person shows evidence of a criminal act. This applies also to the taking of blood tests (*Entnahme von Blutproben*) and other innocuous operations (*Eingriffe*).

f. The deprivation of liberty is the most serious compulsory measure known to the law. Detailed regulations prevent abuses, but

the Decree of 28 February 1933 suspending such legal restrictions, has superseded the provisions of the Code, although they have never been abrogated specifically.

The Code distinguishes between arrest in a strict sense of the word (*Verhaftung*) which requires a judicial warrant (*Haftbefehl*) and the preliminary taking into custody (*vorläufige Festnahme*) without a warrant. Anyone may arrest a person caught red-handed or in fresh pursuit (*auf frischer Tat*) if it is likely that he might otherwise escape, or if his identity cannot be ascertained immediately. Over and above this common right, any police officer and not only the criminal police have the right to take a person into custody if the circumstances would justify the issue of a warrant and if delay would imperil the conduct of the trial. In other words, the police may anticipate the issuance of a warrant in such cases.

g. The legal basis for the issuance of a warrant of arrest by the *Richter*, now also by the *Staatsanwalt*, is that urgent suspicion (*dringender Verdachtsgrund*) of a criminal offence and at least one of the following specific grounds are present:

- (1) suspicion of flight (*Fluchtverdacht*),
- (2) existence of facts involving the risk of collusion (*Verdunkelungs-Kollussionsgefahr*),
- (3) existence of facts indicating that the prisoner would abuse his liberty to commit further criminal offences,
- (4) if in view of the seriousness of the offence and the public excitement it has caused, it seems intolerable to leave him at large (inserted by amendment of 28 June 1935 RGBl. I 844).

If serious suspicion exists that a man has committed a crime (*Verbrechen*), the arrest is always justifiable because the law presumes that a person who committed a crime will try to flee. However, no other ground than a real suspicion of flight justifies the arrest of a man charged with a mere contravention.

h. The police may take a person into custody without having obtained a warrant (*vorläufige Festnahme*) whenever these statutory conditions are present and if the delay connected with obtaining a warrant would involve the risk of defeating justice. However, the prisoner must be brought without undue delay to the *Amtsrichter* or since December 1444 to the *Staatsanwalt*. The latter either orders his immediate release (*Freilassung*) or issues the warrant (*Haftbefehl*). As stated above, the Decree of 28 February 1933 has empowered the police to ignore these provisions and to deprive persons of their liberty at their discretion.

i. These measures of compulsion relate only to investigation and prosecution of criminal offences already committed. They must be distinguished from other restrictions upon personal rights and liberty which may be imposed by the police for other reasons.

#### 706. The Examining Magistrate (*Untersuchungsrichter*).

a. The importance of this office has been greatly reduced during the war. The examining magistrate (*Untersuchungsrichter*) is a member of the *Landgericht*. His task is to undertake preliminary investigations in major cases at the request of the *Staatsanwaltschaft*.

b. The examining magistrate combines the status of a *Richter* with the functions of a *Staatsanwalt*. He undertakes an investigation of the case with the aim of building up and examining the case for the prosecution. He decides also whether there is a sufficient case for a trial, besides recording evidence which may not be available at the trial or may be necessary for the preparation of the defence. The *Untersuchungsrichter*, being a judge, is empowered to use all



compulsory measures, such as the issuing of warrants and administering of oaths, normally reserved to the judiciary. In this respect, his powers exceed those of the Staatsanwalt.

c. The investigation procedure conducted by the Untersuchungsrichter is not held in open court. The accused has to be heard, but neither his counsel nor the public prosecutor is admitted to the interrogation. When the judge makes a physical inspection (richterlicher Augenschein) or hears witnesses and experts, sometimes under oath, the Staatsanwalt, the Verteidiger, and the accused are entitled to be present. The Untersuchungsrichter frequently uses the police for making inquiries. After completing the investigation, he returns the file to the Staatsanwalt for his decision on whether charges should be brought (Anklageerhebung) or the case be dropped (Ausserverfolgungssatzung).

#### 707. Trial judge (Verhandlungsrichter).

a. As soon as the Staatsanwalt has sent the charge sheet (Anklageschrift) to the court, the judge forwards a copy to the accused (Angeklagter), appoints counsel for the defence (Verteidiger) if necessary and fixes the day for the trial (Hauptverhandlung).

He may instruct the public prosecutor to summon further witnesses and experts, or to adduce other proofs, even if they have not been referred to by either party. Before the trial begins, the presiding judge has studied all depositions and other papers and documents, so that he is familiar with the case. During the Hauptverhandlung, the judge does not act as an umpire between the parties, but he directs and conducts the proceedings himself. He interrogates the accused, the witnesses and the experts. There is no examination or cross-examination by the parties. However, the Richter other than the presiding Judge (Vorsitzer), Staatsanwalt, Verteidiger and the Angeklagte himself may obtain permission from the presiding judge to ask witnesses and experts single questions, subject to the right of the presiding judge to reject irrelevant questions and even to withdraw the permission if it is abused. As a rule, the presiding judge administers an oath to every witness and expert after they have made their statement. He may abstain from doing so if the court unanimously holds that the statement is irrelevant or obviously untrue, and that even under oath a relevant or true statement cannot be expected, or for certain other reasons.

b. The presiding judge of the trial court has a wide discretion in admitting or rejecting evidence (Beweismittel). Recent legislation has greatly curtailed the parties' right to insist on the hearing of all the evidence they have adduced or for which they have applied. Before the war, in the Strafkammer and in the Schwurgericht, statutory rules prescribed the conditions which alone enabled the trial judge to reject applications for the hearing of further evidence, e. g. if the proof suggested would be illegal, irrelevant, superfluous, etc. Since the beginning of the war, even these provisions have been repealed. Every criminal court has the power to reject any proof if, according to its free discretion, the hearing of the evidence is not necessary for the exploration of the truth (section 24, decree of 1 September 1939).

c. In principle, trial and judgment are concerned only with the criminal act as charged by the prosecution, but the trial judge may reject the legal interpretation which the public prosecutor has placed upon the facts in his Anklageschrift. Thus if a man is charged with fraudulently filling in a blank cheque and the prosecution assumes a case of false pretences, the judge may sentence him for forgery, but he must give the accused an opportunity to adjust his defence to the amended charge.

d. The judges deliberate (beraten) and vote (abstimmen) in camera. On questions of guilt and punishment, decisions against the accused require a majority of two thirds of the votes. The majority decision is that of the court, and dissenting votes are not made public. The presiding judge reads the summary of the judgment, either acquittal or conviction, together with the sentence. The opinion of the court (Entscheidungsgründe) must be stated either at the end of the trial or within one week thereafter. He must also instruct the accused about legal remedies (Rechtsmittel).

#### 708. Counsel for the Defence (Verteidiger).

a. At every stage of criminal proceedings, the accused may be assisted by counsel (Verteidiger). In certain cases, defence by counsel is mandatory. This applies to all capital cases, to manslaughter and perjury, to cases which may result in preventive detention and castration, and others. Originally, every prisoner tried for an offence punishable with Zuchthaus was entitled to a Verteidiger, if he wished it. From 1940 on, the appointment of a Verteidiger in trials for offences punishable with Zuchthaus has depended on the application of the Staatsanwalt or the discretion of the court. More recent war simplification measures have made the appointment of a defence counsel the exception rather than the rule, even in cases where it was mandatory under the Code.

b. The defence counsel has the right of access to the judicial file, but this means that he has no right to see the file during the preliminary investigations. He has the right to communicate with the accused, although certain limitations again exist during the preliminary procedure.

c. Every Rechtsanwalt is eligible as counsel for the defence. The choice of other persons depends on the consent of the trial judge. Whenever the trial judge has to appoint a mandatory counsel (Pflichtverteidiger), he selects either a member of the local Bar (örtliche Anwaltskammer) or a non-judicial member of the administration of justice, preferably a Law Graduate (Referendar).

#### 709. B. Prosecution and Trial of Contraventions, Delicts, and Crimes

"Contravention" (Übertretung) is an offence punishable with a fine up to 150 RM or detention (Haft).

"Delict" (Vergehen) is an offence punishable with a fine of more than 150 RM or imprisonment (Gefängnis).

"Crime" (Verbrechen) is an offence punishable with penal servitude (Zuchthaus) or death.

This classification of offences (section 1 StGB) is of great practical importance. Many statutory provisions refer to these terms.

#### 710. Prosecution and trial of a contravention (Übertretung).

a. The most expedient way of dealing with a contravention would be the issuance of a police penal order (polizeiliche Strafverfügung) (Section 413 seq StPO). The order would contain the following:

- (1) Description of the facts constituting the charge,
- (2) Reference to relevant penal provisions,
- (3) Evidence,
- (4) Sentence,
- (5) Information concerning taking of an appeal before the court.

b. An alternative procedure is for the police to refer the case to the Public Prosecutor, usually an Amtsanwalt at the Amtsgericht. The latter has wide discretion in deciding whether public interest requires the prosecution of a mere contravention. If so, he will usually apply to the Amtsrichter for a judicial penal order (Amts-



richterlicher Strafbefehl) Section 407 see StPO). For this purpose he makes a written application with a condensed statement of the facts, the evidence, the legal nature of the offence and the sentence suggested. If the judge objects to the proposed sentence or considers a trial to be necessary, he opens the trial. If he approves the application he signs the order. The accused may appeal within a week (Einspruch erheben) against the order. In such cases, the judge holds the trial.

c. In both of the above mentioned cases, either following a police penal order or a judicial penal order, the accused may insist on a trial or the Amtsanwalt could prosecute the accused in open court instead of immediately applying for a judicial penal order. In such case it is not necessary to file a written accusation (Schnellverfahren). The Amtsanwalt summons the accused before the Amtsgericht and states the charge against him and submits the evidence named in the summons.

d. At the trial the Amtsrichter first interrogates the accused and then calls the witnesses and questions them in the presence of the accused. Since this is only a case of contravention, he would not administer an oath. After hearing the evidence, the Amtsanwalt addresses the court for the prosecution and urges whatever penalty he thinks appropriate. The accused enters his defence; e.g. may either deny charge and request an acquittal, or admit the charge and plead for leniency (mildernde Umstände.)

e. The Amtsrichter comes to a decision, making a summary of it in writing which he reads in open court. He gives his opinion (Begründung) referring to the facts and the evidence, the legal nature of the act committed and the statutory provisions. He also states his reasons for the sentence imposed and instructs the convicted person that he must apply for the judge's leave, if he wishes to appeal against his conviction. Before the war, the convicted person had the right to appeal without prior leave from the court. The judgment along with the opinion is served on the defendant.

f. The execution of the sentence rests with the Amtsrichter as Supervisory Authority (Vollstreckungsbehörde) Section 451/III StPO. The judge may grant the accused leave to defer payment of the fine for a certain period or to pay it in instalments (ec. 28 StGB). If it is not paid, the property of the accused may be seized and sold for satisfaction of the fine. If this proves unsuccessful or impractical from the beginning, the Amtsrichter may require detention in prison as an alternative punishment (Ersatzfreiheitsstrafe). The Amtsrichter may in cases where imprisonment would ordinarily follow in lieu of fine, order that such detention should not be executed if the fine cannot be enforced for reasons beyond the control of the accused (Sec. 29/VI StGB). Otherwise, the Amtsrichter commits the accused to prison.

Detention (Haft) is a mere deprivation of liberty (Sec. 18/II StGB). Numerous privileges are allowed to persons detained, e. g., they may be allowed to wear their own clothes and have their own bedding books, money, utensils, tobacco and food. Before the war there was no compulsory work, but persons detained had the right to occupy themselves as they saw fit. Solitary confinement is not permitted against the wishes of the detained person.

g. Even before the expiration of the specified period of detention, the person detained must be released on payment of the fine (Sec. 29/V StGB). The Amtsrichter has the power to suspend, either totally or partially, the fine or the detention with the imposition of certain

conditions, to fix a probation period, and after its expiration to remit the punishment.

#### 711. Prosecution and trial of a delict (Vergehen).

a. In case of an act being committed which amounts to a delict, the police submit a report of the same to the Staatsanwalt who begins a preliminary investigation. He may instruct the police to make certain investigations concerning the accused and also request the Amtsrichter to interrogate the accused.

b. If the Staatsanwalt regards the grounds as sufficient to justify taking public action, he files a written accusation. It contains: name of the accused, date of birth, occupation, address, a brief statement of the facts constituting the alleged act, and citation of the law applicable, application for opening trial in a specified court, request for continued remand in custody, list of witnesses to appear and other evidence to be submitted. The Staatsanwalt may further add a statement of the case for the prosecution, as it appears as a result of the preliminary investigations.

c. The judge then orders a copy of the accusation to be served on the accused and if the judge agrees to try the case, he sets the for trial and notifies the Staatsanwalt who procures the necessary summonses.

In a delict, legal counsel to represent the accused is optional. If the accused is being represented by such counsel, the latter must be summoned for the trial (Sec. 218 StPO). The defending counsel may apply to the judge to supplement the list of witnesses. If the judge grants such additional witnesses he must notify the Staatsanwalt. The right of the accused to summon a witness himself, if the judge has refused to do so, was abrogated in 1942.

d. Before the war, trial of a delict would have been conducted before a mixed bench consisting of one judge and two lay assessors (Schöffengericht). Even at that time the Staatsanwalt could make application to try the case before the Amtsrichter alone, if the maximum sentence would reasonably not be expected to exceed one year's imprisonment (Sec. 25/II GVG). According to the regulations prevailing during the war the Amtsrichter always sits alone. The mode of trial does not differ in principle from other cases, e. g. of contraventions, before the Amtsrichter.

As a rule, the Staatsanwalt or Amtsanwalt, prisoner, counsel for the defence and a registrar must be present (Sec. 226 StPO). Trial begins with the calling of the case (Aufruf der Sache) and the reading of names of the witnesses and experts. Then witnesses must leave the room. After the interrogation of the accused with regard to his identity and personal conditions, the judge explains the charge preferred against him and interrogates him concerning the facts of the case (Sec. 243, StPO). With the possible exception of an expert (Sec. 80/II StPO) nobody but the Amtsrichter is allowed to question the accused. This judicial interrogation of the accused begins with the question whether he wishes to say anything in reply to the charge (Sec. 136/I, 2, StPO) After the interrogation of the prisoner, the witnesses are called in individually so that no witness hears another witness' statement before he makes his own. Again the judge interrogates the witnesses. He first lets the witness tell his story in a continuous narrative, and then asks supplementary questions (Sec. 69 StPO). The Staatsanwalt, the counsel for the defence, and the accused may apply to the judge for permission to ask questions (Sec. 240 StPO). After the statement of a witness, as a rule, the



Amtsrichter administers an oath. At the end of the interrogation of each person, or the reading of a document, the accused must be asked whether he has any statement to make. (Sec. 257 StPO).

e. After the hearing of the evidence, the Staatsanwalt addresses the court, then the accused and/or his counsel addresses the Court. The Staatsanwalt (or Amtsanwalt) may reply. Defence answers, but in all cases the prisoner personally is entitled to the last word. (Sec. 258 StPO).

f. The judge announces the judgment by reading a summary containing a statement of the offence, the penalty, whether or not the accused is to pay costs and whether custody awaiting trial should be subtracted from the sentence, and if so to what extent. The judge then summarizes his judgment on the evidence, the legal nature of the act committed, the statutory provisions applied, and the reasons for the sentence. He further instructs the accused that he may appeal on questions of fact and law (Berufung) to the Strafkammer des Landgerichts.

g. If the accused wants to make use of a legal remedy (Rechtsmittel), he must, under the war regulations (VO v. 13. 8. 42) ask the Amtsrichter for leave to appeal. If this is granted, the accused files an appeal and directs it to the Amtsrichter or makes a relevant personal statement at the court office (Sec. 314 StPO). This must be done within one week after the pronouncement of the judgment. The accused may limit his appeal to one part of the judgment, e. g., the sentence only. After an additional week he may, and his counsel certainly will supplement his appeal by a written "justification" (Berufungsrechtfertigung) Sec. 317 St. PO.) If the appeal has been filed in time, the Amtsrichter refers the papers to the Staatsanwalt and the latter, through the Oberstaatsanwalt at the Landgericht, forwards them to the Appellate Criminal Division (Berufungsstrafkammer). If the appeal does not comply with the statutory conditions regarding time and form, the Strafkammer may reject the appeal by mere order (Sec. 322 StPO); otherwise, the appeal will be heard.

The preparations for the new trial and the methods of procedure are similar to those of the court with original jurisdiction. The Berufung leads indeed to a "second trial of first instance." In principle, the same witnesses and experts are heard again, and new evidence may and often will be adduced. At the beginning of the trial, after the calling and subsequent removal of witnesses, a reporter (Berichterstatter) makes a statement summing up the result of previous proceedings, and reads the judgment of the original trial (Sec. 324 StPO). After the hearing of the evidence, the appellant is first called to plead. The accused has the last word. If the court sees no reason for varying the decision of the trial court, it rejects the appeal. If, however, the appeal is allowed, the court quashes the former judgment and usually substitutes a new judgment of its own (Sec. 328, StPO). Under an amendment of 28. 6. 35, the accused incurs some risk in an appeal, since the Berufungsstrafkammer may increase the sentence even if the Staatsanwalt does not appeal against it (Sec. 331 StPO).

h. With this appeal, ordinary remedies have been exhausted. The sentence has become final (rechtskräftig) and subject to execution (vollstreckbar). If the convicted person were at large, the Amtsrichter as Supervisory Authority Vollstreckungsbehörde) would issue a summons or warrant of arrest. If the accused remains in custody, the Amtsrichter orders his transfer to a penal institution,

unless he is to serve his prison term in the same institution where he is being held in custody.

i. In accordance with the prison rules of 22. 7. 1940, the person convicted must serve his first three months under special "severe initial discipline" (strenger Anfangsvollzug): separate confinement, no letters, visits or lessons.

In certain cases, e.g. conviction for extortion or sexual offences, the convicted person may serve his entire term in separate confinement, interrupted only for exercises and lessons. A form of solitary confinement is permissible for three years without his consent (Sec. 22 StGB). He is required to work for 9 hours daily and to perform a certain task (Tagewerk, Pensum). According to the earning class to which he is allocated, he earns between 10 and 50 Pfg a day and, after the expiration of the initial stage of 3 months, he may even get an additional performance reward up to 10 RM a month. He may receive a visitor every two months and may send a letter once a month. For a breach of discipline he may be punished by deprivation of privileges, special restrictions and detention (Arrest) with hard bed, bread and water up to four weeks, but relaxations on the fourth, eighth and every third day thereafter, or severe detention up to 14 days with no relaxation and the possibility of confinement in a dark room on certain days.

j. Applications for the prisoner's release before expiration of the entire prison term are to be submitted through the head of the penal institution to the Staatsanwalt as Authority of Mercy (Gnadenbehörde). The latter has the power to suspend conditionally the remainder of the sentence up to one year. Otherwise the convicted person must serve his term till the date which the Supervisory Authority had fixed in accordance with the final sentence and notification to the head of the institution. Any questions concerning this date are to be submitted anew to the Amtsrichter for his decision (Sec. 458 StPO).

712. Characteristics of the prosecution and trial of a crime (Verbrechen)

a. Under the pre-war law, if a man is suspected of homicide, the Staatsanwalt would prosecute him before the Schwurgericht; under the war regulations, before the Strafkammer. At the beginning of the preliminary investigations, the Staatsanwalt applies to the Amtsrichter for a judicial autopsy (Leichenschau), and most probably for a full post-mortem dissection (Leichenöffnung) to be performed by one or two medical experts in the presence of a judge (Sec. 87 StPO.). If at this stage several sworn witnesses are necessary, it may be advisable to apply to the Untersuchungsrichter at the Landgericht for judicial preliminary investigations (gerichtliche Voruntersuchung) (Sec. 178 seq StPO). If the accused's mental state needs to be observed, he may, by an order of the Strafkammer, be sent to a mental institution for six weeks. Before making this order, the court must appoint a counsel for the defence, unless the accused himself has already chosen a counsel. (Sec. 81 StPO.) When these investigations are finished, and the papers have been returned to the Staatsanwalt, the latter forwards the written accusation to the court. This will contain a statement of the case for the prosecution, i.e. a brief story of the facts on the basis of the preliminary enquiries. When the presiding judge orders accusation to be served on the accused, he fixes a period during which the accused may raise objections against the opening of trial and apply for certain evidence to be taken before the trial (Sec. 201 StPO). Counsel for the defence must be appointed



at this stage at the latest, unless the accused himself has chosen a counsel before (Sec. 140 StPO). The presiding judge selects the counsel either from the local Bar or from non-judicial officials of the Administration of Justice, including junior lawyers who have passed their first examination (Referendare) Sec. 144).

The trial itself develops in the same way as in other criminal cases before ordinary criminal courts. Before the war the discretion of the court in rejecting applications to call witnesses was restricted by certain statutory rules (Sec. 245/II StPO). If the accused is charged with manslaughter (Totschlag) Sec. 212 StGB the court is free to convict him instead either for murder (Mord) (Sec. 211 StGB), or for doing bodily harm with fatal consequences (Körperverletzung mit tödlichem Ausgang) (Sec. 226 StGB) or for death caused by negligence (fahrlässige Tötung) Sec. 222 StGB). But the Court must inform the accused of any such amendment of the accusation and give him an opportunity to adjust his defence (Sec. 265 StPO).

Against a final judgment of the Criminal Division of first instance or the Court of Assize, the parties have an appeal on law only (Revision) to the Supreme Court (Reichsgericht). If the accused wishes to make use of this remedy, he must ask for judicial leave and within an week enter an appeal to the Criminal Division (Sec. 341 StPO), and within an additional week, he must specify precisely the form which he wishes the revised judgment to take (Revisionsanträge) and the reasons for application (Revisionsbegründung). This must be done in a written statement signed by legal counsel (Sec. 345 StPO). The presiding judge forwards this statement to the Staatsanwalt with the request to return a reply within a fixed period. The papers are then sent to the Reichsgericht (Sec. 347 StPO) which may reject the appeal, if the Senate unanimously holds that the appeal is evidently unjustified (Sec. 349 StPO). Otherwise, trial will be opened before the Reichsgericht.

b. This appellate procedure before the Reichsgericht is restricted to questions of law such as alleged errors in procedure, or error in the legal interpretation of the facts stated on the charge before the lower court, or whether the legal qualification of the act committed conforms to the law. The Reichsgericht will not enter into the weighing of evidence or any other question of fact, but it may decide that the lower court has violated written or unwritten rules of the law of evidence or disregarded the principles upon which sentences should be based.

c. In a *Berufung* before the *Strafkammer* the presence of the accused is obligatory; but he need not be present at the hearing in the Reichsgericht and may be represented by legal counsel (Sec. 350 StPO). Another difference is that if the Reichsgericht quashes the judgment of the original hearing, as a rule it refers the case for a new decision to the lower court, and only in exceptional cases gives the final judgment itself (Sec. 354 StPO).

d. The sentence will be carried out as soon as the judgment has become final (rechtskräftig). A sentence of penal servitude (Zuchthaus) carries with it certain civil disqualifications and others may be added to it (Sec. 31 seq StGB).

e. Before the expiration of the sentence the person convicted may, through the head of the penitentiary, apply to the Staatsanwalt as Gnadenbehörde (Clemency Authority) for partial remission. If, after consulting the prison authorities, the Staatsanwalt considers a remission should be recommended, he reports to the Minister of Justice, with whom the final decision rests.

## A. General

The Criminal Code consists of two parts. The first, or general part, contains provisions which are applicable to all offences, e.g., those concerning criminal responsibility, attempts, the possible parties to an offence, and the penal system. The second or special part, contains the definitions of the particular criminal offences and their respective range of legal punishments (gesetzlicher Strafrahmen).

## B. Structure of Criminal Law System

1. Criminal Law depends more on the letter of the law than any other legal branch. It is a well established rule that the infliction of penal sanctions must be justified by an explicit statutory provision. Recent German legislation, however, has violated this principle by admitting legal analogy as a further ground upon which to justify a conviction, Section 2, StGB in the amended wording of 28.6.35 authorizes punishment for acts which either have been made punishable by law or deserve punishment in accordance with a principle of the criminal law and "with sound popular feeling".

Likewise National Socialist legislation abandoned the principle, that a prisoner cannot be convicted unless there is full evidence of the particular act committed. Instead, alternative convictions are admitted, if the court is satisfied, that the prisoner has committed either of two offences, e.g. theft or receiving stolen property, attempted abortion or false pretences (Sec. 2b StGB).

2. In order to determine the legal nature of an act the judge first looks at the particular offences defined in the second part of the Criminal Code and in numerous complementary statutes (*Tatbestand*). The gist of the legal offence is in the verb used. For example, theft (*Diebstahl*) is taking with intent to steal the chattel of another (Sec. 242); murder (*Mord*) and manslaughter (*Totschlag*) (Secs. 211, 212) intentionally killing another person; false pretences (*Betrug*) is causing loss to other people's property by deception (Sec. 263).

3. The wording of those legal definitions assumes the perpetration of the act by a single offender. The law also takes notice of inchoate offences. The attempt to commit a crime is always punishable, though the punishment may be less than if the act had been completed. The attempt to commit a delict is only punishable if the law so provides. The attempt to commit a contravention is not punishable. An attempt is has been defined as the beginning of the perpetration of the offence (Sec. 43). This conception implies a two-fold dividing line, distinguishing the attempt from a mere preparatory act on the one hand, and from the perpetration proper on the other.

If an offence is actually committed any person who instigates its commission is equally punishable for incitement (*Anstiftung*) (Sec. 48). The same full range of legal punishments applies to accomplices who join the offender in a common perpetration (*Mittäterschaft*) (Sec. 47), or to an offender who perpetrates the offence through an agent who acts without criminal intent (*mittelbare Täterschaft*). Mere aiding and abetting (*Beihilfe*), however, may be less severely punished than the actual carrying out of the offence (Sec. 49).

4. Where certain justifications exist, an act which would otherwise be criminal is not an offence.

Self-defence (*Notwehr*) is a legal justification (*Rechtfertigungsgrund*) (Sec. 53).



Self-defence is legitimate against any unlawful attack even if the attacked object is only of minor value. But the means chosen must be proportionate to the circumstances. For example, where other people's help is available to overcome the attacker, it is not justified to kill in defence.

Another legal justification has been developed by analogy to civil law, i. e., the necessary sacrifice of a less valuable interest for the preservation of a more valuable one. If it is necessary to fight a dangerous fire, a man may enter his neighbor's house, damage his property, and even overcome his resistance by force.

5. In the absence of any such legal justification the act which comes under the legal definition of an offence is unlawful. But punishment requires more than this. There must be a relation between the overt act and the offender's mind: *mens rea* according to both the English and American law. The commission of an unlawful act and personal guilt are the two indispensable conditions of legal punishment. Personal guilt (*Schuld*) implies that the individual who did something against the law is personally to blame. As a rule this applies to every perpetrator of a criminal offence, subject to the following conditions:

a. There must be criminal responsibility of the individual offender (*Zurechnungsfähigkeit*) plus either.

b. Intent (*Vorsatz*) or

c. Criminal negligence (*Fahrlässigkeit*). This subjective character of an offence is sometimes called *subjektiver Tatbestand*.

6. Since the law presumes that the vast majority of adults are responsible for their acts, the Code provides only negatively for reasons which exclude or limit criminal liability. This, however, does not mean that in criminal proceedings the prisoner bears the onus of the doubt and is to be convicted unless he proves facts which exclude his responsibility. On the contrary, he must be acquitted, if there remains a reasonable doubt as regards his guilt.

Children under 14 are exempt from criminal liability altogether—subject to a proviso for those over 12, introduced in 1943. In order to exempt other persons from criminal responsibility, two facts must be proved:

a. In the first place, there must be a physical disturbance of the consciousness or some other pathological condition, plus.

b. Secondly, it must be proved that such pathological conditions lead to the psychological result, that he is unable to understand the unlawful character of his act, or is unable to act in accordance with this understanding (Sec. 51/I).

The law further recognizes an intermediate state between full criminal responsibility and complete lack of criminal responsibility, i. e., a limited liability (*verminderte Zurechnungsfähigkeit* (Sec. 51/II).

7. The Code gives no definitions of criminal intent or of negligence. It relies on the traditional concepts as they have been developed by legal doctrine. In criminal law, the concept of intent (*Vorsatz*) covers two different psychological facts:

a. an offender acts intentionally either if he wants to commit the act, or

b. if he knows that what he is doing will lead to a particular result.

Thus, if a man causes the sinking of a ship in order to get the money for the insured cargo, he intentionally kills any members of

the crew who may be drowned. It follows that in the reverse case a perpetrator has no criminal intent, if by mistake he assumes a state of facts which would deprive his act of its unlawful character (Sec. 59). This applies to a man who takes an overcoat because he thinks it is his own, or hurts another person in a defence against what he reasonably mistook for an act of aggression.

8. As a rule, all criminal offences are punishable if committed with intent. The commission of an offence by negligence is punishable only if the law so provides. Relevant examples are: homicide (*Tötung*) (Sec. 222); inflicting bodily injury (*Körperverletzung*) (Sec. 230); arson (*Brandstiftung*) (Sec. 309); and false statement by oath (*Falschheid*) (Sec. 163).

Negligence (*Fahrlässigkeit*) as an element of personal guilt in criminal law, again implies one of two psychological facts:

a. An offender acts consciously with negligence if he realises the possibility of certain consequences but trusts that they will not occur.

b. He acts with unconscious negligence if he does not consider the consequences at all.

In the first case above mentioned, he acts rashly; he drives his motor car ruthlessly but trusts his good luck that he will not run down a pedestrian. In the second case he is careless; he pours oil into the burning lamp without thinking of the possibility of an explosion. There is, however, a limit to criminal negligence. The risk which the offender ran, either consciously or unconsciously, must be an unreasonable one.

9. Criminal responsibility plus either intent or negligence are the elements of the offender's personal guilt. In principle, if these conditions exist, the perpetrator of a criminal offence would be guilty, but there are again certain exceptions which may exclude guilt.

Such legal excuses (*Schuldausschliessungsgründe*) are:

a. Duress (*Nötigung*) (Sec. 52),

b. Necessity (*Notstand*) (Sec. 54), and

c. Excess of justifiable defence due to fear and bewilderment (*Notwehrexzess*) (Sec. 53/III).

If none of these legal excuses are present, the offender has a guilty mind and is liable to punishment.

10. Such, then, is the structure of the existing system of criminal law. It conforms to the process of judicial reasoning, if the judge applies the law to the facts before him. In doing so, it is essential always to begin with the overt acts and their unlawful character, and then only to pass to the subjective side and to the question of personal guilt.

### C. Penalties under the Penal System.

1. The present penal system provides for three types of principal penalties.

a. Death,

b. Deprivation of liberty, and

c. Fines.

Deprivation of liberty has been differentiated into four particular penalties. They are: (1) detention, (2) imprisonment, (3) penal servitude, (4) military detention.

Detention (*Haft*) up to 6 weeks is a mere deprivation of liberty without additional hardships (Sec. 18).

Imprisonment (*Gefängnis*) may be given for period varying from one day up to five years according to the particular offence (Sec. 16).



Penal servitude (Zuchthaus) is either for life or for a fixed term between one and 15 years (Sec. 14). While the time limits of imprisonment and penal servitude partly overlap, the Code provides for harder work and a more severe discipline in a penitentiary. It upholds the fiction that 8 months of penal servitude are equal to 12 months of imprisonment (Sec. 22).

Military Detention (Festungshaft) is a privileged punishment for duelists and certain minor political offenders who are presumed to act from honorable motives and not against the well-being of the nation (Secs. 17, 20). It is no longer an important form of punishment. These principal penalties are combined with a complicated system of supplementary civil disqualifications which are either mandatory or discretionary (Secs. 31—36).

2. Legal punishments in the strict sense of the word are not the only sanctions of the prevailing penal system. The Amendment "against dangerous habitual criminals" of 24.11.1933 adopted the principal proposals of previous Draft Criminal Codes and introduced a number of measures of public security (Massregeln der Sicherung) (Secs. 42a—42n). Like punishments, they are sanctions against the unlawful commission of a particular offence. However their primary concern is to prevent dangerous persistent offenders from further wrong-doing.

3. The types of criminals to which the measures of public security are applicable are:

- a. Offenders of limited or no criminal responsibility,
- b. Alcoholics and drug addicts,
- c. Vagrants and disorderly persons,
- d. Habitual criminals,
- e. Dangerous sexual offenders.

In all these cases, the judge has to determine not only whether the prisoner has committed the particular offence but also whether he is the type of criminal for which the law provides measures of public security. In this context the law characterizes the personalities of offenders as criminological types. This means that they are not to be determined by the judge's subjective sentiment or moral judgment, but can be diagnosed from sober facts of experience.

4. Apart from castration of a dangerous sexual offender (Sec. 42k) and the prohibition of the exercise of a certain profession or calling (Sec. 42l), measures of public security involve a deprivation of liberty.

The law provides for four types of institutions: (1) mental institution (Heil- und Pfleganstalt), (2) inebriates asylum (Trinkerheilanstalt oder Entziehungsanstalt), (3) workhouse (Arbeitshaus) and (4) preventive detention (Sicherungsverwahrung).

For the confinement in these institutions the Code uses the colourless term "internment" (Unterbringung). Committal to an asylum and the first committal to a workhouse are limited to a maximum of two years. Otherwise the internment "lasts as long as it is required by its purpose" (Sec. 42f). The case of an internee must, however, be reconsidered every two or three years. Release means only conditional suspension of the internment (Sec. 42h). According to this system, habitual criminals may be sentenced to a heavier sentence of penal servitude as a punishment, and ordered to undergo preventive detention after the expiration of that sentence as a mere measure of public security as long as they are deemed dangerous. Secs. 20a, 42e).



#### D. The Impact of National Socialism.

National Socialist legislation substantially affected the traditional system of German criminal law. The main effects may be summarised under the following headings:

(1) New provision loosen the restrictions heretofore imposed on public power and tighten the grip on the individual. This applies to the admission of punishment by analogy, of alternative convictions, to the extension of German jurisdiction over acts committed outside Germany, and to a discretionary prolongation of the statutory time limits during which an offence can be prosecuted.

(2) New legal offences have been created which normally would not be regarded as criminal, e.g. forming of political parties. Criminal law thus has been perverted into a weapon for political strife and for the enforcement of National Socialist ideology.

(3) The emphasis has been shifted from the concrete act committed by the accused to a subjective appraisal of his personality and to the so-called need for retribution and expiation. This applies in particular to the new conceptions of "juvenile-serious criminals" (jugendliche Schwerverbrecher) and of "enemies of the people" (Volksschädlinge).

(4) Excessive punishments with some 43 new capital offences and the use of vague general clauses making the death penalty applicable regardless of the act committed.

#### PART II

##### Extracts from the German Criminal Code Definitions of Legal Terms

714.

1. A crime (Verbrechen) any offence punishable by death, penal servitude (Zuchthaus) or military detention (Festungshaft) for more than five years.

A delict (Vergehen) is any offence punishable by military detention (Festungshaft) up to five years, by imprisonment (Gefängnis), or by fine of more than one hundred and fifty marks or simply by fine of unspecified amount.

A contravention (Übertretung) is any offence punishable by detention (Haft) or by fine of not more than one hundred and fifty Reich marks.

2a. The criminal character and the punishment of an act are determined by the law which is in effect at the time when the act is committed.

If at the time of the decision a more lenient statute is in effect than at the time of the act, then the more lenient statute may be applied; if the act is no longer punishable at the time of decision, then punishment may be omitted.

A statute which is decreed for a definite time only is applied also when it has gone out of effect provided the criminal acts were committed during the time it was in effect.

Measures of security and reform are to be decided according to the law in effect at the time of decision.

2b. If it is certain that a person has violated one of several criminal statutes but a determination of the act is possible only alternatively, then the wrong-doer is to be punished according to the most lenient statute.

##### Penalties—Death and Jail Terms

13. The death penalty is to be executed by decapitation.

14. Penal servitude (Zuchthausstrafe) is either for life or for a term.



The maximum penal servitude for a term is fifteen years, the minimum is one year.

Where the law does not expressly provide for penal servitude for life, then it is for a term.

15. Persons sentenced to penal servitude (Zuchthausstrafe) shall be employed on any work carried on in the penal institution.

They may also be employed on work outside the institution, particularly on public works Vorwork supervised by the state. This type of employment is only permissible if the prisoners will be kept separate from other free laborers.

16. The maximum prison sentence (Gefängnisstrafe) is five years, the minimum one day.

Persons sentenced to imprisonment may be employed in the prison in a way suitable to their capabilities and station in life; upon their request they are to be employed in this manner. Sec. 15, paragraph 2, is applicable.

17. Military detention (Festungshaft) is for life or for a term.

The maximum military detention for a term is fifteen years, the minimum is one day.

Where the law does not expressly provide for military detention for life, then it is for a term.

The punishment of military detention consists in deprivation of liberty with supervision of the occupation and way of life of the prisoner. It will be carried out in fortresses under the Reich Minister of War.

18. The maximum detention (Haft) is six weeks, the minimum is one day.

The penalty of detention consists in simple deprivation of liberty.

19. In punishments which deprive the convicted person of liberty a day will be reckoned as twenty-four hours a week as seven days, a month and a year according to calendar time.

20. Where the law allows a choice between penal servitude (Zuchthaus) or imprisonment (Gefängnis) or military detention (Festungshaft), military detention can only be imposed if the act is not directed against public welfare and the offender acted exclusively out of honourable motives.

20a. If a person who has already been twice finally sentenced incurs a punishment depriving him of liberty because of a new, deliberate act and the total evaluation of his deeds proves that he is a dangerous habitual criminal, then penal servitude (Zuchthaus) up to five years is to be imposed, insofar as the new act is not punishable with a more severe penalty; and if the new act is a crime (Verbrechen) even without this increase of penalty, then penal servitude up to fifteen years is to be imposed. The increase of penalty presupposes that both of the former sentences have been pronounced on account of a crime (Verbrechen) or a deliberate delict (Vergehen) and for each of them death penalty, penal servitude or imprisonment of at least six months has been pronounced.

If a person has committed at least three deliberate acts and the total evaluation of the deeds proves that he is a dangerous habitual criminal, then the court can likewise increase the penalty with each judgment for a single act even if the remaining requirements enumerated in paragraph 1 are not fulfilled.

An earlier sentence shall not be taken into consideration if more than five years have passed between the time it became final and the time of the following act. An earlier act which is not yet finally adjudicated against the offender shall not be taken into consideration if more than five years have passed between it and the following act. The term will not include time which the offender served in a prison or during which he was kept in an institution by official regulation.

A foreign sentence is equivalent to a domestic sentence if the act punished would also be a crime or deliberate delict under German law.

21. Eight months penal servitude (Zuchthausstrafe) shall be regarded as equal to one year of imprisonment (Gefängnisstrafe), eight months imprisonment shall be regarded as equal to one year of military detention (Festungshaft).

22. Penal servitude (Zuchthausstrafe) and imprisonment (Gefängnisstrafe) may be carried out in solitary confinement so that the prisoner is constantly kept apart from other prisoners either for the whole or for a part of the penal term imposed.

Solitary confinement is not permitted to exceed three years' duration without the agreement of the prisoner.

#### Penalties—Fines

27. Fines are fixed in Reich marks. They amount to:

a. for crimes (Verbrechen) and delicts (Vergehen) a minimum of three Reich marks and a maximum of ten thousand Reich marks, so far as higher amounts or fines of unlimited amount are not prescribed.

b. for contraventions (Übertretung) a minimum of one Reich mark, so far as a higher minimum amount is not prescribed, and a maximum of one hundred and fifty Reich marks.

The provisions of sub-Secs. a & b concerning the maximum amounts do not apply so far as the prescribed penalty consists of the multiple, single or fractional part of a certain amount. If the amount is not set in Reich marks it is to be converted into Reich marks for the determination of the fine.

27a. For a crime (Verbrechen) or delict (Vergehen) based upon greed for excessive profits (Gewinnsucht) the fine can be raised to one hundred thousand Reich marks, and in those cases such a fine can be imposed in addition to deprivation of liberty where the statute does not prescribe a fine.

27b. If deprivation of liberty of less than three months is incurred for a delict (Vergehen) or a contravention (Übertretung) for which a fine is not permissible or is only permissible in addition to deprivation of liberty, then a fine (Secs. 27, 27a) shall be imposed in place of deprivation of liberty if the penal aim can be attained through the imposition of a fine.

The provisions of the Military Code remain undisturbed.

27c. The economic position of the offender shall be considered in assessing a fine.

The fine ought to exceed the compensation which the offender received for the act and the profit which he acquired by the act.

If the statutory maximum does not suffice for this, then it may be exceeded.

29. In place of a fine which cannot be collected imprisonment shall be put into effect for crimes (Verbrechen) and delicts (Vergehen) or,



if penal servitude (Zuchthaus) is imposed in addition to fine, then penal servitude; in case of contraventions (Übertretung) detention (Haft) is to be imposed. Also a fine for a delict may be converted into detention, if fine is prescribed alone or in the first place or optionally in addition to detention.

The duration of a substitute penalty is a minimum of one day and, for imprisonment and penal servitude, a maximum is six weeks. If, in addition to fine, an optional imprisonment of a lesser duration is prescribed, then the substitute penalty may not exceed the maximum for a substitute penalty. A substitute penalty may only be measured by full days.

In other particulars the measure of a substitute penalty is according to the discretion of the court.

In cases under Sec. 27b the substitute penalty is the imprisonment involved in such instances.

The condemned person can avert the execution of the substitute penalty at any time that he pays the amount of fine still payable.

If, without fault of the condemned person, the fine cannot be paid then the court can order that the execution of the substitute penalty shall be remitted. Sec. 494 of the Code of Criminal Procedure is applicable.

#### Police Supervision

38. In addition to imprisonment, jurisdiction of police supervision can be imposed in cases provided for by law.

The higher state police authorities receive such authority in the sentence to place the condemned person under police supervision for a period of a maximum of five years, after hearing the prison administration.

This time shall be reckoned from the day on which the imprisonment is served, expires by limitations or is terminated.

39. Police supervision has the following effect:

a. The condemned person can be prohibited by the higher state police authorities from residing in certain places.

b. Repealed.

c. The hours during which house searches are permitted are unrestricted.

#### Security Measures

42a. Measures of security and reform are:

a. Transfer to an institution for mental cases.

b. Transfer to an institution for alcoholics or for drug addicts.

c. Transfer to a work house.

d. Preventive detention (Sicherungsverwahrung).

e. Castration of dangerous sex criminals.

f. Prohibition of the exercise of a profession.

#### Attempts

43. Any person who has carried out his intent to commit a crime (Verbrechen) or delict (Vergehen) through actions which constitute a beginning of the execution of such crime or delict, shall be punished for attempt if the intended crime or delict is not completed.

However, an attempt to commit a delict will be punished only in cases in which the law expressly so provides.

44. The attempted crime or delict may be less severely punished than the completed offence.

If the completed crime is punishable with death or penal servitude for life, then penal servitude for not less than three years may be imposed.

In other cases, punishment may be reduced to one-fourth of the minimum amount of imprisonment and fine authorised for the completed crime or delict. If hereby penal servitude of under one year is incurred, then the same is converted into imprisonment according to the provisions of Sec. 21.

46. An attempt as such is not punishable if the actor:

a. abandoned carrying out the intended action without being hindered in carrying out the plan through circumstances which were independent from his will, or

b. has prevented through his own activity the successful completion of the crime or delict at a time at which the action was not yet discovered.

#### Principals and Accessories

47. If several persons carry out a criminal offence in common, then each will be punished as a principal.

48. Anyone who has deliberately induces another to commit an act made punishable by law by gifts or promises, by threats, by misuse of supervision or of authority, by intentionally causing or promoting a mistake or by other means shall be punishable as an instigator.

The punishment of an instigator may be determined according to the law which applies to the act he has knowingly instigated.

49. Anyone who has by word or deed knowingly given assistance to an offender in the commission of a crime or delict shall be punished as an accessory before the fact.

The punishment of an accessory before the fact shall be determined according to the law for the act in which he has knowingly assisted, however, it shall be modified according to the principles concerning the punishment of attempts.

#### Defences to criminal prosecution

51. No criminal deed is committed if the actor is incompetent at the time of the deed on account of unconsciousness, or on account of mental derangement or feeble mindedness which makes him incapable of understanding the wrongfulness of the deed or of acting in accordance with this understanding.

If capacity for understanding the wrongfulness of the deed or capacity to act in accordance with this understanding was materially lessened at the time of the offence due to one of the above reasons (see preceding paragraph) then the penalty may be reduced in accordance with the provisions concerning punishment of attempts.

52. No criminal deed is committed if the actor was compelled to perform the deed by irresistible force or by a threat which was coupled with immediate danger to life or limb to himself or a relative which was not otherwise to be averted.

By "relative" within the meaning of this Criminal Code shall be understood blood relations and relations by marriage in the ascending and descending line, adoptive and foster parents and children, spouses, brothers and sisters, and their spouses and fiancés.

53. No criminal deed is committed if the act was committed in self defence.

Self defence is such defence as is necessary to avert an imminent illegal assault on oneself or another.



Exceeding the limits of self-defence is not punishable if the actor has so acted through confusion, fear or panic.

54. No criminal deed is committed if the act is committed in order to rescue the actor or a relative from a present danger to life or limb in an emergency other than self-defence, not caused through the fault of the former and not otherwise to be averted.

59. If a person at the commission of a criminal offence does not know of the existence of certain facts which form some of the legal elements for the offence or which enhances the penalty, then these facts shall not be taken into account against him.

In punishing offences due to negligence, this provision applies only insofar as the lack of knowledge is not itself due to negligence.

#### Remand in custody

60. Remand in custody undergone while awaiting trial may be wholly or partially taken into account in fixing the punishment awarded in passing sentence.

#### Withdrawal of an application for prosecution

64. The withdrawal of the application for prosecution is only permissible when it is specially provided for in the law, and then only prior to the delivery of the judgment.

The withdrawal of the complaint against one of the aforementioned persons has the effect of staying proceedings against the others also.

#### Offences Interfering With Exercise of Political Rights

107. Anyone who by force or by threatening a criminal act prevents a German from exercising his political rights of election and voting, shall be liable to imprisonment of not less than six months or to military detention for not more than five years.

The attempt is punishable.

108. Anyone who being charged with collecting ballots or voting papers or tokens or with the direction of the verification (Beurkundungsverhandlung) in any public matter, intentionally makes an incorrect return of the poll or falsifies such return, shall be liable to imprisonment for not less than one week nor more than three years.

If the act is committed by anyone who is not charged with collecting the papers or tokens or any other duty in connection with the poll, the punishment shall be imprisonment for not more than two years.

Loss of civil rights may also be imposed.

109. Anyone who in connection with any public matter buys or sells a vote shall be liable to imprisonment for not less than one month nor more than two years.

Loss of civil rights may also be imposed.

#### Opposition to Public Authority

110. Anyone who, in public and in the presence of a number of persons by the circulation of statements, the public exhibition of placards or the public distribution of written documents or other representations incites to disobedience of the law or any lawful proclamation or an order made by a competent authority, shall be liable to a fine or to imprisonment for not more than two years.

111. Anyone who incites in the manner aforesaid to the commission of a punishable act shall, if a punishable act or attempt results therefrom, be similarly liable as an instigator.

If there is no such result the punishment shall be a fine or imprisonment for not more than one year. In no case, however, shall the punishment exceed that laid down for the act itself.

113. Anyone who resists with violence or threatens any official in the lawful exercise of his duty in the execution of the law, of orders and decrees of the administrative authorities or of a judgment or decision of the Courts, and anyone who violently assaults such an official in the lawful exercise of his duty shall be liable to imprisonment for not less than fourteen days nor more than two years.

If there are extenuating circumstances, the punishment is imprisonment for not more than one year or a fine.

The same penalties apply if the act is perpetrated against persons who have been called to the assistance of the officials or against members of the armed forces or against members of a municipal, police or citizen force in the execution of their duty.

114. Anyone who attempts by violence or threats to compel an authority or an official to the commission or omission of an official duty, shall be liable to imprisonment for not less than three months.

If there are extenuating circumstances, the punishment is imprisonment for not more than two years or a fine.

115. Anyone who takes part in a public riotous assembly at which one of the acts mentioned in Secs. 113 and 114 is committed in concert, shall be guilty of rioting, and liable to imprisonment for not less than six months.

Ringleaders as well as the rioters who commit an offence mentioned in Secs. 113 and 114, shall be liable to penal servitude for not more than ten years and may also be placed under police supervision. If there are extenuating circumstances, the punishment is imprisonment for not less than six months.

116. If a crowd has collected in any public road, street or place and is summoned to disperse by a competent official or by the commanding officer of an armed force, any member of the crowd who after the third summons fails to disperse, shall be guilty of tumultuous conduct and liable to imprisonment for not more than three months or to a fine.

If concerted resistance with violence to officials or an armed force actually takes place or if force is used, any person taking part therein shall be liable as for rioting.

117. Anyone who resists with violence or threatens any forest, hunting or fishing official, any owner of a forest or fishing waters or any person possessing forest, hunting or fishing rights or any keeper appointed by any such person in the lawful exercise of his duties or rights as such, and anyone who violently assaults any such person in the exercise of his duties or rights shall be liable to imprisonment for not less than fourteen days nor more than three years.

If the resistance or assault is accompanied by threats to use fire-arms, axes, or other dangerous weapons or is committed with violence to the person, then the punishment is imprisonment for not less than three months.

If there are extenuating circumstances, the punishment in the case of Sub-Sec. 1 is imprisonment for not more than one year and in the case of Sub-Sec. 2, imprisonment for not less than one month.



118. If by reason of the resistance or assault the person so resisted or assaulted suffers bodily injury, penal servitude for not more than ten years shall be imposed.

If there are extenuating circumstances the punishment is imprisonment for not less than three months.

119. If one of the acts described in Secs. 117 and 118 has been committed by several persons jointly, the punishment may be raised to half as much again as the highest amount sanctioned but the imprisonment shall in no case exceed five years.

120. Anyone who intentionally rescues a prisoner or intentionally assists a prisoner to free himself from prison or from the custody of an armed force, of an official, or of anyone under whose superintendence, escort, or charge, he is, liable to imprisonment for not more than three years.

The attempt is punishable.

121. Anyone who intentionally allows or assists a prisoner with whose superintendence or escort he is charged to escape, shall be liable to imprisonment for not more than three years.

If an escape takes place through negligence, the punishment is imprisonment for not more than three months or a fine.

122. Prisoners who jointly assault or resist the prison officials or those charged with supervision or attempt to compel them to acts or commissions, shall be guilty of mutiny and liable to imprisonment for not less than six months.

The same punishment applies if prisoners conspire and make a concerted attempt to break out violently.

Mutineers who commit deeds of violence against prison officials or those charged with their superintendence, shall be liable to penal servitude for not more than ten years. They may also be placed under police supervision.

#### Breach of Peace.

123. Anyone who unlawfully breaks into a dwelling, place of business, or enclosed premises of another, or into enclosed premises which are set apart for public service or traffic, and anyone who loiters there without permission, and refuses to leave on the order of a person in authority shall be guilty of breach of the domestic peace and liable to a fine or to imprisonment for not more than three months.

If the act is committed by armed persons or by several persons in concert, the punishment is a fine or imprisonment for not more than one year.

The prosecution is on complaint only. The complaint may be withdrawn.

124. If a number of persons openly and purposely conspire to commit in concert acts of violence against persons or property and unlawfully break into the dwelling, place of business, or enclosed premises of another, or in enclosed premises which are set apart for public service, each person taking part in these acts shall be liable to imprisonment for not less than one month nor more than two years.

125. If a number of persons openly conspire to commit and in concert commit an act of violence against persons or property, each person taking part in such conspiracy shall be guilty of breach of the public peace and liable to imprisonment for not less than three months.

Ringleaders, as also anyone who has actually committed an act of violence against persons or has stolen, destroyed or damaged property, shall be liable to penal servitude for not more than ten years and may also be placed under police supervision.

If there are extenuating circumstances, the punishment is imprisonment for not less than six months.

126. Anyone who disturbs the public peace by threatening to commit an offence against public safety, shall be liable to imprisonment for not more than one year.

127. Anyone who without authority raises or commands an armed force or provides with weapons or war materials a force which he knows to have been raised without authority shall be liable to imprisonment for not more than two years.

Anyone who becomes a member of such a force shall be liable to imprisonment for not more than one year.

128. Any member of an association, the existence, constitution, or object of which is to be kept secret from the government, or the members of which have promised obedience to an unknown chief, shall be liable to imprisonment for not more than six months. The originators and principals of such an association shall be liable to imprisonment for not less than one month nor more than one year.

Government officials may be further sentenced to a loss of capacity for holding public office for a period of from one to five years.

129. Any member of an association whose object or business is to hinder or nullify the measures of the Government or the execution of the law by unlawful means shall be liable to imprisonment for not more than one year. The originators and principals of the association shall be liable to imprisonment for not less than three months nor more than two years.

Government officials may be further sentenced to a loss of capacity for holding public office for a period of from one to five years.

130. Anyone who in a manner dangerous to the public peace openly incites different classes of people to acts of violence against each other, shall be liable to a fine or to imprisonment of no more than two years.

130a. A clergyman or other minister of religion who in the exercise or in the direction of the exercise of his calling publicly before a crowd or before a number of people in a church or any other place set aside for religious meetings makes affairs of the state the subject of comment or discussion in a manner dangerous to the public peace shall be liable to imprisonment or military detention for not more than two years.

A similar punishment is applicable to a clergyman or minister of religion who in the exercise of his calling publishes or disseminates documents in which affairs of state are made the subject of comment or discussion in a manner dangerous to the public peace.

131. Anyone who publicly affirms or disseminates fictitious or misrepresented facts, knowing that they are fictitious or misrepresented, in order thereby to bring state measures or orders of the authorities into contempt, shall be liable to a fine or to imprisonment for not more than two years.

132. Anyone who without authority engages in the exercise of a public office or does any act which may only be done by virtue of a public office shall be liable to imprisonment in serious cases to penal servitude.



133. Anyone who intentionally destroys, makes away with, or damages a document, register, deed, or any other object, which is in a place set aside for its official custody or which has been officially handed over to an official or to a third person, shall be liable to imprisonment.

The punishment is imprisonment for not less than three months, if the act was committed with the object of gain; the accused may also be sentenced to loss of civil rights.

134. Anyone who maliciously pulls down, damages, or disfigures proclamations, ordinances, orders, or notices publicly posted by the authorities or officials shall be liable to a fine or to imprisonment for not more than six months.

135. Anyone who maliciously removes, destroys, or damages a public token of the authority of the Reich, or is guilty of insulting behavior in respect thereof, shall be liable to a fine or to imprisonment for not more than two years.

136. Anyone who without authority intentionally breaks, removes, or damages an official seal affixed by an authority or by officials for the sealing up, authentication, or attachment of any object or who renders of no effect an official act, completed by such seal, shall be liable to imprisonment for not more than six months or to a fine.

137. Anyone who intentionally makes away with, destroys, or in any way defeats, either wholly or partially, the attachment of property which has been seized or attached by a competent authority or official shall be liable to imprisonment for not more than one year or to a fine.

138. Anyone who having been summoned as witness, juror, or assessor (Schöffe) tenders as an excuse for his non-appearance an untrue fact, shall be liable to imprisonment for not more than two months.

The same applies to an expert who is under legal obligation to appear.

The administrative punishments for such non-appearance are not excluded by the foregoing provisions.

139. Anyone who has credible knowledge of a plan to commit high treason, state treason, damage to means of defence, a crime against life, counterfeiting, robbery, kidnapping or a crime dangerous to the community, and permits it without giving timely notice to the authorities or to the person threatened, shall be liable to imprisonment. If the act is not attempted then punishment may be omitted.

In particularly severe cases penal servitude may be imposed and, if the act planned is punishable by death, penal servitude for life or the death penalty may be imposed.

145a. Anyone who without the requisite approval of the state issues or brings into inland circulation bonds payable to bearer in which payment of a fixed sum of money is promised, shall be liable to a fine which may be equal to a fifth of the nominal value of the bonds issued.

#### Counterfeiting

146. Anyone who counterfeits any German or foreign coin or paper money with the intention of using as genuine or otherwise putting into circulation such counterfeit money, and any one who with the like intention by alteration gives to genuine money the appearance of money of a higher value or to money withdrawn from circulation the appearance of money still current, shall be liable

to penal servitude for not less than two years; police supervision is also permissible.

If there are extenuating circumstances, the punishment is imprisonment.

147. Anyone who, even without the aforementioned intention, puts counterfeit or falsified money and puts it into circulation, or imports counterfeit or falsified money from abroad with the intention of circulating it, shall be liable to a similar punishment.

148. Anyone who receives counterfeit or falsified money as genuine and puts it into circulation knowing it to be counterfeit or falsified, shall be liable to imprisonment for not more than three months or a fine.

The attempt is punishable.

149. Paper money shall be deemed to include bonds made out to bearer, bank notes, shares or scrip or receipts representing them, interest vouchers, divided warrants or renewal certificates relating thereto, which have been drawn by the Reich, a state (Land) or a foreign country, or a municipality, corporation, company, or private person authorized to issue such paper.

150. Anyone who reduces the value of a genuine coin intended for currency by clipping, filing or by any other means and puts it into circulation as of full value, and anyone who habitually or in collusion with the person who depreciated it puts such depreciated coin into circulation as being of full value shall be liable to imprisonment. In addition a fine as well as loss of civil rights may be imposed.

The attempt is punishable.

151. Anyone who produces or manufactures for the purpose of a coinage offence dies, seals, engravings, plates, or other moulds serviceable for manufacturing coins, paper money, or other documents deemed to be paper money, shall be liable to imprisonment for not more than two years.

152. The counterfeit falsified money and the implements mentioned in Sec. 151 hereof shall be confiscated even although there has been no prosecution or conviction.

#### Perjury

153. Anyone who before a court or another authority competent to administer an oath to a witness or expert, as a witness or expert makes a false unsworn statement, shall be liable to imprisonment of no less than three months, in serious cases to penal servitude. The attempt is punishable.

154. Anyone who before a court or another authority competent to administer an oath intentionally swears an oath falsely, shall be liable to penal servitude. If there are extenuating circumstances, the punishment is imprisonment of no less than three months.

155. It is regarded as the same as taking an oath if: —

1. A member of a religious community for which the law permits the use of a certain form of affirmation gives a declaration under the form of an affirmation of his religious community;

2. Any party, witness or expert has taken an oath and makes a further statement in a similar capacity under the same oath, or any expert when once sworn gives an assurance under the oath so taken by him;

3. An official on being called gives an official assurance under his oath of office.



156. Anyone who knowingly before an authority competent to receive a declaration instead of a sworn statement falsely makes such a declaration, or knowingly makes a further false statement for the purpose of such a declaration, shall be liable to imprisonment for not less than one month nor more than three years.

The attempt is punishable.

159. The provisions for the punishment of unsuccessful instigation or other preparatory acts concerning crimes (Sec. 49a) shall be applied to all cases of false unsworn statements, perjury, and knowingly false declarations given in lieu of an oath.

160. Anyone who suborns another to tender a false oath or a false unsworn statement shall be liable to imprisonment not exceeding two anyone who suborns years, besides which he may be sentenced to loss of civil rights, and another to tender a false declaration in lieu of a sworn statement shall be liable to imprisonment for not more than six months.

The attempt is punishable.

163. If any of the acts referred to in Secs. 154 to 156 is committed through carelessness it is punishable with imprisonment for not more than one year.

The offender is not punishable if he withdraws the statement before the authority before whom it was made, before information is laid or proceedings are instituted against him and before a legal prejudice has arisen for another out of the false statement.

#### Interference with Religious Service; Blasphemy.

166. Anyone who gives offence by publicly blaspheming God with offensive expressions and anyone who in public insults a Christian Church or any religious community with incorporated rights existing in the Reich territory or the constitution or usages of any such, or who is guilty of insulting behavior in a church or other place set apart for religious meetings, shall be liable to imprisonment for not more than three years.

167. Anyone who by violence or threats hinders anyone from participating in the divine service of a religious community existing in the state, or who in any church or other place set apart for religious meetings by creating uproar or disorder intentionally obstructs or disturbs divine service or any individual act of divine service of one of the religious communities existing in the state, shall be liable to imprisonment for not more than three years.

168. Anyone who without proper authority removes a corpse out of the custody of a person entitled thereto or who without proper authority destroys or defiles a grave, and anyone who is guilty of insulting behaviour at a grave, shall be liable to imprisonment for not more than two years; he may also be sentenced to loss of civil rights.

#### Crimes of violence

211.—(1) A murderer will be punished by death.

(2) A murderer is whoever kills a person out of murderous lust, to satisfy his sexual desire, out of greed or other base motives or in a malicious or cruel manner or with means dangerous to the community or to make possible another crime or to cover up another crime.

(3) If in special cases the death penalty is not appropriate, the punishment is penal servitude for life.

212. Whoever intentionally kills a person without being a murderer, will be punished with penal servitude for life or for not less than five years for manslaughter.

213. If the person committing the homicide has been roused to anger by unprovoked ill-treatment given by the deceased to himself or to a relative or by unprovoked gross insult on the part of the deceased and is thereupon carried away by passion forthwith to commit the deed, or if there are other extenuating circumstances, imprisonment for not less than six months may be imposed.

216. The intentional homicide of a person at the express and earnest request of such person is punishable with imprisonment for not less than three years.

217. A mother who intentionally kills her illegitimate child at or shortly after birth shall be liable to penal servitude for not less than three years.

If there are extenuating circumstances, the punishment is imprisonment for not less than two years.

218. A pregnant woman who intentionally brings about her own miscarriage or kills the child in her womb by abortion or allows the killing by another person, shall be liable to imprisonment, in especially serious circumstances to penal servitude.

The attempt is punishable.

Note. — Second sub-Sec. of Sec. 218 is omitted.

219. Anyone who, intentionally or negligently defying a regulation, produces, advertises or distributes means article which procure an abortion, or impede a conception, or prevent venereal diseases, shall be liable to imprisonment up to two years or to a fine.

The provisions of sub-Sec. 1, are applicable if the means, instruments, or procedure which are used for interruption of pregnancy are advertised or recommended to doctors or persons who are legally trading with such, or which are advertised and recommended in medical and pharmaceutical periodicals.

220. Whoever publicly offers his own services or those of another for undertaking or furthering abortion will be punished by imprisonment for not more than two years or with a fine.

222. Anyone who by negligence causes the death of a person is liable to be punished by imprisonment.

#### Assault

223. Anyone who intentionally causes injury to the body or health of another shall be guilty of assault and liable to imprisonment for not more than three years or to a fine.

If the act is committed against a relative in the ascending line, imprisonment for not less than one month shall be imposed.

223a. If the assault is committed by means of a weapon, and in particular a knife or another dangerous instrument, or by means of a sudden treacherous attack or by several persons jointly, or by treatment dangerous to life, the punishment is imprisonment for not less than two months.

224. If the assault results in the loss of an important organ of the body, the sight of an eye, the power of hearing, speech, or procreation or in permanent serious deformity, protracted illness, paralysis, or mental disorder, a sentence of penal servitude for not more than five years or imprisonment for not less than one year shall be imposed.

225. If any of the aforementioned consequences are caused intentionally, a sentence of penal servitude for not less than two years nor more than ten years shall be imposed.



226. If the assault results in death, a sentence of penal servitude or imprisonment for not less than three years shall be imposed.

227. If, as a result of an affray or an attack by several people, death or grievous bodily harm (Sec. 224) is caused, any person who took part in the affray or the attack shall be liable by reason of such participation to imprisonment for not more than three years, unless he was drawn into it through no fault of his own.

If several injuries are caused and the death or grievous bodily harm is not due to any such but to their combined effect, any person who is proved to have caused any one of such injuries shall be liable to penal servitude for not more than five years.

229. Anyone who with the intention of injuring the health of another administers to such other person any poison or other noxious substance likely to injure health, shall be liable to penal servitude for not more than ten years.

If grievous bodily harm results, the punishment shall be penal servitude for not less than five years, and if death results the punishment shall be penal servitude for not less than ten years or for life.

230. Anyone who by negligence causes bodily injury to another shall be liable to a fine or to imprisonment for not more than three years.

#### Offences against personal liberty.

234. Anyone who by artifice, threats, or force secures the person of another with the object of exposing him in a helpless condition or of bringing him into slavery, bondage, or a foreign military naval service, shall be guilty of kidnapping and liable to penal servitude.

235. Anyone who by artifice, threats or force takes away a minor from his parent, guardian or custodian, shall be liable to imprisonment.

If there are extenuating circumstances the punishment may be a fine.

If the offence is committed with the object of employing the minor for begging or for profitable or immoral purposes or business, the punishment shall be penal servitude for not more than ten years.

237. Anyone who carries off an unmarried female minor, with her consent but without consent of her parent, guardian, or custodian, for immoral purposes or for marriage, shall be liable to imprisonment.

Proceedings take place only on application.

239. Anyone who intentionally and unlawfully imprisons another, or otherwise deprives him of his personal liberty, shall be liable to imprisonment or to a fine.

If the period of detention exceeds one week, or if grievous bodily harm results therefrom by reason of the manner of treatment of the person so detained, a sentence of penal servitude for not more than ten years shall be imposed. If there are extenuating circumstances, imprisonment for not less than one month may be substituted.

If death results therefrom by reason of the manner of treatment of the person so detained, a sentence of penal servitude for not less than ten years shall be imposed. If there are extenuating circumstances imprisonment for not less than three months may be substituted.

240. Any one who by force or threatening with a considerable hardship unlawfully compels another to commit, suffer or omit any

act, shall be guilty of duress and liable to imprisonment or a fine, in especially serious cases to penal servitude or imprisonment of not less than six months.

The act is unlawful, if, in view of the purpose, the application of force or the infliction of the impending hardship were contrary to sound popular feeling.

The attempt is punishable.

241. Anyone who threatens another with the commission of a crime shall be liable to imprisonment for not more than six months or to a fine.

#### Theft, Embezzlement, Robbery.

242. Anyone who takes from another a movable thing to which he has no right with the intention of unlawfully appropriating it, shall be guilty of theft and liable to imprisonment.

The attempt is punishable.

243. The punishment shall be penal servitude for not more than ten years if:

(1) the thing and the building from which it is stolen are dedicated to divine service;

(2) the theft is committed by breaking or getting into a building or enclosed space, or by breaking open any receptacle;

(3) the theft is committed by opening the door of a building or any entrance into an enclosed space; or by using false keys or other implements not ordinarily intended for such purpose for opening any inner door or receptacle;

(4) the theft is committed in a public road or street or other public place, upon any waterway or train, in any post-office or the premises pertaining thereto, or in any railway station, from luggage or other goods intended for conveyance, by cutting off or detaching the fastening or other means of securing the same, or by the use of a false key or other implement not ordinarily intended for such purpose;

(5) the principal or any participator in the theft is in possession of a weapon at the time of the commission of the theft;

(6) several persons who have banded themselves together for a course of robbery or theft takes part in the theft;

(7) the thief with intent to steal surreptitiously enters or conceals himself in an inhabited building, even though the inhabitants absent at the time of the theft, and there by night commits the theft. An enclosed space appertaining to any inhabited building and any building therein, as also any inhabited ship, are deemed to be inhabited buildings.

If there are extenuating circumstances, the punishment may be imprisonment for not less than three months.

246. Anyone who unlawfully converts to his own use any movable thing in his possession or custody of which he is not the owner, shall be guilty of embezzlement and liable to imprisonment for not more than three years, and, if the thing has been entrusted to his care, to imprisonment for not more than five years.

If there are extenuating circumstances the punishment may be a fine.

The attempt is punishable.

248a. Anyone who by reason of poverty steals or misappropriates an article of small value shall be liable to a fine or to imprisonment for not more than three months.



Proceedings take place only upon application. The application may be withdrawn.

If the offence is committed against a relative in the descending line or against a spouse, it is not punishable.

249. Anyone who with violence to the person or by threats of immediate present danger to life or limb takes from another any movable thing of which he is not the owner, with the intention of converting it to his own benefit, shall be guilty of robbery and liable to penal servitude.

If there are extenuating circumstances, imprisonment for not less than six months may be substituted.

250. The punishment shall be penal servitude for not less than five years if:

(1) the robber or participator in the robbery carries a weapon during the commission of the offence;

(2) several persons who have banded themselves together for a course of robbery or theft take part;

(3) the robbery is committed in or upon any public road, street, railway, any public place, the open sea or a waterway.

(4) the robber with intent to rob or steal surreptitiously enters or forces an entry into or conceals himself in an occupied building (Sec. 243, subsection 7) and there by night commits the offence;

(5) the robber has previously suffered punishment in German territory for robbery or for an offence deemed equal to robbery, the provisions of Sec. 245 applying hereto.

If there are extenuating circumstances, imprisonment for not less than one year may be substituted.

251. If in the course of a robbery any person suffers torture, grievous bodily injury, or death by reason of the violence used towards him, the punishment shall be penal servitude for not less than ten years or for life.

252. Anyone who, being caught in the act of theft, uses violence or threatens immediate danger to life or limb, in order to retain possession of the stolen goods, shall be punished like a robber.

253. Anyone who in order to enrich himself or another person illegally, by force or threatening with a considerable hardship unlawfully compels another to commit, suffer or omit an act, and thereby inflicts any detriment to the threatened or any other person's property, shall be guilty of extortion and liable to penal servitude or imprisonment of not less than six months.

The act is unlawful, if, in view of the purpose, the application of force or the infliction of the impending hardship were contrary to sound popular feeling.

254. If extortion is committed by means of a threat of murder, arson, or inundation, the punishment shall be penal servitude for not more than five years.

255. If extortion is committed by means of violence to a person or by threats of immediate danger to life or limb, the offender shall be punished as a robber.

#### Accessories after the Fact.

257. Anyone, who, after the commission of a crime or delict, in order to secure to the offender or an accomplice the proceeds thereof or to enable him to escape punishment therefore knowingly renders assistance to such offender or accomplice, shall be guilty of connivance and liable to a fine or to imprisonment for not more than one year. If such assistance is rendered for his own profit he



shall be liable to imprisonment. In no case, however, shall the punishment awarded exceed in nature or measure that provided for the crime or delict itself.

Connivance committed by a relative of the offender or accomplice, in order to enable him to escape punishment, shall not be punishable.

Anyone promising connivance before the commission of the crime or delict shall be regarded as an accessory before the fact and punishable accordingly. This provision applies also to relatives.

258. Anyone who for his own benefit renders himself liable as an accessory after the fact shall be deemed to be guilty of receiving and shall be liable, if the principal offence is:

(1) Simple theft or embezzlement, to imprisonment.

(2) Aggravated theft or robbery, or a crime punishable as robbery, to penal servitude for not more than five years.

If there are extenuating circumstances, imprisonment for not less than three months may be substituted.

These punishments apply even if the receiver is a relative.

259. Anyone who for his own benefit conceals, purchases, takes in pledge, or otherwise acquires or assists another in disposing of things which he knows or has reasonable grounds to suspect have been obtained by means of a punishable act, shall be guilty of receiving and liable to imprisonment.

The attempt is punishable.

260. Anyone who makes a business or practice of receiving shall be liable to penal servitude for not more than ten years.

#### Fraud, Misappropriation and Breach of Trust.

263. Anyone who, in order to procure for himself or another an unlawful pecuniary benefit, by causing or maintaining a misapprehension by means of a false representation, by a misrepresentation, or by a suppression of the truth, injures another in his property, shall be guilty of fraud and liable to imprisonment and in addition to which a fine, and also loss of civil rights may be imposed.

If there are extenuating circumstances, a fine by itself may be imposed.

The attempt is punishable.

Imprisonment is replaced by penal servitude for not more than ten years when an especially serious case obtains and in particular, if the offence has injured the welfare of the people or has caused another exceptionally great damage or the offender has acted maliciously.

Anyone who commits fraud against a relative, guardian or tutor may only be prosecuted on complaint. The complaint may be withdrawn.

264a. Anyone who by reason of poverty procures for himself or another by fraud (Sec. 263, Sub. Sec. 1) an article of little value and thereby injures a third person shall be liable to a fine or to imprisonment for not more than three months.

The attempt is punishable.

Proceedings take place only on complaint. The complaint may be withdrawn.

If the offence is committed against a relative in the descending line or against a spouse, it is not punishable.

265. Anyone who with fraudulent intent sets on fire a thing which has been insured against fire, or sinks or wrecks a ship the subject of insurance either as to itself, its cargo, or its freight charges, shall



be liable to penal servitude for not more than ten years and also to a fine.

If there are extenuating circumstances, imprisonment for not less than six months may be substituted, and, in addition, a fine may be imposed.

#### Forgery—Destruction of Documentary Evidence.

267. Anyone who with the purpose of deceiving in legal affairs, produces a false document, falsifies a genuine document, or uses a counterfeit or falsified document, shall be guilty of forgery and liable to imprisonment.

The attempt is punishable.

In serious cases, the punishment is penal servitude.

268. The penalty for forgery committed in order to obtain for the offender or another a pecuniary benefit or to injure another shall be:

(1) In case of a private document penal servitude for not more than five years and, in addition, a fine may be imposed;

(2) In the case of a public document, penal servitude for not more than ten years and, in addition, a fine may be imposed.

If there are extenuating circumstances imprisonment may be substituted, but shall not be less than one week in the case of a private document and shall not be less than three months in the case of a public document. In addition to imprisonment a fine may be imposed.

274. A person is liable to imprisonment in addition to which a fine may be imposed, who:

(1) with the intention to prejudice the rights of another, destroys, damages or conceals a document in which he has no property right or no exclusive property right.

(2) with the intention to prejudice the rights of another, removes, destroys, renders unrecognisable or falsely places a boundary stone or other boundary mark or gauge for measuring water.

#### Interference with Legal Execution and Pledges.

##### Violation of Secrets.

288. Anyone who, when execution is pending against him, alienates or makes away with a part of his assets in order to escape payment of his creditors shall be liable to imprisonment for not more than two years or to a fine.

Proceedings take place only on a complaint of a creditor.

289. Anyone who for the benefit of the owner with unlawful intent takes away movable property, whether his own or another's, from the usufructuary, mortgagee, or person who has the right of use or retention of such property shall be liable to imprisonment for not more than three years or to a fine.

In addition to imprisonment loss of civil rights may be decreed. The attempt is punishable.

Proceedings take place only on complaint.

299. Anyone who intentionally and without proper authority opens a sealed letter or other sealed document not intended for his perusal, shall be liable to a fine or to imprisonment for not more than three months.

Proceedings take place only on complaint.

300. Any attorney, advocate, notary, defender of an accused person, doctor, surgeon, midwife, or apothecary, as also an assistant of any such, who without authority, discloses a private confidence entrusted to him by reason of his office, position, or profession as such, shall be liable to a fine or to imprisonment for not more than three months.

Proceedings take place only on complaint.

302a. Anyone who, taking advantage of the need, heedlessness or inexperience of another, with reference to a loan or the terms of payment of a debt or any other bilateral legal claim, procures for himself or another a pecuniary benefit or the promise thereof, which exceeds the ordinary rate of interest to such an extent as to be in the circumstances out of all proportion to the advantage accruing, shall be guilty of usury and liable to imprisonment for not more than six months and, in addition, to a fine. Loss of civil rights may also be imposed.

#### Violation of Another's Property Rights.

303. Anyone who intentionally and unlawfully damages or destroys the property of another shall be liable to a fine or to imprisonment for not more than two years.

The attempt is punishable.

Proceedings take place only on complaint. The complaint may be withdrawn if the offence has been committed against a relative.

304. Anyone who intentionally and unlawfully damages or destroys any object of devotion of a religious community established in the state or anything dedicated to divine worship, any tomb, public monument, object of art, education, or trade preserved in a public collection or publicly exhibited, or any object of public service or for the ornamentation of a public road, place, or grounds, shall be liable to imprisonment for not more than three years or to a fine.

In addition to imprisonment, loss of civil rights may be decreed.

The attempt is punishable.

305. Anyone who intentionally and unlawfully destroys wholly or partially any building, ship, bridge, dam, made road, railway, or other structure the property of another, shall be liable to imprisonment for not less than one month.

The attempt is punishable.

#### Interference with Public Safety.

306. Anyone who sets on fire any of the following:

(1) Any building set apart for divine worship;

(2) Any building, ship, or cottage used as a residence; or

(3) Any premises temporarily used as a dwelling during such time as they are so used;

shall be guilty of arson and liable to penal servitude.

307. The punishment for arson (Sec. 306) shall be penal servitude for not less than ten years or for life, if:—

(1) The fire results in the death of any person who was at the time of the offence upon the premises set on fire;

(2) The arson is perpetrated in order under cover thereof to commit murder, robbery, or to create a riot; or

(3) The incendiary, in order to prevent or hinder the putting out of the fire, has removed or rendered unserviceable the extinguishing apparatus.

308. Anyone who intentionally sets on fire any building, ship, cottage, mine, warehouse, merchandise lying in any public place set



aside therefor, store of agricultural produce or building material or fuel, any standing crops, forest or peat bog, the property of another, or if being his own property they are likely from their nature or situation to communicate the fire to any of the foregoing or to any of the premises mentioned in Sec. 306, subsections 1 to 3, shall be guilty of arson and liable to penal servitude for not more than ten years.

If there are extenuating circumstances the punishment shall be imprisonment for not less than six months.

309. Anyone who through negligence brings about a fire of the nature described in Secs. 306 and 308 shall be liable to imprisonment and to a fine or to one of these and, if the death of a person is caused by the fire, to imprisonment for not less than one month.

311. The partial or entire destruction of a thing by means of gunpowder or other explosive substance shall be deemed equivalent to setting it on fire.

315. Whoever by damaging, destroying or removing of equipment or means of transportation or by placing obstacles, by false signs or signals or by similar action or by an omission contrary to duty, which is equal to such action, impairs the safety of a railway, cable car, navigation or aviation, and thereby causes a public danger will be punished with penal servitude for not more than ten years. In especially serious cases a sentence of either penal servitude for life or of death will be imposed.

Whoever impairs the security of the functioning of a trolley car and who thereby causes a public danger will be punished by imprisonment. The attempt is punishable. In particularly serious cases the punishment is penal servitude for not more than ten years.

By public danger is meant either danger of injury or of death, even if it is only for a single person or a danger to important materials which are the property of another or the destruction of which is contrary to the common good.

317. Anyone who intentionally and unlawfully obstructs or endangers the use of any line of telegraph serving the public by damaging any part or appurtenance thereof or making any change therein, shall be liable to imprisonment for not less than one month nor more than three years.

318. Anyone who through negligence obstructs or endangers the use of any line of telegraph serving the public by any of the aforementioned acts shall be liable to imprisonment for not more than one year or to a fine.

Any person appointed to superintend or serve any such line of telegraph and its appurtenances, who through neglect of his duty obstructs or endangers its use, shall be liable to a similar punishment.

321. Anyone who intentionally destroys or damages any water service, sluice, weir, dam, or other water works, or any bridge, ferry, road or dike, or any appliance used for draining or ventilating a mine, or for the entrance or exit of its employees, or interferes with the channel in any navigable river, stream, or canal, and endangers the life of another by any of these acts, shall be liable to imprisonment for not less than three months.

If severe bodily injury is caused by any of the above acts, the punishment shall be penal servitude for not more than five years, and, if the death of a person results therefrom, penal servitude for not less than five years.

324. Anyone who intentionally poisons any well or reservoir serving for the use of another or any article intended for public sale or consumption or introduces into any such, any substance which he knows is likely to injure the health of human beings, or who sells, keeps for sale, or otherwise brings into commerce things so poisoned or into which any dangerous substance has been introduced, knowing and concealing this fact, shall be liable to penal servitude for not more than ten years, and, if the death of a person results therefrom, to penal servitude for not less than ten years or for life.

326. If any of the offences created by Secs. 321 to 324 is committed through negligence and damage is caused thereby the punishment shall be imprisonment for not more than one year, and, if the death of a person results therefrom, imprisonment for not less than one month nor more than three years.

#### Corruption—Public Officials

331. An official who accepts, demands, or allows himself to be promised any gift or other benefit for performing any act not contrary to his duties, shall be liable to a fine or to detention for not more than six months.

332. An official who accepts, demands, or allows himself to be promised any present or other benefit for any act constituting a violation of his duty in office or in service, shall be guilty of corruption and liable to penal servitude for not more than five years.

If there are extenuating circumstances the punishment shall be imprisonment.

334. A judge, arbitrator, juryman, or assessor who demands, accepts, or allows himself to be promised any present or other benefit in order to conduct or decide a case, of which the conduct or decision is in his hands, to the advantage or disadvantage of any party concerned, shall be liable to penal servitude.

Anyone who offers, promises or gives a judge, arbitrator, juryman, or assessor any present or other benefit for the aforesaid purpose shall be liable to penal servitude. If there are extenuating circumstances the punishment shall be imprisonment.

336. An official or arbitrator who in the conduct or decision of a legal matter deliberately renders himself guilty of departure from the law to the advantage or disadvantage of one of the parties, shall be liable to penal servitude for not more than five years.

339. An official will be punished with imprisonment if through abuse of his official powers or through threat to misuse the same, he illegally compels an individual to perform an act, forbearance or omission.

The attempt is punishable.

In case of Secs. 106, 107, 167 and 253, the same punishment is applicable when the act is committed by an official, without force or threat, but by abuse of his official powers or by threat of a particular abuse of the same.

340. An official who, knowingly in the exercise of his duties or in the delegation of his duties, commits bodily injury or permits bodily injury to be committed will be punished by imprisonment for not more than three months.

If there are extenuating circumstances the punishment can be minimised to one day of imprisonment or to the imposition of a fine.

If a serious bodily injury was committed, a sentence of penal servitude of not less than two years is to be imposed. If there are extenuating circumstances, a sentence of imprisonment of not less than three months will be imposed.



341. An official who intentionally and without good cause makes or brings about an arrest, provisional apprehension and detention or compulsory appearance or exceeds the prescribed term of incarceration, shall be liable to the punishment laid down in Sec. 239 but with a minimum of three months imprisonment.

342. An official who in the exercise or the direction of the exercise of his office commits a breach of the domestic peace (Sec. 123), shall be liable to imprisonment for not more than one year or to a fine.

343. An official who applies or causes coercion to be applied at an examination in order to extort a confession or deposition shall be liable to penal servitude for not more than five years.

344. An official who intentionally, to the prejudice of a person whom he knows to be innocent, applies for or decides upon the reopening or continuation of an examination, shall be liable to penal servitude.

345. An official who intentionally causes to be executed a sentence or an order relating to detention and reformation the execution of which he knows to be not permissible either altogether or in nature or in measure, shall be liable to a similar punishment.

If the offence is committed through negligence, the punishment shall be imprisonment or military detention for not more than one year or a fine.

346. An official who by virtue of his office, is under a duty to co-operate in a criminal proceeding, or in the execution of a penalty or an measure of security and reform and knowingly withdraws some one from the penalty or measure prescribed by law, shall be liable to penal servitude for not more than five years.

If there are extenuating circumstances, the punishment shall be imprisonment for not less than one month.

347. An official who intentionally allows, causes, or assists a prisoner with whose superintendence, escort, or custody he is entrusted, to escape, shall be liable to penal servitude for not more than five years. If there are extenuating circumstances, the punishment shall be imprisonment for not less than one month.

If an escape takes place or is facilitated by negligence the punishment is imprisonment for not more than six months or a fine.

352. If an official, advocate, attorney, or other legal adviser in making his charges for any costs or other reimbursements demands costs or reimbursements which he knows are not due or exceeding the amount due, he shall be liable to a fine or to imprisonment for not more than one year.

The attempt is punishable.

353. If an official charged with the levy of taxes, costs, or other dues for a public accounting department levies dues which he knows are not due or exceed the amount due and does not bring to account to such department the amount of the unlawful levy or of the unlawful part thereof, he shall be liable to imprisonment for not less than three months.

An official who, in making an issue in money or kind, intentionally and wrongfully withholds from the receiver a portion thereof and enters the issue in the account as made in full, shall be liable to a similar punishment.

354. A post office official who opens or suppresses any letter or packet, entrusted to the post save when permitted by law, or knowingly consents to or assists another in such an act, shall be liable to imprisonment for not less than three months.

355. A telegraph official or other person entrusted with the supervision or working of a telegraph line serving the public, who falsifies any message handed in to a telegraph office or opens or suppresses any such save when permitted by law, or wrongfully informs another of the contents thereof, or knowingly consents to or assists in such an act, shall be liable to imprisonment.

Messages which are exchanged through a telephone system serving the public shall be deemed equivalent to messages handed in to a telegraph office.

356. An advocate, attorney, or other legal adviser, who contrary to his duty and in connection with matters confided to him by virtue of his official capacity tenders advice or assistance to both parties in a law-suit shall be liable to imprisonment for not less than three months.

If he acts to the disadvantage of his client in collusion with the opposing party he shall be liable to penal servitude for not more than five years.

357. A superior who intentionally induces or undertakes to induce his subordinate to commit an offence in office or knowingly connives at such an offence on the part of his subordinate shall be liable to the penalty imposed for such offence.

This provision applies also to an official to whom the supervision and control of the official duties of another officer is assigned, in so far as the latter's offence relates to the duties under such supervision and control.



MILITARY GOVERNMENT — GERMANY  
 SUPREME COMMANDER'S AREA OF CONTROL

801. DIRECTIONS TO JUDGES OF THE AMTSGERICHT

To ..... Amtsrichter at .....

1. You are hereby authorized and required to perform the duties of Judge in charge of the Amtsgericht at ..... Before commencing duties you are required to attend at the Military Government Office and to take the oath as set out in Military Government Law No. 2. Within the sphere of your administrative duties you will be governed by the following instructions and by such other instructions as the Military Government may issue.

2. You will reopen the Amtsgericht at ..... on the ..... day of ..... 194 .. Your jurisdiction is limited as mentioned in Article III of Law No. 2 and in the following instructions, and you will deal with matters of the following classes:

(a) Criminal cases committed during the period between the date of commencement of military occupation of the area within your jurisdiction and the date of the reopening of the court.

(b) Criminal cases committed before the commencement of such military occupation.

(c) Criminal cases committed after the reopening of the court, provided that such criminal matters shall not include Privatklagestrafsachen.

(d) Issuance of temporary injunctions and provisional orders where the same are necessary to prevent serious injury.

(e) Proceedings relating to domestic relations and personal status including —

(I) matters relating to guardian and ward which are necessary to prevent serious harm;

(II) taking of precautionary measures for the purpose of preserving estates;

(III) appointments of trustees in bankruptcy where the same are necessary to preserve property or prevent irreparable injury;

(IV) proceedings for the perpetuation of testimony and evidence in important matters.

(f) Claims in tort excluding defamation and all claims above 500 Marks.

(g) Other civil cases.

3. You will give priority in the allocation of business to such matters as affect public order or are likely to cause serious harm to individuals unless a prompt remedy is granted and so far as possible deal with matters above mentioned in the order of priority in which they are set out.

4. (a) You will exercise the jurisdiction of a Jugendgericht and will allot a sufficient share of the time of the court to dealing promptly with juvenile criminal cases.

SECTION 8

FORMS—GERMAN COURTS

	Paras
A. G. 1. Instructions to Judges of Amtsgerichte . . .	801.—802.
L. G. 1. Instructions to Presidents of Landgerichte . . .	803.—804.
L. G. 2. Instructions to Oberstaatsanwälte at Landgerichte	805.—806.
I. J. 1. Instructions to Judges . . . . .	807.
G. C. 1. Order for Transfer of Case to Military Government Court . . . . .	808.



(b) Pending the opening of a Labour Court having jurisdiction in your area, you will deal with disputes formerly within the sole jurisdiction of a Labour Court in the same manner as other civil disputes giving priority to claims for wages not in excess of 500 Marks.

5. The Zwangsversteigerungsabteilung, Grundbuchamt and die Abteilung für Registersachen (Vereins- Handels- Güterrechts- Genossenschafts and other registers) will remain closed for the public. No registers may be inspected by the public.

6. You will be responsible to the Military Government for the proper administration of your court and the just and impartial application of law within the jurisdiction thereof, in accordance with the oath taken by you as prescribed in Law No. 2 of Military Government. You will issue appropriate instructions to all personnel under your administrative supervision and control. Copies of such instructions will be forwarded to the Military Government Officer.

7. You are responsible for submitting to the Military Government from time to time, proposals for the reopening of divisions of your court now closed and for the extension of your jurisdiction according as, in your opinion, the same are necessary and as the additional business can be handled. The Anerben and Erbgesundheitsgerichte and the Entschuldungsamt will remain closed.

8. You will select from persons now or in the past employed in similar tasks such court officials and personnel as are required to enable the above business to be transacted. At least 7 days before the date above set for the opening of the court you will forward to this office a list showing the names, addresses, position, duties, salaries of all personnel to be so employed together with fully completed General and Special Fragebogen signed by each such person. You will forward like information with respect to any future employees at least 7 days prior to the time they are to assume their duties. Forms for his purpose will be supplied to you. You will certify when forwarding any Fragebogen to the Military Government that the facts there stated are, to the best of your knowledge and belief, true and complete.

9. You will recommend to the Military Government Officer the names of all prosecutors and lawyers who in your opinion should be allowed to practise in your court. Upon authorization by Military Government and upon swearing the necessary oath, such persons will be permitted to practise, but the authorization may be revoked at any time.

10. You and the prosecutor will make and keep a comprehensive record of the number, kind and character of all proceedings had in your court and all applications or complaints filed or presented to the court, or to you in your official capacities, and the disposition made of such matters. You will report at the end of each week the number of official matters handled in or presented to the court, the kind and character of such matters and the matters awaiting trial or other disposition. Forms of such reports are attached hereto.

Dated . . . . . 194 . . . . .

BY ORDER OF MILITARY GOVERNMENT.

MILITÄRREGIERUNG — DEUTSCHLAND

KONTROLL-GEBIET DES OBERSTEN BEFEHLSHABERS.

801. DIENSTANWEISUNGEN FÜR AMTSRICHTER.

An . . . . . Amtsrichter in . . . . .

1. Sie werden hierdurch ermächtigt und ersucht, die Dienststellung des aufsichtsführenden Richters bei dem Amtsgericht zu . . . . . zu übernehmen. Vor Antritt Ihrer Dienststellung haben Sie sich bei der Amtsstelle der Militärregierung zu melden und den Eid zu leisten, welcher durch Gesetz Nr. 2 der Militärregierung vorgeschrieben ist. Bei der Erfüllung der dienstlichen Aufgaben, welche sich aus Ihrer Amtsstellung ergeben, haben Sie alle von der Militärregierung erlassenen Dienstanweisungen, insbesondere die folgenden zu beachten.

2. Sie werden das Amtsgericht zu . . . . . am . . . . . 194 . . . für den Verkehr mit dem Publikum öffnen. Ihre Zuständigkeit ist gemäss Artikel II des Gesetzes Nr. 2 und den folgenden Anordnungen beschränkt und Sie werden Amtsgeschäfte ausschliesslich in den folgenden Angelegenheiten vornehmen:

a. Sachen, in denen die Straftat in der Zeit zwischen dem Beginn der militärischen Besetzung des Gebietes, für das Ihr Gericht örtlich zuständig ist, und dem Zeitpunkt der Eröffnung des Gerichts begangen wurde,

b. Sachen, in denen die Straftat vor dem Beginn der militärischen Besetzung begangen wurde,

c. Sachen, in denen die Straftat nach Eröffnung des Gerichts begangen wurde, jedoch mit der Massgabe, dass Privatklagsachen nicht zu den hiernach zu behandelnden Strafsachen gehören,

d. Arreste und einstweilige Verfügungen, soweit dieselben zur Abwendung eines erheblichen Schadens erforderlich sind,

e. Streitigkeiten wegen familienrechtlicher Beziehungen und anderer den Personenstand betreffender Angelegenheiten, einschliesslich

(I) Vormundschaftssachen soweit deren Bearbeitung zur Abwendung eines schweren Nachteils erforderlich ist,

(II) Anordnung vorläufiger Massnahmen zum Zwecke der Nachlassicherung,

(III) Ernennung von Konkursverwaltern, soweit dies zur Erhaltung von Vermögenswerten oder zur Abwehr eines nicht wieder gutzumachenden Schadens erforderlich ist,

(IV) Beweissicherungsverfahren in Angelegenheiten von besonderer Bedeutung.

f. Ansprüche aus unerlaubter Handlung ausschliesslich der Beleidigungssachen und ausschliesslich aller Ansprüche über 500 Reichsmark;

g. Andere bürgerlichrechtliche Streitigkeiten.



3. Sie haben diejenigen Angelegenheiten zunächst zu erledigen, die für die Aufrechterhaltung der öffentlichen Ordnung von Bedeutung sind oder bei denen den Beteiligten ein schwerer Schaden droht, sofern nicht alsbaldige Rechtshilfe gewährt wird. Soweit als möglich werden Sie alle Angelegenheiten zeitlich in der oben bezeichneten Rangordnung erledigen.

4. (a) Sie werden die Gerichtsbarkeit eines Jugendrichters ausüben und genügend Zeit auf die schnelle Behandlung jugendlicher Strafsachen verwenden.

(b) Bis zur Eröffnung eines Arbeitsgerichts für Ihren Bezirk werden Sie Arbeitsrechtsstreitigkeiten, für die die Arbeitsgerichte ausschliesslich zuständig waren, in demselben Umfange wie andere bürgerliche Rechtsstreitigkeiten, jedoch unter Bevorzugung von Lohn- und Gehaltsansprüchen bis zu 500 Reichsmark behandeln.

5. Die Zwangsversteigerungsabteilung, das Grundbuchamt und die Abteilungen für Registersachen (Vereins- Handel- Genossenschafts- Güterrechts- und andere Register) bleiben für das Publikum geschlossen. Dem Publikum ist die Einsicht der Register untersagt.

6. Gemäss dem von Ihnen geleisteten, in Gesetz Nr. 2 der Militärregierung vorgeschriebenen Eid sind Sie der Militärregierung dafür verantwortlich, dass Ihr Gericht ordnungsmässig verwaltet wird, und dass die Rechtspflege innerhalb der örtlichen und sachlichen Zuständigkeit des Gerichts gerecht und unparteiisch ist. Sie werden angemessene Dienstanweisungen an alle Ihrer Dienstaufsicht unterstellten Beamten und Angestellten erlassen. Abschriften dieser Dienstanweisungen sind dem Offizier der Militärregierung zu übergeben.

7. Sie haben der Militärregierung Vorschläge für die Eröffnung anderer Abteilungen Ihres Gerichts, die jetzt geschlossen sind, und die Erweiterung der Zuständigkeit des Gerichts von Zeit zu Zeit zu unterbreiten sobald nach Ihrer Auffassung dies notwendig wird und zusätzliche Geschäfte bearbeitet werden können: jedoch bleiben das Anerbengericht, das Erbgesundheitsgericht und das Entschuldungsamt geschlossen.

8. Sie haben aus dem Kreise der Personen, die jetzt oder in der Vergangenheit entsprechende Dienststellen bekleidet haben, eine zur Durchführung der im Vorstehenden bezeichneten Amtsgeschäfte ausreichende Anzahl von Gerichtsbeamten und Angestellten zu bezeichnen. Sie werden spätestens 7 Tage vor dem gemäss vorstehendem für die Eröffnung des Gerichts in Aussicht genommenen Tage eine Liste aller anzustellenden Beamten und Angestellten unter Angabe von Namen, Anschrift, Dienststrang, Dienststellung und Gehalt an die unterzeichnete Amtsstelle übersenden. Der Liste ist für jeden Beamten und Angestellten der von diesem vollständig ausgefüllte und unterschriebene Allgemeine und Besondere Fragebogen beizufügen. Sie haben entsprechende Angaben in jedem Falle künftig einzustellender Beamten und Angestellten mindestens 7 Tage vor dem Zeitpunkte ihrer beabsichtigten Einstellung zu übersenden. Zu diesem Zwecke werden Ihnen Formulare zugehen. Bei Übersendung jedes Fragebogens an die Militärregierung haben Sie zu bescheinigen, dass nach Ihrem besten Wissen und Gewissen die darin gemachten Angaben wahr und vollständig sind.

9. Sie haben dem Offizier der Militärregierung eine Vorschlagsliste derjenigen Beamten der Anwaltschaft, sowie derjenigen Rechtsanwälte zu übersenden, die nach Ihrer Auffassung die Erlaubnis zur

Fortführung ihrer Tätigkeit bei Ihrem Gericht erhalten sollen. Diese Personen können erst auf Grund der Ermächtigung der Militärregierung und nach Eidesleistung ihre Tätigkeit fortsetzen. Die Ermächtigung ist jedoch jederzeit widerruflich.

10. Sie und der Leiter der Anwaltschaft haben ein vollständiges Verzeichnis der Zahl, Art und des Gegenstandes aller in Ihrem Gericht behandelten Angelegenheiten und aller Anträge und Beschwerden, die bei dem Gericht eingegangen sind oder vorgetragen werden, oder die Ihnen dienstlich zugegangen sind, anzulegen und zu führen. Das Verzeichnis hat anzugeben, in welcher Weise die Erledigung der Sache erfolgt ist. Das Verzeichnis ist auf dem Laufenden zu halten. Sie haben am Ende einer jeden Woche einen Bericht über die Anzahl der Geschäfte, welche in dem Gericht behandelt oder beantragt worden sind, sowie über die Art und den Gegenstand der Angelegenheiten und ihrer Erledigung zu erstatten. Dieser Bericht soll ebenfalls alle Angelegenheiten anführen, die anhängig sind und die entweder vor der Verhandlung stehen oder die einer sonstigen Behandlung unterliegen. Formulare für diese Berichte sind in der Anlage beigelegt.

Den . . . . . 194 . . . . .

IM AUFTRAGE DER MILITÄRREGIERUNG.



802. WEEKLY SUMMARY OF BUSINESS  
WÖCHENTLICHER BERICHT ÜBER DIE GESCHÄFTE

Amtsgericht at ..... for week ending Saturday 194  
Amtsgericht zu ..... Woche endigend Sonnabend, den

Part I — CRIMINAL CASES  
Teil I — STRAFSACHEN

A — Cases pending since preceding week

A — Sachen, welche bereits in der Vorwoche schwebten

Name of accused*	If in custody reason for and date of arrest and place of detention	Description of charge and date	Law under which charged	Action taken with dates	Remarks
Name des Beschuldigten Angeklagten	Falls in Haft warum, seit wann und wo in Haft gehalten	Gegenstand und Datum der Anklage	Strafgesetz auf Grund dessen Anklage erhoben wurde	Gerichtliche Anordnungen und Entscheidungen mit Daten	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

B — Cases of which the trial date has been fixed

B — Sachen, in denen Termin zur Hauptverhandlung angeordnet worden ist

Name of accused and counsel*	If in custody since when	Description of charge and date	Law under which charged	Date for trial	Remarks
Name des Angeklagten und des Verteidigers	Falls in Haft seit wann	Gegenstand und Datum der Anklage	Strafgesetz auf Grund dessen Anklage erhoben wurde	Datum der Hauptverhandlung	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

C — Cases tried

C — Sachen, in denen die Hauptverhandlung stattgefunden hat.

Name of accused and counsel*	Description of charge and date	Law under which charged	Application of Staats-Anwalt	Judgment or other disposition with date	Remarks
Name des Angeklagten und des Verteidigers	Gegenstand und Datum der Anklage	Strafgesetz auf Grund dessen Anklage erhoben wurde	Antrag des Staats-Anwalts	Urteil oder sonstige gerichtliche Anordnung mit Angabe des Datums	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

\* In juvenile cases underline the surname.  
In Jugendsachen ist der Zuname zu unterstreichen.

D — Other matters of a criminal nature started since preceding week and not listed above.

D — Sonstige Strafsachen, die seit der Vorwoche eingegangen und oben nicht aufgeführt sind.

Name of parties involved	Description of matter	Action taken with date	Remarks
Namen der Beteiligten	Beschreibung der Angelegenheit	Gerichtliche Anordnungen mit Datum	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

Total number of persons held in custody awaiting trial.  
Gesamtzahl der in Haft befindlichen Angeklagten und Angeschuldigten.

(a) for over 28 days  
in Haft seit über 28 Tagen

(b) between 7 and 28 days  
in Haft seit 7—28 Tagen

(c) less than 7 days  
in Haft seit weniger als 7 Tagen

Total number of cases disposed of  
Gesamtzahl der erledigten Strafsachen

Number of cases pending, awaiting trial or other disposition

Zahl der schwebenden Strafsachen, in denen weder eine Hauptverhandlung noch eine sonstige endgültige Erledigung stattgefunden hat.

Amount of fines collected: RM  
Gesamtbetrag der zur Einziehung gelangten Geldstrafen:

Part II — CIVIL CASES  
Teil II — BÜRGERLICHE RECHTSSTREITIGKEITEN

Name of Plaintiff or Petitioner	Name of Defendant or Respondent	Nature of action or proceeding	Date of trial	Judgment or Disposition
Name des Klägers oder Antragstellers	Name des Beklagten oder Antragsgegners	Gegenstand des Verfahrens	Datum der Verhandlung	Urteil oder anderweitige Erledigung

1.  
2.  
3.  
etc.  
usw.

Total number of proceedings  
Gesamtzahl der Verfahren



Part III — NON-CONTENTIOUS MATTERS

Teil III — ANGELEGENHEITEN DER FREIWILLIGEN  
GERICHTSBARKEIT

Name of Applicant or Petitioner	Name of Respondent	Nature of Proceeding	Date of Disposition	Disposition with names and addresses of any appointee*
Name des Antragstellers	Name des Antragsgegners	Gegenstand des Verfahrens	Datum der Erledigung	Art der Erledigung mit Angabe des Namens und Anschrift einer zu einem Amt bestellten Person

1.  
2.  
3.  
etc.  
usw.

Part IV — ADMINISTRATIVE MATTERS Report to be rendered monthly)

Teil IV — VERWALTUNGSANGELEGENHEITEN (Dieser Bericht ist monatlich einzureichen)

Personnel Judges employed: (if increase or decrease give names)	Other court personnel	No. of lawyers authorized to practise	No. of notaries	State of building	Suggestions
Anzahl der Richter (falls Veränderungen gegenüber Vorwoche, Angabe der Namen)	Sonstige Gerichtsbeamten und Angestellte	Anzahl der Anwälte deren Auftritt genehmigt ist	Anzahl der Notaren	Zustand des Gebäudes	Anregungen

1.  
2.  
3.  
etc.  
usw.

Part V — REPORT OF OTHER MATTERS OF CONCERN TO MILITARY GOVERNMENT

Teil V — BERICHT ÜBER SONSTIGE DIE MILITARREGIERUNG BETREFFENDE ANGELEGENHEITEN

Description of matter	If action taken give decision and date	If no action taken give recommendations	Remarks
Beschreibung der Angelegenheit	Falls etwas veranlaßt wurde ist Entscheidung mit Datum anzugeben	Falls nichts veranlaßt wurde, sind ihre Anregungen mitzuteilen	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

\*E. g. Guardian, trustee, executor, curator, etc.

z. B. Vormund, Konkursverwalter, Testamentsvollstrecker, Pfleger usw.



I, . . . . ., HEREBY DECLARE that the above return is a true and complete record of all criminal, civil and non-contentious business transacted in the Amtsgericht at . . . . . during the week ending Saturday, . . . . . 194 . . ., and that none of the proceedings or business transacted during such period contravened the policy of Military Government or the provisions of Laws No. 1, 2 and 5 of Military Government.

Ich, . . . . ., ERKLÄRE HIERDURCH, dass vorstehender Bericht eine wahrheitsgetreue und vollständige Übersicht aller Strafsachen, bürgerlicher Rechtsstreitigkeiten und Angelegenheiten der freiwilligen Gerichtsbarkeit darstellt, die bei dem Amtsgericht zu . . . . . innerhalb der am Sonnabend, den . . . . . 194 . . . endigenden Woche bearbeitet worden sind, und dass bei der Bearbeitung keines dieser Verfahren und dieser Angelegenheiten eine Zuwiderhandlung gegen die Ziele der Militärregierung oder gegen die Militärregierungsgesetze Nr. 1, 2 und 5 begangen worden ist.

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Amtsrichter

Dated . . . . ., 194 . . .

den . . . . . 194 . . .



MILITARY GOVERNMENT — GERMANY

SUPREME COMMANDER'S AREA OF CONTROL

803. DIRECTIONS TO PRESIDENT OF LANDGERICHT

To ..... at .....

1. You are hereby authorized and required to perform the duties of President of the Landgericht at

Before commencing duties you are required to attend at the Military Government Office and to take the oath as set out in Military Government Law No. 2. Within the sphere of your administrative duties you will be governed by the following instructions, and by such other instructions as the Military Government may issue to judges.

2. Your first tasks, to which complete priority will be given, are:

(a) to secure the reopening of sufficient Amtsgerichte within the area of your Landgericht to ensure the maintenance of law and order;

(b) to reopen the Strafkammer of your Landgericht.

3. You will submit as soon as possible a plan for the reopening of Amtsgerichte. This plan will show

(a) which Amtsgerichte you propose shall be reopened and the approximate dates of reopening;

(b) the names of judges whom you recommend for appointment at such Amtsgerichte. You are at liberty to recommend the. The transfer to other courts of any judges or other personnel whose appointment may have been already approved by Military Government, if you consider it desirable, giving the reasons for such recommendations. If you consider any of the judges or legal personnel in your area provisionally appointed by Military Government unsuitable, you will so resort to Military Government giving your reasons and your recommendations.

(c) the business which you propose shall be handled by such Amtsgerichte. In preparing this part of the plan you will take account of the order of priority laid down by Military Government for the disposal of business which is set out in the attached Directions to Judges of the Amtsgericht. You are at liberty to submit proposals differing from these directions, giving your reasons for such proposals. Existing instructions relating to the urgency of business during wartime will not be regarded as binding.

4. There is attached a list of the Amtsgerichte within your area already reopened by the Military Government.

5. You will similarly submit as soon as possible a plan for the reopening of the Strafkammer. This plan will show

(a) the proposed organisation of the Strafkammer;

(b) the proposed date for reopening;

(c) the names of judges whom you recommend for appointments;

(d) the jurisdiction which (within the existing German law) you propose should temporarily be exercised by the Strafkammer in respect of

(I) original jurisdiction;

(II) appeals.

In preparing this part of your plan you will consult with the Oberstaatsanwalt at your Landgericht.

6. Your plan will further provide for the reopening of the Jugendkammer as soon as possible and, under this heading, will be drawn up in a similar manner to that set out in para 5.

7. You will forward to the Military Government a General and Special-Fragebogen, completed in triplicate, in respect of any judge you recommend for any appointment who has not already completed a Fragebogen. Forms for this purpose are attached.

8. You will select from persons now or in the past employed in similar tasks such court officials and personnel as are required to enable the proposed business to be transacted. At least seven days before the date proposed by you for the opening of any part of your court you will forward to the Military Government a list showing the names, addresses, positions, duties, salaries of all personnel to be so employed, together with a Fragebogen completed in triplicate by each such person. You will forward like information with respect to any future employees at least seven days prior to the time they are to assume their duties.

9. You will, before the opening of the court, forward to the Military Government a list of all lawyers and notaries who should be allowed to practise in your court or in the area of your court, such lists to be accompanied by completed Fragebogen in each case in which Fragebogen have not already been completed. Upon authorization by Military Government, such persons may be permitted to practise, but the authorization may be revoked at any time.

10. You will certify when forwarding any Fragebogen to Military Government that the facts there stated are, to the best of your knowledge and belief, true and complete.

11. The Military Government will notify you of its approval for the reopening of any Amtsgericht as recommended by you. You will thereupon formally instruct the judge in charge to reopen the court and will forward to each judge whose appointment is approved a copy of the Military Government Directions to Judges of the Amtsgericht and of Instructions to Judges No. 1.

12. The Military Government will notify you of its approval of the appointment of any judges in your court. You will thereupon provide them with a copy of Instructions to Judges Do. 1 and will instruct them to attend, before commencing duties, at the Military Government Office to take the oath as set out in Military Government Law No. 2.

13. You are responsible for ensuring that all Amtsgerichte, including those already opened by Military Government, in your area comply strictly with all Directions and Instructions of the Military Government and for promptly reporting any failure to do so. All reports and returns required by the Military Government from Amtsgerichte will be obtained by you and forwarded by you to the Military Government. It is the intention of the Military Government



that pending the exercise of supervisory powers by the President of the Oberlandesgericht, you shall freely exercise powers of supervision and discipline over all judicial and non-judicial officers in the area of your court as prescribed by German law. All such powers will, however, be used to ensure compliance with instructions of the Military Government.

14. You are responsible for submitting to the Military Government from time to time proposals for the reopening of divisions of your court now closed and for the extension of its jurisdiction according as, in your opinion, the same are necessary and as the additional business can be handled.

15. Together with the Oberstaatsanwalt you will make and keep a complete record of the number, kind and character of all proceedings had in your court and all applications or complaints filed or presented to the court, or to you in your official capacities, and the disposition made of such matters. You will report on Thursday of each week the number of matters handled in or presented to the court or to you in preceding week kind and character of such matters and the disposition made thereof. Said report will also contain a statement of the matters awaiting trial or other disposition. Forms of such reports are attached hereto.

Dated .....

BY ORDER OF MILITARY GOVERNMENT:

MILITÄRREGIERUNG DEUTSCHLAND

KONTROLL-GEBIET DES OBERSTEN BEFEHLSHABERS.

803. Anweisung an den Präsidenten des Landgerichtes.

An ..... in .....

1. Sie werden hiermit ermächtigt und ersucht die Dienststellung als Präsident des Landgerichtes in ..... zu übernehmen. Vor Antritt Ihrer Dienststellung haben Sie sich bei der Amtsstelle der Militärregierung zu melden und den Eid zu leisten, welcher durch Gesetz Nr. 2 der Militärregierung vorgeschrieben ist. Bei der Ausfüllung Ihrer dienstlichen Aufgaben haben Sie alle von der Militärregierung an Richter erlassenen Anweisungen, insbesondere die folgenden zu beachten.

2. Ihre ersten Aufgaben, denen unbedingter Vorrang gegeben werden muss, sind:

- (a) Die Eröffnung von so vielen Amtsgerichten im Bezirk Ihres Landgerichtes als für die Aufrechterhaltung von Recht und Ordnung notwendig ist;
- (b) Die Wiederaufnahme der Tätigkeit der Strafkammer Ihres Landgerichtes.

3. Sie werden, so bald als möglich, einen Plan für die Eröffnung der Amtsgerichte vorlegen. Dieser Plan soll folgendes enthalten:

- (a) Die Bezeichnung der Amtsgerichte, die eröffnet werden sollen und das ungefähre Datum der Eröffnung;
- (b) Die Namen der Richter, deren Anstellung Sie bei diesen Amtsgerichten empfehlen. Sie können, falls Sie das für wünschenswert halten, die Versetzung von Richtern und Justizangestellten, deren vorläufige Anstellung von der Militärregierung bereits genehmigt worden ist, an andere Gerichte, unter Angabe der Gründe für diesen Vorschlag, empfehlen. Falls Sie einen Richter oder Justizangestellten in Ihrem Bezirk, dessen vorläufige Anstellung von der Militärregierung genehmigt wurde, für ungeeignet halten, haben Sie darüber an die Militärregierung zu berichten und die Gründe hierfür und Ihre Empfehlungen anzugeben;

(c) Die Bezeichnung der Geschäfte, die von diesen Amtsgerichten behandelt werden sollen. Bei der Ausarbeitung dieses Abschnittes des Planes, haben Sie die von der Militärregierung bestimmte Rangordnung für die Erledigung von Geschäften, die in den beigefügten "Anweisungen an Richter der Amtsgerichte" enthalten ist, zu berücksichtigen. Sie können Vorschläge für die Abänderung dieser Anweisungen unter Angabe der Gründe einreichen. An bestehende Anordnungen, die sich auf die Dringlichkeit von Geschäften während der Kriegszeit beziehen, sind Sie nicht gebunden.

4. Ein Verzeichnis der in Ihrem Bezirk durch die Militärregierung bereits eröffneten Amtsgerichte ist beigefügt.



5. Sie haben auch für die Wiederaufnahme der Tätigkeit der Strafkammer einen Plan vorzulegen. Dieser Plan hat zu enthalten:

- (a) Die von Ihnen vorgeschlagene Zusammensetzung der Strafkammer;
- (b) Ihren Vorschlag für den Beginn der Tätigkeit;
- (c) Die Namen der Richter, deren Einsetzung Sie empfehlen;
- (d) Ihren Vorschlag betreffend die Tätigkeit, die (im Rahmen der in Kraft befindlichen deutschen Gesetzgebung) zunächst von der Strafkammer ausgeübt werden soll und zwar:
  - (i) in erstinstanzlichen Sachen.
  - (ii) in Berufungssachen.

Bei der Ausarbeitung dieses Abschnittes des Planes haben Sie den Oberstaatsanwalt an Ihrem Landgericht zu befragen.

6. Ihr Plan soll auch die baldmöglichste Wiederaufnahme der Tätigkeit der Jugendkammer vorsehen und unter diesem Abschnitt haben Sie Vorschläge gemäss Paragraph 5 vorzulegen.

7. Sie haben an die Militärregierung für jeden Richter, dessen Anstellung Sie empfehlen, einen von diesem in dreifacher Ausfertigung ausgefüllten Fragebogen vorzulegen, soweit derartige Fragebogen nicht bereits von den Richtern ausgefüllt worden sind. Formulare für diesen Zweck sind beigefügt.

8. Sie haben unter den Personen, die jetzt oder in der Vergangenheit eine ähnliche Tätigkeit ausgeübt haben, Justizbeamte und Angestellte in genügender Anzahl für die von Ihnen vorgeschlagenen Geschäfte auszuwählen. Mindestens 7 Tage vor dem von Ihnen vorgeschlagenen Zeitpunkt für die Wiederaufnahme der Tätigkeit in jeder Abteilung (Kammer) Ihres Gerichtes haben Sie an die Militärregierung ein Verzeichnis einzureichen, das die Namen, Anschriften, Stellung, Dienstpflichten und Gehälter des anzustellenden Personals enthält. Dem Verzeichnis sind auch Fragebogen, die von jedem Beamten und Angestellten in dreifacher Ausfertigung ausgefüllt sind, beizufügen. Sie haben entsprechende Angaben in jedem Falle künftighin einzustellender Beamten und Angestellten mindestens 7 Tage vor Dienstantritt einzureichen.

9. Vor dem Zeitpunkt der Eröffnung Ihres Gerichtes haben Sie an die Militärregierung ein Verzeichnis sämtlicher Rechtsanwälte, deren Auftreten vor Ihrem Gerichte genehmigt werden soll, und sämtlicher Notare, die in dem Gerichtsbezirk ihre Praxis ausüben dürfen, einzureichen. Dem Verzeichnis sind in jedem Falle von den Rechtsanwälten und Notaren ausgefüllte Fragebogen beizufügen, soweit derartige Fragebogen nicht bereits von diesen ausgefüllt worden sind. Die vorgenannten Personen dürfen ihre Praxis erst nach Genehmigung durch die Militärregierung ausüben; diese Genehmigung ist jederzeit widerruflich.

10. Bei der Einreichung der Fragebogen an die Militärregierung haben Sie zu bescheinigen, dass nach Ihrem besten Wissen und Gewissen die darin enthaltenen Angaben wahr und vollständig sind.

11. Die Militärregierung wird Sie von der Genehmigung für die Eröffnung der von Ihnen vorgeschlagenen Amtsgerichte verständigen. Daraufhin werden Sie die aufsichtführenden Richter formell anweisen, ihr Gericht zu eröffnen und jedem Richter, dessen Anstellung genehmigt worden ist, eine Abschrift der "Anweisungen der Militärregierung an die Richter der Amtsgerichte und die "Allgemeinen Anweisungen an Richter No. 1" übermitteln.

12. Die Militärregierung wird Sie von der Genehmigung der Anstellung jedes Richters Ihres Gerichts benachrichtigen. Daraufhin werden Sie jedem so ernannten Richter eine Abschrift der "Allgemeinen Anweisungen an Richter No. 1" aushändigen und diese ersuchen, vor Dienstantritt in der Amtsstelle der Militärregierung zu erscheinen und den im Gesetz No. 2 der Militärregierung vorgesehenen Eid zu leisten.

13. Sie sind dafür verantwortlich, dass alle Amtsgerichte in Ihrem Bezirk einschliesslich derjenigen, die durch die Militärregierung bereits eröffnet wurden, sämtliche Richtlinien und Anweisungen der Militärregierung gewissenhaft befolgen, und dass jede Zuwiderhandlung oder Unterlassung sofort gemeldet wird. Alle Berichte und Aufstellungen, die die Militärregierung verlangt, werden von Ihnen eingefordert und der Militärregierung übermittelt. Es ist die Absicht der Militärregierung, dass Sie bis zur Ausübung der Aufsichtsbefugnis durch den Präsidenten des Oberlandesgerichtes, diese Aufsichts- und Disziplinarbefugnisse über alle richterlichen und nichtrichterlichen Beamten und Angestellten in dem Bezirk Ihres Gerichtes, unter Berücksichtigung der Vorschriften des deutschen Rechtes nach Ihrem freien Ermessen ausüben. Alle diese Befugnisse dürfen jedoch nur zwecks genauer Beachtung der Anweisungen der Militärregierung ausgeübt werden.

14. Sie haben der Militärregierung von Zeit zu Zeit Vorschläge zu unterbreiten für die Aufnahme der Tätigkeit in anderen Abteilungen (Kammern) Ihres Gerichtes, die derzeit geschlossen sind, und für die Erweiterung der Zuständigkeit Ihres Gerichtes in dem Umfang, den Sie für notwendig halten und in dem zusätzliche Geschäfte nach Ihrer Meinung erledigt werden können.

15. Sie werden zusammen mit dem Oberstaatsanwalt ein vollständiges Verzeichnis anlegen und führen. Dieses Verzeichnis hat die Anzahl, die Art und den Gegenstand sämtlicher Verfahren in Ihrem Gericht und alle Anträge und Beschwerden die bei dem Gericht oder bei Ihnen in Ihrer amtlichen Eigenschaft eingereicht oder vorgetragen werden und deren Erledigung zu enthalten. An jedem Donnerstag haben Sie die Anzahl aller Angelegenheiten, die in Ihrem Gericht oder von Ihnen behandelt oder vor dem Gericht oder vor Ihnen während der vorhergehenden Woche vorgetragen werden, deren Art Gegenstand und deren Erledigung zu berichten. Diese Berichte haben auch eine Beschreibung der Angelegenheiten zu enthalten, für die eine Verhandlung oder eine andere Erledigung angeordnet ist. Formulare für diese Berichte sind beigefügt.

Den .....

Im Auftrage der Militärregierung.



WEEKLY SUMMARY OF BUSINESS  
WÖCHENTLICHER BERICHT ÜBER DIE GESCHÄFTE

Part I — CRIMINAL CASES  
Teil I STRAFSACHEN

A — Cases pending since preceding week

A — Sachen, welche bereits in der Vorwoche schwebten

Name of accused*	If in custody reason for & date of arrest & place of detention.	Description of charge & date	Law under which charged	Action taken with dates	Remarks
Name des Beschuldigten* Angeklagten	Falls in Haft warum, seit wann und wo in Haft gehalten	Gegenstand und Datum der Anklage	Strafgesetz auf Grund dessen Anklage erhoben wurde	Gerichtliche Anordnungen und Entscheidungen mit Daten	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

B — Cases of which the trial date has been fixed

B — Sachen, in denen Termin zur Hauptverhandlung angeordnet worden ist

Name of accused & counsel*	If in custody since when	Description of charge & date	Law under which charged	Date for trial	Remarks
Name des Angeklagten und des Verteidigers*	Falls in Haft, seit wann.	Gegenstand und Datum der Anklage	Strafgesetz auf Grund dessen Anklage erhoben wurde.	Datum der Hauptverhandlung	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

C — Cases tried

C — Sachen, in denen die Hauptverhandlung stattgefunden hat.

Name of accused & counsel*	Description of charge & date	Law under which charged	Application of Staatsanwalt.	Judgment or other Disposition with date	Remarks.
Name des Angeklagten und des Verteidigers	Gegenstand und Datum der Anklage	Strafgesetz auf Grund dessen Anklage erhoben wurde.	Antrag des Staatsanwalt	Urteil oder sonstige gerichtliche Anordnung mit Angabe des Datums	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

\* In juvenile cases underline the surname  
In Jugendsachen ist der Zuname zu unterstreichen.

D — Other matters of a criminal nature started since preceding week and not listed above.

D — Sonstige Strafsachen, die seit der Vorwoche eingegangen und oben nicht aufgeführt sind.

Name of parties involved	Description of matter	Action taken with date	Remarks
Namen der Beteiligten	Beschreibung der Angelegenheit	Gerichtliche Anordnungen mit Datum	Bemerkungen

1.  
2.  
3.  
etc.  
usw.

Total number of persons held in custody awaiting trial.  
Gesamtzahl der in Haft befindlichen Angeklagten und Angeschuldigten.

(a) for over 28 days . . . . .  
in Haft seit über 28 Tagen

(b) between 7 and 28 days . . . . .  
in Haft seit 7—28 Tagen

(c) less than 7 days . . . . .  
in Haft seit weniger als 7 Tagen

Total number of cases disposed of . . . . .  
Gesamtzahl der erledigten Strafsachen

Number of cases pending, awaiting trial or other disposition . . . . .

Zahl der schwebenden Strafsachen, in denen weder eine Hauptverhandlung noch eine sonstige endgültige Erledigung stattgefunden hat

Amount of fines collected: . . . . . RM  
Gesamtbetrag der zur Einziehung gelangten Geldstrafen

Part II — CIVIL CASES

Teil II — BÜRGERLICHE RECHTSSTREITIGKEITEN

Name of Plaintiff or Petitioner	Name of Defendant or Respondent	Nature of action or proceeding	Date of Trial	Judgment or Disposition.
Name des Klägers oder Antragstellers	Name des Beklagten oder Antraggegners	Gegenstand des Verfahrens	Datum der Verhandlung	Urteil oder anderweitige Erledigung.

1.  
2.  
3.  
etc.  
usw.

Total number of proceedings . . . . .  
Gesamtzahl der Verfahren



Part III — ADMINISTRATIVE MATTERS (Report to be rendered monthly)  
 Teil III — VERWALTUNGSANGELEGENHEITEN (Dieser Bericht ist monatlich einzureichen).

Personnel Judges employed: (if increase or decrease give names).	Other Court personnel	No. of lawyers authorized to practise	No. of notaries	State of building	Suggestions
Anzahl der Richter (falls Veränderungen gegenüber Vorwoche Angabe der Namen)	Sonstige Gerichtsbeamten und Angestellte	Anzahl der Anwälte deren Auftritt genehmigt ist	Anzahl der Notaren	Zustand des Gebäudes	Anregungen
1.					
2.					
3.					
etc.					
usw.					

Part IV — REPORT OF OTHER MATTERS OF CONCERN TO MILITARY GOVERNMENT.  
 Teil IV — BERICHT ÜBER SONSTIGE DIE MILITÄRREGIERUNG BETR. ANGELEGENHEITEN.

Description of matter	If action taken give decision and date	If no action taken give recommendations	Remarks
Beschreibung der Angelegenheit	Falls etwas veranlaßt wurde, ist Entscheidung mit Datum anzugeben	Falls nichts veranlaßt wurde, sind ihre Anregungen mitzuteilen	Bemerkungen
1.			
2.			
3.			
etc.			
usw.			

I, . . . . . HEREBY DECLARE that the above return is a true and complete record of all criminal, civil and non-contentious business transacted in the Landgericht at . . . . . during the week ending Saturday . . . . . 194 . . . , and that one of the proceedings or business transacted during such period contravened the policy of Military Government or the provisions of Laws No. 1, 2 and 5 of Military Government.

Ich, . . . . . ERKLÄRE HIERDURCH, dass vorstehender Bericht eine wahrheitsgetreue und vollständige Übersicht aller Strafsachen, bürgerlichen Rechtsstreitigkeiten und Angelegenheiten der freiwilligen Gerichtsbarkeit darstellt, die bei dem Landgericht zu . . . . . innerhalb der am Sonnabend, den . . . . . 194 . . . endigenden Woche bearbeitet worden sind, und dass bei der Bearbeitung keines dieser Verfahren und dieser Angelegenheiten eine Zuwiderhandlung gegen die Ziele der Militärregierung oder gegen die Militärregierungsgesetze Nr. 1, 2 und 5 begangen worden ist

Dated . . . . . 194 . . .  
 den . . . . . 194 . . .

805. MILITARY GOVERNMENT — GERMANY  
 SUPREME COMMANDER'S AREA OF CONTROL

DIRECTIONS TO OBERSTAATSANWALT AT LANDGERICHT

To . . . . . at . . . . .

1. You are hereby authorized and required to perform the duties of Oberstaatsanwalt at the Landgericht at . . . . . Before commencing duties you are required to attend at the Military Government Office and to take the oath as set out in Military Government Law No. 2. Within the sphere of your administrative duties you will be governed by the said Law No. 2 by the following instructions and such other instructions as may be issued by the Military Government. You will also be guided by such instructions as may be issued to Judges and will act in conformity therewith.

2. You will submit, as soon as possible, a list of all prosecutors, officials and other personnel whom you recommend for employment in the Staatsanwaltschaft, showing names, addresses, positions, duties and salaries and you will forward a Fragebogen completed in triplicate by each such person. You will forward like information with respect to any future employees at least seven days before they are to assume their duties. Forms for this purpose are attached.

3. You will, as soon as possible, after consulting with the President of the Landgericht regarding the courts to be reopened, submit a similar list and completed Fragebogen of all persons you recommend for employment in any Amtsanwaltschaft. You are at liberty to recommend the transfer to other courts of any personnel who may have been provisionally appointed in any Amtsanwaltschaft by Military Government if you consider it desirable, giving the reasons for such recommendations. In cases where you consider any person unsuitable you will so report giving your reasons and your recommendations.

4. You will certify when forwarding any Fragebogen to Military Government that the facts there stated are to the best of your knowledge and belief, true and complete.

5. You will be responsible to Military Government for the proper performance of their functions by all persons under your supervision and control and for the compliance by them with all Military Government orders and instructions. You will ensure that they are familiar with such orders and instructions.

6. Until the Generalstaatsanwalt at the Oberlandesgericht is able to resume control you will be responsible for exercising, within the area of your Landgericht, the functions with regard to the supervision and administration of penal institutions.

7. You will submit a fortnightly report to Military Government of all cases reported to or investigated by the Staatsanwaltschaft and not brought to trial. This report will be in the form of the Appendix attached.

BY ORDER OF MILITARY GOVERNMENT.



MILITARREGIERUNG — DEUTSCHLAND  
 KONTROLL-GEBIET DES OBERSTEN BEFEHLSHABERS  
 ANWEISUNGEN AN DEN OBERSTAATSANWALT  
 BEIM LANDGERICHT.

805.

An . . . . . in . . . . .

1. Sie sind hiermit ermächtigt und ersucht, die Dienststellung des Oberstaatsanwalts beim Landgericht . . . . . zu übernehmen. Vor Antritt Ihrer Dienststellung haben Sie sich bei der Amtsstelle der Militärregierung zu melden und den Eid zu leisten, welcher durch Gesetz Nr. 2 der Militärregierung vorgeschrieben ist. Bei der Ausfüllung Ihrer dienstlichen Aufgaben haben Sie alle von der Militärregierung erlassenen Anweisungen, insbesondere die folgenden zu beachten. Ausserdem haben Sie die Anweisungen, die an die Richter erlassen werden zu berücksichtigen und dürfen diesen nicht zuwiderhandeln.

2. Sobald wie möglich haben Sie eine Liste der Staatsanwälte, Beamten und Angestellten, deren Beschäftigung in der Staatsanwaltschaft von Ihnen vorgeschlagen wird, zu unterbreiten. Diese Liste hat die Namen, Anschriften, Dienststellungen, Aufgaben und Gehälter anzugeben; ausserdem haben Sie für jede solche Person den von dieser in dreifacher Ausfertigung auszufüllenden Fragebogen einzureichen. Sie haben entsprechende Angaben in jedem Falle künftig einzustellender Beamten und Angestellter mindestens 7 Tage vor Dienstantritt einzureichen. Formulare für diesen Zweck sind beigefügt.

3. Nach Befragung des Präsidenten des Landgerichts hinsichtlich der zu eröffnenden Gerichte, haben Sie sobald wie möglich eine gleiche Liste mit ausgefüllten Fragebogen für jede Person, deren Beschäftigung in den Amtsanwaltschaften von Ihnen vorgeschlagen wird, einzureichen. Falls Sie es für wünschenswert halten, können Sie die Versetzung von Beamten und Angestellten, deren vorläufige Beschäftigung in einer Amtsanwaltschaft durch die Militärregierung genehmigt worden ist, nach anderen Gerichten vorschlagen; in diesem Falle sind Gründe für Ihre Vorschläge anzugeben. Falls Sie eine Person für ungeeignet halten, haben Sie Ihre Vorschläge mit Gründen zu berichten.

4. Bei der Einreichung der Fragebogen an die Militärregierung haben Sie zu bescheinigen, dass nach Ihrem besten Wissen und Gewissen die darin enthaltenen Angaben wahr und vollständig sind.

5. Sie sind der Militärregierung dafür verantwortlich, dass alle ihrer Aufsicht und Kontrolle unterstehenden Personen ihre Pflichten sachgemäss erfüllen und die Anordnungen und Anweisungen der Militärregierung gewissenhaft erfüllen. Sie haben dafür zu sorgen, dass diese mit diesen Anordnungen und Anweisungen vertraut sind.

6. Bis zur Übernahme der Aufsichtsbefugnisse durch den Generalstaatsanwalt beim Oberlandesgericht haben Sie an seiner Stelle innerhalb des Bezirks Ihres Landgerichts die Straf- und Vollzugsanstalten zu verwalten und überwachen.

7. Sie haben vierzehntäglich einen Bericht an die Militärregierung einzureichen. Diese hat die Sachen anzugeben, die zur Kenntnis der Staatsanwaltschaft gelangt sind oder von dieser behandelt werden und nicht abgeurteilt sind. Der Bericht ist in der in der Anlage ersichtliche Form abzufassen.

IM AUFTRAGE DER MILITARREGIERUNG.

Den . . . . .

Summary of cases reported to or investigated by Staatsanwaltschaft but not brought to trial.

Übersicht der Sachen, die zur Kenntnis der Staatsanwaltschaft gelangt sind oder von dieser behandelt werden und nicht abgeurteilt sind.

1. Name of Accused.  
Name des Beschuldigten.
2. Date of birth.  
Geburtstag.
3. Occupation.  
Beruf.
4. Police District.  
Polizeibezirk.
5. Date of Report or First Investigation.  
Datum der Anzeige, Antrags oder der ersten Untersuchungshandlung.
6. Particulars of alleged or suspected offence.  
Einzelheiten der behaupteten oder verdächtigten Straftat.
7. Full reasons for which proceedings were stayed.  
Gründe für die Einstellung des Verfahrens.
8. Name of official responsible for staying the proceedings.  
Name des die Einstellung des Verfahrens anordnenden Beamten.
9. Particulars of former convictions.  
Einzelheiten von Vorstrafen.



## MILITARY GOVERNMENT — GERMANY

## SUPREME COMMANDER'S AREA OF CONTROL

## 807. INSTRUCTIONS TO JUDGES

## NO. 1.

## GENERAL.

1. All proclamations, laws, ordinances, notices, regulations and orders issued by Military Government will be scrupulously obeyed and enforced. You are responsible for acquainting yourself, as well as the personnel under your jurisdiction and control with their provisions, particularly those of Laws 1, 2, 5 and 52. You will also see that such enactments are posted in a public place in the Courthouse for the guidance of the public.

2. You will not display or permit to be displayed by any official or anywhere in the court premises, any emblems or flags of the National Socialist regime.

3. You will bring to the attention of the Military Government all questions arising in connection with the performance of your duties which are, or appear to be, of concern to the Military Government, including in particular any infractions of its enactments or orders, and any matters having political or military significance or likely to affect public order. Officers of the Military Government will be, from time to time, appointed to supervise your administration. You will provide them with all facilities and such assistance as they may require.

4. Unless otherwise ordered or required for compliance with the policy or legislation of Military Government, the entire administration of the court, including the salaries of all officials and employees, the disposition of fines, the keeping of accounts and like matters will be governed by appropriate existing German law and all applicable instructions and regulations governing the administration of the courts.

5. You are hereby informed that your authority to act in your official capacity is entirely provisional and is open to review at any time. This applies also to all other court officials and personnel.

6. It is the policy of the Military Government to aid in re-establishing the rule of law in Germany and in restoring the dignity and judicial independence of the German courts. Any attempt to continue the lawlessness and abuses of the Nazi regime or to continue Nazi ideology will be severely punished.

## Jurisdiction in criminal matters.

7. (a) You will observe the limitations on your jurisdiction imposed by Article VI of Military Government Law No. 2.

(b) You will not without previous authority from Military Government deal with offences under the following sections of the Criminal Code: (2 and 3) (Crimes committed by foreigners) 80—93 (a) Treason etc) 102—4 (Hostile acts against friendly states) 112 (Incitement to disobedience) 130 (a) (Misuse of the Pulpit) 134 (a) and (b) (Insulting the Reich and Party), 135 (Damage to Emblems) 140—143 (a) (Offences connected with Military Service) 291 (Appropriation of munitions) or with any other offence of a political character. You will report any such offence, with full particulars, to Military Government.

(c) You will notify Military Government, at least 7 days before disposing of the same, of any offences brought to your notice under

the following sections of the Criminal Code: 125—130 (Breaches of the peace, secret and illegal associations) 132 (a) (Illegal uniforms); 166 (Insults to religion); 167 (Interference with religious services); 197 (Libelling of political entities); 304—324 (Damage to public property, arson, flooding); 334 (Judicial corruption); 336 (Perversion of law); 341—355 (Crimes by officials). You will forward full particulars with your report.

## 8. Sentences.

(a) Punishments must not be awarded which are cruel or excessive. With this qualification the Military Government will not interfere with your responsibility for awarding, in your discretion, such punishments as are necessary for the maintenance of law and order and the suppression of crime.

(b) Without prejudice to your general responsibility under sub-para (a), you are instructed that, where under a law introduced since 30 Jan 1933 the maximum punishment for an offence has been increased beyond the maximum punishment prescribed for that offence before 30 Jan 1933, the court will not award a punishment more severe than that permitted before 30 Jan 1933 unless a more severe punishment is justified by the criminal record of the accused or the prevalence of the offence.

(c) Section 42 (k) of the Criminal Code will not be applied.

(d) Sentences of fortress detention will not be awarded. In cases where fortress detention is the sole punishment prescribed by any law, sentences of penal servitude or imprisonment, within the limits prescribed by such law, will be awarded.

## 9. Juvenile Court Jurisdiction.

Subject to this instruction, you will apply the Reichsjugendgerichtsgesetz 1943 and any order or official instructions issued in connection with it with the limitation that no provision will be applied which —

- (a) discriminates between juvenile offenders on the ground of race, nationality, religion or otherwise;
- (b) provides for crimino-biological examinations;
- (c) provides for Youth Protection camps.

BY ORDER OF MILITARY GOVERNMENT.



## MILITÄRREGIERUNG — DEUTSCHLAND

### KONTROLL-GEBIET DES OBERSTEN BEFEHLSHABERS

#### 807. ALLGEMEINE ANWEISUNGEN AN RICHTER

##### NR. 1.

##### ALLGEMEINES.

1. Alle Proklamationen, Gesetze, Verordnungen, Bekanntmachungen, Bestimmungen und Anordnungen der Militärregierung müssen auf das gewissenhafteste befolgt und ausgeführt werden. Sie haben sich mit den Bestimmungen dieser Rechtsvorschriften, besonders mit den Gesetzen Nr. 1, 2, 5 und 52 vertraut zu machen und dafür zu sorgen, dass das gleiche von den Ihrer Dienstaufsicht unterstehenden Beamten und Angestellten geschieht. Sie haben auch dafür zu sorgen, dass diese Rechtsvorschriften an einer dem Publikum zugänglichen Stelle innerhalb des Gerichtsgebäudes zum Zwecke der Belehrung des Publikums angeschlagen werden.

2. Sie dürfen weder Abzeichen noch Flaggen der nationalsozialistischen Herrschaft zeigen. Sie haben dafür zu sorgen, dass diese nicht durch einen Ihrer Dienstaufsicht unterstellten Beamten oder Angestellten oder sonst innerhalb des Gerichtsgebäudes gezeigt werden.

3. Von allen im Zusammenhang mit Ihren Geschäften stehenden Angelegenheiten haben Sie der Militärregierung Mitteilung zu machen, die für die Militärregierung von Bedeutung sind oder sein können. Dies gilt insbesondere von allen Verstössen gegen Rechtsvorschriften oder Anordnungen der Militärregierung und von allen Angelegenheiten, die von politischer oder militärischer Bedeutung sind oder die die öffentliche Ordnung beeinträchtigen könnten. Offiziere der Militärregierung werden damit beauftragt werden, die Durchführung Ihrer Verwaltung zu überprüfen. Sie haben ihnen jede gewünschte Unterstützung und Hilfe zu gewähren.

4. Die gesamte Gerichtsverwaltung, einschliesslich der Gehälter aller Beamten und Angestellten, der Verwendung von Geldstrafen der Buchführung und ähnlicher Angelegenheiten richtet sich nach dem bestehenden deutschen Recht insbesondere den diesbezüglichen Verwaltungsvorschriften und Dienstanweisungen, soweit nicht anderes ausdrücklich angeordnet wird oder zum Zwecke der Durchführung der Aufgabe oder der Gesetzgebung der Militärregierung erforderlich ist.

5. Sie wollen zur Kenntnis nehmen, dass die Ihnen erteilte Ermächtigung zur Vornahme Ihrer Amtsgeschäfte, durchaus vorläufigen Charakter hat und jederzeit einer Nachprüfung unterliegt. Das Gleiche gilt für alle anderen Beamten und Angestellten des Gerichts.

6. Es ist die Absicht der Militärregierung, zu der Wiedererrichtung des Rechtsstaates in Deutschland und der Wiederherstellung der Würde und der Unabhängigkeit der deutschen Rechtspflege beizutragen. Jeder Versuch einer Fortsetzung der Rechtslosigkeit und der Willkür der nationalsozialistischen Herrschaft oder der Erhaltung der nationalsozialistischen Weltanschauung wird auf das schwerste bestraft werden.

##### ZUSTÄNDIGKEIT IN STRAFSACHEN.

7. (a) Sie haben die Beschränkungen der Zuständigkeit, die durch Artikel VI des Gesetzes Nr. 2 der Militärregierung angeordnet worden sind, zu beachten.

(b) Ohne vorherige Genehmigung der Militärregierung dürfen sie nicht politische Straftaten noch Straftaten, die auf den folgenden Bestimmungen des Strafgesetzbuches beruhen, aburteilen: 4 (2 und



III) (Straftaten von Ausländern), 80—93 (a) (Hochverrat usw.), 102—4 (Feindliche Handlungen gegen befreundete Staaten), 112 (Aufforderung zum militärischen Ungehorsam, 130 (a) (Kanzelmisbrauch), 134 (a) und (b) (Beschimpfung des Reichs und der NSDAP), 135 (Verletzung inländischer Hoheitszeichen), 140—143 (a) (Zuwerhandlungen in Verbindung mit dem Wehrdienst), 291 (Zueignung von Munition). Jedoch haben Sie genaue Einzelheiten über jede zu Ihrer Kenntnis gelangte Straftat der vorgenannten Art der Militärregierung zu melden.

(c) Mindestens 7 Tage vor der Aburteilung jeder zu Ihrer Kenntnis gelangten Straftat, die auf den folgenden Bestimmungen des Strafgesetzbuchs beruht, haben Sie der Militärregierung zu melden: 125—130 (Landfriedensbruch, Landzwang, Bandenbildung, Geheimbündler, Teilnahme an Staatsfeindlichen Verbindungen, Anreizung zum Klassenkampf) 132 (a) (Unbefugtes Uniformtragen), 166 (Religionsbeschimpfungen), 167 (Hinderung am Gottesdienst), 197 (Beleidigung Politischer Körperschaften), 304—324 (Gemeinschaftliche Sachbeschädigung), 334 (Richterbestechung), 336 (Rechtsbeugung), 341—355 (Verbrechen im Amte). Mit ihrer Meldung sind genaue Einzelheiten der Straftat anzugeben.

#### URTEILE.

8. (a) Es ist untersagt-grausame oder übermässig hohe Strafen zu verhängen. Vorbehaltlich dieser Beschränkung überlässt Ihnen die Militärregierung die Verantwortung nach Ihrem pflichtgemässen Ermessen Strafen so zu verhängen, wie Sie es für die Aufrechterhaltung von Recht und Ordnung und die Bekämpfung von Verbrechen notwendig halten.

(b) Unbeschadet Ihrer allgemeinen Verantwortlichkeit gemäss Abs. (a) dürfen Sie in allen Fällen, in den auf Grund eines seit dem 30 Jan 1933 erlassenen Gesetzes die Höchststrafe für eine Straftat vergleichen mit der Höchststrafe für die Straftat, die vor dem 30 Jan 1933 vorgeschrieben war, verschärft wurde, keine Strafe verhängen, die das vor dem 30 Jan 1933 zugelassene Strafmass übersteigt. Ausnahmen sind nur insoweit zulässig, als die Verschärfung der Strafe durch die kriminelle Vergangenheit des Angeklagten oder die Häufigkeit der Straftat gerechtfertigt ist.

(c) Paragraph 42 (k) des Strafgesetzbuchs darf nicht angewendet werden.

(d) Festungshaft darf nicht verhängt werden. In Fällen in denen das Gesetz die Festungshaft als alleinige Strafe vorschreibt darf in Zukunft nur Zuchthaus oder Gefängnis, innerhalb der durch das Gesetz vorgeschriebenen Grenzen, angeordnet werden.

#### VERFAHREN IN JUGENDGERICHTSACHEN.

9. Im Rahmen dieser Anweisung sind die Bestimmungen des Reichsjugendgerichtsgesetzes 1943 und die in Zusammenhang hiermit erlassenen Verordnungen und Verwaltungsanweisungen unter Beachtung der folgenden Einschränkungen anzuwenden. Nicht anwendbar sind Bestimmungen:

(a) die Jugendlichen wegen ihrer Rasse, Staatsangehörigkeit, Religion oder aus einem sonstigen Grunde unterschiedlich behandeln;

(b) die kriminalbiologische Untersuchungen vorsehen;

(c) die militärische Erziehung oder Jugendschutzlage vorschreiben.

#### IM AUFTRAGE DER MILITÄRREGIERUNG.



To the President, Judges and Prosecutors of  
An den Präsidenten, die Richter und die Staatsanwaltschaft beim

Oberlandesgericht )  
Landgericht )  
Amtsgericht )

In reference to Para 12 (d) of Military Government Law No. 2, it is  
Auf Grund von Paragraph 12 (d) des Gesetzes Nr. 2 der Militärregierung

hereby ordered:  
wird folgendes angeordnet:

1. The case \* is transferred to the  
1. Die Sache \* wird zur ausschliesslichen

exclusive jurisdiction of a Military Government Court.  
Zuständigkeit der Gerichte der Militärregierung überwiesen.

2. No further proceedings or other action by a German court or by  
2. Ohne ausdrückliche Anweisung der Militärregierung dürfen in der

other German authorities may be taken in the matter, except pursuant  
Sache keine weiteren Prozesshandlungen oder andere Massnahmen

to specific instructions by Military Government.  
durch deutsche Gerichte oder andere Behörden vorgenommen werden.

3. All dossiers, documents, exhibits and evidence relating to the  
3. Alle Akten, Schriftstücke, Anlagen und Beweismittel, welche die

case, in possession or at the disposal of the Court, of the Office  
Sache betreffen und im Besitz des Gerichts, der Staats- oder Amts-

of Public Prosecution, of the Police or any other person, must be  
anwaltschaft, der Polizeibehörde oder einer anderen Person sind

handed to the O. C. Military Government Detachment  
oder zur Verfügung dieser Behörden und Personen gehalten werden,

at by for transmission to the  
sind zwecks Weiterleitung an das mit der Verhandlung der Sache be-

Military Government Court concerned with the trial.  
fasste Gericht der Militärregierung an den Befehlsoffizier der

Kommandantur der Militärregierung in um  
abzuliefern.

4. You will notify the defendant and his counsel of this transfer  
4. Sie haben dem Angeklagten/Beschuldigten und dessen Verteidiger

of jurisdiction.  
die Überweisung der Sache bekannt zu geben.

5. All orders and other measures taken in the case by the Court,  
5. Alle Beschlüsse und anderen Massnahmen, die von dem Gericht,

the Public Prosecutor or the Police (such as detention in jail of  
der Staats—Amtsanwaltschaft oder der Polizei in der Sache erlassen

the accused, seizures) remain in effect until expressly cancelled  
wurden, bleiben in Kraft bis diese Beschlüsse und Massnahmen durch

or modified by order of Military Government.  
die Militärregierung oder in deren Auftrage ausdrücklich aufgehoben  
oder abgeändert werden.

6. All facts concerning the said case must be fully disclosed  
6. Sämtliche Tatsachen betreffend die Sache müssen der Militär-  
to Military Government as requested and all assistance that may  
regierung auf deren Verlangen in vollem Umfange mitgeteilt werden,

be required by Military Government in connection with the trial  
ferner ist der Militärregierung jede von dieser verlangte Hilfe bei

or investigation of the case must be given.  
der Untersuchung oder Verhandlung der Sache zu gewähren.

BY ORDER OF MILITARY GOVERNMENT.  
IM AUFTRAGE DER MILITÄRREGIERUNG.

Signature of Authorized Person  
Autorisierte Unterschrift

Date  
Datum

\* Insert Name of Parties and File No. of case  
\* Parteibezeichnung und Aktenzeichen auszufüllen.



PART II  
PRISONS



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## PRISONS

## Definitions

901. (I) The word prisons in this Manual shall include all penitentiaries reformatories, jails, workhouses, asylums (criminal and insane) and other places of confinement other than concentration camps and police lockups. Refer para 572.

(II) Political prisoners shall mean any person or persons in prisons who have been deprived of their liberty, with or without trial, on account of their race, creed, colour, nationality, political beliefs or acts antagonistic to the Nazi regime.

(III) Civilian Detainees are those detained by the Allied Forces without trial. They may be of the following classes:

a. Persons known, or suspected, of being pro-axis.

b. Persons who have been travelling between enemy lines and Allied Territory.

c. Persons who have inadvertently seen Allied Military installations.

(IV) PW Annex (Civilian Detainee Camp) is an institution or premises used by the Allied Forces for the detention of persons confined for security purposes. The operation of the PW Annex is the duty of the Military Police.

(V) Institutions, as used herein, are any and all German establishments, under the MG Prison Branch, used for the detaining, incarcerating and/or imprisonment of persons, such as:

Criminal Insane Asylums.

Detention Prisons.

Jails.

Penitentiaries.

Prisons.

Prison Camps.

Prisons for Juvenile Delinquents.

Reformatories for Juveniles.

Remand Prisons.

Workhouses.

(Police Lock-ups—Polizeigefängnisse —and Concentration Camps are under the MG Public Safety Branch.)

(VI) Director, the chief official of the institution.

(VII) Prisoner, any and all persons detained or confined in an institution.

(VIII) Inmate, same as prisoner.

(IX) Legal Officer, an officer who is a lawyer.

## Policy

902. As soon as practicable control will be assumed of German prisons throughout the respective areas and their administration supervised in accordance with the following policy:

a. To secure the safe custody and proper regulation of the inmates using the minimum of BR/US military personnel. Refer para 573.

b. To remove all active Nazis and ardent Nazi sympathisers in the German prison administration and secure their replacement by acceptable personnel. (a)G(e)

c. To ensure the security of records and documents.



d. To eliminate all practices and procedures in conflict with the policy of Military Government.

e. To provide facilities for receiving prisoners delivered by Military Government officers pending trial by or for serving of sentences of Military Government or German Courts.

#### REVIEW AND DISPOSITION OF PRISONERS ON OCCUPATION

Refer to 555. 903. Upon the occupation of an area all prisons and other places of detention will be promptly investigated and the cases of inmates reviewed.

The guiding principles for the carrying out of such investigation and review are contained in Appendix I to Section 11. Detailed working procedure and methods of collaboration between Military Government, Legal and Public Safety Officers, G I (b) / C. I. C. and other branches will be provided.

Refer to 573. (g) 904. The execution of all sentences of death and corporal punishment will be suspended pending review.

#### USE OF PRISONS BY MILITARY GOVERNMENT

Refer to 556. 905. After control of German prisons has been effected in an area, persons arrested or detained by the Military Government or sentenced by Military Government Courts to terms of imprisonment, will ordinarily be committed to German prisons, under procedure prescribed in Military Government instructions (see Part I Sec. 2 paragraphs 210—214 above) and in directions to the appropriate German officials.

906. Death sentences imposed by Military Government Courts will be carried out in accordance with Part I Sec. 2 paragraphs 215—222 above.

Refer to 574. 907. The fullest use will be made of the production of the prison industries and farms for the benefit of Military Government.

Refer to 575. 908. Use may be made of German prisons for the detention of persons (other than United Nations nationals who will normally be detained under separate arrangements) for security reasons or under charge of war crimes, but these classes of persons will be segregated from other classes and from each other. Security prisoners will as soon as practicable be transferred to camps for civilian detainees.

#### CIVILIAN DETAINEES

909. Civilians detained by the Allied Forces without preferment of charges of specific offences, on the ground that they may endanger the security of the Allied Forces will be expeditiously classified as Prisoners of War or Civilian Internees, and dealt with as follows:

a. Prisoners of War — accredited civilian followers of the enemy forces, as prescribed by the Geneva Prisoners of War Conventions. They will be confined in Prisoner of War Cages.

b. Civilian Internees — all other civilians so detained. They should be given treatment similar to Prisoners of War and will be confined in annexes to Prisoner of War cages.

910. Civilian detainees of the classes described above may be temporarily lodged in civil jails and prisons, but should be detained therein no longer than is necessary to accomplish review of their status and dispositions as provided above. Nationals of United Nations so held will be segregated.

911. Procedure for review of civilian detainees held in civil jails and prisons will be prescribed, and may include the establishment of Boards of Review. Military Government detachments will make

use of such procedure and will in any event adopt such measures as will ensure review of all such cases of civilian detainees until disposition is effected. All undetermined cases will be reported periodically to the next higher headquarters, and to the respective detaining authorities where available.

912. Civilian detainees may be released upon written instructions of the detaining authority, unless charges have been filed subsequent to date of detention. In the latter case, normal procedure for trial of the offences charged will be followed.

#### SECTION 10.

#### THE ADMINISTRATION OF THE PRISON SERVICE IN GERMANY

##### 1001. Penal Sentences.

The German Penal Administration is based in part on the varying form which a judicial sentence involving the deprivation of liberty can take; it is essential therefore to have a clear conception of the penal sentences in question. The Penal Sentences involving confinement or deprivation of liberty are: —

(a) Zuchthausstrafe (Penal Servitude) awarded for periods of one year up to 15 years, or life for Verbrechen (felonies) or major crimes. This involves also a loss of civil rights.

(b) Gefängnisstrafe (Imprisonment) awarded for periods of from one day up to 5 years for Vergehen (misdemeanours) or less serious crimes.

(c) Haftstrafe (Detention) awarded for periods of from one day up to 6 weeks for Übertretungen (transgressions) i. e., of by laws and minor state or municipal regulations.

(d) Festungshaft (Fortress detention) awarded for periods of from one day up to 15 years or life for offences involving no moral turpitude, i. e. chiefly political offences.

(e) Sicherungsverwahrung (Penal or Security Detention) awarded as an indeterminate sentence to follow a sentence of Zuchthausstrafe in the case of incorrigible offenders.

It is reckoned that eight months of Zuchthausstrafe equal one year of Gefängnisstrafe or eighteen months of Festungshaft.

##### 1002. Categories of Prisons.

The German prisons (Vollzugsanstalten) fall into two main categories for administrative purposes: —

(a) Selbständige Anstalten (Independent Prisons) with a Leiter (Director or Governor) drawn from the Höherer Vollzugs- und Verwaltungsdienst (Higher Executive and Administrative Service). They are designed usually to hold large numbers of inmates, and are often restricted to some special purpose, i. e. for long term convicts or juveniles, and include modern prison camps.

(b) Gerichtsgefängnisse (Court Prisons) with the senior judge of the Amtsgericht acting as Leiter. These are found at nearly all Amtsgerichte, are generally of small capacity, and are not specialised.

##### 1003 Types of Prisons.

The following types of penal institutions are recognised by the German law: —

(a) Strafanstalten (Prisons) and Verwahrungsanstalten (Penal Detention institutions) for men:

I. Zuchthaus (Penitentiary) for those sentenced to Zuchthausstrafe.



II. Strafgefängnis (Prison) for those sentenced to Gefängnisstrafe.

III. Untersuchungshaftanstalten (Remand Prisons) which serve for accused persons held on remand, and for those sentenced to Haftstrafe.

IV. Verwahrungsanstalten (Penal Detention Institutions) which serve for the continued protective detention of those sentenced to Sicherungsverwahrung. These include two special sections or institutions called Arbeitshäuser (Workhouses) and Asyl (Asylums) intended for incorrigibles capable of hard labour, and for those unfitted for labour respectively.

(b) Strafanstalten and Verwahrungsanstalten for women. The separate types of institutions shown in sub para (a) for men, are generally found as separate sections of the one institution in the case of women.

(c) Anstalten und Abteilungen für Erstbestrafte (Institutions and Sections for First Offenders). A first offender is reckoned to be any person who has not been convicted as a dangerous criminal, has not been sentenced previously to Zuchthausstrafe or to Gefängnisstrafe for a term of more than one year, has not undergone imprisonment more than once or for not more than six months, has not been sentenced or committed to Heil- und Pflegeanstalt (Mental Home), Arbeitshaus or Asyl, or is not at the time of reception under forfeiture of his civil rights. Convictions erased from the Strafregister (Register of Punishments) and sentences or Ersatzfreiheitsstrafe (Detention for failure to pay a fine) are excluded from consideration.

(d) Jugendgefängnisse (Juvenile Prisons) for juveniles between the ages of 12 and 18 years. Special sections are allotted also for young persons who have not yet attained their 21st year. Prisoners, who are not seriously corrupted, can be kept in the young persons section till their 25th year.

(e) Institutions for persons sentenced to Zuchthausstrafe concomitant with committal to Sicherungsverwahrung. Particular Zuchthäuser or sections thereof are allotted for this purpose.

(f) Institutions for "erstmalige Unterbringung in einem Arbeitshaus" (first committal to a Workhouse). Special Arbeitshäuser or sections thereof are allotted for this purpose.

#### 1004. The Higher Penal Administration.

There are three levels of penal administration in Germany: —

(a) Die Oberste Aufsichtsbehörde — the highest supervisory authority or Director General Office.

(b) Die Höhere Vollzugsbehörde — the superior Penal Administrative Authority.

(c) Die Vollzugsbehörde — the Penal Administrative Authority.

#### 1005. The Oberste Aufsichtsbehörde.

The Reich Minister of Justice is Director General of the German Penal Administration, and is assisted in carrying out his duties by Abteilung V of the Reich Ministry of Justice.

His duties are to direct the Reich penal establishments and penal administration; to control the administration of the institutions, and of the officials, employees, and workmen employed in them.

#### 1006. The Höhere Vollzugsbehörde.

The Generalstaatsanwalt is the Höhere Vollzugsbehörde within the sphere of an Oberlandesgericht, as well as the Public Prosecutor. He is assisted in his penal duties by the Vollzugsamt (Penal Administration Office). His duties as superior Penal Authority are

to direct and supervise the carrying out of penal sentence in the institutions in his district; to take any action which would further the purpose of imprisonment, and the care of the prisoners; to inspect the administration of the subordinate penal institutions, to appoint officials except where an appointment is reserved for the Führer or the Reich Minister of Justice; and to promote, supervise and encourage the training of officials.

#### 1007. THE VOLLZUGSAMT

Penal administrative matters in an Oberlandesgericht district are not divided up among the several sub offices of the Public Prosecutor's department, but are handled exclusively by a special office — the Vollzugsamt, staffed for the most part by expert officials. The senior posts in the Vollzugsamt, are held by officials of the Höherer Vollzugs- und Verwaltungsdienst (Higher Executive and Administrative Service) with penal training and experience. Junior posts are filled from personnel of the Gehobener Vollzugs- und Verwaltungsdienst or of the Mittlerer Verwaltungsdienst of the Prison Service.

#### 1008. THE VOLLZUGSBEHÖRDE

The Leiter (Director) of a German penal institution is the Vollzugsbehörde. He is generally an official of the Höherer Vollzugs- und Verwaltungsdienst, but in the case of institutions of minor importance he may only be of the Gehobener Anstaltsdienst (Upper Prison Service). The Director of a Gerichtsgefängnis is the Chairman of the Bench, or the Head of one of its Divisions, but in exceptional cases another judge may be appointed as Director, with the consent of the Höhere Vollzugsbehörde.

The Deputy Director of an independent institution is appointed by the Höhere Vollzugsbehörde. At a Gerichtsgefängnis the official who deputises for the judge in all other Service matters is automatically the Deputy Director.

The Director is responsible for the day to day administration of his institution and for the welfare of the staff and of all persons committed to his custody.

The immediate conduct of administration in a Gerichtsgefängnis lies with Gefängnisdienstleiter (Prison Service Governor) who may be an official of the Mittlerer Vollzugs- und Verwaltungsdienst of the Mittlerer Aufsichtsdienst, or of the Einfacher Aufsichtsdienst according to the importance of the prison.

#### 1009. STAFF

The Director of a penal institution is assisted by:—

(a) Abteilungsleiter (Heads of Divisions): officials of the Höherer Vollzugs- und Verwaltungsdienst or of the Gehobener Anstaltsdienst who are appointed as required to supervise separate sections of the institution.

(b) Beamte des Verwaltungsdienstes: officials of the Gehobener Vollzugs- und Verwaltungsdienst and the Gehobener Technischer Anstaltsdienst carry out the purely administrative work. The administrative offices of a large prison include:—

I. Hauptgeschäftsstelle — General Office.

II. Anstaltskasse — Accounting Office.

III. Zahlstelle — Pay Office.

IV. Vollzugsgeschäftsstelle — Discipline Office.

V. Arbeitsverwaltung — Labour Administration.

VI. Wirtschaftsverwaltung — Commissariat.

VII. Technische Verwaltung — Technical Administration.



(c) Beamte des Aufsichtsdienstes: officials of the disciplinary staff who maintain the discipline and exercise immediate supervision of the prisoners and of their welfare. These are officials of the Einfacher Aufsichtsdienst (Junior Disciplinary Service).

(d) Beamte des Werkdienstes: officials of the Einfacher Werkdienst (Junior Works Service) or officials of the Einfacher Aufsichtsdienst who have been instructed in a trade supervise the technical work in the workshops.

(e) Lehrer, Ärzte, Geistliche: Teachers, Doctors and Chaplains are appointed as required to exercise their special functions. They may be officials of the Höherer or Gehobener, Anstaltsdienst or approved persons exercising their respective professions locally.

(f) Weibliche Beamte: Female Officials. Only women are employed in the Disciplinary and Nursing staffs of Women's Prisons, or Women's Divisions of mixed prisons. Male staff may only be used at the Gate or for guard duty out of doors. Female officials are not allowed to assist even temporarily in the control of male prisoners.

1010. ANSTALTSBESICHTIGUNG: Inspection of Institutions. Every independent institution must be inspected at least quarterly; Gerichtsgefängnisse must be inspected at least once a year. These inspections are carried out by the Höhere Vollzugsbehörde or in the case of Gerichtsgefängnisse by an official, generally the Director of an independent institution.

1011. JAHRESBERICHT: Annual Reports. The Director of an independent institution must submit during the first quarter of each year a report on the administration in the past year. This report covers all branches of penal administration in the institution, important events, and experience gained.

#### 1012 EXTRAORDINARY PRISONS

Under the Nazi regime there has been created a parallel system of Police prisons and concentration camps for the detention of party, political, racial and other prisoners. These were administered by Himmler as head of the Security Police. These police prisons and concentration camps are the responsibility of the Public Safety officers.

#### GENERAL CONTROL

Refer to 553. 1013. General control and supervision of the German Prison Administration will be exercised by Military Government, through specialist prison officers and Military Government PSOs, through the highest available officials of the corresponding department of the German Ministry of Justice. Intermediate control will be effected by Military District Headquarters through the Generalstaatsanwälte (Prosecutors) attached to the Oberlandesgerichte. Inspecting officers will make periodic inspections of prisons to assure compliance with directions given to the German prison authorities.

#### LEGAL OFFICERS AND MILITARY GOVERNMENT OFFICERS.

Refer to 554. 1014. Legal Officers, and other Military Government Officers at the several echelons will assist in supervision of prison administration. Their duties are fully stated in Section 11 below, and forms of reports, case records, list of institutions etc., are given in sections 12 and 13 below.

## SECTION 11.

### ADMINISTRATIVE PROCEDURES

#### PRISONS, REFORMATORIES, JAILS, CRIMINAL INSANE ASYLUM AND OTHER PLACES OF CONFINEMENT UNDER THE PRISON BRANCH

1101. Objective. To relieve combat troops of:

- a. The administration and control of such institutions.
- b. The safe custody and well-being of the inmates thereof.

1102. Secondary Objectives. In order to attain the primary objectives:

- a. Fix administrative responsibility upon a suitable Director.
- b. Restore order and normal conditions as soon as possible:
  - (1) Restore physical plant, where damaged, to extent necessary to ensure security and health of inmates.
  - (2) Ensure continuity of subsistence, clothing and medical supplies.
  - (3) Provide adequate and suitable personnel.
  - (4) Ensure the security of records.
  - (5) Provide firearms and other equipment in minimum quantities needed to ensure safe custody of inmates.
- c. Suspend temporarily the execution of all death sentences, corporal punishments and release permits.
- d. Eliminate all practices and procedures in conflict with the declared policies of the Military Government.
- e. Provide facilities for receiving prisoners from Military Government Detachments and other Allied Agencies.
- f. Make available the resources and production of the institutional industries and / or farms to the best interests of the Military Government.
- g. Review all cases toward release of political prisoners and certain of those awaiting trial.
- h. Have necessary reports compiled and forwarded as required.
- i. Maintain a program of inspection.

1103. Procedures. It is impossible to foresee all of the conditions and specific problems the MGO may encounter in assuming control of an institution. The procedures, given herein, are an exposition of the secondary objectives, and are of necessity for general application. Wherever specific conditions do not coincide with these directions, the MGO should consider the directions as guiding principles, making the decision compatible thereto.

#### 1104. ADMINISTRATIVE RESPONSIBILITY:

Upon assuming control of an institution the responsible MGO will ascertain the identity of the senior official whom he will interview at once and will take the necessary authorized actions to terminate or continue temporarily his services or to designate an acting Director.

Once, determined, the MGO will instruct the Director that he and his staff will function, under and be responsible to the Military Government for proper administration of the institution and for the safe custody of the inmates confined therein, giving in hand to the Director a signed Instruction Sheet, written in both English and German (Form L-P 1), charging him with specific administrative responsibilities. The MGO will discuss and amplify each item on the Instruction Sheet with Director to the point that a thorough understanding is ensured, and will at that time stipulate the exact form and time in which he desires data



to be submitted. The contents of the Instruction Sheet and the encumbency of the designated Director will be made known to the Institutional Staff by the Director in writing.

#### RESTORATION OF NORMAL CONDITIONS AS SOON AS POSSIBLE:

1105 (A). Restore Physical Plant, Where Damaged, to Extent Necessary to Ensure Security and Health of Inmates:

Initially the MGO may have only sufficient time to make a cursory survey of the physical plant and appurtenances to determine the indispensable needs for the safe custody, of and the proper health and sanitation for, the inmates. After receiving from the Director a written description of existing damage and estimates of the consequent needs, submitted in compliance with the Director's Instruction Sheet (item 9 d), the MGO will then make a careful detailed inspection of the physical plant and take action as follows:

##### (I) Security of physical plant

Determine whether the walls, cells, bars, grills, doors and locking devices are in functioning order.

##### (II) Maintenance shops and equipment.

Inspect shops, machinery and tools, noting adequacy for normal maintenance and for repair of plant if damaged.

##### (III) Heat, light and power

Inspect sources (i. e., boilers, generators, engines, etc.) and transmission lines through to and including points of distribution.

##### (IV.) Water system

Inspect sources of supply, pumping station and storage tanks, and determine to what extent the distribution system may be damaged. Have samples of water taken from source of supply and from one or two distribution points and sent to MG Sanitation Officer for examination and analysis.

##### (V) Sewerage system

Determine the method of sewage disposal in use. If by bucket system, ensure that the standard sanitary practices of the army are adopted for disposal. If by flush closets through sewers to a disposal plant, see if the sewer lines are intact and unobstructed, and determine that the disposal plant is in good functioning order, and does not pollute any stream from which drinking water is taken below. If disposal plant is of a type such that effluent is available, have samples secured and sent to MG Sanitation Officer for examination and analysis.

##### (VI) Kitchen and food storage

Inspect kitchen and food storage facilities to ascertain whether proper physical conditions exist to receive, store, and prepare foods in a sanitary manner.

##### (VII) Miscellaneous

During tour of inspection determine whether inmates are exposed to the elements by damaged or leaky roofs, schattered walls, windows, inoperable doors, etc.

##### (VIII) Restoration

Afer needs have been determined, direct German authorities to effect restoration to the extent necessary to ensure the security and health of inmates by use of:

1. Stocks on hand and normal sources of supply.
2. Inmate labor.
3. Contractors.

#### (B) Continuity of Subsistence, Clothing and Medical Supplies:

(I) Determine whether continuity of supplies may be maintained through normal channels.

(II) Require that the following information be submitted:

- (a) Inventory of all supplies on hand.
- (b) Productive capacity of prison industries and farms.
- (c) Estimated additional needs.

(III) If supplies are not available through normal channels in adequate amounts then make application to MG Supply as required.

#### (C) PROVISION OF PERSONNEL

Personnel sufficiencies may vary widely between institutions. The number of employees may therefore have to be altered; but only in exceptional situations should the quota of positions and/or salaries authorized by the annual budget allotment be exceeded. It is anticipated that the lower ranking institutional employees in general will be acceptable at least temporarily, but that the Director, and possibly others of the higher ranking officials, may have to be removed because of Nazi beliefs and past policies. It is emphasized that a suitable Director is most essential to the operation of an orderly institution under MG supervision. To maintain authorized positions with suitable personnel the MGO should, in the following order:

(I) Have all employees vetted in accordance with current denazification instructions.

(II) Consider transfer of suitable personnel between institutions according to relative need.

(III) Reinstate former employees, who meet standards of Civil Service, in existing vacancies; particularly those removed because of anti-Nazi ideology.

(IV) Fill further vacancies from the ranks of the Civil Service eligibles in so far as it is possible.

(V) Consider nominations by the Director of applicants who should meet Civil Service standards.

#### (D) SECURITY OF RECORDS

(I) Voluminous records are normal to all institutions and the MGO is instructed that of these the Register of Serial Numbers, the Commitment and other Warrants, and the Release Permits are most essential to the continued operation of the institution. Act immediately to ensure the presence and security of:

(a) Inmates case data.

(b) Personnel records.

(c) Fiscal records.

(d) Inventories, blueprints, or building plans, and specifications and plans on fixtures and installations.

(e) All such other data in the archives.

(II) If any records have been destroyed or removed, the survey should reveal the extent and the nature of the loss and steps should be taken to compile the necessary replacements.

(III) Prison officials should be instructed to continue their normal records and reports in addition to any reports required by Military Government.

#### (E) PROVISION OF FIREARMS AND OTHER EQUIPMENT

Firearms and other equipment may be possessed and used only in the minimum quantities and places needed to ensure the safe custody of the inmates and must be adequately safeguarded.



(I) Take the following steps in given order to obtain minimum essentials of firearms and ammunition:

(a) Utilize the available institutional equipment or its normal sources of replacement.

(b) If the aforementioned step does not suffice, attempt to secure captured enemy material.

(c) Only as a last resort attempt to secure army material.

(II) Use of firearms will be restricted as follows:

(a) To wall guards or sentries, when on duty.

(b) To guards taking work details outside walls.

(c) To guards taking prisoners to court, transferring prisoners from one institution to another, and for other purposes as authorized by competent authority.

(II) Tear gas, or other chemical warfare agents, will not be used unless previously authorized by the Military Commander and then only by those employees previously approved by the MGO.

(IV) Arms, ammunition and other related equipment must be safeguarded by proper storage and periodically checked through adequate records.

(a) When not in use, all such equipment shall be stored in the institutional arsenal or other designated places which shall be secure and inaccessible to inmates, unauthorized employees, or any other unauthorized persons.

(b) An appropriate running inventory shall be maintained on all such equipment, adequate to indicate loss of equipment and description of same. When shots are fired for any reason, an explanation shall be sent at once to the MGO in addition to making the proper entry in the running inventory.

#### 1106. SUSPENSION OF DEATH SENTENCES, CORPORAL PUNISHMENT AND RELEASE PERMITS

After the designated Director has been handed his Instruction Sheet (Para. 1104) (also Form LP I) the MGO will:

(a) Order the Director to suspend execution, pending further review, of all sentences of death or corporal punishment.

(b) Instruct the Director to forward to MG Det within 24 hours a list, in triplicate, of all inmates then under sentence of death or corporal punishment, which shall include the name birthplace and residence of the inmate, identity of the sentencing court, name of the judge, and a statement of the offence. The MG Det will forward one copy of this list to the SMGO, one to CIC/FSS and retain one for the MG Det file.

(c) Ascertain whether release permits not yet executed are on hand. If such permits are not in accord with usual release procedures, the MGO will declare them to be invalid. Otherwise, he will approve their execution and the resumption of normal release procedures.

(d) Should prisoners have been illegally released in anticipation of military occupation, the MGO will ascertain the facts, institute such actions as may be authorized to secure the return of the released persons to custody and take other appropriate action.

#### 1107. ELIMINATION OF ALL PRACTICES AND PROCEDURES IN CONFLICT WITH THE DECLARED POLICIES OF THE MILITARY GOVERNMENT

(a) Make an over-all examination of the physical arrangements, processes and methods used in the segregation of prisoners.



(b) Examine the institutional rules and regulations governing the conduct of the prisoners and employees and annul any which are not in accord with the declared policies of the Military Government (Sec. 12 paras. 1220-1222).

(c) Investigate the character of the reading material in the institution and eliminate all that which advocates Nazi ideology.

(d) Inhumane disciplinary measures will not be tolerated. No corporal punishment will be inflicted unless ordered by a competent court.

(e) Discriminatory and punitive segregation of prisoners because of political or racial reasons shall be prohibited.

#### 1108. RECEPTION OF PRISONERS FROM MILITARY GOVERNMENT DETACHMENTS AND OTHER ALLIED AGENCIES

Each MGO upon assuming control of an institution will determine its suitability for use as a place of confinement for persons arrested by Allied Forces, and, if found suitable, will establish procedures for accepting such cases while continuing to admit persons sentenced by German courts in normal practice in so far as this does not conflict with the Military Government.

##### (a) Detention

(I) Persons arrested by Military personnel for trial or investigation will be received at the local institutions upon completion of an Arrest Report in duplicate (P. S. Form) of which both copies will be delivered with the prisoner. The Director will retain one copy as his warrant for detaining the prisoner and will send the other copy within the day to the MG Det for record and for use in subsequent court procedure if necessary. The Director will notify the MG Det at once upon failure to obtain the Arrest Report with the prisoner as required. MG Dets will distribute Arrest Report forms to all prisons, jails and other places of confinement within their area as soon as possible after arriving.

(II) Persons convicted by Military Government Courts will be committed upon completion of a Commitment form (Legal Form No. 5) by the presiding officer. The commitment form will be delivered with the prisoner to the institution as the Director's warrant to hold such person.

(III) Persons detained for security reasons or on charges of having committed war crimes will normally be confined in PW Annexes. During the initial phases, however, it may be necessary in emergencies for CIC, FSS temporarily to incarcerate some of these persons, other than nationals of United Nations, in prisons or other local places of confinement.

##### (b) Segregation

(I) Persons, other than nationals of United Nations, detained for security reasons and held for war crimes will be segregated, and will not be permitted to work with, speak to, or contact other prisoners and will be denied visits except those authorized by proper MG authorities.

(II) Where deemed necessary by the apprehending authority, special guards will be posted over prisoners held for war crimes or those detained for security reasons.

##### (c) Nationals of United Nations

(I) Nationals of United Nations held pending trial on charges of, or imprisoned for, violations of Military Government enactments or otherwise on the order of Military Government Courts



shall, so far as practicable, be segregated from other Military Government prisoners and kept in prisons or other places of confinement solely under Military Government custodial forces and control. If it should be necessary to utilize institutions in which German personnel have custody of or control over such prisoners special care must be taken to ensure that such prisoners are properly cared for.

(II) Nationals of United Nations detained for any other reasons shall likewise be segregated from all other classes of detainees and held in such PW Annexes or other appropriate places of confinement as may be available.

(d) Releases

(I) Persons imprisoned or detained for security reasons by order of Allied Agencies will not be released except upon written order of the arresting authority, or by the consent in writing of CIC/FSS when the arresting authority is unknown or is not obtainable. L. P. 6 will be used for this purpose. When, however, a time limit has been indicated upon the Arrest Report form by the person who made the arrest that will be sufficient authority for release.

(II) Persons imprisoned for or held on charges of violations of MG enactments will not be released except upon completion of sentence or upon order of competent Military Government Court.

(III) MG Dets will expedite the release or transfer to PW Annexes of security prisoners temporary held in prisons or institutions, in order to avoid their detention beyond the period of emergency (par. 1108 a (III).) Failures will be reported to the SMGO.

#### UTILISATION OF THE RESOURCES AND PRODUCTION OF THE INSTITUTIONAL INDUSTRIES AND FARMS.

1109. Those prison industries and farms that will assist in the maintenance of the institutions or will otherwise further the war effort will be placed in operation as conditions permit. Operations not currently needed by the Military Government, the institutions, or the regional populace, should be suspended, and available labor utilized for more urgent work. All able-bodied sentenced prisoners should be given work; those awaiting trial should be permitted to work on a voluntary basis, if compatible with other governing conditions.

a. Industries.

(I) Make a survey of the existing facilities, paying particular attention to: —

- (a) Condition of shops and equipment.
- (b) Strategic importance of produce.
- (c) Availability of raw materials and power.
- (d) Efficiency of labor available for production.

(II) Set in operation such industries as may provide immediate benefits to: —

- (a) Military efforts (e.g. Salvage and repair of equip.).
- (b) Essential maintenance of prison and inmates.
- (c) Essential supplies for the civil population.

b. Prison Farms.

Consult Military Government Labor, Agriculture, Trade and Industry Officers so as to plan for the most effective use of land and

equipment for production of food and other raw materials suited to equipment or replace the supplies of:

- (a) Allied Forces.
- (b) Prisons and other public institutions.
- (c) Civil population.

#### REVIEW OF ALL CASES.

1110. As soon as practicable after control of an institution has passed to the Allied Forces steps will be initiated by the MGO to accomplish the review of the cases of political prisoners and of persons under sentence of death or corporal punishment; also of those awaiting trial who have been confined for terms approximating the probable sentence, if convicted. Principles on which such review will be carried out are contained in Appendix I to this section. Detailed operating instructions will be provided through Military Government channels. Pending the issuance and application of such instructions, the following procedure has been developed for the guidance of MGOs concerned with such cases:

a. Board of Review.

(I) A Board of Review consisting of, for example, two (2) MG Officers (LEGAL and PUBLIC SAFETY) and one CIC/FSS Officer will be appointed.

(II) The MGO so designated will preside over the Board, will sign all its orders and will forward to each member of the Board not later than three (3) days prior to the Board meeting, a copy of the case history summary of each case.

(III) The reviews will be held in private at the institution where such prisoners are confined or at any other convenient location.

(IV) The Board may summons witnesses and require officials to produce records relating to the cases.

(V) By unanimous vote, the Board will recommend to the responsible Commander or SMGO, or if so authorized, may order the release of political prisoners and the release or provisional release of those awaiting trial who have been confined for terms approximating the probable sentence if convicted. When the Board favors release by two to one, the case will be referred to the responsible Commander, or if authorized, to the SMGO for final decision. With decision to release a prisoner, the presiding officer will issue to the Director through the MG Det. an ORDER FOR RELEASE OF PRISONER (Form L-P 6) or, if not available, Public Safety Form MG/PS/G/16. They may also make recommendations, or if authorized, issue orders with respect to the modification or commutation of sentences of death or corporal punishment imposed on prisoners not released.

(b) Investigation of Political Prisoners

(I) Persons considered as political prisoners may be interviewed privately to ascertain their version of the circumstances of incarceration. They may make oral or written statements concerning their case, and such statements shall become part of the case records. These interviews may be conducted by qualified and trustworthy native officials, designated by the MGO, who may have access to prison, court, police and other pertinent records, and authority to interview public officials and private citizens in the furtherance of their investigations. Due to the nature of the cases being investigated extreme precautions must be exercised in the designation of the investigators to avoid popular resentment and possible political repercussions.



(II) After investigation is complete a case history summary in quadruplicate shall be compiled and three (3) copies forwarded to the presiding officer of the Board of Review in sufficient detail to permit the Board to arrive at an equitable decision. The full case records of each prisoner, whose name appears on the list of political prisoners resulting from the aforementioned procedures, shall be available to the Board of Review on demand.

(c) Persons Awaiting Trial

The case records of persons who, having been held for trial, have been imprisoned for a term approximating the sentence they might have received if found guilty, will be referred to the Board of Review for release or provisional release subject to subsequent action of the competent court.

(III) REPORTS.

Reports, records and other data will be required upon occasion by the MG Det to attain the particular objectives of the Military Government.

a. Among such records the following are predetermined as definitely needed:

(I) Prison Situation Report (Form LP 2)

A prison situation report will be made in duplicate by MG Dets within 48 hours after entering an assigned area containing a prison or other place of confinement.

Distribution: 1 copy to SMGO  
1 copy to MG Det file

(II) Monthly Report on Prisoners (Forms L-P 3 and 3a)

A report on prisoners will be made in triplicate by the Director monthly. The report will list separately prisoners according to the following classifications:

- (a) Convicted criminals
- (b) Prisoners held for political reasons
- (c) Prisoners awaiting trial
- (d) Prisoners held for Allied Forces

That portion of the report dealing with prisoners awaiting trial will be kept current by re-submitting it semi-monthly.

Distribution: 1 copy to SMGO  
1 copy to CIC/FSS  
1 copy to MG Det file

(III) Monthly Report on Employees (Form L-P 4 and 4a)

A report on the institutional employees will be made in triplicate by the Director monthly. If Forms L-P 4 and 4a are not available, Public Safety Form MG/PS/G/22 will be used, and amended to show the birthdate, birthplace, and Civil Service status of each employee.

Distribution: 1 copy to SMGO  
1 copy to CIC/FSS for vetting  
1 copy to MG Det file

(IV) Commitment (Form L-P 5, Legal Form No. 5)

A Commitment form will be executed by the presiding officer after a person has been convicted and sentenced by a Military Government Court and will be delivered with the prisoner at time of his commitment to prison.

Distribution: 1 Copy to institution of confinement

(V) Review Board Order for Release of Prisoner (Form L-P 6)

The MGO, presiding at a Board of Review, will subject to any other instructions sign the Order for Release when a prisoner is found eligible. If Form L-P 6 is not available, Public Safety Form MG/PS/G/16 will be used.

Distribution: 1 copy to institution of confinement through  
MG Det  
1 copy to SMGO

(VI) Report of Disposition of Cases of Prisoners Appearing before Military Government Courts (Form L-P 7)

Prisoners taken from the prison to appear before a Military Government Court and not returned to the prison should be reported to the Director on this form, or by letter or other report, should the court so prescribe, in order that the institutional records may be maintained correctly.

(VII) Order of Transfer of Prisoner (Form L-P 8)

An Order of Transfer of Prisoner form will be executed in triplicate by the MGO in initiating transfers desired by the MG Det from one institution to another.

Distribution: 1 copy to accompany prisoner to Receiving Institution  
1 copy to Releasing Institution  
1 copy to MG Det file

(VIII) Visitor's Pass (Form L-P 9)

The MGO will take precautionary measures to ensure that no person will visit prisoners held for Allied Forces except through his approval. Permission to visit any prisoner granted by the MGO will be executed in duplicate on the Visitor's Pass form.

Distribution: 1 copy to visitor to be left at institution  
1 copy to MG Det file

(IX) Arrest Form (Public Safety Form)

An Arrest Report will be completed by Military personnel after effecting an arrest and will be delivered in duplicate with the prisoner at time of commitment.

Distribution: 1 copy to institution of confinement  
1 copy through institution to MG Det

(X) Report of Action of Board of Review on Political Prisoners and on those Awaiting Trial

The Board of Review will list in quadruplicate the names, prison numbers, and institution in which confined, of prisoners reviewed at each meeting with its decision as to classification or release.

Distribution: 1 copy to SMGO  
1 copy to CIC/FSS  
1 copy to MG Det  
1 copy for assignment

(XI) Case History Summaries of Political Prisoners.

The case history summary of a political Prisoner will be made in quadruplicate by the investigator (par. mob (II)).

Distribution: 3 copies to Presiding Officer for distribution to members of the Board of Review  
1 copy to MG Det file



(VII) Commitment and Release Reports

A report on commitments and releases, listed separately, occurring during each month will be rendered in duplicate by the Director, stating: name, prison number, charge or offense, sentence, date of commitment or release, and authorization for commitment or release. The report will show the inmate census broken down into the four (4) classifications used in the original Report on Prisoners, at the beginning and at the end of the month concerned.

Distribution: 1 copy to SMGO  
1 copy to MG Det file

(XIII) Annual Budget, Current Fiscal Report, and Estimates of Supplies Needed.

A copy of the annual budget and a fiscal report of current expenditures together with estimates of requirements of essential supplies and materials, with availability of same (par 1105 (B)) by specified fiscal periods for the balance of the current fiscal year, will be requested by the MGO from the Director within the first week after arrival.

Distribution: 1 copy to MG Det file

(XIV) Industrial and Farm Production Capacity Report.

A report describing the institutional industrial plant and/or farm together with an estimate of the productive capacity (par. 1109) should be submitted to MG Det in duplicate by the Director (Form L-P 1, item 9, e.) within 72 hours after request.

Distribution: 1 copy to SMGO  
1 copy to MG Det file

(XV) Report on Arms, Ammunition and Other Weapons Used.

The MGO will cause reports of loss of such equipment and of shots fired to be sent to him at once with necessary Explanation (par 1105 (E) (IV) (b))

Distribution: 1 copy to MG Det file

(b) The following reports may assist the MGO.

(I) Organisation of Institutions in District.

If the MGO does not have available the following information he should request it in duplicate from the Director: name of next higher echelon by which institution is usually supervised, title of head of this supervisory authority, the name and address of its present incumbent, and the names and locations of all other institutions functioning under the higher echelon with the names of their present Directors

Distribution: 1 copy to SMGO  
1 copy to MG Det file

(II) Report on Infractions of Rules by Employees and Prisoners.

If the MGO deems it expedient, under conditions that may exist, he will be kept currently informed as to infractions of rules by inmates or employees and resultant punishment meted out, by having extract of daily journal (Form L-P 1, item 6), sent to him daily.

Distribution: 1 copy to MG Det file

1112. INSPECTIONS

a. Inspections will be made by the MG Det of the institutions in its area at least monthly to check on the action taken on previous instructions and to determine the need for additional changes.

b. Periodical inspections and technical reports on institutions will be made by inspectors of the MG Prison Branch.

APPENDIX TO SECTION 11

1. Policy: The policy of the Supreme Commander is that procedures will be established for reviewing the cases of all political prisoners held in German prisons and concentration camps, and for their release in appropriate cases. Political prisoners are defined as persons who have been deprived of their liberty because of their race, creed, color, nationality, political belief or acts antagonistic to the Nazi regime. It is to be noted that most if not all of the persons who will be given relief as "political prisoners" pursuant to this policy will not be labelled as such by the Germans.

2. Existing Supreme Headquarters, AEF Instructions: These are set forth in this Manual paragraph 1110 and the Public Safety Manual, paragraph 231-8. The following paragraphs are issued as general guidance for the determination of particular cases.

3. Methods: It is contemplated that the cases affected can be divided into two main groups, namely:

(a) Those cases which, without elaborate investigation, can be recognized by reviewing officers as plain cases of political persecution in which an immediate order for release can be made without serious risk to security and law and order.

(b) Those cases in which other elements than political persecution are involved, e.g. where pecuniary gain is an ingredient, or which call for extensive investigation or which would be better dealt with by a reduction of sentence rather than by release or which involve persons who might, if released, during an unsettled period, constitute a threat to security or law and order.

Cases under (b) must await for complete disposal the full establishments of Military Government, possibly even the period of quadripartite control; this applies particularly to cases of persons held in prisons under a judicial sentence. Military Government Officers may however have to take certain action regarding these cases — see paragraph 9. Military Government Officers will principally be concerned with cases under (a). These are dealt with in paragraphs 5 and 6.

4. Cases can further be subdivided according as they arise in concentration camps or in prisons. In general, persons in concentration camps are detained by administrative order and, as a matter of law, are prima facie entitled to release. The question in these cases is one of security, and the primary responsibility for decision rests on CI. In prisons, on the other hand, the majority of persons are detained under some judicial order, and there is not (except in the case of nationals of the United Nations) the same need to hurry forward the work of review as there is in the case of persons held in concentration camps. In these cases, therefore, a decision of a legal character is also required. No release should be made without concurrence of CI. The authority of a Board or other reviewing agency to execute orders of release will be determined by the military commander under whom such agency is acting.

5. Principles Applicable to Cases Under Paragraph 3a:

a. Military Government Law No. 1 deprives of effect nine fundamental Nazi laws together with their supplementary or subsidiary carrying out laws, decrees or regulations.

Convictions under any of these laws are prima facie to be regarded as political convictions and persons charged or sentenced under them should be regarded as eligible for release. These laws and their supplementary and subsidiary carrying out laws are listed in Military Government Gazettes.

b. Paragraph 10 of Military Government Law No. 1 directs that all punishments imposed prior to the effective date of the law of



a character prohibited by the law and not yet carried out shall be modified to conform to the law or be annulled. Under this paragraph the following would, subject to concurrence of CI as specified in paragraph 4, above, be eligible for:

(1) Release:

- a. Person under charge or a sentence for offenses determined by analogy or by the sound instinct of the people (gesundes Volksempfinden Criminal Code, Sec. 2).
- b. Persons detained without charges (unless some lawful charge should be preferred against them).
- c. Persons detained beyond the period of their sentence.

(2) Reduction (Or release if they have already served the reduced term)

- a. Persons sentenced to cruel or excessive punishments.
- b. Persons sentenced to death for offenses for which the death penalty could not have been imposed prior to 30 January 1933.
- c. Persons charged under the ordinary law but who received increased sentences under some discriminatory or political law.

In cases under (2) a, b and c, the recommendations of the German authorities, if possible of the Staatsanwaltschaft, should be obtained on what would be an appropriate reduced sentence. Account should be taken of all forms of punishment already sustained, e.g. corporal punishment, confiscation of property, loss of rights, pensions, etc.

Because of probable difficulty of obtaining acceptable German personnel, most of those cases falling within classes (2) a, b and c will probably have to be dealt with under paragraph 3b.

c. Persons charged with or sentenced under other specific laws and decrees deprived of effect by Military Government should be eligible for release. Information regarding such laws and decrees will be furnished.

d. Persons charged with or sentenced for offenses which are clearly political or discriminatory, such as listening to a foreign broadcast or assisting a foreign worker, or other offenses specifically created for persons or particular race, etc., e.g. being a Jew and practising as a doctor. Included under this heading may be offenses which persons who were objects of discriminatory legislation were driven by the fact of persecution laws.

Many of these cases may have to be dealt with under paragraph 3b, above, particularly where pecuniary gain was a motive in connection with the offense.

e. Persons charged with or sentenced for offenses of political antagonism to National Socialism.

A non-exhaustive list of laws establishing offenses of the types mentioned in paragraphs 5d and e is attached (Schedule 'A'). It will be seen that in some instances it would be possible for an offense to be charged under one of the laws listed without necessarily being of a political character: in such cases it would be for the Board to determine whether in fact the offense was of this kind or not. Many of the cases under either heading may have to be dealt with under paragraph 3b. Care should be used in any event to avoid the release of persons who might constitute a menace to security and law and order.

6. Persons sentenced by Peoples Court, Special Courts (Sondergerichte) or NSDAP Party Courts (e.g. SS Courts or HJ Courts)

should not be automatically released but their cases should be judged on their merits in the light of Law No. 1 and the known character of the Tribunal. No general inference can be drawn from the fact of sentence by such courts, for such persons may either be a party victim or an actual criminal.

7. In cases of persons held for trial, other than those eligible for release under the preceding paragraphs, in general no action should be taken under paragraph 1110 (c) of this Manual except after having obtained the advice of the Staatsanwaltschaft.

8. Principles Applicable to Cases Under Paragraph 3b; Cases under paragraph 3b will include, among others, cases of the following types:

- a. Complicated cases of treason and similar crimes against the State or Nazi Party.
- b. Criminal offenses committed by members of persecuted classes (e.g. Jews, Communists) against Foreign Exchange, Revenue, Customs, Passport, Fraud or similar laws, other than those disposable under paragraph 5d.
- c. Criminal offenses falsely charged against members of persecuted classes, e.g. charges of fraud or sexual assault asserted against Jews, or of violence asserted against Communists.

9. Should opportunity permit, Military Government Officers should initiate work on cases under paragraph 3b, such as:

- a. Calling upon the German authorities to provide data regarding the case and to submit recommendations.
- b. Compiling lists of persons affected.
- c. Perpetuating testimony of the persons affected or other relevant witnesses.

10. United Nations Nationals: In dealing with all cases of political prisoners, full protection and priority should be given to United Nations nationals. Prisoners of war should be turned over immediately to the nearest prisoner of war enclosure containing prisoners of war of similar nationality. Contact should be made through the nearest military headquarters. The cases of civilians who are United Nations nationals should be reviewed before those of other civilians, and unless immediate release under paragraph 3a is indicated, such nationals should be removed from the concentration camp or prison and further detention should be under military control. If, after a complete investigation under 3b, it is determined that such nationals should be retained in custody, either to complete the sentence imposed or a reduced sentence, they should be detained under the same conditions as provided for United Nations nationals sentenced by Military Government Courts. In considering cases of United Nations nationals, it should be borne in mind that crimes committed by them against Germans may not in fact have been of a criminal nature, e.g. acts committed by foreign workers in response to Allied radio appeals.

11. It is emphasized that in dealing with all cases of alleged political prisoners, security considerations are paramount. The fact that a person is found in a prison or a concentration camp with or without a definite charge or sentence, is no proof that he is not an ardent Nazi, and the fact that he is not must be established in each case. No prisoner should be released without the concurrence of CI.

12. In cases where release or reduction of sentence is ordered, correcting entries under the authority of the Board should be made in the criminal register kept at the Landgerichte at the place of birth of the person in question.



SCHEDULE A  
LIST OF POLITICAL LAWS

I. CRIMINAL CODE 15. 5. 1871  
as amended: (hereinafter ab-  
breviated StGB)

1. Whoever commits treason is  
punishable according to

2. Whoever commits hostile  
acts against States maintaining  
friendly relations with Germany  
is punishable according to

3. Whoever entices a soldier  
to disobey orders of a military  
superior is punishable accord-  
ing to

4. Whoever takes part in secret  
or unlawful associations is pu-  
nishable according to

5. A minister of religion who  
abuses his vocation by discuss-  
ing in the church matters con-  
cerning the State is punishable  
according to

6. Whoever makes slanderous  
remarks against the Reich, its  
constitution, its flag, the armed  
forces, the Party and its sym-  
bols is punishable according to

7. Whoever offends against the  
requirements of the German  
armed forces with regard to  
enlistment, etc., is punishable  
according to

8. Whoever endangers public  
interests by unlawfully com-  
municating a secret or an offi-  
cial document to another per-  
son\* is punishable according to

II(a) SPECIAL WAR CRIMES  
according to the SPECIAL  
WAR CRIMES CODE (ab-  
breviated KSVO)

1. Whoever disobeys the or-  
dinance of the Military Go-  
vernor in the occupied territory  
is punishable according to

2. Whoever undermines the  
armed forces (by seducing  
soldiers or reservists from their  
duty, etc.) of Germany is  
punishable according to

STRAFGESETZBUCH FÜR  
DAS DEUTSCHE REICH VOM  
15. 5. 1871 mit ABÄNDERUN-  
GEN

Sections 80 to 94 incl StGB.

Sections 102 to 104 StGB.

Section 112 StGB.

Section 128 and 129 StGB.

Section 130 StGB.

Sections 134 (a), 134 (b) and  
135 StGB.

Sections 140 to 143 (a) incl  
StGB.

Section 353 c of StGB.

(\* e.g. if the communication  
was to or for the benefit of  
the United Nations)

KRIEGSSONDERSTRAF-  
RECHTSVERORDNUNG OF  
17. 8. 1938 (RGBl. 1939 I. p. 1455)  
and 5th Supplementary Ord of  
5. 5. 1944 (RGBl. I. 1150).

Section 4 KSVO.

Section 5 KSVO.

3. Whoever violates the duty  
of courage imposed on a soldier  
thereby undermining military  
discipline and the security of  
the German forces, is punishable  
according to

II (b) CRIMES IN CONNEC-  
TION WITH TOTALITARIAN  
WAR.

1. Whoever violates any law,  
ordinance, order or regulation  
issued for the purposes of con-  
ducting totalitarian war is  
punishable according to

2. Whoever —

a. sabotages an undertaking  
of importance for the de-  
fense of the Reich;

b. participates in an associa-  
tion opposed to the war or  
the armed forces;

c. endangers the armed forces  
of a country friendly with  
Germany;

is punishable according to

3. Whoever endangers the  
needs of the armament industry  
by making false statements  
concerning the number of work-  
men or the needs and the  
reserve of war material, equip-  
ment, machinery, is punishable  
according to

III. SPECIAL POLITICAL LAWS  
OF A CRIMINAL NATURE.

1. The unlawful use of desig-  
nations, emblems and insignia  
of the NSDAP, its formations  
and organizations by other  
associations is punishable ac-  
cording to the

2. Whoever without lawful  
authority issued by the Reich  
Minister of Interior, by the  
Police president in Berlin after  
consultation with the Reich  
treasurer or the Gauleiter of the  
NSDAP, organizes a public  
collection of money or goods  
for charitable or other non-  
commercial purposes or for

Section 5 a KSVO.

Art I of the Ordinance for  
Insuring the Conduct of Totali-  
tarian War (VERORDNUNG  
ZUR SICHERUNG DES TOTA-  
LEN KRIEGSEINSATZES) of  
25. 8. 44 (RGBl. I. 184).

The Ordinance for Supplemen-  
ting the Criminal Provisions for  
the Protection of the Armed  
Power of the German People  
(VERORDNUNG ZUR ER-  
GÄNZUNG DER STRAFVOR-  
SCHRIFTEN ZUM SCHUTZE  
DER WEHRKRAFT DES DEUT-  
SCHEN VOLKES) of 25. 11.  
1939 (RGBl. I. p. 2319).

The Ordinance of the Führer  
for the Protection of the Arma-  
ment Industry (VERORDNUNG  
des FÜHRERS ZUM SCHUTZE  
der RÜSTUNGSWIRTSCHAFT)  
of 2. 3. 1942 (RGBl. I. p. 165).

STRAFRECHTLICHE NEBEN-  
GESETZE POLITISCHEN IN-  
HALTS.

Designations of the NSDAP  
(GESETZ ZUM SCHUTZE  
VON BEZEICHNUNGEN DER  
NATIONALSOZIALISTISCHEN  
DEUTSCHEN ARBEITERPAR-  
TEI) of 7. 4. 1937 (RGBl. I.  
442).



institutes, associations and organisations other than the NSDAP and its formations, is punishable according to the

3. Whoever —

- a. fosters a communistic activity dangerous to the State;
  - b. continues an association declared by law to be illegal and dissolved;
  - c. promotes or participates in unlawful meetings;
- is punishable according to the

4. Whoever —

- a. produces or distributes political pamphlets which do not indicate the name of the printer, publisher and editor;
  - b. fails to report such publisher or to deliver such pamphlets in his possession to the police;
- is punishable to

5. Whoever undertakes to bring into Germany political pamphlets or propaganda material with intention of distributing same, is punishable according to

6. Whoever —

- a. listens to foreign broadcasts;
  - b. disseminates news of foreign stations;
- is punishable according to the

7. Whoever, without license —

- a. manufactures or sells wireless equipment;
  - b. maintains or operates a wireless sending station;
- is punishable according to the

8. A German national who wilfully and unscrupulously and acting strongly in his self-interest or for other hideous motives unlawfully exports property or permits property to remain abroad and thereby causes serious damage to the German economy is punishable with death according to the

Law for the Regulation of Public Collections and of similar enterprises (SAMMLUNGSGESETZ) of 5. 11. 1935 (RGBl I. p. 1086)

Ordinance for the Protection of People and State (VERORDNUNG ZUM SCHUTZE VON VOLK UND STAAT) of 28. 2. 1933 (RGBl I. p. 83).

Sections 20 and 21 of the Emergence Ordinance for the Protection of the German People (NOTVERORDNUNG ZUM SCHUTZE DES DEUTSCHEN VOLKES) of 4. 2. 1933 (RGBl I. p. 35).

Section 2 of the Law for the Insurance of National Peace (GESETZ ZUR GEWÄHRLEISTUNG DES RECHTSFRIEDENS) of 13. 10. 1933 (RGBl I. p. 723).

Ordinance Concerning Extraordinary Measures Regarding Wireless (VERORDNUNG ÜBER AUSSERORDENTLICHE RUNDFUNK-MASSNAHMEN) of 1. 9. 1939 (RGBl I. p. 1683).

Law against Black Broadcasting (GESETZ GEGEN SCHWARZSENDER) of 24. 11. 1937 (RGBl I. p. 1298).

Law Against Economic Sabotage (GESETZ GEGEN WIRTSCHAFTSSABOTAGE) of 1. 12. 36 (RGBl I. p. 999)

9. Whoever maintains any relations with a prisoner of war, except in line of duty, is punishable according to the

10. Whoever —

- a. refuses to serve in the Reich Labor Service;
  - b. deserts the Reich Labor Service;
  - c. undermines the discipline in the Reich Labor Service;
- is punishable according to the

11. A German subject who helps to camouflage the Jewish character of a business to mislead the public or the authorities is punishable according to the

12. A foreigner who, without a permit, is found in a forbidden area or acts contrary to a prohibition concerning residence, is punishable according to

#### IV. OFFENSES UNDER THE EDITOR LAW.

1. Whoever acts as an editor without being registered as such or although he has been suspended from his office, is punishable according to

2. Whoever accepts advantages or financial gains for publishing statements which are susceptible of weakening the strength of the German Reich internally or abroad, or the will of the German people for unity or the German armed power or the culture or the economy or which violate the honor or the dignity of a German is punishable according to

3. Whoever employs as managing editor a person not registered in the list of approved editors or an editor who has been suspended is punishable according to

Ordinance Concerning Relations with Prisoners of War (VERORDNUNG ÜBER DEN UMGANG MIT KRIEGSGEFANGENEN) of 11. 5. 1940 (RGBl I. p. 769).

Ordinance for the Protection of the Reich Labor Service (VERORDNUNG ZUM SCHUTZE DES REICHSARBEITSDIENSTES) of 12. 3. 1940 (RGBl I. p. 485).

Ordinance Against Helping to Camouflage Jewish Undertakings (VERORDNUNG GEGEN DIE UNTERSTÜTZUNG DER TARNUNG JÜDISCHER GWERBEBETRIEBE) of 23. 4. 1938 (RGBl I. p. 404).

Section 13 of the Police Ordinance for Foreigners (AUSLÄNDER - POLIZEIVERORDNUNG) of 22. 8. 1938 (RGBl I. p. 1067).

SCHRIFTFLEITERGESETZ of 4. 10. 1933 (RGBl I. p. 713)

Section 36

Section 38

Section 37



4. Whoever undertakes to publish statements of the kind mentioned under 1 above is punishable according to

Section 39

5. Whoever undertakes to compel an editor or a publisher to publish statements of the kind mentioned under 1 above is punishable according to

Section 40

SECTION 12.

TABLE OF PRINCIPAL INSTITUTIONS.

List of the more important Prisons in the US-BR Area of Germany arranged in alphabetical order of the Appeal Court Districts (Oberlandesgerichte) as of 1 February 1941

SOURCE { Blätter für Gefängniskunde, LXXI (1940—41) 338 ff.  
Handbuch für Justizbeamten (1939)

Penal Institutions listed by Appeal Court Districts	Population		Director
	Men	Women	
<b>1201. BAMBERG</b>			
Strafgefängnis Ebrach . . . . .	500	—	RR Hennerman
Strafgefängnis und Arbeitshaus, St. Georgen-Bayreuth, Markgra- fenallee 49:			
a. Strafgefängnis St. G.-Bayreuth	500	—	ORR Schlager
b. Arbeitshaus St. G.-Bayreuth .	250	—	
c. Gefängnis Bayreuth . . . . .	58	10	
Gefängnis Würzburg . . . . .	170	30	
<b>1202. BRAUNSCHWEIG</b>			
Gefängnis Wolfenbüttel u. Braun- schweig:			
a. Strafgefängnis Wolfenbüttel, Ziegenmarkt	950	—	
b. Gefängnis Braunschweig . . .	280	20	
<b>1203. CELLE</b>			
Zuchthaus Celle, Trift 14 . . . .	531	—	RR Narloh
Zuchthaus Hameln, am Münster- wall 2 . . . . .	532	—	RR Brinkerhord
Gefängnis Hannover, Leonhard- Str. 1 . . . . .	690	124	ORR Suffenplan
Strafgefängnis Lingen . . . . .	304	2	
Gefängnis Osnabrück . . . . .	94	12	
Gefängnis Wesermünde-Lehe . . .	158	1	
Haftanstalt Emden, Hindenburg- Str. 6 . . . . .	44	4	VOInsp.Schrader
Arbeitsstellen Wiesmoor . . . . .	560	—	
<b>1204. DARMSTADT</b>			
Gefängnis Darmstadt . . . . .	230	32	
Gefängnis Mainz . . . . .	230	70	
Zuchthaus Marienschloss in Rok- kenberg . . . . .	400	—	RR Barth
Zuchthaus Butzbach (Oberhessen), Kleeberger Str. 23 . . . . .	830	—	ORR Bausch
Gefangenenlager Rodgau in Die- burg, Strasse der SA 62 . . . . .	2000	—	ORR Mohr



Penal Institutions listed by Appeal Court Districts	Population		Director
	Men	Women	
1205. DUSSELDORF			
Strafgefängnis Anrath, Garten- Str. 1 & 2:			RR Dr. Combrink
a. Gefängnis . . . . .	520	—	
b. Frauenjugendgefängnis	—	214	
Gefängnis Düsseldorf - Derendorf, Ulmen Str. 95 . . . . .	675	113	ORR Schmidt
Gefängnisse Duisburg-Hamborn:			
a. Gefängnis Duisburg-Hamborn	130	24	
b. Gefängnis Duisburg . . . . .	186	—	
Gefängnis Kleve . . . . .	207	36	
Zuchthaus Remscheid - Lüttring- hausen, Masuren Str. 29 . . . . .	553	—	RR Dr. Englehardt
Gefängnis Wuppertal, Bendahler Str. 30 . . . . .	550	19	RR Dr. Linder
1206. FRANKFURT AM MAIN			
Untersuchungsgefängnis Frankfurt	312	—	
Gefängnis Frankfurt-Höchst . . . . .	110	—	
Strafgefängnis Frankfurt-Preunges- heim, Homburgerland Str. 112	461	93	RR Rieck
Zuchthaus Friedendiez . . . . .	524	—	RR Gamradt
Gefängnis Wiesbaden . . . . .	170	14	
1207. HAMBURG			
Gefängnis Hamburg-Altona, Ge- richt Str. . . . .	315	3	Amtm Hasse
Strafgefängnis Glassmoor, Glas- hütte . . . . .	370	—	„ Bruhns
Jugendgefängnis Hahnöfersand, Post York . . . . .	308	—	ORR Hänsel
Strafanstalten Hamburg-Fuhlsbüttel- Suhrenkamp:			
a. Strafgefängnis . . . . .	614	—	
b. Zuchthaus . . . . .	811	—	
c. Frauengefängnis . . . . .	—	324	
Untersuchungsgefängnis, Hamburg Stadt, Holstenglacis 3 . . . . .	1089	111	ORR Bredow
Gefängnis Hamburg-Harburg . . . . .	154	3	
Bremische Vollzugsanstalten:			
a. Zuchthaus Bremen-Oslebshaus.	843	—	
b. Gefängnis Bremen Osterior . . . . .	77	—	
c. Untersuchungsgefängnis Bre- men Stadt . . . . .	143	24	
1208. HAMM			
Gefängnis Bielefeld . . . . .	161	23	
Strafgefängnis Bochum, Kreumm. Untersuchungs- u. Jugendgefäng- nis Bochum, Kreummede 1/14 . . . . .	750	—	ORR Anderson
. . . . .	179	23	
Gefängnis Dortmund, Hamb. Str. 24	329	37	RR Dr. Pitz



Penal Institutions listed by Appeal Court Districts	Population		Director
	Men	Women	
1208. HAMM—cont.			
Untersuchungsgefängnis Essen, Andreas Str.	551	106	RR Gay
Gefängnis Hagen, Blücherstr. 39/41	320	30	V Amtm Nebe
Gefängnis Hamm	122	5	
Zuchthaus Herford, Eimter Str. 5	431	—	RR Müller
Zuchthaus Münster, Gartenstr. 26	605	—	ORR Fuchs
Strafgefangenenlager Oberems in Gütersloh, Neukirchenerstr. 15	1015	—	V Amtm Lessman
Sicherungsanstalt Werl, Göringstr. 46	604	—	RR Faber
Strafgefangenenlager Papenburg:	10300	—	
I Borgermoor			
II Aschendorfer Moor			
III Brual Rhede			
IV Walchum			
V Neusustrum			
VI Esterwegen			
1209. KARLSRUHE			
Strafanstalten Bruchsal, Schönborn Str. 32:			ORR Backfisch
a. Zuchthaus	400	—	
b. Strafgefängnis Huttenstr.	384	70	
c. Gefängnis Stirumstr.	41	—	
Gefängnis Freiburg, Johanniterst. 8:			ORR Dr. Köblin
a. Strafgefängnis Freiburg	502	—	
b. Gefängnisse I and II	116	28	
Gefängnisse Mannheim-Heidelberg, Hertzogenried Str. 111:			ORR Dr. Weidner
a. Strafgefängnis Mannheim	597	—	
b. Gefängnis Mannheim	150	43	
c. Gefängnis Heidelberg	96	13	
Gefängnisse Karlsruhe:			
a. Gefängnisse I to III	272	17	
b. Gefängnis Karlsruhe-Durlach	28	—	
Arbeitshaus Kislau	174	—	
1210. KASSEL			
Gefängnis Kassel	155	32	
Zuchthaus Kassel-Wehlheiden auf dem Grass 12	931	—	ORR Dr. Harder
Sicherungsanstalt und Frauenzucht- haus Ziegenhain, Paradeplatz 3:			RR Engelhardt
a. Sicherungsanstalt	288	—	
b. Frauenzuchthaus	—	86	



Penal Institutions listed by Appeal Court Districts	Population		Director
	Men	Women	
1211. KIEL			
Gefängnis Kiel, Fasch Str. 8/10	317	48	RR Sponagel
Männergefängnisse in Lübeck, Gr. Burg 2:			
a. Untersuchungs- und Marstall- gefängnis	126	—	
b. Strafgefängnis Lauerhof	327	—	
Frauenstraf- und Sicherungsanstalt Lübeck-Lauerhof, Marliring 41	—	350	Erste O. Ellering
Strafgefängnis Neumünster u. Ju- gendgefängnis Boostedterst. 3032	504	4	RR Flother
Sicherungsanstalt Rendsburg, Neue Kieler Land Str. 33	476	—	RR Fratzcher
1212. KÖLN			
Gefängnis Aachen, Adalbertstein- weg 92	622	52	RR Wüllner
Gefängnis Bonn	171	11	
Gefängnis Koblenz	157	26	
Gefängnis Köln, Klingelpütz 51	715	259	
Zuchthaus Rheinbach	567	—	RR Westenberger
Zuchthaus Siegburg	721	—	RR Mayr
Gefängnis Trier	119	21	
Gefängnisse Wittlich, Hindenburg- Str. 32:			RR Bithorn
a. Strafgefängnis	544	2	
b. Jugendgefängnis	250	—	
1213. MUNCHEN			
Frauenstraf- und Verwahrungsan- stalt Aichach	—	659	RR v Reitzenstein
Gefängnisse Augsburg	236	94	
Strafgefängnis Bernau (Oberbay.)	450	—	RR Weber
Frauenstraf- und Verwahrungsan- stalt Laufen	—	360	"
Zuchthaus Kaisheim, Kaisheim üb. Donauwörth	650	—	ORR Engert
Strafgefängnis Landsberg	500	—	RR Dicknether
Frauengefängnis Rothenfeld (Post Erling am Ammersee)	—	180	
Gefängnisse München:			
a. Strafgefängnis München-Sta- delheim, Stadelheimerstr. 12	782	151	ORR Koch
b. Gefängnis Neudeck	147	37	
c. Gefängnis Cornelius Str.	110	—	
Jugendgefängnis Niederschönenfeld (Post Rain am Lech)	313	—	RR Neck

Penal Institutions listed by Appeal Court Districts	Population		Director
	Men	Women	
1214. NURNBERG			
Zuchthaus Amberg (Oberpfalz), Haselmühl Str. 1	838	—	ORR Hopp
Gefängnisse Nürnberg:			
a. Untersuchungsgefängnis Barenschanzstr.	207	25	ORR Paulus
b. Strafgefängnis Mannerstrasse	166	30	
c. Strafgefängnis Zellenstrasse	603	—	
Zuchthaus und Sicherungsanstalt Straubing	1120	—	ORR Badum
1215. OLDENBURG			
Gefängnis Oldenburg (Oldb)	112	5	
Strafgefängnis und Arbeitshaus Vechta, Willo Str. 1	928	80	RR Sieber
1216. STUTTGART			
Frauengefängnis Gotteszell in Schwäb. Gmünd Herlikoferstr. 191	—	250	VAmtm Fiess RR Kastenbuer
Sicherungsanstalt Schwäbisch Hall, Salinen Strasse 3	400	—	
Gefängnisabteilung Klein-Comburg	50	—	
Gefängnis Heilbronn (Neckar), Stein Str. 21:			RR Schmidt- hauser
a. Jugendgefängnis	300	—	
b. Gefängnis Kirchbrunnenstr.	15	8	
c. Gefängnis Wiener Strasse	24	6	
Zuchthaus Ludwigsburg:			ORR Klaus
Schorndorfer Strasse 28, mit . .	452	—	
Zweiganstalt und Tbc-Abt. Ho- henasperg	401	—	
Strafgefängnis Rottenburg (Neckar)	419	—	RR Lupfer RR Hohl
Untersuchungsgefängnis in Stutt- gart: Archiv Str. 15 A:			
a. Hauptanstalt	242	9	
b. Zweiganstalt Weimar Strasse	17	32	
c. Zweiganstalt Bad Cannstatt	55	—	
Gefängnisse Ulm (Donau) Talfin- ger Strasse:			VAmtm Frank
a. Strafgefängnis	180	—	
b. Zweiganstalt, Bettenreute	32	—	
c. Gefängnis Frauengraben	115	8	
1217. ZWEIBRUCKEN			
Gefängnis Frankenthal	199	20	
Gefängnisse Zweibrücken:			VAmtm Schultz
a. Strafgefängnis	785	—	
b. Gefängnis	162	18	
Gefängnis Saarbrücken	60	48	VAmtm Dr. Keil



## 1218. GUIDE TO INSTITUTIONAL RULES AND REGULATIONS

This guide is presented in order that the MGO may gain a general idea as to the rules and principles that quite universally prevail in acceptable institutions of this sort. All existing rules and regulations consistent with those principles and with the policies of the Military Commander should remain in force, unless otherwise rescinded.

### 1219. Director:

It shall be the duty of the Director, as chief administrator, to see that the institution is conducted in such a manner as to promote the interests of safety and order through the discipline and correction of the inmates committed to his care. He shall make sure that all rules and regulations are firmly and impartially enforced and that no special privileges are granted to any inmate that cannot be earned by another inmate under similar conditions.

The Director shall make all assignments of duty to be performed by the officers and employees of the institution and maintain the general policies established by the Military Government.

The Director shall have authority to expend or encumber under normal allotment, the funds necessary for the ordinary maintenance and operation of the institution. He must secure special authorization for any extraordinary expenditure in excess of normal requirements.

### 1220. Other Officers:

All other officers shall be responsible to the Director for their several departments and for efficient service in the work of officers, civilians, and inmates assigned to them.

Each officer or employee of an institution is expected to perform any services of which he may be deemed capable, including custodial duties when so required by the Director of the institution, and he shall be held responsible for the efficient performance of duties assigned and for the proper supervision of all inmates detailed to his charge.

Intemperance will not be tolerated on duty. The regulation uniform and insignia shall be worn when on duty, unless otherwise ordered.

In dealing with inmates all officers will bear in mind that the chief purpose of the institution is the correction of its inmates and the preservation of safety and order. Officers and employees shall at all times maintain a quiet but firm demeanor in their dealings with inmates. They shall not indulge in undue familiarity with inmates nor shall they permit undue familiarity on the part of inmates toward officers. The use of indecent language, abusive or profane, is forbidden.

All trading or bartering on the part of officers and employees with inmates is strictly prohibited. Officers and employees must not give to or receive from any inmate anything in the nature of a gift, or promise of a gift, nor shall personal services be rendered by any inmate for any employee apart from the regular work of the institution.

No officer or employee, with the exception of those required to do so in the performance of their regular duties, shall correspond with prisoners or ex-prisoners about the affairs of the institution or inmates, nor shall they assist in any manner in conducting such cor-

respondence. They may not convey, either to or from, any inmate any message, written or oral, except such as is necessary in the transaction of the business of the institution.

It is the duty of all officers and employees, and especially that of the custodial force, to prevent the escape of an inmate. Whenever an escape occurs from an institution the MG Det. will be notified at once, a prompt investigation shall be made and if it is found that an officer or employee is in any way responsible through negligence or otherwise, he shall be immediately suspended.

No officer or employee shall strike or lay hands on an inmate unless it be in defence of themselves or it be necessary to prevent escape, or serious injury to person or property, or to quell a disturbance. In such cases only the amount of force necessary to accomplish the desired result is authorized.

The greatest caution and conservative judgment shall control the use of firearms; officers and employees shall be instructed that firearms are to be used only when absolutely necessary in preventing escapes, capturing escaped prisoners, or serious assaults. When it is necessary to direct shots at a prisoner they should be aimed to disable rather than to kill.



Sektion 13.  
FORMS and REPORTS

INSTRUCTIONS TO DIRECTOR OF INSTITUTION.  
ANWEISUNG AN DEN DIREKTOR DER ANSTALT.

1. You and your staff will function under and be responsible to the Military Government through the Military Government Detachment for the proper administration of your institution and the safe custody and well-being of the inmates confined therein.

2. You will eliminate all practices and procedure in conflict with the declared policies of the Military Government.

3. You will stay the execution of all sentences of death or corporal punishment previously imposed on inmates confined in your institution, pending decision in writing by Military Government.

4. You will not release any inmate except on normal completion of his sentence or upon execution of a release permit through the Military Government Detachment.

5. You will secure and hold intact all prison records for examination by the Military Government Detachment.

6. You will maintain and keep up to date complete records on all inmates indicating name, sex, nationality, place and date of birth, charge, sentence, date of expiration, date of release and conduct during imprisonment. You will also maintain administrative, accounting, employment, production and census records of prisoners daily and

1. Sie und Ihre Beamten und Angestellten unterstehen der Militärregierung und sind dieser und in Ihrem Bezirk der Ortskommandantur der Militärregierung für die ordentliche Verwaltung Ihrer Anstalt, für die sichere Inhafthaltung der Insassen und deren Wohl verantwortlich.

2. Sämtliche Methoden und Verfahrensregeln, die mit den öffentlich erklärten Grundsätzen der Militärregierung nicht im Einklang stehen, sind von Ihnen einzustellen und aufzuheben.

3. Vorbehaltlich einer schriftlichen Entscheidung der Militärregierung ist die Vollstreckung von Todesurteilen, die bereits gegen Insassen Ihrer Anstalt verhängt worden sind, und von Massnahmen körperlicher Züchtigung, die bereits gegen diese angeordnet worden sind, untersagt.

4. Insassen dürfen nur nach vollständiger Strafverbüßung oder auf Grund einer von der Ortskommandantur der Militärregierung erteilten Entlassungsurkunde entlassen werden.

5. Alle Gefängnisakten und Unterlagen sind sicherzustellen, und zwecks Prüfung durch die Ortskommandantur der Militärregierung in unversehrtem Zustande zu erhalten.

6. Über die Insassen sind vollständige Aufzeichnungen anzufertigen und auf dem Laufenden zu halten. Diese Aufzeichnungen haben folgendes anzugeben: Name, Geschlecht, Staatsangehörigkeit, Geburtsort und Geburtstag, die Tat, das Urteil, Tag des Ablaufs der Strafzeit, Tag der Entlassung und Führung in der Strafanstalt. Über

monthly, and any other records heretofore kept by the institution. You will maintain a daily journal of infractions of institutional rules by inmates and employees and punishments administered in consequence. Copies of this journal will be forwarded if requested.

7. You will accept all prisoners delivered by Allied Forces and will request with them a completed Commitment Form for convicted prisoners and a completed Arrest Form in duplicate for arrested prisoners. Failure to obtain such forms from Allied Forces shall be reported immediately to the Military Government Detachment.

8. The inmates of your institution shall be given humane treatment and furnished suitable rations, shelter, clothing, heat, medical attention and proper sanitation.

9. You will submit specific reports to the Military Government Detachment in such form, number of copies, and at such times as requested, relative to:

- a. Number classification, charge sentence and other data on prisoners.
- b. Institutional employees.
- c. Availability of subsistence, clothing and medical supplies.

die Verwaltung, die Finanzen, die Beschäftigung, die Arbeitsergebnisse und statistische Erfassung der Gefangenen sind tägliche und monatliche Aufzeichnungen zu führen. Sonstige Aufzeichnungen, die bisher von der Anstalt gemacht wurden, sind fortzuführen. Sie haben ein Tagebuch über Verstöße von Insassen und Angestellten der Anstalt gegen die Anstaltsordnung und über die deshalb verhängten Strafen zu führen. Auf Verlangen sind Abschriften dieses Tagebuchs zu übermitteln.

7. Sie haben alle von den Alliierten Streitkräften eingewiesenen Gefangenen aufzunehmen und darauf zu achten, dass für jeden gerichtlich verurteilten Strafgefangenen ein ordnungsmässig ausgefüllter und vollzogener Einlieferungsbefehl und für jeden Haftgefangenen ein ordnungsmässig ausgefüllter und vollzogener Haftbefehl in doppelter Ausfertigung vorliegt. Sollten die Alliierten Streitkräfte die Ausfüllung und Ausfertigung dieser Einlieferungs- und Haftbefehle unterlassen haben, so ist dies umgehend der Ortskommandantur der Militärregierung zu melden.

8. Die Insassen Ihrer Anstalt sind menschenwürdig zu behandeln und haben ausreichende Verpflegung, Unterkunft, Kleidung, Heizung und ärztliche Fürsorge zu erhalten.

9. Sie haben Einzelberichte an die Ortskommandantur der Militärregierung in der von dieser angegebenen Weise und Anzahl sowie zu den von dieser angegebenen Zeitpunkten und über folgende Gegenstände zu erstatten:

- a. bezüglich der Gefangenen sind Anzahl, Gefangenenart, die Tat, das Urteil und andere Angaben zu machen.
- b. Beamte und Angestellte der Anstalt,



- d. Condition and emergency needs of physical plant.
- e. Production capacity of industries and farms; stocks in hand by kinds of produce.

10. You will forward immediately to the Military Government Detachment information received from inmates of your institution that might be helpful to the Allied Military cause or make known the identity of prisoners professing to possess or believed to possess such information.

11. You will submit in triplicate semimonthly lists of all prisoners awaiting trial, on forms remitted to you by the Military Government Detachment.

Note: In the interests of clarity these instructions are written in both English and German; if discrepancies exist, the English will prevail.

Date  
Datum

Military Government Detachment at  
Ortskommandantur der Militärregierung in

- c. Vorrat von Nahrungsmitteln, Kleidung, Medikamenten und anderen der ärztlichen Behandlung dienenden Gegenständen.
- d. Zustand der Gebäude und Einrichtungen sowie erforderliche Notstandsarbeiten an diesen.
- e. Kapazität der zur Anstalt gehörigen industriellen und landwirtschaftlichen Betriebe und Bestände der Erzeugnisse nach Arten.

10. Sie haben an die Ortskommandantur der Militärregierung umgehend jede Ihnen von Insassen Ihrer Anstalt zugehende Auskunft, die für die Alliierten Streitkräfte von Nutzen sein könnte, weiterzuleiten oder die Personalien jedes Gefangenen anzugeben, der behauptet, solche Auskunft zu besitzen oder von dem angenommen wird, dass er zur Erteilung von solchen Auskünften in der Lage sei.

11. Sie haben auf Formularen, die Ihnen von der Ortskommandantur der Militärregierung zugehen, halbmonatlich und in dreifacher Ausfertigung eine Liste aller Untersuchungsgefangenen einzureichen.

Anmerkung: Zum besseren Verständnis sind die Anweisungen auch in deutscher neben der englischen Sprache abgefasst. Im Falle von Abweichungen gilt jedoch der englische Wortlaut.

Signed  
Unterschrift (Name( (Rank-  
Dienstrang)

PRISON SITUATION REPORT

FORM L-P 2

1302.

- 1. Name of Institution .....
- 2. Type of Institution .....  
(Prison—Reformatory—Insane Asylum)
- 3. Location of Institution .....  
(Province, City, Town, Street-Number)
- 4. Institution Director .....  
(Name, Title, to whom responsible)

5. Data on Inmate Population : —

	Male	Female	Total
a. Convicted criminals .....			
b. Prisoners held for political reasons .....			
c. Prisoners awaiting trial .....			
d. Prisoners held for Allied Military Forces .....			
e. Number of prisoners in institution .....			
f. Inmate capacity .....			

- 6. Food Supply: Quality ..... Quantity .....
- 7. Medical Service: Adequate ..... Inadequate .....
- 8. Sanitation .....
- 9. General health of prisoners .....
- 10. Security of inmates (Guards—Buildings) .....
- 11. Status and location of prison records .....
- 12. Officials removed (Reasons) .....
- 13. General comments .....

Distribution :—1 copy to SMGO  
1 copy to MG Det

(To be prepared in duplicate by MGO within 48 hours of arrival in area.) (Signed) ..... (Name and Rank)

(Date) .....



**MONTHLY REPORT ON PRISONERS.  
MONATLICHER GEFANGENENBERICHT.**

FORM L-P 3

I,  
Ich,, Director of  
Leiter des/erat  
in

hereby certify that this return is a true and complete  
bescheinige, dass diese Aufstellung einen vollständigen und wahr-  
report of all persons received and released  
heitsgetreuen Bericht aller aufgenommenen und entlassenen Per-  
sonen darstellt  
for the month of \_\_\_\_\_, 194  
für den Monat \_\_\_\_\_

(Signed)  
Unterschrift

(Director-Leiter)

Class Kategorie	Description of Classes Beschreibung der Kategorien	Number Received Anz. der Auf- genommenen	Number Released Anzahl der Entlassenen
A	Convicts: Those sentenced by a court for a criminal offence. Verurteilte: Wegen einer Straftat von einem Gericht verurteilte Personen.		
B	Political Prisoners: Those held for political acts or by order of the Nazi party. Politische Gefangene: Personen, die wegen politi- scher Handlungen oder auf Befehl der NSDAP verhaftet worden sind.		
C	Remands, or Awaiting Trial: Those held on order of a competent court. Untersuchungsgefangene: Auf Anordnungen eines zuständigen Gerichts verhaftete Personen.		
D	Prisoners of the Allied Forces: Those held by order of the Military Government or other Allied Agencies. Gefangene der Alliierten Armee: Auf Befehl der Militärregierung oder anderer alliierter Be- hörden verhaftete Personen.		
<b>Total — Gesamtzahl</b>			

- Prisoners at beginning of month  
Gefangene zu Beginn des Monats
- Prisoners received during month  
Während des Monats aufgenommene Gefangene
- Prisoners released during month  
Während des Monats entlassene Gefangene
- Total prisoners at close of month  
Gesamtzahl der Gefangenen am Ende des Monats

**INSTRUCTIONS.**

To be prepared and returned by the Director in triplicate to the  
MG Det on the first day of each month covering prisoners received  
and released during the preceding month. Every person received  
and released must be accounted for and shown separately according  
to one of the classes listed above.

**ANWEISUNGEN**

Der Leiter muss am ersten Tage jeden Monats diese Formulare  
mit Angabe aller aufgenommenen und entlassenen Gefangenen aus-  
füllen und an das Militärregierungskommando einsenden. Über jeden  
aufgenommenen und entlassenen Gefangenen muss Rechenschaft ab-  
gelegt werden; ein diesbezüglicher Sonderbericht ist gemäss den  
obigen Kategorien zu erstatten.

Institution \_\_\_\_\_ Class of Prisoners \_\_\_\_\_ Date \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_ Pages  
Gefängnis \_\_\_\_\_ Kategorie \_\_\_\_\_ Datum \_\_\_\_\_ Seite \_\_\_\_\_ von \_\_\_\_\_ Seiten

Name and Number of Prisoners Name und Nummer des/der Gefangenen	Birth — Geburts- place — ort		Sex Geschlecht	Detaining Authority Auf wessen Datum der Veranlassung festgenommen	Date Imprisoned Datum der Gefangen- nahme	Offence — Charge Vergehen — Anklage	Sentence Urteil	Name and Number of Prisoners Name und Nummer des/der Gefangenen	Birth — Geburts- place — ort		Sex Geschlecht	Releasing Authority Auf wessen Datum der Entlassung	Date Released Datum der Entlassung	Place Released to Wohin entlassen	Remarks Bemerkungen
	date — tag	date — tag							date — tag	date — tag					

Note: Prisoners received by transfer from another Institution will be so indicated in the column marked AUTHORITY.  
Anmerkung: Gefangene, die auf Grund von Überweisung aus einem anderen Gefängnis aufgenommen werden, müssen entsprechend in der Spalte „Auf wessen  
Veranlassung festgenommen“ vermerkt werden.



### MONTHLY REPORT ON EMPLOYEES MONATLICHER PERSONALBERICHT.

This report of ..... pages, lists by name all the

Dieser aus ..... Seiten bestehende Bericht führt namentlich alle Beamten und Angestellten auf, die

of .....  
im ..... (Institution-Gefängnis)

who have been employed or separated from the service during the neu eingestellt wurden oder ausgeschieden sind während des

month of ..... , 194  
Monats

The total number of employees authorized by the current  
Die Gesamtzahl des im laufenden Haushalt vorgesehenen Personals

budget is ..... , of which the following positions are vacant:  
beläuft sich auf ..... Die folgenden Stellen sind zur Zeit offen:

Title	Pay group of R.B.O.	Annual Salary and Allowances	Number Authorized	Number Vacant
Stelle	Besoldungsgruppe der R.B.O.	Gesamt Jahresgehalt einschl. aller Zulagen und Beihilfen	Anzahl der vorgesehenen Stellen	"Offene Stellen"

Signed .....  
Unterschrift (Director—Leiter)

**INSTRUCTIONS TO THE DIRECTOR:** You will, at the close of each month, render to the Military Government Detachment this report in triplicate, on the employees of the institution under your control who have been employed or dismissed or otherwise separated from the service during the month. All information required must be completed.

False returns will result in prosecution by the Military Government.

**ANWEISUNGEN AN DEN LEITER:** Sie werden hiermit beauftragt, am Ende jeden Monats den vorliegenden Bericht über das Personal, das während des Monats neu eingestellt, entlassen oder sonstwie au der Ihnen unterstehenden Anstalt ausgeschieden ist, in dreifacher Ausfertigung an das Militärregierungskommando zu erstatten. Die verlangte Auskunft muss vollständig sein.

Die Erstattung wahrheitswidriger Angaben wird von der Militärregierung strafrechtlich verfolgt.

Page of Seite von	Pages Seiten	Institution Gefängnis	Date Datum		Remarks Bemerkung.	
			*Civ. Ser. *Beamter	Years Serv. Dienstjahre		
Name of New Employee Name des/der neu Angestell.	Sex Geschlecht	Birthdate Geburtsstag	Birthplace Geburtsort	Position Stelle	Pay Group of R.B.O. Besoldungsgruppe der R.B.O.	Remarks Bemerkungen
Name of Employee Separated from Service Name des/der aus dem Dienst Ausgeschiedenen	Sex Geschlecht	Birthdate Geburtsstag	Birthplace Geburtsort	Position Stelle	Pay Group of R.B.O. Besoldungsgruppe der R.B.O.	Remarks Bemerkungen

\* Regular Civil Service Employee, yes/no — Beamter, Ja/Nein.  
Note: Enter reason for separation from service in column headed Remarks.  
Anmerkung: Grund für Ausscheiden aus dem Dienst in Spalte „Bemerkungen“ eintragen.



1305. MILITARY GOVERNMENT COURT  
GERICHT DER MILITARREGIERUNG

COMMITMENT  
EINLIEFERUNGSBEFEHL

To: The Officer in charge of ..... Prison/Camp  
An: Den Leiter der/des ..... Strafanstalt/Lagers  
or any other prison or camp to which the prisoner may hereafter be  
oder irgend einer/eines arderen Strafanstalt/Lagers, in welche(s)  
lawfully transferred:  
der/die Strafgefängene späterein rechtmässig überwiesen werden wird.

Whereas .....  
Der/Die ..... (Name)  
has been convicted of the offence of .....  
ist wegen der folgenden strafbaren Handlung

and has been sentenced by the Summary/Intermediate/General Military  
schuldig erkannt und vom Einfachen/Mittleren/Oberen Militärgericht  
Court to serve a sentence of .....  
zu

and to pay a fine of .....  
und zu einer Geldstrafe von ..... verurteilt worden.

the said sentence to commence on ..... 194  
Der Strafantritt hat am ..... (Date—Tag und Monat) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above  
Auf Grund des genannten Urteiles sind Sie ermächtigt, den/die ge-  
named prisoner into your custody and detain him in accordance with the  
nannte(n) Strafgefängene(n) in die/das Strafanstalt/Lager aufzunehmen  
sentence / so imposed or until further order of this Court or a competent  
bis er/sie die über ihn/sie verhängte Strafe abgebusst hat oder bis Sie  
military authority and for so doing this shall be sufficient warrant.  
eine weitere Anordnung von diesem Gericht oder von einer zustän-  
digen Militärbehörde erhalten werden. Diese Urkunde ermächtigt  
Sie zur Vornahme der Handlung.

Signed this ..... day of ..... 194  
Gezeichnet am ..... Tag des

(Presiding Officer—Vorsitzender)

Summary/Intermediate/General Military Court of .....  
Einfaches/Mittleres/Oberes Militärgericht in

(Note: Strike out words not applicable)  
(Anmerkung: Unzutreffendes ist durchzustreichen)

REVIEW BOARD ORDER FOR RELEASE OF PRISONER  
ANORDNUNG DER PRÜFUNGSKOMMISSION ÜBER  
ENTLASSUNG EINES GEFANGENEN

To: Officer in charge of  
An: Den Leiter des/der (Name of Prison—Name des Gefängnisses)

On this ..... day of ..... 194, the case  
Am ..... Tag des ..... ist die Sache

of ..... Prison Number  
des/der ..... Gefängnisnummer

now in your custody, was reviewed, and it is ordered that the said  
zur Zeit in Ihrem Gewahrsam, nachgeprüft worden und es wird hier-  
prisoner be released forthwith.  
durch angeordnet, dass der/die Gefängene sofort freizulassen ist

Signed .....  
Unterschrift ..... (Name)

(Rank—Rang) (Organisation)

Distribution:

- I copy to Institution of confinement through MG Det
- I copy to SMGO



REPORT OF DISPOSITION OF CASES OF PRISONERS  
APPEARING BEFORE MILITARY GOVERNMENT COURTS  
BERICHT ÜBER ENTSCHEIDUNG VON RECHTSFÄLLEN VON  
GEFANGENEN VOR MILITÄRREGIERUNGS-GERICHTEN

Date  
Datum

To the Director of .....  
An den Leiter des/der ..... (Institution—Gefängnis)

Charges pending against the persons listed below were disposed  
Anklagen gegen die unten aufgeführten Personen wurden wie folgt  
of as indicated and said persons have been released from your custody:  
entschieden und diese Personen sind aus Ihrem Gewahrsam ent-  
lassen worden:

Name	Number Nummer	Charge Anklage	Disposition Entscheidung

This is your authority to correct your records accordingly.

Dieses Formular dient als Ihre Vollmacht Ihre Urkunden dem-  
gemäss zu ändern.

Signed  
Unterschrift ..... (Title—Stellung)



1308.

ORDER FOR TRANSFER OF PRISONER  
GEFANGENENZUWEISUNGSBEFEHLDate .....  
Datum .....It is hereby ordered that .....  
Es wird hiermit angeordnet, dass ..... (Name)Prisoner number ..... , a prisoner now confined in the  
Gefangenennummer ..... zur Zeit in Haft im/in..... , be transferred to  
(Institution—Gefängnis) nach.....  
(Institution—Gefängnis) überwiesen wird.  
there to be dealt with under the terms of the original commitment  
um dort mit ihm/ihr gemäss dem ursprünglichen Strafvollzugsbefehl  
which shall accompany the prisoner at the time of transfer and  
zu verfahren. Die Übermittlung des Strafvollzugsbefehls hat gleich-  
serve as authorization to hold the prisoner in accordance with  
zeitig mit der Überweisung des Strafgefangenen zu erfolgen. Sie  
the terms thereof.  
dient als Ermächtigung ihn/sie gemäss den darin enthaltenen Ver-  
fügungen in Haft zu halten.The following records will accompany the prisoner:  
Die folgenden Urkunden müssen gleichzeitig mit dem Strafge-  
fangenen übermittelt werden:Signed .....  
Unterschrift ..... (Title—Amstittel)

## Distribution:

- I copy to accompany prisoner to Receiving Institution
- I copy to Releasing Institution
- I copy to MG Det file



VISITOR'S PASS  
BESUCHSERLAUBNIS

To: The Military Government Officer:  
An: Den Militärregierungsoffizier:

Permission is requested to visit .....  
Erlaubnis wird erbeten zum Besuch des/der

..... at .....  
(of Prisoner) im/in (Institution)  
(des/der Gefangenen) (Gefängnis)

for the purpose of:  
zum Zwecke:

Signed .....  
Unterschrift (Applicant—Bittsteller)

Address .....  
Adresse

APPROVED for ..... hour ..... minutes within 7 days from  
GENEHMIGT für ..... Stunden ..... Minuten innerhalb 7 Tagen vom

Date .....  
Datum (MG Officer Rank)  
(M-Offizier Rang)

The above approved visit was effected this date .....  
Der oben genehmigte Besuch hat stattgefunden am (Datum)

Signed .....  
Unterschrift (Applicant—Bittsteller)

NOTE: This form will be signed by applicant in presence of Prison Official when visit is made.  
ANMERKUNG: Dieses Formular ist vom Bittsteller in Gegenwart eines Gefängnisbeamten zu unterschreiben wenn der Besuch stattfindet.

Distribution:

1 copy left at prison  
1 copy MG Det files

ARREST REPORT  
VERHAFTUNGS-BERICHT

To: Allied Military Personnel  
An: Das alliierte Militärpersonal

This form must be completed and handed to the German Police at the time you deliver an arrested civilian.

Dieses Formular muss ausgefüllt und der deutschen Polizei übergeben werden, wenn eine verhaftete Zivilperson eingeliefert wird.

Name of Prisoner .....  
Name des Gefangenen

Place of Arrest .....  
Ort der Verhaftung

Date ..... Time .....  
Datum ..... Zeit

Details of incident leading to arrest .....  
Einzelheiten des Vorfalles, der zur Verhaftung führte



Witnesses with addresses  
Zeugen und Anschrift

1. ....
2. ....
3. ....
4. ....

Property available as evidence  
Beweisgegenstände

Description  
Beschreibung

Whereabouts  
Verwahrungsstelle

Name of German Policeman to whom prisoner has been delivered  
Name des deutschen Polizeibeamten, dem der Gefangene übergeben wurde

Organisation ..... Location .....  
Behörde ..... Ort

You are instructed to detain the prisoner ..... for trial before a military court; ..... for penalty to be imposed by German Police authority; ..... for internment; ..... for detention for days; ..... until further orders.

Sie sind angewiesen den Gefangenen in Haft zu behalten ..... zwecks Verhandlung von einem Militärgericht ..... zwecks Verhandlung von einem deutschen Gericht ..... zwecks Bestrafung durch die deutsche Polizeibehörde ..... zwecks Internierung ..... zwecks Verwahrung während ..... Tage ..... bis auf weitere Anordnung.

Name of military personnel making arrest  
Name des Militärpersonals, welches die Verhaftung ausführt

Rank ..... ASN  
Rang ..... Stammnummer

(Print in block letters)  
Druckschrift

Organisation ..... Signature .....  
Organisation ..... Unterschrift

## PART III

### GLOSSARIES

SECTION 14. — German-English Legal terms

SECTION 15. — English-German Military Government  
Court terms



## SECTION 14.

## GLOSSARY OF ENGLISH AND GERMAN LEGAL TERMS

A

Aberkennung der bürgerlichen Ehrenrechte	Forfeiture of civil rights
Abgabe	Tax
Absender	Consignor
Absicht	Intent, Purpose
Abtreibung	Abortion
Akademie für deutsches Recht	Academie for German Law
Aktie	Share issued by a joint-stock company
Aktiengesellschaft (A. G.)	Corporation
Aktiva	Assets
Alibi	Alibi
Amt	Office, Administration
Amtsanmassung	False assumption of public authority
Amtsanwalt	Public Prosecutor at Amtsgericht (Not a professional lawyer)
*Staatsanwaltlicher Funktionär	
Amtsdauer	Tenure of Office
Amtsgericht (First Instance)	Local Court, Municipal Court
*Bezirksgericht	
See also Landgericht	
Oberlandesgericht	
Reichsgericht	
Amtsrichter	Municipal Judge, i. e. judge at the Amtsgericht
Amtsvormund	Public Guardian for illegitimate children
See also Jugendamt	
Aneignung	Appropriation
Anerbengericht	Local Hereditary Farm Court
See also Erbhofgericht	
Reichserbhofgericht	
Anfechtung eines Vertrages	Avoidance of a contract by declaration
Angeklagter	Accused (on Trial)
Angeschuldigter	Accused (before Trial)
Angestellter	Employee (white collar)
Anklage, öffentliche	Charge, Indictment
Ankläger	Prosecutor
Anklageschrift	Charge Sheet, Indictment
Anlage	Investment
Anordnung	Instruction
Anschuldigung, falsche	False accusation against a person before an authority
Anspruch	Claim
Anstiftung	Incitement
Antrag	Application
Antragsdelikt	Offence for which prosecution depends on the explicit application of the person concerned, e. g., insult, seduction
Anwalt	Attorney
See also Rechtsanwalt	

\* Austrian Term

Anweisung  
Anzeige  
Arbeiter  
Arbeitsamt  
See also Landesarbeitsamt  
Arbeitsdienst  
Arbeitshaus  
Arbeitsgericht  
See also Landesarbeitsgericht  
Reichsarbeitsgericht

\*Gewerbegericht  
Arrest (of persons)  
Arrest (of goods)  
Auf Antrag  
Auf frischer Tat  
Auf Verlangen  
Aufheben  
Aufhebung  
Aufreizung  
Aufbruch  
Aufsicht  
Aufsichtsbehörde  
Aufsichtsführender Richter  
Augenschein  
Ausländer  
Auslegung  
Aussage

Ausserordentlicher Einspruch  
Ausserverfolgsetzung  
See also Einstellung des Ver-  
fahrens  
Aussetzung

Bankrott

Beamter

Beamtengesetz

Beauftragter

or

Bevollmächtigter

Bedingung

Bedingungen

Bedrohung

Begnadigung

Begünstigung

Beigeordneter

Beihilfe

Beihilfe zur Fahnenflucht

Beirat

Beistand

Instruction  
Declaration  
Worker  
Labor Office  
Labor Service  
Workhouse  
Labor Court

Arrest, detention  
Attachment  
On demand  
Taken red-handed  
On demand, On request  
Repeal  
Reversal  
Sedition  
Riot  
Supervision  
Supervising Authority  
Senior Judge  
Judicial Inspection  
Alien  
Interpretation  
Statement or evidence by prisoner or witness  
Extraordinary Objection  
Discharge by the Court after preliminary judicial investigation  
Criminal abandonment of a person

B

Criminal offence in connection with bankruptcy  
Civil Servant, Municipal Employee, Official  
Civil Service Code  
Delegate, Plenipotentiary

Condition

Terms

Offence of threatening another person with the commission of a crime

Pardon.

Aiding the perpetrator of a crime or delict after the fact

Assistant to Mayor

Aiding and abetting

Assisting Desertion

Council of Experts

Person, other than counsel, assisting the prisoner in his defence

\* Austrian Term



Beitreiben  
 Bekanntmachung  
 Beklagter  
 Beleidigung  
 Berater  
 Bericht  
 Berufung  
 See also Revision  
 Besatzung  
 Beschlagnahme  
 Beschluss  
 Beschuldigter  
 Beschwerde  
 Beschwerdeführer  
 Besetztes Gebiet  
 Besetzung  
 Besitz  
 Besitzstörung  
 Bestätigung  
 Bestechung  
 Bestimmung  
 Bestimmungen  
 Betragen gegen die militärische  
 Zucht und Ordnung  
 Beteuerung  
 Betrug  
 Beute  
 Bewährungsfrist  
 Beweggrund  
 Beweis  
 Beweisaufnahme  
 Beweislast  
 Beweismittel  
 Bezirk  
 Böse Absicht  
 or  
 Böswilligkeit  
 Block  
 Blockleiter  
 Blutschande  
 Brandstiftung  
 Bürgerliches Gesetzbuch  
 Bürgermeister  
 Bürgermeister ehrenamtlich  
 Bürgermeister hauptamtlich

Collecting a fine, especially by  
 execution  
 Public notice, Proclamation  
 Defendant (Civil Case)  
 Insult, comprising insulting  
 acts and defamatory state-  
 ments  
 Advisor  
 Report  
 Appeal (Questions of fact and  
 law)  
 Occupation (components of)  
 Sequestration, Seizure  
 Ruling, Decision  
 Person charged with a crimi-  
 nal offence, especially du-  
 ring preliminary investiga-  
 tions  
 Complaint  
 Complainant, Appellant, also  
 with regard to legal remedies  
 against judgments  
 Occupied Territory  
 Occupation (Act of)  
 Possession  
 Trespass (Legal)  
 Confirmation  
 Bribery  
 Regulation  
 Regulations  
 Conduct prejudicial to good  
 order and discipline  
 Affirmation as a substitute for  
 oath  
 False Pretences, Fraud  
 Loot  
 Probation period  
 Motive  
 Evidence, Proof  
 Administration and hearing of  
 the evidence by the judge  
 Onus or Burden of Proof  
 Evidence  
 Administrative Area (e. g.  
 Wehrbezirk-Military Sub-Area)  
 Malice  
 Malice  
 Lowest Nazi Party Group ori-  
 ginally 40 households  
 Block-Leader  
 Incest  
 Arson  
 Civil Code  
 Mayor. Under the Nazi Com-  
 mune Law of 1935 the Bür-  
 germeister replaces the Ge-  
 meindevorsteher as head of  
 a Gemeinde  
 Mayor Honorary  
 Mayor Paid

Bürgerschaft  
 Busse

Chef, der O.K.W. (Oberkom-  
 mando der Wehrmacht

Detektive  
 Deutsche Arbeitsfront (DAF)  
 Devisenstelle

Diebstahl  
 Dienststrafgericht  
 \*Disziplinargericht  
 Dienststrafkammer  
 \*Disziplinargericht  
 See also Reichsdienststrafhof  
 Dienststrafrecht  
 Dolmetscher  
 Durchsuchung, Haussuchung  
 \*Hausdurchsuchung

Ehebruch  
 Ehrengerichtshof  
 See also Reichsehrengerichts-  
 hof  
 Ehrenstrafe

Eid  
 Eidliche Aussage  
 Eigentum  
 Eigentumsrechte  
 Einkommensteuer  
 Einlieferung  
 Einlieferungsliste  
 Einquartieren  
 Einschüchterung  
 Einstellen

or  
 Einstweilige Verfügung  
 Einzelhaft

Einzelrichter  
 Einziehung  
 Empfänger  
 Entführung  
 Entgelt  
 Enthauptung

Guarantee  
 Literally: penitence. Term used  
 for damages allowed to a  
 private party by a criminal  
 court as a substitute for civil  
 damages.

C Chief of the Armed Forces

D Detectives (Private)  
 German Labor Front  
 Name of the German currency  
 authority

Theft  
 Disciplinary Tribunal

Disciplinary Tribunal  
 (For Civil Service)

Disciplinary Law  
 Interpreter  
 Search (of rooms)

E Adultery  
 Honor Court

Punishment affecting a per-  
 son's civil status

Oath  
 Deposition  
 Property, Ownership  
 Property Rights  
 Income Tax  
 Commitment to Prison  
 List of Commitments to Prison  
 Bileting  
 Intimidation  
 Discontinuance of criminal  
 proceedings by the public  
 prosecutor

Injunction, temporary  
 Solitary confinement, some-  
 times used synonymously  
 with Zellenhaft for separate  
 confinement, in contrast to  
 strenge Einzelhaft for soli-  
 tary confinement.

Single Judge  
 Confiscation  
 Consignee  
 Abduction  
 Consideration, Premium  
 Beheading



Entlassung	Discharge from Prison
Entmannung	Castration
Entschädigung	Compensation
Entschädigungsleistung	Indemnity paid or payable
Entscheidung	Decision, Finding (legal)
Entwendung	Pilfering
Erbgesundheitsgericht	Eugenics Court
Erbgesundheitsobergericht	Eugenics Court of Appeal
Erbhofgericht	Hereditary Farm Court
See also Anerbengericht	
Reichserbhofgericht	
Erbschaftssteuer	Inheritance Tax
Erkennendes Gericht	Trial Court
Erlass	Decree
Erlaubnisschein	License (documentary)
Ermittlungsbeamte	Investigator
Ermittlungsverfahren	Preliminary investigation by the public prosecutor and the police
Ernährungsamt	Food Office
Eröffnungsbeschluss	Judicial ruling that case is to go to trial. Required in certain cases only.
Erpressung	Extortion
Ersatzfreiheitsstrafe	Deprivation of liberty as a substitute for a non-collectible fine
Erziehungsanstalt	Reformatory

F

Fahndung	Search for a fugitive
Fahnenflucht	Desertion
Fahrlässigkeit	Negligence
Falschmünzerei	Counterfeiting money
Fälschung	Forgery
Feigheit	Cowardice
Feindbegünstigung	Giving aid and comfort to the enemy
Feldkriegsgericht	Summary Court Martial
Festnahme	Arrest, Detention
Festnahme, vorläufige	Taking into custody without a judicial warrant
Feststellung	Identification
Finanzamt	Finance Office. Part of the regional organisation of the Treasury
Finanzgericht (First Instance)	Tax Court
See also Reichsfinanzhof	
Fingerabdrücke	Finger Prints
Frachtbrief	Bill of Lading
Freiheitsberaubung	False Imprisonment
*Einschränkung der persönlichen Freiheit	
Freiheitsstrafe	Legal punishment consisting in deprivation of liberty, e.g., imprisonment in the wider sense of the word
Freisprechung	Acquittal

\* Austrian Term

Friedensrichter	Justice of the Peace, called for the settlement of disputes arising from minor offences against a person
Friedensspruch	Settlement imposed upon parties of a dispute arising from a minor offence against a person, e. g., insult
Frist	Term (Period)
Führer	Leader
Führerflucht	Offence committed by the driver of a motor vehicle in abandoning a person hurt by an accident
Führerprinzip	Leader Principle. Authoritarian a against democratic organisation
Fürsorgeerziehung	Education in foster-family or approved school

G

Garantie	Guarantee
Gau	Originally the word meant tribal area. The Nazis use it for one of the sub-divisions of their organisation
Gauarbeitsamt	Gau Labour Office
Gauleiter	Leader of a party Gau
Gefahr im Verzug	Risk that further delay may frustrate the conduct of a trial
Gefangenenlager	Prison Camp
Gefangener	Prisoner
Gefängnis	Prison
*Kerker	
Gefängnisstrafe	Imprisonment
*Haftstrafe	
Geheimbündelei	Offence consisting in the membership of secret associations
Geheime Staatspolizei (Gestapo)	Secret State Police
Geheimpolizist	Detective
Geldstrafe	Fine
Gelegenheitsverbrecher	Accidental criminal
Geleit, sicheres	Safe conduct, i.e., the judicial assurance that a fugitive would not be arrested and taken into custody before conviction and sentence
*Geleit, freies	
Gemeinde	Unit of Local Government
Gemeindevorsteher	The Head of the Gemeinde in the pre-Nazi days
Gemeingefährliches Verbrechen	Offences causing public danger, such as arson, inundation, endangering railway and telegraph service
Gemeinschaftshaft	Confinement of prisoners in a group as contrasted with solitary confinement

\* Austrian Term



Gendarmerie	Police (Rural)
Genehmigung	License, Approval
Generalbevollmächtigter für den Arbeitseinsatz	Plenipotentiary for employment and distribution of labor
Generalstaatsanwalt	Chief Public Prosecutor at the Courts of Appeals and at the Landgericht, Berlin
Genossenschaft	Co-operative
Gerechtigkeit	Justice
Gerichtlich	Judicial
Gerichtsassessor	Assistant Judge (Probationary, eligible for appointment as judge or prosecutor)
*Richteramtsanwärter	
Gerichtbarkeit, Zuständigkeit, Gerichtsstand	Jurisdiction
Gerichtshilfe, soziale	Social service report to the court on the prisoner's personal conditions and social background
Gerichtspräsident	Head of Court (Presiding Officer)
See also Landgerichtspräsident	
Oberlandesgerichtspräsident.	
Gerichtsreferendar	Law Graduate (unpaid temporary civil servant attached to a court)
*Rechtsanwaltsanwärter	
Gerichtsvollzieher	Bailiff
Geschworener	Juryman
Gesellschaft mit beschränkter Haftung (G.m.b.H.)	Limited Liability Company
Gesetz	Law or Statute
Gesetzgebung	Legislation
Geständnis	Admission, Confession
Gewahrsam	Custody
Gewerkschaft (commercial law)	Mining Company
Gewerkschaft (labor)	Trade Union
Gewohnheitsverbrecher	Habitual Criminal
Glaubhaftmachung	Minor form of evidence to establish a reasonable probability. (Used to secure orders for arrest, etc.)
Gläubiger	Creditor
Glaubwürdigkeit	Credibility
Gnadenbehörde	Authority which enquires and reports on the advisability of remission of sentence (Public Prosecutor and, with regard to conditional suspension of minor sentences, Municipal Judge)
Gotteslästerung	Blasphemy
Grober Unfug	Public Nuisance
Grund und Gebäude-Steuer	Tax (Land and Building)
Grundbuch	Land Register
Grundeigentum	Real Estate
Grundschild	Mortgage
See also Hypothek	

\* Austrian Term

Gruppe	Group or Section
Gutachten	Expert or Professional Opinion
Glaube	Good Faith
	H
Haft	Detention
Haftbefehl (gerichtlicher)	Judicial warrant of arrest
Haftung	Liability
Handelsgesetzbuch	Commercial Code
Hauptabteilung der Militärregierung	Division of Military Government
Hauptverhandlung	Trial
Hausfriedensbruch	Delict of unlawfully entering another person's rooms
	Search of rooms
Haussuchung	Offence of receiving stolen property or things obtained by other criminal acts
Hehlerei	Mental Institution, Lunatic Asylum
Heil- und Pflegeanstalt	
See also Irrenanstalt	
Hilfsbeamte der Staatsanwaltschaft	Subordinate Assistants to the Public Prosecutor
	Carrying out the Death Penalty
Hinrichtung	Non-fulfillment of a tax obligation owing to the taxpayer's untrue statement
Hinterziehung	Treason (Against the internal security of the State)
Hochverrat	Hearsay
See also Landesverrat	Mortgage
Hörensagen	
Hypothek	
See also Grundschild	
	I
Identifizierung	Identification
Industrie und Handelskammer	Chamber of Commerce and Industry
Instanz	Court of first, second, or third instance
	International Law
Internationales Recht	
See also Völkerrecht	
Irrenanstalt	Mental Institution, Lunatic Asylum
See also Heil- u. Pflegeanstalt	
	J
Jagdfrevel	Delict of poaching
Jugendamt	Communal Youth Welfare Office
Jugendarrest	Youth Confinement, Disciplinary measure against juveniles
Jugendgericht	Juvenile Court
Jugendgerichtshilfe	Juvenile Court Aid, a social service at the disposal of the Juvenile Court to provide social reports and undertake protective supervision
Jugendliche	Persons between 14 and 18, Juveniles
Justizministerium	Ministry of Justice



	<b>K</b>	
Kammer		Division of the District Court (Landgericht)
Kammer für Handelssachen beim Landgericht		Commercial Chamber at Landgericht
Kammergericht		Court of Appeal in Berlin
Kanzelmissbrauch		Disturbance of the peace by a parson's public discussion of state affairs
Kanzlei		Chancellery. In Nazi organisation there are four chancelleries through which Hitler controls the party and the government
Kartellgericht		Cartel Court
See also Reichswirtschaftsgericht		
Kausalzusammenhang		Chain of causation between an act and its consequences
Kaution		Bail, Security
See also Sicherheitsleistung		
Kennkarte		Identification Card
Kinderzuschläge		Children's Allowance
Kindesmord		Infanticide
Kommanditgesellschaft		Partnership, limited
Kommissarische Vernehmung		Hearing of witnesses or prisoner outside the trial by a single member of the trial court, or the Municipal Judge
Konkurs		Bankruptcy
Konkursverwalter		Receiver in Bankruptcy
*Massenverwalter		
Kontumazialverfahren		Trial in the absence of the defendant
Körperschaftssteuer		Corporation Tax, Income Tax for Corporation
Körperverletzung		Personal Injury
Kreditgenossenschaft		Credit Co-operative
Kreis		County (A unit of local government)
Kreisausschuss		County Committee. A body whose chairman is the Landrat.
Kreisleiter		Leader of Party Kreis
Kreuzverhör		Cross examination
Kriegsgericht		Court Martial
*Militärgericht		
Kriegsmarine		German Navy
Kriminal Polizei (KRIPO)		Criminal Police
Kündigung		Notice
Kuppelei		Offence of pandering
Kurpfuscher		Quack doctor
	<b>L</b>	
Ladung		Summons
See also Vorladung		
Land		The general name of the formerly autonomous German States

\* Austrian Term

Landesarbeitsamt	Regional Labor Office
See also Arbeitsamt	
Landesarbeitsgericht	Labor Court of Appeal
Landespolizeibehörde	Higher police authority, in Prussia; District President (Regierungspräsident)
Landesverrat	Treason (against the external security of the State)
See also Hochverrat	
Landesverweisung	Banishment
Landfriedensbruch	Disturbance of the peace
Landgericht	District Court
*Landes- und Kreisgericht	
See also Amtsgericht	
Oberlandesgericht	
Reichsgericht	
Landgerichtsdirektor	Presiding judge of Division at the District Court
Landgerichtspräsident	Presiding judge of Landgericht
See also Gerichtspräsident	
Landkreis	Roughly, County. As opposed to the Stadtkreis which is roughly equivalent to a county borough
Landrat	Chief executive official of Kreis
Landstreicher	Vagrant
Leichenöffnung	Post Mortem dissection
*Obduktion	
Leichenschau	Autopsy
Leistung	Performance
Luftamt	Air office for civil aviation
Luftflotte	Air Fleet

**M**

Massregeln der Sicherung und Besserung	Measures of public security and correction, penal sanctions distinguished from punishment proper, aimed at the prevention of dangerous persistent offenders from further wrongdoing. Also sichernde Massnahmen.
Meineid	Perjury
Meuterei	Mutiny
Miete	Tenancy
Mieter	Tenant
Mildernde Umstände	Extenuating circumstances
Militärgericht	Court (Military)
Militärregierung	Military Government
Militärregierungsabteilung	Military Government Detachment
Ministerrat für die Reichsverteidigung	Ministerial Council for the Defence of the Reich
Mittäterschaft	The joint-commission of an offence by accomplices
Mord	Murder
Mörder	Murderer
Mundraub	Contravention of pilfering small quantities of food

\* Austrian Term



Nacheid	N Oath of a witness after he has made his statement
Nacheile	Pursuit
Nachlassgericht (Abteilung des Amtsgerichts) *Abteilung des Bezirksgerichts	Probate Court
Nachsteuer	Tax (inheritance)
Nachrede, üble	Defamation
Nebenkläger	Joint plaintiff, i.e. private person or authority joining the Public Prosecutor in the prosecution of certain offences, e.g., bodily injury
Nichtbefolgung eines dienstlichen Befehls	Failure to obey an order
Nichterstattung einer vorgeschriebenen Meldung	Failure to render a prescribed report
Nichtigkeitsbeschwerde	Plaint of Annulment
Nichtschuldig	Not Guilty
Nicht Vorbestrafter	First Offender
Niederschlagung	Quashing criminal proceedings, Abolition
Nötigung	Duress by menaces; Legal excuse
Notar	Notary
Notentwendung	Petty Theft or Misappropriation committed by reason of distress
Notstand	Necessity as legal excuse
Notverordnung	Emergency Regulation, based upon Art. 48 Weimar Constitution or Special Enabling Act
Notwehr	Self-Defence
Notzucht	Rape, Indecent assault
N. S. Rechtswahrerbund	N. S. legal workers' association
Nulla poena sine lege	Rule that no punishment can be lawfully inflicted unless supported by explicit statutory provisions
	O
Oberbefehlshaber des Heeres	C.-in-C., Army
Oberbefehlshaber der Kriegsmarine	C.-in-C., Navy
Oberbefehlshaber der Luftwaffe	C.-in-C., Air Force
Oberbefehlshaber der Wehrmacht	Supreme Commander of Armed Forces
Oberbürgermeister	Mayor or Lord Mayor
Oberlandesgericht	Court of Appeals
See also Amtsgericht Landgericht Reichsgericht	
Oberlandesgerichtspräsident	Head (Presiding Officer) at Court of Appeals
Oberpräsident	Senior Central Government official of a Prussian province

\* Austrian Term



Oberpreisenhof	Supreme Prize Court
Oberreichsanwalt	Chief Public Prosecutor at Reichsgericht
*Generalprokurator	Senior Public Prosecutor at Landgericht and at Amtsgericht, Berlin
Oberstaatsanwalt	Proceedings for the confiscation or destruction of certain articles without the prosecution of any defendant
Objektives Verfahren	Foreman, especially of a jury
Obmann	Notorious
Offenkundig	Indictment
Öffentliche Anklage	Public Utilities
Öffentliche Betriebe	Public Law
Öffentliches Recht	Principle of public, in contrast to private, prosecution
Offizialprinzip	Counsel for the defence appointed by the Court
Offizialverteidiger	War Office
*Pflichtverteidiger	
O. K. H. Oberkommando des Heeres	Air Ministry
O. K. L. Oberkommando der Luftwaffe	Admiralty
O. K. M. Oberkommando der Kriegsmarine	Defence Ministry
O. K. W. Oberkommando der Wehrmacht	
Ordentliche Gerichte	Ordinary Courts in contrast to special courts. The ordinary courts were established by the Judicature Act (Gerichtsverfassungsgesetz) of 1877.
Ordnungspolizei	Police (order)
Ordnungsstrafe	Administrative Punishment. e.g. of a witness
Organisation der gewerblichen Wirtschaft	Estate of Industry and Trade
Ortsgruppe	One of the sub-divisions of the Nazi Party
	P
Pacht	Rent
Pachtbesitz	Tenancy
Pächter	Tenant
Parteikanzlei	Party Chancellery
Parteiverrat	Offence of an attorney, working for both parties in the same case
Passiva	Liabilities
Patentgesetz	Patent Law
Pensum	Task, prescribed amount of work to be performed by prisoner within certain time
See also Tagewerk	Delict committed by an owner who takes his property from the custody of a pawnee
Pfandkehr	Neglect of Duty
Pflichtversäumnis	

\* Austrian Term



Plaidoyer	Pleadings
Plündern	Looting
Polizei	Police
Polizeiamt	Police Station
*Kommissariat	
Polizeiaufsicht	Police Supervision ordered by the Court as supplementary punishment
Polizeihaft	Detention
Polizeirevier	Police Station
Polizeistelle	Police Station
Polizist	Policeman
Präsidialkanzlei	President's Chancellery
Preistreiberei	Overcharging
Prisenhof	Prize Court
See also Oberprisenhof	
Privatklage	Private prosecution, admissible for certain offences, e.g., insult, bodily injury
*Privatanklage	
Privatrecht	Private Law
Proklamation	Proclamation
Protokoll	Minutes
Provinz	Province
Provision	Commission
Prozess	Case (legal)
Prozessbetrug	Perversion of justice, committed by deceiving the judge and thereby obtaining a decision detrimental to the other party
	Procedure (legal)
Prozessordnung	Self-defence in the mistaken belief that one is being attacked
Putativnotwehr	
Quittung	Q Receipt
Rädelsführer	R Ringleader
Raub	Robbery
Räuber	Robber
Rauflhandel	Scuffle
Rechtsfähigkeit	Legal status, Legal personality
Rechtfertigungsgrund	Legal justification of an otherwise criminal offence
	Attorney, Lawyer
Rechtsanwalt	Bar Association of Provinces and Länder
Rechtanwaltskammer	Legal remedy in a wider sense, comprising not only appeal against judgment, but also complaints against orders, and objections against various forms of procedure without oral trial
Rechtsbehelf	
	Legal advice office
Rechtsberatungsstelle	Official legal aid offices
Rechtsbetreuungsstellen	Perversion of Justice
Rechtsbeugung	Case (legal)
Rechtsfall	

\* Austrian Term



Rechtsgang	Procedure
Rechtsgeschäft	Legal transaction
Rechtshängig	Pending law suit "sub judice"
*anhängig	
Rechtshilfe	Mutual co-operation and assistance between different courts, especially in connection with letters rogatory.
	Final Judgment (not subject to appeal)
Rechtskraft	Appeal
	Administration of justice
Rechtsmittel	Resort to court proceedings
Rechtspflege	Unlawful, Illegal
Rechtsweg	Literally: drawing the case from the lower to the higher court. Used as erster, zweiter R. for the procedure before the first or second appellate court.
Rechtswidrig	Law graduate in the preparatory service between first and second state examinations
Rechtsschutz	Alteration of the judgment of the lower court by an appellate judgment to the detriment of the appellant
	Rule
Referendar	A sub-division of a province for ease of administration in matters of central government
	Reich Tax Code
Reformatio in peius	Citizen, Subject, National Citizenship
	Public Prosecutor in the Reichsgericht
Regel	
Regierungsbezirk	
	Supreme Labor Court
Reichsabgabenordnung	
Reichangehöriger	
Reichsangehörigkeit	
See also Staatsangehörigkeit	
Reichsanwalt	
Reichsarbeitsgericht	
*Gewerbereichssenat des Landesgerichtes	
See also Arbeitsgericht	
Landesarbeitsgericht	
Reichsbahn	State Railways
Reichsbauamt	Reich Construction Office
Reichsbeamtengesetz	Civil Service Act
Reichsdienststrafhof	Supreme Disciplinary Tribunal
See also Dienststrafkammer	
Reichsdienststrafordnung	Disciplinary rules for Reich officials
Reichserbhofgericht	Supreme Hereditary Farm Court
See also Anerbengericht	
Erbhofgericht	
Reichserbhofgesetz	Farm Law (Hereditary)
Reichserbengerichtshof	Honor Court of Appeal
See also Ehrengericht	

\* Austrian Term



Reichsfinanzhof  
\*Finanzgerichtshof  
See also Finanzgericht  
Reichsgau

Reichsgericht  
\*Oberster Gerichtshof  
See also Amtsgericht  
Landgericht  
Oberlandesgericht

Reichsgesetzblatt  
\*Bundesgesetzblatt

Reichskanzlei  
Reichskriegsgericht  
See also Kriegsgericht

Reichskulturkammer  
Reichsleiter  
Reichsnährstand  
Reichspostdirektionsbezirk  
Reichsstathalter

Reichstreuänder der Arbeit  
Reichsvereinigungen  
Reichsverkehrsministerium  
Reichsversorgungsamt  
Reichsverwaltungsgericht  
See also Verwaltungsgericht  
Reichswirtschaftsgericht  
See also Kartellgericht  
Reue, tätige

Revision  
See also Berufung  
Richter  
Rückfall  
Rücktritt

Runde

Sachbeschädigung  
Sachurteil

Schaden  
Scharfrichter  
Schleichhandel  
Schlussvortrag  
Schmuggeln  
Schnellverfahren

Schöffe

Supreme Tax Court

Highest administrative district  
under the Reich, outside the  
Länder  
Supreme Court

Reich Statute Book

Reich Chancellery  
Supreme Military Court

Reich Chamber of Culture  
Leading Nazi Official  
Reich Food Estate  
Reich Postal Area  
The Central Government's re-  
presentative in the Länder  
Reich Trustee of Labor  
Reich Association  
Reich Ministry of Transport  
Pensions Office  
Supreme Administrative Court

Supreme Cartel Court

Voluntary act by which the  
perpetrator of a criminal  
attempt prevents by his own  
act and before discovery  
the consummation of an  
offence  
Appeal (Questions of law only)

Judge (general term)

Relapse

Voluntary act by which the  
perpetrator of a criminal at-  
tempt abstains from con-  
summating the offence

Beat (police)

S

Damage to Property  
Judgment of acquittal or con-  
viction

Damage

Executioner

Black Market (general)

Pleadings, Plaidoyer

Smuggling

Summary procedure without  
written accusation

Lay-Judge in criminal matters

Schöffengericht

Schriftverkehr mit dem Feinde  
Schuld

Schuldausschliessungsgrund  
Schuldig  
Schuldner  
Schutzaufsicht  
Schutzhaft  
Schutzmann  
Schwarzhandel

Schwurgericht  
\*Geschworenengericht  
Selbstverwaltung  
Sender  
Senatspräsident

Sicherheitsleistung  
See also Kaution  
Sicherheitspolizei  
Sichernde Massnahmen

Sicherungsverwahrung

\*Verwahrungshaft

Simulation  
Sippenamt  
Sittlichkeitsdelikte  
Sondergericht  
Sonderpolizei  
Sprungrevision

Staatsangehöriger

See also Reichsangehöriger

Staatsangehörigkeit

See also Reichsangehörigkeit

Staatsanwalt

Städtische Verfassung

Städtische Verordnung

Stadtkreis

See also Kreis

Standes- und Ehrenwidriges

Verhalten

Standrecht

Steckbrief

Steuer

Steuer (Abgaben)

Mixed bench of learned and lay  
judges

Corresponding with the Enemy  
(Civil Debt, (criminal) Mens  
Rea, Guilt

Legal excuse, e.g., necessity

Guilty

Debtor

Probation

Protective Custody

Policeman

Black Market in smuggled  
goods or narcotics

Criminal Court sitting with Jury

Self-Government

Consignor

Presiding Officer at Oberlandes-  
gericht and Reichsgericht

Bail

Police (Security)

Measures of public security,  
penal sanctions, distinguished  
from punishment proper-  
aimed at the prevention of  
dangerous persistent crimi-  
nals from further wrongdoing.  
Also Massregeln der Sicherung.

Preventive detention

Malingering

Genealogical Office

Sexual Offences

Special Court

Police (Special)

Direct appeal on a question of  
law to the court of last resort  
or final appeal passing over  
the court of second instance  
or intermediate court of appeal

Citizen, Subject, National

Citizenship

Prosecutor

City Charter

City By-Law

County Borough

Conduct unbecoming an officer  
and a gentleman

Martial law

General warrant for arrest of a  
fugitive

Tax

Taxes, Impost, Duties

\* Austrian Term

\* Austrian Term



Strafabteilung	Criminal Section of Amtsgericht
Strafanstalt	Penal Institution
Strafantritt	Beginning of imprisonment
Strafauusschliessungsgrund	Legal reason for not inflicting punishment.
Strafbefehl	Written order inflicting punishment issued by the Municipal Judge without oral trial
Strafbescheid	Order inflicting punishment issued by finance and tax authorities
Straferlass	Pardon
Strafergerichtliche Verfolgung	Prosecution
Strafgesetzbuch	Criminal Code
*Strafgesetzgebung	
Strafkammer	Criminal Chamber of Landgericht
Strafkammer beim Landgericht	Criminal Chamber at Landgericht
Strafausmass	Measure of punishment
Strafprozessordnung	Code of Criminal Procedure
See also Prozessordnung	
Zivilprozessordnung	
Strafrahmen	Legal range of punishments for the particular offences
Strafregister	Penal Register
Strafsenat	Criminal Senate of Oberlandesgericht or Reichsgericht
Strafverfügung	Order inflicting punishment issued by administrative authorities, especially police.
Strafvollstreckung	Execution of Sentence
Strafvollzug	Administration of legal punishments
Strafzumessung	Award of punishment
Tagewerk	<b>T</b> Task, prescribed amount of work to be performed within certain time
Tatbestand	In criminal law: legal characteristics of a particular offence; referring to overt acts, innerer or subjektiver T. to elements äusserer or objektiver T. re. of personal guilt. In police reports the actual facts concerning the commission of a crime as the subject matter of investigation
Tatfrage	Facts
Tätlicher Angriff gegen einen Vorgesetzten	Assaulting a superior officer
Teilnahme	Participation of accessories in the commission of an offence before the fact
Teilnehmer	Accessory
Termin	Appointed day

\* Austrian Term

Territorialitätsprinzip	Restriction of the State's criminal jurisdiction to the trial of offences committed on its own territory.
Testament	Testament (Will)
Tierquälerei	Cruelty to animals.
Tilgung	Erasure, especially of the entry in the general penal register.
Todesstrafe	Capital Punishment
Totschlag	Manslaughter
Tötung	Homicide
Treuhänder	Trustee
Trinkerheilstalt	Inebriates' Asylum
Trunkenheit im Dienst.	Drunkenness on Duty
	<b>U</b>
Überführung	Proving the offender's guilty; also transfer of prisoners
Übertretung	Contravention (minor offence)
Umsatzsteuer	Tax (Turnover)
Umwandlung	Conversion
Umwandlung eines Strafurteils	Conversion of criminal sentence
Unerlaubte Entfernung von der Truppe	Absent without leave (A.W. O.L.)
Unerlaubte Handlung	Tort
Ungebühr	Contempt of court
Ungehorsam	Disobedience
Unruhe	Disorder
Unschuldig	Innocent, Not guilty
Unterbringung	Interment, deprivation of liberty for the execution of a measure of public security
Unterlassung	Omission
Unternehmen	Commission of an offence including preparatory acts and the attempt
Unterschlagung	Embezzlement
Untersuchung	Investigation
Untersuchungshaft	Remand in custody before or pending trial
Untersuchungsrichter	Investigating Magistrate
Untreue	Breach of Trust
Unverzüglich	Without undue delay
Unzucht	Unlawful or immoral sexual intercourse
Unzurechnungsfähig	Incompetent (because of infancy, lunacy, or drunkenness)
Urkunde	Deed
Urkunden	Records, Documents
Urkundenfälschung	Forgery of a document
Urkundsbeamter	Court Clerk
*Gerichtsbeamter	
Urkundsbeamter der Geschäftsstelle	Registrar
Urlaubsüberschreitung	Overstaying leave
Urteil	Judgment
Urteilsgründe	Reasons for judgment

\* Austrian Term

\*\* See Article 1, Criminal Code, which contains precise definitions



	V	
Verbindlichkeit or Verpflichtung	Obligation, Liability	
Verbrechen	Crime (Serious Offence)**	
Verbrecher	Criminal	
Verein	Association, Club	
Verfahren	Proceedings	
Verfügung	Order	
Vergehen	Delict (Medium Offence)**	
Vergiftung	Poisoning	
Verhaftung	Arrest	
Verjährung	Statute of Limitations	
Verleitung zur Fahnenflucht	Advising desertion	
Verleumdung	Defamation	
Vermögenssteuer	Tax (Property)	
Vernehmung	Interrogation	
Verordnung	Ordinance, Regulation	
Verschwörung	Conspiracy	
Versicherungsamt	Insurance Office	
Verstrickungsbruch	Delict of removing things impounded by public authority	
Versuch	Attempt	
Verteidiger	Defense Counsel	
Vertrag	Contract	
Verurteilung	Conviction	
Verwahrer	Custodian	
Verwahrlosung	Neglect	
Verwalter	Administrator	
Verwaltungsgericht	Administrative Court	
Verwaltungspolizei	Police (Administrative)	
Verwaltungsstrafverfahren	Procedure of inflicting punishments by administrative authorities, e.g., issue of a penal order (Strafverfügung) by the police	
Verweis	Warning	
Völkerrecht	International law	
Volksschädling	Person who is a public danger, especially a criminal abusing extraordinary circumstances due to war	
Vollendung	Consummation of an offence	
Vollziehung or		
Vollzug	Execution	
Volksgeschichtshof	People's Court	
Vorbereitungshandlung	Preparatory act	
Voreid	Oath taken by a witness before his statement	
Vorladung	Subpoena	
See also Ladung		
Vormundschaftsgericht (Abteilung des Amtsgerichts)	Guardianship Court	
*Bezirksgerichtes		
Vorsatz	Intent	
Vorsätzliche Gehorsamsverweigerung	Wilful disobedience	
Vorschrift	Regulation	

\* Austrian Term

\*\* See Article 1, Criminal Code, which contains precise definitions

Voruntersuchung	Judicial investigation before trial
Vorverfahren	Procedure preceding trial
	W
Wahlfeststellung	Alternative statement of facts supporting a conviction for either one or another particular offence, e.g., for theft or receiving
Wahrheitsbeweis	Proof of the truth of the alleged facts as a defence in cases of defamation
Wahrnehmung berechtigter Interessen	The defence of "protection of legitimate interests" in cases of defamation
Wahrspruch	Verdict of the jury (now abolished)
Warenzeichen	Trade Mark
Wechselrecht	Law of negotiable instruments
Wehrbezirk	Military Sub-division
Wehrkreis	Military District
Wehrmachtbefehlshaber	Armed Forces Commander
Wehrwirtschaft	War Economy
Wettbewerb (unlauterer)	Competition (unfair)
Widerlegung	Rebuttal
Widernatürliche Unzucht	Sex crime against nature
*Unzucht wider die Natur	
Widerrechtlich	Illegal
Widerstand gegen die Staatsgewalt	Obstructing public authority
Wiederaufnahme des Verfahrens	Reopening of trial, extraordinary legal remedy after definitely concluded trial
Wiedereinsetzung in den vorigen Stand	Reinstatement to former procedural position
Wirtschaft	Economics
Wirtschaftsbezirk	Economic Region
Wirtschaftsgenossenschaft	Cooperative
Wucher	Usury
	Z
Zelle	A sub-division of the Nazi Party organisation; literally, Cell
Zellenhaft	Separate confinement
Zellenleiter	Leader of a Zelle
Zeuge	Witness
Zivilabteilung	Civil Section of Amtsgericht
Zivilkammer	Civil Chamber of Landgericht
Zivilprozessordnung	Code of Civil Procedure
See also Prozessordnung	
Strafprozessordnung	
Zivilsenat	Civil Senate of Oberlandesgericht and Reichsgericht
Zoll	Tax (Customs)
Zuchthaus	Penitentiary, Penal Servitude
*Schwerer Kerker	

\* Austrian Term



Zuchtlosigkeit  
Zuchtmittel

Zueignung  
Zurechnungsfähigkeit  
Zurücktreten vom Verträge  
Zuständigkeit  
Zustellen  
Zwangsmittel

Zwangsverwaltung  
Zwangsvollstreckung  
Zwischenverfahren

Insubordination  
Disciplinary measure, especially  
youth confinement, in con-  
trast to legal punishment and  
educational measures.

Appropriation  
Criminal responsibility  
To Renounce a contract  
Competence, Jurisdiction, Venue  
Service of legal documents  
Compulsory measures in crimi-  
nal proceedings oath, search,  
seizure arrest

Sequestration  
Execution (in civil matters)  
Intermediate procedure between  
the delivery of the written  
accusation and the opening of  
the trial

## SECTION 15.

English-German Military Government  
Court terms



## GLOSSARY

Accused	Angeklagter
Acquittal	Freisprechung, Freispruch
Adjournment	Vertagung
Affirmation	Feierliche Versicherung
Appeal	Berufung (fact and law), Revision (law only)
Appearance in Court	Auftreten, Erscheinen vor Gericht
Application (to Court)	Antrag, Gesuch
Arrest	Haft, Verhaften
Bail	Kaution, Sicherheitsleistung
Case	Rechtsfall, Sache
Character (Evidence as to)	Leumund
Charge	Anklage
Charge sheet	Anklageschrift
Chief Legal Officer	Oberster Gerichtsoffizier
Contempt of Court	Ungebühr (limited to behavior in Court)
Conviction	Verurteilung
Costs	Kosten
Crime	Verbrechen
Cross-examination	Kreuzverhör
Death penalty	Todesstrafe
Decision	Entscheidung
Defendant (civil)	Beklagter
Defending Counsel	Verteidiger
Directions (as to procedure)	Verfahrensbestimmungen, Prozessleitende Anordnungen
Discharge	Entlassung (from a post), Freilassung (from prison)
Dismiss (charge)	Einstellen (das Verfahren)
Evidence	Beweis
Examination	Befragen, Vernehmung
Execution (death)	Hinrichtung
Execution (of sentence)	Vollstreckung
Expert	Sachverständiger
Extenuating Circumstances	Mildernde Umstände
Finding (as to guilt)	Entscheidung (über die Schuldfrage)
Fine	Geldstrafe
General Military Court	Oberes Militärgericht
Guilty	Schuldig
Illegal	Rechtswidrig
Intermediate Military Court	Mittleres Militärgericht
Interpreter	Dolmetscher
Judge	Richter
Judgment	Urteil
Law	Recht (general term), Gesetz (statute)
Lawyer	Rechtsanwalt
Legal Adviser	Rechtsberater
Military Government Court	Gericht der Militärregierung
Not guilty	Nicht schuldig (plea), Freigesprochen (finding)
Notice	Bekanntmachung
Oath	Eid
Offence	Straftat, Strafbare Handlung

Order (of Court)	Beschluss
Ordinance	Verordnung
Perjury	Meineid
Plaintiff	Kläger
Plea	Antrag, Schriftsatz, Erklärung
Preliminary Proceedings	Vorverfahren
Presiding Officer (or Judge)	Vorsitzer
Prison	Gefängnis, Zuchthaus
Prisoner of War	Kriegsgefangener
Procedure	Verfahren, Prozessordnung
Proclamation	Proklamation
Promulgation	Verkündung
Proof	Beweis
Prosecutor	Anklagevertreter
Public Prosecutor	Staatsanwalt
Punishment, Penalty	Strafe
Receipt	Quittung
Record	Urkunde, Protokoll, Beleg
Re-examination	Nochmalige Vernehmung
Regulation	Bestimmung
Reporter	Berichterstatter
Reviewing Authority	Nachprüfungsstelle
Rules of Procedure	Verfahrensbestimmungen
Seizure	Beschlagnahme
Sentence	Urteil, Entscheidung über das Strafmass
Service (of proceedings etc)	Zustellung
Statement	Erklärung, Aussage
Statute	Gesetz
Summary Military Court	Einfaches Militärgericht
Summons (to appear)	Vorladung
Swear (trans)	Beedigen
Trial	Verhandlung
Warrant of Arrest	Haftbefehl
Witness	Zeuge



PART IV

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